

# LIBERTY, EQUALITY, FRATERNITY

Paul Spicker



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# Preface

This book discusses the concepts of liberty, equality and fraternity, and considers how they inform social policy. The principles are chosen partly because they traditionally stand together, partly because they are interesting in their own right, and partly because, when they are considered together, they offer distinctive insights into socialist and radical thinking.

The approach is theoretical. The main principles are separated into a range of distinct elements, which are discussed systematically and then inter-related. Each of the concepts is applied to practical examples, which are intended to show how the principles relate to practice. This kind of practical application is fundamental to work in applied theory. The selection should help to bring the subject to life, to show how the concepts work, and to show where the difficulties are. Any real-life example brings in more practical and normative issues than can comfortably be considered, and examples are necessarily dealt with very selectively. In some cases, there are interesting examples which raise a clutch of related issues, and these are considered in separate sections. Even in those cases, though, the material has to be abbreviated.

The discussion of theoretical issues is partly descriptive. The book explains a series of propositions about the core concepts, and tries to understand the positions that different writers adopt. The emphasis on application to examples means that some of the descriptions and classifications of ideas are new, but that should help to make the material more effective as a description. Beyond description, however, the book is also prescriptive. There are several points in the argument where I begin with a proposition and proceed to defend it, rather than gradually working my way to a balanced conclusion. To a large extent, those prescriptions reflect my own values: I have tended through much of the book to favour social and communitarian applications over individualist ones. However, the effect of outlining broadly based, and sometimes conflicting, concepts is to argue for awareness of different points of view, consideration and balance.

The book brings together material from political theory and social policy. From the perspective of political theory, the book:

- discusses key concepts;
- uses practical examples;

- introduces new approaches to concepts, with categories based on policy; and
- tries to develop an insight into the understanding of radical politics.

For political theorists, much of the subject matter should be familiar terrain. The main exception is fraternity, which has not really had the attention it merits. However, the book was conceived as an original contribution to the theoretical literature, and some elements are new.

In the first place, the arguments are presented within an ordered, thematic framework. Many of the subcategories and dimensions of the argument have been shaped by the need to address the issues in policy. The conventional characterisations of liberty stand up well to the test and this makes the discussion of that field less directly innovative, even if some sections are new. By contrast, I had to extend and develop the categorisations of both equality and fraternity to make it possible to apply them effectively. If there is an equivalent treatment of either topic, I have not seen it.

Second, the book draws on a rich seam of original examples, drawn primarily from social policy. Many of the principal works of contemporary political theory have very little relationship to social or political issues; they are based either in purely formal reasoning or in invented, imagined examples. Bob Goodin once launched a scathing attack on the use of fantasy, or ‘crazy cases’, in political theory. Extreme examples are sometimes used to point to issues that in real life become dark, muddy and confused, but Goodin argued that the main effect of outlandish examples was to disorient readers, and to distort our moral perceptions.<sup>1</sup> Some thought-experiments in the literature are immediately identifiable as such, like the spaceship travellers in Ackerman’s bizarre discussion of social justice.<sup>2</sup> However, when well-respected books mander about ‘the right to walk on my hands’<sup>3</sup> or whether we can have a library in our back yard,<sup>4</sup> I have to curb my exasperation. It is not as if there is any shortage of examples of restricted rights, or of problems in the public distribution of goods. The failure of these authors to relate their work to real life, or to address the arguments generated by the practical issues, excites the suspicion that they are inventing examples because they do not know what the issues really are. Ignorance of the conditions people experience, and of the relevant arguments, is a poor basis for theoretical examination. I have tried throughout the book to apply the theory to real, rather than imagined, problems.

From the perspective of social policy, the book:

- considers the political and moral dimensions of social policies;
- offers a normative analysis of several policies; and
- offers an alternative mode of discourse to the analysis of the subject.

The arguments are much less familiar in the field of social policy than they are in political science. I first discussed issues of liberty and equality, in a much shorter space, in *Principles of social welfare*.<sup>5</sup> Although studies in social policy have paid increasing attention to ethics and principles in recent years, much of the literature in the subject is still bound by conventional interpretations, particularly in terms of ideologies.<sup>6</sup> Beyond that, the disciplinary basis of the field is increasingly influenced by sociological interpretations, where normative analysis has traditionally been regarded with some suspicion, and the methods applied in moral and political philosophy are unusual. The value of examining general principles is partly that they make it possible better to understand the political and moral dimensions of policy, and partly that they help the development of techniques for normative analysis; but they are also important in their own right, and it is hard to understand social policy adequately without them.

## **A personal note**

George Orwell once commented that writing a book is like having a long illness. This has been true of most of my books, given the combination of obsessive and repetitive behaviour, waking up with ideas in the middle of the night, and fretting over presentation. By comparison this one has been much easier to bear, and really no worse than a mild dose of the flu. While I have been writing this book, I have been the director of a research unit, and have worked on a wide range of different projects. These have included studies of police complaints, a review of anti-poverty strategy, the safety of minority ethnic groups, community planning, housing allocations, complexity in benefit systems, money advice, training for homeless people, the design of schools, benefit receipt in South Africa, educating health professionals, participative research on poverty, and a consultation on civil partnership registration. The chance to write about theory at my own speed has been a refuge from highly pressurised deadlines for applied research, while the engagement with practical projects has fuelled my interest in the general principles.



*Liberty, equality, fraternity*

Thanks are due to Mark Aspinwall, Peter McLaverty and Geraldine Wooley for comments.

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## Notes on the author

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- Stigma and social welfare* (Croom Helm, 1984)
- Principles of social welfare* (Routledge, 1988)
- Social housing and the social services* (Longman, 1989)
- Poverty and social security: Concepts and principles* (Routledge, 1993)
- Social policy: Themes and approaches* (Prentice Hall, 1995)
- Planning for the needs of people with dementia* (with D S Gordon, Avebury, 1997)
- Social protection: A bilingual glossary* (co-editor with J-P Révauger, Mission-Recherche, 1998)
- Social policy in a changing society* (with M Mullard, 1998)
- The international glossary on poverty* (co-editor with D Gordon, 1999)
- The welfare state: A general theory* (Sage Publications, 2000)
- Policy analysis for practice: Applying social policy* (The Policy Press, 2006).



# Introduction

The discussion of liberty, equality and fraternity has been a major influence on political thought since the time of the French Revolution. The case can be made for a much longer historical perspective on each – the libertarianism of religious dissenters, the egalitarianism of the Levellers, and the fraternity of the guilds – but the effect of the Revolution was to make these principles central to radical approaches. The French Revolution marked the triumph of ‘the people’. It pronounced, in 1789, the *Declaration of the rights of man and of the citizen*.<sup>7</sup> In theoretical terms, many of the ideas were ill worked out. For example, the revolutionaries proclaimed the rights of man, but women were largely excluded from the process.<sup>8</sup> In practical terms, revolutionary zeal turned to fanaticism, and the Revolution turned on itself.

The influence of the Revolution has played a major part in shaping the way that people think about their society. Two hundred years ago, the principles of liberty, equality and fraternity were seen as radical, challenging and iconoclastic. In modern societies, although there are many differences in interpretation and approach, it has become hard to find people who do not accept the ideas to some extent. Political arguments from across the spectrum have come to accept at least part of the principles on which the revolutionary arguments were based. The ideal of a free society is generally acknowledged, even if it is not universally respected. Although the principle of equality is often seen as contentious, the revolutionary argument for an open society, allowing people to move across the boundaries of class, caste and race, is widely accepted. The idea of fraternity is less directly accepted, but the principles of collective action and social responsibility are widely recognised. This general agreement is as true of the right wing as of the left. The president of France, Jacques Chirac, recently began a speech when he described the principles of the French republic in these terms:

It is on the basis of liberty, guaranteed by the primacy of the law on individual interests; on equality between men and women, equality of opportunities, rights, and duties; on fraternity between all the French, whatever their condition or their origin.<sup>9</sup>

The radicals of the 18th century were talking about unrealised ideals. In the present day, by contrast, governments produce documents with titles like *Inequalities in health*<sup>10</sup> or *Pensions tomorrow: A contract between the generations*<sup>11</sup> (the French government's review of pensions). The concepts of liberty, equality and fraternity have become part of the everyday discourse of politics, and the principles have become a routine influence on policy in practice. Many of the ideas around liberty, equality and fraternity are radical, in the sense that they represent a challenge to existing patterns of social relationships. They are also central to contemporary political debates, in the sense that they address core perceptions of people and society.

## **Social welfare**

This book focuses mainly on the relationship between these concepts and social policy. Social policy is a field of study concerned with social welfare and the social services. The main focus is not policy for society in a general sense, but the specific patterns of provision made for people in respect of states of dependency, such as old age, childhood, sickness and unemployment.<sup>12</sup> Social welfare provision depends on a complex constellation of political, economic and legal provisions, conventionally (if sometimes unhelpfully) described in terms of 'welfare states'. The alternative idea of 'social protection' is increasingly used in Europe to refer to the elements of social welfare provision, both within and beyond the remit of the state, which offer security and services to people in states of dependency. This book is concerned only with a small part of a vast subject area, although the principles and ideals discussed in it cut across many other issues.

Almost all governments with developed economies have some sort of system of welfare provision. The reasons why that is true are complex; they depend on the interplay of historical, organisational, economic, social and cultural factors.<sup>13</sup> It would be difficult, though, to understand much of what happens in welfare provision without some reference to political values – whether to those on the right who have stood for social responsibility and religious duty, or those on the left who have been committed to collective action and working-class movements. The focus in this book on three principles – liberty, equality and fraternity – is not intended to be an account of every ideal which relates to welfare or provision. But the principles are important in their own right. The circumstances of welfare offer an insight into those concepts. Equally, I think, the concepts open a window onto different ways of thinking about welfare and social protection.

# Part One

## Liberty



## Liberty

Liberty is commonly represented in terms of ‘negative’ and ‘positive’ approaches. Negative freedom refers mainly to freedom from restraint. People are free if no one is interfering with them, or preventing them from doing what they are able to do. Positive freedom can refer to the freedom to act, or to self-determination. In the first sense, positive freedom is about power; people who are unable to do things are not free to do them. In the second sense, positive freedom is about being able to make decisions, and to choose.

Although the distinction is widely used, it does not make a great deal of sense. The negative idea of freedom seems to require only that other people should not intervene. Isaiah Berlin, who popularised the concept, argued that people do not cease to be free because they are unable to do something, but only if someone is interfering with them.<sup>14</sup> It is possible, if that is accepted, for people to be left in a position where they are unable to act, but are still free. If, for example, there has been an earthquake, and people are physically trapped under the rubble, they have not ceased to be free. (This argument, or at least one very like it, was made by Hayek.<sup>15</sup>) It follows that a rescuer from the emergency services who tries to release survivors without obtaining prior consent is interfering with their circumstances, and that must be an infringement of their freedom. This is silly, and it takes a particular kind of academic cleverness to convince oneself that it should be taken seriously. Conversely, the positive idea of freedom, certainly as it is represented by Berlin, seems to suggest that all that matters is whether people are able to act, and not whether they are free from constraint. If people are being directed, but the constraint is one they might reasonably agree to, they are still free; and people can, in Rousseau’s notorious phrase, be ‘forced to be free’.<sup>16</sup> This is just as ridiculous, and it does violence to the very idea of freedom.

The ideas of negative and positive freedom have taken root because they are, at least, partly right. All freedom, MacCallum argues, has three elements: it has to be freedom of a person; the person must be free from restraint; and the person must be free to do something.<sup>17</sup> That means that both negative and positive concepts are relevant to any consideration of freedom. Many writers have tried to put their arguments in terms of negative and positive freedom, even if they do



not quite reflect what the writers mean to say. The following discussion begins with those ideas, but it cannot finish with them, and other dimensions of the arguments are considered subsequently.

## **Negative freedom**

### *The private sphere*

The classic statement of negative freedom is found in John Stuart Mill's book, *On liberty*.

The object of this Essay is to assert one very simple principle.... That the only purpose for which power can rightfully be exercised over any member of a civilised community, against his will, is to prevent harm to others.... The only part of the conduct of any one, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute.<sup>18</sup>

Discussions of this principle usually focus on the first half, concerning the prevention of harm to others.<sup>19</sup> I will return to that issue shortly, but I want at the outset to focus on the second half, which is the core of the idea of 'independence'. De Tocqueville had written in 1835:

In everything concerning the duties citizens owe to each other, [the individual] is subject. In everything which only regards himself, he remains master: he is free and has to account for his actions only to God.... This doctrine is universally admitted in the United States.<sup>20</sup>

The same view is still widely held there. Mill's understanding of freedom depends, like this, on the idea that there are private areas of action which only concern the individual – areas which are no one else's business. Personal independence, by this account, consists of freedom of action in the areas that are unique to the person affected.

If anything is private, one might argue, it should be the things one does where other people are not involved. There are not many actions which are private in these terms. Even in societies which value liberty, like the developed economies of the West, there are many things we are not allowed to do with our own bodies.<sup>21</sup> This is especially true in public places, where we cannot do several things we can do in private

– like displaying ourselves, touching certain parts of our body, or having sex. But control over the body is not confined to the public sphere. Apparently personal and private acts like eating, washing, going to bed or going to the toilet are not fully ‘independent’. They have to be taught, as any parent can testify, and they are hemmed in by elaborate social rules. People learn to do things in the accepted way before they become independent. People who do not learn them, for example because they have learning disabilities, can find it difficult to gain full independence. Adults can disregard the rules within limits, but when they do they are likely to be shunned socially. There are some things we are not allowed to do to our bodies in private, like taking narcotics. Some are governed by social rules: people are not free to have extreme pain inflicted on them, even if they agree to it.<sup>22</sup> And some rules are governed by other principles: people are not in general allowed to undertake serious self-mutilation, such as self-wounding, because even in jurisdictions where this is not directly and explicitly illegal it will be taken as evidence of unsound mind. There are also dilemmas when vulnerable people live in ways that are not socially acceptable. For example, some people are dirty. In UK law, section 47 of the 1948 National Assistance Act allows for old people to be removed from their home if they are living in ‘insanitary conditions’ and they are in need of ‘care and attention’. This typically means removal to hospital for a short period, enough to allow for the person to be cleaned up. The provision is rarely used, however. It is much more likely that old people will be treated under the Mental Health Acts or the incapacity legislation as incompetent to manage their affairs, which is a much more serious limitation of a person’s freedom.

As a description of the human condition, the widespread belief in a private sphere is difficult to sustain. In *The concept of mind*, Gilbert Ryle criticises the idea that there is something about the way our minds work which gives us privileged access to thoughts that no one else can share. We learn to express and understand ourselves, Ryle argues, through a shared set of social processes. We know what we think and feel by comparing it with what we learn about ourselves and other people.<sup>23</sup> In a very real sense, we are social animals. The very idea of the private sphere is a social construction: we learn that there are things we are allowed to do with others, things we are allowed to do by ourselves, and things we are not allowed to do even if we are by ourselves. It is questionable whether people can be seen as independent individuals, completely at liberty when they are left alone. Many people accept that moral conduct does not extend to private thoughts, but even that is uncertain; thoughts may not be punishable,

but if they breach moral codes we are still likely to feel a sense of guilt or shame about them. (People who fail to respond in those terms are liable to be treated as mentally disordered.<sup>24</sup>) Privacy is not a good enough reason to think or do whatever we please.

### ***Non-interference***

Negative freedom consists of freedom from coercion, but ‘coercion’ can be taken in more than one sense. First, it refers to interference and constraint by other people. Berlin describes coercion as ‘the deliberate interference of other human beings within the area in which I could act’.<sup>25</sup> Second, in its stronger sense, coercion is not just about interference: it implies that other people are seeking to direct our actions. Both interpretations are important for an understanding of negative freedom.

The presumption of non-interference has played a crucial role in defending freedom. For Mill, the essential conflict lies between the individual and society. In European liberalism, the defence of personal independence was stated more broadly. Benjamin Constant extended the principle to defend not just individuals, but groups, communities and countries. If there is an area in the life of each person which is private, that means that in the affairs of two people, there would be an area of activity which was distinctive and private to those two people. The same applies to neighbourhoods, communities, townships, regions and nations.<sup>26</sup> The idea of ‘national self-determination’ is linked to liberal thought through the view that people do not have a right to interfere in the affairs of others. The essential point this shares with Mill is the idea of an independent sphere of action, an area where no one else has the right to interfere.

In everyday life, other people constantly impinge on our freedom of activity – in the home, in the street, in our interactions with others. There is a constant process of negotiation and compromise of the area where free action is possible. The protection of freedom means that the freedoms of each person have to be circumscribed, so that they do not infringe the freedoms of other people. The first part of Mill’s ‘very simple principle’ – whether or not actions cause harm to others – is one of the tests. But if it is not acceptable to infringe other people’s liberty, causing harm cannot be the only test – it is also not acceptable to infringe liberty by trying to do good. Feinberg suggests that the proper test is whether an activity invades the interests of another person.<sup>27</sup>

One popular construction of freedom has it that our freedoms end

at the point where they interfere with other people. This is largely right – clearly, there are points at which people’s freedoms will impinge on other people’s, and there have to be limits on how far this is acceptable. But it is not wholly right, because there are many circumstances in which we can legitimately act to restrict the actions of others. People in families are notorious for interfering with each other’s freedoms: it is part of a caring relationship. A business competitor who puts small shopkeepers out of business is limiting their choices, their livelihood and possibly threatening their houses (many small businesses are financed by mortgaged property), but it is all done according to longstanding conventions, and many people would argue that it is a sign of freedom rather than a limitation of it. A religious teacher who tells people when they can eat or what position they should sleep in is certainly limiting their choices, but freedom of religion is one of the most fundamental rights protected in the liberal governments of the western world.

The implication of these arguments is that, even if there is a presumption of non-interference, there are exceptions to the general principle. If there is a rationale for the exceptions, it seems to be that they take place within defined social contexts – where the character of the relationships, and the substance of the intervention, reflects on what is acceptable, and what is not. One way of interpreting these issues is the idea of ‘sphere sovereignty’, associated with Dutch Calvinism. Kuyper argued that there are spheres of human activity – spheres such as government, religion, arts, family, business – where different rules apply.<sup>28</sup> The proper role of the church in religion is not applicable to the role of the state in making law, and vice versa. Even if intervention can be justified in one area, like industrial relations, it cannot necessarily be justified in another, like domestic arrangements. The interference of family members in the domestic sphere, business competitors in the field of business, or a religious leader in religious affairs, is legitimate; but the interference of business in politics, or the state in religion, would not be. The idea is initially appealing, because it seems to make it possible to maintain the principle of independence in a private sphere in a world where people do not actually live on desert islands. The problem is that the boundaries between spheres are necessarily fuzzy. Dooyeweerd, in developing Kuyper’s ideas, argued that although the state was limited to the regulation of inter-relationships, this could be taken to affect issues like financial support in families, or even issues like domestic violence.<sup>29</sup>

Another way of interpreting the exceptions is through ‘communitarianism’, which puts all moral principles in the social

context they spring from.<sup>30</sup> The argument that the actions of a person, a group of people, or even a country, are private and individual seems difficult to sustain in the modern world, where interdependence, not independence, is the norm. Communitarian critiques have mainly been directed at the kind of abstract moral theory associated with writers like Rawls or Nozick, and in particular at liberalism;<sup>31</sup> moral relativism undermines any presumption that liberty is a primary, universal value.

### ***Coercion by other people***

The stronger sense of coercion refers to the use of power by one person to determine the behaviour of another. 'By 'coercion', Hayek writes,

... we mean such control of the environment or circumstances of a person by another that, in order to avoid greater evil, he is forced to act not according to a coherent plan of his own but to serve the ends of another.<sup>32</sup>

This goes well beyond interference. Coercion can happen because there is a penalty or sanction for non-compliance: a parent who stops a child from going out to play, an employer who stops employees from smoking, or a landlord who insists on no pets, may be acting coercively. Raz suggests that there is an evaluative element in the idea of coercion, an implication that the pattern of behaviour involved in coercion is somehow wrong.<sup>33</sup> But coercion is often founded in a sense of moral conviction – a belief that the imposition of rules and restrictions is something that the person imposing the restrictions is not just legitimately able to do, but has a right to do. The actions of parents, employers and landlords are based on interpretations of their position which, while not beyond dispute, is accepted by many people. There may be a conflict of principles, and the freedom of some has to be balanced against the freedom of others. If there is a moral fault in coercion, it rests in the idea that one person can make choices for another. This is an argument about freedom, rather than about the specific nature of the action undertaken.

Coercion is often represented narrowly, simply as the imposition of one person's will on another.<sup>34</sup> But coercion is not a simple dichotomy, where people who are not forced to act are free. People might be constrained, pressed or shepherded, in different directions. Whether or not an action is coercive depends in practice on what other options

a person has. If someone has eligible alternative choices – that is, good, genuine options which might realistically be chosen – denying them one option still leaves others open to them. As the range of choices reduces, the effect of steering or direction becomes more restrictive. This means that some people are more vulnerable to coercion than others. Jeremy Waldron makes the case that homeless people are not free, because they are prevented from acting by others.<sup>35</sup> The ability to do certain personal things, like washing, sleeping or urinating, depends on having a place where one can do them. People who are homeless have nowhere to do these things, and if there is no public place they can do them in, they cannot do them without the permission of property owners, or in public places, without falling foul of the law. This is not because of some oversight. Laws against sleeping, drinking and eating in public, Waldron notes, are often made deliberately to curb the actions of homeless people, who do them in public because there is nowhere they can do them in private. Homeless people are being coerced because they have no other choices. If they had other choices, and they could do what others do, these restrictions would not be coercive.

The idea of coercion is important morally, because it has implications for personal responsibility. Glannon distinguishes coercion from action under duress: people who act under duress may still have a choice, and remain responsible for their actions, while people who are coerced do not have a choice, and responsibility rests with the person who does the coercion.<sup>36</sup> I think this may be one of the reasons why coercion is so hotly debated: writers who argue that poverty is not related to coercion do not want to accept the moral implication that poor people are not fully responsible for their own circumstances. My own view is that the distinction is fairly meaningless. There is almost no action which is so ‘coercive’ that it completely relieves someone of all moral responsibility. It makes perfectly good sense to say that people have choices, but that those choices have been constricted because of coercive action. What changes is the character of the choice.

### ***Coercion by government***

One of the central roles of government is to maintain a balance between the competing freedoms of different people. Where liberties are in conflict, one person’s freedom can be enhanced by limiting another’s. Freedom can be redistributed. The government acts as one of the principal guarantors of freedom. But government is also potentially

one of the main limitations on personal freedom, because it is capable of circumscribing and limiting people's actions. Proudhon wrote:

To be governed is to be at every operation, at every transaction, noted, registered, enrolled, taxed, stamped, measured, numbered, assessed, licensed, authorized, admonished, forbidden, reformed, corrected, punished. It is, under the pretence of public utility, and in the name of the general interest, to be placed under contribution, trained, ransomed, exploited, monopolised, extorted, squeezed, mystified, robbed; then, at the slightest resistance, the first word of complaint, to be repressed, fined, despised, harassed, tracked, abused, clubbed, disarmed, choked, imprisoned, judged, condemned, shot, deported, sacrificed, sold, betrayed.<sup>37</sup>

From the other side of the political spectrum, the right-wing think tanks in the US, like the Heritage Foundation and the Cato Institute, do not avoid advocating restrictions on personal action: they are guided by strong moral principles on issues like personal responsibility, criminal justice and family values. For them, however, freedom implies freedom from restriction by the state. The principle of negative freedom is important in those circumstances, because it asserts the rights of individuals to dissent, to refuse to obey, and to act differently. In the World Bank's studies of poverty, poor people in developing countries frequently identified the arbitrary actions of government in general, and police in particular, as one of the central problems of their lives.<sup>38</sup> The idea of negative freedom has been an important one in restricting the role of government, and its value in that area should not be dismissed.

Coercion by the state takes three main forms. The first is regulation, which is coercive because it deliberately limits the range and pattern of acceptable activity. Regulation is basic to government activity. States establish the rules under which other social actors, including individuals, groups, companies and organisations, operate. They establish the structures and frameworks which determine people's formal relationships – both at a personal level, in such things as marriage and parental rights, and institutionally, in such structures as a limited liability company or a charity. The second form of coercion is the restriction of action, taken, for example, in criminal law. Governments define the limits of acceptable conduct, and punish activities which fall beyond those limits. Third, there is mandatory activity, where

people are required to do things they would not otherwise do, under pain of penalty. Examples are military service or paying tax.

Compliance with government authority is not simply a matter of bowing to pressure, or even of obedience to authority. People obey laws for all kinds of reasons: they may accept that the laws are legitimate, but equally they may well approve of the course of action, and choose to follow it voluntarily. At times, compulsion in the provision of social welfare has been introduced, not simply to impose rules on people, but to shore up practices which people have undertaken voluntarily. The systems of social insurance in Denmark, Sweden and Finland were voluntary for much of their history, becoming formally compulsory only in the 1990s after government intervened to regulate the financial balance of the funds.<sup>39</sup> At other times, compulsion has been used to ensure the extension to the disadvantaged minority of the privileges enjoyed by the majority – principally by compelling employers to extend terms to low-paid employees which were part of contracts of employment for others. This is true of the extension of health care or social insurance pensions in continental Europe,<sup>40</sup> or the development of minimum wages. In both cases, it may look after the event as if government has forced people into participation in welfare schemes, but the first example is primarily regulatory, and the second is concerned with protecting the interests of one group relative to another. In a complex policy environment, it is difficult to reduce the actions of government simply to the issue of whether or not some compulsion has been used.

### *The value of negative freedom*

Many writers, and politicians, have found the idea of negative freedom compelling. Berlin presents the idea as the true, legitimate understanding of the idea of freedom, linked with the rights of the individual. Hayek finds it so convincing that he can see no alternative. There are objections to make to their position, but before I move on to those objections, it is worth emphasising the value of the concept, and the reasons why it exerts such a strong influence in liberal thought. The first, core issue is that the idea is designed to be used defensively. It protects the security and integrity of each person as an individual (and, if Constant's argument is accepted, the security and integrity of communities and nations). It sets limits beyond which other people should not go, and in particular the limits of government action. Historically, the assertion of liberty has been a major defence against



tyranny, with a correspondingly beneficial influence on the rights and choices of individuals.

The second key argument is that negative freedom is fundamental. Freedom guarantees protection to people who wish to make choices, to pursue their ends, to make contact with other people, and so forth. People's vulnerability to coercion has the potential to undermine their position. Without freedom, Hart suggests, no other rights are possible.<sup>41</sup>

Both of these positions are concerned with protecting people from external interference. The third argument is more than a defensive position: it is based in a positive, moral stance. It depends on the idea that, in Mill's phrase, 'the individual is sovereign'.<sup>42</sup> People should be independent; they have the right to decide for themselves; each person is the best judge of what is good for them; and the way to maximise the welfare of everyone is to allow each individual to make his or her own choice. I will examine some of the assumptions behind these arguments in the course of the book, but for the moment it is enough to acknowledge that the link between negative freedom and the concept of the sovereign individual has been central to the acceptance of the idea by the liberals of the political right.

The problem with negative freedom is not the moral force of the idea, or the strength of the feeling behind it. It is that as the idea is framed, it offers a very limited understanding of freedom. There are three main objections. The first is that the defence of freedom, and resistance to government, is often a veil for the defence of privilege. Defending freedom and resisting government are important, but at the same time, government can also play an important part in protecting freedoms, and resistance to government has often been used as a defence of exploitative economic relationships. This is most visible in the complaints made by property holders about their freedom to use their property as they see fit, even if others suffer, or the assertion by business owners of their 'freedom to manage'. Liberty is not licence, and there is nothing in the idea of freedom which guarantees it at the expense of the freedom of others who are weaker and more vulnerable.

The second objection is that negative freedom is not enough; people also need choices. People who are hungry, homeless or destitute do not have the choices that other people have. One of the key arguments for negative freedom is that it enables people to have choices, and to exercise them. Negative freedom is necessary for choice, but it is not sufficient. As the idea is formulated, people do not cease to be free because they cannot do something. If freedom is, as some writers suggest, a supreme value, a value with absolute priority over others, then conditions which prevent it being exercised – like famine – are

basic. 'Freedom from hunger' is a powerful slogan, but it is not one which has any purchase or meaning in a strictly negative interpretation of freedom.

The third objection, which is closely related to the second, is that people's capacity to act should matter. People lose freedom when circumstances have limited their choices and power of action. The choices available to people with disabilities are severely limited, and those limitations act to limit their freedom.<sup>43</sup> For the most part, the kinds of restrictions that disabled people experience are limitations on their capacity to act. The design of buildings, shopping facilities and domestic equipment limits the capacity of people with reduced physical abilities.<sup>44</sup> As the limitations become more serious, however, people in this situation become increasingly vulnerable to restriction and abuse. There is a long history in institutional care of scandals centring on insensitivity, incompetence and brutality. Brutality is less often violent than it is dehumanising: reports in UK institutions describe patients being neglected, tied down, dropped in baths of scalding water, cleaned with a toilet brush, or in one case a patient being held upside down and using his hair as a mop after he had vomited.<sup>45</sup> In one of the many enquiries of the 1970s, into Normansfield Hospital, one of the many problems identified was that an exaggerated concern with accidents led to severely disabled people being confined to beds for long periods of the day without activity.<sup>46</sup> These were people with profound physical and mental disabilities, who relied on other people to help them get up, clean them and feed them. They were not held prisoners in their beds. The problem was that they did not have the capacity to get out of bed without help, and the withdrawal of support meant that they were not able to do what they otherwise might. Describing people as 'free' in these circumstances is faintly absurd. The distinction between coercion and lack of capacity may matter for the allocation of moral responsibility, but in other respects it is a distinction without a difference.

## **Positive freedom**

The weaknesses in the idea of negative freedom point us in the direction of a counterbalancing idea, 'positive' freedom. The idea of positive freedom is used in two rather different senses. For some, positive freedom is the power to act. People are free to act if they are able to do so; they are not free if they are not able. Berlin uses the idea of positive freedom in a more questionable sense, to refer to 'self-mastery' and the capacity to make decisions. These are very different

understandings of the term. In this section I shall confine myself to the first, the power to act.

### *The power to act*

One of the central objections to the idea of negative freedom is that people who are unable to do something, like the earthquake victim trapped under the rubble, or the homeless person who cannot afford to get somewhere to live, are still treated as being free to do it. A positive concept of freedom gets round this problem directly. People are not free to do things they cannot do, and there does not have to be another person who is stopping them. If an old person is too ill to leave their home, this is not the result of the actions of other people, but it would increase that person's freedom if someone came and helped them. Illness, disability and poverty all reduce people's power. They are, then, obstacles to freedom.

Poverty is probably the most contentious of these examples. 'Poverty' is a complex concept, covering a wide range of different circumstances: in other work, I have outlined several discrete clusters of meaning.<sup>47</sup> In broad terms, it can be summarised as implying material need, limited economic circumstances, and a pattern of social relationships typically preventing people from participating in a society. In each sense, poverty restrains freedom. Where people are in material need, their capacity to act and their ability to decide is limited. Where they are economically restricted, they are not able to participate in economic transactions, to exchange, or indeed to do the sort of things which advocates of market economies most wish to promote. When they are excluded from effective participation in a society, they are denied the choices and opportunities which are available to others. Berlin writes:

It is argued, very plausibly, that if a man is too poor to afford something on which there is no legal ban – a loaf of bread, a journey round the world, resource to the law courts – he is as little free to have it as he would be if it were forbidden him by law.... If my poverty were a kind of disease, which prevented me from buying bread ... as lameness prevents me from running, this inability would not naturally be described as a lack of freedom....

Poverty, he concludes, could only be considered an infringement of freedom if it was held to result from the actions of others.<sup>48</sup> In the terms of a negative view of freedom, poverty may not limit freedom,

but it certainly makes people vulnerable, and it limits their choices. To take a small example, many countries prevent the sale of body parts, like kidneys or lungs. The people who might be persuaded to sell their body parts are people who are constrained by poverty. The existing trade is characterised by exploitation, but beyond that it implies further, often permanent, restriction of the capacities of poor people, a choice they make because their options are so limited. Berlin acknowledges that for freedom to be meaningful, a ‘maximisation of opportunities’ is needed. Freedoms are not simply additive – increasing the power of one person does not necessarily depend on reducing the powers of others – but if the problem is understood in terms of negative liberty, where one person is constraining another, this does seem to demand some redistribution of freedom between people – and some redistribution of power or resources. Berlin suggests the implications are ‘agonising’.<sup>49</sup>

Poverty is primarily, Amartya Sen argues, a lack of capabilities.<sup>50</sup> A person without money cannot buy goods, like food, clothing, fuel or shelter. The things that people need, or ‘commodities’, are understood differently in different social contexts, but the core issue is whether people are able to do the things they need to do – to eat, live, to move around, and so forth. Often poor people have to juggle their resources, and the pattern of deprivation shifts constantly: the shortage of money means that they will go without food to buy clothing at one point, or go without fuel to buy food at another, and so on. This has been called a ‘web’ of deprivation: like a fly trapped in a web, it is possible for people who are trapped to lift one limb or another, but that is not the same as being able to escape.<sup>51</sup>

The primary objection to a positive concept of freedom comes from those who, like Berlin or Hayek, believe that freedom cannot be determined in terms of capacity. There is no simple way to resolve this difference of views: either one accepts the limitation or one does not. In practical terms, an emphasis on positive freedom leads to an emphasis on social structure and social competences. It is possible to exaggerate the differences, though, because a negative concept of freedom also depends on issues of opportunity, choice and the actions of other people.

### *Normalisation and empowerment*

The development of capacity is a particular concern for people whose capacity is challenged or limited. Debates in child care, learning disability and physical disability in the 1960s fostered the idea of

‘normalisation’.<sup>52</sup> It has also been expressed as an aspiration for an ‘ordinary life’.<sup>53</sup> ‘Ordinary’ people can decide for themselves when they eat, when they go to the bathroom, or when they sleep. People living in institutions cannot. On one level, the term ‘normalisation’ seems to imply that people will be left to get on with life like everyone else, or expected to conform: that is certainly the impression given by some of the criticisms of the principle of normalisation by later writers.<sup>54</sup> But it also means, beyond that, that people should be helped to develop the capacity they need for an ordinary life to be possible. This calls for measures to support, enable and liberate people whose activities are otherwise restricted. The advocates of normalisation sought to give people the opportunity to express their concerns and identify their own priorities, and to do so in their own words.<sup>55</sup> The idea of normalisation in this sense has largely been supplanted in subsequent literature by the concept of ‘empowerment’.

The language of empowerment is not quite the same as the language of freedom, but the concepts are closely related. The term became popular relatively recently in the 1970s, mainly referring to political power developed through collective action;<sup>56</sup> Iris Young refers to it as participation in decision making.<sup>57</sup> It can also be used in a variety of other ways, whether for people or for groups. People are empowered when they gain the capacity to act and the ability to express their concerns.

Empowerment can be identified closely with some aspects of freedom. In relation to negative freedom, empowerment might refer to people being given choices, and the ability to express preferences. An important element of empowerment in this sense is the idea of ‘voice’, drawn initially from consumer studies.<sup>58</sup> Voice is the expression of views and concerns, and is fundamental to the expression of preferences. This concept of empowerment is particularly used in the context of learning disability (now called ‘intellectual disability’ in the US). People with learning disability often lack choices. This may be because they have difficulty in expressing their choices, and in the most severe cases they may need special forms of help to express views at all. More typically, it is because their views when they do express them are likely to be disregarded. There is a growing literature in which people with learning disabilities have been allowed to express their own concerns and feelings; the expression of serious issues in clear, direct language has considerable emotional force.<sup>59</sup> More generally, the idea of voice plays a major part in user consultations in public services, and is widely referred to in consultations on community care and health services.

