

Equal Political Liberties

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Pacific Philosophical Quarterly 93 (2012): 158-174.

ABSTRACT: Formal guarantees of political equality are compatible with inequalities in the *value* of political liberties, as individuals may convert their socioeconomic advantages into political advantages. Perhaps the predominant strategy for limiting substantive political inequalities recommends limiting inequalities in the means of acquiring political power for private gain—most notably, economic means. I express a worry that measures instituted to restrict economic inequalities may do more to frustrate the cause of political equality than to further it. I argue that attempts to decrease individuals' means to capture political power will systematically increase their motives to capture political power.

In modern liberal regimes, the wealthy don't receive more votes than the poor. Still, those with greater socioeconomic power tend to wield greater political power. They don't receive more votes, but the effect is often the same. Oil companies lobby successfully for federal subsidies, multi-billion dollar agricultural conglomerates trade political contributions for economic protections, and so on. Formal guarantees of political equality allow for significant inequalities in the *value* of political liberties.

To limit substantive political inequalities, many, including John Rawls, T.M. Scanlon, and Thomas Nagel, suggest limiting inequalities in the means of acquiring political power for private gain—most notably, economic means.¹ Concern for the common liberal value of political equality appears to favor egalitarian economic regimes over reasonable non-egalitarian alternatives, such as prioritarian regimes that prioritize the absolute well-being of the worse off but permit economic inequalities to expand without principled limits.²

In this paper, I express a worry: measures instituted to restrict economic inequalities may do more to frustrate the cause of political equality than to further it. Such measures,

designed to limit individuals' means of capturing political power, systematically increase their motives to capture political power.

I begin by explaining why political inequalities are *prima facie* more objectionable than other kinds of inequalities. Effective political liberty is a *positional good*, meaning that political inequalities cannot be mutually beneficial. Even non-egalitarians therefore have reason to favor an equal distribution of political liberties and, apparently, an equal distribution of the economic means of acquiring political power.

Next, I argue that substantive political inequality is, by its essential nature, a problem of nonideal theory. The capture of public political power for private benefit implies defection from a just scheme of equal political liberties. Thus, such political capture does not occur under ideal conditions of strict compliance with justice *ex hypothesi*. The relevant problem, then, is determining which institutional arrangements make capture (less) probable in nonideal conditions of partial compliance.

I offer two reasons to believe that measures designed to reduce economic inequalities will not lessen the probability of capture in nonideal conditions and may actually increase it. First, by discouraging or disallowing the acquisition of differential economic gains, the measures increase the marginal costs of cooperation with political institutions and, correlatively, increase the marginal benefits of defection. They increase the opportunity costs of *not* capturing political power for private advantage. Second, there is the substitution effect: by decreasing the marginal benefits of pursuing economic gains relative to political gains, these measures generate extra incentives for self-interested citizens to substitute the pursuit of political gains for the pursuit of economic gains.

I conclude that political philosophy must ultimately turn to empirical social science for an all things considered determination of the regimes that best secure the fair value of citizens'

political liberties. The considerations I offer purport to countervail those offered in defense of economic egalitarian measures, not to conclusively establish that these measures will not succeed. As a philosophical matter, our concern for substantive political equality shouldn't lead us to disprefer or reject regimes that don't include provisions for reducing economic inequalities. But given that ours is a problem of nonideal theory, there are limits to what can be said for any regime prior to an examination of the relevant social scientific evidence. For those of us who share the liberal egalitarian aim of achieving substantive political equality, there is a danger in endorsing recommendations about institutional design without such an examination. Our proposed solutions may exacerbate the problem they set out to solve.

§1

Just political regimes accord citizens equal political liberties—an equal right to vote, hold political office, and so forth. But formal guarantees of political equality may not be sufficient to realize substantive political equality. Citizens can come to have unequal influence over their society's political processes by parlaying socioeconomic advantages into political advantages.

Rawls asks,

[H]ow shall we meet the familiar objection, often made by radical democrats and socialists (and by Marx), that the equal liberties in a modern democratic state are in practice merely formal? While it may appear, the objection continues, that citizens' basic rights and liberties are effectively equal—all have the right to vote, to run for political office and to engage in party politics, and so on—social and economic inequalities in background institutions are ordinarily so large that those with greater wealth and position usually control political life and enact legislation and social policies that advance their interests.³

Rawls's concern is the problem of *political capture*: individuals' acquisition of political power for personal gain.⁴

Political power can take a variety of forms. Holding office is one prominent example, however people can wield political power without holding formal office. For instance, individuals and corporations can influence legislation to obtain preferential tax treatment,

subsidies, tariffs, favorable barriers to market entry, and so on. The means of influence are varied as well. They can include lobbying efforts, contributing to electoral campaigns, funding “awareness” campaigns that publicize preferred policies in a favorable light, and so on. The worry expressed by Rawls and others is that higher socioeconomic standing puts the wealthy at an advantage in these sorts of efforts, resulting in ‘legislation and social policies that advance their interests.’

