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Basic Structure and the Value of Equality

I

Evaluation from the point of view of justice is at once encompassing and austere. Judgments of justice and injustice take in whole societies. But to conclude that a society is just or unjust, I don't have to know what everyone in the society is doing. It's enough that I know how the society's institutions are arranged, or that I understand the basic framework that shapes its members' interaction over time or the basic mechanisms that distribute them over a range of prospects for living better and worse lives.

It is possible to account for the structural bent and the institutional focus of our reasoning about justice without attributing much moral depth to these inclinations. Suppose that justice requires that people hold goods in some pattern. Before we can achieve that pattern we need to get a grip on the whole web of relations among people's actions and holdings. But that web is very big, and we are forced to narrow in on a mere handful of the most important relations. Moreover it is only by submitting our largely decentralized and myopic exchanges to a battery of centrally promulgated rules that we can hope to find traction on the pattern of holdings. We risk upending the pattern we prefer if we separately aim for it from our different corners of the society. The institutional cast of our distributive judgments and our accent on the justice of basic frameworks are well-advised, then, but their warrant is derivative. They have no moral basis deeper than an awareness of garden-variety limits to social coordination.

John Rawls is widely understood to have claimed a more foundational significance for the selective attention of reasoning about justice when

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he wrote that "the primary subject of justice is the basic structure of a society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation."[1] The Rawlsian motif of basic structure has an uncertain place in the ongoing discussion of his ideas. His own arguments for the primacy of basic structure are brisk by comparison to his development of many other themes, and the most systematic recent comments on this view lean more to burial than to praise.[2] In this article, though I will not interpret or defend Rawls's position, I will argue that something like his basic structure enjoys an intrinsic claim to special moral attention.[3] As a name for that subject I borrow his magnificently drab phrase.

II

I will argue that a basic structure is the subject of specifically egalitarian principles of distributive justice. That argument begins in Section IV. I first put down some stakes and context for it by sketching two problems on which it might bear. The current section raises one such issue about the value of equality, and in Section III I recall some difficulties turned up by previous discussions of the basic-structural subject.

Many of us think that social life is unjust if it sustains too much inequality in the material conditions of people's lives. Like Rawls and thanks in part to his instruction, some of us understand this egalitarian commitment as a piece of deontology. For example some of us think that if people do not work to cancel or to counteract the rejected inequalities, then by virtue of that failure they are interacting on terms that they cannot all justify to one another, and that their reason to aim for equality rides their obligation to interact on interpersonally justifiable terms.

1. John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), p. 7.

2. G. A. Cohen, "Where the Action Is: On the Site of Distributive Justice," *Philosophy & Public Affairs* 26 (1997): 3–30; Liam Murphy, "Institutions and the Demands of Justice," *Philosophy & Public Affairs*, 27 (1998): 251–91.

3. One defense from which I learned is Thomas Pogge, "On the Site of Distributive Justice: Reflections on Cohen and Murphy," *Philosophy & Public Affairs* 29 (2000): 137–69; I am also indebted to Pogge's earlier development of a Rawlsian basic structure view in his *Realizing Rawls* (Ithaca: Cornell University Press, 1989), pp. 15–47.

Egalitarian deontology is a complex idea perenially beset by more plain-thinking rivals. On one side many philosophical partisans of broadly redistributive politics insist that these politics are innocent of deontological roots. They think that equality is just better than inequality or that gains for poorer people just have extra weight in the scale of the general welfare.[4] For their part many students of fair and free social interaction deny that it demands any approximation of societywide material equality. They claim that it calls only for some weaker distributive pattern or that it tends entropically against patterns as such.

In Section IV of this paper I trace egalitarian requirements to some obligations that people incur through interaction.[5] People walk into these obligations at many different levels of their interaction. In many contexts, if such obligations constrain the distribution of goods over people at all, they do so only in roundabout and minimal ways. However the same considerations take on a directly distributive and strongly egalitarian character where their object is the set of higher-order features of interaction that I am going to call basic structure. The moral interest of distribution and distributive equality is an emergent property of interaction, and it emerges only insofar as a basic structure shows up there as well. People who overlook basic structure are thus likely to miss the point of an egalitarian deontology, and—as I will try to show in Sections VI

4. The opposition between deontological and teleological or consequentialist ethical views does not offer a notably stable or informative map of many of the disagreements that are routinely referred to it. So I should mention that it will not really do any work in my arguments. I will argue for a version of the view that parties to social interaction treat one another unfairly unless they aim for equality, and that fair treatment in interaction is their reason to aim for equality. Some people think that people should aim for equality only because it is a better outcome (cf. Derek Parfit, "Equality or Priority?" in *The Ideal of Equality*, ed. Matthew Clayton and Andrew Williams [Hampshire: St. Martins Press, 2000]). If you think that these two views are incompatible, and that it is helpful to mark their opposition with the labels of "deontology" and "teleology," that's great. But don't worry if you disagree. (You might disagree, for example, if you define teleological views as holding that you can represent right action as maximizing some real-valued function of humanly alterable variables, and if you think that interactive fairness is a possible argument of such a function.) I am using "deontology" as a convenient conventional label for the view that I defend, and I will not directly pit that view against the claim that equality is to be sought because it is a better outcome.

5. In this respect I echo arguments of Pogge, *Realizing*, pp. 20–28 and Charles Beitz, *Political Theory and International Relations* (Princeton, N.J.: Princeton University Press, 1979), pp. 143–53.

and VII—this line of argument for the basic structure view can help to disarm their resistance to that understanding of the value of equality.[6]

III

A basic structure view of the subject of justice imparts a particular discontinuity to the individual moral deliberation that it organizes. Some of the actions open to a person can help to shape the basic structure of her society, so in choosing among these actions she should consult principles of justice. The remainder of her action is outside those principles' scope, and it rightly responds to a distinct set of moral reasons. The distributional upshot of principles of justice will be more or less pronounced according as people use them to regulate a larger or smaller area of their activity. So this *dualist* commitment of the basic structure view appears expensive in many contexts.[7] G. A. Cohen has exposed some apparent costs of dualism in his discussion of the problem of incentives in Rawlsian justice.[8]

Suppose that production is organized so that people are led to sell their labor in competitive markets. And suppose that a government can affect the distribution of goods only by taxing people's resulting market incomes at positive or negative rates.[9] According to Rawls's difference principle, inequalities in the resulting distribution are just if the representative person

6. I will discuss distributive justice in the distribution of unspecified goods, without prejudice among alternative ways of filling in that blank. The distributive principle that I defend, a version of Rawls's difference principle, is egalitarian and not prioritarian in the following sense of that distinction: Egalitarian judgments of the justness of distributions make ineliminable reference to the relative positions of pairs of people; prioritarian views do not. (If these judgments can be represented by comparing the values of functions, prioritarian judgments can be represented by functions that are additively separable in individual good levels, and egalitarian judgments cannot; see John Broome, *Weighing Goods: Equality, Uncertainty and Time* [Cambridge, Mass.: Basil Blackwell, 1991], pp. 177–84.) In undertaking to account for the value of equality, then, I plan to account for such relativity-regarding judgments, but not for the rightness of "levelling down," since I don't think that it is right.

7. The label of dualism is due to Murphy, "Institutions," p. 254.

8. Cohen, "Action"; earlier installments are G. A. Cohen, "Incentives, Inequality, and Community," in *The Tanner Lectures on Human Values, Volume 13*, ed. Grethe B. Peterson, (Salt Lake City: University of Utah Press, 1992), pp. 263–329, and G. A. Cohen, "The Pareto Argument for Inequality," *Social Philosophy and Policy* 12 (1995): 165–85; later page references for Cohen's "Incentives" are to its reprinting in *Equal Freedom*, ed. Stephen Darwall (Ann Arbor: University of Michigan Press, 1995), pp. 331–97.