In relation to positive freedom, empowerment is usually taken to refer to capacity building, a widely used concept in community work. If positive freedom consists of the power to act, empowerment can be taken as action to ensure that people have such a capacity. The form of capacity building which tends to be favoured in community work is collective: people are encouraged to form groups and to argue their case in a political arena. The forms of capacity building can also include individual capacities: the development of political and administrative skills, training and education.

Empowerment is not confined to the idea of freedom, however: it is also concerned with power. Implicit in the idea is the sense, not just that people are being enabled, but that people who lack power will gain control over their lives. Empowerment is intended to increase that control, and so to improve their relative power.

## **Personal autonomy**

The second sense of 'positive freedom' is sometimes expressed in terms of 'self-mastery'. This term is slightly artificial. Hobhouse drew a distinction between negative and positive freedom in his critique of idealism in 1918, describing the Hegelian idea of positive freedom in terms of 'self-determination':

... the underlying principle is that freedom consists not in the negative condition of absence of restraint but in the positive fact of self-determination.<sup>60</sup>

Berlin preferred to describe this in terms of 'self-mastery' because he wanted to emphasise the extent to which the Hegelian approach had departed from common understandings of freedom. The basic idea behind self-mastery is more often expressed in terms of 'autonomy'. An autonomous direction is one which people choose for themselves, and autonomy is the capacity to make one's own decisions. Whether or not people 'master' themselves, they can at least choose for themselves. To make choices, people have to have the capacity to decide, and they have to have the right to do so.

## ***The capacity to decide***

The capacity to decide is sometimes referred to as 'psychological freedom'. As a general proposition, adults in western societies are

presumed to have the capacity to make decisions unless there are strong reasons to the contrary.

The exceptions are, however, important. The first and most obvious is the case of children, who are generally assumed not to have the capacity to decide. This is self-evidently true of the very youngest children, but the situation becomes quickly obscured as children grow and mature. The ages at which children reach maturity have been defined fairly arbitrarily: between birth and the age of a person's majority, usually 18 or 21, there may be several intermediate stages – the age of criminal responsibility, the age at which children can consent to sex or marriage, the ages at which they can form valid contracts, and so forth.

In various circumstances, children's freedom of action may be limited in order to promote their longer-term autonomy. One example is their position in the family. The purpose of family care is to give children the opportunity to develop into responsible adults – the point at which children will be able to make decisions for themselves. Nurture, moral guidance and education have a common purpose: to make it possible for children to make informed choices. Most of us would accept, I think, that it is permissible for a parent to require a child to go to bed at night, or to take a bath – restraints we would never accept as adults. As a general proposition, it may be desirable for parents to raise children in a way which gives them enjoyment in their daily routine, and bedtime should be an enjoyable evening ritual, not a contest of wills; but young children (and some older ones) do not necessarily have the judgement to be able to determine their bedtime for themselves, or whether they need a wash. As a parent, I have to confess to using coercion (firm instruction, a guiding hand and a determination to override the child's protests) in both circumstances. There are several possible justifications for this. One is that the rights of the child are framed in terms different from adults, and that freedom is not very high on the list. Another, which seems less convincing, is that the parent's rights and freedoms also have to be considered. It can be argued, though, that there is no contradiction between this kind of restraint and personal freedom. Caring for children is part of turning them into grown-ups; the process enhances their freedom, rather than reducing it. The restrictions cease to be justifiable when they go further than can be justified in these terms: discipline which is carried too far becomes abuse, and we condemn 'over-protective' parents because they are not giving the chance for their children to learn to be free.

The same arguments apply to the process of education. Schooling

is a hugely restrictive process, conditioning children into a battery of rules of behaviour and conduct, sometimes called the 'hidden curriculum'. This process ceases to be justifiable, however, in circumstances where it limits the freedoms of children: we accept education, but not indoctrination. The primary justification for education is that it is liberating. Schooling, or equivalent education, is compulsory in most developed countries – a restriction on both children and their parents. A child in a developing country who leaves school to earn money at the age of 11 or 12 loses the opportunities that others who stay at school will gain. Where there is no compulsion, the children who drop out of the process are often most disadvantaged.

For adults, there are equally several circumstances in which compulsion may be used to enhance autonomy. The best known case is mental illness, where people who are suffering from mental illness which is capable of treatment can be 'sectioned', or deprived of liberty and required to undergo treatment. The rationale for this is sometimes to protect the public, but more commonly it is that a person with a serious mental illness needs to be protected from self-harm. Although I have undertaken several research projects with psychiatric patients in the past, I have only witnessed the procedure directly once, during an observational placement in a psychiatric hospital. A woman was detained under compulsion, and I talked with her for an hour or so while the psychiatrist was preparing the papers. She had been told to kill herself by the voice of the devil, who had spoken to her through the television, and she felt compelled to obey. (This is not quite what happened, but I have altered the story to maintain confidentiality. Many patients who hear voices are tormented by them. Religious delusions are fairly commonplace.) The usual argument for compulsory treatment is that, while people are mentally ill, they may not be capable of making decisions about their treatment. This is possibly true, because some mentally ill people do not realise that they are ill. However, the provision is subject to abuse, and in some cases where people try to make decisions which are seen as illegitimate, their actions may be dismissed because they are 'not in their right mind'. The argument for intervention because people's judgement is impaired is not a very good one, because it might equally be applied to other problems where people make inappropriate decisions. The real issue is the avoidance of harm. People who are mentally ill can still make decisions, and like anyone else they are free to make bad decisions. This freedom ceases to apply, however, when the effect of such a decision would be to deny choices for the future. Serious self-harm has that effect.



Conversely, if treatment prevents harm and restores people's ability to choose, it can restore their autonomy, and give them the opportunity to make choices for the future. The compulsory treatment of mental illness is, then, defensible in terms of its effect on liberty.

A related condition is the issue of dementia, which is the class of illness which is most likely to lead to circumstances in which adults are considered incapable of making decisions. Dementia is defined by Sir Martin Roth as:

... a global deterioration of the individual's intellectual, emotional and conative faculties in a state of unimpaired consciousness.<sup>61</sup>

The loss of intellectual faculties involves an inability to retain new information, and in consequence an inability to absorb it. The loss of conative faculties – those concerned with self-direction and will – may affect both self and household care, as people become less able to maintain a routine, to distinguish between day and night, or to understand events around them. Emotional changes may include strong expressions of emotion, including misplaced anger or sorrow, changes in behaviour, and consequent disruption of personal relationships, reinforced by the changes in capacity and behaviour which dementia implies.

The Green Paper *Who decides?* accepted in principle that it is desirable to promote the autonomy of people with mental disabilities. The approach which the Green Paper advocated towards incapacity was based on four principles:

- a belief that all intervention must be justified;
- a presumption of capacity, which is defeasible;
- maximising the decision-making capacity of people with mental disabilities; and
- balancing the wishes of the disabled person, and the desire to encourage participation and autonomy, with the views of others.<sup>62</sup>

The basic model is, then, one which seeks to offer safeguards to persons who are deemed to be incapacitated. Once a person has been declared incapacitated, there is an effective presumption that they are incapable of making decisions unless there is evidence to the contrary.

This is not, however, how incapacity is likely to be expressed. Most mentally ill people can make decisions; the problem is that the decisions they make are not always the ones they would make if they were well.

The most common form of incapacity, or inability to make decisions, is through dementia. Dementia is a progressive disease, and most people suffering from it retain social functioning to some degree. Kitwood and Bredin make the case that even people with severe dementia remain responsive to their social environment. Responses which are socially inappropriate (trying to clean up after incontinence with an item of clothing) still show a degree of social awareness, while in other cases there may be ‘rementia’, or a regaining of abilities through social interaction.<sup>63</sup> Impairment through dementia does not imply incapacity, but failing capacity. An emphasis on autonomy implies respect for the disabled person’s remaining capacity, rather than incapacity. The legislation on incapacity which followed the consultation made some important moves in this direction, including some respect for any views and feelings that people with incapacity could express. However, it is still based in the idea that the norm is non-intervention. In circumstances where a person with dementia is living in isolation, non-intervention may have the effect of diminishing capacity. Autonomy requires support.

### *The right to decide*

The choices that people make have to be eligible, or capable of being chosen. That is only in part a question of what the options are; the decisions have also to be legitimate, in the sense that the power to make them must be morally accepted. The moral case for positive freedom depends, in large part, on the view that people have the right to decide issues for themselves.

The legitimacy of people’s decisions tends to be taken as axiomatic. Conventional welfare economics identifies people’s choices with their ‘utility’, and with their well-being;<sup>64</sup> similarly individualistic positions are taken by some political scientists, and Dahl argues that interests can only meaningfully be identified by the people who have them.<sup>65</sup> There are illiberal objections to this – that some other decision should be made, for example because people are poor judges of their own interests, or because they will be better off. The idea of ‘paternalism’ is considered later in this chapter. But the difference in these positions is not really susceptible to argument – either one accepts that people have the right to make their own decisions, or one does not.

More important, for present purposes, are the arguments for restriction of choice which still apply despite the presumption of free choice. There seem to be three main ways in which, if the liberal position is accepted, people may not have the right to decide. The

first case consists, obviously enough, of actions which infringe the rights of other people; these were discussed above. By extension, arguments for limiting decisions can be applied to circumstances where some kind of regulatory framework has been introduced to protect other people – situations such as the provision of a driving licence, which restricts behaviour which is capable of causing harm to others, or the regulation of marriage, which among other things can be argued to protect the circumstances of vulnerable people.

The second case is that there is a class of decisions which cannot be taken in the name of freedom, because they negate the principle of freedom. People who are autonomous cannot legitimately choose to give up their autonomy. This is a complex issue, and I have discussed it later in a section on ‘limits to autonomy.’

The third case, which is the most directly relevant to issues of capacity and positive freedom, consists of circumstances where people are not incapable of pursuing a course of action, but are not entitled to do it either. The lack of capabilities associated with poverty, Sen argues, is not just a matter of what people can and cannot do physically. It stems from a lack of entitlement.<sup>66</sup> Famines occur, not where there is not enough food, but where people are not entitled to have the food which is produced. The person who cannot buy food does not have the same choices that other people have, and so is not free. But poverty is a general condition, not one which is specific to a single commodity like food. The lack of entitlement to food is indicative of a more general lack of entitlements, usually mediated in modern society by lack of money. Sen argues for the extension of freedom through economic and social development.<sup>67</sup> Economic development is important, not just because it creates goods and services, but because it develops entitlements. People gain entitlements by being integrated into the formal economy. But those entitlements can also be developed in other ways, most notably through political processes. There has never, Sen argues, been a famine in a democracy. Sen’s position depends strongly on a positive understanding of freedom – an idea of freedom as being about capacity, empowerment and choice. But it still accepts, in common with a negative view of freedom, the premise that people may not be able to make choices, because they are not entitled to make them.

### *Autonomy and self-determination*<sup>68</sup>

Autonomy rests in the ability to make decisions. People are autonomous when they are able to make their own choices. The

promotion of autonomy is fundamental to freedom. A primary justification for many of the interventions made in the lives of people whose ability to choose may be limited, like children, people with learning disabilities or older people, is that intervention can increase their autonomy.

A person who is autonomous is able to make decisions, but that is not necessarily the same as someone who actually does make decisions. The process of making one's own decisions is referred to as 'self-determination'. The idea of self-determination' is a specialised form of freedom, frequently found in the literature of social work. The origins of the idea are partly to be found in the liberalism of the mid-19th century, but they were also strongly influenced by the individualist Christianity of that period: salvation depended on personal choices and conduct, and God had granted every person the choice to take the right path. When social workers argue that clients have both an intrinsic moral worth and a 'right to fail',<sup>69</sup> it parallels Christian beliefs about salvation.

The concept of autonomy relates to the power to decide; self-determination, to the act of deciding. For example, a disabled person may be fully competent to make decisions but unable to make them in practice without the cooperation of others; that person would be autonomous but not self-determining. People can be required to be self-determining, in the sense of being forced to make their own decisions, even under constraints. For an offender on probation, the 'right to fail' may mean breach of a court order and imprisonment. The 'right to fail' is certainly necessary to be autonomous, but it is arguable whether it is necessary to be self-determining, because the effect of failure may be to put probation clients in a position where they are no longer able to choose for themselves.

The idea of self-determination, as it is practised, is very unclear.<sup>70</sup> Social workers may try, in the spirit of self-determination, to establish not just what people seem to want, but what they *really* want. Self-determination may mean self-determination within 'realistic' limits. It may be subject to the needs and rights of others;<sup>71</sup> the degree of self-determination which probation officers encourage in a client does not generally extend to criminal activity. And it could mean 'rational' self-determination – a term which is liable to abuse, for a person may be considered 'rational' when they do the sorts of things that they are supposed to do, like paying household bills, and 'irrational' when they do not.

## An example: helping with incontinence

Mill argues for the independence of each person: no one should be subjected to interference unless their actions threaten to harm others. The individual, he wrote,

... cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right. These may be good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise.<sup>72</sup>

Remonstrating, reasoning and persuading can, however, present considerable scope for interference in people's lives. Several professions, including, for example, social workers and health visitors, offer supervision, guidance, and argument whether people want it or not. The following passage is written by a nurse specialising in incontinence:

'Any problems with your bladder or bowels?' 'No', said Mrs N, looking the health visitor squarely in the eye. 'So, no difficulties with your waterworks?' ... 'No', said Mrs N, her chin now jutting firmly forward.... 'Sometimes as people get older they have to go to the toilet more often or need to get to the toilet more quickly – but you haven't experienced anything like that?' 'No' ... 'I couldn't help noticing as you walked in front of me that you had a wet patch on your skirt....' The tears started rolling down Mrs N's face....<sup>73</sup>

Health visitors are trained nurses (generally midwives or district nurses) with a remit to encourage healthy behaviour. The origins of the profession lie in maternity visiting, introduced after the First World War; maternity visitors checked the circumstances of every new-born baby, and every new mother, partly to advise and partly to monitor the care of children. The profession's remit extended in the 1970s to cover health promotion across a much wider range of groups. The idea of 'health promotion' suggests a primary concern with welfare, rather than individual freedom, and it is not perhaps surprising that the health visitor should be concerned about the older person's uncontrolled incontinence. The example given above is presented by the writer as an illustration of good practice. The health visitor has come as part of the older person's annual health check. The older person is embarrassed, and reluctant to admit to her incontinence:

more than that, she is defiant, and tells the health visitor ‘no’ three times before the health visitor gets through – and does so by reducing her to tears.

This is probably not the kind of encounter with government that Mill had in mind, but it happens rather more frequently in practice than some of the more fanciful examples favoured by political theorists. There are some important issues to consider. Can the actions of the health visitor be justified? All the health visitor is doing is reasoning, remonstrating and persuading: that much seems to be allowed by Mill. But that formulation can also cover a great deal of unacceptable conduct. If a door-to-door sales representative or religious missionary behaved like this, we might reasonably think that they were being intrusive. When someone in a position of authority does it, the implicit imbalance of power adds another dimension. Older people are often fearful of the intervention of social workers and health professionals. This is not because older people are particularly deferential; it is because they have a great deal to lose. They cannot be made to move to residential care directly, but they are heavily constrained. The move to residential care is likely to mean a loss not just of independence, but of liberty, personal choice and control over one’s own environment. This is not like a negotiation with a sales representative, and it is difficult to see how, on any reasonable interpretation of negative freedom, it could be acceptable.

There is, however, another side to the argument. Someone who is incontinent is probably not able to function socially or to participate adequately in social events. Incontinence is distressing to the people who suffer from it. Most incontinence can be controlled, and even if it cannot be controlled completely, it can be managed. What an incontinence advisor is offering is, then, a real benefit: practical assistance which makes it possible for a sufferer to have as normal a life as possible. The health visitor’s intervention is a first step to reasserting Mrs N’s control over her own life. There may be difficulties in justifying this in terms of negative freedom; there are none in terms of positive freedom. If the purpose of asserting freedom is to avoid coercion, it could be argued that older people need some safeguards to protect them from this kind of intrusion. But if freedom rests in personal autonomy, and the purpose of freedom is to let people make choices, the health visitor’s intervention is not just desirable, but necessary.

Most people working in health and social care have had to make similar decisions about intervention in people’s lives at some point in their careers. But few would find it difficult to justify what they do – it is hard to see how they could do otherwise and still stay in the job. That justification would be made, not just in terms of enhancing the welfare of the people they work with, but of empowering them.

### *Limits to autonomy*

If people are seen as autonomous and self-determining, they have the right to make decisions about themselves. But there are decisions that cannot legitimately be made in the name of freedom or autonomy. People cannot choose not to be free – or at least, they cannot do so in the name of freedom. Freedom is inalienable – it cannot be sold or bargained away. If it can be disposed of, it ceases to be freedom.

Some of the implications of this principle are disputed, and it might help if I begin with the least contentious point of the argument: that people cannot agree to be slaves. This is universally agreed in modern society – the League of Nations agreed a convention on slavery in 1926<sup>74</sup> – and it has generally been accepted as part of international law. But this has not always been the case. The 12th commandment in the Book of Exodus says that slaves have to be set free after seven years, but if the slave insists on staying in the master's household, they become slaves permanently. People could, then, agree to be slaves. In many societies, there have been mechanisms for people to become slaves through their actions – an example is bond slavery, which could happen because people were in debt, and which would continue until the debt was redeemed. (The Pilgrim Fathers abolished this practice.) Similar mechanisms continue to exist in some developing countries today, and the persistence of forced labour has been subject to a series of later conventions.

There are many possible objections to slavery. It can be argued, for example, that it has undesirable consequences – it is economically obstructive, because it limits the mobility of labour, or it is socially undesirable, because it implies a degree of inequality which divides a society. Feinberg suggests that the primary objection to slavery is paternalistic – that is, intended to promote the welfare of people who need protection.<sup>75</sup> But these are not fundamental objections: other practices which are bad economically or bad for society are not treated with the universal repugnance that slavery merits. Three rather more important objections are that slavery gives the slave owner an unacceptable degree of power, that slavery infringes human rights, or the argument that slavery is inconsistent with people's self-ownership. But these are simply arguments about freedom, framed in different terms. The first is an objection to coercion, the second to limitations in people's ability to act for themselves, and the third is another way of saying that a person has lost the ability to be self-determining. The central argument against slavery is that it is incompatible with freedom. The primary, fundamental objection is that people who become slaves

are denied all further choices. It is not a defensible choice in terms of freedom, because it negates all further freedoms. That is why people cannot agree to become slaves.

The arguments which follow hinge on the proposition that *freedom is inalienable*, and so it is not legitimate to decide not to be free. I want to elaborate on that theme. If the principle is admitted, it applies much more widely than the example of slavery. There are several other circumstances where people might find themselves with no further freedoms. The implications, however, are much less generally admitted than the argument against slavery.

The first case is suicide. People may, in the name of freedom, have the right to choose the manner of their dying. If someone is dying of a fatal illness, there is an argument to say that they should be free to decide how and under what conditions they will actually die. Permission for euthanasia, or assisted dying, is made in some legislatures for people who are choosing the manner of death when continuing to live freely is not an option. People do not, however, have the freedom in general to choose whether they live or die, because – like slavery – death means that no freedom is left. Suicide is a choice to cease to have any further choices. That means that, in societies which value freedom, suicide is not a legitimate choice.

This is the subject of a common intellectual muddle. Suicide has been decriminalised in many legislations, because punishment is pointless. That does not make the action lawful or legitimate; there are still many restrictions aimed at preventing people from taking their own life, and (*pace* the Canadian courts,<sup>76</sup> which have taken a different view) many related actions, like assisting, advising or helping people to commit suicide, are still forbidden by criminal law. Many of us are inclined to say, ‘of course people must be free to commit suicide’, but we do not really believe it emotionally, even if we pretend to believe it rationally. If we are faced with someone attempting suicide – for example, someone who has taken a bottle of pills which we discover – most of us would call for help. Our prejudice in this case – the instant reaction – is the right one; people should not be left to die, because if they do, they will cease to be free. If freedom is inalienable, people cannot legitimately choose not to have any more choices. It is conceivable that someone may wish to argue that suicide may be morally permissible on other grounds, but it is not consistent with freedom.

The second application of the general principle is the use of deadly force. Killing someone denies them all further freedoms. There are consequently very few circumstances in which the use of deadly force



can be justified in the name of freedom. Self-defence is permissible, because that means exceptionally that the killer has the choice to deny all further choices to someone else or to be denied all further choices themselves. Killing someone to protect the freedom of others may be permissible in the same terms. But killing someone to prevent robbery, to defend oneself against assault, or to prevent someone escaping, are not justifiable in the name of freedom, because the use of deadly force is not justified by the freedom of the person who is attacked, and it denies all further freedom to the assailant. If any of these actions is defensible they must be defended in different terms. (I am not saying that there are no arguments for killing people – they include deterrence, just deserts, punishment and biblical authority – but freedom is not one of them.)

The same argument extends to gun control. Most governments in liberal democracies, with the obvious exception of the US, impose a substantial degree of control over guns. This is because guns, whether intentionally or unintentionally, deliver deadly force. That, after all, is what they are designed to do. (In many cases it is unintentional on the part of the user. According to the US National Safety Council, 762 people in the US were killed by the accidental discharge of a firearm in 2002.<sup>77</sup> The figure is small compared to the numbers of deliberate killings, or self-harm, but it is still much higher than all deaths by firearm in countries like the UK where guns are subject to strict controls.) Where guns are used, people die, and death denies all freedom in perpetuity to the person who is killed. Hughes and Hunt make the case that people should be free to carry guns, because it protects them.<sup>78</sup> It may protect them – which is debatable, in view of the extraordinary number of accidental deaths – but even if this is right, it depends on disregarding the freedom of the people who will be killed. It is not impossible to defend the possession and use of guns enshrined in the US constitution, because there are other arguments besides freedom. They include arguments relating to personal security, enforceability, culture, tradition, redressing imbalances in power and the maintenance of civilian militias. Conversely, there are other arguments against the use of guns, such as security, power and restraining the illegitimate use of guns for intimidation and crime. The suggestion that the possession of guns is legitimised by personal freedom, however, is a thoroughly bad argument.

The third example is drug dependency. There is a ‘libertarian’ argument, which argues that drug dependency is a matter of individual choice, and that no one has the right to stop people from actions they choose, even if they become addicted. There is also a practical argument,

that prohibition does not work. But the argument from capacity runs against this: the choice to become addicted, like the choice to be a slave, denies freedom for the future. Defending that in terms of freedom is self-contradictory.

This is not an exhaustive list. Other examples include consent to serious bodily harm, restrictions on the sale of body organs, and a range of measures taken to protect children from exploitation. If there are certain actions which deny freedom, it must be true that preventing those actions enhances it. The actions which most obviously deny freedom are the actions of other people: the freedom of each person is limited in order to protect the freedom of everyone. But people can do things that limit their own freedom. Intervention to prevent people from doing things can enhance their freedom.

This potential paradox has been the root of several abuses of freedom. But there are clear limits to the application of the principle. Interference ceases to be defensible in terms of freedom, not when the intervention first occurs, but where it limits a person's choices. There is no real moral problem about banning slavery, preventing drug addiction, or banning guns, because each of these measures can be held not just to safeguard the stock of freedom overall, but to protect the freedoms of the individuals affected. There is more moral difficulty in dealing with other circumstances where death may possibly result, but does not generally do so: examples are smoking, alcohol consumption, extreme sports and use of motor vehicles. In those cases, the activities are liable to be restricted rather than banned, in an attempt to establish a balance between different claims on freedom. Legal restrictions are used to establish a framework in which freedom can be maintained.

### **Individual and social concepts of freedom<sup>79</sup>**

The terms in which the discussion of freedom has been framed are, I think, subtly different from the basic ideas of negative and positive freedom. In conventional terms, negative freedom has been associated more with the arguments of the individualist right, and positive freedom with the socialist left. From the perspective of the right, the focus on negative freedom tends to put the strongest emphasis on those circumstances in which coercion may be applied – most obviously, the role of the government and the state. Taking a broader view of freedom has the effect of admitting a range of concerns about circumstances where people are unable to act. Those concerns relate most obviously to conditions such as poverty, disability and ill-health. Conversely, from the perspective of the left, the constraints introduced

by other actors besides the state, including business and commercial interests, are as important as the use of direct coercion. An exclusive concern with coercion tends to limit arguments for freedom to those for civil and political rights, which, although important, do not address the full range of concerns which the left has engaged with. Advocates of negative freedom do not think that choice is unimportant, but they have problems in admitting that some kinds of limitation, such as poverty or disability, are appropriate examples of a lack of freedom. The advocates of positive freedom are not insensitive to the importance of civil liberties, but they think that other kinds of freedom should be considered along with them.

It would be possible to identify the difference between these two positions in terms of substantive issues. On the one hand, there are those who see freedom primarily in terms of institutional relationships – especially as a limitation on the actions of governments. On the other, there are those who interpret freedom in broader terms, including relationships in business, education, religion and family life. This distinction would be defensible, because if freedom is determined by whether or not the activity is valued, the differences can be attributed mainly to the importance attached to different spheres of activity. I think, though, that it is possible to argue that there is also an underlying difference of principle. It does not fall clearly between left- and right-wing views, because there are left-wing arguments which rest on opposition to government (like anarchism), and right-wing conservative views which take a broad view of social action (like Christian Democracy). The difference can be characterised more effectively, I think, as a difference between individual and collective, or social, concepts of freedom. Related terms were used by Hobhouse nearly a century ago.<sup>80</sup>

The idea of individual freedom starts from the premise that each person should be self-determining. Mill writes: ‘Over himself, over his own body and mind, the individual is sovereign’.<sup>81</sup> The idea of ‘sovereignty’ in this context refers to the location of authority. Authority is vested in the individual, not in society, government or some other people. People are free when they are able to act, negatively and positively, in a self-determining manner. The basic criterion is choice. Individuals are free if they are making their own decisions, subject only to their capabilities. Although the emphasis falls on protection from coercion, the concept is both negative and positive – it assumes that people are not restricted, and that they make their own decisions. A person trapped under rubble is not able to make decisions, but a person who is poor, disabled or homeless is still self-determining, and

so is still free. This, I think, encapsulates much more effectively than ‘negative freedom’ the position which is taken by right-wing liberals like Hayek<sup>82</sup> and Friedman.<sup>83</sup> (Hayek himself uses the term ‘individual freedom’ liberally.) They are not arguing that freedom has no positive aspects, and they are certainly not saying that the freedom to choose is unimportant or irrelevant. They are, however, defining the scope of action according to the individual, rather than according to the social context the individual is placed in.

It is possible to see this kind of individualistic argument as ‘right wing’, but the position is not straightforward. There is a growing literature concerned with social policy governing the body.<sup>84</sup> Much of this literature is placed, via Foucault,<sup>85</sup> in the left-leaning, quasi-Marxist camp which sees control over people’s bodies as evidence of repression. The issues are concerned with relationships in society and imbalances in the structure of power. But the arguments for people being allowed to do as they please with their bodies are highly individualistic, and (paradoxically, perhaps) the arguments against them doing so are generally social. Sheila Shaver makes the point, in relation to abortion, that it is in liberal regimes where women are held to have rights to control what happens to their bodies: in continental Europe, where collectivist principles are more generally accepted, social morality and the interests of others are much more readily accepted.<sup>86</sup> The example of abortion represents a case in which several people besides the mother might be thought to have an interest. The individualist view is that only the individual most affected has a right to decide: for proponents of abortion, the mother, and for opponents, the unborn child. The social view is that others are involved – fathers, families, professions allied to medicine and the broader society. Any of these claims, if admitted, acts as a limitation or condition on the rights of individuals – and that limitation is reflected in European laws on abortion.

There are two main kinds of objection to the assertion of the sovereignty of the individual in this sphere. The weaker of the two objections is the idea that, whatever we do, other people are liable to be engaged and involved. The stronger objection is a social perspective which argues that, irrespective of the claims of individualists, society does have a claim and an interest in the conduct of each person within it. That is the position argued by conservative moralists like Stephen and Devlin.<sup>87</sup> When it comes down to cases, few people genuinely believe that moral conduct excludes private actions. Let me offer a few examples:

- Should domestic disputes involving violence be considered private between the parties?
- Should people be free to inflict extreme pain or mutilation on consenting adults? (That was the subject of the ‘Spanner trial’ in 1990. The participants’ conviction generated various indignant protests, but it was upheld in a series of appeals, finishing at the European Court of Human Rights in 1997.<sup>88</sup>)
- Should marriage be permitted between brothers and sisters?

Any of these issues might be considered to fall in the private sphere by libertarians, but if you can answer ‘yes’ to any of these questions, you are unusually liberal, and if you can answer yes to all three, you are exceptional.

Social freedom starts from a different set of moral premises. It sees freedom, not as a property of individuals, but as a relationship between people. People’s capacity is seen in the context of their social environment. Both their own ability to act, and the effect of others upon them, are forms of power. ‘Freedom’, Tawney argues, ‘is always relative to power’.<sup>89</sup> Like the individual conception, this encompasses both negative and positive senses of freedom. The difference between individual and social freedom rests more in one’s interpretation of the nature of social action than in the identification of conceptually distinct elements. Social freedom stresses, not self-determination – which can be exercised by an individual in isolation – but the relative power to act; not the absence of interference, but the relative power of others. Because people who are homeless, disabled or poor are unable to escape from their situation, they are not free.<sup>90</sup> In the same way as the individual concept may be linked to pathological explanations, the social concept may be associated with structural views, which attribute poverty not to the responsibility of the individual but to the structure of a society. Intervention may be justified to liberate them from their restricted circumstances. Freedom can be increased by increasing power. Financial resources, because they enable a person to act, are one source of power. A person with more money has more choice, and is therefore more free. Poverty, by the same argument, restricts choice, and so restricts freedom.

## **Arguments against liberty**

This discussion has ranged over much of the political debate, and it has taken in a range of apparently opposed views. There is so much agreement that freedom is a Good Thing that it is tempting to think

that no one disagrees with it. That is not really true; if there was no opposition, it is difficult to see why any government should ever knowingly take steps to undermine liberty. Opposition to the principle comes in several ways. Part is based not so much in opposition to freedom as in conflicts between different views of freedom – most obviously, disagreements between positive and negative freedom, and individual and social concepts. Part is based in the view that, irrespective of arguments about freedom, there may be positive grounds for compulsion. The core argument for compulsory participation in social welfare schemes is that people cannot expect to benefit without contributing, and the level of interdependence in a society is such that claims not to use services like roads, transport or the social infrastructure are generally spurious. More fundamentally, there is an argument that liberty is not a primary good and that other moral rules are more important. Kant tells us to ‘act only on that maxim through which you can at the same time will that it should become a universal law’.<sup>91</sup> If moral conduct works on universal principles, those principles apply to other people, not just to ourselves.

Frequently, liberty is weighed against other competing principles – primarily welfare and security. Opposition to freedom is often justified in terms of economic development: it is difficult to find people who are opposed to both. In many developing countries in the 20th century, Stalinism was profoundly influential: Stalin had argued that rapid economic development required a combination of central direction and harsh measures.<sup>92</sup> An alternative, but no less influential, model, combines economic liberalism with firm political control. This has been the pattern favoured by South East Asian countries, and most recently by China. This begs the question, however: why, if governments in the poorest countries are generally pursuing freedom or economic development, do they seem to have neither? One explanation might be that they cannot be separated, and each depends on the other. People need food before they can exercise choice; they need choices to be sure they will have food. A second explanation is that both depend on prosperity: freedom and economic development are best protected in the developed economies of the West. The third is that there is some other factor, like democracy or security, which is necessary for both to prosper: famine is widely associated with problems like civil unrest. And the fourth is that some governments, despite their protestations, believe in neither. One comment heard with depressing frequency from people in Latin America and Africa is that they have a ‘kleptocracy’: government by thieves, solely in the interests of the governors. If any principle is going to be powerful enough to

overcome both freedom and economic development, greed has to be a strong contender.

### **Paternalism**

Opposition to liberty is sometimes described in terms of 'paternalism'. In a liberal democracy, the term is often used pejoratively, although it represents a widely held sentiment. There are often strong moral reasons for limiting liberty. The first is the general application of moral principles. If one accepts moral rules, like respect for persons or property, it is difficult not to accept that the rules should be applied generally – a position taken, for example, by Kant and Mill. It is often possible to justify these rules in practical terms – what would life be like if people ignored them? – but that is not the main reason why they are there. In many cases, social policies have been set up to do things, like slum clearance or educating children, because their proponents thought it was the right thing to do. (One argument that people seemed to find persuasive in Victorian times was the idea that people needed a decent environment and background to be good Christians. This argument was made, for example, by General Booth and Octavia Hill.<sup>93</sup>)

The second reason is to promote the welfare of the person, which is one of the purest forms of paternalism. Mill's arguments suggest that people can be protected from harm by others, but not that they can be protected from other sorts of harm. This is puzzling. In practice, few people genuinely believe that intervention in someone else's life for their own good cannot be justified – the strongest counter-example is family life, where people continually try to influence the people they most care about for their own good. The principle is not fundamentally different: when a society tries to protect the position of people who are old, infirm or vulnerable, the work of the health visitor is illustrative.

The third reason for paternalism, paradoxically enough, is to promote freedom. If people's actions forestall choices, for example through drug addiction or alcoholism, intervention will help them to preserve their independence and their freedom. One of the implications of the term 'paternalism' is that it involves treating people like children, and of course this is also one of the justifications for limiting the freedom of children: the object is not to prevent children from making decisions, but to lead them to the point where they will be able to do so in the future.

## An example: licensing laws

Licensing is a system for the control of the sale of alcoholic beverages. The law of licensing is a 19th-century institution. In the context of Victorian society, nominally founded on the principles of laissez-faire and individual responsibility, the control of alcohol consumption seems inconsistent. It was founded largely in moral disapproval of the habits of the lower classes, and a paternalistic desire to control their excesses. In recent years, there has been a general trend in many fields towards liberalisation of markets, and over time many of the practices associated with licensing law have been modified: there have been extensions of opening hours and a growing range of licensed premises. During discussions of reform of the law in Scotland, I undertook a small canvass of stakeholder opinions during debates on proposed reforms of the system. Working with colleagues from The Robert Gordon University, I consulted 51 stakeholders, including members and officials on licensing boards, representatives of different kinds of licensees, police officers, lawyers and various people working in health promotion.

The responses fell into five main categories. First, most respondents felt it was necessary to regulate the supply and consumption of alcohol:

‘Regulation provides a safer and controlled environment for the consumption and sale of alcohol.’

‘To ensure that its use is within the boundaries of what is considered as socially acceptable.’

Several emphasised that alcohol was a dangerous product:

‘To control what is, if abused, a dangerous product, to ensure its enjoyment as far as possible.’

‘To regulate social problems which might arise from sale and supply of a drug.’

‘To regulate (carefully) the availability of alcohol, which is a harmful drug if used inappropriately.’

Second, the licensing laws were seen as a way of protecting vulnerable users:

‘To regulate who buys and protect if possible some of the vulnerable members of the community.’

‘To protect juveniles and other vulnerable people.’

‘We need to protect people from themselves when they’ve had a few to drink.’

Third, licensing laws were seen as a means of protecting the wider public:

‘To control behaviour which may interfere with and damage the legitimate rights of others.’



'The protection of the public and the maintenance of public order and safety.'

'To regulate, administer and set conditions of licence to ensure public safety, control public health and ensure a safe environment for the community.'

Fourth, licensing laws were seen as a means of controlling the licensed trade. Some respondents saw this as a straightforward objective:

'To keep control of licence holders.'

'Set and monitor standards for licence holders and licensed premises.'

Many respondents saw the licensing laws as a means of regulating trade. Licensing laws were intended, according to some licensees,

'To have some form of level playing field applying to those in the industry.'