Rawls and others argue that inequalities in the value of political liberties are more objectionable than inequalities of other sorts (e.g., economic inequalities) because effective political liberty is a *positional good*. That is, the absolute value of one’s share of political power is determined by one’s relative position in the distribution of political power.⁵ The political authority one person exercises over the direction of the community in question comes at the cost of the authority exercised by another.

Consider some examples. My one vote is worth absolutely less as a means to influencing the outcome of an election if others have two. Similarly, if we expand the number of seats on a city council, we necessarily diminish the power exercised by those already holding seats. The influence of each seat holder is reduced by the addition of further seats. Assuming new seats or political offices exercise genuine power, they do so at the expense of the power exercised by existing seats or offices, or citizens themselves.

By contrast, the value of non-positional goods is generally insensitive to relative position. The tastiness and healthiness of my apple is unaffected by how many apples my neighbor has. Unlike non-positional goods, inequalities in positional goods like political power are rarely, if ever, mutually beneficial.⁶

Assuming the total sum of political power is fixed, individuals’ relative economic position crucially affects their ability to acquire political power.⁷ All else equal, what matters

for winning an election is outspending rival candidates.⁸ Rawls writes, “The limited space of the public political forum, so to speak, allows the usefulness of the political liberties to be far more subject to citizens’ social position and economic means than the usefulness of other basic liberties. Therefore, we add the requirement of fair value for the political liberties.”⁹ This requirement means that the worth of all citizens’ political liberties must be roughly equal—everyone has a fair opportunity to effectively influence and participate in the political process.¹⁰

Thus, the value in question is the opportunity to influence the political process. Rawls and others argue that the probability that one’s input will affect the outcome of the political process should not be affected by factors such as one’s income and wealth. Inevitably inequalities in political power will arise; the aim is to ensure that differences in political clout arise from a level playing field.

How do we ensure the fair value of political liberties? A variety of measures have been proposed to equalize political opportunity, such as campaign finance reform and direct regulation of lobbying efforts.¹¹ However, I will not address these measures here. Instead, I will focus on another prominent proposal. An array of theorists, including Rawls, Scanlon, Nagel, Brian Barry, Thomas Pogge, Harry Brighouse, and Adam Swift among others, suggest equalizing economic inequalities (to at least some extent) to promote equality in political power.¹² This strategy—let’s call it the *economic egalitarian strategy*—attends to individuals’ means of acquiring political power. Because economic advantages are a central means of acquiring political power, economic inequalities create unequal opportunities to acquire political power and lead to inequalities in the value of citizens’ political liberties. Measures that reduce economic inequalities, then, can be expected to reduce political inequalities.

Even liberals who reject economic egalitarianism, such as prioritarians or sufficientarians, appear to have reason to endorse equal distributions of the means of acquiring influence over the political process.¹³ Although prioritarians and sufficientarians only assign moral value to individuals' absolute standing, political power's positional character means that relative economic standing can affect absolute political standing.¹⁴

The economic egalitarian strategy for securing the fair value of citizens' political liberties may have economic costs. Rawls, most notably, argues that the fair value guarantee is lexically prior to the difference principle and seems to suggest that the guarantee may oblige political structures to compress economic inequalities more narrowly than recommended by the difference principle.¹⁵ Because the difference principle is stipulated to permit economic inequalities only insofar as they serve to optimize the economic condition of society's worst off members, reducing economic inequalities beyond what is recommended by the difference principle will, *ex hypothesi*, work to the economic disadvantage of society's poorest members.¹⁶

When assessing two political regimes, we have pro tanto reason to favor the one that better promotes the economic interests of the socioeconomically disadvantaged. But we also have pro tanto reason to favor the one that better promotes the fair value of the political liberties of the socioeconomically disadvantaged. If it turns out that the former description better suits prioritarian regimes (for example) and the latter better suits egalitarian regimes, we are faced with a conflict about the relative moral importance of material well-being and political liberty.¹⁷

My interest here is not to engage this controversy but rather to preempt it, or at least forestall it. I aim to show that a concern for the fair value of citizens' political liberties does not uniquely support egalitarian economic regimes against reasonable alternatives as a philosophical matter—that is, prior to an in-depth examination of the empirical social

scientific evidence. There is reason to doubt that regimes that include provisions for equalizing economic means lead to greater political equality than regimes that don't include such provisions. Final judgment, however, must be reserved until after we've undertaken social scientific inquiry.

The question I wish to address, then, is meant to be 'internal': should one accept the egalitarian economic strategy *if* one accepts the broadly Rawlsian account of political opportunity? I'll argue that the economic egalitarian strategy targets individuals' means of political capture to the exclusion of their motives. This is an important omission; individuals need means *and* motive to capture. Economic inequalities are not necessary for political inequalities: even in conditions of strict material equality, some people may prefer to spend their shares on political power and others will not, which will lead to inequalities in the value of political liberties. Nor are they sufficient: those with greater economic means could simply choose not to use them to acquire greater political power. The distribution of political power might resemble the distribution of combs, for example—combs are more or less evenly distributed even though wealth is not, presumably because the wealthy have little desire to stockpile combs.