9. These deeply resistible assumptions about the organization of production in a just society are, for Cohen, argumentative concessions to the defenders of wage differentials; in Section IX I briefly consider how the picture changes when we revoke them.

who does worst at that distribution is better off than the worst-off party to any alternative. The degree of inequality ratified by this principle depends on the domain over which its maximization of the worst-off position is defined. On one frequent Rawlsian statement of dualism, principles of justice are principles for institutions and not principles for individual conduct. In the economy just described, then, if the difference principle is a principle for tax codes, and not a principle for individual labor supply decisions, it tells some tax official to choose the tax schedule that is best for the worst-off positions *given* a pattern of labor supply hammered out in market exchanges that take no account of the principle. Labor supply is just one more constraint on the choice of a just policy, on a par with the society's technology or its stocks of unproduced resources. If productive skills are quite unevenly distributed in the population, and if people's work offers are quite elastic with respect to after-tax wage rates, the policy approved by the difference principle will preserve a lot of inequality in the ultimate distribution of incomes. Against that approval Cohen argues that people who accept the difference principle as a requirement of justice must instead acknowledge that it holds sway over their market stances; he claims that the principle directs them to deliver skilled labor in generous quantities even when their earnings are taxed down to the mean. A Rawlsian bureaucrat faced with Cohen's kind of Rawlsian workers will find that she can maximize the minimum income by taxing the population into strict equality. The incentive-based justification of inequality breaks down, then, provided that people apply the difference principle to their work decisions. But by barring the principle from regulating those decisions, a basic structure view frustrates its reconciliation with strict equality.

Cohen's observations have caused a lot of trouble for me and for many other people with whom I've discussed them. People in our group tend to think that justice has a special subject discontinuous from other moral involvements. But we hesitate to call humanly avoidable inequalities just. Can basic structure be made safe for our kind of egalitarianism, or must we give up one or the other of these dogmas? I will have good news and bad news for this group.

Suppose you have some concept of basic structure, and suppose you believe that basic structures are the subject of justice. You will conclude that justice principles fail to constrain those of your choices that play no part in shaping those structures. But these structurally irrelevant decisions are the only class of individual decisions that your view excludes from regulation

by justice, and your view excludes them only because they do nothing to shape a basic structure. The dualism sponsored in this way is importantly distinct from another available position. Suppose you recognize a class of individual decisions, called *personal* decisions, on which principles of justice must not bear. Your new view—call it a *Separation* view—commits you to exclude personal decisions from scrutiny based in justice for the reason that the decisions are personal and regardless of their causal upshot. Separation implies that an inequality is not unjust if people can reverse it only by aligning their personal decisions into special patterns.

The basic structure view that I defend eschews Separation; on my view you do not justify an inequality just by saying that it is produced or necessitated by patterns of personal choice. This feature of the view counts as good news for my group insofar as it permits us to renounce one possible vein of apology for inequality. Unfortunately the rejection of Separation does not suffice to secure Cohen's criticisms of wage differentials. Approval or disapproval of incentive-bearing inequalities under the difference principle still hinges on some social *facts*, on the shape of people's possibilities for coordinating their contributions to production. And this is bad news because, as I explain in Section IX, I have no argument to show that the facts recommend the unabashedly egalitarian policy that we crave.

I now sketch one account of Separation as a benchmark against which to compare the arguments that follow. The key to this outlook is Rawls's image of a *moral division of labor*; I draw on Thomas Nagel's development of that idea.[10] The problem of justice is part of the problem of how people are to pursue good lives for themselves, with every person attaching special importance to her own success, in a way that yet takes account of the equal importance of all their striving. An approach to this problem, to count as one, must leave over to every person room in which to pursue her own ends. Rawls proposes that people carry out this parcellization of moral sovereignty by erecting just institutions whose just-making features are independent of the pattern of people's decentralized choices from the remaining available spaces of individual action. With institutions of that kind locked in, people can press their own agendas knowing that justice is sustained however they choose from their spaces. The separation of institutional and personal spaces of decision affords a division of

10. John Rawls, "The Basic Structure as Subject," in *Political Liberalism* (Cambridge, Mass.: Harvard University Press, 1993), pp. 268–69; Thomas Nagel, *Equality and Partiality* (New York: Oxford University Press, 1991), pp. 53–54, 60–62.

labor whose function is to *externalize* the burdens of attention to justice, and one available conception of basic structure builds it up by just such a procedure of externalization. The basic structure of a just society, so constructed, consists of the institutions to which we delegate the execution of justice's requirements.

The very point of *this* basic structure view, then, is to screen off a space of individual decision from criticism and regulation grounded in justice. If it turns out that social patterns of choices from these spaces are replete with consequences for distribution, we will just forgo the redistributive possibilities that we might have captured by concerting those choices.

I won't raise any objection to the Rawls/Nagel ideal of a division of labor. I will try to show only that there is a second and independent way of accounting for a structural focus of justice. The alternative resembles this externalization story in being built up from individualistic foundations. I begin by examining some burdens of interpersonal justification that confront an individual participant in social interaction; from these burdens I then derive an egalitarian distributive principle focused on a basic structure. But while that principle's structural focus might have the consequence that individual actors are free to overlook the principle as they take care of their business inside some domain, it is not justified as a way of insulating that domain from the attention of justice. The focus has a more direct and positive rationale: I argue that the relevant justificatory burdens only acquire a distributive and egalitarian content insofar as the action that occasions them shapes a basic structure. While the resulting discontinuity between structure-bearing and structurally irrelevant individual action possibly affords a clean separation between institutional and personal decision making, this argument leaves us free to endorse instead a more complexly interpenetrated moral architecture if Cohen's worries persuade us to seek one.[11]

11. As I have said in Section I, I do not claim to be defending any of Rawls's views. But I have conceded that externalization is an important Rawlsian commitment, and I have announced that I am abandoning that idea in my own arguments about basic structure. So it might seem that to group my arguments with Rawls in any way is to misappropriate Rawls; I should explain why I suppose that I am still in the same neighborhood. I believe that Rawls's preoccupation with basic structure reflects not one but at least two distinct moral ideas. One idea is externalization. A second is the thought that social structures constituting societywide distributional mechanisms give rise to a set of *sui generis* obligations binding on the people who inhabit them, and that justice or a big, self-contained piece of justice consists in the satisfaction of those obligations. I am going to work on the second of these ideas. See Section V for a further attempt to locate the contrast between them.

IV

A.

Say that I *frame* you if I act with the intention of leading you to act in a way that advances my interests. I will assume that if I am not to act wrongly, I must not treat you merely as a means, and that, to avoid treating you merely as a means, I must not frame you unless I can justify doing so by appeal to your own interests or to other choices that you have made or to other principles or ethical contexts that my action calls up.

Many of the ordinary, one-on-one encounters that call for such justification readily receive it in one or more of the three forms that I have just mentioned. Framing often advances the framed person's interests relative to counterfactuals in which she is unframed; this circumstance can support a justification by *benefit*. Even where the framed person gains nothing from having been framed, she has often chosen her earlier actions in the knowledge that they would lead the framer to frame her; such a prehistory might supply a justification by *choice* were it to imply that she has consented to the framing. Finally you and I can often agree that our encounter belongs to some larger context of interaction governed by principles that already take account of your and my projects alike; those principles underwrite a justification by *context* if they ensure that each person's conduct in this realm is already constrained to respect the other's interests or agency in some suitable way.[12]

The requirement that we be able to justify our framing of other people's action imposes only a very weak constraint on large swaths of our interaction. Most important for the current argument, it implies no requirement that interaction bless its parties with any particular pattern of benefits.

B.

Now consider interaction in a world of general interdependence. The members of a big population are all struggling to advance their projects, choosing their moves in the teeth of others' action and succeeding or failing according as others' action allows. As one player in this field I find that my action and interests are causally connected to the actions of many

12. I am not going to elaborate the ways in which choice and context might justify framing; I will argue that both kinds of justification necessarily fail in respect of the socially interdependent framing to which I turn next in the text, so for my purposes it does not matter how these suggestions are fleshed out.

other people. But the pathways along which I can actually *frame* other people are a vanishingly small subset of the combinatorially explosive set of my connections to others, as there is at most a small group of people whose action is both subject to my direct influence and directly consequential for my interests. Acting in isolation I can frame people in this neighborhood, but not outside it.