'To ensure people running public houses are properly trained and understand their responsibilities.'

'To promote industry.'

Fifth, licensing was seen as a way of protecting the public interest:

'To have elements of consistency and control to protect the quality of life of citizens.'

'A form of social control – address the balance of availability v. prohibition, punishment for wrong doing.'

'To balance the needs of the community against the needs of the trade.'

A representative of the licensed trade suggested that the laws were intended

'to ensure a fair system that allows people to enjoy themselves and those who serve to make a comfortable living.'

while the clerk of a Licensing Board suggested that:

'Without them, anarchy would rule.'

As for the behaviour of the clientele, the general view – held by both officials and people in the trade – was that licensees had to do more to curb the excesses of their customers:

'Stricter entry controls, and service should stop if a client is drunk.'

'Night clubs should be much tougher on drunkenness, and evict/call police on offenders.'

'Stricter penalties for sale to those who have consumed too much.'

'Tightening of law required dealing quickly and effectively with licence holders whose premises cause trouble for society.'

This was, of course, combined with a concern to increase controls and restraints on drinkers:

'Stiffer penalties should be administered through the courts for acts of violence and for being drunk in a public place.'

'Cultural change law as in drink driving can help.'

'Police to fine public disorder offenders, like litter fines just introduced.'

The paternalistic nature of the licensing laws is still strongly evident. Licensing is a form of 'impure' paternalism, based, like the control of gambling, in the restriction of third parties rather than direct restriction of the person who is to benefit. Dworkin outlines three main justifications for paternalistic action: that people otherwise do not necessarily know the consequences of their actions; that they may not otherwise act responsibly; or that they lack the capacity for judgment.<sup>94</sup> Other justifications are that paternalistic action provide a convenient framework, consistent with people's wishes; that paternalism provides necessary social protection, because rationally individual decisions do not safeguard against apparently remote risks; and that paternalistic action may increase freedom, by limiting actions which will diminish it. Most, if not all, of these justifications are visible in these responses.

### *Compulsion in practice*

Whatever the intentions of government, in practice the use of compulsion is tempered by a balance of moral, ideological and practical considerations. Because governments have a variety of coercive tools in their armoury, it is often sufficient to apply pressure, or to hint at coercion, rather than go all the way. The essence of coercion rests in the application of a sanction for non-compliance. The effect of a sanction should be sufficient to forestall the option – making it effectively non-eligible – as opposed, say, to taxation, which simply makes it less eligible. Whether or not sanctions are coercive in practice, however, depends on context. Forbidding actions is coercive in effect only if the remaining options offer a restricted course of action. Banning bare-knuckle fighting, for example, is not widely considered coercive, because very few people actually want to do it, and in any case it leaves people with sporting urges several other options for hitting each other over the head. Making actions dependent on permission – like possession of a driving licence – is not usually seen as coercive, because authorisation is available under certain conditions. The same is not true of some other restrictions, such as the use of opiates, because the desire to use them is extensive, and the conditions for authorisation are much more limited.

The mechanics of securing compliance with laws have a major effect on the kinds of method it is possible for governments to adopt. The best known form of proscription lies in criminal law, in which people are made liable to punishment or sanction as a result of breaking the law, but there are other forms of denial. The example of licensing is a

case of indirect compulsion, controlling behaviour through the behaviour of others. It is possible for a government to forbid something without making it punishable directly. Some actions are unlawful but not subject to criminal sanctions. In English law, it was long considered that 'sexual intercourse between husband and wife is sanctioned by law: all other sexual intercourse is unlawful'.<sup>95</sup> This understanding of the law has become unfashionable with black-letter lawyers (it has been dropped from later editions of the source I cited), because it relies on a reading of principles which goes beyond the letter of the law. It makes sense nevertheless. If sexual intercourse were lawful, like (say) higher education, people could advertise it, help others to do it, employ people to assist, offer facilities for its commerce, and so forth. The restrictions can only be there because the action itself is implicitly unlawful.

Some laws define an offence in absolute terms, so that any infringement, no matter how minor, is potentially criminal. The common law of battery defines any physical contact – even a tap on the shoulder – as illegal. This is eminently enforceable; it is sufficient to show that physical contact took place, and it is not necessary to demonstrate a degree of force or an intention to cause harm. The same rationale lies behind laws which forbid hitting children. A hit is unlikely to be prosecuted. What an absolute ban does is to remove a defence based on a misjudgement of force. (There is another argument for this kind of restriction: it may be justified on the rabbinical principle that the way to stop people doing something serious is to stop them doing anything at all. The intention of a total ban may be to shift the distribution of acceptable behaviour, and with it the pattern of social conduct.) An alternative approach is to allow a margin of latitude. Speed limits for motor vehicles in Britain are enforced in most locations only after a margin of excess has been allowed. The margin of excess, reported as being 10% + 2 mph, allows for the inaccuracies of speedometers, coupled with an allowance for usage and practice. In stark contrast, there are also laws which set the criteria for enforceability well in excess of anticipated practice. If legislatures want abortions to be performed by 20 weeks, but it is accepted that the boundaries are difficult to define, they may allow for a maximum limit of 24 weeks. (The same argument as that applied to speed limits might have implied that the way to arrive at an effective limit of 20 weeks would be to impose a limit of 16 weeks. In the case of abortion, however, policing of the limits has been strict, and erring doctors may be informed on by their colleagues.)

There are alternative methods of enforcement, too, beyond criminal

law. Some governments use civil law, relying on a combination of compliance and individuals taking legal action as a means of bringing behaviour under control. Some, of course, use other forms of punishment, such as those used in schools, to instil appropriate behaviour. And many governments, despite the extensive range of compulsory powers available to them, prefer to use alternative methods – persuasion, propaganda, incentive and reward.

The position is not, then, one where governments simply tell people what to do. There is an implicit negotiation going on: governments have to judge what is legitimate, and what is possible. Some of the constraints on the use of compulsion are moral and ideological. It may be possible to reduce the incidence of littering by deprivation of liberty, but it is not an option which would commend itself to most governments. Although the principle is far from consistent in its application, liberal democracies tend to take the line that the appropriate level of intervention is proportionate to the offence and the minimum required for effectiveness. A large part of the rationale is practical. There are, of course, circumstances in which governments are able to proscribe certain activities and punish people who break the rule. However, many examples of coercion are not so straightforward, because the boundaries are difficult to define. Enforceability is often more important than apparent meaning.

### **Liberty in theory: an overview**

The conventional understanding of liberty focuses on negative, positive and psychological freedom. I have suggested an alternative formulation, in the distinction of individual and social freedom. Whether or not that particular formulation is accepted, the approach taken in this chapter argues for a broader concept of liberty than that found in many of the texts I have referred to. The principle can act to restrict action, but it also implies positive duties, including the development of capacity and the promotion of autonomy. Understanding liberty in these general terms tends, I think, to shift the argument in favour of social understandings of freedom.

The relationship between the principle of liberty and the development of policy sometimes seems indirect. To those for whom liberty implies non-interference, the main effect of the principle seems to be to impose a barrier – to prevent certain policies from being undertaken if they would restrict the freedom of the people they affect. Arguing for a more broadly based, social concept of liberty means that liberty has a much more immediate relationship to policy:

for any measure, there may be normative implications. The next chapter attempts to consider the broader relationships. The devil, however, is in the detail. Liberty has many aspects, and there are few simple generalisations which will cover all circumstances.

## Towards a free society

The idea of liberty is a guide to action, rather than a specific prescription, and there is no single policy which is demanded by it. In a seminal essay, Charles Taylor makes the important point that all freedoms are not equal. He gives the example of two countries, one of which limits freedom of religion but does not have many traffic controls (his example was Albania), while the other, like the UK, has freedom of religion but a lot of traffic lights.<sup>96</sup> These are not equivalent. Freedom matters because it protects the things we value, like religion, education or the ability to discuss issues. A free society is not the same as a society where people are free to do whatever they want, or a society where the private sphere is not regulated. It is a society where certain key activities are protected, and capacities are developed, so that people can do the things they value.

A persuasive argument can certainly be made that a nation with a market economy or a free press is more likely to be 'free' than another, but it does not follow that more freedom is fostered effectively by the most libertarian position (unregulated trade, or the freedom claimed by pornographers). The reason for this is that the freedoms of each person have to be viewed in context: freedom in one sense has to be set against freedom in others, the freedom of one person may infringe on the freedom of other people, and the value of freedom depends on the value of the actions it is protecting. Which policies are necessary, and in what combination, is difficult to establish. In the following sections, I want to focus not on specific policies which might enhance freedom (such as rights for people in institutions or rules governing consent to medical treatment) but on the general conditions which are needed for freedom in the wider society. This is, of course, only part of a much broader set of issues.

### **A free society**

If freedom is generally encouraged and respected, it has implications for the way in which society is organised, and the way in which politics is run. In social terms, the expression of freedom implies diversity and difference. A free society has to be pluralistic, in the sense of fostering and protecting a plurality of interests. In political

terms, freedom implies empowerment and the protection of individual rights. These issues, taken together, are closely identified with the principles of liberal democracy.

### *Diversity and pluralism*

There are three core arguments for diversity. First, diversity should be tolerated. Tolerance, like respect for persons, depends on our willingness to accept the validity of patterns of life and behaviour that are different from our own. This is a difficult injunction to accept, because at root most of us think the moral choices we make are better than the alternatives – that is why we make them. The idea that moral codes and norms apply only to ourselves and no one else is incoherent. The argument for tolerance is partly that we should do as we wish to be done by, and partly that tolerance is itself a virtue, but also that we all need to understand that we just might be mistaken.

Some people would argue that, beyond tolerance, diversity should be valued in itself. If people are valued, what they are, the way of life and what is different about them should be valued. Valuing diversity sounds good at first, like motherhood and apple pie, but there are objections to it. If the idea of ‘value’ has any meaning, it has to be differentiated. Some patterns of behaviour, and some forms of diversity, will be more valued than others. Tolerance is a more modest aim, and a more achievable one.

This leads on to the second argument: that diversity benefits a society. Diversity develops options. It makes new ideas and patterns of life available to people. From diversity there comes the capacity to change. Here, again, it seems important to attach several riders. There are patterns of life which need to be the subject of restrictions, either because they are damaging to people (traditional medicine is an example) or because they deny freedom (like some forms of religious indoctrination). It makes no sense to justify slavery in the name of freedom, or intolerance in the name of tolerance. The central argument, however, is hard to dispute: a vibrant society, an active economy and a strong culture depend on change and the ability to absorb new influences.

Third, diversity is the product of freedom. It is difficult to see how one can have one without the other. This is vulnerable to the objection that freedom is not necessarily something which should be valued in itself – what matters about freedom is the things it lets us do. Unless people all wish to do exactly the same, and it is difficult to see how in

conditions of freedom this could happen, diversity is the inevitable consequence.

Wherever people live differently, and societies are diverse, there will be conflicting interests. Robert Dahl argues that any mechanism for decision making which reflects that plurality will come to bear the characteristics of a democracy.<sup>97</sup> Madison's argument for majority voting is not based in the view that majorities know better than minorities: it is that voting represents different factions, and that those factions will coalesce differently on different issues, and the nature of majority changes as coalitions of interest change. He wrote:

It is of great importance in a republic not only to guard the society against the oppression of its rulers, but to guard one part of the society against the injustice of the other part. Different interests necessarily exist in different classes of citizens. If a majority be united by a common interest, the rights of the minority will be insecure. There are but two methods of providing against this evil: the one by creating a will in the community independent of the majority – that is, of the society itself; the other, by comprehending in the society so many separate descriptions of citizens as will render an unjust combination of a majority on the whole very improbable, if not impracticable.<sup>98</sup>

The problems with this approach arise when there is a consistent majority interest on an issue. Pluralism, in the political sense, relies on a sufficient degree of movement or instability to prevent that happening. Pluralism is sometimes caricatured in academic writing as representing a belief that power is distributed equally.<sup>99</sup> Pluralists do not say that. They say only that, for pluralism to work, interest groups and factions have to be sufficiently diverse to prevent any faction exercising consistent domination over others. Whether or not that obtains in practice is a matter of empirical fact.

### **An example: the Islamic headscarf**

Pluralism and diversity depend on the recognition of minorities. There may, however, be difficult problems when the practices of cultural minorities are seen as limiting the freedom of people within minority groups. Several issues, including arranged marriages, female circumcision and the wearing of the veil, have created dilemmas for western liberals. These issues have several points in common. They reflect cultural practices derived from



illiberal societies, where they are supported by coercion. They reinforce the disadvantage of women. And they are often seen by members of minority communities as an expression of their culture, and their choice.

The argument in France has recently centred on the wearing of traditional headscarves in schools by Islamic pupils. This has been a complex debate, with four main strands. The first is the assertion of choice by individuals: the case which brought the issue to public attention was that of two girls from a mixed marriage, whose Jewish father supported their action. A demonstration by Muslim women chanted: 'Ni frère, ni mari, le foulard on l'a choisi'. (Literally, this means 'neither brother, neither husband, one has chosen the headscarf'. It doesn't make much more sense in French than it does in English, but when it's chanted, it scans splendidly. It can be taken to mean that the headscarf is chosen by women, not by men.) The second strand has been a strong expression of feminist opposition, from those who consider that the veil is a symbol of oppression. The headscarf is not a choice like the decision to wear earrings or not. It is a symbolic action, and beyond that traditional veils or burkas also directly limit the freedom of action of women who wear them. Third, there has been an underlying undertone of hostility to Islam and in particular to people from North Africa, most obviously expressed in France by the high vote in presidential elections for the leader of the anti-immigrant Front National. Lastly, there is a strong tradition in French republicanism of anti-clericalism, and a determined maintenance of the secular nature of the state. In opinion polls, more than two thirds of French respondents agree with the sentiment. This has proved decisive in the argument. In deciding to ban ostentatious symbols of religious observance in schools, the French President, Jacques Chirac, commented (more than once) that secularism was fundamental to respect, tolerance and dialogue between citizens.

Secularism guarantees freedom of conscience. It protects the liberty to believe or not to believe. It guarantees for all the possibility to express and practice one's faith, peacefully, freely, without the threat of having other conventions or beliefs imposed. It is the neutrality of the public space which allows for the harmonious coexistence of different religions.<sup>100</sup>

*Le Monde* argued that, far from creating a perception of neutrality and diversity, the banning of the veil was likely to be seen as exclusive and stigmatising.<sup>101</sup> There is a conflict at the heart of this debate between those who see liberty in terms of the removal of restraints on individuals, and those who emphasise the importance of diverse cultures and traditions.

## Liberal democracy

There are close conceptual connections between liberty and democracy. There are more varieties of democracy than I can hope to refer to here, but even allowing for a certain vagueness of terms, democracy is seen as a protector of freedom and difference. Democracy is sometimes represented in terms of the rule of the majority. The pluralist understanding of democracy is very different: it is not about the rule of the majority, but the rights of minorities. Majority rule does not give the majority the authority to suppress the rights of minorities. A majority is nothing but a combination of different minorities.

Liberal democracy is based partly on the principles of liberal individualism; it is also strongly influenced by the American republican tradition, represented in *The Federalist Papers*.<sup>102</sup> The key elements are individual liberty, pluralism, and the rule of law, and its primacy over government. Individual liberty, and to some extent the rights of minorities, is fundamental; a country which oppresses its minorities is generally considered not to be democratic on that account, even if it has the form of a democratic government in other respects.

Liberal democracy is identified less in terms of the specific mechanism of government than through observance of civil rights – equality before the law, freedom of religion and freedom of assembly – and political rights, including the right to free speech, the right to vote, and participation in politics. Political rights are often seen as fundamental to liberty, although some of the material I have reviewed up to now raises questions about that relative priority. Discussion of the full range of civil rights goes rather beyond the scope of this book, but there are three elements I think are particularly relevant, and which need to be acknowledged, even if I do not propose to discuss them at length. These concern freedom of assembly, freedom of speech and protection of the rights of individuals.

*Freedom of assembly* means that people are able to form groups without hindrance. The right of assembly has been restricted at many times in many countries, largely because of the (justifiable) fear that when people get together in groups, they may be able to discuss things that rulers may not wish them to discuss. Freedom of assembly is necessary, first, for social interaction: restrictions on assembly for some purposes, like restrictions on demonstrations and political meetings, are difficult to enforce without rules that apply to other purposes, like larger social events or religious congregations. One of the reasons that the guilds of the 17th and 18th centuries formed secret societies, including arrangements for mutual aid and social protection, was that such

meetings had to be arranged in defiance of the laws. Social interaction in these terms is necessary, in turn, for cultural activity and religious worship. Second, freedom of assembly is necessary for economic development. The link is more debatable, because some economies have succeeded in promoting growth despite important restrictions on political and social development, but economic exchange depends on markets – interaction, the flow of information and the development of networks – which presume assembly. Third, freedom of assembly is essential for the genesis of political activity. Political organisation and development in democratic countries depends on pluralism – not only on structures but on the formation of groups, interests and factions. This is, of course, precisely why freedom of assembly has so often been suppressed.

*Freedom of speech* means that diverse views and opinions can be expressed. The importance of free speech is so well established that it seems beyond question. Without it, there can be no movement in science, in art, or government. The central arguments for free speech, stated by Mill in *On liberty*, are that the dissenting opinion may be true, or have a portion of truth, and that the received opinion, even if it is right, should not be closed to examination, and held only through prejudice. Mill writes:

If all mankind minus one were of one opinion, and only one person were of the contrary opinion, mankind would be no more justified in silencing that one person, than he, if he had the power, would be justified in silencing mankind.<sup>103</sup>

This does not mean, however, that speech is subject to no rules. Free speech (like free action) is necessarily restricted by the effect that it has on other people. Speech can restrict the freedoms of other people, and there are forms of speech – like hate speech – which people have a right to be protected from. Some spoken actions can be criminal offences. This includes incitement and conspiracy to commit criminal offences, incitement to racial hatred and ‘public libels’, including in the UK obscenity and blasphemy. In *Schenck v United States* (249 US 47, 1919), Justice Holmes argued: ‘The most stringent protection of free speech would not protect a man in falsely shouting fire in a theatre and causing a panic’. (Theatre staff, by the way, are usually instructed not even to use the word ‘fire’; the front of house staff are alerted with a coded message.)

There are two possible rationales for these restrictions. One is that, like any other freedom, freedom of speech has to respect the freedoms of others; liberty is not license. The second rationale is that freedom of speech is a misnomer – it is not what we should mean at all. Freedom of speech may have less to do with free speech, or free expression, than it has to do with the rights of the audience – the rights that people have to obtain information and differing points of view, and the rights they have to be protected from hateful and damaging material. On that account, both freedom of speech and the restrictions on it are based in the same kinds of rights.

Third, there is the protection of *the rights of individuals*. In the previous section I argued that the rights of minorities were fundamental to democracy. Most liberals, even if they agree with the sentiment, would describe this in different terms. The core of liberal democracy is represented in terms of the rights of each individual, and so of each and every person. The rights of minorities are protected in so far as they represent the rights of the individuals who compose them. They are not protected in circumstances where (for example, in forced marriages or religious indoctrination) they threaten the liberties of individuals.

The rights of individuals are protected in three main ways. First is the rule of law: this means that the circumstances of each person are determined in accordance with commonly applied rules. The second principle is equality before the law and the related assertion of equal rights, which I shall come on to in Part Two of the book. The third is the liberty of the person, including physical protection from violation of the body, protection from coercion, and rights against deprivation of liberty.

Some of the examples I considered in the previous chapter also point to further special considerations. The ‘individual’ of *On liberty* is, more or less, a well-bodied adult of intermediate age, informed by a basic education and sufficiently secure in the necessities of life to be able to be concerned about other issues. That is not Mill’s intention, of course, but once these implicit norms are relaxed, many of the arguments are challenged. If the rights which are instituted are genuinely to be the rights of each and every person, they need to apply to everyone – children, older people, people with disabilities, people with dependencies, people in minority groups, and so forth. People who are vulnerable do not need fewer rights or less protection than others; they need more.

## **Creating the conditions for liberty**

Liberty depends not only on the absence of coercion, but also on the capacity to act and the promotion of autonomy. Freedom is closely associated with command over resources, both because resources endow people with choices, and because people's command over resources – their income and wealth – are indicators of entitlement and integration in society. Commerce, including trade and economic exchange, is fundamental to many capacities, and so to freedoms. The division of labour in society means that people specialise in the tasks they perform, and their work is subsequently traded. Everyone gains power as a result of the process: basic essentials, like food, clothing and heating, would be laborious and often unattainable without it. In right-wing thought, liberty is often linked with economic activity and production. Viewed historically, this is quite true. In mediaeval times, feudal societies limited people's capacity to trade and exchange – people could not sell labour, land or housing. The development of negative freedom, in terms of the reduction of restraints, helped to foster commerce. The argument that commerce in turn fosters freedom, however, is based in a positive idea of liberty. If it fosters freedom, it is because it increases positive freedom – the power to act.

Economic development is also related to the process of inclusion. One of the most basic means of addressing poverty is by integrating people into economic processes. The process of social inclusion is concerned with the parallel process of integration into networks of social responsibility. Some of these networks are linked to economic processes, through patterns of employment, exchange and economic entitlement. Others depend on social processes, including the relationships of family, neighbourhood and community. The term 'social capital' is used to refer to the development of capacity through social networks – Putnam argues that it is important, not just for social relationships, but also for economic prosperity.<sup>104</sup> The use of the term helps to draw attention to factors which, although intangible, and difficult to quantify in any meaningful sense, nevertheless play a major role in determining people's capacity. The power to act depends not only on the actions of individuals, but also on people acting in concert in a social context.

Collaborative action is also important for the development of capacity. For much of the past century, mutual action and aid has provided people with social protection (such as sickness insurance and unemployment benefits).<sup>105</sup> In several countries, this kind of provision has developed further: trades unions have provided housing (in

Scandinavia) or health services (in Israel). The actions of governments in the provision of welfare services should be seen in the same light.<sup>106</sup> Governments have been engaged in similar kinds of activity to such mutual organisations, often for the same kinds of reason: this is what citizens expect their governments to do. Historically, the development of free societies has depended on a long process of development; a range of social, economic and political conditions need to be satisfied. In *Development as freedom*, Amartya Sen identifies five key areas of freedom. He refers to them as ‘instrumental’, partly because they create the conditions for development, and partly because they act to increase people’s capabilities. The five areas are political freedoms, economic facilities, social opportunities, transparency guarantees and protective security.<sup>107</sup> Political freedoms were considered in the previous section. Transparency guarantees – issues which include trust, disclosure and the exchange of information – can largely be understood in terms of the same kind of civil and political rights. The other issues, however, are not always considered in discussion of freedom. In this section, I want to move on to consider the economic and social conditions for freedom.

### *The economic conditions for freedom*

Arguments from the political right tend to see the existence of the market economy as both an expression of freedom, and a condition for it. Market economies have delivered prosperity, security and personal liberty for large numbers of people. The market is an expression of freedom because wherever large numbers of people are able to interact, express preferences and exchange, an economic market will exist. It is a condition for freedom because it gives people the capacity to act independently and to make their own choices. The ‘freedom to choose’ embraced by Milton Friedman<sup>108</sup> is not just freedom to get on with things without interference: it implies capacities and positive choices.

I agree with the gist of this argument, but I do not think it goes far enough. People need to be able to interact, to exchange, and to choose. The main limitation on such action is poverty. Poverty restricts freedom through material need, which obstructs the capacity to act; through economic limitations, which obstruct the ability to choose; and through exclusion from participation in society. The main policy response from international organisations, notably the World Bank, the International Monetary Fund and the United Nations, has been to promote economic development, and to encourage the incorporation

of poor people into the networks which formal economies establish. This is often linked to issues of governance, institutional structures as well as economic development. The Poverty Reduction Strategy Programmes which developing countries have been asked to implement mirror the planning processes of governments in developed economies, such as the National Action Plans of countries in the European Union.

Poverty is not confined to developing countries. Significant minorities in the populations of developed economies are also liable to be excluded, usually because they are not part of the active labour force. These populations commonly comprise older people, unemployed people, people with disabilities, and single parents, who are mainly divorced women with principal responsibilities for child care. The proportions coming from each category vary, depending on the structure of the economy and the benefits system. This poses, in different terms from the problems facing developing countries, the same question: how to ensure that people are incorporated into the economy, and able to participate in society. Other aspects of this issue will be returned to later in the book, but for present purposes it should be sufficient to note that inclusion depends on redistribution, so that people in some groups support others. Every developed economy, without exception, has some form of redistributive mechanism, offering support to people in these categories. (The support is differentiated according to ideology, historical tradition and practice, but the very generality of the principle, considering the strength of the opposition, is surprising. I have considered the issue in much greater depth in a previous book.<sup>109</sup>) If participation in economic markets is a condition of freedom, then so is social welfare provision.

### ***Freedom, markets and social protection***

For many neo-liberals, such as Hayek and Friedman, the operation of the economic market is fundamental to freedom. There are three interconnected threads in their arguments:

1. If people interact and exchange freely, a market will arise. Suppression of the market is a suppression of that freedom.
2. Markets facilitate choice, which is the expression of freedom.
3. Economic freedom enhances welfare.

There are some reservations to make about these propositions, but broadly speaking they are right. In relation to the first, the development of economic markets has been closely associated with the development

of democracy, civil rights and the modern understanding of personal freedom. The second proposition is more debatable, because the choice which markets offer is conditional on resources, and some people have much more restricted choice than others: but the main response to this is to ensure that resources are available to the poorest, not to prevent distribution through the mechanisms of the market. The third proposition is also disputable, because economic licence – like other forms of unrestricted freedom – can limit the freedoms of others; but it does seem clear that the world's prosperous economies, and those which offer the highest degree of welfare, are all societies in which markets are well established and operate freely, while those which have restricted the market have generally failed to prosper.

What is much more contentious is the argument that in any of these respects, the liberty associated with markets is in some way compromised or threatened by systems of social protection. The first proposition is that the suppression of markets suppresses freedom. Does social protection, however, suppress markets? There is some reason to think that redistribution can alter the terms on which markets operate, but that is not the same thing; and there are circumstances in which social protection can promote markets, by incorporating people into the formal economy who would otherwise be excluded. Social security for unemployed people, for example, acts as an economic regulator, injecting money into the economy at times when production is restricted, and withdrawing it when production is booming.

Second, markets facilitate choice. Does social protection restrict choice? I argued earlier that the concept of freedom is itself redistributive: it implies the restriction of some people in order to make it possible for others to act. Exactly the same principle applies to the redistribution of resources for social protection, which restricts the choices of some people while expanding the choices of others.

Third, economic freedom enhances welfare. The argument that social protection reduces this effect is based on a particular interpretation of the workings of the economy. There may theoretically be some point or threshold at which social protection undermines the operation of the market, but the argument has no empirical foundation. As a general proposition, richer countries spend more on social welfare than poorer countries – but they have more to spend. If the comparison is confined, more relevantly, to developed economies, then countries with higher taxation or greater public sector expenditure do not have more or less successful economies than others.<sup>110</sup> The figures can be confirmed from the Organisation for Economic Co-operation and Development (OECD) website.<sup>111</sup> Because of economic fluctuations,



it is possible to use the evidence selectively to suggest that some countries with greater or lesser welfare expenditure are suffering adverse consequences, but the truth is that the figures are too diverse to support any firm conclusions. The level of expenditure on social protection is not visibly relevant to the success or failure of an economy.

### *The social conditions for freedom*

The operation of the market should not be seen in isolation from the social circumstances which make it possible. In the first instance, the development of both free economies and democracy has depended on communication and the exchange of information. This is linked to civil and political rights, but it has an impact far beyond that, affecting economic and social interaction. Second, there has been the extension of basic education. Education is important for a range of issues, including the operation of the extended political community, the functioning of the economy, and the maintenance of communication in contemporary society. In theory, it is possible for these factors to be achieved adequately in a society where education is partial or intermittent, but the general experience of most countries is that progressive improvement in education and investment in human capital are requisites for development. Third, the establishment of economic security, including security in housing, health care and social protection, provides a necessary foundation for free action.

The main problem here, as elsewhere, is what happens to the minority who are not included in development. Poverty is once again a principal source of exclusion, although in the terms considered here – including communication and access to education – it is not the only issue: people can also be excluded from participation by disability and difference.

### *The conditions of a free society*

In attempting to establish the conditions of liberty, I have emphasised a cluster of inter-related issues and principles. None of them, taken separately, is sufficient to guarantee liberty. None of them, if denied, is enough to prevent a society from being free. (Even in the liberal democracies of the West, there are occasions when the rule of law is suspended, when people are subject to arbitrary arrest, and when the press is censored or barred from action. I write at a time when the executive of the US, with the complicity of other western governments, has suspended civil rights, the jurisdiction of the courts and

international law in respect of people accused of engaging in armed conflict with them.) If these elements are neither necessary nor sufficient for freedom, I cannot be sure that I am right to emphasise their importance. But it does seem to be true that a society which has all these conditions is likely to be free; that a society which is denied them all is not free; and that a society in which some of them are threatened or restricted is at risk of losing its freedoms.

There are several ways to interpret the association of freedom with these principles. The first is that the conditions are indeed necessary, in the same way as certain biological conditions are necessary to life: their necessity only becomes apparent when one of them is denied, at which point the whole system starts to crumble. Some tyrannical governments have begun by denying or eroding rights, like the Nazis in the 1930s; the loss of one liberty is often a precursor to the loss of others. It is tempting to think there is a slippery slope, but it is not borne out by the experience of other countries: there have been many cases – like the suppression of native peoples, the sterilisation of women with learning disabilities in Northern Europe, or the treatment of prisoners – which have been unhappy, contradictory patterns in the gradual development and growth of liberal democracy.

A second interpretation, prompted by the disturbing elements of that history, is that the apparent linkage between the conditions of freedom is illusory: we only see these issues as evidence of ‘freedom’ because we prefer to think we have a free society, and use them as a cover while ignoring abuses of the rights of minorities (like minority ethnic groups, people with disabilities and non-citizens). There is a case to answer here. I have recently been engaged in research on the circumstances of minority ethnic groups in rural Scotland; the people I have been speaking to are routinely abused and threatened as they pass in the street.<sup>112</sup> There is much in the current pattern of western society which speaks of complacency and wilful blindness. At the same time, I think the argument goes too far; the experience of such minorities is precisely confined to minorities, and confined only to part of their experience, when there have been many times and regimes where oppression has been the experience of every person.

This prompts a third interpretation: that, despite the contradictions, we have been moving towards a free society. Awareness of the denial of freedom, and the strength of reaction to that denial, is evidence not of deterioration in standards but of gradual improvement. Issues like civil rights and freedom of the press are crucial, not because they guarantee freedoms in themselves, but because they make it possible to challenge practices which are in breach of principles. They are

vital channels through which concerns about freedom can be expressed, and claims can be made to protect people who are denied rights and respect available to others.

## **Freedom and the welfare state**

There is a widespread view, on the political right, that there is a contradiction between freedom and the welfare state.<sup>113</sup> Provision by the state seems to imply, in some sense, a restriction on freedom.

Part of the problem here lies in the idea of the 'state'. The state is closely identified with the organs of government. It reflects deliberate action by formal institutions to intervene in society. The liberal prejudice against intervention is a valuable safeguard, but it is a prejudice, and as such it is defensible; state intervention is sometimes justified. Social welfare provision, however, is not necessarily the product of state action, and the formal institutions may depend substantially on the voluntary actions of people in society. Social welfare provision in the UK developed in large part from the influence of the Poor Law and the growth of the mechanisms of government. Eventually these came to supplant the role of other bodies in areas like health (where voluntary hospitals were taken over by the National Health Service) and social security (where the role of the friendly societies withered after the introduction of National Insurance). The literature on social welfare has been distorted by the experience of England and the countries most directly influenced by it – although the US did not have the English Poor Law, it was still understood in those terms.<sup>114</sup> The English experience is not, however, typical of all countries. In much of continental Europe, social welfare provision developed through a combination of mutual, voluntary and charitable effort. Governments built on or complemented the process of development. In *The welfare state*, I argued that the development of social welfare follows certain general patterns of social development, and that intervention by the state usually features only as a later part of the process.<sup>115</sup> If that is right, the welfare state is largely doing what people in other circumstances would try to do for themselves.

The economic literature on welfare provision tends to assume that preferences are formed and expressed individually. In those circumstances, the collective imposition of choices is nearly always inferior to the aggregation of differentiated individual choice – 'inferior' in the sense that it implies lower utilities for participants in aggregate.<sup>116</sup> This begs important assumptions, however, about the nature of the activity which is being undertaken. In the first place, the actions

which people take are not necessarily a reflection of individual preference. The terms of employment are commonly set either by employers or by conventional agreements between employers, unions and government. There may be no alternatives. Second, the terms on which social protection operates are often conventional. Money is not necessarily saved in funds: many arrangements work on a 'pay as you go' basis, where current contributions pay for current benefits. Third, money that is being used for the purchase of social protection is not necessarily going to be available for use by individuals if it is not spent that way. Salaries and wages are set by social convention, not by the intrinsic value of labour. Those conventions include social insurance contributions, which are part of the cost of employment. In effect, neither 'voluntary' nor 'compulsory' schemes for social protection may be what they seem.

There are certainly elements of compulsion, but one has to ask what the purpose of such compulsion is. In countries which developed voluntary systems,<sup>117</sup> the people who were included in such systems were those who could afford it. Inclusion in mutualist schemes mainly begins, not with working-class movements, but with people in secure, stable, often middle-class occupations. The effect of compulsion is to push for inclusion at the margins, extending provision to people in lower-paid occupations. The element of compulsion is primarily experienced, in that context, by employers rather than employees: the effect is to require such employers to incorporate employees who otherwise would not be party to systems of social protection.

### **An example: public health**

On the face of the matter, public health is mainly a matter of welfare. It leads to restrictions in the activities of individuals, either by preventing them from doing unhealthy things (like eating infected food) or by requiring them to receive medication (like the fluoridisation of water supplies to avoid dental caries). As such, public health medicine may come into conflict with liberty.

This can be represented as a dispute between liberals and paternalists, but there are other dimensions to the argument. The Victorians who developed the core principles of public health were not simply concerned to overrule individual freedom. An example is the dispute about the introduction of sewers. Sewers were intended to reduce disease. The arguments of the 1840s and 1850s were based on a flawed understanding of the connection with disease – Edwin Chadwick, who was instrumental in the establishment of compulsory sewerage, was convinced that disease

was spread through ‘miasma’ or smells – but that does not detract from the central principles.<sup>118</sup> The introduction of sewers was opposed by ratepayers who might be required to pay for the system; it was supported by people who wanted improved public health. In a masterstroke of propaganda, the opponents were called the ‘dirty party’, while the supporters were the ‘clean party’. The ‘dirty party’ were, of course, individualists and liberals, who held they had no responsibility and that the provision of sewerage should be a matter of individual choice. Were the ‘clean party’ interfering with liberty? That is a conclusion which many people of a liberal disposition would be reluctant to draw, because no one nowadays seriously wants to argue for squalor, and the argument for cleanliness would put them in the same camp as the paternalists.

Three defences against the charge of illiberalism can be made for the ‘clean party’. The first is that certain things threaten liberty. The lack of sanitation in the cities meant that disease, and cholera in particular, shortened many lives, and jeopardised the safety of the well-to-do as well as that of the poor. The second argument is that the spread of disease happens because of the actions of other people, and that regulation of people’s conduct protects everyone from the consequences of other people’s actions. The third argument is an argument from democracy. Government is not necessarily a coercive force, but a method of operation that allows people to do together what they cannot do individually. The debate which took place about the introduction of sewers does not mean that people were being forced to accept a policy against their will, although some may have been. It is also an indication that the policy went through a legitimate process of decision making, and was accepted on that basis. The ‘clean party’ happened to be arguing for something that more electors wanted. (It could also be argued that a liberty which required people to live like beasts is not a liberty worth having,<sup>119</sup> but that is a different kind of argument.)