I suggest that the economic egalitarian strategy, by increasing the potential costs of acquiring more means to political capture, simultaneously increases the potential motives for political capture. To borrow a distinction from Michael Walzer, it recommends a regime of *simple* equality, but the problem of substantive political inequality calls for a *complex* egalitarian solution.¹⁸

In conditions of simple equality one good, such as wealth, is equally distributed but 'dominant'—it can be converted into a wide range of other goods like political or educational advantages. Walzer doubts that economic egalitarianism can constrain substantive political

inequalities. He worries that if regimes mobilize state power to check individuals' pursuit of economic power, 'state power itself will become the central object of competitive struggles.'¹⁹ Political measures designed to achieve economic equality may make the acquisition of political power *more* attractive.

Complex equality, in contrast to simple equality, is achieved through the separation of social spheres.²⁰ Inequalities are benign if restricted to their proper domain. That priests and rabbis command greater religious authority than their congregants is not troubling in itself; neither is the fact that Wilt Chamberlain is richer than his spectators. Domination occurs when inequalities in one sphere spill over into another sphere: for example, when clergy use their religious power for economic gain or when Wilt uses his wealth to lobby for the public financing of a new arena instead of new schools. Worries about the conversion of economic power into political power are at root worries about complex equality.

As a practical matter, how can we achieve the separation of spheres? More specifically, how do we prevent the conversion of economic power into political power? As noted, strategies for resolving the problem of substantive political inequality must address individuals' motives. We must analyze the incentive structures that motivate individuals to gain power in one sphere by exploiting their power in another. This requires us to undertake nonideal theoretical analysis.

§2

In this section I will argue that the possibility of political capture only arises in nonideal conditions. I will employ a broadly Rawlsian framework to differentiate strategic interaction under ideal and nonideal conditions.²¹ Ideal conditions are characterized by strict compliance with justice: i.e., individuals do not defect from fair, mutually agreeable terms of cooperation.²² 'Strict compliance,' Rawls writes, 'means that (nearly) everyone strictly complies with, and so

abides by, the principles of justice.²³ Regimes in nonideal conditions are characterized by partial compliance.²⁴

To borrow further from the Rawlsian apparatus, let us say that ideal theory assumes that ‘the reasonable’ trumps ‘the rational’; nonideal theory relaxes this assumption. Rawls writes that the rational concerns an individual’s effective pursuit of her non-tuistic ends.²⁵ The reasonable, in contrast, ‘is the particular form of moral sensibility that underlies the desire to engage in fair cooperation as such, and to do so on terms that others as equals might reasonably be expected to endorse.’²⁶ In ideal conditions, individuals are willing to forgo opportunities to defect for personal gain in order to arrive at mutually agreeable outcomes. Compliance is strict because individuals are assumed to be effectively motivated by a sense of justice.²⁷

Nonideal theory, by contrast, assumes that at least sometimes individuals’ sense of justice is *ineffective*. The reasonable does not assuredly trump the rational—people’s sense of self-interest periodically overrides their desire to engage in fair cooperation. Under nonideal conditions, therefore, defection is a live possibility; cooperation cannot be taken for granted.

We can understand attempts to capture political power as defections from the mutually agreeable cooperative scheme of equal political liberties for the sake of acquiring special exemptions or benefits that advance an individual’s self-interest. If individuals are strictly rational and not at all reasonable, they attach no intrinsic value to the cooperative outcome. Insofar as individuals interact under nonideal conditions, politics resembles a Prisoner’s Dilemma.²⁸ Defection is the dominant strategy: it is a player’s best choice regardless of the other player’s choice.²⁹ One ought to capture political power to either gain a competitive edge or to keep the playing field level. The best outcome for a player is to defect while the other cooperates (e.g., seek a subsidy, tax exemption, regulatory advantage, and so

on, while one's competitors do not). The worst outcome for a player is to cooperate while the other defects (e.g., one does not seek a political advantage or exemption, yet one's competitors do). Mutual cooperation is the mutually best outcome, leaving both players better off in terms of effective political liberty. Mutual defection results in a mutual expenditure of resources without corresponding gains in political power.

Ideal theoretical analyses assume individuals are reasonable. Recall that reasonable individuals are stipulated to 'desire to engage in fair cooperation as such, and to do so on terms that others as equals might reasonably be expected to endorse.' We can therefore build a preference for the cooperative outcome into reasonable individuals' utility functions.³⁰ (*Utility* is understood here purely as a formal measure of how well an option satisfies an individual's evaluative criteria.) We can model reasonable individuals as conditional cooperators because they desire to cooperate on reciprocal terms. This modification transforms the Prisoner's Dilemma into an assurance game—individuals prefer to cooperate assuming others cooperate as well. Thus, individuals do not desire to defect insofar as they interact in ideal conditions of mutual cooperation.