However there is a second possibility. Say that a *profile* is a list of sequences of individual actions, one sequence per person. Say that a group of people *combine* for a profile if it is true of every member of the group: (i) that her decision to act her part of that profile is supported by her belief that the others will act their parts; (ii) that this belief of hers is supported by agreements she has reached with the others or by conversations she has had with them about what they will all do or by her observation of actions that the others have chosen in order to promote this belief of hers; and (iii) that she herself has promoted others' beliefs that she will act her own part of the profile. As I consider combining with different groups of people for various profiles, I discover more and more possibilities of acting so as to lead other people to act in ways that benefit me, since combination permits me to share in the neighborhood influence that my fellow combiners command.

Of course I will die before I find time to think through even a small fraction of the possible combinations that are open to me. Among those combinations that I do chance to consider, many are so complex that I am unable to compute their consequences for my projects. In other cases still, the act of promoting a combination is itself too costly or difficult to be worth my while. But suppose for a moment that all of my possible combinations are known to me, transparent, and easy and cheap. I have considered them all, and I have chosen to combine with others on our actual profile. Say in this case that my participation in that profile is *knowing*.

In striking this knowing stance, I am choosing to act my part of the current profile rather than to pursue some distinct profile. And I am choosing this posture because the entire trajectory of interaction that unfolds subject to that profile is better for me than alternatives. So in fact I am acting so as to lead others to act in ways that give me higher benefits than I would gain from other sequences of interaction. It follows that I am framing those others by my choice of this stance. This framing must be justified to every person whose action is influenced by it if I am not to wrong her.

C.

Suppose that you try to explain why people do what they do along some trajectory of this population's interaction, or why people live differently along two of those trajectories. In putting together these explanations you might invoke hypotheses of *social reproduction*. To explain the idea of reproduction, I need a small dose of vulgar, generic sociology. Say that a person's *situation* is a list of factors relevant to the intentional explanation of her stance in interaction. Among other things, an inventory of her situation might: characterize some of her basic interests, goals, and values; pick out a set of actions that are available to her under some classification of possible actions; state some consequences of her actions conditional on the actions of others and on other human variables; specify her information about those options and outcomes and about the state of others' action and other variables; and detail her method for choosing the actions that advance her interests or goals or that realize her values given that information. Suppose that you can partition the population into *types* such that when people's situations are stylized in certain ways, all the members of a type share the same situation, while the members of different types face relevantly distinct ones. Suppose that a distribution of people over types and an assignment of situations to types induces a distribution of actions in the population. Suppose that an assignment of situations and a distribution of actions by types together pick out a distribution of goods by type. Suppose, finally, that you can describe the evolution of people's situations by some law of motion in the population distribution of actions, a law that says how today's actions, given today's assignment of situations, determine the assignment of situations tomorrow.

Let a *basic structure* be a distribution of the population over types and an assignment of situations to types that are together reproduced by the distribution of actions they induce. A hypothesis of reproduction says that the suppositions of the last paragraph hold, and that every path of interaction spends most of its time in the neighborhood of some basic structure. It implies that some of interaction's invariances over time are explained by the mutual reproduction of pairs of situation assignments and action distributions, and that some of the similarities and differences between people's lives along distinct trajectories are explained by similarities and differences between the basic structures that those trajectories sustain.

I hope that this idea does not seem too wild. Notice that it has room for many mutually opposed understandings of individual practical reason and many rival explanations of social order. If you've been spending too much time with certain economists, you might want to associate these structures with the Nash equilibria of games, supposing that some profile of actions is reproduced because every person's component of that profile is a "best response" to the profile. But this is only one highly athletic form of reproduction and nothing like it is presupposed here. The situation assigned to each type by a basic structure picks out only a distribution on actions by members of the type, not a unique "response." And the actions that have weight in that distribution need not advance the actors' interests at all. Also one person's location in the basic structure and the actions she chooses there can fluctuate forever, so long as the ensemble of these individual trajectories continues to reproduce the type distribution and the situation assignment that compose the structure. Finally interaction can go on evolving in dimensions that are left out of the stylization in whose terms the structure is picked out.

An example: What you should put in a basic structure depends on where you live and on how you believe things work there. But it might help if I say how *I* would try to write down a basic structure of the world in 2003. First I would need to make a space of variables in which to distribute people. Out of old habit I would begin by considering a few forms of property (the power to use, the power to sell, and so on) in a few classes of productive resources (labor power, land, produced goods, blueprints); a few possible conditions of employment (neither working nor looking for work, looking for work, self-employed, working for somebody else on terms that she sets so long as she pays the wages, working for somebody else on terms that are continually jointly decided); and a person's position in the world distribution of alienable assets valued at market prices, broken into a few big bins (less than $100, less than $1000, and onto greater powers of 10, for example). I would put down a few of the roles that a person can play in a household (breadwinner, dependent, domestic tyrant, servant, sexual helpmeet). People are sometimes partitioned into fictitiously differentiated groups whose members expect deference from and inflict humiliation on, or owe deference to and expect humiliation from, the members of another group, so I would add a variable that says which kind of fictitious group, if any, a person is in. Finally I would list a few forms of coercive authority that a person can wield over others (the power to vote on laws that

tell them what to do, tax claims on their incomes, the power to shoot them at will) and a few forms of authority to which they might be subject (being bound by laws, owing taxes, being readily shot).

For each cell in the grid describing possible values of these variables, I would work out a few of the things that a person is likely to do in that cell: Would she accumulate property or learn how to read; would she sell her labor under this or that employment relation; would she accept Milton's "drooping and disconsolate household captivity" as the price of a steady flow of groceries; would she defer to her putative superiors; would she vote for a government that routinely frustrates her interests? I conjecture that the actual world distribution of people over this grid has been confined to some depressingly small neighborhood of its current position for a while and that I could do a fair job of explaining this stability by invoking such cell-specific decision rules and a limited roster of causal facts governing the interactions among things that people do in their cells. For example joint reproduction of the wealth distribution and the division of labor will be explained by the tendency of rich people to build up their stocks of goods by hiring people to use them to produce more goods, the tendency of unpropertied people to sell their labor for wages which they then consume, and the tendency of tax-hungry governments to safeguard the property of people whose investment decisions determine the path of taxable income. The reproduction of sex roles will ride people's decisions to seek affection, sex, and income at the sexually distinguished terms that prevail in their neighborhoods and to train their offspring to compete for them along those lines. The reproduction of deference and humiliation relations between groups will turn on the facts that being in a despised group makes you likely to be poor in the other dimensions and that being poor makes it difficult to erase the stigmas against you. And so on. Each of these alleged facts explains stability in one of the dimensions by invoking people's arrangement in some of the other dimensions. The explanations do not decompose, so I have to work in all of the dimensions if I am to work in any of them.

If my conjecture does not pan out, I can try adding new variables or regrouping current ones, and then check whether the revised scheme permits a self-contained explanation of its own stability. I expect that this process of revision will come to a halt before I have filled in too much more social detail. When the process does reach a self-sustaining complex, that's a basic structure.

D.

Assume that a hypothesis of reproduction holds. Every path of interaction is attracted to some basic structure, so every possible combination sends us to some basic structure. Suppose that two combinations send us to distinct structures X and Y. Suppose I expect that people of the type to which I expect to belong under X will do better than people of the type to which I expect to belong under Y. And suppose that there are people of type *t* whose situations and action must vary between X and Y if I am to realize this gain. If I promote combination for X because I believe that interaction structured by X will run more to the advantage of people of my type, then I am framing the *t* people by this move, and I must justify the combination to the *t*s if I am not to wrong them.

E.

A basic structure is a shaper of actions, then, but it is also a dispenser of goods: The assignment of situations to types that characterizes a basic structure and the action distribution that it induces also determine a distribution of goods by types. Even as a shift between two basic structures draws a demand that it be justified to the types whose actions are swayed in this move, the move implies a pattern of typical gains and losses that might supply the arguments of that justification.

In the one-on-one framing that I considered before, it could suffice for justification that the framed person have chosen to take a position in which she would then be framed. By contrast no typical protagonist of the convergence to a basic structure is capable of directing its course by acting alone. And while a person might be able to choose her type from a subset of the types in some structure, many other types might remain closed to her, so she cannot in general act to ensure that the selection of some structure is neutral for her action; basic-structural framing cannot generally be justified by pointing out that framed people have chosen to assume the types for which it counts as framing. Moreover the justification of basic structure, being the justification of a general framework of global interaction, is not readily referred to any more encompassing ethical context. It follows that justification by choice and justification by context are both typically unavailable in the case of combination for a basic structure. Of the three spaces of justification with which I began, only benefits remain. If I frame people by combining with others for some basic structure,

I must justify this move, if I can, by pointing to the goods that people of the framed types achieve in moving to that structure.

