Chapter 10
Equality, Distributive Justice and Legitimacy

Abstract
Many States in the Twentieth Century have sought to redistribute the national wealth according to some principle of distributive justice, usually an egalitarian one. They have failed. Wealth is not a material substance that can be completely controlled or manipulated, and the attempt to control its distribution requires great concentrations of power, which themselves generate inequalities far worse than the ones they were supposed to remedy.

Equality is not only an impracticable, but an incoherent, ideal. It only makes sense when the respect is specified in which people are, or should be, equal; and however many the respects in which people are equal, there are others in which they are, and should be, different. The arguments for egalitarianism are fallacious, although in some situations distributive justice requires limited equalities. In most business contexts, however, distributive justice requires that regard be paid to the contribution made by each individual, and hence favours differentials, though often practical difficulties, and sometimes ideological principles, may argue against. Even if distributive justice, rather than equality, is the aim, the State cannot distribute national wealth fairly, or adopt an overall incomes policy, that is just, because the State does not exist for an agreed, overriding aim, though there is enough agreement on values to enable the State, when such decisions have to be made, to make them on the basis of distributive justice.

Because the State cannot be based on distributive justice, no satisfactory justification of the economic set-up can be given. There always will be grounds for legitimate complaint, based on the irrationalities and injustices that emerge when many people are making free decisions. Businessmen and others who make decisions should do what they can to be humane and to mitigate the misfortunes of the unlucky.

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§10.1 Equality, Distributive Justice and Legitimacy

§10.1 Redistribution

States redistribute economic resources. Policemen would not be paid, drains mended, patents protected, unless money was raised to meet these expenses. By levying taxes the State redistributes money from tax-payers generally to its employees and beneficiaries, in order that the various purposes it has may be achieved.

In the Twentieth Century the principle has often been extended to claim that the State should take it upon itself to redistribute, by means of taxation, the national wealth in accordance with the principles of distributive justice. And if, indeed, the State had unfettered power, it would seem that it could allocate economic resources as it thought best. The communists tried, and failed. They failed because wealth is not something material, like steel, which can be manipulated and pushed around at will, but much more slippery and intangible, depending ultimately on the ability to choose, itself something inherently not subject to dictation from outside. The communists were able to make people make steel, but could not make them want it. The command economy ground slowly to a halt, and only the black economy flourished in the closing years of the Soviet era. Money is valuable as a lubricant, facilitating cooperation that enables different people to get what they want, but of little use if people cannot get what they want: you cannot run a car on engine oil.

Communism is ostensibly an egalitarian creed, and it was largely in the name of equality that the communists and others have sought complete control of the national economy. But complete control requires great concentration of power in relatively few hands, and, as we have seen,1 power is closely allied with wealth. In most countries in most ages those possessed of great power enrich themselves, sometimes by fair means, more often by corruption. The second half of the twentieth century has been no exception. Rather few egalitarians have practised what they preached when they had the opportunity to do otherwise. The purity of motive that fired the young man with a righteous zeal to make the world a better place by abolishing riches tends to evaporate when he is a Member of Parliament with a nice loss-making farm in the Home Counties. But even the many Members of Parliament who pass by the opportunity to make a tidy pile are not really on an economic

1 Ch.3, §1 Money (False5, pp.1,2).
equality with their fellow citizens. They get sent on fact-finding missions at the public expense; when they arrive in a foreign capital, they are put up by the ambassador in the embassy, rather in a bed-and-breakfast near the station. It would not be sensible to have it otherwise. But life is not the same for those in power as for the general public. The food in the embassy is nicer.

Economic equality is undermined by the political inequality needed to enforce it. But even if power were in the hands of dedicated public servants who sought nothing for themselves and were scrupulous in never enjoying any good thing not available to all their fellow-citizens, economic equality would still be unattainable. For wealth is too slippery for the State to be able to control it completely. Maybe I am not allowed to have more money than anybody else. But I am still in a position to do others a good turn, and they may well reciprocate. Doors open for the doctor which otherwise remain tightly shut.² In Great Britain very heavy taxes have been levied on inherited estates. But although at first it had the effect of eliminating the class of people who thought that taxes ought to be paid, it has not diminished the number of the very rich. The very rich take expensive advice on how to avoid inheritance tax. The Inland Revenue used to spend much time and money trying to stop up loopholes, but as fast as they legislated against one, ingenious minds found another. It could not be otherwise. For if I am in a position to confer on others greater power of making choices, I can persuade them to make the choices I want made, even after I am dead in favour of my heirs. the effect of the legislation has not been to stop the Duke of Westminster being very rich, but to provide many lawyers and accountants with a profitable line of business.