The above framework for modeling strategic interaction under ideal conditions brings out a tension in Rawls's comparative institutional analysis. Rawls seeks to identify, within the confines of ideal theory, the regimes that best satisfy the principles of justice.³¹ He argues that welfare-state capitalism, for example, violates the principles of justice partly because it 'rejects the fair value of the political liberties . . . It permits very large inequalities in the ownership of real property (productive assets and natural resources) so that the control of the economy and much of political life rests in few hands.'³²

Rawls's worry is presumably the one quoted earlier, namely 'that those with greater wealth and position usually control political life and enact legislation and social policies that

advance their interests.³³ Here Rawls is clearly describing *unreasonable* individuals—those who seek to subvert just, mutually agreeable arrangements for self-interested reasons. But citizens in ideal conditions are assumed to be reasonable; they prefer to engage in mutually agreeable cooperation as such. Indeed, that feature is precisely what makes the conditions ideal.

Under ideal conditions, then, individuals who command unequal economic advantages would not exploit them to control their society's political life. (If they did, the conditions could thereby no longer be regarded as ideal.) They are playing an assurance game: they *prefer* to cooperate on just terms. Because a society of fully reasonable individuals would not need economic egalitarian measures to realize substantive political equality, an ideal theoretical analysis such as Rawls's cannot rule out a regime type for failing to include such measures.³⁴

The possibility of political capture only arises under nonideal conditions of partial compliance with justice. Thus, insofar as our aim is to choose between regimes in terms of their differing susceptibilities to political capture, we must assess regimes under nonideal conditions.³⁵ With respect to an analysis of political capture, then, the success of the economic egalitarian strategy—or any other strategy for that matter—cannot be assumed. Such an assumption would be in tension with the assumption that generates the problem in need of solution, viz. that (some) individuals fail to strictly comply with the demands of justice. Given that the problem of political capture only arises in conditions of partial compliance, proposed solutions to this problem should not assume strict compliance. Our aim here is to determine what economic arrangements minimize rational (but not reasonable) individuals' incentives to capture political power for private gain.

§3

Whether or not people defect is largely a function of the payoffs to defection and cooperation. Thus, it is crucial to determine what type of regime minimizes the payoffs to defection. In

this section, I argue that there is reason to believe that restrictions on economic inequalities increase actors' payoffs to defection.

To begin, consider an analogy between political capture and carbon emissions. Both political capture and carbon emissions generate negative externalities. Because the value of political power is positional, when individuals capture more for themselves, they necessarily leave less for others. Similarly, when individuals pollute the air, they damage the health of others.

Extending the dynamics of these activities to the whole of society gives us a multi-player Prisoner's Dilemma. Suppose each individual prefers to pollute the air, but the air will become toxic if more than some threshold number of individuals pollute it. The general structure of this game, reflected in the tragedy of the commons, stipulates that there is a social benefit to be gained by each individual if enough pay some cost. However defection strongly dominates cooperation for all individuals—each individual benefits more by defecting regardless of the other individuals' decisions. If enough others pollute, one might as well pollute oneself, given that the air will be toxic regardless of what one does. If enough others refrain from polluting, one still might as well pollute, given that the air will be clean regardless of what one does.³⁶

So how do we encourage cooperation and secure social benefits like clean air? The conventional strategy is to increase the costs of defection. For example, to make polluting a less attractive option to would-be polluters, we can level Pigovian taxes on carbon emissions.

Presumably whatever measures are enacted to restrict economic inequalities will work by increasing the costs of acquiring differential economic means. The aim is to discourage individuals from acquiring unequal shares of wealth and thus unequal means of political capture. For the sake of simplicity, let's settle on increasing marginal rates of taxation as the

specific means of equalization to consider. Although I only examine this one kind of measure in detail, the concerns I raise in principle apply to other measures that might be recommended by the economic egalitarian strategy given that they will likely function by decreasing, in some way, the expected utility of pursuing differential economic gains.

Modeling strategic interaction in nonideal conditions as a Prisoner's Dilemma helps clarify the difficulties with the economic egalitarian strategy by showing that it is at odds with the standard strategy for solving Prisoner's Dilemmas. Economic egalitarian proposals for reducing political capture differ importantly from the aforementioned strategy for discouraging other sorts of social costs, namely penalizing defection. Economic egalitarian proposals to encourage cooperation effectively penalize *cooperation*. In the case of carbon emissions, the taxes attach to defectors; in the case of political capture, the taxes attach to cooperators. The new costs will be borne by those who choose *not* to defect from the political regime in order to obtain special privileges or exemptions.

I mentioned a variety of examples of political capture earlier. Let's look at one in greater detail. Consider the possibility of wealthy individuals and corporations obtaining political influence to obtain preferential tax treatment. Mancur Olson observes that 'the details of tax laws [...] often reflect the interests of small number of organized and usually more prosperous taxpayers.'³⁷ As a result, 'the loopholes are [...] often tilted toward a minority of more prosperous taxpayers.'³⁸

The wealthy have a variety of advantages when it comes to swaying policy. Indeed, this is the very assumption that Rawls and others use to motivate concerns about substantive political inequality. Privileged groups will have wealth and time to advance their political interests that less privileged groups do not.³⁹ The rich can more easily absorb the costs of expensive tax lawyers to navigate the details of the tax code as well as lobbyists to advance their political

interests. Moreover, their educational advantages and elite social and political connections put them in a better position to shape policy.⁴⁰ By contrast, as Olson notes, ‘Such numerous and important interests as the consumers, the taxpayers, the poor, and the unemployed have no well-financed or powerful lobbies working for them.’⁴¹ As a result, those with socioeconomic advantages can be expected to wield a disproportionate influence over the political process:

Since only certain groups have the capacity to organize lobbies, those groups that have this capacity and have had time to exercise it will dominate the specifics of policymaking. [...] The individuals with enough wealth to make the hiring of a personal lobbyist worthwhile [...] will often have lobbies. They will tend to “capture” the detailed regulation of regulated industries, to obtain tax loopholes [and so on].⁴²

Indeed, the *costlier* the proposed taxes, the more incentive the wealthy have to increase their expenditures on lobbyists and tax lawyers to influence the details of the tax code to create loopholes and exceptions. Political activity—more specially, ‘capturing’ political power—becomes a more efficient investment compared to economic activity as the tax burden increases. The proposal of equalizing tax measures may well *increase* the interest that wealthy individuals and corporations take in capturing political power to influence the structure of tax code in their favor. To put the point briefly: the higher the tax, the more valuable the tax loophole, and thus the greater the incentive to influence legislation to obtain that loophole.

At increasing levels of taxation, capture will become cheaper than cooperation for more individuals. Raising the costs of cooperation may make the costs of capture worthwhile for many for whom it previously was not cost-effective. The marginal benefits of political capture increase systematically with the marginal costs of cooperation (which vary with the extent of the equalizing measures). To simplify: when political authorities are empowered to tax an individual n dollars, power over political authorities is, *ceteris paribus*, effectively worth n dollars to that individual. When political authorities are empowered to tax $2n$ dollars instead of n dollars, power over political authorities doubles in value. Spending $1.5n$ dollars on

capture is cost-effective for individuals taxed $2n$ dollars, but not n dollars. Increasing marginal rates of taxation increase the opportunity cost of forgoing political capture.

Here's an analogy. Imagine that iterated interactions have given rise to a tit-for-tat norm among bartenders and bar patrons at a local bar. Some patrons started giving the bartender generous tips; the bartender started giving them free drinks. This arrangement leaves both parties better off. The patrons still pay a price for their drinks in the form of their tips, but presumably that cost is less than the drinks' full price. The bartender gets paid directly in cash. But the bar's owner is worse off because she can't collect on these illicit exchanges.

Thus, the owner wants to stem this practice and discourage people from circumventing the bar's official policies. What should she do? It seems sensible to suppose that the owner shouldn't respond by *raising* drink prices. All else equal, this strategy is apt to exacerbate the problem by increasing the likelihood that patrons will offer tips to escape paying the full price of drinks. Price increases make what are effectively bribes to bartenders more valuable because they enable patrons to avoid greater costs. If the price of drinks doubles, for example, the cost of cooperation with the bar's rules (paying in full) doubles as well.

The lower the prices, the lower the probability that the benefit of circumventing the rules will exceed the cost. A rational (but perhaps not reasonable) patron will not spend seven dollars to tip a bartender to avoid paying for a five dollar drink. But if the cost of the drink is increased to, say, ten dollars, a rational patron will gladly hand over a seven dollar tip. Patrons have greater incentive to 'capture' bartenders when the bartenders are empowered to impose greater costs. Likewise, citizens have greater incentive to capture political power when political authorities are empowered to impose greater costs.

Economic egalitarian measures increase the economic costs of cooperating with a political regime by their very design. The purpose of these measures is to increase the costs of acquiring differential economic means. Such measures are therefore at odds with the basic rationale for Pigovian taxes and the established wisdom about how to reduce social costs. They increase the opportunity costs of cooperation, making defection *more* beneficial for the defector.⁴³ In Rawlsian terms, the economic egalitarian strategy exacerbates the ‘strains of commitment.’⁴⁴

To sum up, the idea here is a familiar one: the costlier the activity, the less of it there will be. If the costs of seeing a movie increase, (*ceteris paribus*) fewer people will see movies. For the same reason, if the costs of cooperation increase, (*ceteris paribus*) fewer people will cooperate.

Defection from a regime can, of course, take forms other than capture.⁴⁵ However, my claim is not that political capture is the only, or inevitable, response to economic egalitarian measures; only that such measures, *ceteris paribus*, make this response *more* likely. Thus, I do not mean to deny that individuals may respond differently. Political philosophy alone, unaided by empirical social science, cannot give a full account of policies’ likely effects.

Equalizing measures may increase individuals’ motives to capture political power for another reason: *the substitution effect*. As the price of one good rises, individuals will, *ceteris paribus*, switch some of their consumption out of that good and into others. For example, as the cost of butter rises relative to other goods, individuals will switch their consumption out of butter and into goods that are relatively cheaper, such as margarine.