This argument is also, at root, dependent on the distinction between individual and social understandings of liberty. If freedom is about the actions of individuals, then individuals cannot be forced to pay for services they do not want, even if those services are as essential as public sanitation. This is the consequence of the position argued by libertarians like Nozick, who rejects the idea of public service funded through taxation as an infringement of people’s rights.<sup>120</sup> If, on the other hand, freedom is about balancing the actions of people in society in order to make the most of everyone’s opportunities and choices, the objection to sewers seems fatuous, and makes no more sense than an argument to abolish the police force.

This historical dispute helps to establish the principles which apply to a

series of contemporary arguments about public health. The social principles behind public health have become unfashionable, and in many contemporary debates liberal individualism has come to dominate. The idea that people should pay for water and sewerage services, abandoned in Victorian times, has come again, and non-payers in England and Wales can have water supplies suspended, despite the attendant risks to their own and other people's health. Vaccinating people against epidemics depends on the coverage of a high proportion of the population to be truly effective; herd immunity, where the spread of a disease is halted, depends on the virulence of the disease and the effectiveness of the vaccine, but it typically calls for something in the region of 90% of the population to be vaccinated. The principle of dealing with collective problems has been eroded through concern about individual risks. The defence of public health has had to be made in terms of the relative risks to the people who are vaccinated, not in terms of the benefit to the population as a whole.

Smoking offers a strong contemporary example. There is a direct argument based in welfare for banning smoking, and for restricting dangerous activities. Crudely put, the negative effects on welfare of certain activities, like smoking, so far outweigh any conceivable benefit that on any welfare consideration the activity ought to be stopped. Smoking is the biggest killer in the UK, dwarfing every other identifiable factor causing death and disability. It is probably responsible for about 120,000 deaths a year.<sup>121</sup> This is the primary objection to smoking, and it is not an argument based on liberty.

There are three main arguments from individual freedom which might be used to object to smoking, although none of them is as strong as the argument from welfare. The first is that death and disability tend to get in the way of personal freedom, and smoking has a huge effect on both. The second is that smoking undermines mental capacity, inducing dependency and accelerating dementia. The third argument is that smoking affects other people, because of the anti-social effect of pollution and irritants, the danger from fires (a third are caused by smoking) and the health effects of passive smoking. Passive smoking seems to have been given more credence in public policy than the others.

The core of the difference, however, rests in individual and social views of freedom. If the individual is sovereign, then individuals should be free to undertake activities which can make them ill. People are usually allowed to do quite dangerous things. The sovereignty of the individual implies that if people are aware of a risk, if that risk is socially accepted, and people choose to take it nevertheless, then that is their right.

The social argument on risk is different. A risk for an individual is not the same as a 'risk' for a society. When we say that people accept a risk

through smoking, we are not basing the calculation on an estimate of probability, like the toss of a coin, but on observed proportions. We are saying that a sizeable proportion of people who smoke – about a third – will be killed by it. We do not know who will be in that third, but we do know roughly what the numbers will be. In a social model, disability and death are social responsibilities. The ill health which smoking imposes puts a burden on other people. Wherever risks are pooled, through public, mutual or private insurance, people's actions affect others. Wherever provision is made for individuals who are sick or disabled, smokers are a substantial proportion of those who take advantage of it. As one of the principal causes of disability in the UK, smoking imposes major costs on everyone else. Smoking is linked, not just with death and terminal illnesses, but with respiratory conditions, circulatory disorders, stroke, dementia and amputations. This may be acceptable in a theoretical world where every person is an island. In the real world, there is some room for doubt.

### *Social welfare and liberty*

If social welfare provision is designed to protect the liberty of each person, it has to do three things. First, systems of welfare have to ensure that the liberty of the person is not endangered by lack of welfare. Poverty, illness, disability and homelessness threaten freedom as well as well-being. The institution of social protection is essential to protect people from coercion, to make it possible for them to act, and to preserve their autonomy.

Second, social welfare has to avoid restricting liberty. The potential that provision has to restrict liberty is not so much to do with taxation or state coercion, which have been the focus of much of the criticism of welfare by liberal opponents, as in the restriction of action in everyday life. Because the provision of welfare is often concerned with the intimate details of personal action, including such issues as physical dependency, personal care and household management, it has the potential to dominate choices and patterns of life. The argument for empowerment – an alteration of the balance – is central to the liberty of the people affected.

Third, beyond this, welfare provision has to promote and develop the capacity of each person to act. It is not good enough to avoid interfering: that is not an option in many of the cases I have considered. Non-intervention is an acceptance of unfreedom. Welfare systems have, rather, to have a developmental function, intended to ensure that

each person has the capacity and power to act, which is essential to freedom.

Overall, however, social welfare is enabling rather than limiting. The general tenor of the arguments up to this point suggests that there is no conflict between freedom and social protection. On the contrary, they are directly complementary. Social welfare is necessary to enjoy freedom, and freedom is necessary to enjoy well-being.





# Part Two

## Equality



# Equality

## The meaning of equality

Social inequality is about disadvantage. People are unequal when one has an advantage over another. Advantage and disadvantage are social relationships. People are not said to be disadvantaged because they are worse off, or in a less desirable state than others,<sup>122</sup> but because their social relationships make them worse off. For example, if one person has cancer and another does not, that is not inequality; it is a difference in need. The very extensive literature on 'inequalities in health' is not about the fact that some people are healthy while others are not: it is rather concerned with the relationship between ill health, material circumstances and social relationships, including poverty and social class.<sup>123</sup> People on lower incomes, and in lower social classes, are more likely to contract cancer. That is an inequality: disadvantage in social relationships leads to poor health. Despite the fact that people in lower classes are more likely to contract cancer, they are less likely to receive the necessary treatment. This is another example of inequality. It has been called the 'inverse care law': the care that poorer people receive is inversely related to their needs.<sup>124</sup> The principle of equality in health does not mean that everyone should suffer the same pain, or die at the same age; it means that the differences in people's circumstances should not be attributable to social disadvantage. Equality means the removal of disadvantage.

It is unusual, in theoretical writing, to begin directly with a defining statement. Definitions have to be drawn out of the way that people use words, and insisting on a definition from high runs the risk of being arbitrary. Unfortunately, so much drivel is written about equality that it has become difficult to talk about the topic without being misinterpreted, and beginning with a clear statement should help to set things straight. Being equal does not mean that people should be the same. Equality between the sexes does not mean that men and women become the same; it means that neither is advantaged over the other. Equality between races does not mean that everyone should be of the same race; it means that the disadvantage of races should be eliminated. People are not unequal because they are different. There

is no immediate social advantage or disadvantage, for example, in having different colour hair, height or weight – although there are circumstances when differences could lead to advantage or disadvantage. Some critics of equality like to pretend that equality means uniformity.<sup>125</sup> This is a straw man, set up to be attacked: it is not addressed in any way to the arguments that egalitarians actually make.

There is a relationship between equality and sameness, because people who are equal will be treated in the same way if they are in the same circumstances. The rationale for this is consistency: the rule which applies to one person must also apply to another. In any decision, any punishment, or any allocation of resources, people who are equal should not be given an advantage or disadvantage. It follows that any departure from the general rule has to be justified. Where people are in the same circumstances, they have to be treated the same. Where they are in different circumstances, they might be treated differently, but the difference has to be relevant to the rule. Equality before the law means that judgments are made by relevant factors, like innocence and guilt, and not by factors which lead to people being advantaged or disadvantaged, like race or religion. The characteristic moral position which prompts a concern for equality is a belief in fairness, coupled with the view that the differences between people are largely irrelevant to moral conduct. ‘Fairness’ is another version of the argument for consistency. If people are treated differently without good reason, it is not fair.

Stated in these terms, the principle of equality commands an astonishing degree of agreement. I use the word ‘astonishing’ because this agreement would not have been true for most of human history. The idea that people are fundamentally equal was one of the key revolutionary principles of the 17th and 18th centuries. The idea was revolutionary precisely because it opposed the established order. Feudal society depended on distinctions of status between people of different ranks. Before the English Civil War, most people would simply have accepted that people were unequal, and that they ought to be so. By the time of the French Revolution, that position had become much more difficult to sustain. Arguments were still being made in favour of traditional privileges – like Burke’s case for the aristocracy<sup>126</sup> – but they were losing. In contemporary society, the principle of equality has triumphed almost universally. No one seriously argues nowadays that there should be different laws for the aristocracy and the clergy. There are relatively few people in western countries who would argue that people of different races should not be equal in their political and civil rights. The last political system to take racist views seriously, the

apartheid regime in South Africa, became a pariah state. That regime made a formal distinction between the legal status of four main groups – Whites, Asians, Coloureds and Blacks – who had different statuses and rights in relation to services like health and education, which were organised separately for different racial groups. If you do not believe in this sort of thing, if you believe that you are as worthy of consideration as the next person, then you too are an egalitarian. The main question is how deep your egalitarianism goes. People are selective in the forms of equality they think appropriate. Many liberals accept the principle of equality before the law, and most would accept a principle of equal access to education, but there is considerable disagreement about issues like the distribution of income. The fundamental debate about equality in the 21st century is not whether people should be equal; it is how far that principle should be applied.

## Inequalities

There are many relationships in society in which people might be said to be disadvantaged, and many different ways of looking at that disadvantage. Conventionally, the most important are probably the inequalities of income and wealth, class, gender and ‘race’.

*Income and wealth.* Although there is a great deal of emphasis in the literature on income distribution, income is not really the central issue which is addressed. The main issue that attracts attention is ‘command over resources’<sup>127</sup>: people who have a greater command over resources are better able to acquire the goods and amenities they want or need. In theory, wealth – the stock of resources – should play a major part of this; so, too, should other issues like the ability to obtain credit. In practice, discussion of income stands for all of these factors. This is true partly because the other factors are more difficult to measure, but also because wealth is often misleading. Clothes may have no marketable value, but not having enough clothes has a major impact on welfare. Conversely, someone who owns a house does not necessarily have greater welfare than someone who rents it. Income helps to focus on the issues that matter.

Many of the arguments about income tend to centre around what people can afford to buy. This is most appropriate for goods like food or fuel, but money does not have a fixed value, and it does not apply to everything. Inequalities of income are also important. For some goods at least, what people can buy depends on what the people around them can buy. This is particularly true of housing, but it may

also be also true of some other ‘positional goods’<sup>128</sup> like education, where people may be able to buy advantages of status and opportunity over their neighbours. Wherever goods are in limited supply, markets favour demand from those who are able and prepared to commit more resources than others. Inequalities in income mean that some people are favoured, and others are disadvantaged, in the competition for scarce resources.

*Class.* Social class means many things. The term is used to refer to people’s relationship to the system of production; to their general economic position; and more broadly, to identify people’s social status. Sociologists use the idea of class mainly because of its association with life chances, and its usefulness as a predictor of outcomes. Class is strongly associated with education and health; it is less strongly, but still clearly, associated with income and housing.

The idea of class has become less prevalent than it was, for two reasons. One is the withering away of Marxism, which emphasised the primacy of class above other forms of inequality. (Marxists were often dismissive of issues relating to gender and ‘race’, which were seen as derivative of the fundamental economic relationships of a capitalist society. Engels, for example, wrote:

... the real content of the proletarian demand for equality is the demand for the abolition of classes. Any demand for equality which goes beyond that of necessity passes into absurdity.<sup>129</sup>)

The second is the decline of ascribed social status – that is, statuses attributed to people from birth – and the growth of social mobility. There is a growing awareness of risk and uncertainty in people’s lives: studies of the dynamics of poverty show, not that a defined class of people are likely to be poor, but that most people are vulnerable to poverty at different points in their lives.<sup>130</sup>

*Gender.* Like class, gender clearly has a major role in determining life chances. Unlike class, gender is overwhelmingly ascribed, and men and women are liable to have their roles set regardless of their capabilities or wishes. There are many different objections to the inequalities which result. Some are individualist: the central argument of ‘liberal feminists’ is that women should not be disadvantaged when they have capabilities and capacities as good as a man’s. Some are collectivist: the argument is often made that women as a group should not be in a

position that is different from men as a group. Some deny difference, arguing that women and men are largely capable of the same things; others assert difference, arguing that women and men have distinctive abilities or characteristics which call for equal value.

Although some of the production of inequality can be attributed to discrimination and differential treatment, much of the disadvantage experienced by women arises from the operation of social norms and the structures of education and employment. Despite legislation against discrimination, there are marked differentials between incomes and still a high degree of segregation between male and female occupations. Radical feminists have argued that society is 'patriarchal', reflecting the power of men over women.<sup>131</sup>

There are differences between males and females which reflect their physical differences. Women, for example, live longer, and tend to have higher rates of disability. They are more often subject to surgical intervention. It is difficult to pick this apart from their social circumstances, because social relationships and physical differences interact. The test of equality is not that differences should be ignored, but that they should not lead to disadvantage. On that basis, gender has become one of the principal considerations in discussions of equality.

'Race'. 'Race' is an artificial concept. There are sometimes physical differences between people with different culture and descent, but the social differentiation between groups is not clearly based in those differences. Religion, language and identity are at least as important. Historically, many of the structures of disadvantage in different societies have been based on ethnic origin, and that continues to be true in most developed societies. It is not necessarily true that the same groups are always most disadvantaged: the status of (for example) immigrant Jamaicans, Indians or Koreans depends on their social context in the society they have moved to. Minority ethnic groups are diverse, and few generalisations apply consistently across all of them.

Like gender, racial inequality is based both in overt discrimination and in structures which promote disadvantage. 'Racism' has been argued to exist not only in the expression of prejudice and biased treatment, but in the systematic production of disadvantage through the operation of systems weighted against different racial groups. Disadvantage in employment is related not only to discrimination, and to the importance of social networks, but to geographical location, educational opportunity and previous employment record. Disadvantage in housing relates not only to the limited income of



some racial groups, and to systems of finance, but the allocation of housing services according to residence and previous tenure. Inequality results from a combination of cumulative disadvantages.

These are not the only kinds of inequality. Part of the shift of perspective in the political left since the decline of Marxism has been a recognition of the importance of diversity and difference. People can be disadvantaged for other reasons, like age, nationality, disability and sexuality. The identification of such groups has been an important part of political discourse: if identity creates injustice, it is probably also true that injustice creates a sense of identity.

### *Explanations for inequality*

Inequalities are pervasive, and that makes it difficult to offer any generic explanation for the production of disadvantage. In broad terms, however, there are three main classes of explanation for inequality. The first set of explanations is pathological: they attribute advantage and disadvantage to the characteristics and abilities of the people or groups who are in those positions. Some people are richer and more favoured because they are more competent or have talents which are socially prized; those who sink are less competent or less talented. Examples of this kind of explanation might include *The bell curve*,<sup>132</sup> which attributes racial inequality to differentials in intelligence, or *Losing ground*,<sup>133</sup> which attributes long-term poverty to the choices made by poor people.

The second class of explanations is structural. Society is based in a complex series of relationships, and positions of advantage and disadvantage are part of those relationships. Charvet argues that there is a necessary differentiation of roles and relationships in any complex society, and that statuses, which are positions of social honour and esteem, derive from those roles and relationships.<sup>134</sup> Marxists argue that statuses are contingent on economic position, or class, and so the structure of inequality reflects the structure of economic power.

There is, however, a difference in structural explanations between those which attribute inequality to the pattern of social relationship and those which emphasise human conduct or choices, or 'agency'. The third class of explanation is based in the idea of power: disadvantage is produced because of deliberate choices and actions. Power is a complex concept, and Lukes distinguishes three different understandings of its operation.<sup>135</sup> The first is power as 'the production of intended effects', where those who have power are able directly to

alter outcomes in their own favour. The second is the area of ‘non-decision’, where certain options are kept off the agenda or not properly considered because an inegalitarian status quo is accepted. A third understanding sees power as the exercise of ‘hegemony’, where decisions are made in favour of those with power because there is no visible alternative. Lukes gives the illustration of a sail boat, which clears out of the way of a supertanker even if it has notional right of way: the crew on the tanker may not even notice. Examples are the acceptance of established property rights or the current distribution of opportunities and rewards. The main weakness of explaining these issues in terms of agency is that, once a system is established, there is no need to refer to power to explain why it continues. If people enter a competition on unequal terms, it should not be surprising that the competition yields unequal results.

None of these explanations is exclusive; it is possible for all of them to apply simultaneously. If a person loses a race, the pathological explanation is that he ran too slowly. The agency explanation is that the race was rigged. The structural explanation is that in any race, someone is going to come last; we need to ask whether this is the appropriate way to organise relationships of status or the distribution of resources.

## **Arguments for inequality**

To be legitimate, remedying disadvantage depends on the assumption both that the disadvantage is illegitimate, and that action to alter it is permissible. Both these propositions have been disputed by critics of egalitarianism. Arguments that disadvantage is legitimate are found in a range of writings, and it is difficult to summarise them all effectively. The principal arguments are that:

- disadvantage is legitimate because it is intrinsic to society;
- disadvantage is legitimate because it is produced by legitimate processes;
- disadvantage is legitimate because the results of inequality are beneficial to society.

There is one other argument that we can dismiss immediately: that disadvantage is legitimate because it is natural. This argument is made, for example, by racists who argue that some races are intrinsically inferior to others (for example, Gobineau)<sup>136</sup> or by those who argue that social differences reflect differences in aptitude, talent and competence. The reason that this argument can be dismissed is that it

relies on a common mistake in ethical thinking, ‘the naturalistic fallacy’. The way things are is not necessarily the way they ought to be, and it is never possible to derive legitimate rules of moral conduct simply from establishing that something is that way in nature. People in nature are animals, and if the things that animals did were all legitimate, it would be right to kill, to steal, to intimidate, or to live by the use of force. Morality is, in large part, intended to stop people doing what comes naturally.

***Disadvantage is legitimate because it is intrinsic to society***

People in society are not ‘individuals’, surprised whenever they bump into another human being. They live in society; they live by moral codes, and common understandings. The conservative objection to equality has always been that this is simply not the way things are. Fitzjames Stephen’s argument against equality, and particularly against equality for women, was in these terms:

I think it is unsound in every respect. I think that it rests upon an unsound view of history, an unsound view of morals, and a grossly distorted view of facts, and I believe that its practical application would be as injurious as it is false.<sup>137</sup>

Beyond this, people have roles, relationships and statuses. Charvet’s argument, mentioned above, implies that because roles in any complex society have to be differentiated, the differentiation of status has to follow.<sup>138</sup> Wherever status is differentiated, there is inequality. Inequality is part, then, of what a society is.

The strongest argument that disadvantage is intrinsic to society is based in ‘communitarianism’, which identifies moral relationships not in terms of general rules but of specific social relationships. We are all born into networks of social relationships: children have responsibilities to parents, and parents to children. MacIntyre argues:

... we all approach our own circumstances as bearers of a particular social identity. I am someone’s son or daughter, someone else’s cousin or uncle; I am a citizen of this or that city, a member of this or that guild or profession; I belong to this clan, that tribe, this nation. Hence what is good for me has to be the good for one who inhabits these roles.<sup>139</sup>

Moral responsibilities depend on specific relationships. Most are held, not to humanity in general, but to particular people. If people have different rights and responsibilities, the central argument for equality falls; there are very few general rules to apply. The argument has been well put by Jean Marie Le Pen, the long-time leader of the French National Front. Even if aspects of Le Pen's views are abhorrent – it is debatable whether his pronouncements can be dealt with in good faith – his arguments are not negligible, and in 2001 he came second in the French presidential election on the strength of them. Le Pen draws on a moral scheme which is based on moral difference, not equal worth. In Le Pen's view, the duties we owe to different people are different.

I like my daughters more than my cousins, my cousins more than my neighbours, my neighbours better than those I don't know and those I don't know better than my enemies. Consequently I like the French better. I like the Europeans next, and then I like westerners, and then I like those countries in the world which are allies and those which like France.<sup>140</sup>

Le Pen's argument is persuasive to many in France because it does reflect the moral feelings and relationships which define a society. If this position is followed through consistently, then it is legitimate to offer preference to people who are close to oneself. One example is nepotism, or favouring relatives and close friends in appointments. Another is preference for the 'old school tie', one of the systems by which privilege has been maintained in class-ridden societies like England's.

The argument for equality is an argument for rejecting the outcomes of these relationships. The way things are is not necessarily the way they ought to be. It is possible to accept some of the general principles – for example, that people have stronger duties to their family than to others – while accepting at the same time that there should be general rules and rights.

***Disadvantage is legitimate because it is produced by legitimate processes***

This argument is made by Nozick, who argues that if inequality is produced by legitimate processes there is no basis on which to alter the resulting distribution.<sup>141</sup> This, like many other arguments about

equality, simply fails to address the opposition; of course there is no reason to change the subsequent distribution if one is prepared to dismiss in advance all the moral arguments to the contrary. If there are legitimate reasons to change the distribution – for example, that people should not be left to starve – then there are reasons to think that equality, too, might be legitimate.

There is the core here of arguments both for and against inequality. The argument for inequality is that some legitimate processes will lead to it. Henry Ford once claimed that all good millionaires go to heaven: if you have exchanged goods so that large numbers of people obtain something they want to have, as Ford did, you can reasonably claim to have added to the sum of human happiness. Nozick gives the related example of a popular sportsman who is paid small amounts of money by lots of people, and who becomes rich on the strength of it. This is true, but incomplete. Money is not an absolute good; it derives its meaning from social conventions. Those conventions are based on many factors, including understandings of the value and meaning of money, experience, and liability to taxation. Issues which are determined through social conventions can legitimately be altered through them.

Even if Nozick's argument is accepted, it does not follow that, because some inequalities are legitimate, that all are, or even that most are. Much of the distribution of resources depends on a range of factors, including historical accident and past injustice. Nozick is prepared to accept that in cases where the initial distribution is not legitimate, there should be some redress for historic grievances: it is difficult to envisage any part of the present distribution of resources in society which is not affected by such a provision.

***Disadvantage is legitimate because the results of inequality are beneficial to society***

There is a commonly held position which argues that either a market needs inequality – that is, inequality of rewards is required for the operation of a market – or inequality is a necessary consequence of the arrangements through which markets operate. For this purpose the arguments have the same implication: if we accept production and distribution through the economic market, we must accept inequality. This position is advocated most obviously by the supporters of the free market, but it is also acknowledged by John Rawls in his book *A theory of justice*.<sup>142</sup> Rawls proposes that inequality can be justified if

the effect of that inequality is to make everyone better off. He calls this the 'difference principle'.

The first of the arguments for this position is that inequality of rewards is required for the operation of the market. This is closely related to the libertarian argument for advancement on merit. Society, and economic development in particular, depends on the system of rewards and punishments. Financial rewards, the argument runs, reflect the importance of different items to society, and the marketing of goods and services ensures that essential functions are performed. The process by which inequality makes people better off is by providing people with a system of incentives – rewards and punishments for doing better or worse. The argument, like many others in this area, is half right. It is true that the market is essential to the division of labour in society, and that goods have to be priced. It is simply not true, however, that financial rewards in society are based on merit, or even that they reflect merit approximately, because they are based in other things (such as the supply and demand for labour). The operation of an economic market is not based on moral judgments. In a developed society, most people are not producing things with a recognised value. The value of what they do is determined by convention, by the numbers of other people who are available to do the task, and by the willingness of people to pay. They are part of a complex system of production and exchange.

The second argument, that market processes produce inequality as a by-product, is a strong one: some of the processes were considered in the previous section. Production for personal reward is a proven method of achieving economic development. No less important, alternative methods of organising production and exchange have failed. The idea that inequality has to be accepted as a concomitant of market production leaves it open, however, for the level of inequality to be moderated. The extent to which distributions can be altered depends on the responsiveness (or 'elasticity') of producers to changes in their financial situation. Despite high taxation and limits on the range of income, senior managers in Scandinavian economies have not been self-evidently less productive than their contemporaries in other countries (like the UK) with lower taxation and greater personal rewards.

A third set of arguments suggests that inequalities are beneficial (or 'functional') for society. The effect of inequality is to create a ladder of aspiration and achievement, to ensure that the strong rise and the weak fall. Herbert Spencer, the principal advocate of 'Social Darwinism', thought it was a jolly good thing that rich people did

well and poor people did badly: if that were not true, he believed, people would choose to be poor and idle, with disastrous consequences for society.

The poverty of the incapable, the distresses that came upon the imprudent, the starvation of the idle, and those shouldering aside of the weak by the strong, which leave so many 'in shallows and in miseries,' are the decrees of a large, far-seeing benevolence.<sup>143</sup>

One problem with this argument is that poverty and wealth seem to have very little to do with individual effort. The main circumstances in which people in the UK are on low incomes, disregarding children who have to suffer for the situation of their parents, are long-term illness, old age, unemployment and divorce. The structure of inequality prevents the system of rewards and punishments from functioning: if people cannot get access to opportunities, they cannot respond to incentives. Inequality also has important negative consequences: poverty exposes many people who are not poor to risk. This is one of the core objections to Rawls' position: it ignores issues of social class,<sup>144</sup> and the problems of exclusion associated with inequality.

Lastly, it is argued that inequality has good effects. Inequality is a good thing, some inegalitarians argue, because privilege is good. De Jouvenel, for example, argues that if there were no superbly rich people, there would be no patrons of the arts.<sup>145</sup> Objectors to land reform in Scotland have been arguing that very rich people are especially good at maintaining and preserving the countryside: Mohammed al-Fayed, the owner of Harrods, has written of his careful husbandry of his Scottish fisheries. It has to be true that people with money can do some good, as it has to be true that people with money can do some harm. That does not seem a very persuasive reason for the maintenance of disadvantage.

## **Equality of what?**

One frequent criticism of egalitarian views is that people are asking to be equal in areas where they cannot be equal. People are not equal in their physical or intellectual attributes, the argument runs, so why should they expect to be equal in their status or income? If the question boils down to the suggestion that people are not the same, it misses the point of the debate. If it means that inequality is right and proper, and that some kinds of people should be treated better than others,

then we might reasonably disagree. You could finish the question just as easily with the suggestion that people should not expect to be equal before the law, and the problem with the form of the statement becomes obvious.

There is, though, a real issue here. Why should we care more about equality of some kinds than we do about others? Why should equality before the law be more generally accepted than equality of income? Why does racial disadvantage command so much more attention than disadvantage in housing? One possible explanation is that some forms of equality are more important than others, but this is debatable. ‘Race’ is profoundly important, and for many people its influence is pervasive, but the same can be said for housing provision. Important as the law is, not many people really think that access to the law is more fundamental to life than access to water. The central reason for the difference in priority is that egalitarian arguments are based in principles, and some issues (like legal process or ‘race’) exemplify those principles more directly than others.

### *Equality of persons*

The first of these principles is equality of persons. The US Declaration of Independence states:

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

The first part of this, that ‘all men are created equal’, has a powerful resonance. The starting point is that there are no intrinsic differences between human beings which justify disadvantage. That form of expression is crucial to understanding many egalitarian arguments. The central argument for equality is the argument, not that there are no differences between people, but that differences in circumstances have to be justified. If they cannot be justified, the society is not legitimate.

In terms of several of the inequalities I outlined earlier – the inequalities of class, gender and ‘race’ – equality of persons is fundamental. The widespread acceptance of the principle is also the reason why racial and gender equality are considered central to many of the debates about equality. It is questionable whether the founding fathers of the US constitution would have understood the implications



of the statement that all men are created equal in terms that they were to be applied by subsequent generations – in particular, the rights of women, and the call for racial equality. Martin Luther King's most famous speech refers directly to the principle:

I have a dream that one day this nation will rise up and live out the true meaning of its creed: 'We hold these truths to be self-evident that all men are created equal'. I have a dream that my four children will one day live in a nation where they will not be judged by the colour of their skin but by the content of their character.

This is in an immediate line of descent from the Declaration of Independence, and it seems impossible to argue that, if everyone is equal, the statement should not be applied to people of different races.

The idea of equality of persons goes beyond the simple principle that disadvantage is unjustified. The disadvantage of people with disabilities, for example, can be held to reflect judgments about their relative capacities, and there are circumstances in which differences in capacity may be a relevant ground for discrimination. The principle of equality of persons needs, in such cases, to be interpreted more broadly. Kant argued that we should

... always treat humanity ... never simply as a means, but always at the same time as an end.<sup>146</sup>

Nagel suggests that Kant's principle is implicitly egalitarian,<sup>147</sup> which I think has to be right. If a principle is universal, it has to be both general and consistent, and the demand for consistency creates the presumption of equality. Equality of persons can be taken to mean, not just that people should not be disadvantaged, but that people have to treat others with basic respect.

This principle is sometimes referred to as 'respect for persons'.<sup>148</sup> The statement that people must be respected is not a statement about those people, but rather a moral injunction which affects the way in which other people should behave towards them. Consider this forthright statement on racism from the Commissioner of the Metropolitan Police:

If you do not believe in the fundamental right of all people to be treated with respect, dignity and compassion then I do not want to share my service with you. You should not

try to join. If you are a serving police officer or staff member and cannot claim such a belief as your own you should get out of the Met now.<sup>149</sup>

This position is profoundly egalitarian. In another epoch, it would have seemed deeply radical. It is also eminently defensible.

### *Equality of rights*

The Declaration of Independence goes on to the idea of rights. Rights are rules which govern the behaviour of other people towards the person who holds them. The idea that equality is based in rights is found, for example, in the work of Joseph Raz, who suggests that egalitarian statements take the form either that ‘all Fs are entitled to G’ or that ‘being or not being an F is irrelevant to one’s entitlement to G’.<sup>150</sup> The common element here is the issue of entitlement. (Raz claims, by the way, to be discussing the idea of equality in western culture. He is not; this is only a small part of it.)

There is a wide range of rules of this sort, and the rules are not the same for everyone. One core distinction lies between general and particular rights. General rights apply to everyone – to every human being, to every person in a country, to every citizen, to everyone in a specific category (like older people or children). Most general rights begin from a presumption of equality, because the principle of consistency applies. Particular rights, by contrast, are those which are held only by certain identified people. Rights to property, contractual rights and occupational pensions are particular rather than general: they are individual, specific and dependent on circumstances. There is no presumption of equality in these rights, because there is no presumption of general application. However, the equal application of rules, even where the substantive content is different, is fundamental to their operation: an emphasis on rights is the reason why equality before the law is considered a core value, when equal access to water is not.

Rights which apply to everyone are usually referred to as ‘human’ rights, and sometimes as ‘natural’ rights. The rights claimed in the Declaration of Independence, of life, liberty and the pursuit of happiness, are often thought of as human rights (not just the rights available to citizens of the USA). It could be contested whether there are any human rights – moral rules like respect, mutual responsibility or duties of care do not have to be seen as adhering to the person who they protect. But there is a widespread acceptance that at least some rights

should be seen as general human rights, expressed in such documents as the International Declaration of Human Rights, the European Convention of Human Rights, the Declaration on the Rights of the Child, and so forth.

The list of rights which might be included in these terms is often contentious. Rights to life, liberty and due process of law are widely accepted. If there are such rights, Hart suggests, liberty is probably the strongest contender.<sup>151</sup> Less accepted are such rights as ‘the economic, social and cultural rights indispensable for (the person’s) dignity and the free development of his personality’, enshrined in Article 22 of the United Nations (UN) Declaration of Human Rights. There are two main points at which the argument might be thought to be vulnerable to objection. The first question is whether people have rights to welfare of the kind stated in the UN Declaration. Rights govern the conduct of other people, and the statement that a person has rights implies that there is something about all our conduct which should be different. That position is disputed by many critics. Some, like Bentham, are simply dismissive of the idea of rights beyond the scope of legally enforceable obligations:

... reasons for wishing there were such things as rights, are not rights; a reason for wishing that a certain right were established, is not that right – want is not supply – hunger is not bread.<sup>152</sup>

Others, like Nozick, would accept the idea of rights, but do not extend the principle beyond a conventional scope.<sup>153</sup> He argues that people have rights to property but not to welfare. That position seems arbitrary. Christman writes:

Consider the selectivity with which libertarians choose the rights and duties they think are basic: there are rights against fraud, but not against being lied to generally; duties to honour contracts, but not duties to keep promises generally; there is no right to mutual aid, but there are (presumably) duties not to abandon one’s children.... Access to certain resources, such as food, housing and medical care, (is) as central to living an autonomous and fully human life as the right to hold on to one’s riches.<sup>154</sup>

There is no obvious reason for accepting one kind of human right and rejecting another which is at least as well founded.

The second question is whether such rights can be said to be human rights. Cranston objects to the classification of needs as human rights because, he argues, human rights have to be truly general – universally applicable, practical and of paramount importance.<sup>155</sup> But social and economic rights are of paramount importance, and they are no less universal and practical than other rights. A stronger ground for objection is the argument that the rights might be general without being human rights. Rights are not ‘natural’. People do not live in a state of nature; they live in societies. The basis for welfare in most societies is a combination of particular rights – rights from employment, pensions, insurance and family resources – and general rights associated with citizenship, including social protection provided by the state. The idea of human rights implies a generality beyond the territorial boundaries of the state, of the sort taken in international courts dealing with crimes against humanity. If there are such obligations, no state has yet recognised them.

Whatever human rights are, the presumption of equality is built in. ‘Equality’ in this sense is not a human right in itself: it is part of the formula which says ‘this rule applies to everyone’. The same principle applies to other categories of general rights, including the rights of citizens in particular countries. Wherever general rights are asserted – rights which apply to everyone in a category – they apply to everyone in that category, unless there are specific reasons why they should not do so. The ideas of equality and general rights have developed together, and it is difficult to conceive of one without the other.

### **An example: civil partnerships**

Reflecting a contemporary debate about the recognition of same-sex relationships in society, several European governments have developed the principle of civil partnership registration. The object of registration is to extend to same-sex partners the rights and responsibilities which are otherwise confined to married couples. Examples of such rights include rights to pensions, housing and inheritance. There are serious problems of disadvantage associated with such relationships, and the principle of equality of rights has led directly to a demand for equivalent status. For example, when one partner in a married couple dies, that person can generally continue to occupy the matrimonial home. When a same-sex partner dies, the effect of inheritance tax, from which married couples are exempt, may be to require the sale of the home.

Working with colleagues from The Robert Gordon University, I helped to process the results of the public consultation on civil partnership

registration by the Scottish Executive.<sup>156</sup> Most of the advocates of the reform see the issue as a simple matter of equality. The Royal College of Nursing, for example, wrote to the public consultation:

The Royal College of Nursing welcomes and supports proposals by Government that aim to give equality to all people, and, at the same time, that removes stigma and prejudice, whilst outlawing hatred and discrimination. These rights are currently lacking in relation to people with non-heterosexual orientations and, in particular, in the associated partnership status and recognition for lesbian and gay people. To this end, the proposed legislation for 'Civil Partnership' is a significant contribution towards a fairer and more just society.

Others were not so sure that the issue satisfied the demands of equality. On the one hand, some advocates of same-sex relationships felt the proposals did not go far enough:

These proposals are cowardly and feeble. Anything less than full and equal access to civil marriage is an insult to all gay men and lesbians in the UK.

Some opponents, on the other hand, felt that the proposals favoured same-sex relationships over others:

It elevates homosexual relationships by conferring rights upon homosexuals denied to long-term, committed, co-dependent home sharers such as two sisters, two single ladies, daughter and elderly mother, disabled person and long-term friend/carer etc, all of whom would attract an additional burden of inheritance tax when one dies. This is highly discriminatory.