F.

Suppose that we all knowingly reproduce a basic structure X. That is to say, we all knowingly combine for X rather than for any other possible structure. I assume that for every type in X, people of that type will act differently in some other structure. So we must be able to justify, to every type, our combining for X rather than for the alternatives under which people of that type act differently.

From the conclusion of E above, these justifications must run in terms of goods. If X were strictly best for every type, then you could justify combining for it by arguing that everyone does better there than in any alternative. But people's interests do not in fact coincide like that. So you cannot consistently justify X to everyone by justifying it to each person considered in isolation from the others. If the reproduction of X is to be justified to everyone, its justification to each person must instead invoke the constraint that it also be justified to others.

I will now argue that it is indeed reasonable to invoke the constraint of justifiability to others in determining what should count as a justification to *me*. By hypothesis we are all combining for the structure X for the sake of the goods it provides us. So I must be able to justify my own decision to use the sum of my interactive relations with others as a machine for producing goods for myself. In justifying the selection of a structure to *me*, then, you can appeal to the constraint that it also be justified to others, because I have reason to honor the latter justificatory demand in my own right.[13]

To justify the selection of X over all other structures, then, we should show that the selection of its goods distribution from the set of all distributions supported by all structures could be justified to every person under the constraint that its selection be justified to every other person. This

13. Justification under this constraint resembles in one way Thomas Scanlon's contractualist justification of moral principles (*What We Owe to Each Other*) [Cambridge, Mass.: Harvard University Press, 1998]). Scanlonian people are to look for principles that no one can reject who is herself looking for such principles. The latter proviso on rejection is grounded on the assumption that everyone is interested in finding principles for the general regulation of behavior; the constraint that I am discussing has as its narrower foundation the assumption that everyone must justify using her interaction with others to produce goods for herself.

problem of the univerally acceptable selection of a goods distribution is the *starting point* of many familiar egalitarian arguments, and I can now follow those arguments to their familiar egalitarian conclusions. To recycle a version due to Nagel, I claim that, because there is no distribution whose selection is acceptable to everyone outright, we must choose the distribution whose selection is most acceptable to the person for whom it is least acceptable.[14] Goods are the sole currency of acceptability here, so that person is the person who fares worst under a structure. It follows that X can be justified to every type only if people of its worst-off type do no worse than people of the worst-off type of any other structure.

G.

I propose that just basic structures are those that everyone can knowingly reproduce without wrongfully framing anyone. By the conclusion of F, a basic structure, to be just, must be maximin in the set of basic structures at which we might aim.[15]

Actual social reproduction is hardly uniformly knowing; for the most part we stumble ahead paying no attention to most of the ways in which we might combine with others to alter the larger pattern of our interaction. So I need to explain the moral interest of the claim that a knowing reproduction of some basic structure would survive all criticism from the point of view of framing.

A first thing to notice is that I do not have to consider or to compute *all* of the combinations open to me in order to draw criticism from that perspective. If among the combinations that I do consider, I pursue only those that pick out a basic structure that organizes interaction to my advantage, I must be able to justify this stance to the people whose action I would influence by this choice.

And people do often combine for work on their structures. We vote or riot for or against state policies. We form unions and cartels to reorganize labor and product markets to our advantage. We try to shame the people who violate our taboos so that others won't violate them, or we join self-conscious cultural revolutions against played-out taboos. And

14. Thomas Nagel, "Equality," in his *Mortal Questions* (New York: Cambridge University Press, 1979), p. 23.

15. This set need not exhaust the physically and social-structurally limited range of possible structures. As I will mention in Section V, we might need to throw out some possible structures because they fail other requirements of justifiable framing.

we try to persuade other people to take our own sides in voting, rioting, association, and cultural policing. We must be able to justify these and similar moves with attention to the framing they involve. As we combine in these ways, moreover, we encounter further possibilities for adjusting the structure in other directions. If any one of us chooses not to pursue these further adjustments because their interactive consequences are worse for her, she must show that her knowing adherence to the actual structure is not wrongful framing. But if we all attempt to justify our own such stances, we set off a cascade of mutually inconsistent demands for justification. On observing their first-order inconsistency, we are led, as at F above, to collapse them into the all-for-one, one-for-all requirement that we aim for a structure whose goods distribution can be justified to every person under the constraint that it be justified to every other person. Just basic structures are stable rest points of the justificatory dynamics on which we're launched by our interdependent framing.

V.

Many arguments for egalitarian principles of distributive justice begin by *assuming* that people must make a universally acceptable choice of a global goods distribution. The last section has instead cooked up the moral interest of this choice from lower-order ethical ingredients. It shows basic structures to be the *subject* of the principle that it supports by showing that those elementary considerations only ground this principle when they are brought to bear on interaction viewed at its basic-structural level. In the remainder of the article I explore some distinguishing features of the egalitarian ethic at which this argument has arrived. I argue at VI and VII that the argument lends new plausibility to the idea of an egalitarian deontology. At VIII and IX I reexamine, from this orthogonal perspective, the problems of individual moral responsibility for distributive justice that occasion Cohen's dispute with Rawls. Here I will first consolidate the last section's argument by drawing out the respect in which it shows basic structures to be the ineliminable subject of the distributive principle that it supports.

I argued, first, that the obligations incurred in much ordinary interaction do not by themselves underwrite a morally urgent concern with distribution. That concern only gets started when we're faced with the special problem of how people are to justify their interactive reproduction of

a basic structure. People who aim for basic structures that favor people of their types are aiming to shape others' action to their advantage. So they must be able to justify those stances to those people. The focus on basic structure next *simplifies* the justification of framing in a way that brings distribution to the front. Because basic structures are both individually unchosen and globally consequential, this focus recommends *benefits* as the privileged space of justification. Moreover this focus collapses a series of justificatory requirements into the single demand that a basic structure be justified to every person in a way that takes account of its possible justification to every other person. The restriction to benefits and the collapse to one justificatory requirement together create a new template for the justification of framing: They create the problem of finding a universally acceptable global goods distribution.

Suppose you were to try to apply these ethics of framing to something that is not a globally consequential, collectively alterable, individually unchosen, systematically action-shaping and goods-distributing set of interaction's features. I claim that you would not get back the recognizably egalitarian concern with distribution that has emerged from the last section. Basic structure is the subject of egalitarian principles because we cannot eliminate it from this account of the value that owns those principles.

I should warn against two ways of overstating my conclusion that distribution is the linchpin of the justification of interdependent framing. First, my argument implies only that maximin is a necessary condition of the justice of a basic structure. Apart from the difference principle, the considerations collected here might support at two least further constraints. If you think that some framing is condemned just because it makes the framed person unfree to act otherwise than to the framer's advantage, then basic structures whose reproduction requires the relevant unfreedoms might be unjust for that reason. A just basic structure would have to satisfy a principle of liberty that keeps people relevantly free. Certain forms of direct relations between the actions and benefits of two of the types in a basic structure might also establish directly that it is unjust. For one person to hold another as a slave is wrong not only because the slave is poor and lacks liberties, but also because her master and his friends have contrived a set of circumstances for her, constituting the basic shape of her entire life, in which she is led to serve his interests. No appeal to benefits, choice, or context could justify this form of framing.

And to reproduce a basic structure that builds it in would itself be wrongful framing, so that structure is unjust. This conclusion permits us to account for the injustice of certain forms of subjugation and exploitation by appeal to the same considerations that ground the difference principle or the liberty principle, without reducing its injustice to a mere violation of one of those principles.

Second, the justice of a basic structure does not secure justification for all the framing that takes place within it. Suppose that a structure is sustained whether or not I use you to further some interest of mine. If I choose to frame you, I must be able to justify this move in one of the familiar ways. But I cannot justify it by folding this problem into the justification of basic structure, to which it is irrelevant. Since I cannot justify it in tandem with basic structure, my justification of it will not take an egalitarian distributive form. But I still need to justify it.