We might similarly think that increasing the costs of pursuing economic gains encourages rational (but not reasonable) individuals to substitute the pursuit of political gains for the pursuit of economic gains.⁴⁶ Under regimes that make the pursuit of differential

economic gains costly, political manipulation becomes a more efficient means of advancing one's self-interest. Increasing rates of taxation decrease the marginal utility of labor, making political capture an increasingly attractive use of energy and resources compared to economic activity. Again, this is not a mere accident: the proposed measures are designed to decrease the marginal benefit of acquiring differential economic advantages. These measures increase the likelihood that rational (but, again, not reasonable) individuals will calculate that the expected utility of pursuing economic advantages is less than the expected utility of pursuing political advantages.

The basic problem for equalizing strategies is that the proposals they advocate for decreasing citizens' means of political capture systematically increase citizens' motives for political capture. To review the two considerations I've been discussing: the greater the costs of legally acquiring more economic means, the greater the incentive to defect; the greater the costs of pursuing economic gains relative to political gains, the greater the incentive to substitute the pursuit of political gains for the pursuit of economic gains. In each case, the relationship is causal—the measures increase incentives to capture *in virtue of* attempting to decrease the economic means of capture.

An important objection remains: if we equalize income, then people will lack the differential economic resources to differentially influence the political process.⁴⁷ However, the standard egalitarian economic proposal to reduce political inequalities recommends only reductions in economic inequalities rather than their complete elimination. Thus, even if the proposed measures are successful, they will leave differences in economic resources that can be converted into differential influence over the political process.

Yet one might respond to this reply by embracing complete equalization—perhaps we have some (defeasible) reason to fully equalize economic resources. Here the worries raised in

section two are relevant. We can either stipulate the success of the implementation and execution of the equalizing attempts or we can refrain from such a stipulation. If we *stipulate* their success, we are thrust into ideal theory: individuals are assumed to strictly comply with the demands of justice. However, in this case the proposed equalizing measures are rendered unnecessary for the reasons given in section two. The problem of political capture arises only in conditions of partial compliance—in ideal conditions, wealthy individuals would not utilize their unequal incomes to obtain unequal political influence.

By contrast, we can choose not to stipulate the success of the equalizing measures. In this case, we leave open the possibility that they will fail for the reason given earlier—namely that privileged individuals and groups will undermine the equalizing efforts by obtaining preferential tax treatment and other favorable policies. If the egalitarian economic strategy fails to achieve its intended purpose, wealthy individuals would thereby remain in possession of the unequal economic resources needed to differentially affect the political process, and the problem of substantive political inequality would persist.

§4

By way of conclusion, I should emphasize that I do not mean to deny that measures designed to reduce economic inequalities can, and undoubtedly sometimes do, successfully reduce economic inequalities rather than induce defection and thus limit inequalities in individuals' means of acquiring shares of political power. I do not claim to have shown that the economic egalitarian strategy cannot or will not be effective.

Rather, I have argued that such measures cannot be motivated under ideal conditions and that the success of those measures cannot be *assumed* under nonideal conditions. Moreover, my argument suggests that measures designed to reduce citizens' means of political capture may unintentionally encourage political capture in nonideal conditions by increasing

citizens' motives to capture political power. Concern for the fair value of citizens' political liberties does not provide unique philosophical support for egalitarian economic regimes and may instead vitiate the case for such regimes.

However, the argument does not purport to conclusively establish the claim that these measures will always bring about a net loss in the value of some citizens' political liberties. Considerations can be marshaled both for and against the economic egalitarian strategy. On the one hand, the aim of achieving substantive political equality seems to furnish pro tanto reason to reduce economic inequalities to reduce inequalities in individuals' means of capturing political power. On the other hand, I've argued that this aim furnishes pro tanto reason *not* to equalize economic means, so as not to increase individuals' motives to capture political power. We must reserve all things considered judgment until after we have undertaken social scientific inquiry to help adjudicate the conflicting considerations.

Thus, we cannot follow Rawls and evaluate a given regime while 'abstract[ing] from its political sociology, that is, from an account of the political, economic, and social elements that determine its effectiveness in achieving its public aims.'⁴⁸ An empirical account of a regime's effectiveness is, ultimately, exactly what is needed to determine whether it secures the fair value of the political liberties. Regime selection, distinguished from theorizing about first principles of justice, is, to a considerable extent, an empirical problem. As such, it is a matter best addressed by social science in the service of philosophy.⁴⁹

¹ See John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 328; T.M. Scanlon, “The Diversity of Objections to Inequality” in *The Difficulty of Tolerance* (Cambridge: Cambridge University Press, 2003), 202-218, 205; Thomas Nagel, *Equality and Partiality* (Oxford: Oxford University Press, 1991), 69; Nagel, *Mortal Questions* (Cambridge: Cambridge University Press, 2003), 106-107.

² I restrict the focus here to reasonable conceptions of justice in virtue of their commitment to substantive political equality. My understanding of a reasonable conception follows Rawls’s description of the content of a liberal political conception of justice in *Political Liberalism*, 6.

³ John Rawls, *Justice as Fairness: A Restatement*, edited by Erin Kelly, (Cambridge: Harvard University Press, 2001), 148.