*The Economist* argues:

The case for allowing gays to marry begins with equality, pure and simple. Why should one set of loving, consenting adults be denied a right that other such adults have and which, if exercised, will do no damage to anyone else?<sup>157</sup>

From the perspective of the arguments in this book, that is an interesting formulation, because it identifies the idea of full marriage with equality and liberty. Nothing in law – or human relationships – is ever straightforward. The UK government has not made marriage available to same-sex partners,

but a different, analogous arrangement – a situation which in Germany has already led to anomalies. In its submission to the English consultation, the Lesbian and Gay Lawyers Association points to a series of issues, including the possibility of entering a marriage simultaneously with civil registration, the problems of people engaged in cross-border travel, and the terms of dissolution of relationships where evidence of fault is sought. There are issues to resolve concerning, for example, deception, domestic violence and immigration status.<sup>158</sup> Several of the features of this list reflect parallel problems in conventional marriages. The core problem may not be the principle of civil partnership, but the dog's breakfast that passes for family law in the UK.

### *Citizenship*

Citizenship is understood in two main senses. The first is based in rights. Citizenship has been described as 'the right to have rights'.<sup>159</sup> Citizens are, then, people who are invested with rights, a situation which can arise either through the acceptance of universal rights, or because rights are accepted for a defined group of people who are privileged to hold rights which others do not. The idea of citizenship is not intrinsically egalitarian; it becomes so only when citizenship is inclusive and generally available. Egalitarian arguments for citizenship tend to be instrumental. Citizenship is necessary for people to be able exercise rights within a society, and it acts as the foundation for other aspects of rights. The principles of both equality of persons, and equality of rights, require advocates of equality to argue for citizenship, because without it, persons cannot be protected and rights cannot be enforced.

An example might be the circumstances of people with learning disabilities.<sup>160</sup> The denial of rights has included not only tokens like limitations of the right to vote, but use of drugs to control their behaviour, admission to institutions without their consent, or compulsory sterilisation. The dehumanised conditions have engendered a long line of scandals in institutions, including cases of neglect, brutality and degradation.

There are three main arguments for extending citizenship to people with learning disabilities. First, there is a presumption of inclusion. If citizenship is accorded to all other individuals, there is no reason why citizenship should not be accorded to people with learning disabilities on the same basis. Second, although citizenship may be denied in some countries on certain grounds, such as competence or moral conduct, people with learning disabilities cannot successfully be

excluded without effectively challenging the presumption of inclusion applied to other groups. The idea that people might have to demonstrate their competence before they can leave home, marry or have sexual relationships is clearly repugnant. Third, and perhaps most important, there are reasons why people with learning disabilities need to have rights, both to protect them against limitations and abuses, and to offer scope for their personal development. This is an argument, not for the reduction or limitation of their potential field of activity, but for increasing it. Harris argues:

To regard people as equals is precisely to recognise that they are not equally able to protect themselves, or further their own interests or are necessarily the same in any other sense. It is because of inequalities that people are in danger of arbitrary and ill usage, tyranny, exploitation and so on. To regard people as equals is to take a stand on how they are to be treated, not to make a remark about their capacities.<sup>161</sup>

The 'right to have rights' is central to many of the mechanisms by which vulnerable individuals can be protected within society.

The second meaning of citizenship, Bellamy suggests, is communitarian, or at least community-based.<sup>162</sup> Citizenship defines membership of a community. Marshall refers to citizenship as 'a status bestowed on those who are full members of a community. All those who possess the status are equal with respect to the rights and duties with which the status is endowed'.<sup>163</sup> For Marshall, citizenship was an essential element in progressive attempts to address the inequalities of class. He argued that the welfare state represented a progressive extension of the ideas of citizenship and the right to welfare to different constituencies. The assertion of equal status is essential to claims for equality. Rawls, similarly, argues for citizenship as the basis for equality, fairness and justice.

It is as equal citizens that we are to have fair access to the fair procedures on which the basic structure relies. The idea of equality is, then, of significance in itself at the highest level: it enters into whether political activity itself is conceived as a fair system of social cooperation over time between persons seen as free and equal, or in some other way ... citizens are equal at the highest level and in the most fundamental respects.<sup>164</sup>

Citizenship is inevitably exclusive as well as inclusive: any definition of membership has to distinguish members from non-members. This is problematic for egalitarians. People cannot be equal without citizenship; but nor can they be equal with it. Ruth Lister has argued for a more inclusive use of the idea of ‘citizenship’ to make a plea for the rights of disadvantaged groups – effectively extending the material benefits of citizenship to a wider circle.<sup>165</sup> It is not possible to include everyone in a definition of citizenship, but it is always possible to include more people than we include at present. If people are to be more equal than they are now, the boundaries of citizenship have to be pushed progressively outwards. This is vulnerable, however, to the objection that others will continue to be excluded. The point will be returned to in Part Three, in the discussion of fraternity.

### *Access to the ‘conditions of civilisation’*

The demands for equality of persons, equality of rights and the equal status of citizenship, still fall somewhat short of the concerns of egalitarians. Rawls states that ‘unless there is real scarcity, all should have at least enough to meet their basic needs’.<sup>166</sup> The idea of access to ‘basic needs’ tends to carry with it the implication of an absolute standard of poverty. The UN describes absolute poverty in these terms:

Absolute poverty is a condition characterised by severe deprivation of basic human needs, including food, safe drinking water, sanitation facilities, health, shelter, education and information. It depends not only on income but on access to social services.<sup>167</sup>

This, however, is only a partial understanding of deprivation. Deprivation is also relative: the situation of poor people depends not only on immediate material needs, but on the context of the society where those needs are found. Townsend writes:

People are relatively deprived if they cannot obtain, at all or sufficiently, the conditions of life – that is, the diets, amenities, standards and services which allow them to play the roles, participate in the relationships and follow the customary behaviour which is expected of them by virtue of their membership of society.<sup>168</sup>



Tawney argued for public expenditure to create a more equal society through the establishment of a common social infrastructure and foundation of services, providing a common pattern or texture of social relationships. He argued for public expenditure

... to make accessible to all, irrespective of their income, occupation or social position, the conditions of civilisation which, in the absence of such measures, can only be enjoyed by the rich.<sup>169</sup>

This implies a concern with substantive outcomes and the distribution of resources. It implies minimum standards in income, nutrition, housing and health care. For children, it implies a common foundation of education and family care. These are aims which most countries in the world have subscribed to, in signing the Universal Declaration of Human Rights. Clearly, many countries in the world are unable to meet these standards, because they lack sufficient resources to provide for basic needs. For present purposes, it should be sufficient to note that the claim for access to the conditions of civilisation implies a major alteration in the distribution of resources. In a world where almost three billion people – nearly half of humanity – live on less than \$2 a day, and any reasonable standard would be much higher than that, the reallocation of resources required may be fairly radical. Even in the developed economies, where the majority of people have such access, a significant minority do not; and if the test is that these conditions should be available to all, not just to most, it is a standard which most countries in the developed world still fall short of.

### *Equality of welfare*

Claims of right take many forms. Hohfeld distinguishes ‘liberties’ – areas which other people should not interfere with – from ‘claim rights’ – rights which impose active duties on others.<sup>170</sup> The basic claim rights most often referred to in discussions of social policy are claims for social security – that is, poor relief or income maintenance; rights to housing, in the sense both of access to decent housing and avoidance of deprivation; access to health care; and the right to be educated. The basic liberties which are sought include protection from crime; protection from unsafe or unhealthy environments; the avoidance of discrimination; and legal security, in the protection of citizens from arrest or legal harassment, and the avoidance of injustice. Some rights hover ambiguously between categories: the right to raise

a family may be seen either as a claim for support or as a presumption against intervention, while the right to work is sometimes represented as a claim right to be provided with work, and sometimes as a liberty to pursue work in the marketplace.

The idea of rights leads to a stronger concept of equality when rights are held to cover broader aspects of human conduct. Economic and social rights, and associated rights to welfare, seem to imply an equality not only of process but of circumstance. Amartya Sen has argued that welfare has to be seen less in terms of the goods and commodities that are available than in the ways in which such goods and commodities are applied to meet ‘capabilities’, the capacities which people need in order to function.<sup>171</sup> If people have a human right to an adequate standard of living, as the UN Declaration holds, they hold that right equally. Unless the standard of adequacy differs markedly between different people, the right seems to imply that a broadly similar material foundation for people is required universally.<sup>172</sup>

Townsend’s understanding of poverty as ‘relative deprivation’ relates poverty directly to inequality. The effect of inequality is to deny people access to the conditions and standards of life which are required in the society where they live. People’s ability to command resources depends on the resources available to others, not just on the absolute value of their income. A person’s relative purchasing power is important for establishing an adequate quality of life (such as housing and the physical environment), opportunities (like opportunities in education and employment) and participation in social activities (which typically require disposable income and access to transport). Inequality can have a direct effect on welfare, and to that extent the reduction of inequality can also be seen as a way of furthering welfare in itself.

This goes beyond the argument for access to the ‘conditions of civilisation’, but it is still not an argument for an equal distribution of resources, or for equal outcomes. I think it might be classified in terms of ‘equality of welfare’, but the kind of ‘welfare’ I am concerned with here is not the sort of welfare that economists write about – utility, or happiness, or personal satisfaction. The kind of welfare this is concerned with is one where needs are met, where people are not poor, and people have a decent standard of living. An example of welfare in this sense might be the concept of ‘health’: we can identify health as a desirable condition, and it makes perfectly good sense to talk about ‘inequalities in health’ when people are disadvantaged, but there also comes a point when we should be able to say that ‘this person is healthy, and not relatively disadvantaged’ and leave it at that. If that is right, the claim for ‘equality of welfare’ is subject to what Raz

calls a 'diminishing principle'. People do not have a right to more than an adequate standard of welfare, so the most pressing claim is from people who are furthest below the standard, and once the standard has been reached the claim is no longer important.

The difficulty of applying the concept of equal welfare seems to lie in the translation of the concept from general principles to substantive outcomes. The principle has mainly been applied to particular kinds of inequality – in particular, the inequalities between social classes, or between rich and poor countries, and in specialised areas such as inequalities in health. The areas in which equality of welfare is sought are conventional, and it may be unwise to look for a clear rationale in the selection. Universal health care is largely accepted, and is a reality in most western democracies; a general right to shelter is not. Universal education is often accepted as the responsibility of a society, but the nutrition of children is the responsibility of their parents. An income in older age is often guaranteed, but personal care for frail older people, although recently extended in Germany and France, has not been. Walzer argues for a concept of 'complex equality': there are 'spheres of justice', and the application in different contexts depends strongly on social construction of the issues.<sup>173</sup> It does seem to be true that the demands for equality of welfare have tended to expand as time has gone on. In part, this reflects the growth of rights, and a realisation that some rights (like liberty) are vitiated if they are not founded in a reasonable degree of prosperity. In part, too, it reflects a changing perception of the role of government, which is increasingly seen as an instrument to support economic and social development.

## **Equality and social justice**

The principle of equality is closely related to the principle of social justice. The literature on justice is extensive, and I do not propose to review it here, but it is difficult to consider the issue of equality without at least pointing to the connections. The idea of 'social justice' is used in two main senses. On one hand, it is used in a Platonic sense. Plato's rather muddled arguments about justice frame it in terms of virtuous conduct. The just man, to Plato, is the good man.<sup>174</sup> William Godwin's *Enquiry concerning political justice* mainly depends on a view of justice as the application of basic moral rules.

Society is nothing more than an aggregation of individuals.  
Its claims and duties must be the aggregate of their claims  
and duties, the one no more precarious and arbitrary than

the other. What has the society a right to require from me? The question is already answered: everything that it is my duty to do.... What is it that the society is bound to do for its members? Everything that is requisite for their welfare. There is one thing that political institutions can assuredly do, they can avoid positively counteracting the true interests of their subjects. But all capricious rules and arbitrary distinctions do positively counteract them. There is scarcely any modification of society but has in it some degree of moral tendency. So far as it produces neither mischief nor benefit, it is good for nothing. So far as it tends to the improvement of the community, it ought to be universally adopted.... Political institutions, to be good, must have constant relation to the rules of immutable justice; and ... those rules, uniform in their nature, are equally applicable to the whole human race.<sup>175</sup>

John Rawls similarly takes a Platonic view when he argues that ‘justice’ is a principle to which every reasonable person would assent.<sup>176</sup> His assertion that reasonable people will accept the importance of liberty may well be true, but it fits into a concept of justice only if justice is held to consist of the principles that people will reasonably assent to. This treats justice as equivalent to what is good. Both ‘justice’ and equality can be part of a good society, but people might reasonably disagree on what makes for a good society.

Rather more important, for present purposes, is the Aristotelian concept of justice, which identifies justice with proportionate action:

This, then, is what the just is – the proportional; the unjust is what violates the proportion.... The man who acts unjustly has too much, and the man who is unjustly treated too little, of what is good.<sup>177</sup>

The principle of proportion does not mean that people are equal, but it does mean that inequalities have to be justified, and so that there is an initial presumption of equality. Social justice is represented by action which is proportionate to relevant criteria. Corrective justice – that is, justice and punishment in the context of criminal law – depends on actions which are proportionate to the offence. Distributive justice, or justice in the allocation of resources and opportunities, implies distribution in proportion with agreed principles.

Views differ about the criteria which are relevant. People can be

treated according to status, merit, needs or rights.<sup>178</sup> The identification of justice with status, or established rights, is associated with a feudal society: if resources and opportunities reflect legitimate inequalities, their distribution will be unequal. Miller gives the example of David Hume as a philosopher who accepts only such established status as the basis for distribution. Distribution according to merit, desert or contribution to society similarly implies inequality, but it does so on different terms: people will receive goods and rewards according to their social value, which means that some will receive a great deal while others will receive nothing. Miller's example is the thought of Herbert Spencer. Distribution according to need is much more equal, although there will be some variation. The example he gives here is Petr Kropotkin, the Russian anarchist. Going beyond Miller's framework, a fourth model might be reflected in arguments for equality of rights: where people have rights which apply universally, as they are in the UN Declaration, justice implies distribution on an equal basis.

Although this approach to justice does not necessarily imply greater equality, the combination of an Aristotelian concept of justice with an emphasis on need or human rights is significantly egalitarian. This concept of justice is not solely concerned with distributive issues, but it is central to the application of principles of equality to the distribution of resources. If resources are allocated disproportionately, there is a moral argument for reallocation, and so for redistribution. I will return to this argument in Chapter Four.

The confusion about the meaning of justice means that in practice its relationship to equality tends to be obscure. People who write about justice – including both supporters like Rawls, and opponents like Hayek – often claim that it has something to do with equality, without being very clear as to what the link is. They are right, of course, because both justice and equality start from the assumption that people have to be treated consistently. If justice is universal, it applies to everyone. That means that people will be treated equally unless there are reasons to the contrary. Social justice implies a moral claim for a different kind of society. That claim cannot be acted on without some modification to existing relationships. That also means that there needs to be some intervention to deal with disadvantage, because without a remedy for disadvantage people will be dealt with inconsistently.

## Individual and social equality

Equality is necessarily a social concept, and it is not possible to distinguish a distinctively individualist concept of the same type as the individualist argument on freedom. There is, however, a position which is more directly identified with liberal individualism. This is the acceptance of a limited view of equality, asserting principles like equality before the law, equal opportunity in education and equal treatment in the workplace, while rejecting further moves towards equality of outcome. Hayek argues that only equality before the law commands attention. At the same time, he applauds the degree of equality of condition achieved in the US, and suggests that policy makers may select more egalitarian options when a range of legitimate alternatives present themselves.<sup>179</sup> The new right, Rae comments, is not so much anti-egalitarian as narrowly egalitarian.<sup>180</sup> Although this position is often identified with individualist thinkers, it is difficult to identify a clearly individualist rationale for it.

There are, however, other arguments which are concerned with individual and group perspectives. Rae refers to a distinction between 'individual-regarding' and 'bloc-regarding' equality.<sup>181</sup> There is a marked difference between saying that 'women should not be disadvantaged' and that 'this woman should not be disadvantaged'. Women are disadvantaged as a group if they are barred from the structure of opportunities available to men. The appropriate comparison is between women as a group and men as a group. But this could mean that a rich, middle-class woman is advanced, while others (like poorer men) remain disadvantaged. If the perspective which is taken is concerned with individuals, then the position of each individual has to be considered relative to other individuals.

Individualist arguments can be arguments for inequality as much as for equality. The disadvantage experienced by middle-class women faced with the 'glass ceiling' denies them the opportunity to be as superior to other women as their male counterparts are to other men. If the position regards blocs, then the relative distribution of each bloc needs to be adjusted. Many of the comparisons relate to access to privileged positions, like leadership in industry or access to well-paid professions. Dworkin argues that some positions, like access to medical school or legal training, are particularly important in ensuring that essential services and points of empowerment are available for others in the bloc.<sup>182</sup> (This is debatable: it is not self-evidently true that lawyers or doctors from minority groups will serve other people from their own bloc, especially if those people are disadvantaged.) Conversely,

studies which focus on disadvantage are likely to pick up issues where the disadvantage seems to be disproportionate for certain groups, like the ‘feminisation of poverty’ or racial disadvantage in education. The bloc-regarding approach tends to focus attention on the points where blocs differ most visibly, at the tops and tails of distributions.

Individualists approach equality in a different way to collectivists: they are unlikely to accept bloc-regarding equality, and even if individual women or people from minority groups should not be disadvantaged, it does not follow that there should be any redress of disadvantage for the group as a whole. It is difficult to see why, though, individualists should necessarily reject equality of welfare. On the face of the matter, guaranteeing individuals the right to basic needs like food or health care could be seen as fundamental to individual autonomy, and it is perfectly possible to imagine an individualist adopting such a position. The disjuncture comes because many individualists are convinced that people cannot obtain basic needs except through redistribution, and redistribution is believed to take place at the expense of other people’s property rights or freedoms. That is a common enough objection to greater equality, but it is not obvious that it is required by an individualist position. There are, indeed, some anarchists who take an individualist stance at the same time as arguing for redistribution.<sup>183</sup> Conversely, it is not clear that a collectivist has to accept a bloc-regarding view of equality. If all inequality is based in social relationships, the idea that inequalities ought to be redressed is, in itself, a collectivist position.

### **An example: quotas and police recruitment**

One of the most common tests of whether a group is being discriminated against is to review the proportion of that group in the population, and to see whether it has proportionate access to the services and opportunities which are available to others. This often leads to some questionable calculations, because, for example, newly established immigrant groups are rarely directly comparable to the larger population in these terms, but it can still be helpful as an indicator of access and distribution.

It is a small step from this point to treating the proportionate indicator as a target – a figure which must be reached. Here the problems begin. First, treating a proportionate indicator as a target establishes a quota, based on the proportion of the group. Quotas are exclusive: they work not only by keeping people in but by keeping others out. If access to medical school is to be proportionate to racial origin, then some groups which are relatively advantaged – such as Japanese Americans, Lithuanians

and Jews – need to be held back. This is discriminatory and likely to breed resentment. Some famous legal cases – *Bakke* and *De Funis* – were taken up in the US by aggrieved people who were excluded on this basis. Second, quotas become ceilings. The evidence reviewed by Jon Elster in *Local justice* suggests that although quotas seem to favour minority groups at first, they tend to limit opportunities as time goes on.<sup>184</sup> Third, the limiting effect happens before the quota is reached. An example comes from the experience of racial dispersal in Birmingham's council housing, where the council attempted to ensure that people from minority ethnic groups occupied only one house or flat in six.<sup>185</sup> The result was greatly to slow down the speed at which people from minority ethnic groups were rehoused. This happened partly because the quota did not reflect people's need or eligibility for housing, partly because vacancies do not occur at equal rates in every place at every time, and partly because people from minority ethnic groups did not necessarily want to live in the places where they were being offered property. The principles can be generalised: when quotas are introduced, applicants are likely to be delayed. Taken together, the problems of quotas mean, ironically, that minority groups are less likely to be treated well if a quota is in place – and that their position is more likely to be resented.

These issues have had to be considered recently in recruitment to police forces in the UK. The Macpherson Inquiry, which accused the police of 'institutional racism', directed the police service to review its recruitment policies.<sup>186</sup> The Inquiry report argued that:

- there should be performance indicators relating to levels of recruitment, retention and progression of minority ethnic recruits (recommendation 2.vii);
- policing plans should include targets for recruitment, progression and retention of minority ethnic staff (recommendation 64);
- police services should facilitate the development of initiatives to increase the number of qualified minority ethnic recruits (recommendation 65); and
- Her Majesty's Inspectorate of Constabulary should report on these issues as part of their inspections (recommendation 66).

But if these targets were expressed as quotas, they ran the risk of introducing systematic disadvantage – and so, of reinforcing the accusation of institutional racism. I argued, in *Police Review*, for targets based on numbers rather than proportions.<sup>187</sup> This may sound like it should mean the same thing, but this is a question of social relationships and processes, not mathematics. Numerical targets, unlike proportionate quotas, cannot be met by excluding people. This was the route the police service initially decided to take. The target suggested by the Home Office in 1999 was to



recruit over 8,000 officers from minority groups in the course of the next 10 years. (In the previous year the police service had recruited 37.) In the subsequent years, however, it fell short of the targets, and the figures were consequently presented differently.<sup>188</sup> Later reports describe the missed 1999 targets as 'out of date' and have reverted to describing targets in terms of percentages.<sup>189</sup> Recruitment quotas are now being openly advocated by the Commission for Racial Equality.<sup>190</sup>

## **Equality and freedom**

### *Balancing freedom and equality*

The supposed conflict between equality and freedom has been at the root of many objections to egalitarian policy. There is bound to be some conflict, because freedom itself is a contradictory concept: if one person's freedoms conflict with other people's, then of course action intended to increase freedom in one respect can be objected to on the grounds of the freedom in another. As I argued in Chapter One, freedom can be redistributed. Governments balance some people's freedoms against other people's, and one person's freedom can be enhanced by limiting another's. By the same token, egalitarian policies – that is, policies intended to reduce disadvantage – can increase freedom from one perspective while reducing it from others. A policy preventing discrimination against racism in employment increases the freedom of people from minority groups, but does so by limiting the freedom of employers. Redistributing money from one person to another increases the choices of one person and reduces the choices of the other. Suppose, for example, that a government in a developing country legislates to introduce universal school education, financed by taxation. This increases the freedoms of children who in other circumstances would not have received an education (possibly at the expense of some of their other freedoms, because school education is often compulsory). It is paid for by other people, from their taxation: that limits their freedom. I think most observers, however, would consider that the overall effect was an enhancement in freedom – provided, of course, that the object is genuinely to increase education, which enhances power and capacity, rather than indoctrination, which reduces it.

This does not mean that no policy for equality restricts freedom, and there are some policies – like the policies of the Bolsheviks in the former Soviet Union – which have attempted to limit freedoms in

the belief that equality is the superior value. Levelling down has traditionally been advocated by people who disapproved of luxury in principle. The Puritans, for example, believed that everyone would be better if they lived simpler lives; their descendants are found in some Greens. Egalitarian opposition to higher standards of living is still relatively unusual in contemporary society, however, and for the most part the idea that equality is achieved at the expense of personal fulfilment is a caricature.

### *Equality and power*

Equality of persons has often been understood as a statement about rank and privilege: the advantages and disadvantages which people have should not be ascribed in terms of nobility and baseness. De Tocqueville calls the idea ‘l’égalité de conditions’:

No-one being different from his peers, no-one can exercise tyrannical power; men will be perfectly free, because they are wholly equal; and they will be wholly equal because they are perfectly free. It is towards this ideal that democratic peoples aim.<sup>191</sup>

This is sometimes expressed in terms of the non-domination of society.<sup>192</sup> Objections to domination are often expressed as disapproval of a particular kind of social order, which implies other values besides equality of persons, but they are fuelled by the same principle. The key issue is not advantage, but power.

This link of equality and power is sometimes expressed in terms of ‘oppression’. Thompson defines oppression as:

... inhuman and degrading treatment of individuals or groups; hardship and injustice brought about by the dominance of one group over another; the negative and demeaning exercise of power.<sup>193</sup>

The concept owes much to traditional Marxism – Marx used the term to characterise the relationship of classes. The term has recently enjoyed a revival in some fields, including social work and community education, where it has been strongly associated with anti-racist movements.<sup>194</sup>

These different concepts of oppression and non-domination are both based in a combination of the principles of equality and freedom.

People are oppressed if their freedom is limited by their disadvantage. Oppression comes about because people with limited choices are vulnerable to exploitation and coercion, and because people's capacities are limited by poverty and disadvantage. From the perspective of equality, the idea of oppression is bloc-regarding, but it is also centrally based in equality of persons, understood both as the removal of discrimination and the extension of equal respect. This is not a particularly radical formulation: the association of the idea with radicalism stems more from its association with arguments for the restructuring of society than from its specific prescriptions for policy. In practice, there is often little distinction between arguments against oppression and the traditional liberal plea for dignity and respect.

### *Equality for freedom*

Many arguments for individual liberty had their origins in radical opposition to the dominant norms of feudal society, and it is not wholly surprising if these arguments are compatible with other radical arguments. In most circumstances, arguments for equality, liberty and individual rights grew hand in hand. The revolutionary claim for 'the career open to the talents' is a claim for both liberty and equality. Opposition to discrimination, rights for women, and protection of the vulnerable are simultaneously positions which stand for both.

In some cases, equality is necessary for freedom. In Part One, I reviewed a number of alternative concepts of freedom. Some degree of equality is necessary to each of them. Negative freedom depends on the absence of coercion. People's vulnerability to coercion depends on the number of options they have. If someone is able to close off options, so that only one option remains, this is coercive. In conditions of serious inequality, people may have reduced, or even have no, eligible options. That makes them especially vulnerable to coercion, and the problems of poor people commonly include personal insecurity relating to others, including the state, who are capable of coercing them. Positive freedom depends on the capacity to act, and the effect of inequality is to restrict capacity and to deny options to people. The model of individual freedom begins implicitly with the value of the individual, rights and equality of persons; individual freedom is realised through choice and equality of opportunity. Social understandings of freedom call for a more extensive emphasis on capacity. Norman argues:

A society of equality will be one in which the conditions of freedom are distributed equally. The more people share

equally in power, wealth and educational opportunities, the more they will then share equally also in freedom, and the more truly their society can then be described as a 'free society'.<sup>195</sup>

In every sense, then, there are links between concepts of freedom and positions relating to equality. Equality and freedom are not contradictory, but complementary.

### **Equality in theory: an overview**

Equality is a multi-faceted concept. The central question for understanding the concept, Amartya Sen suggests, is 'equality of what?',<sup>196</sup> and I have tried to tackle that question head-on. I have reviewed various concepts: equality of persons, equality of rights, citizenship, access to the conditions of civilisation, and equality of welfare. Although there are differences, and potential contradictions, between the various understandings of equality, the effect of considering a broad range of concepts does not seem to me to undermine them. On the contrary, it seems to strengthen the moral sentiment that equality is something to be valued and striven for.

The application of the concept to practice, however, presents many problems. Some prescriptions for equality lead in incompatible directions. Rae comments that the strongest opposition to equality tends to come, not from concerns about liberty or the economy, but from competing understandings of equality itself.<sup>197</sup> The next chapter reviews, in general terms, the range of egalitarian policies.



## Towards equality

In Chapter Two I considered some of the elements of a ‘free society’. It is more difficult to represent the elements of an ‘equal society’, because the range of understandings is much wider. Equality covers a range of different concerns and aspirations; it embraces several discrete approaches, such as equality of persons, equality of rights and equality of welfare; and different forms of equality are achievable through a wide range of different methods.

### **Policies for equality**

#### *Equality of treatment*

There are five main types of policy for equality. Firstly, there is equality of treatment. People are not treated equally by being treated uniformly: equality before the law does not mean that everyone is imprisoned, regardless of circumstances, and equal treatment in the health service does not mean that everyone gets their legs cut off. People are treated equally when they are treated on an equal basis – that is, without disadvantage, bias, prejudice or oppression. In other words, they are treated as equals.

The removal of bias should mean, in principle, that only those factors which are relevant to decisions are considered, and that the personal characteristics of the people involved should play no part. It should not matter, then, what a person’s gender, class or ‘race’ is. This formulation is problematic, however. Disadvantage is pervasive, and it may establish the context in which a decision is made. There may, for example, be circumstances in which gender or ‘race’ should be considered relevant. Consider, for example, a recent legal case in the UK, where Pakistani groups rioted following a racial incident. The rioters were treated with considerable harshness by the courts, which did not consider membership of an offended racial group to be sufficient reason for riot.<sup>198</sup> In a strictly individual sense, the courts may have been right but viewed in context, the failure to take into account the racial context and the public sensitivity of the issues seems inappropriate. Similarly, gender issues have not infrequently been raised in considerations of domestic violence, such as circumstances where a

woman who has suffered repeated abuse is provoked to violent action. There is also the further problem that the exclusion of personal circumstances may make it impossible to allow for disadvantage. Arguments for 'affirmative action' in the US have been based in the view that people who have been disadvantaged, especially through a history of oppression, need to have some compensatory allowance for that disadvantage.<sup>199</sup> Wherever disadvantage is present, it may need to be taken into account.

### **An example: political correctness**

Much of the focus on 'equal treatment' has fallen in recent years on the removal of direct discrimination, and much of that has come to focus on the issue of prejudice. Language matters, and the way in which people express themselves matters. Some of the terms in which social policy has been discussed in the past, and some which are used in the present, are offensive. 'Political correctness' has been concerned with the sensitive use of language. There are three main reasons for attempting to be politically correct. First, sensitivity in language is part of respect for others. Describing people in terms of a stigmatised characteristic – words like 'cripple' or 'moron' – is offensive, and although both words have been used in the past with avowedly positive intentions, it is difficult to imagine them being applied now without giving offence. Second, awareness of the implications is important for communication. When people communicate, they convey not only the direct sense of their words, but also tone and secondary implications, which are no less important for meaning. Third, discrimination and prejudice are important parts of the ways in which disadvantage is generated in society.

As a field of study, social policy is often characterised by desperate attempts to impose a sensitive use of language, in the belief that this will help to reduce offence and limit the scope of disadvantage. Sadly, the experience has often been very different. There is a long history of altering the names of stigmatised groups, in the belief that this can lessen the stigma. Matza gives the example of references to poor people<sup>200</sup>: they have been described as a lumpenproletariat, the submerged tenth, the undeserving poor, the abyss, degenerates, problem families, multiple problem families, the 'hard-to-reach', people in a 'culture of poverty', and most recently as an 'underclass'. People with intellectual disabilities have successively been described in the UK as degenerates, mentally deficient, subnormal, mentally handicapped, people with learning difficulties and people with learning disability. We may think of the terms up to the present as insensitive insults, but the position is not so simple. The idea of 'subnormality' was

introduced in UK legislation in the 1950s to replace the stigmatising terms of idiot, imbecile, feeble-minded and moral defectives used in the 1913 Mental Deficiency Act. 'Mental handicap' replaced the stigmatising language of 'subnormality' in the 1970s (Bayley's seminal book on mental handicap, published in 1973, apologises for the residual references to subnormality<sup>201</sup>). 'Learning disability' and 'learning difficulties' (around which there are continuing disputes) largely replaced 'mental handicap' in the 1980s.

Part of the problem, too, is that despite the claim of commentators to be sensitive, politically correct speech has often been desperately insensitive to the uses of language. The political choice of 'learning difficulty' in place of 'mental handicap' invites confusion with other forms of educational disadvantage.<sup>202</sup> The World Health Organisation's (WHO) use of the word 'handicap' to describe a social understanding of disability<sup>203</sup> has been roundly attacked by groups representing disabled people<sup>204</sup> (partly, one has to say, because they did not seem to understand what the WHO was proposing). In the 1950s, Nunally devised a technique to establish whether particular words carried negative connotations.<sup>205</sup> To the best of my knowledge, the test has not been used since. Adopting new terminology in disregard of its potential implications rather undermines the claims to sensitivity.

### *Equality of opportunity: social mobility and access to advantage*

The second main approach to remedying disadvantage is the promotion of equality of opportunity. This is an ambiguous term. In some circumstances it means nothing more than equality of treatment: people should not be barred from certain opportunities on the basis of irrelevant factors like 'race' or gender. The French revolutionaries argued for *la carrière ouverte aux talents* – that people who show an aptitude should be able to advance in society without the restrictions imposed by a feudal system. (This position, revolutionary in its day, is now widely accepted by the political right wing.) The same principle applies to caste societies, where mobility is prevented through rules governing occupation and marriage. Equality of opportunity means, beyond equal treatment, that people have opportunities – that they are able to change their status or life chances. This implies, however, that people will be able to obtain advantage or disadvantage. Inequality will continue to exist.

The study of 'social mobility' is tied in with this approach. In conventional sociology, society is often described in terms of social 'stratification' or levels, such as caste or class.<sup>206</sup> Mobility implies that people move up and down between these levels. This way of looking



at society is widely accepted, but the assumptions behind it are value-laden, and some people take a different view. There are objections from individualists, who argue that 'class' no longer has a meaning; there are also many 'post-modern' and critical approaches to sociology, which argue that other social divisions, like 'race' or gender, mean more than traditional divisions of caste and class. The idea of social stratification assumes, as well, that societies have a structure, and that the structure needs explaining – both when it changes, and when it stays the same.

The principle of equality of opportunity implies that social mobility – or movement between social strata – is both possible and desirable. Most subsequent interpretations have accepted the importance of making opportunities real, by offering a basis for participation in society. This is the basis for equality of opportunity in education. The principle of liberal education is based on the idea that everyone should be able to develop according to their own abilities. There are many educational systems which are inegalitarian, because only a limited group of the population has access to them. Universal access to education is a widely held objective: it is treated as a right in the Universal Declaration of Human Rights, and the United Nations Development Programme treats the proportion of the population without access to education as one of the tests of development.<sup>207</sup>

Equality of opportunity has been criticised because of the limited opportunities that exist in many social systems. Schaar argues that it allows the less competent individual to go only

... as far as he could have gone without the aid of the doctrine – to the bottom rung of the social ladder – while it simultaneously stimulates him to go further.<sup>208</sup>

Janet Radcliffe Richards disputes, however, the idea that equal opportunity takes place only after talents and aptitudes have been developed. She argues, I think persuasively, that the principle should not be a 'knockout competition', but a continuous process, where opportunities are maximised at each stage of a person's life – for example, through continuing education, job mobility and the preservation of employment for older people.<sup>209</sup> Equal opportunity still has to be understood as the opportunity to become unequal, but it does not need to be quite as limited as it sometimes seems.

## Equality of provision

The third category of egalitarian policy is equality of provision. Wherever provision is made by the state, in areas such as health, education or libraries, an argument can be made for equality. The core of this argument rests in the case for equal treatment. People have to be treated consistently, without bias, prejudice or stigma. They should not be knowingly disadvantaged. Governments are not necessarily bound to make social provision, but if they do, these conditions must apply. Where there are equal rights, too, there are grounds for equality in the provision of services.

Equal provision is an ambiguous concept, and it can be approached in several different ways. They include how much is spent on a service, whether people are able to gain access to and use services to an equivalent extent, and whether people suffer equivalent costs as a result of their problems.<sup>210</sup> This does not imply that people will have equal outcomes: if people begin in different positions and receive equivalent service, they will not.

The distribution of social services is subject to a range of conditions, and a range of criteria may be introduced: typical examples include restrictions on the basis of residence in a country or age. Many benefits and services are distributed according to fixed criteria, like income, need, or contribution record. These conditions can have the effect, whether intentionally or otherwise, of introducing elements of systematic discrimination. The example of inequalities in health, mentioned at the start of the discussion of equality in Chapter Three, is illustrative. Poor people are in greater need, but receive less care. The position in the UK is not simply produced by lack of resources: access to health care is provided through a national health service, which does not rely on people's ability to pay. The reduced service is attributable partly to differences in behaviour and willingness to seek help, but also in physical problems of access and the difficulty of negotiating appropriate levels of service through a series of administrative stages.