I can now state more precisely the dualist implication that I anticipated in Section III. I must be able to justify my decisions to frame other people. I also have various reasons to promote goods for other people. But I do not, in general, wrongfully frame worse-off people, or otherwise wrong them, just because I fail to devote myself to their goods. On the other hand when I combine with others to preserve or rework the structure of my interactions with others, I should try to justify that stance by appeal to egalitarian distributive considerations—ultimately by attention to the interests of the worst off. The reasons that rightly regulate my structurally implicated framing are in this way broken off from the reasons governing other things I do.

Notice that the aim of sequestering personal space has played no role in establishing that discontinuity. In fact I am now in a position to explain away the appearance that Separation is essential to a basic structure view.

If structures are sets of features of interaction that shape an individual's action and that she cannot alter by acting alone, you can now make out two reasons why you might want to set structures apart as the subject of special moral principles. On the one hand there is the externalizing view that I outlined in Section III: Because no individual actor can alter one of these structures, principles that take the structure as their subject place no direct demands on her isolated action. The restriction to structure thus carves out personal spaces for people in which they need pay no attention to the principles.

Section IV's argument runs roughly speaking in the opposite direction. Individually inescapable influences on individual actions draw a kind of

moral scrutiny that *results* in the relevant principles; the principles have a structural subject because they originate in attention to the structured shaping of individual action. The fact that A's action is shaped by some structure that she cannot alter is interesting here, not for what it implies about the kind of life that A can lead while conforming to principles of justice, but because it implies that *other* people have obligations *to A* that they discharge by conforming to the principles.

I suspect that this distinction between two directions of argument for structurally located principles is a hidden fault line in some discussions of the subject of justice. Even if the argument of Section IV cannot stand, it has served to bring this distinction to the surface.

VI

In this section I argue that the article's basic structure argument lends new plausibility to the following generic statement of a deontological egalitarian view.[16]

> *D:* If people are interacting in their attempts to live well, if the result of their interaction is an unequal distribution of the goods of life, and if they might also realize an equal distribution by aiming for equality, the worst-off people are treated unfairly by others. A primary moral reason to aim for equality is given by people's obligations to treat one another fairly in interaction.

I will assume that a plausible defense of D must not contradict

> *N:* If one person must decide between actions each of which results in a different pattern of benefits for other people, if she has no special relationships to these people that make her responsible for how well they fare, and if she acts in a way that benefits a person *i* less than it benefits some other person, she does not treat *i* unfairly by reason of that pattern of benefits alone.

Suppose that people are trading and bargaining with each other, producing things together, giving each other gifts, and so on. Every decision to transact in one of these ways is a decision to favor each member of

16. For convenience I cast it in terms of a requirement of equality rather than the maximin defended in IV, but the section's arguments are general to a larger class of egalitarian requirements including both.

a group of possible transactors with more or fewer goods. Flukes aside, these decisions will churn out an unequal distribution of goods holdings. By N, no individual actor has treated another unfairly by reason of her own local impact on the holdings. But D implies that there is unfair treatment here. Who is being unfair to whom, and how? In his perpetually recrudescent criticisms of egalitarian justice Robert Nozick tended to pose such questions rhetorically. Here I continue the research program that consists in taking his rhetorical questions literally.[17]

One answer comes from externalization. Possibly the claim N that I do not treat someone unfairly just because I fail to provide her with an equal share of the goods resulting from my action already draws on a division-of-labor idea. In general I do have a moral reason to see to it that the benefits of my activities are evenly diffused among their possible beneficiaries. And I would be treating others unfairly were I to fail to honor this reason in the regulation of my overall conduct. But in order that I might have my own life, I delegate the task of directly responding to this reason to some decision-making process that stands outside my personal space.

However this proposal cannot in fact account for N, since N omits any mention of ongoing external decision making; N's denial of the unfairness of unequally beneficial individual action is not conditional on redistribution's delegation to other decision making. Also it seems that a division of labor for justice, if it is appropriate anywhere, is only obviously appropriate to a just society. Suppose that we are all failing to attend equality through any collective external undertaking. Surely the requirement of fair treatment gives me *some* reason to attend it on my own dime. But N implies that even in this nonideal case there is no such reason.

A second answer helps itself to a state-centered view of justice:

> *S:* People who occupy positions of government authority or who influence its use, to treat other people fairly, must ensure that those people share equally in the benefits of governmentally empowered action.

Where a government exists, a person who helps to determine its policy must aim for policies whose benefits are equally divided if she is not to

17. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), p. 223; and compare Dennis McKerlie, "Equality," *Ethics* 106 (1996): 274–296.

treat others unfairly. Governments do exist and many of them have a lot of power to move goods around, so egalitarian requirements are possibly supported without contradiction of N.[18]

But this argument also draws familiar objections. Suppose we are living together without a state over our heads. Then by the state-centered view we are not treating one another unfairly if we trade our way deep into inequality. In view of that distribution few egalitarians would call our society just. Egalitarian deontology as articulated by the state-centered view fails to recover this class of egalitarian judgments.

Developing another observation of Nozick's, Dennis McKerlie argues that D also fails to follow from any plausible construal of S.[19] S is plausible if it is read to hold that people in government positions who are charged with securing certain kinds of goods for people would treat a person unfairly were they to deny her an equal share of *those goods*. But from this articulation of S it does not follow that government actors must aim for an equal overall distribution of all human goods, including goods for which they are not antecedently responsible. Policies determined in compliance with S could uphold gross inequality in the goods for which political actors bear no responsibility, and S would then offer no support to D's finding that people are treating others unfairly. Perhaps governments are properly saddled with a more expansive egalitarian writ, a negative responsibility for counteracting inequalities in the global distribution of all goods. But this responsibility is not to be derived from the bare requirement that government actors treat people alike. It seems to presuppose the value of societywide material equality rather than to furnish an independent foundation for it.

The basic structure argument permits an alternative defense of D, consistent with N, that escapes these objections to the division-of-labor and state-centered proposals. (I will also contrast this basic-structure-based defense with a third, Rawlsian proposal in the next section.) According to Section IV, I treat you unfairly if I frame you without being able to justify this influence. Absent some further context of interaction, such justification does not require that I act to spread the benefits of my actions between you and others equally. However in the situation of

18. See Nagel, *Equality and Partiality,* pp. 99–102; Ronald Dworkin, *Sovereign Virtue* (Cambridge, Mass.: Harvard University Press, 2000), pp. 1–3.

19. McKerlie, "Equality," p. 285.

general interdependence imagined by Section IV, all of our stances in interaction can survive criticism from this perspective of framing only if we seek out the basic structure that yields the right goods distribution. Where I act to maintain some other basic structure because it pays more to people of my type, I am wronging the worst off because I am shaping their action to my own advantage in a way that I cannot justify to them. D follows if it is granted that wrongful framing is a form of unfair treatment.

Responsibility for containing the centrifugal tendencies of general social exchange is not special to states or the people who run them, and interaction that reproduces an unacceptably unequal distribution is unjust even where there is no antecedently established government or superimposed central actor whom we can hold responsible for the failure to redistribute.

VII

The idea of social cooperation organizes many of Rawls's remarks on the scope and subject of justice, and some Rawlsians might defend D by appealing to a claim like

> *SC:* Principles of justice govern social cooperation, conceived as a set of joint activities by means of which every participant is made better off than she would be if those activities were suspended. The principles are to share out the benefits of cooperation in a way that is fair. When cooperation fails to satisfy those principles, some cooperators are treating others unfairly.

Suppose that fair shares are equal shares. Then if cooperation's fruits are distributed too unequally, some cooperators are treating others unfairly. SC upholds D without implying that *in general* I treat someone unfairly if and because I do not see to it that she gets a per capita share of the benefits of my action.

This resort to cooperation as the occasion of justice has inspired various misgivings about Rawls's program. I will just mention two groups of issues that arise and then point out how the basic structure argument of Section IV can recover some features of Rawls's outlook while sidestepping these difficulties.