In other countries, too, egalitarian measures have had inegalitarian results. India, on the face of it, has been a socialist country since independence, but the effect of socialism was to create a maze of directives and regulations which only people with know-how could thread their way through. Those within the charmed circle were in a privileged position, able to enjoy the good things of life, and safe from competition. Although money, left to itself, tends to be unequally distributed, it is one respect more equal than any form of allocation. The poor man’s penny is as good as the rich man’s, and he does not have to have any special contacts or esoteric know-how to be able to spend it. States that take unto themselves great powers to regulate the economy disfranchise the poor and uneducated, making it more difficult for them to grow rich, or even to use the little they have to get what they want. Not only is it contrary to fiscal justice for the State to undertake a general redistribution of wealth, but it is counter-productive too, creating greater, and unfairer, inequalities than those it was supposed to remedy.

² See, for example, Solzenitskin, Cancer Ward, RefReq
Equality is a treacherous concept. It seems very simple, and is in fact rather complicated. We readily suppose that it is a simple matter whether two persons are, or ought to be, equal: but until we are clear in what respect the judgement is to be made, the question is empty, and any answer can be given.

Equality has the internal logic of equivalence relations, such as ‘same’, ‘similar’ and ‘like’. We need, first, to specify the respect in which things are said to be equal—same age, same weight, same income, same religion, same nationality—and then, almost unconsciously, see that the relation is transitive—if I am the same age as you, and you are the same age as Peter, then I am the same age as Peter—and symmetric—if I am the same age as you, then you are the same age as me; and that equivalence relations divide up a group into mutually exclusive “equivalence classes”—cohorts, those in the same income bracket, co-religionists, compatriots. These equivalence classes are of great importance in society; they are often bonded together by powerful ties of shared experience—old comrades associations—or common interest—trades unionists—and fraternal fellow feeling is an important ingredient of social solidarity. But the fellow feeling is often accompanied by, and reinforced by, feelings of hostility towards those in another class: the different generations are conscious of the generation gap, the rich and the poor feel threatened by each other, Rumanians hate Hungarians, and vice versa. Society would fall apart, were it not for the fact that there are many different respects in which each of us can be the same as somebody else, and we may be cricketers together even though of different ages, and rich and poor alike assemble to share their wartime experiences and remember their fallen comrades.

There are many different respects in which we are the same, and therefore many different respects in which we are different. We are all the same in respect of being human, and each one of us is different in being the unique individual that he is. Because we are all human, we all have rights, the right not to be killed, not to be injured, not to be imprisoned. Because we are all different, each one of us is to be treated as an individual, and not a mere unit, and addressed individually about any adverse decision that may be in prospect or may have been taken. Sometimes samenesses dominate our thinking, sometimes differences: we are all equal before
the law, and every man should be tried fairly, and according to laws that apply generally; but the courts are there to differentiate between cases, and even the most ardent egalitarian does not believe that innocent and guilty should be treated alike. Justice demands that like cases be treated alike, but reminds us also that circumstances alter cases. What circumstances are relevant, and what not, is often a matter of dispute. Sometimes circumstances, in themselves naturally relevant, are deemed irrelevant. There may be good reasons for this—ease of administration, or uniformity of practice—but to set against them there may be some sense of justice not having been done, since justice bids us take all relevant factors into consideration.

§10.3 Egalitarianism

Equality has been an emotive slogan in the twentieth century. It has aroused very strong emotions, usually of hostility towards existing institutions, and usually accompanied by great cloudiness of thinking. People, realising that they are different from other people, some of them better off than they are, conclude that they are being discriminated against, and that the difference between them must, at all costs, be abolished. And the costs have been heavy. In the name of equality kulaks have been liquidated, nobles humbled, great houses razed, the heritage of history destroyed, freedom fettered, economics hamstrung, nations impoverished. Sometimes some sort of equality is a good thing. But it is well to be discriminating in its application, and think through its implications before hitting out at existing inequalities.

In economic affairs the main thrust of egalitarian sentiment has been in favour of equality of income and against differentials. People do not see why one person should be paid more than another. The fact that he works harder, or is more skilled, or is more in demand, is held to be irrelevant. The man who sweeps the floor in a factory has just as large a mouth, just as great a thirst for beer, as the man who operates the lathe, the foreman, or the designer, and so should have as much money to spend. They may not agree, but he is not persuaded by the force of their arguments, and continues unconvinced that they should have more.