⁴ Rawls appears concerned both with *rent-seeking* (the extraction of an economic gain through legal or political manipulation rather than productive contribution) and *regulatory capture* (a situation in which a government regulatory agency serves the commercial or special interests of the industry it is designed to regulate rather than the public interest). I use ‘political capture’ in a stipulative manner to denote Rawls’s concern as quoted above. For seminal discussions of rent-seeking and regulatory capture respectively, see Gordon Tullock, “The Welfare Costs of Tariffs, Monopolies, and Theft,” *Western Economic Journal* 5 (1967): 224-232 and George Stigler, “The Theory of Economic Regulation,” *The Bell Journal of Economics and Management Science* 2 (1971): 3-21.

⁵ For an explicit characterization of political power as a positional good, see Harry Brighouse and Adam Swift, “Equality, Priority, and Positional Goods,” *Ethics* 116 (2006): 471-497, 476. See also Thomas Pogge, *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989), 147–8 fn. 46; John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 358; Rawls, *Justice as Fairness: A Restatement*, edited by Erin Kelly (Cambridge: Harvard University Press, 2001), 150.

⁶ A possible exception: a system of political representation requires inequalities in political power but nonetheless can increase everyone’s effective political liberty. See Harry Brighouse, “Political Equality in Justice as Fairness,” *Philosophical Studies* 86 (1997): 155-184, 167.

⁷ Brighouse notes that political influence is not zero-sum in all circumstances—he imagines ‘the invention of a Weather Machine [which] would open up to collective control a new and central aspect of our shared circumstances, and would hence increase the total amount of political influence.’ Brighouse, 166.

⁸ It is important to note that money is just one means of influencing elections. Other considerations matter as well, ranging from the particulars of a candidate’s proposed economic plans to his or her height. It may be that reducing the influence of money simply increases the influence of other factors. If there is a fixed sum of political power—recall that Rawls speaks of ‘the limited space of the public political forum’—we should expect the reduction in one form of political influence to create a vacuum to be filled by other forms. We may simply reshuffle political influence to those who are relatively good-looking, charismatic, and so on, and away from those relatively talented in making money. These considerations provide further reason for doubting that reducing economic inequalities will help us make significant progress toward a level playing field in politics. Thanks are due to an anonymous referee for stressing the importance of factors other than money to political outcomes.

⁹ Rawls, *Justice as Fairness*, 150.

¹⁰ Rawls, *Political Liberalism*, 327.

¹¹ See, for instance, Rawls, *A Theory of Justice* (Cambridge: The Belknap Press, 1999), 198. Although detailed analysis of alternatives is beyond the limits of this paper, the arguments I offer here are relevant to an analysis of these alternatives.

¹² See Rawls, *Political Liberalism*, 328; *A Theory of Justice*, 245; Scanlon, *ibid.*; Nagel, *ibid.*; Brian Barry, *Why Social Justice Matters* (Cambridge: Polity Press, 2005), 144; Pogge, 145; Brighouse, 165; Brighouse and Swift, *ibid.*

¹³ For discussions of prioritarianism, see, for instance, Richard Arneson, “Luck Egalitarianism and Prioritarianism,” *Ethics* 110, (2000): 339-349; Derek Parfit, “Equality or Priority?” in *The Ideal of Equality*, edited by Matthew Clayton and Andrew Williams (Basingstoke: Palgrave Macmillan, 2002), 81-125; Larry Temkin, “Equality, Priority or What?” *Economics and Philosophy* 19 (2003). For discussions

of sufficientarianism, see, for instance, Roger Crisp, “Equality, Priority, and Compassion,” *Ethics* 113 (2003): 745-763; Crisp, “Egalitarianism and Compassion,” *Ethics* 114 (2003): 119–126; Harry Frankfurt, “Equality as a Moral Ideal,” *Ethics* 98 (1987): 21-43.

¹⁴ For a more complete discussion of the positional aspects of political power, see Brighouse and Swift. Elsewhere Brighouse argues that maximin reasoning will lead to an endorsement of political equality. Brighouse, 165.

¹⁵ I say ‘seems to suggest’ because this exegetical claim is contested. At times, Rawls appears to argue that the economic inequalities allowed by the difference principle may interfere with the achievement of equal political liberties. See Rawls, *Political Liberalism*, 328. Also Rawls speaks of a first principle limitation on inequalities at, e.g., *A Theory of Justice*, 245. See also Pogge, 138-139. Samuel Freeman, however, denies that Rawls endorses the equalization of economic inequalities as a measure needed to secure the fair value of citizens’ political liberties, yet he claims that Rawls may nonetheless be committed to the position. See Freeman, *Rawls* (New York: Routledge, 2007), 63.

¹⁶ One reason why Rawls places such emphasis on the fair value of the political liberties is their connection to individuals’ self-respect. Rawls writes, ‘The basis for self-respect in a just society is not . . . one’s income share but the publicly affirmed distribution of fundamental rights and liberties.’ *A Theory of Justice*, 477.

¹⁷ See, e.g., Brian Barry, “John Rawls and the Priority of Liberty,” *Philosophy and Public Affairs*, Vol. 2, No. 3 (Spring, 1973), pp. 274-290

¹⁸ Michael Walzer, *Spheres of Justice: A Defense of Pluralism and Equality* (New York: Basic Books, 1983).