Another example of systematic discrimination is 'institutional racism'. One classic study of council housing in the UK showed that:

... the public sector is ... prone to 'accidental' discrimination arising from the way it tackles priorities, formulates its rules, or generally presents itself to the public.<sup>211</sup>

This happened, typically, because access to waiting lists and information about the process was limited; the range of property provided was not suitable for all families; the criteria for rehousing tended to favour the sons and daughters of existing tenants, and disadvantaged people who had moved to the private sector; and there was scope for discrimination in the process of allocation.<sup>212</sup> None of these factors could be said to be sufficient in itself to explain the disadvantage. Rather, such conditions led cumulatively to the disadvantage of different minority groups. It is important, too, that the construction of disadvantage cannot be explained solely in terms of unequal treatment. For provision to be delivered equally, it is necessary to look at the impact of policy overall.

### ***Basic security***

Equality of opportunity, in the terms in which I have considered it, is potentially a limited form of equality. It implies the opportunity to become unequal: to gain access to the rights, privileges and roles which otherwise have been reserved for the few. The ability to use educational opportunity depends, too, on other factors, like the home environment and material welfare. It becomes difficult to argue for substantive equality of opportunity without allowing something more. If people are denied education, starved or unable to participate in society, they will not have a meaningful opportunity. Rae makes the distinction between two types of equality of opportunity: prospect-regarding and means-regarding. ‘Prospect-regarding’ equality of opportunity is procedural; it is concerned to give people the opportunity to participate in the competition. ‘Means-regarding’ equality of opportunity is substantive; it gives people the means to compete on an equal footing.<sup>213</sup>

This understanding of equality of opportunity has found expression in many forms, and I have selected one which seemed to me to encapsulate the spirit of the ideal. The idea of ‘basic security’ has gained currency in the UN, following arguments made by ATD-Fourth World. A lack of basic security is defined by Wresinski as:

... the absence of one or more factors that enable individuals and families to assume basic responsibilities and to enjoy fundamental rights.<sup>214</sup>

The concept of a lack of basic security is closely linked to the idea of poverty, because poverty has also been described in terms of a lack of

basic entitlements. Basic security is 'basic' in the sense that it provides a foundation for the development of individuals. It is egalitarian in three senses. First, it takes the form of means-regarding equality of opportunity; people who lack security lack the ability to participate in society. Second, it is associated with a view that people share certain human rights, and that the establishment of fundamental conditions is necessary for them to function as humans. Third, it aims to establish a degree of equality of welfare, through the establishment of a common foundation.

Basic security goes further than equal provision, and that is why I have taken the unusual step of breaking up categories normally contained in a single concept of 'equality of opportunity' into two sections. The principle of equal provision applies only in circumstances where provision is made. There is no guarantee of minimum standards, and no necessary commitment to establish a common foundation. Basic security goes much further – by identifying an extended set of issues in which equality should apply. At the same time, basic security is not an appeal for equality of outcome. It does not imply any major reduction in the dispersion of rewards, or any attempt to bridge social divisions, except in so far as any attempt to raise minimum standards must have such an effect. It is more limited, then, than many other egalitarian claims. Tony Crosland, a British Fabian politician who is often misrepresented as an advocate of limited equality of opportunity, wrote:

... equality of opportunity and social mobility ... are not enough. They need ... to be combined with measures ... to equalise the distribution of rewards and privileges so as to diminish the degree of class stratification, the injustice of large inequalities, and the collective discontents which come from too great a dispersion of rewards.<sup>215</sup>

This goes beyond basic security, to become a call for equality of outcome.

### *Equality of outcome*

Equality of outcome is arguably the most extreme, and certainly most controversial, approach to equality – although it is not as extreme as it is sometimes painted. Equality of outcome is not a recipe for uniformity, any more than other forms of equality are. It is, first and foremost, about *equality* – that is, about the removal of disadvantage. It

means, not that people have the same outcomes, but that the range of outcomes, however diverse it may be, should not be so great as to imply disadvantage. Hence Crosland's concerns with the range of inequality, with the problems of dispersion, and the reduction of injustice, rather than the imposition of uniform consequences.

The issue which distinguishes equality of outcome as a method is not the relative strength of the principle, but its focus on *outcomes*, rather than process or provision. The test of equality of outcome is the end-state – the situation where people finish. So, for example, comparisons of the effectiveness of social security and income maintenance can be made, not on the basis of the provision which is offered, but on the final incomes of people in different circumstances.<sup>216</sup> Outcomes can be compared individually, but they can also be looked at in terms of the relative position of different blocs, or social groups. Looking at the employment or representation of women or minority ethnic groups is usually done by comparing the proportions of those groups relative to the rest of the population. Another form of comparison lies between sections of society, which Rae calls 'segments'.<sup>217</sup> It may make sense to say that 'children from African American backgrounds are disadvantaged', but the comparison that is being made is with other children, not with everyone else. Segments are important, because they are the way in which policies come to focus on people in typical situations. In this sense, examining equality of outcome appears to be less an end in itself, and more an approach to policy – a focus for attention, and a way of establishing whether or not egalitarian policies have been effective.

There are three main arguments for equalising outcomes. The first is based, like the argument for equality of welfare, in rights. If people have rights – such as the rights to life, liberty and the pursuit of happiness promised in the American constitution – they may have rights to certain substantive outcomes. The Universal Declaration of Human Rights offers rather more, with the implication that people have to have a measure of basic security and a family life. Article 25(1) asserts, for example, that everyone should have:

... a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services.

If there is a right to food, education or to health care, it is not enough to assert only that people should be left to get on with finding them – a 'negative' view of rights, equivalent to the negative form of liberty.

Substantive rights of this kind demand resources. Some aspects of equality of welfare, like minimum standards in the provision of social services, might be met through equal provision, but the extension of claims beyond basic security seems to demand at least some consideration of outcomes.

The second argument is fairness. This is sometimes treated by critics as if it was the only argument they faced,<sup>218</sup> largely because it seems to point up the differences between egalitarians and their opponents, although it is probably less important than the argument from rights. The argument for fairness is based, like the basic argument for equality, on the application of a general rule: people should not be advantaged or disadvantaged if the inequality cannot be justified. There is no reason to accept an unequal distribution of resources just because it has happened, and in so far as moral rules can be made to apply, any government seeking to act morally will seek to reduce unjustifiable disadvantage.

Third, equality of outcome is sometimes seen as a practical way of reducing disadvantage and its consequences. For Dworkin, the problem with the idea of equal welfare is that it demands the imposition of a collective conception of what is good for people. He favours greater equalisation of resources, as a simple, relatively non-judgmental way of reducing disadvantage, rather than any attempt to determine what will maximise the welfare of those who are most disadvantaged.<sup>219</sup>

Some controversies about equality reflect the confusion of equality of outcome with uniformity. In *Facial justice*, L P Hartley describes a society in which beautiful people have cosmetic surgery to make them uglier, while ugly people are made more beautiful.<sup>220</sup> It is true that people who look good may gain advantages over other people – bias in job interviews is sometimes given as an example. The aim of equality, however, is not to eliminate the difference, but to prevent that difference being the basis for advantage or disadvantage. A deeper concern is the fear that the attempt to establish equality of outcome will threaten other rights, including property rights and established liberties, in a way that lesser forms of equality, like equality of treatment, will not. The argument has some substance: one person's liberty is another person's constraint, and it is invariably true that the conflicting interests and rights of different people have to be balanced against each other. As the pattern of equality demanded becomes more extensive, so does the potential for conflict.

The idea is controversial, too, for another reason: that equality of outcome may not be fully consistent with equality in other senses. Inequalities in treatment may lead to unequal outcomes, but the link

is uncertain, and welfare which is delivered by unequal processes can still meet the requirements of equality. For example, the patchwork quilt of welfare benefits available in European countries often depends on a range of complex, and apparently inegalitarian, entitlements: the test for egalitarians is how such systems function in aggregate, when the full range of transfers is taken into account, and some systems (like Sweden's) have significantly redistributive effects.<sup>221</sup> Conversely, if equal treatment produces unequal outcomes, the principle of equal treatment may have to be modified. This is the argument for 'positive discrimination'. The Plowden report, which introduced the concept in the UK, argued that:

There should be equality of opportunity for all, but ... children in some districts will only get the same opportunity as those who live elsewhere if they have unusually generous treatment.... We ask for 'positive discrimination' in favour of such schools and the children in them, going well beyond an attempt to equalise resources.<sup>222</sup>

Positive discrimination does not mean that people are treated equally, or even that people are treated according to their needs: it means that people in disadvantaged circumstances have to be treated better, to make up for the circumstances which have disadvantaged them. The same principle can be found in the arguments in the US for affirmative action.

Equality of outcome is, then, not just a different approach to equality from that represented by equality of treatment; it is often inconsistent with it. Those who accept the case for one may find it difficult to accept the consequences of the other.

## **Equality and redistribution**

Although redistribution is often seen as a characteristic pattern of egalitarian policy, in practice redistributive policies cut across several of the categories considered in this chapter. All social welfare provision is redistributive: the people who receive it are not necessarily those who contribute towards it. This does not mean that welfare provision is necessarily egalitarian, because the direction of redistribution is not unequivocally *progressive* or favourable to the poor. There are other types of redistribution. *Regressive* redistribution is redistribution from the poor to the rich. It is rare for any government to undertake overtly regressive redistribution, in the sense of taxing poor people to

pay benefits for rich people, but there are many forms of public expenditure which tend to favour people who are better off: examples are transport subsidies (which favour people who travel more), subsidies to higher education (which favour the privileged sons and daughters of middle-class families), and subsidies to the opera (which, whether or not opera is an elite leisure pursuit, can only be received by people who can afford the tickets after subsidy). *Horizontal* redistribution goes between different groups of people – for example, from workers to pensioners, or from people without children to people with children. Much of the provision made by the welfare state is social protection, which attempts to ensure that people's circumstances are not altered too radically by sickness or old age. Earnings-related benefits reflect previous inequalities, so that people who have contributed most also receive the most. *Life cycle* redistribution is nominally horizontal, although it can also be seen as neutral. The effect of compulsory saving for pensions is not that people are made richer or poorer, but that their resources are reallocated across the years of their life.

Rae identifies four main patterns of egalitarian redistribution.<sup>223</sup> The first is 'maximin', a term coined by John Rawls to identify a process of maximising the minimum level. Some of the arguments for equality, including those based on equal opportunity and on rights, argue for the development of minimum standards. Raising the floor, or reducing the impact of disadvantage, does not make people equal, but it makes them more equal.

The second is 'minimax', or minimising the maximum. This pattern of egalitarianism, which might be thought of as 'levelling', has a long tradition: the Levellers were puritans who disapproved morally of the vices inculcated by excess wealth. The reduction of the standards of those who are best off does not necessarily benefit the worst off. The argument for minimax comes mainly from concerns about fairness; it is not directly supported by a concern with rights.

Third is a reduction of the range of inequality, limiting the extremes both of wealth and poverty. Money is taken from the rich to give to the poor. The main rationale for reducing the range is an argument for social justice, both in the sense of fairness and in a need to alter the distribution in accordance with moral concerns. The argument has been reinforced by a belief that the wealth of richer people is based in exploitation of poorer people.

Fourth, there is another argument based in the structure of society: Rae describes this as altering the 'ratio' between richer and poorer people. The object of reducing inequality is not just to bring the rich



closer to the poor, but to integrate the whole society, reducing advantage and disadvantage at every point.

Egalitarian measures which are concerned with equal provision or basic security tend to be focused on the position of the people who are most disadvantaged; that argues for maximin or range. A concern with equality of outcome argues for a concern with ratios. None of the approaches considered here would put much store by minimax, which might help to explain why so few people take that line. If these approaches are taken to their logical conclusion, Rae suggests, they boil down to the same thing, producing a flat, equal distribution of resources. Raise the floor high enough and it becomes a maximum; lower the maximum far enough and it becomes a minimum. But equality is not, in general, taken to the extremes; hardly anyone has ever argued for equality of income. (The only exception I know of is George Bernard Shaw, who once called it his 'favourite plan'.<sup>224</sup> I am not sure he was completely serious, and in a later book he argued for 'levelling up', or maximin, instead.<sup>225</sup>) More typically, the idea of equality represents a moral aspiration, an approach, rather than an ultimate objective. These four approaches are consequently different in practice, and different in their results.

### **An example: the poverty threshold in the UK**

The UK government has declared the objective of eliminating child poverty by the year 2020. The test used for low income is 60% of the median household income. About a third of all children in the UK live below that threshold.<sup>227</sup> Most of these children are in families without work, but many also live in families with low earnings, where the main earner is in the bottom quartile of the earnings distribution.<sup>228</sup>

The 60% measure is not a bad indicator of poverty, because low income is often associated with deprivation, but it is not the same thing as poverty. Poverty is a much more complex concept, referring to patterns of material need, economic deprivation and social relationships. Income is at best a rough guide. The use of the median income as a guide was pioneered in studies for the European Union, which identified poverty with 'economic distance' from the rest of society.<sup>229</sup> This definition identifies poverty closely with inequality; the reference to the median income defines the standard wholly in terms of inequality. The median income is the income of people at the mid-point of a society: half the population has more, half has less. The median is not directly affected by changes in the lifestyle of those who are better off. However, using the median means that, by definition, it is logically impossible for more than half the population to be poor. This is a

sustainable position in the European Union, and it works for the UK, but it would not be a reasonable assumption in many other regions of the world.

The use of the median is not illegitimate. Inequality does matter. People's ability to buy goods and services does depend on what other people around them are able to pay. The simplest example of this is the cost of housing, which is directly related to the purchasing power of other people. The prices of many things are affected by the standards of a society at large. Distribution networks depend on the overall pattern of demand (which often means that poor people pay more for basic goods), while the availability of 'poverty goods', like cheap cuts of meat and second-hand goods, are available only if there are sufficient concentrations of poor people to justify economic supply. There is some justice, then, in the argument that people whose income is distinctly below other people's may not be able to participate in society or to buy the things which are considered necessary in that society.

The selection of the 60% threshold is also debatable. The researchers who introduced the measure tested levels of 40, 50 and 60%. The 50% figure has been widely used. At that level, however, many people in receipt of benefit were only just above the level. The main statistical series introduced in the UK mistakenly took the figure as 50% of the mean, rather than the median, and the mean is higher. Rather than be accused of manipulating the figures, the government opted to move to the 60% figure. Subsequently, the preference for 60% began to appear in other European material,<sup>230</sup> and it has become more generally used in the European Union as well as in the UK.<sup>231</sup>

The use of this standard has implications for policy. Clearly, identifying poverty wholly in terms of inequality means that the response will be a response to inequality, not necessarily to poverty. Beyond that, the form of the threshold has implications for what kind of response is likely to have an impact. Levelling down will not meet the standard, because levelling does not affect the median. Reducing the range and ratio will improve the situation, but if the tail of the distribution remains, there will continue to be poverty. The most effective strategy for bringing people above the threshold is maximin, because this most directly alters the relationship between the lowest parts of the distribution and the median.

### *Equality in social welfare provision*

Expenditure on social welfare provision has often been linked to equality. At first sight, this seems to overlap with the area of equal provision, but the implications extend well beyond that approach. In

the UK, the Labour movement followed the view of social expenditure favoured by Tawney,<sup>232</sup> a ‘strategy of equality’ intended to give everyone in British society a common foundation – a combination of guaranteed support with the network of services ensuring minimum standards and a basis for future development.

The link of welfare with policies for equality does not mean that all welfare policies are egalitarian. The policies of the Poor Law were redistributive – resources were directed to people who were destitute – and the ratepayers who met the cost were property holders. To that extent, the Poor Law reduced the range of inequality. Describing this as an ‘egalitarian’ policy, though, would be misleading. The Poor Law was inegalitarian, because it instituted disadvantage. Paupers were badly treated and deprived of civic rights as a matter of policy.

Policies may be egalitarian in one sense, but not in another. Council housing raised the living standards of large numbers of people, but it did so at the expense of a social divide between those who were owner-occupiers and those who were council tenants.<sup>233</sup> Selective education gave opportunities to some children from poorer backgrounds at the expense of excluding others.<sup>234</sup> By the same token, inequalities sometimes persist in apparently egalitarian services. In health care, the people who are poorest are likely to be most in need, but also to receive less service.<sup>235</sup> Le Grand has raised the issue of a middle-class ‘hijack’ of public services, where a range of services – including, for example, transport and higher education – have a regressive effect.<sup>236</sup> This is potentially important, but exaggerated. Where public services are provided, even at a low level, they become available to people who would otherwise be denied them. They raise the floor. Beyond that, the National Health Service in the UK, and the increasingly universal coverage in much of the European Union, cannot be judged only on what they spend; they also have to be understood in terms of their opportunity cost. If these systems did not exist, the coverage they provide would cost every person the price of basic insurance. Even if people do not use the service, then, they are receiving the benefit of social protection, and that is a step towards greater equality.

This argument is mainly concerned with the distribution of the benefits of welfare provision. If equality is concerned with the kinds of issues considered in Chapter Three – social equality, citizenship, and access to the conditions of civilisation – then the provision of welfare establishes equality in a more fundamental sense than by redistribution alone. If the aim of policy is to bring about greater equality in society, there have to be mechanisms through which those

ideals can be realised. In so far as equality is concerned with citizenship, effective membership in a society depends on the ability to participate in it. If equality is a demand for access to the conditions of civilisation, those conditions are met through welfare systems. In every case, the provision of welfare is central to an egalitarian response.

## **Approaches to equality and egalitarian policies**

In the previous chapter I outlined five main approaches to equality:

- equality of persons;
- equality of rights;
- citizenship;
- access to the ‘conditions of civilisation’; and
- equality of welfare.

In this chapter, I have considered five kinds of policy response:

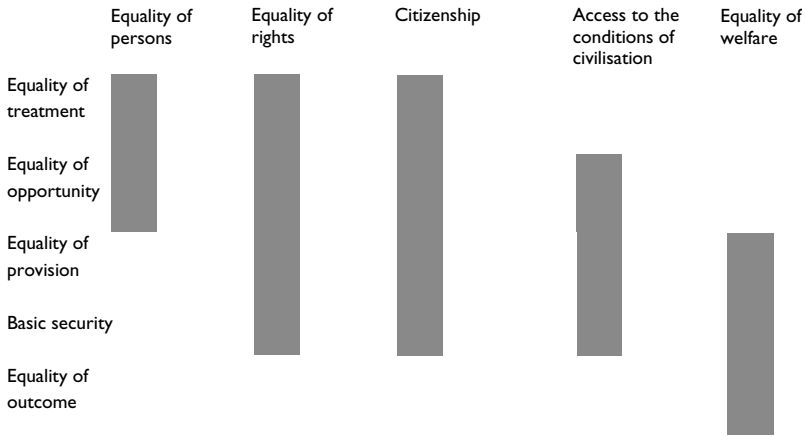
- equality of treatment;
- equality of opportunity;
- equality of provision;
- basic security; and
- equality of outcome.

It is tempting to try to match these directly – equality of persons with equality of treatment, access to the conditions of civilisation with basic security, and so on – but there is not a simple one-to-one correspondence. The relationship between approaches and policy is complex, and made more so by the overlaps between the different categories. Equality of persons is associated with the more limited policies: equality of treatment and equality of opportunity. Equality of persons is not enough to make the case for equality provision. This extension of the argument depends on a shift from equality of condition, narrowly understood, to equality of rights. Once that shift has been made, equality of rights can also be argued to support a case for basic security. Equal citizenship occupies similar ground, implying equal treatment, opportunity, provision and possibly basic security. Neither equal rights nor citizenship, however, directly imply an argument for equal outcomes – unless, of course, the rights which are asserted are rights to specific outcomes. If they are, the argument has effectively shifted to be about either the conditions of civilisation or equality of welfare. Welfare has to be judged principally in terms of outcomes rather than procedures, which means that equality of welfare

has the potential, like equality of outcome, to conflict with other concepts of equality.

If equality of persons and equality of treatment represent more limited concepts of equality, while equality of welfare and equality of outcome represent more extensive concepts, it seems plausible to suggest that commitment to more extensive policies grows with commitment to more extensive principles. Figure 4.1 shows the relationships in the form of a chart.

**Figure 4.1: Approaches to equality and egalitarian policies**



What the chart shows, I think, is that the principles and policies can be represented as a spectrum of options, moving from more limited commitments to equality to broader and stronger commitments. However, this observation has to be treated with some caution. These are not well-defined, discrete areas, and there is no clear point at which one kind of policy leaves off and another begins. Even if the principles of equality are broadly accepted, the type and pattern of equality which people favour depend on a complex constellation of views.

### **Towards an equal society**

If equality is a principle, rather than an ideal, an ‘equal society’ is one where the principle is widely applied. That must, minimally, extend to the principles of equality of persons, of rights and equal treatment; and there must be an aspiration for greater equality, through steps to remove disadvantage where this is considered illegitimate. This is a modest enough shopping list, but it is hard to find a contemporary society where these principles are generally applied. (The US is

egalitarian in its understanding of citizenship, but highly inegalitarian in its acceptance of unequal outcomes. Sweden is probably the strongest contender, but even there there are marked differences between aspiration and practice: the income-related system of social insurance preserves inequalities into old age.)

Anthony Crosland contrasts two very different approaches to the development of equality in society. One, which he considered a 'vulgar fallacy', depends on the construction of a blueprint of an ideal or model society, an approach commonly associated with revolutionary politics. The other is to treat equality as a principle, guiding action towards a greater degree of fairness. He wrote:

How far towards equality do we wish to go? I do not regard this as either a sensible or a pertinent question, to which one could possibly give, or should attempt to give, a precise reply. We need, I believe, more equality than we now have ... I am sure that a definite limit exists to the degree of equality that is desirable.... But where en route ... we shall wish to stop, I have no idea.<sup>237</sup>



# Part Three

## Fraternity





## Fraternity and solidarity

### Fraternity

The idea of fraternity is based in the idea that people have responsibilities to each other. Fraternity was defined after the French Revolution, in the constitution of year III, in the following terms:

Do not do to others what you would not want them to do to you; do constantly to others the good which you would wish to receive from them.<sup>238</sup>

The vagueness of the definition suggests that, despite its place in the revolutionary slogan, the idea of fraternity was not clearly understood. This is a version of the ‘golden rule’, ‘do as you would be done by’, rather than a radical principle.

The inclusion of ‘fraternity’ in the Revolution’s most famous slogan probably owed its place to the role of fraternities – guilds, associations and secret societies<sup>239</sup> – although, ironically, these societies were seen as representing established interests, and they were suppressed by two revolutionary decrees.<sup>240</sup> The members of fraternities might be sworn to ‘brotherhood’. What that meant, in practice, was the recognition of a common identity, the acceptance of mutual obligation, and a commitment to charity where it was needed. To be fraternal was to be bound to other people, by ties of obligation or commitment. This could be a narrow, and on occasion an exclusive, idea, but the link with brotherhood was taken to imply a link with broader ideas of brotherly love, or the love of humanity.

By comparison with liberty and equality, the idea of fraternity has rarely been considered. Ernest Barker, writing in the immediate post-war period, suggested that the idea had failed to relate to any clear meaning, having more the character of an expression of emotion than a clear conceptual understanding.<sup>241</sup> Not everyone finds the idea of brotherly love appealing; Fitzjames Stephen dismissed it with the comment, ‘Keep your love to yourself’.<sup>242</sup> But the idea has failed to engage people in another, more profound way. In the modern age the assumption of masculine gender relationships in the word ‘fraternity’ would make the commentators most likely to use the idea rather shy

of it. Carole Pateman comments that women were given no conceptual place in the new social order.

The contract is made by brothers, or a fraternity. It is no accident that fraternity appears historically hand in hand with liberty and equality, nor that it means exactly what it says: brotherhood.<sup>243</sup>

Unlike liberty and equality, then, ‘fraternity’ has come to have an antiquated ring. The core of the idea, though, refers to ideals which are still important – the ideals of collective action, cooperation and mutual aid. This section focuses on a closely related, but slightly different concept to fraternity: the concept of solidarity. Before I can do that, however, I need to explain the relationship between the two, and their differences.

## **Collective action**

A commitment to collective action has been characteristic of left-wing movements. Development studies have been heavily influenced by a body of work which combines a neo-marxist critique of capitalism with an emphasis on community capacity, organisation and development.<sup>244</sup> These approaches have been influenced by Marxism and the forms of cooperation favoured in the Russian Soviets, but they also reflect an older tradition represented in the French Revolution and the thought of Jean-Jacques Rousseau, and before that in the solidarity of the mediaeval guilds. The housing schemes of western Europe are bristling with organisations committed to similar principles.

Collective action is action by social groups. The idea of a ‘group’ is ambiguous, because it is used in many different ways, but it is not the same thing as membership of a social category. People can belong to categories with related experiences – people with disabilities, carers, victims of domestic violence – without constituting a group. Social groups are made up of people who share a common identity, recognise themselves as members of the group, and have relationships to each other as members.<sup>245</sup> The principle of collective action is well established, and it should be uncontroversial. That it is not is testimony to the strength of the ideology of individualism. Groups are perfectly capable of action: when we read that ‘a family has gone on holiday’, ‘the club is hosting a meeting’ or ‘the residents’ association has decided to oppose the development’, there is no conceptual barrier which prevents us from understanding this as a group action. Groups can

deliberate, decide and act. They may not do these things in the same way as individual persons, but they can still do them.

Collective action takes three main forms. The first is the formation of groups. They become a group only when they identify with groups, can be said to belong to them, and have entered some kind of relationship to each other. Identity, membership and inter-relationship are all necessary for group formation, but the inter-relationships are key, because they define the possibility of further action. The second form of collective action is solidaristic. Solidaristic action is concerned with the development and reinforcement of the links between members of the group, typically through mutual support, shared activities and social contact. These actions are internal to the group. They are essential if the group is to continue and to have a meaning. Third, there is externally directed action, when groups act to relate to people or other groups beyond the group. This implies either that people in the group work in concert, or that there is some mechanism through which the actions of some represent the whole. Political activity is generally externally directed, but so is any action on behalf of a group – whether it is a public celebration, industrial action, or the purchase of facilities for a community. The difference here is not simply a matter of the focus of the action – some actions can be solidaristic and externally directed at the same time, like a ‘gay pride’ demonstration or an Orange Order march – but the methods which then have to be used: solidaristic action depends on the relationships between members of the group, externally directed action on the ways in which the group can act as a group.

Collective action was seen as a radical idea mainly because of its opposition to the dominant individualist ideologies of the 19th century. It is helpful to look at a book like Petr Kropotkin’s *Mutual aid*.<sup>246</sup> Kropotkin was an anarchist, who believed that society was capable of being self-regulating. His starting point in *Mutual aid* is an attack on the myths propagated by biologists in the Victorian era, the belief that nature is fundamentally competitive and that humans are consequently driven to oppose each other. The view that society depends on individual action and ‘natural selection’ is sometimes referred to as ‘Social Darwinism’, and Darwin’s theories are cited as proof of nature which is ‘red in tooth and claw’. Kropotkin counters with many examples of cooperation and mutual aid in the natural world: one of his examples is the Portuguese Man of War, a ‘colonial animal’ made up of cooperating separate animals. Individualists, like Herbert Spencer<sup>247</sup> or Richard Dawkins,<sup>248</sup> tend to interpret our biological drives in terms of competition and selection at the level of the

individual. For Kropotkin, the biology could just as easily be interpreted as implying competition at the level of the group, requiring collaboration and mutual support.

The normative case for collective action rests in the sentiment that the things people do together with others are in some sense better than the things they do for themselves – perhaps because they are less likely to be selfishly motivated, possibly because the cooperation of other people implies some kind of approval, but also simply because acting with other people is often seen as a good thing. It is seen as a source of mutual support, development and empowerment; the development of solidarity is seen as a good thing in itself. Equally, collective action has been seen as a way of giving people who were disadvantaged, downtrodden or dispossessed the capacity to change their circumstances. The association has been made because collective action typically increases the capacity of the people who participate in it. The fraternities of the 18th and 19th centuries used collective action to develop systems of social protection.<sup>249</sup> Working-class movements were able to establish greater capacity, empowerment and mutual support through collective action. These aspects were particularly important for the understanding of fraternity.

General approval of collective action is hard to sustain, however. Some groups are able to promote their interest less through collaboration and support, than through exclusion, favouritism and the use of power. It matters not only that people are able to act collectively, but also what they use their capacity to do. And there are arguments to suggest that the undesirable use of power is intrinsic to collective action – for example, that action by groups invariably leads to the suppression of individual preferences. The communitarian argument in favour of moral preference to friends and relatives applies strongly in the development of fraternal organisations; if people have sworn brotherhood, they can be expected to help their brothers out. Collective action has a ‘dark side’.<sup>250</sup>

## **Cooperation**

Cooperative action is not common or uniform action. In some cases, people who are cooperating will do the same kind of thing, such as contributing to a fund; but people who are doing the same thing (like watching television) are not necessarily cooperating, and people who are cooperating (like people trying to build a house together) are not necessarily doing the same thing. In many, if not most, other cases, cooperation involves doing different, complementary tasks, rather than

everyone doing the same thing. This implies a division of labour – one person does one part of the task, while another does a different part.

It can be difficult to tell whether people are acting cooperatively from their actions alone. People do things for a very wide variety of motives, and although their actions may seem to be coordinated, they are not necessarily brought together by a shared task. People can engage in similar, complementary activities, like buying and selling goods, because they are responding to common pressures in complementary ways. They might, like traders in a market, be competing, rather than cooperating. And they can appear to be undertaking similar activities, like travel to a common destination, when in fact they are following through individual motivations and actions.

Cooperation can be understood in two main ways. One is defined in terms of common purpose: people can be said to be cooperating when they are working to the same end. This is an appealing idea, because people who cooperate often do have common purposes in mind, but it is not really sufficient. The aim of a totalitarian system, like Nazi Germany or the Soviet Union under Stalin, may have been to bend everyone to a common purpose, but such societies were also atomised – holding individuals at a distance from each other so that they would not deviate from the general purpose. The second view of cooperation is that it is based in process and partnership – engagement in a common activity. A ‘cooperative enterprise’ is not just one where people are working together. It is one where people are jointly involved in production and share ownership, responsibility and profits. The core elements of cooperative industry are ‘industrial democracy’ and joint ownership.<sup>251</sup> Control is key to both; people can be said to be cooperating only if they are participating in decisions about their actions. Cooperation, then, is defined by a set of approaches, processes and relationships. This view also has weaknesses, because large cooperative enterprises can sometimes seem very remote from the people they engage, but the principle is right: cooperative action brings people into a relationship of partnership with others, and that relationship holds good even if the partnership is distant.

There is a longstanding tradition of cooperative industry in socialist movements: examples include the Soviets (which were workers’ collectives), the Israeli kibbutzim (which were forms of communal living), cooperative societies in the UK (which were mutual societies used for collective distribution), and Mondragon in Spain (a system of jointly owned and controlled enterprises). This is a normative

discussion, and I am not intending to examine the mechanics or operation of this kind of movement here, but there are some things which ought usefully to be said. These cooperatives either were part of movements which identified socialism with the actions of the working class, or were adopted and promoted by people with socialist beliefs. In those movements, the working classes were brought together by a broader conception of 'brotherhood': cooperation was a manifestation of that spirit. When the principle of cooperation is combined with collective action, which depends on group membership and identity, the sense of partnership and common enterprise is a powerful one. However, cooperatives, even if they are motivated by idealism, are not necessarily distinct from other forms of industrial enterprise. Cooperatives are not necessarily non-profit making, and there is no necessary implication of redistribution or mutual support.

The ideas of common enterprise and divisions of labour apply just as much to family firms as they do to cooperative industry. The view of the firm as an extended family, common in Japan and South East Asia, is not at all radical, but it fits with the model of cooperation as well as any radical alternative. The appeal to personal relationships, moral responsibility and collective enterprise have as much in common with conservative thought as they do with socialism. This begs the question of why cooperation should have been seen as central to radical ideas. Part of the answer rests in an ideal: cooperation, rather than competition, seemed to offer socialists an alternative to the competitive economic framework. Part comes from the historical tradition of trades unionism, which combined social ideals with the defence of their members' interests. In part, too, I suspect, it is based in a confusion – the unwarranted assumption that cooperation, because it seemed altruistic, in some way implied support for the weak and oppressed. The link came because those who, like Kropotkin, believed in fraternity found it hard to believe that people who valued cooperation would exclude others from it.

### *Why people cooperate*

Most of the attempts to model why people cooperate are based on game theory, where cooperation is understood in terms of the calculations made by each individual when faced with choices about activities or distributions. It is possible at least to show that rational actors ought to cooperate in certain circumstances, although there may be disagreement about what the circumstances are.<sup>252</sup> But the principal focus of this kind of modelling, the 'prisoner's dilemma', is

intended to identify the circumstances where people might have a reason to defect, rather than to cooperate.<sup>253</sup> It does not explain why people should cooperate in the first place.

The core economic argument for cooperation is based on the general truth that people working together are capable of more than people working individually. The proof of this proposition rests in a theory more usually associated with international trade than with cooperation at the personal level: this is the theory of comparative advantage. It is possible to show formally that in nearly every case where people have different abilities or capacities, it is in their interests to specialise in their work and to exchange the benefits subsequently.<sup>254</sup> Every modern society depends on a division of labour: making a loaf of bread relies on the efforts of farmers, millers, bakers, power workers, and tool workers, among others. What we find, throughout society, is the existence of rules, patterns of behaviour and social arrangements which make effective divisions of labour possible. These include not only rules for public action, like engagement in economic activity or physical movement, but norms applied in the private sphere, like those governing families and child care. Cooperative action is central to every aspect of social life.

Activity which depends on continued cooperation activity may be vulnerable to the selfish actions of individuals. Olsen suggests that, in many cases, individuals will have an incentive to leave collective groups.<sup>255</sup> This has been happening, for example, in the process of demutualisation in the UK, where long-established financial institutions, including banks, insurers and building societies, have been re-incorporated as private enterprises. The curious thing about this example is not that it should have happened, but that the process should have taken so long – many of these institutions had existed for over a century.<sup>256</sup> The assumption that people routinely choose to defect, rather than cooperate, is at odds with general experience. In *The tragedy of the commons*, Hardin argues that common property is unsustainable because someone will take up the resources that should be shared with other people.<sup>257</sup> This is only true if there are no rules, and no code of conduct. That happens in some cases – a gold rush, a lawless frontier, or a civil war. (Something like it is happening now in the fishing industry in Europe, although that is arguably because fishing is subjected to the wrong kind of rules, not because fisheries are held in common. They are not, and in the European Union people buy and trade licences to fish.) However, some commons have lasted for hundreds of years. That is not because the participants are unusually



benevolent, detached or lethargic. It is because they had rules, stuck to them, and made sure that others did the same.

The idea that people can reasonably be expected to act cooperatively is sometimes controversial. There are clearly circumstances where they do not. But people live in society, and they interact. They may have common patterns of behaviour, some common experiences (such as schooling), shared understandings (typically because they have a common language) and some shared values. Norms of behaviour are reinforced by formal and informal education, moral codes and legal sanctions. This is the setting in which fraternity is developed. Every child in a family learns something from having to live with its parents. (Admittedly what they learn might be about hierarchy, obedience and defiance, which are all desperately inappropriate to interaction with other human beings when they become adults, but family life is like that.) Schools teach children to 'behave', which does not necessarily include politeness or respect for other people but does include the 'hidden curriculum' – issues about timekeeping, habits of work and deference. People cooperate, whether or not it is in their personal interests, because they grow up with other people, and they are socialised into patterns of conduct. Living in groups, and sharing activities with other people, is the normal pattern of social life for most people in developed societies.