Some critics fail to see how the cooperative provenance of goods could *create* the problem of justice in their distribution. In Nozick's example, we are to wonder why ten separately stranded Robinson Crusoes

face no obligation to redistribute resources from the richer to the poorer islands in their archipelago.[20]

A second criticism notes that egalitarian conclusions follow from SC only if the cooperative context establishes equal claims to all the goods of life. But SC conceives cooperation as the generation of a surplus over baselines in which people do not interact. In light of this conception, the surplus is a more plausible object of distribution than overall goods levels. Cooperation, if it establishes any claims at all, establishes equal claims to the possible gains over noncooperative baselines. If cooperation is constrained to produce an equal distribution of all goods, then counterfactually better-off people, who under equality gain less from cooperation compared to those baselines than do the worst off, can complain that they are shortchanged of the cooperative fruits.[21]

The two issues intersect because the most obvious ways of accounting for Rawls's focus on cooperation favor these anti-Rawlsian conclusions about the content of cooperative fairness. For example Brian Barry has associated SC with the claim that a person has a two-tiered reason to honor Rawls's principles of justice. First, each person wants the benefits of cooperation for herself and knows that to secure those benefits requires general agreement on and compliance with rules that share out the benefits in some way. Second, each person recognizes that only the division of benefits specified by the Rawlsian principles is a fair object of general agreement and compliance. But the most plausible ground on which to argue that a person should accept some cooperative scheme rather than fall back to the baseline is that it gives her a fair share of the gains over the baseline. A division justified in this way will inherit asymmetry from those baselines, coming closer to David Gauthier's conclusions about justice than to those of Rawls.[22]

The argument of Section IV permits us to account for the apparent salience of cooperation without running aground on these difficulties. According to that argument, relations of interactive interdependence create the problem of distributive justice because it is only by reason of her entanglement in those relations that a person is required to justify her shaping of others' action by appeal to a global distribution of goods.

20. Nozick, *Anarchy*, pp. 185–86.
21. Nozick, *Anarchy*, pp. 189–97.
22. Brian Barry, *Theories of Justice* (Berkeley: University of California, 1989), pp. 234–54.

That requirement does not get started for Nozick's ten Robinsons because none of the Robinsons is led to frame any of the other Robinsons as she fends for herself. It is true that the absence of framing in these islands is explained by the same facts of technology as entail that the Robinsons cannot together produce a surplus over autarchy. But the absence of framing makes the *moral* difference here, if Section IV is right.

And in the actual world, though (as Marx puts it) "intercourse in every direction" *might* make everyone better off than she is at some autarchic counterfactual, and though different structures can be compared in terms of their varying divisions of the surplus over that counterfactual, these comparisons are redundant, morally inert. They have no role in characterizing the justificatory problems that crystallize as the problem of distributive justice. So there is no pressure to claim that all framing is justified if it realizes some Gauthierian bargaining solution with respect to a nonagreement point of mutual disengagement.

VIII

I have just tried to show that Section IV's basic structure argument for equality lends new plausibility to controversially deontological understandings of the value of equality. I now return to the question raised in Section III, what a single person should do if she is to honor this value from day to day.

I start with the issue about *unjust* societies that Cohen has studied in his recent book about rich egalitarians.[23] Suppose that the distribution of goods in some society is unjustly unequal according to some principle. Does the principle require that a better-off person give goods to people who are worse off? If not, why not? If so, should she seek to *maximize* her contribution to worse-off people? If not, what considerations limit the scope of this requirement?

Some egalitarians think that distributive justice principles apply generically to situations in which people can affect the distribution of goods over groups of people. These *monists* answer my first question by agreeing that the principles give a person reason to act alone to transfer goods to the worst off. On what grounds could monists conclude that the required transfer stops short of a maximal sacrifice?

23. Cohen, *If You're an Egalitarian, How Come You're So Rich?* (New York: Cambridge University Press, 2000).

At the start of this article I mentioned one instrumental argument to that conclusion. People often find that redistributive programs work better when they are hardwired into overarching institutions than when they are embodied in decentralized individual calculi. Each person can overlook those programs in deciding what to do from day to day, but only because she knows that attending them directly would not actually advance them. But this argument for a limit to egalitarian demands is only obviously apposite to *just* societies. Surely isolated redistribution is not self-defeating in a world like our own.

So I will try a second suggestion. Since monists can agree that people have reason both to promote the right distributions and to serve their own interests, they can find that, when all values are given their due, people do right to put certain of their interests before the demands of redistribution. For example each person might claim a *prerogative* to order some parts of her life on bases that neglect those decisions' distributive ramifications.[24] This individual prerogative is not a commitment inscribed in the relevant egalitarian principles, but a construct of compromise. It strikes one possible position on a tradeoff between the value of equality and the interests of the individual actor.

Suppose that I am a rich egalitarian and that I accept this monist account. Then I think that my self-interested reasons and reasons of justice are at odds. If I believe as well that reasons of justice are generally stringent, I will conclude that it is quite important that I find out which compromises between justice and my interests are acceptable. But as Cohen and Murphy have each pointed out, many rich egalitarians do not merely decline to give their money away; they are in no hurry to figure out what contribution they owe.[25]

Many rich egalitarians deny, not that the rich should share their wealth, but that *justice* could possibly ground their reason for sharing it. In fact Murphy and Cohen both report that they have been somewhat embarrassed to conclude that individual philanthropy advances social justice.[26] Rightly or wrongly, the monist view implies that this conclusion

24. Cohen's admission of an individual prerogative in the context of his incentives argument ("Incentives," p. 370) was prompted by criticism from Samuel Scheffler, and follows Scheffler's more general proposals for "an agent-centered prerogative" in Scheffler, *The Rejection of Consequentialism* (New York: Oxford University Press, 1982).

25. Cohen, *How Come?*, pp. 151–52; Liam Murphy, *Moral Demands in Nonideal Theory* (New York, Oxford University Press, 2000), pp. 3–4. Murphy offers this observation of complacency in a discussion of beneficence, not justice.

26. Cohen, *How Come?*, p. 150; Murphy, "Institutions," p. 282, n. 73.

is nothing to be embarrassed about. Monism leaves no room for the suspicion that philanthrophy is irrelevant to justice, which must be the hangover of some other, subsequently discarded ethical view, like the boyhood Marxism of Cohen's reminiscences.

I have already discussed a distinct route to an individual dispensation from distributive responsibility, the externalization thesis. Just societies, to be just, must leave over scope for individual partial striving, and people can secure that scope only by vesting distributive responsibility in agencies that operate outside people's personal domains. On this view the limit to individual responsibility for redistribution appears not as a compromise between justice principles and individual ends with which they conflict, but as an entailment of the externalization that is itself a requirement of justice. In a just society, then, each person has no effective reason of justice to attend to distribution within her space. The complacency and the suspicion of irrelevance that I have just described find a modicum of rationalization in this outlook.

However I doubt that externalization can establish that people have no reason based in justice for undertaking isolated redistribution in *unjust* societies. For on its face it is only a claim about just societies: it is the claim that a just society's distributive operations would stand apart from personal space. This claim does not explain why, when their actual institutions surround them with unjust inequalities, people do not accept *some* measure of individual responsibility to pick up the slack.

Liam Murphy defends a monist view that is distinctively positioned to make sense of these nonideal perplexities.[27] He argues that if individual actors are excused from maximizing benefits for others in the face of an unacceptable distribution of goods, this dispensation holds because the promotion of better distributions just is a collective responsibility. Where other people fail to attend to distribution, a person may yet face redistributive requirements, but these fall far short of demanding that she do everything possible.

I am not sure why monists should suppose that the responsibility for distribution is collective. One answer suggested by Murphy's related arguments on the demands of beneficence is simply that this thesis is needed in order to explain away the widespread judgment that a requirement of maximal contribution is overdemanding.[28] But this abductive

27. Murphy, "Institutions," pp. 290–91.
28. Cf. Murphy, *Moral Demands*, p. 98.

argument is vulnerable to the arrival of other explanations. I now offer one alternative, rooted in the argument of Section IV, which enjoys the advantage that it is directly recommended by considerations apart from its competence to account for judgments of overdemandingness.