¹⁹ *Ibid.*, 15.

²⁰ *Ibid.*, 17ff.

²¹ I should emphasize, however, that I make no claim of strict fidelity to Rawls’s own conceptions, only that my model expresses themes from Rawls’s work.

²² Rawls, *Justice as Fairness*, 13.

²³ *Ibid.*

²⁴ *Ibid.*, 66.

²⁵ John Rawls, *Political Liberalism* (New York: Columbia University Press, 2005), 50.

²⁶ *Ibid.*, 51.

²⁷ Rawls claims that in a well-ordered society, citizens ‘affirm and act from the first principles of justice.’ “Kantian Constructivism in Moral Theory,” *Journal of Philosophy* 77 (1980): 515-572, 521.

²⁸ Because nonideal conditions are conditions of partial compliance rather than conditions of full noncompliance, not all individuals in nonideal conditions will be unreasonable and thus not all of their interactions will be Prisoner’s Dilemmas. Yet our concern here is restricted to those individuals who *are* motivated to defect, i.e., those who are unreasonable.

²⁹ I focus here on political capture as the relevant form of defection; however, it is not the only possible form. I return to this point in section three.

³⁰ This analysis of reasonableness owes much to Gerald Gaus, “Reasonable Utility Functions and Playing the Cooperative Way,” *Critical Review of International Social and Political Philosophy* 11 (2008): 215-234.

³¹ See, for example, *Justice as Fairness*, 13, 65. Rawls also speaks elsewhere of measures designed to secure the fair value of the political liberties as part of a description of “an ideal arrangement.” *A Theory of Justice*, 199.

³² *Justice as Fairness*, 138.

³³ *Ibid.*, 148.

³⁴ It seems possible that, in ideal conditions, those with greater socioeconomic power could *unintentionally* come to wield greater political power. That is, such citizens are properly motivated by justice, but nevertheless disproportionately affect political outcomes. Perhaps abstention from political capture is assured in ideal conditions, the objection continues, but political equality is not. Because the main worry of Rawls and others is intentional political capture, that’s where my focus lies. Thus, it is beyond the scope of this paper to address questions of ‘accidental’ political inequalities in detail.

However, the possibility of such accidental political inequalities does not clearly favor egalitarian economic measures as correctives. If proper motives are not sufficient for substantive political equality, it seems as if corrective measures that are themselves implemented by properly motivated individuals would also be prone to unintended consequences such as the production of accidental political inequalities.

³⁵ Rawls claims, 'It is beyond the scope of a philosophical doctrine to consider in any detail the kinds of arrangements required to insure the fair value of the equal political liberties.' *Political Liberalism*, 327. However, Rawls evidently believes that it is within the scope of a philosophical doctrine to determine what regime types are required to insure the fair value of the equal political liberties. I contend that even determining what regimes best secure the fair value of the equal political liberties is beyond the scope of a philosophical doctrine (assuming the doctrine abstracts from empirical social science).

³⁶ I simply assume here that the chooser is not at the threshold of sufficient cooperation.

³⁷ Olson, *The Rise and Decline of Nations*. New Haven: Yale University Press, 1982, 27.

³⁸ *Ibid.*

³⁹ Olson, "A Political Theory of Regulation With Some Observations on Railway Abandonments." *Public Choice* 39 (1982): 107-111, 109.

⁴⁰ Moreover, as the number of loopholes increases, the tax code becomes increasingly unmanageable. *The Rise and Decline of Nations*, 69. This added complexity favors those with the means to obtain the services of experts in the tax code.

⁴¹ *Ibid.*

⁴² "A Political Theory of Regulation," 109.

⁴³ I should stress here that the issue is the marginal costs (in terms of compliance losses) of the increases in taxation. It is possible, perhaps even probable, that most people will not defect even under nonideal conditions. Our attention should center on those who would not defect except for the extra costs imposed by the tax increase. It is reasonable to assume that most individuals value conditional cooperation as such, though not infinitely so.

⁴⁴ On the strains of commitment, see *A Theory of Justice*, 153ff.

⁴⁵ Perhaps the most notable alternative form of defection is straightforward evasion. However, the possibility of evasion does not in itself weigh in favor of equalizing measures. The claim that concern for the fair value of citizens' political liberties favors equalizing measures presupposes the efficacy of these measures and thus assumes that citizens *won't* evade them. If citizens successfully evade the equalizing measures, then those measures will fail to actually equalize citizens' material means, leaving the economic inequalities available for conversion into political inequalities. The taxes will fail to achieve their purpose in such a case.

⁴⁶ For a similar worry, see Walzer, 15.

⁴⁷ My thanks to an anonymous referee for raising this objection.

⁴⁸ *Justice as Fairness*, 137.

⁴⁹ This project was supported by a grant from the College of William & Mary. Thanks are also due to Nathan Ballantyne, Thomas Christiano, Jerry Gaus, David Schmidtz, Kevin Vallier, and an anonymous referee for this journal.