### *Social capital*

The idea of social capital has become fashionable in recent years as a way of referring to the capabilities and value conferred through social networks. Putnam points to various uses of the term in the course of the 20th century: the idea has been periodically invented and re-invented to apply to a long-running debate.<sup>258</sup> The analogous idea of 'human capital' has long been used in economics to signify the investment in skills and competences made in the development of each person. Social capital is another type of value, often concealed or taken for granted: it refers to the value of networks of social interaction and support which reside in these social relationships.

It is possible to achieve a great deal through the process of economic production and exchange, which is conceived individualistically, but the process is heavily constrained. The economic market depends implicitly on an infrastructure, which makes interaction and transactions possible. In societies where this infrastructure does not exist, economic engagement requires the development of such resources – both a physical infrastructure, like roads, water and power supplies, and a social

infrastructure, like schools and hospitals. Social capital can be treated as part of the social infrastructure. J K Galbraith once referred to the problems associated with the individualisation of economics, which he argued led to 'private affluence and public squalor'.<sup>259</sup> The public domain is not valueless, but there is a risk that it can pass without its value being appreciated. The idea of social capital represents an attempt to attach value to the public sphere.

There are obvious defects in the concept of social capital: it is not really 'capital', and it cannot be redistributed or expended. It is possible to attach monetary values to many of these activities, because people who do not get them through social relationships have to pay for them, but it is not necessarily meaningful to do so. (There is also an argument that the act of paying devalues the relationship: paying for an escort is not the same as taking a friend out for the evening.) The importance of considering such relationships has been to emphasise to those weighing the policy implications of different reforms that there may be intangible benefits which they are otherwise likely to ignore. In that respect, the idea of social capital has been hugely beneficial in international debates on development.

The idea of social capital refers to a range of relationships from which people can derive value – relationships like support for older people, informal child care, social clubs and mutual aid. This brings us closer, I think, to an understanding of why cooperative social activity is thought of as so important to radical thought. In part, cooperative action was a means of developing people's capacity to act. In part, it stood as an implicit criticism of the priorities of the economic system. Perhaps most important, though, it attached value to the aspects of life which seemed otherwise to be ignored: the social relationships and mutual bonding which make social life possible.

### **Mutual responsibility and aid**

The third key element in the idea of fraternity is mutual aid. The responsibility to help others arises in two ways. The first, which is balanced or direct reciprocity, happens when people make mutual agreements or exchanges. The second form of exchange, 'generalised reciprocity', occurs when people confer or receive benefits from one person which convey obligations to someone else.<sup>260</sup> The pattern is most visible in families, where each person is enmeshed in a network of obligations relating not just to their own interactions and exchanges, but to the relationships of the people around them. For example, the support which people give to children imposes an obligation on the

generation of children to support their children in their turn. Conversely, people who have supported their parents may reasonably expect that their children will support them in turn. The obligations which bind generations work through three dimensions: the relationships between parents and children, which have elements of balanced exchange; obligations to younger generations, reflecting services received from the previous generation; and obligations to older generations, which stem from the support that they gave their own parents.

Social welfare might be seen as extending the principle of generalised reciprocity across a wider society. That was the position argued by Richard Titmuss, who suggested that the relationships of altruism and commitment to other people's welfare disguised a network of generalised exchange (or 'ultra-obligations').<sup>261</sup> In conditions of uncertainty, people seek to manage risks. The most effective way of doing this is through risk pooling, or mutual insurance, and in many societies mutual insurance has developed to deal with some of the principal risks people face – notably pensions, medical insurance, provision for sickness and disability and unemployment insurance. These patterns of social protection have some important common features. There tends to be an assumption in much of the literature that this sort of protection is developed politically rather than socially. That assumption is highly questionable. Many systems of social protection were developed, not by the state, but by different forms of mutual organisation.<sup>262</sup> The provision was sometimes based on occupational groups, trades unions and employers; in other cases it might be mutualist. The element of intervention by government similarly varied, but in many countries the state took action only after voluntary networks had been established, either by replacing the existing pattern of provision (as in the UK<sup>263</sup>) or with the intention of extending similar provisions across a broader range of the population (as in France<sup>264</sup>).

### **An example: pensions**

There are many different types of pensions schemes. They include:

- mutualist schemes, which people join voluntarily to pool their risk;
- occupational schemes, based on employment; and
- state-financed schemes.

All these systems are organised formally in terms of mutual aid. Although many pensions schemes relate benefit entitlements closely to individual contributions, there are also strong elements of both risk pooling and of

the acceptance of mutual responsibility. Pensions schemes pool resources and liabilities, so that the circumstances of the individual are protected despite individual variation. Mutual responsibility is expressed through generalised reciprocity. Most national pension schemes work on the principle of 'pay as you go': current contributions are not stored in a fund, like private pensions, but are used to pay for current benefits. The rights of current contributors depend on the recognition of the principle of reciprocity by future generations.

This approach has some decided advantages. It protects pensions against inflation (because the level of benefits is related to current contributions) and it is sufficiently flexible to make it possible to allow a generation of pensioners to share in the prosperity of the subsequent generation. Potentially, it avoids many of the complexities associated with the calculation of individualised pension entitlement – or at least, it could avoid those complexities if so many schemes were not trying to pretend that entitlements are individually calculated.

At the same time, the principle of reciprocity has often been found to be insufficiently robust to protect pensions from modification by governments eager to control public finance. The reform of pensions in the UK in the 1970s introduced a nominally funded scheme, promising current workers substantial benefits at the expense of their children without offering similar benefits to current pensioners. The French government recently announced that contribution periods for pensions would increase in 10 years' time from 37.5 years to 42 years. Both may look like technical changes, but they imply that future generations will be expected to pay for the pensions of current contributors when current contributors do not have to make an equivalent sacrifice for current pensioners.

The three main types of pensions – mutualist, occupational and state financed – have some features in common. If the specific terms of pensions schemes were meaningful, these different types would also follow clearly defined, distinct rules. Mutualist pensions should, in principle, be confined to people who contribute, and geared to the level of contributions that people have made; occupational pensions should be limited to defined occupational groups; state schemes should be based on contributions or taxation. In practice, the lines are not at all clear, and where schemes seem to be limited – for example, because the occupational base is changing, or because some people are left out – they are often tweaked to allow for more general reciprocity. Mutualist pensions have been extended to include people whose contributions have been exhausted; occupational schemes have had measures introduced for redistribution between schemes, to allow for a declining contributory base; funded schemes may receive subsidy and

tax advantages. The form of pensions schemes, then, is likely to be less important in practice than the principle of mutual aid.

## **Solidarity**

I have introduced the concepts of mutual responsibility and aid under the general heading of ‘fraternity’, but this is not the way that they are usually referred to in the European Union. The language which is most commonly used is the language of ‘solidarity’, and it makes sense to re-focus the discussion on that concept.

The idea of ‘solidarity’ was used in a legal sense from the 16th century, and it features in the Napoleonic code, where it refers to joint financial obligations. Sociologists sometimes attribute the term to Durkheim,<sup>265</sup> but the term came into use more than 50 years before Durkheim’s work on the division of labour,<sup>266</sup> and Durkheim was writing in an intellectual environment where the word was widely used. Solidarity seems to have acquired its modern meaning by the 1830s; the 1835 dictionary of the Académie Française noted that the term

... sometimes refers, in ordinary language, to mutual responsibility which is established between two or several people. Solidarity binds us together.<sup>267</sup>

Like liberty and equality, the idea has strong associations with radical social movements. Pierre Leroux, who is probably best thought of as a Christian socialist writer (and, incidentally, who has been credited with inventing the word ‘socialism’), used the term to refer to a sense of common humanity.<sup>268</sup> Hippolyte Renaud, who popularised the term in the 1840s, was not very clear about its meaning, but seemed to identify it with a utopian vision of society.<sup>269</sup>

‘Solidarity’ refers to the same kind of ideal as fraternity – primarily, obligations and mutual support between people. The concepts of solidarity and fraternity share a commitment to mutual aid and social responsibility. Solidarity differs from fraternity by emphasising moral obligation, rather than cooperation, as the binding force which guides social action. This is a subtle shift, but a fundamental one. If moral obligation is the core of solidarity, the idea can be linked to conservative concepts of order and duty. But the idea is also close to the patterns of communitarian thought discussed previously, which justify strong differences in social status, and it has been espoused by the political right, who have related the concept to traditional conservative concerns

about moral responsibility and order. Part of the reason for this is the influence of the Catholic Church, which has emphasised the importance of solidarity, mutual responsibility and cooperation to a constituency which has often been associated with strongly conservative beliefs. In much of Europe, the language of solidarity is accepted by both left and right.

The idea of solidarity is defined in Catholic social teaching as:

A firm and persevering determination to commit oneself to the common good, that is ... the good of all and of each individual, because we are all really responsible for each other.<sup>270</sup>

This is too wide-ranging to be clear, and it needs to be picked apart. The main elements to be discussed are the common good, and the idea of social responsibility.

## **The common good**

The 'common good' is understood in the Catholic formulation in two very different ways. One is the good of each person: a situation in which people benefit as individuals. The other is the good of the whole: what is in the interests of a family, a firm or a school, is not necessarily the same thing as what is in the interests of each person within it. This is only a starting point, however, and there are further senses of the term.

### *The good of each individual*

Jeremy Bentham argued that the good of the community had to be understood as the good of each person within it.

The community is a fictitious body, composed of the individual persons who are considered as constituting as it were its members. The interest of the community is, then, what? – the sum of the interests of the several members who compose it.<sup>271</sup>

This view is basic to welfare economics, which treats welfare as the sum of individual welfares. The fundamental principle is methodological individualism, attempting to understand economic decisions in terms of individuals acting in aggregate, and for the most

part that approach has served economics well. At times, however, methodological individualism spills over into substantive individualism, often of an extreme nature. Economic arguments commonly assume that the only relevant criterion for welfare is the personal utility of individuals; that the sum of individual choices is always superior to any expression of social choice; and that any limitation on individual choice is inferior to collective decision making.<sup>272</sup>

The foundational assumption of welfare economics is ‘Pareto optimality’, the view that a measure increases welfare if one person is better off, and no one is made worse off as a result. This is generally considered desirable in economic theory, because it indicates both that a distribution is efficient and, for a given distribution, that welfare is maximised. Sen comments that ‘its acceptability is typically taken to be entirely non-controversial’.<sup>273</sup> That general agreement does not, however, have much purchase outside the narrow confines of the economic literature. The first problem with Pareto optimality is that it disregards distributional issues. The suggestion that utility is optimised where one person has all the goods and another is left to starve is perverse. The aggregation of preferences means that the position of individuals or minorities can be overruled; the only protection they have is the assurance that they will not be worse off after redistribution, which is not much help if the initial distribution is unsustainable. For a supposedly individualist perspective, this is hard to defend. The second problem is that Pareto optimality attaches an unsustainably high value to personal utility. Sen has questioned the valuation of individual utilities above everything else: the utilities of some people may imply limitations on the actions of others, and he suggests that the Pareto principle is not compatible with individual choice or basic liberties.<sup>274</sup> Kaplow and Shavell argue that any concept of preference which is not based on individual utilities – for example, because it is concerned with liberty, equality or human rights – must at some point depart from those utilities, and consequently will violate the Pareto principle.<sup>275</sup> If this is right, which I think it must be, the problem does not lie with the moral principles; it is the Pareto principle which is at fault. Pareto optimality cannot possibly be taken as a fundamental test of people’s well-being.

The ‘individual’ in economic theory is someone considered in isolation from the world he or she lives in. This is occasionally useful for the purposes of moral argument, but the ‘individual’ of economic or political theory does not exist: no one lives in isolation from other people, and social interaction is essential to personal development. It makes more sense to think in terms of ‘persons’: in sociology, a person,

unlike an individual, is understood in terms of social roles. On the other hand, a 'society' is not simply a collection of people. Society is defined by the relationships of people to each other: societies are complex networks of relationships of interaction, exchange and obligation. The interests of people and society have to be understood in relation to each other, because neither is separable from the other. The good of 'each person' depends on social relationships.

### *The good of all*

The interests of groups are things which will benefit the group. Those interests are not necessarily the interests of the 'individuals' who make them up. Families have an interest in continuity and stability, because without them they cease to be families. Commercial firms have an interest in staying in business and making profits. Cities have an interest in economic growth and sustainable development. Societies, too, have interests. Issues like national defence, public order or economic growth, are generally understood as a benefit for the whole society (or nation) rather than specific people within the society. The network of obligations in a society extends both to past and to future generations. A society has interests in its continuation and survival, because without that it ceases to be a society. This applies even if it is not in the interests of the people within that society: it is not necessarily in the interests of each person to ensure that there is a future for their descendants, but it matters from the point of view of a society.

The weight which should be given to groups over individuals is a moral question, and not one that can simply be resolved in a general discussion of this kind. The importance of this argument is not that it is simply right or wrong, but that a sensible case can be made for considering the interests of a collectivity. Once that is established, Bentham's argument falls. There is such a thing as a common good.

This idea of a 'common good' has been controversial. Rousseau made use of it in a particular way, to refer to an abstract benefit which might be distinct from the good of each and every person.<sup>276</sup> Claims based on the good of all tend in consequence to excite suspicion. That suspicion is reasonable, because it can be used to cover abuse of the rights of people within the group. It does not, however, negate the idea that there are distinct group interests.



## **Social responsibility**

The complementary idea of social responsibility is key to the concept of solidarity. Networks of solidarity are, effectively, networks of obligation. Some parts of that network can be understood in terms of mutual obligation – the interlocking, mutually reinforcing patterns of responsibility derived through reciprocity. Reciprocity is one of the key elements which binds a society together, and the norms which govern reciprocity are sufficiently general to be considered fundamental to all societies.<sup>277</sup> There are other patterns of obligation, however – religious obligations, the obligations of common humanity, and obligations within the family – which are equally part of the pattern of solidaristic social networks. A society is not just a shifting mass of people, but a complex set of overlapping and interlocking networks of solidarity and personal obligation.

People are born into networks of solidarity, where each person has obligations to others. The obligations are strongest to those who are closest: this is virtually circular, because the people to whom one is closest are also the people to whom obligations are the strongest (and, Sahlins argues, most generalised<sup>278</sup>). People have the greatest solidarity to those to whom they are closest, and solidarity diminishes with social distance.

In Catholic social teaching, the idea of solidarity is supplemented with another principle, that of subsidiarity. Subsidiarity means that responsibility rests, in the first place, at the level which is closest to the people affected.<sup>279</sup> The strongest, and most valuable, forms of solidarity are the closest bonds, and the duty of more remote bodies is to supplement and complement these bonds, not to replace them. Governments and higher bodies have a duty, not to stay out of personal or local affairs, but to strengthen and help them.

The idea of social responsibility links solidarity to other concepts of duty – a link which helps to explain the commitment of many of Europe's political conservatives, to support for the poorest. Because it is a moral concept, however, it does not mean that it is unqualified. The principle depends on some degree of reciprocity; people have an obligation to contribute in order to receive. The moral responsibilities which are developed in society are often particular rather than general: people do not have the same obligations to strangers that they have to friends, neighbours and colleagues. Other moral concerns, such as the moral conduct of recipients, may be thought to condition the responsibility. By contrast with universal principles, like rights or justice, solidarity is liable to be severely restricted.

Solidarity is important, though, precisely because it is based in the moral principles that people hold. It mobilises such moral sentiments as a justification for support. The extension of solidarity across social networks means that a broad circle of people are included in responsibilities which otherwise might be confined to a privileged group. The strength of the Catholic concept of solidarity is that it draws on the power of these relationships as the basis for social cohesion. Its weakness is that it can make the more distant strands of solidarity, and some of the other principles governing society, seem unimportant by comparison.

### **An example: the caring relationship**

The pattern of responsibilities identified in the idea of 'solidarity' is specific and personal. Solidarity is not based in a vague sense of common feeling with the rest of humanity. People have duties to each other, and the closer they are to each other, the stronger those duties are. That is almost a definition of what it means to be 'close'.

In many cases, this duty is expressed as a duty of care. Parents have to care for young children; adult children have to care for their ageing parents; husbands and wives have to care for spouses with disabilities. Over five million people in Britain are engaged in this kind of 'informal' care for people who are older, sick or disabled; about a third of those do so for more than 20 hours in a week.<sup>280</sup> The needs they meet are physical, including help with mobility, aids to hearing and seeing, and supervision; needs relating to personal care, including dressing, washing and personal hygiene; and household management, including housework, preparing food and financial management. (People who need care have other needs, of course, like the need for social contact, entertainment, stimulation and affection, and carers will also help in those areas, but that does not distinguish them from any other social contact.)

The feminist literature sees the burden of care as falling primarily on women.<sup>281</sup> This is only half true. Women are more likely than men to be carers, which means that the burden is disproportionate, but many men are also carers. Conventionally, the role of carer tends to fall to daughters and daughters in law, but this assumes that there is a female in a position to care, and often that is not the case. The position of carers is mainly determined by their relationship to the person who needs care: spouses have the most direct responsibility, and the role of adult children increases as the people in need become older. Many carers – about a quarter of the total in the UK – are themselves older people.

The relationship of carers to the people they look after is often difficult.

For children looking after older parents, there may be a reversal of the roles they previously held. Some tasks, like washing and personal hygiene, are particularly sensitive. For older people with dementia, the main problems identified in the literature concern the burden on carers, the capacity of carers, and the behaviour of the sufferer.<sup>282</sup> The primary determinant of stress in the carers is the impact of dementia on the sufferer's activities in daily living – that is, functional disability – rather than the level of cognitive incapacity.<sup>283</sup> The kind of problems carers report include dressing, washing, meals, getting people in and out of a chair or in and out of bed, and urinary and faecal incontinence.<sup>284</sup> I have been critical of some of this literature in the past, because it often seems to treat the carers as the only ones who have problems: older people with dementia are no less likely to be distressed by their condition.<sup>285</sup>

This needs, though, to be counterbalanced by some of the positive considerations. People care for others out of duty, and out of love. Qureshi and Walker's qualitative study, *The caring relationship*,<sup>286</sup> suggests that the positive elements are not all expressed in one direction: older people often make a positive return for care with physical help, emotional support, finance and child care. The relationship between carers and disabled people is an exchange, not a simple burden.

## The case against solidarity

The principle of solidarity is so firmly established in society that arguing against it seems pointless, like arguing against the weather or the tides. That does not, of course, prevent many critics doing just that. The opposition to solidarity is of two main kinds. First, there are those who object to the very idea of social responsibility. This position is mainly expressed by libertarians, a class of liberal thinkers who take each person to be an 'individual', conceive of society as an accident of geography rather than a network of relationships, and accept no responsibilities that they have not explicitly signed up to. Thoreau's *Walden*, to my mind a pernicious and repellent book, is an example.<sup>287</sup> The libertarian position is extreme. Even if it enjoys recurring intellectual vogues, few people act as if it applies. A society in which no prior responsibilities were established would be impossible to live in.

Second, there are those who object to the idea that there is any general moral obligation to help others in society. This is a much more widely held view: it is most strongly held in the US, but is supported by a constellation of liberals, individualists and thinkers of

the ‘new right’. The proponents of the arguments, such as Hayek and Friedman, differ in the particulars, but broadly speaking their argument consists of five main points, responded to in turn here.

1. *Society consists of individuals.* The view of society as a collection of individuals is central to liberal thought. The model of solidarity is based on a very different understanding of society. If people are bound together by solidarity, they become part of a series of overlapping social networks; society is formed through a complex series of such links, a network of networks.
2. *Individuals should be free to make their own decisions.* This represents, in many ways, the fundamental contrast between liberals and conservatives. Liberals believe that people are free to make decisions; conservatives, that they cannot be. In large part, the liberals have had the greater influence; many people in politics and the press would immediately agree in general terms even if they might have reservations about specific cases.
3. *Social protection imposes constraints on individuals which infringe their freedoms.* The position begins from the premise that social protection is imposed on individuals, which is largely untrue. Many systems, as noted above, have been founded on a voluntary or mutualist basis. The penetration of such systems typically extends to a substantial majority of the population. The main exceptions are those who are excluded by low wages or the terms of their employment. Voluntary self-exemption, where possible, is done because people make alternative arrangements, not because people do not want to be protected.
4. *Individuals have to bear the consequences of their own decisions, and social protection distorts those consequences.* In the arguments of the ‘new right’, and increasingly in the political mainstream, unemployed people have to accept the consequences of not working, and single parents have to raise their children.<sup>288</sup> The idea of insurance or risk-pooling works against this. It is clearly true that social protection mitigates the effects of some decisions – that is what it is there for – in the same way as property insurance mitigates the effect of exposure to the risk of fire or theft.
5. *The best, and only legitimate, form of allocation and distribution arises from the free interaction and exchange of goods.* This last proposition takes us beyond the scope of discussions of solidarity, into similar areas to those discussed in Chapter Two. Solidaristic arrangements may seem to have the implication that individual decisions will be forestalled by the actions of others. State pensions, for example,

are accumulated according to the requirements of policy rather than the cumulated preferences of individuals. It is possible in consequence to show that the distribution is less likely to accord with individual preferences than a series of individual decisions would be.<sup>289</sup> The main reservations to make about this position are that:

- a. pensions, like wages, depend on the conventions of markets. There is no reason to suppose that the contributions required of employers and employees would otherwise be available for the decisions of individuals. Wages are set by convention, not according to some intrinsic value, and in developed economies the cost of social protection is part of the cost of wages.
- b. pensions, despite their apparent form, are primarily financed through generalised reciprocity, rather than saving. There are not necessarily cumulated funds available for alternative distribution.
- c. despite the assumption that preferences are imposed, when people are left to make voluntary arrangements, most make precisely the sort of solidaristic arrangement which has otherwise been made by the state.

There are, I think, important objections that can be made to solidarity on individualistic grounds. Those objections are poorly represented by the libertarian right wing, because their conflation of liberalism with free-market ideology and opposition to social support rejects what is valuable about the idea, as well as what is dangerous. The principle of solidarity is based strongly in an existing structure of obligations – a structure which people are bound into by virtue of their position, about which they have little say, and which implies that they have duties whether or not they consent, and whether or not they benefit. This is the same kind of argument which was used to support a static, oppressive feudal society, the world that the principles of liberty, equality and fraternity were intended to overthrow. And those principles hold the key to the problem. Without a principle of liberty, solidarity has the potential to be illiberal. Without a principle of equality, it may be inegalitarian. It is only if solidarity is reconciled with liberty and equality that its dangers can be resolved.

## **Solidarity and equality**

There is a potential tension between the ideas of equality and solidarity. The idea of equality begins with the proposition that people should

be considered equal unless there are reasons to the contrary. A model of society based on the idea of solidarity begins from the proposition that people's positions in society are necessarily differentiated. Every person is part of a complex network of relationships, and everyone has a set of responsibilities which are personal and distinctive. There are, in consequence, always reasons why people should not be considered equal. This is closely related to the communitarian argument considered in the section on Arguments for inequality in Chapter Three. The reply of the egalitarian is simple enough: egalitarians do not accept that society has to be the way it is. But there is a much deeper problem for those who would like to hold to the principle of solidarity at the same time as the principle of equality, because differentiation can legitimate inequality.

There are three common resolutions of this dilemma. The first is through redistribution. Both solidarity and equality can be interpreted to imply a commitment to redistribution. People who are in extremely unequal positions are not likely to enter solidaristic relationships with each other. One of the arguments for charity is that it emphasises the responsibility of each member of society for others. Sahlin points to the generality of the principle of *noblesse oblige* – the idea that those who have more have a continuing obligation to others who have less. This idea has a remarkable generality: Sahlin identifies it in the anthropological literature covering more than 70 societies.<sup>290</sup> He suggests that the reason for its generality is functional: the acceptance of responsibility for the poor is often the only point of contact that poor people have with the rest of society, and without such a principle the societies which do not have an equivalent procedure cease to exist. If that is right, then solidarity in one sense – the redistribution from rich to poor – is necessary to solidarity in another, which is the maintenance of a common good. The form of redistribution implied by solidarity is not always egalitarian, but it will reduce inequalities where solidarity is expressed in a commitment to people who are disadvantaged or excluded.

The second resolution is through the idea of universality, which aims to provide public and social services to everyone on an equal footing. There is some confusion in the literature between universality as a principle, which is concerned with ensuring complete coverage of everyone in a population, from universality as a method, by which some benefits (like Child Benefit) go to every resident or citizen of a certain age.<sup>291</sup> For the current argument, the principle is what matters: the idea that everyone is entitled to benefit. The principle is controversial in some areas, notably the receipt of social security benefits,

but it is widely accepted in others: no one seriously thinks that fire services should only cover people who contribute (which was the position at the beginning of the 19th century), and there is a fairly widespread acceptance of the principle of universal education, whereby all children should receive at least an elementary education. Universal education is a good example of a policy which is both egalitarian and solidaristic. It is egalitarian in the sense that it both provides people with a common foundation, and is seen as central to equality of opportunity. It is solidaristic partly in the promotion of social cohesion, and partly because the acceptance of social responsibility for children is a fundamental part of generalised reciprocity and solidarity between generations.

The third approach which can reconcile solidarity and egalitarianism is the emphasis on social inclusion. Solidarity implies, for some, a principle of an inclusive society: a society in which each person extends to strangers the kind of moral commitment and sense of obligation which otherwise are reserved for those who are closest. This position was famously expressed by Richard Titmuss,<sup>292</sup> and it has its descendants in the strong commitment of many in social policy to universalist principles. Putnam argues, further, that there is an empirical association between social equality and social capital, which he identifies directly with the principle of fraternity. This happens in part because social capital helps to create greater equality, and in part because inequality is inimical to the formation of social capital, and possibly because both are shaped in practice by common social forces, like the experience of solidarity in wartime. ‘Community and equality’, he writes, ‘are mutually reinforcing, not mutually incompatible’.<sup>293</sup>

## **Solidarity and freedom**

As with equality, there may be a conflict between solidarity and the idea of freedom. Solidarity is concerned with obligation, and many of the obligations of solidarity are incurred without the people involved having a true choice. We do not choose our families or our communities, but we have obligations towards them. In extreme cases, the obligations imposed in solidaristic communities can be repressive – limiting freedom of action for everyone, but particularly for people in ascribed roles, like women and lower castes. This is just the sort of social arrangement that liberal individualism opposes, and in contemporary society that opposition is considered to be almost wholly justified.

Like the conflict between solidarity and equality, solidarity and

freedom can be reconciled under certain conditions. Solidarity, like equality, may be required to give people the basic security which is necessary to free action. Without education, for example, people cannot become free to act; without solidarity, education will not be provided. Similarly, the provision of basic welfare services and development of social protection can be seen as fundamental to personal freedom. If freedom is understood in a social sense, the capacity of people to act depends on cooperation with others, and so on a degree of solidarity. Requiring people to engage with solidaristic networks, for example through inclusion policies, may be consistent with developing their autonomy. Putnam suggests that there is a direct empirical link between tolerance for diversity and engagement in networks of solidarity.<sup>294</sup>

Solidarity may develop as a matter of choice, and some political thought on the left has tended to assume that solidarity and freedom are simply complementary. Sylvan, writing about anarchism, comments:

Is its goal individual freedom or communal solidarity? Sometimes one, sometimes the other, sometimes neither, sometimes both. A pluralist anarchism offers several different sorts of communities, not just one kind: independent individuals, families or firms, perhaps interrelated and organised through markets and contracts; solidaristic groups working freely together and sharing according to need; and various attractive intermediaries, where there may be more individual-oriented market arrangements but there are also safety nets ensuring distribution according to basic needs.<sup>295</sup>

Many arrangements for social protection have been established, not through coercion, but through voluntary association and mutual exchange. However, depending on voluntary engagement has limitations. There may be problems of exclusion, which can act to limit social participation and the capacity of people to act. The people who default or opt out of solidaristic arrangement do so, not because they feel it is unnecessary to contribute, but because they cannot afford to do so. The main purpose of compulsion has been to extend social protection. At the same time, it ought to be recognised that there is only a limited need for such compulsion in practice: overwhelmingly, people do contribute voluntarily.

One of the apparent reconciliations of solidarity and freedom is not, however, really legitimate. When people talk about freedom for



families, communities or businesses, this covers up a problem. People within these groups may be restricted in their actions. Freedom for families commonly means freedom for parents, not for children; freedom for businesses is freedom for employers, not employees. The same reservation is the root of Pateman's objection to the construction of liberty and fraternity as male concepts.

### **Fraternity and solidarity in theory: an overview**

Like freedom and equality, fraternity and solidarity are rich, multifaceted concepts. Fraternity subsumes understandings of collective action, cooperation and mutual aid. Solidarity includes issues of the common good, reciprocity and social responsibility. Although these concepts are often morally persuasive, they may be less immediately compelling than liberty or equality. Fraternity and solidarity have a 'dark side', and they need to be seen through the lens of liberty and equality to avoid the moral dilemmas of a closed, restricted society. Solidarity is most attractive when it is applied to the idea of social inclusion. This is the subject of the next chapter.

# The inclusive society

## Solidarity in practice

Solidarity has long been established in the political lexicon of European countries, and with its widespread use comes a degree of ambiguity. For practical purposes, there are very different understandings of solidarity. One model of solidarity bases it in rational cooperation and mutual aid. In developing countries, the primary strategy has been to facilitate the integration of people into the formal economy, an approach which has the decided advantages of increasing their income, and giving them access to formal patterns of exchange, but the disadvantage of requiring specialisation and making people vulnerable to economic forces. In developed economies, and in particular in Europe, the main strategy has been to increase the coverage of solidarity, by extending or modifying the existing networks of social support.<sup>296</sup> Mutualism has been used to draw people into networks of solidarity, established on a mutual basis. It is expressed in a concept of solidarity as mutual insurance, based on pooled risks, mutual contributions and clear rules of entitlement.

The main other model sees solidarity in terms of collective action, shared responsibility and a commitment to redistribution. This is often expressed in terms of redistributive policies, special provisions and responsiveness to need. Solidarity is used to reduce differences between different members of the solidaristic group – at which point, it becomes egalitarian. The ‘solidaristic wage policy’ in Sweden, aimed at diminishing the range and dispersion of wage settlements, was overtly egalitarian in its aims.<sup>297</sup>

This distinction is based in a shift in practical action, but it also represents a theoretical divide. It reflects to some degree the same kind of distinction as that between individual and social concepts of liberty and equality, because it is concerned like them with the difference between people in diverse circumstances and the needs of the group. However, it cannot be described as a distinction between ‘individual’ and ‘social’ concepts of solidarity, because both approaches are distinctly social. Both elements, too, represent aspects of fraternity. Nor can it be identified with ‘conservative’ and ‘radical’ models, because

there are conservative perceptions which are firmly based in social relationships. Perhaps the best way of thinking about the distinction is to separate ‘mutualist’ from ‘collective’ obligations. Mutualist obligations are based in the relationship of each person to other people, and the group. In this category, there are insurance arrangements, cooperatives, self-help groups. Collective obligations are defined in terms of the group, not the person. In relation to social welfare, this includes action for rights, egalitarian policies and state support for excluded groups – although it also includes many other forms of collective action, including charity and voluntary action.

### *Promoting solidarity*

Solidarity is strongly identified with actions beyond the scope of government – including domestic, voluntary, charitable and altruistic behaviour. The role of government in promoting solidarity is ambiguous, and there are two main patterns of action. The first is the attempt to introduce measures which in some sense express social solidarity – typically the introduction of measures for social protection or the relief of poverty. In social security policy, solidarity originally was taken to refer principally to mutually funded insurance policies. It has come increasingly to refer to schemes which go beyond the scope of insurance, like the *Allocation de Solidarité Spécifique* in France (which extends benefits to unemployed people whose entitlements from contributions are exhausted),<sup>298</sup> or ‘solidarity contributions’ in Switzerland (which require people to put money to the general fund without gaining entitlements).<sup>299</sup> Bertrand suggests that social assistance:

... expresses a feeling of solidarity in respect of the poorest people (*les individus les plus déshérités*) in a society.<sup>300</sup>

This understanding is much more common in continental Europe, where social Catholicism has been influential, than it is in English-speaking countries. Nevertheless, the 1944 White Paper on Social Security made similar claims, arguing that:

The scheme as a whole will embrace, not certain occupation and income groups, but the entire population. Concrete expression is thus given to the solidarity and unity of the nation, which in war have been its bulwarks against aggression and in peace will be its guarantees of

success in the fight against individual want and mischance.<sup>301</sup>

Second, governments can attempt to promote solidarity by supporting and encouraging solidaristic action in society. Governments support voluntary and charitable activity through a range of persuasive measures, incentives (especially through tax) and subsidies. The patterns of intervention include regulation, by establishing the rules and settings under which such independent agencies operate; provision, through purchasing policies, financing, employment of different social services; and planning, including placing resources, the development of incentives, legal controls, and bargaining and negotiation in the field. It has often been argued that, beyond this, governments effectively incorporate the work of such schemes into their own plans of action.<sup>302</sup> The pattern of interlocking services and activities is variously called ‘welfare corporatism’, ‘welfare pluralism’, or a ‘mixed economy of welfare’.<sup>303</sup> This cannot reasonably be avoided: governments cannot plan effectively if they do not take the work of independent and non-governmental organisations into account. This strategic approach to the development of solidarity has also been central to the development of social policy in the European Union. The European Union does not have the structures, institutions or legal competence to provide social protection directly, but it has established a strategy of promoting solidarity and planning initiatives to fill the outstanding gaps, while gradually extending competence in these areas.<sup>304</sup>

Some conservative critics of the welfare state have argued that state intervention is liable to reduce solidarity, rather than to promote it. Green argues that the state has driven out voluntary and charitable provision, and that a mix of independent providers, if given the opportunity to flourish, could provide welfare just as effectively as state provision.<sup>305</sup> The evidence that the state has ‘crowded out’ voluntary provision is tentative, at best. The historical argument depends on counterfactuals – what might have happened if the course of a nation’s history had been different – and comparative evidence is necessarily bound by cultural differences. There may be more charitable donations in countries where there are tax incentives to give such donations, and there are more and larger mutualist associations functioning in circumstances where the state does not provide a national alternative, but neither point takes account of the wide constellation of alternative solidaristic and not-for-profit arrangements. There is some evidence that more can be done beyond the state, because the arrangements in several European countries do just that. Welfare is

provided through a mix of mutualist, voluntary, charitable, occupational and commercial organisations. The role of the state is often understood as supplementary to the solidaristic networks which exist elsewhere in society.

Green's argument has intriguing parallels with the case made by Richard Titmuss. Titmuss emphasised the importance of altruism and reciprocal obligations in social relationships. His example was blood donation: he believed that social arrangements based on altruism and moral obligation were not only morally superior to the systems of the market, but produced better results. Voluntary blood donation produced more and better-quality blood than the market alternative.<sup>306</sup> In political terms, Titmuss's and Green's arguments are opposed, but they have strong common elements. Both suggest that the effect of dominant arrangements – the market, in Titmuss's view, and the state, in Green's – has been to mask the importance of voluntary and charitable effort. Both suggest that the role and capacity of solidaristic social networks is underestimated. And both use, to establish their case, a combination of moral and pragmatic arguments – stressing both the practical strengths of voluntarism, and its moral virtues. To that extent, both approaches lend support to a policy of fostering, promoting and encouraging solidarity through voluntary action.

The problem with this position is that voluntary action has little chance of developing as a primary method of distribution; at best, it is a complement to services. Nowhere has an emphasis on voluntary solidarity, the private market or a combination of the two, led to adequate provision in its own right. The state is consequently forced to act as a provider of last resort. Once the state has accepted this role, it will act more effectively and efficiently if it expands its responsibilities.<sup>307</sup> In most systems, the role of the state has been established only after the development of voluntary and mutualist effort; and in many of those, the state has effectively replaced or supplanted the activity, rather than complementing it.