On the Section IV view, the injustice of a basic structure entails that I would do wrong to promote it for the sake of goods that it promises me. But my action will draw disapproval from this source *only* if I have acted so as to promote this structure. It follows that an ordinarily rich inhabitant of an unjustly unequal society need not make transfers to the poor in order to escape such condemnation. For unless a person is staggeringly rich, she cannot alter her population's distribution over a set of types and typical situations just by holding onto her money or giving it away. Other people will take no note of her isolated donations as they decide how to live; they will go on making the decisions that reproduce the advantages to which she owes her wealth, however she disposes of it. By retaining her wealth, then, she cannot intend to secure any particular complex of relations with poorer people. She is sitting on it because to let it go would be directly costly for her, and this motive for retaining it is not condemned.

In arguing that justice does not require the rich to unload their wealth on poorer people, I leave open the possibility that the rich should give to the poor because people who can do great good for others at little cost should help them. Murphy writes that a basic structure outlook requires a billionaire to spend heavily on "Quixotic" political projects for reforming institutions even when "she could clearly do much more to alleviate suffering or inequality" by donating to schools or hospitals that serve the poor, but I doubt that the view is committed to such advice.[29] If the contemplated political adventures are truly quixotic, or even if they are mere long shots, the billionaire would be unwise to sponsor them, even as mutual aid or beneficence give her overpoweringly strong reasons to build hospitals and schools.

I don't think that acceptable accounts of individual obligations of justice are constrained to endorse any degree of quotidian complacency on the part of rich egalitarians in unjustly unequal societies. So I don't claim that the basic structure view draws any new support from its superior ability to rationalize their seemingly self-serving stances; I've only tried to show that it puts them in a different light.

29. Murphy, "Institutions," p. 281.

As evidence that this reconsideration is not driven by any concern to detach personal life from responsibility to reasons of justice, I mention finally an example of unjust circumstances in which the Section IV view might recommend that we act for justice at home. Suppose that sexual differentiation sustained by the spontaneous association of men and women embeds unjust inequalities in the basic structure. Suppose that men and women could erase those differences by acting, against habit, to reshuffle their usual roles in household and wage labor and in their negotiations over sex. Suppose that many other men and women are making the switch, so that by following their lead I could combine with them to refashion sex roles at large. And suppose that I could live well and carry on respectful friendships with women whether or not I make the switch, so that my only effective reasons for and against it are my interests in, and my beliefs about the justifiability of, these different structures of association. Then the Section IV view gives me reason to embrace the new practices, their private location notwithstanding.

IX

From these "partial compliance" problems I turn to Cohen's question about the productive careers of citizens of *just* societies.

Consider again the economy with decentralized labor markets and anonymous taxation that I described in Section III. As other critics have found out, it is not easy to stabilize Cohen's own view of the Rawlsian skilled worker's obligations in this economy.[30] One possibility is that she is to form a probability distribution on the minimum goods level conditional on various rules for accepting and refusing job offers, and then to choose the rule that maximizes the resulting expectation of that minimum. Evidently this informationally demanding proposal—call it *decentralized maximin*—will require a lot of work before it is interpersonally coherent.

But Cohen does not in any case recommend an individual algorithm for maximizing the worst-off position; he promotes a more open-ended *egalitarian ethos*. To give this one possible content, consider that a worker who faces a given tax schedule and wage structure can open larger or

30. See especially Pogge, "Reflections," pp. 149–52; Andrew Williams, "Incentives, Inequality, and Publicity," *Philosophy & Public Affairs* 27 (1998), pp. 225–47.

smaller gaps between herself and others by accepting or refusing fatter or thinner wage offers. A worker steeped in what you can call an *ethos of scruples* will avoid opening any such gaps, accepting only those offers that make her no better off than she expects other people to be.

Suppose you think that the difference principle immediately requires individual Rawlsian workers to honor decentralized maximin, or that it instructs them directly to observe this scrupulous ethos. Then you know that conscientious Rawlsian workers will not respond to the incentives contained in an inequality-preserving tax policy. You can then conclude that this policy is not recommended under the difference principle.

So Cohen might have run his argument against wage differentials by first claiming that the difference principle directly requires either decentralized maximin or the scrupulous ethos and then drawing the latter conclusion about a just tax code. But Cohen does not run it that way. Instead he starts from the received justification of incentive-bearing inequalities, which holds that they are necessary for maximin given people's work stances, and points out that this asserts a false necessity, since workers could instead choose unspecified alternative stances. He then claims that workers should adopt one of those alternatives, whatever they are, for the reason that avoidable inequalities are then avoided.

Cohen's reliance on this strategy invites the interpretation that he does not himself view decentralized maximin or the scrupulous ethos as a directly recommended requirement of the difference principle. Whatever his view, Cohen will run into some important difficulties if he does embrace one of those ethics.

Suppose that a person's *good* is some function of her after-tax income and of the kind and duration of her work. Suppose that a tax system is in place that sends back a uniform distribution of individual good. A person who obeys decentralized maximin simply maximizes that uniform level. But equality obtains no matter what she does. If egalitarian reasons are concerns to avoid or minimize inequalities or to better the condition of strictly worse-off people, she has no egalitarian reason to maximize the uniform level. Since Cohen does not endorse decentralized maximin, and since it cannot be given an egalitarian rationale in the egalitarian society that he seeks, I will drop it as a possible articulation of his egalitarian ethos.

For its part the ethos of scruples gives a worker no reason of any kind to undertake any particular program of work in this strictly egalitarian

society. Equality is assured whether or not she works in the jobs to which her skills are best suited and regardless of the amount of time she puts in; there are no gaps that she must close by working long hours in socially useful jobs. But then the uniform goods level that results from scrupulous work choices under equality can be quite low. Absent some further regulation or motivation of these work choices, there is no reason to expect that uniform provision under the scrupulous ethos will match, let alone surpass, the minimum level afforded by selfish motivation and an incentive-minded tax policy.[31]

What you make of this last observation will depend on how you resolve an important ambiguity in Cohen's program. At some points Cohen appears to argue only that the general currency of his ethos would *obviate* the difference principle's recommendation of an inequality-preserving tax policy: Where that ethos rules, the difference principle gives tax officials no reason to choose the incentive policy, since it will not lead people to offer more of the right kinds of labor. This obviation thesis is to be distinguished from the claim that the combination of maximally redistributive taxation and a Cohen ethos can produce a uniform goods level higher than the minimum levels that incentive regimes deliver where work choices are purely self-interested. I don't know whether Cohen thinks that his ideal is maximin in this more expansive sense—maximin over the set of possible policy/motivation pairs, or as I will put it *globally maximin*. But Cohen agrees with Rawlsians that a plausible egalitarian ethics must aim to make worst-off people as well-off as possible. So it is difficult for him to recommend strict equality and the scrupulous ethos if they are not globally maximin. He might defend them by invoking the reflective incoherence of alternative scenarios. Perhaps people would balk at adopting a *selfish* work motivation for the *egalitarian* purpose of making the worst-off better off. But Cohen supposes that Rawlsian workers can "unreflectively internalize" an egalitarian ethos. So it seems they can also unreflectively internalize a selfish one. And if their internalization of it is unreflective enough, reflective incoherence will not deter them from living up to it.

31. A reviewer for this journal points out that this objection does not get started if strict equality is replaced as the distributive ideal by some weaker prioritarian goal. For then the ideal tax structure will preserve some inequality, so that under it there exist strictly worse-off people whose interests give skilled workers reason to work long hours. I suppose that this way out is open to Cohen, but it considerably lowers the stakes in his critique of Rawls.

I conclude that Cohen needs to make it plausible that maximally redistributive taxation and a Cohen ethos are together globally maximin. And I am led to characterize Cohen's ethos so as to make that plausible. I will assume, then, that Cohen's Rawlsian workers are to adopt a *productivist* ethos, choosing to work long hours at socially useful jobs in a society with a strictly equalizing tax policy. And I will assume that they are to honor this norm *because* it ensures that there is no inequality at the global maximin.

In assessing this proposal it is important to set aside one tempting misconstrual of Cohen's original argument against incentives. Cohen inaugurated his anti-incentives campaign by considering how skilled workers might argue for low tax rates on high incomes.[32] They might argue that the worst-off should be as well off as possible, that the worst-off will be worse off if skilled workers are taxed at a high rate than if they are taxed at the lower rate, and therefore that the workers should be taxed at the lower rate. Cohen says that this argument is unacceptable because the worker makes its second premise true, if it is true, and because she would do wrong to make it true. He also claims that a worker who utters this argument resembles a kidnapper who argues that kids should be with their parents, that the kid whom the kidnapper is holding will be kept from her parents unless they pay the kidnapper, and therefore that the parents should pay him.