### **An example: the voluntary sector in the UK**

The term 'voluntary sector' is used in several senses. 'Voluntary', on the one hand, is used to refer to all non-state activity. 'Voluntary hospitals', in the US, include semi-commercial, not-for-profit, mutualist and charitable organisations, sometimes with combinations of different activity working out of the same site. On the other hand, the term is also used to refer more specifically to not-for-profit activity where some element of labour is unpaid. The Women's Royal Voluntary Service is 'voluntary' because it

uses women's unpaid, altruistic labour for its services; UK housing associations are examples of 'voluntary housing' because their committees are run by unpaid volunteers, although their staff are usually paid. In effect, there is the same kind of hotch-potch in 'voluntary' effort as there is in 'solidarity': the term covers a range of disparate activity undertaken for different motivations.

The term 'charity' is also used widely in the UK. This is less ambiguous, because the term has a legal meaning: recent reforms have recast the idea of charity around the concept of a 'public benefit', but for centuries a charity in the UK has been an organisation founded to promote one of a limited number of functions, including the advancement of education, the relief of poverty, advancement of religion, or general benefit of the community. The new tests introduce further criteria, like the promotion of sport and animal welfare. Organisations working for political ends or campaigns (like Amnesty International or the anti-vivisection movement), organisations with no public benefit aims (like closed religious orders), and organisations working solely for the benefit of their members (like the Freemasons or the Royal and Ancient Order of Buffaloes) have been barred. However, many charities in the UK have subordinate commercial and political wings, nominally functioning outside the scope of charity law.

The voluntary sector is highly diverse. Voluntary and charitable work, in the sense of working for the benefit of others, are typically concentrated in health, social services, housing and community development, environmental, cultural and international aid agencies. Kendall and Knapp estimate that the sector, narrowly defined, employs the equivalent of 390,000 people. On a broader definition, taking into account the role of voluntary action as a collective activity, the voluntary sector might be considered to include independent educational institutions, business and trade associations and sports clubs; the figure rises to nearly 950,000.<sup>308</sup> These definitions still do not include two very important other mechanisms through which solidaristic support is delivered: mutualism, and not-for-profit organisations. (In continental Europe, both roles may be taken by ASBLs, *associations sans but lucratif*.)

### *The extension of solidarity*

There are two main arguments for extending networks of solidarity. The first is a general argument about obligations towards every human being: people have human rights. The main difficulty here is that human rights, by their very nature, extend beyond the scope of existing networks of solidarity. If every human has a right, and other humans

have the responsibility to respect those rights, there would be a rather more extensive commitment to international aid than is currently recognised. It could be argued that human rights have to be expressed through the action of specific governments: governments accept responsibility for people who are within their territory, and who are not the responsibility of another state, at the time when their needs are expressed. Although this rule generally applies in international law to stateless persons, it is not generally accepted for others who are not protected by their own governments, and hardly any governments have accepted responsibility on this basis. (Exceptionally, the UK National Health Service did so from 1948 to 1981, offering free health care to all visitors, including tourists.)

The main alternative model is based in a concept of national solidarity. Governments recognise a responsibility to their own citizens. Necessarily this falls somewhat short of a general human right, but within the territorial confines of a government's sphere of authority, it would imply both a commitment to comprehensive coverage and a continuing commitment to expatriate citizens. Some governments do accept the principle of comprehensive coverage, although commonly this is done through supplementary residual services. Many governments accept responsibility for their own expatriate citizens, either through the development of reciprocal agreements or (more rarely) through the continued provision of benefits to citizens living abroad.

There is no reason, however, to suppose that solidarity will necessarily be extended. The most obvious problem with the structure of solidarity, as I have outlined it, is that it does not allow adequately for adaptation to changing circumstances. Where there are changes affecting the participating membership, it is not clear that solidaristic arrangements will alter along with them. Where there are changes in underlying conditions, such as changes in the structure of professional groups which affect the contributory base, there is no intrinsic reason why benefits should continue to be paid: no one has the obligation to meet them. Where people's needs increase beyond the commitment of the schemes they have participated in – for example, because of the growing numbers of dependent older people – there is no guarantee that the scope of provision will extend to meet those needs.

The general arguments for extending solidarity may be compatible with the interests of people within the existing networks if the costs of including more people do not outstrip the benefits of including them. The effect of expanding a network can be to reduce vulnerability to particular events, and so to smooth risks. There are, however, several

reasons why people who are participating in a solidaristic network might not wish to extend the network to include people who have previously been excluded. The first is the contributory base. The ability of people on lower incomes to contribute is limited. Equally, their employers are often less willing to contribute, because the employment is low paid, because it is more likely to be temporary or insecure, and of course because poorer people are less likely to have stable employment relationships in the first place. Expanding solidarity to people who find it difficult to contribute reduces the financial security of the network. The second problem is the nature of the need: people on lower incomes not only have a lower ability to contribute, but in some respects – including health care and employment insurance – their risks are greater. (The exception is pension entitlement, where people who are less able to contribute may make up for it by their shorter life expectancy.) The third problem is institutional: once a solidaristic organisation has been set up, there is of necessity a complex series of rights and obligations governing its action. Government arrangements are characterised by legislation to allow variations of aims and objectives. Private enterprise is generally able to adapt to new circumstances at the behest of managers. If, for example, a firm producing wire baskets wants to focus instead on providing marketing services, it can do so.<sup>309</sup> By contrast, voluntary, not-for-profit organisations are much more restricted. Charities which have outlived their usefulness are allowed, through the doctrine of *cy-près*, to change their mode of operation, but this is a regulated procedure, necessary to avoid the abuse of charitable donations. Mutualist organisations are slightly more flexible; they are nominally owned by the members, and can be varied with the explicit consent of the membership. The standard institutional response to a declining mutualist base is not to extend new forms of membership, but to close, either through merger with compatible organisations or through distribution of the society's assets.

The growth of new rights and obligations seems to require a sort of contract, in which people are engaged (either actively or tacitly) in the development of solidaristic agreements by consent. Historically, this has happened through a gradual process of expansion: from an initial basis, membership of mutualist groups has expanded to incorporate new members. There are some cases of a scheme being introduced through a large-scale agreement: one is the pioneering extension of social protection in Germany to include provision for the dependency needs of very old people.<sup>310</sup> More typically, however, the settlement has to be instituted by government, precisely because it



is only through external intervention that the formal limits of solidarity can be overcome. Many governments have come to welfare late in the day, and the main effect of action has been to push the boundaries of solidarity outward, ensuring (often through the introduction of some element of compulsion) the inclusion of people who might otherwise not have been included. There is nothing within the process of mutualism that promises to produce a similar effect, and it is unlikely that this would have happened without external intervention.

## **Promoting social solidarity**

In previous parts of this book, I have considered the question of what makes a free society, and what makes an equal society. The idea of a ‘solidaristic society’, however, is simply tautologous: solidarity is not usually thought of as a model for society, because patterns of solidarity define what a society is. A society is not just a group of people who happen to live near each other. People are linked by a complex series of relationships, expressed through solidarity and obligation. Everyone has a relationship to other people – typically as a son or daughter, a brother or sister. These relationships come with obligations: the nature of family relationships, and the effect of generalised reciprocity, means that everyone has duties to others. As each person grows and develops, the circle of social relationships extends outwards. People are socialised – they learn how to behave in society and what to expect – but beyond that, they form more relationships with other people. Nearly everyone has several relationships of this kind, and there are overlapping, interconnected obligations. The pattern of obligations can be seen as a part of a ‘network’, but there is not a single network; there are many. A society is made up of a series of interlocked networks.

Societies which promote solidarity can, however, be contrasted with a different kind of social arrangement, the idea of an ‘atomised’ society. People become like ‘atoms’, or very small particles, which are all distinct from each other. People are individuals; contact is limited to necessary exchange and interaction; no one is in close relationships to other people. The principle can be found in criticisms of different societies. One example comes from concerns about the dangers of totalitarian regimes in the 1940s – Orwell’s *Nineteen eighty-four* describes a world where personal relationships are seen as a threat to the power of the state. Another comes from recent criticisms of North American society, which suggest that assertive individualism may endanger social bonding. Putnam’s *Bowling alone* points to the decline of the civic culture in the US, and paints a picture of a society where people are less likely to

join other organisations, participate in social events or spend time with families than previous generations were.<sup>311</sup> Making society less atomistic, and more solidaristic, implies that people are brought into relationships of responsibility and obligation. Solidarity is a principle, rather than an ideal, but it is not difficult to imagine a society where people are tied to each other by a sense of mutual obligation and support. The model is based on an idealised family, and extended beyond the family to the community at large.

### **Community**

‘Community’ is a very vague term, with as many interpretations as ‘society’ itself: in a well-known article, Hillery lists 94 different definitions.<sup>312</sup> Within those definitions, we can trace two main strands. The first is based in interests or characteristics of a group. Social groups are not just collections of people. They have three main features: identity, membership and connecting relationships. Identity means that the group is recognisable as a social category: people of African Caribbean descent are, people with red hair are not. Membership implies that it is possible not just to identify the group, but to identify who is within the group and who is not. Relationships are the most important element. We cannot talk about ‘people with schizophrenia’ or ‘women’ as a social group, because despite the common issues, and common identity, they are not bound by social relationships. When people talk about the ‘business community’, by contrast, they usually mean to imply that people in business are identifiable as a group, that there will be networks of contact between the members, that they have common interests and that because of those they will respond to certain issues in similar ways. The ‘Jewish community’ in the UK is linked by identity, culture and networks of social relationships.

The second understanding of community is geographical, identifying community with neighbourhood or area. This is not genuinely different from the first idea: it represents, rather, the belief that the characteristics of social groups apply in geographical areas. If this meant only that people live in the same area as others, the attribution of community would be questionable. The term implies, beyond that, that the effect of living in the same area is to bring people into social relationships with each other. This may or may not be true: some areas have a strong sense of community, and a strong identity, while others have transient populations and atomised social relationships.

‘Community action’ has become one of the characteristic modes of operation on the political left. It takes several forms. Community

work consists of action to foster social relationships within a community: extending facilities (such as a playground or communal garden), creating structures where people can meet and form social relationships (a community centre or a support group for people with young children), encouraging community events (a coffee morning or a disco) and offering help and advice to people in a community (typically welfare rights or energy advice). Community education is concerned with developing capacity, understood as the skills and potential for collective action in a community. It covers such activities as advice work, adult education and the formation of community groups. Community organisation is concerned with political development: it tries to develop to structures needed for political mobilisation, participation in collective action, and voice in the decisions which affect people.

The idea of community has been invested with a strong emotive appeal. People who talk about ‘community’ may be thinking descriptively, but they may also be asserting something about the nature of the relationships and bonds which are identifiable within a group – discussions of the ‘gay community’ or the ‘disabled community’ are illustrative, because the assertion ignores enormous diversity and disjunction in the experience of both categories. Social groups are central to collective action, and the appeal to a collective identity can help, in itself, to bring together the group which is capable of doing it. At the same time, Iris Young argues that appeals to ‘community’ can have the opposite effect. In her view, community is often exclusive, an excuse for ‘bigots and conservatives’ to shut out outsiders. Further, she suggests, it detracts from the work of radical groups:

Many radical political organisations founder on the desire for community.... [It] often channels energy away from the political goals of the group, and also produces a clique atmosphere which keeps groups small and turns potential members away. Mutual identification as an implicit group ideal can reproduce a homogeneity that usually conflicts with the organization’s stated commitment to diversity.<sup>313</sup>

### *The problem of exclusion*

Exclusion is the central problem associated with solidarity. By identifying the people we have responsibilities to, the principle of solidarity also defines those to whom we do not have responsibilities.

There are economic arguments for inclusion, and some political

ones – such as the belief that lack of responsibility leads to social and political disorder. However, the case against exclusion is fundamentally a moral one. Quite apart from solidarity, there are many other moral principles which argue that we do have responsibilities to other people, even if we do not have an identifiable relationship to them. The most basic argument is humanitarian: people should not be left without means of support, medical care or the necessities of life. That means that there has to be some kind of mechanism to deliver such necessities. This argument is also expressed in the view that people have human rights, universal rights which go beyond the rights of citizenship.

Exclusion can be defended. No society can accept responsibility for all the problems in the world, and without some criteria for inclusion and exclusion it would not be possible to do anything. Equally, at the level of organised networks of solidarity, like social services, there are practical limits to what any network can do. There have to be rules, and some system for determining who will be served, and who will not be. (There are social services which have no criteria at all for distribution, like some soup kitchens, because the practicalities and geography make it unlikely that they will be seriously compromised, but they are unusual.) Commonly, criteria for selection are reinforced by rules for exclusion. In insurance-based systems, non-contributors have no entitlement in principle to services – although it is striking that many systems will allow for services to be delivered nevertheless, either through the establishment of complementary or residual systems or through modifications in the principle of insurance to allow for solidaristic responses.

In many social protection systems, there are restrictions on claims from strangers – usually migrants, because casual visitors can be expected to be covered by reciprocal arrangements with other national systems. Integrating migrants into welfare systems – a central focus of European Union policy – is partly motivated by a desire to deal with people universally, but there are also sound arguments for doing so. There is a case for pooled contributions and risks: pensions, in particular, depend on contributions for the current generation of workers, and the exclusion of any large class of workers undermines the contributory base. Further, exclusion can cause distortions in the labour market: the exclusion of certain categories of people from protection can foster a dual labour market, distinguishing those who are covered (and for whom contributions must be made) from those who are not. (From the perspective of the migrant, the case is less clear: the argument for joining mutualist schemes depends on an individual calculation. Where this is inconsistent with social objectives, there may be arguments for

compulsion: joining a social security scheme becomes part of the rules of joining the club.)

## **Solidarity and social welfare**

In the context of social welfare, the idea of solidarity has come to have several quite specific implications for the organisation and delivery of welfare services. The model developed most explicitly in France, and from there it has spread, via the medium of the European Union, to a number of other European countries. People enter relationships of solidarity when they are incorporated into networks of mutual support. The French *Code de sécurité sociale* declares that ‘the organisation of social security is founded on the principle of national solidarity’.<sup>314</sup> In the period after the Second World War, French social policy aimed to extend solidarity across all groups, leading to a ‘patchwork quilt’ of different services. Insurance is redistributive, in the sense that the people who benefit are not those who pay, but it does not just involve a simple transfer of income from rich to poor. In French social policy, the kind of redistribution associated with mutualism is usually referred to as *répartition*, which we might for this purpose translate as re-allocation rather than the more conventional ‘redistribution’. Solidarity consisted of sharing and pooling risks. The underlying principle of mutual responsibility made it necessary to consider supplementing insurance with additional arrangements, to ensure the inclusion of others to whom they accepted responsibilities. When some mutualist funds were unable to cover costs, and other funds were required to stand in for them, the arrangements between funds were described as ‘solidaristic’.

The process of extending insurance was complete by 1974, but it was clear that many people were still left out. They were the people who had not been able to work, and consequently were not able to contribute. René Lenoir’s book *Les exclus* pointed to the problem of people who were excluded, in the sense of not being part of networks of solidarity.<sup>315</sup> French governments responded in two different ways. The first was the extension of solidarity beyond the remit of insurance, an issue which was discussed before. The second part was the attempt to ‘insert’ people who were excluded into society. This began with benefits in the 1970s for young people and people with disabilities, but subsequently the principle became identified with a general attempt to provide a basic safety net. The *Revenu Minimum d’Insertion* combined entitlement to a minimum income through a means-tested benefit with the requirement to negotiate a personal ‘contract for insertion’

with the benefit authorities. This model has been profoundly influential in Europe, spawning both direct imitations of the method (for example, in Belgium, northern Spain and Italy) and a general set of policies across Europe addressing the issues of social inclusion. The European Union has developed a series of policies intended to build on existing networks of solidarity, to extend provision to increase coverage, and to introduce specific measures to include the excluded. This shows the direct influence of the French model.

### An example: the 'contract of insertion'

The *Revenu Minimum d'Insertion* is an interesting case study of inclusion, because it attempts to translate a general principle into specific practice. It has two key elements. The first is a basic means-tested benefit, available to people on low incomes. The second is the 'contract of insertion' or inclusion, made between claimants and the local commission of insertion (CLI). At the same time, the CLI makes contracts with other organisations to create opportunities for insertion.

The pattern of contracts has been characterised generally in terms of three main types of insertion: social, professional and economic.<sup>316</sup> Social insertion refers to the situation of people who are excluded by virtue of social disadvantage, for example disability or single parenthood. Professional insertion is for people who require some kind of training or preparation for work. Economic insertion is for people who are unemployed but who would be in a position to move directly to employment. Contracts represent a highly individualised approach to a range of problems, with the main focus falling on long-term unemployment. Action for insertion and formation (AIF), for example, includes programmes of training and counselling selected for individuals: according to Dugué and Maillard, 'it brings together all the provisions for overview, evaluation, motivation and *formation* (training and education) appropriate to the needs of each individual'.<sup>317</sup>

What the contracts which are made reveal about the work done as 'insertion' is ambiguous. Part of the problem is that the concept of 'insertion' has been for many a justification for whatever happens to be done, rather than a guiding principle. Wuhl writes:

... this 'insertion' so precisely described seems equally intangible and indeterminate. Basically, it is the 'how to do it' which has been the object of all attention, while the 'why we should do it' remains much more imprecise.... We have the answers, but what is the question?<sup>318</sup>

The kind of work which is undertaken varies enormously between different localities. In one local authority I visited, insertion was all about employment; in a second, it was anything but. The descriptions of the process of insertion given by the agencies which are involved in supporting the contracts suggest that even within these categories there is a wide range of different kinds of activity. The emphasis may fall initially on employment and training, but this is interpreted to include workshops and occupational therapy in various settings (for example, art classes, car maintenance or gardening), for a range of groups with particular needs; the target groups include people with mental illnesses, ex-prisoners, people with drug addictions, and so forth.<sup>319</sup> By extension, day centres or classes on domestic management are also included in programmes of insertion.

There are two important reservations to make about this. The first is that, where contracts are made, what they are about is not always very clear. Wuhl estimates that only 8% of all claimants actually finish with a contract that contains some specific programme of action.<sup>320</sup> It has been suggested that contracts might be made for the sake of it. Euzeby comments that

... the objective is not really to respond to the needs of beneficiaries, but rather to justify the existence of the contracts.<sup>321</sup>

This, Astier suggests, reflects the desire of the commissions responsible for insertion to emphasise the conditional nature of the benefit. Even in cases where there is little hope of demanding anything effective from the claimant, some form of words may be used to show that this is not simply a free payment.<sup>322</sup>

The second reservation is that, even though the process of making contracts is often justified in terms referring to social integration, the emphasis in practice often falls on employment. 'Insertion' is primarily devoted to employment and training; this covers more than half of all the contracts. It is certainly seen in this light by many of the claimants:

The notion of insertion ... is very badly understood by the beneficiaries. The idea of insertion itself, however understood, is only in the minds of a minority of people who sign contracts. The others put the search for work first as the main objective. Anyway, I don't want insertion, I can find work....<sup>323</sup>

By contrast, the emphasis on social development which features so largely in the literature – concerning subjects like health promotion or basic

education – occupies only a limited proportion of contracts which are made.

The *Revenu Minimum d'Insertion* mainly deals with the kinds of condition which, in an institutional model, would be dealt with as far as possible through the provision of universal provision for everyone. The criticisms which might be made of policy for 'insertion', then, are not unlike those which have been made of other individualistic and residual approaches to social policy: that the effect is to blame the poor for their poverty. The strong link with employment tends to suggest an identification of insertion with a process like workfare in the US.<sup>324</sup> Bichot writes:

The contract expresses the wish to maintain a direct link between work and obtaining resources. It is situated in a long tradition, illustrated by the British workhouses and the French national workshops.... There is a largish consensus in relation to this ancient idea, provided that it is kitted out in the latest fashion. It could have been taken up equally well by the right as by the left.<sup>325</sup>

There are obligations on both sides. The individual has to accept a pattern of insertion; the community has to make inclusion possible.

## The inclusive society

Solidarity is potentially a conservative principle, emphasising social order. It is also potentially exclusive. The ideal which has been pursued on the left is not simply a society with greater solidarity, but an inclusive one. A society which is inclusive should be able progressively to extend its boundaries, developing and strengthening networks of solidarity, building a sense of social responsibility and community, drawing in people who are excluded, and fostering collective action. In the 1960s, this ideal was commonly described in terms of 'integration': 'by and large', Boulding wrote, 'it is an objective of social policy to build the identity of a person around some community with which he is associated'.<sup>326</sup> Currently the emphasis mainly falls on social inclusion.

The idea of social inclusion is treated very differently in different societies. Partly, this is true because the problems are understood differently, but also because in the European Union, the commitment to combating exclusion now incorporated in the treaties, and the availability of European funding for specific projects, has encouraged governments to reinterpret their policies in the light of the idea of



inclusion. Silver notes three different paradigms. The ‘solidarity’ paradigm emphasises social cohesion and exclusion through marginality and social dysfunction. The ‘specialisation’ paradigm understands exclusion as the product of economic and social processes, including the failures of markets and the concentrations of deprivation produced through housing systems. The ‘monopoly’ paradigm, associated with Marxist views of capitalism, suggests that exclusion stems from the actions of those who exclude others: the primary response is through the extension of membership of the community and the promotion of greater equality.<sup>327</sup>

These perspectives are informed less in truth by patterns of sociological thought than by the existing practices of the countries which have applied them. Policies for ‘activation’ of labour, urban regeneration and social work with marginal groups have all been represented as forms of inclusion, but in every case they preceded the idea of inclusion as a conceptual justification for the activity. The diversity of interpretation tends to muddy the water, but that should not detract from the power of the core ideas. The idea of social inclusion appeals to both left and right as a means of extending a sense of shared commitment and mutual responsibility. For the right, this implies social cohesion, stability and order. For the left, inclusion implies full membership of society and the ability to participate. Principles of social justice, normalisation and empowerment are commonly enlisted as ways of reinforcing that general approach.

## Conclusion: radical politics

It commonly happens, where ideas are widely used, that they come to have many meanings, not all of them consistent. Liberty, equality and fraternity can be understood in many ways, and much of this book has been concerned with drawing out the implications of different interpretations. In this concluding section, I want to take a narrower, more specific, focus on the concepts. Any simplification runs the risk of misrepresenting the situation, and there is always the danger that selective consideration will hide as much as it reveals. It seems to me, though, that these ideas still have a special place in radical and left-wing ideas, and I wanted to consider the relationship between the concepts in that light.

For 200 years, the principles of the French Revolution have been part of the discourse of radical politics. Radical thought has followed different directions since, and many of the ideas current in the Revolution have been superseded by others. There are strands of socialist and radical thought concerned with a wide range of other issues, such as culture, pacifism and environmentalism. Another significant strand, Marxism, was heavily influenced at first by the French Revolution, but conventional Marxist analysis detached itself from the political mainstream. (Marx and Engels considered that liberty was a bourgeois value<sup>328</sup> and that thinking about equality beyond the elimination of class differences was pointless.<sup>329</sup> Marxism had little to say about the values and ideas covered in this book, and I have had little to say about Marxism in consequence. I have reviewed the core of Marxist ideas in another book.<sup>330</sup>) However, for the democratic socialist parties which guided the development of Europe, particularly after the Second World War, understanding the relationship of these values is a core element in understanding their motivation and approach. It is not putting it too strongly to say that liberty, equality and fraternity – the values of the Revolution – came to define socialist thought. Self writes:

The rallying cry of the French Revolution – equality, liberty and fraternity – now constitute essential socialist values. It would be foolish to deny conflicts between interpretations of these values.... However, the point is that the values must not just be taken separately but related within a coherent socialist philosophy.<sup>331</sup>

Their application is, however, conditioned by different understandings of the terms, and I think it can be argued that the varying interpretations underlie differences in the patterns of socialist thought.

## **Radical politics: three models**

Political approaches are ‘radical’ when they propose fundamental social change. Many of the principled approaches I have considered in this book are radical in that sense. They begin from the common proposition that the way things are is not the way they ought to be. Beginning from a sense of moral principle implies that new structures and relationships have to be created. The test of whether this can be said to be ‘fundamental’ depends on how far and how deep such reforms go, but the very idea that change can be made on moral grounds is controversial.

Where radicals consider liberty, equality or fraternity, the kind of social policy they come to favour differs according to the emphasis they place on each. The radicals of the political left tend to begin from social or collective understandings of social problems (although that is not necessarily the case) and on the face of the matter they might be expected to have some important perspectives in common. Liberty, equality and fraternity are closely related, but they do lead in different directions, with a different emphasis on values and approaches. The easiest way to illustrate this is by three extremes, or ideal types, although it is important to recognise that in real life hardly anyone fits into an idealised model.

### *Liberty: radical libertarians*

The left-wing libertarian is committed to liberty first and foremost. The object of social policy is liberation, which is achieved through empowerment, the encouragement of diversity and participation through democracy. The aim for each person is the expression of that person’s legitimate aspirations and choices, and so the realisation of the person’s interests. Social welfare is developmental, allowing people to become what it is possible for them to become. Many libertarians would add to this list the removal of elements of society which make people vulnerable, exploited and oppressed, but this is not essential to the ideal type, because the same arguments motivate those who argue for equality. In this model, the arguments for equality and fraternity are largely reducible to arguments for liberty. A left-wing libertarian justifies the struggle against inequality because inequality restricts liberty.

Socialism's fundamental purpose – indeed the purpose of the equality which we seek – is the extension of liberty... It is a commitment to organise society in a way which ensures the greatest sum of freedom, the highest total amount of real choice.<sup>332</sup>

Inequalities imply oppression, and oppression restricts people's choice, and prevents them from achieving their potential. Solidarity is important because the capacity to act can only be fully realised through collective action. Fraternity is a means to empower people and give them capacities.

I am not sure that anyone precisely meets the specifications of the model outlined here, but there are elements of this kind of libertarianism in the work of Paolo Freire. Freire, working in the context of a developing country, favoured community education and action as a means to liberation. Freire is passionate about freedom.

This is the great humanistic and historical task of the oppressed: to liberate themselves and their oppressors as well.... Freedom is acquired by conquest, not by gift. It must be pursued constantly and responsibly. Freedom is not an ideal located outside of man; nor is it an idea which becomes myth. It is rather the indispensable condition for the quest for human completion.... The pedagogy of the oppressed ... makes oppression and its causes objects of reflection by the oppressed, and from that reflection will come their necessary engagement in the struggle for their liberation.<sup>333</sup>

I think it could reasonably be argued that Freire's emphasis on collective action might be seen as implying a primary commitment to solidarity, rather than liberty. However, the emphasis on education, capacity, oppression and liberation is fundamental to his case.

### ***Equality: radical egalitarianism***

The radical egalitarian stands for the elimination of disadvantage, in treatment, opportunity and outcome. Egalitarians emphasise the principles of fairness and social justice, arguing that everyone should have access to the conditions of civilisation which otherwise are available only to some. The provision of welfare is both a method by which redistribution can be brought about, and an outcome of such a

redistribution. 'Ethical socialists' made the establishment of greater equality central to their conception of the good society.

It is true here, as it is of the other models, that it is difficult to find anyone who holds to this approach without simultaneously appealing to other moral principles. This is particularly true of egalitarian thought, which is driven by a strong sense of moral priorities. In different ways, however, the traditional appeal of Marxism or the anarchism of William Godwin might be seen as examples of this approach. Both approaches are fuelled by moral indignation at social disadvantage. Marxism appealed to the argument that people were being exploited by a dominant class.<sup>334</sup> Godwin's position is individualistic, and based in the view that political institutions should serve the welfare of all citizens without fear or favour. He contrasts that position with the existing hierarchy of privilege.<sup>335</sup>

As a principle, opposition to disadvantage is defensible in its own right, and it does not require reference to other principles like liberty or fraternity to be justifiable. A proponent of equality can see greater liberty as a desirable by-product of social justice, or as a subordinate principle. For Tawney, liberty was simply the principle of equality in another guise:

... liberty is, in fact, equality in action, in the sense, not that all men perform identical functions or wield the same degree of power, but that all men are equally protected against the abuse of power, and equally entitled to insist that power shall be used, not for personal ends, but for the general advantage.<sup>336</sup>

This might be seen as a restriction on liberty: in so far as equality implies a redistribution of powers, the liberty of some people is achieved at the expense of the liberty of others. However, even for those for whom liberty is of paramount importance, it is not difficult to justify an argument for increasing the liberty of people who have none.

The justification for fraternity by egalitarians is more direct. Because equality is a social principle, it is difficult to distinguish it wholly from mutual aid: both, in practice, imply a degree of generalised social responsibility and redistribution. Fraternity is both the means to developing the conditions of civilisation for all, and a justification for doing so. Egalitarian arguments emphasise the importance of reducing social divisions as a means of promoting integration. 'Social institutions', Tawney wrote,

... should be planned, as far as is possible, to emphasise and strengthen, not the class differences which divide, but the common humanity which unites, them.<sup>337</sup>

### *Fraternity: radical collectivism*

The radical collectivist begins with an emphasis on community, solidarity and mutual aid. Collective action is both a means to a desired end and an end in itself. As a means to an end, cooperation and mutual aid make it possible for people to achieve things they could not achieve otherwise. As an end in itself, collective action indicates respect for other people and recognition of mutual responsibilities. Henry Tam thinks it implies equality:

... an inclusive community would not tolerate any hierarchical supremacy based on wealth, race, religion, sex, or any form of group allegiance.<sup>338</sup>

Liberty and equality are not simply reducible to fraternity, but they may be subordinate – as they were in Soviet Russia. Liberty can be enhanced through group action. The form of freedom which is valued is the power to act that comes through cooperation and social capital. Greater equality may be seen as requisite for the reduction of sources of conflict, and the development of fellow-feeling. The form of equality which is valued by the radical collectivist is not so much the elimination of disadvantage as the establishment of social bonding through common sentiments and patterns of behaviour – the kind of equality identified in America by de Tocqueville.<sup>339</sup>

This kind of radical collectivism is well represented by Petr Kropotkin, the Russian anarchist. Kropotkin saw mutual aid and collective action as the most effective way of meeting human needs. Beyond this, he believed it was central to moral conduct and human improvement.

That mutual aid is the real foundation of our ethical conceptions seems evident enough.... The higher conception of ‘no revenge for wrongs’, and of freely giving more than one expects to receive from his neighbours, is proclaimed as being the real principle of morality – a principle superior to mere equivalence, equity, or justice, and more conducive to happiness. And man is appealed to,

to be guided in his acts ... by the perception of oneness with each human being.<sup>340</sup>

### ***Radical thought: three ideal types***

Another way of representing these models is outlined in Table 1. The concepts in the table, and the relationship to liberty, fraternity and equality, have been discussed in the course of the book. It is possible to read down each column, ignoring the others; each makes sense as a model in its own right. But it is not necessary to do so – many of those on the left would accept several principles from across the table, and place different emphases on them.

**Table 1: Three models of welfare**

<i>Symbolic principle</i>	<b>Liberty</b>	<b>Fraternity</b>	<b>Equality</b>
<i>Associated principles</i>	Empowerment	Solidarity	Social justice
<i>Characteristic moral position</i>	Respect for persons	Mutual responsibility	Fairness
<i>Ideal relationship of the person and society</i>	Development of capacity; normalisation	The gift relationship; inclusion	Access to the 'conditions of civilisation' for all
<i>Ideal society</i>	Pluralism; diversity	Community	Equality of persons
<i>Political organisation</i>	Liberal democracy	Participative democracy	Citizenship
<i>Role of welfare</i>	Developmental; enabling	Institutional	Redistributive

The three models are not separate in practice; many socialists would accept that all of these principles are valuable, and would seek to achieve all simultaneously. There tends to be the assumption that each element necessarily leads to each other element; and one finds that people who wholeheartedly advocate one model are able to justify the other elements in terms of that model. But people put different emphases on different elements within the structure, so that outcomes which appear to be compatible in fact tend in different directions. Liberty emphasises the developmental aspects of welfare; equality, the redistributive impact; fraternity, the rights and obligations associated with mutual aid. The libertarian model values diversity; fraternity favours citizenship and community; egalitarianism emphasises needs, rights and justice. In cases where the principles differ, the dominant elements may come into conflict.

## The political opposition

There is no unified ‘right wing’, any more than there is a monolithic left. The differences on the ‘right’ between liberal individualists and conservatives are profound, and often deeper than the apparent differences between left and right. Many of the objections considered in this book to ideas of liberty, equality and fraternity are conservative ones, based in a different understanding of society. There are three main patterns of opposition from the political right.

The first is exemplified by the arguments of Edmund Burke, who argued for a resistance to general principles of all kinds. This position is partly founded in the complexity of social structures, which make it difficult to determine what the likely impact of any policy might be. It is partly because of distrust of the values which the left espouse: some conservative scepticism is based in a cynical view of human nature, and grand ideals are sometimes dismissed as the disguise for people’s true motives. More fundamentally, however, it is also because general principles are not very reliable in specific cases. Burke argues that the apparent purity and simplicity of many basic principles is a snare: their application leads inevitably to the disregard of other important factors which need to be balanced against them. He proposes, instead, a pragmatic approach, where policies are tried and tested in small ways before they can be applied more generally.<sup>341</sup>

The second pattern of opposition is the position of liberal individualists like Hayek and Nozick.<sup>342</sup> The thinkers of the ‘new right’ are not necessarily opposed to liberty, equality or fraternity, but they understand them from a distinct perspective. They interpret society individualistically rather than collectively. Liberty is generally interpreted in negative terms, as the absence of constraint, rather than in positive terms as the power to act. The main threat to it is paternalist intervention by the state. Equality is conceived narrowly in terms of treatment of people as equals, without bias or prejudice. It stands for equality before the law, and sometimes for equality of opportunity in the sense of the ability of the best to rise. Fraternity is represented in terms of social cohesion and the organic nature of society – a complex series of overlapping social networks and solidarities. It is brought about through the complex mutual interaction of individuals, and as such it is subordinate to the role of the individual. There is some ambiguity as to whether their arguments are truly opposed to radical thought. In their own way, they can be as moralistic and zealous for change as the doctrines they criticise. They have been referred to as ‘the radical right’.<sup>343</sup> Their arguments are, however, conservative in



effect: Norman Barry describes the ‘new right’ as a fusion of liberal and conservative thought.<sup>344</sup> Hayek argues against well-intentioned intervention in society, while Nozick criticises ‘patterned’ approaches to distributive justice.

The third pattern of opposition comes from those who believe in social order. The arguments from the left depend on the view that social relationships can be altered on normative grounds, and that they should be. Part of the conservative response has been that there is much else in the structure of society which is valuable; against liberty, equality and fraternity, there are good arguments for social order, inequality and independence. Conservatives may take the view that social structure, moral obligation and social order require development and protection rather than systemic change. To Fitzjames Stephen, liberty, equality and fraternity was:

... something more than a motto. It is the creed of a religion. I am not the advocate of Slavery, Caste and Hatred ... [but] when used collectively the words do not typify, however vaguely, any state of society which a reasonable man ought to regard with enthusiasm or self-devotion.<sup>345</sup>

Liberty, equality and fraternity are not, of course, the only values which guide social policy, nor even the principal aims. When the Pétain government tried, during the Second World War, to re-orient French life, they arranged for the slogan *liberté, égalité, fraternité* on municipal buildings to be replaced by another: *travail, famille, patrie*, or ‘work, family, country’. Conflicts in social policy are usually based, not on direct disagreement about specific principles, but between priorities and approaches relating to a range of desired aims. That, however, would be the subject for another book.

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## Introduction

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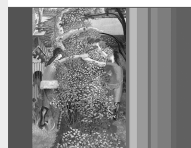
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