What work is done by this parable of the dialogic kidnapper? Kidnapping is wrong, in part, because kidnappers hold children captive intending to making that second premise true, so that parents have reason to pay them. Apart from any independent wrongness of holding people captive, it is wrong to give people reason to serve your interests by announcing that you will harm people they care about if they do not serve your interests. One possible use for the kidnapper analogy, then, is to underline the fact that, just as the kidnapper does wrong to make his premise true so that parents will hand over the ransom, so would the skilled worker be wrong to make her premise true so that tax officials who care about the poor will keep taxes low.

But in fact we are not to assume that, by withholding her labor, Cohen's skilled worker intends to force a lower tax rate or to shore up her

32. Cohen, "Incentives," pp. 339–47, 355–72.

position in bargaining over shares of the social income. Cohen disavows any such *strategic* context for his argument. We are to assume instead that the worker simply accepts or refuses each of a series of work and wage offers while believing that her past acceptances and refusals cannot sway employers' later offers or the community's choice of a tax code. On that assumption it is irrelevant to claim that withholding labor is an unacceptable way of making people give you their money.

Though Cohen does not make that irrelevant argument, a surprising proportion of the people with whom I've discussed his articles have a false memory of reading it there. In any case we need to dismiss any thought of strategy and to ask what grounds for Cohen's claim about the requirements of the difference principle remain.

Suppose once more that an equality-inducing tax policy is in place and that a worker decides that she will accept some job at some wage. How do you know whether this stance is justified under the difference principle? According to the variant of Cohen's view that I am now trying out, you should ask what offers she and the others would accept if they were selfish and if they were to face various inequality-inducing tax policies. Then you should find the maximum worst-off position over all of those inequality-ridden alternatives, and learn what workers are doing in that maximin case. Finally you can conclude that this worker is violating the difference principle if she is offering less or different labor than at that inegalitarian counterfactual. Or, applying a slightly weaker test, you might conclude that she is violating the principle if she is delivering less or different labor than is assigned to her in some efficient social production plan whose average product equals the minimum provision achieved in the inegalitarian counterfactual. The productivist ethos, finally, must be such that it leads people to make work offers that pass at least the weaker of these tests; unless the ethos has that tendency, its concatenation with an equalizing tax policy will not be maximin in the set of structure/motivation pairs.[33]

I will argue just below that when the difference principle is grounded as in Section IV it does not license the conclusion that workers do wrong under equality if they fail to match some inegalitarian counterfactual. But this conclusion is hard to swallow, I think, even before you consider that

33. Pogge ("Reflections," p. 150) reaches a similar interpretation of Cohen's proposal and objects to it on grounds related to those given in the next paragraph of the text.

argument. This conclusion conditions the requirements of one worker's compliance with the difference principle in an egalitarian society on facts about what she and the other workers would do under other institutional arrangements and acting on other, self-interested motives. For example, to act justly, the worker must offer more work under equality, the greater her taste for income as against leisure, since that preference would lead her to offer more work in the inegalitarian counterfactual. Once we set aside the thought that this worker works less under equality than at one of those inegalitarian alternatives *so as to bring that alternative about*, we have, I think, no basis on which to criticize her work offer when it happens to fall short of her contribution under that alternative.

Though I am not sure how Cohen can reply to this objection, I doubt that it defeats his defense of strict equality under the difference principle. I have developed it for two reasons, shy of a refutation. A minor reason is that it serves to soften up that defense, so that my own rejection of the Cohen ethos seems less expensive by comparison. More important, though, the basic-structural diagnosis to which I now turn centers on the very facts about the character of decentralized work choices that have organized my criticisms of Cohen.

To explain that diagnosis, I need to close one gap in my Section IV discussion. How do we determine the set of eligible basic structures from which justice requires that we choose a maximin? We are not free to conjure up any structure we like by imputing arbitrary motivations to people. We have to start by considering structures that are sustained by action that people would tend to choose in their structurally assigned situations. Because we are looking for a just structure, we can however morally launder this set in one way: Suppose that a structure X is at first glance unsustainable because, under X-like circumstances, people act to turn X into a structure Y under which they are better off. If Y is worse for its worst-off type, this knowing generation of Y is wrongful framing. Faced with X-like circumstances, then, people should act in ways that realize X rather than Y. So X must take Y's place in the set of structures that are eligible to be ratified as just.

Consider once more an economy in which tax policy is set so as to maximin the goods distribution given the pattern of work choices that prevails in a decentralized labor market. Suppose that people must choose between two stances: They can accept or refuse work offers so as to maximize their own good, or they can sign on for socially useful assignments

and long hours at relatively low after-tax wages. If enough people take the first route, the corresponding tax sustains a lot of inequality; if enough make the second, productivist choice, after-tax wages are equalized at a higher level than the minimum under the first regime. The basic structure sustained by productivism, if we include it in the set of eligible structures, is maximin. Should we include it? Does it relevantly resemble the structure X that I described in the last paragraph?

The skilled must not refuse productivism on the grounds that people of their types will get lower wages in the resulting tax regime. For their refusal would constitute the knowing pursuit of a nonmaximin structure, a posture assumed so as to exact extra pay for people of their type.

However the skilled worker might have other reasons for ducking a productivist norm. Possibly she just does not want to do the work. If she declines productivism out of a direct aversion to the work—if she reaches this decision overlooking its effects on tax policy or the induced distribution of after-tax wages—she is not wrongfully framing anyone. Evidently this point just rehearses my criticism of Cohen: The skilled worker's withholding of her labor need not be strategic, and is not condemned unless it is.

But if skilled workers can opt out of the productivist life without wrongfully framing anyone, we have no grounds for insisting that the eligible set includes an economy in which productivist motivation yields equality at a high level. A structure marked by selfish motivation and incentive-bearing inequality might indeed be maximin in the set we actually face, and therefore just.

With this conclusion I have kept my promise from Section III. I have not reverted to the separating dualism that Cohen set out to oppose; I have not claimed that individual work decisions are exempted because they are *individual* decisions or because they unfold in an ostensibly *personal* milieu. And an adherent of this basic structure view does not shrug off the identified limit to redistribution with the same equanimity that she reserves for a purely natural barrier to same. Instead she strikes a more tragic note in pointing out that equality is doomed by the decentralized interaction structure, by the circumstance that an individual skilled worker, confined by current hypothesis to an atomized choice of work, cannot be held responsible for the signal that the group of skilled workers send when they all refuse work at relatively low wages.

Moreover this conclusion is not the last word on wage differentials. Under the tax and market structure that I have followed Cohen in discussing,

self-interest is no incentive to choose long hours or socially useful jobs if the tax system returns an equal distribution and if each worker represents so small an atom of social labor that her own choice of a productive contribution cannot influence the tax official's choice of a target uniform goods level. But decentralized markets and anonymous taxation are not the only possible social form; individual rewards can be conditioned on individual contributions in other ways than by the tax adjustment of market wages. For example, people might work in *teams*, small groups of producers whose total products are shared out to their members according to some group rule. If the teams are small enough, if individual productive capacities have the right sorts of distributions, and if the *informational* role of wage differentials is inherited by some other mechanism competent to bring about an efficient assignment of workers to teams, then a profile of self-interested work choices subject to a rule of equal shares can deliver more good to each member than incentive-preserving tax regimes will guarantee their worst-off parties. These Ifs mark out an unhappily unobvious economic contingency.

Should the facts happen to favor this regime of equal shares, basic-structural justice would help to guide skilled workers in their daily negotiation of it. Suppose for example that skilled people can quit their teams and sell their services in a black market for skilled labor that would form if enough of them were to quit. This exit option gives them bargaining power with which to angle for higher shares inside their teams. The arguments of Section IV might recommend that the skilled observe a norm against quitting so that this threat is hollowed out. If they were to try instead to make the threat credible, they would then be aiming to structure their association with others in ways that favor them with extra goods. Cohen has supposed that a basic structure view must shield every form of competitive self-assertion from justice's scrutiny; the view that I have sketched joins him in calling into question at least *this* selfish stance.