Like all forms of scepticism, it is, within its own terms, impregnable. If a man does not want to see the force of an argument, he cannot be made to. But others can be equally sceptical, and
not see why he should be paid the same, or indeed anything at all. Some positive argument for equality is needed if the dialogue is not to end in mutual incomprehension. Positive arguments can be adduced: arguments from need, arguments from status. These are arguments of distributive justice, and will be considered in the next section. But often no specific argument is put forward, only a vague sentiment that equality is good thing. Against such sentiments we can only invoke other sentiments, that liberty is a good thing, or justice, or prosperity, and then rub the egalitarian’s nose in the fact that equality is incompatible with these. The clearest case is liberty. If we value liberty at all, we must let people dispose of some things as they please. We may not like the taste of teenagers, but if they like giving money to pop stars, we ought not to try to prevent them or to nullify their choice. They might just want their favourite pop star to be rich, not as a consequence of their purchasing his hits, but just because they liked the idea of his having gold-plated taps in his bathroom. Their individually small contributions to his benefit fund could total many millions. What then would the egalitarian do? He could confiscate the money—some egalitarians have argued for marginal tax rates of more than 100%—but then he is denying freedom of donation to his fellow country-youngpersons, or he may compromise his egalitarian principles enough to allow people to give presents, but then cannot object to fathers enriching their children, and cannot justify confiscatory death duties. There is no escaping this dilemma. If we have liberty we allow people to make choices as they think best, and they may dispose their worldly wealth so as to make one person better off than another. Either we insist on equality, and deny people that liberty, and hence every non-trivial freedom, or we respect the choices of others and must therefore accept the differences and inequalities they may choose to create. It is a dilemma that most political thinkers of our age resolutely refuse to face. But however much the issue is fudged, it remains the case that we cannot have equality and liberty, and that if we set any store by liberty, we must abandon all thought of equality being in itself a good thing, and argue only for those more limited forms of equality that can be argued for on other grounds.
Equality can be argued for on grounds of distributive justice. When giving out food in a refugee camp, we may give everyone equal rations because their need is the same. The purpose of distributing food was to meet the needs of the refugees, and their needs are substantially the same. Or the basis of distribution may be status: in the regimental mess, the school, the monastery, everyone has the same food because they are all comrades, and it would indicate a lack of togetherness if they ate differently. In these cases the purpose of the distribution is given by the context or the nature of the association. The nature of a business enterprise is different. It exists to provide goods or services for sale, and can only do so on the basis of the efforts contributed by its employees. In its contracts of employment with each employee, the employee agrees to cooperate in certain ways so as to enable the firm to benefit from the fruits of cooperation. Because the fruits of cooperation naturally accrue to the firm alone, pecuniary adjustment is called for. In determining what this should be, it is relevant to consider how great the fruits of cooperation are. If one employee, the lathe operator say, makes a larger contribution than another, the sweeper, say, then he would be unjustly treated if he were not paid more. Differentials of pay are justified by differentials of contribution.

The egalitarian will have none of that. He does not see why a difference of contribution should be relevant. But in refusing to acknowledge the relevance of what the employee contributes, he is refusing to recognise that he is an individual with a point of view of his own, who could have chosen not to make the contribution that he did. It was up to the lathe operator whether he would or would not operate the lathe, and his decision actually to operate it should not be taken for granted. To brush aside his point of view and ignore the fact that he has made a greater contribution is to treat him not as an individual but as a unit, a pair of hands but not a person. It is line with the egalitarian’s general preference for a homogenized admass society, and his dislike of differences and individual variation. And it is profoundly wrong.

The general argument against differentials is flawed, but differentials are often exceedingly difficult to assess. Many people make a contribution that is vital, if lowly: the night watchman who prevents a break-in or calls the fire brigade in time to aver serious damage saves the firm thousands of pounds; is he to be
paid less than the skilled designer? In large organizations it is exceedingly difficult to make any estimate of what each employee contributes, and instead of trying to do so, some conventional measure is adopted, and written into the terms of employment. Up to a point the market provides an impartial and usable yardstick. If other firms find it worthwhile to pay skilled workmen more, then that is an indication that their contribution is worth more. But the market is highly imperfect. Many employees are rationally reluctant to switch employers, and, furthermore, skills take a long time to learn, and changes of technology may put a premium on some while making others less in demand. Paper qualifications are highly regarded, perhaps too much so. Age and experience are often cited, but this is often taken to mean mere seniority. Social convention plays a large part. None of these are satisfactory as indicators, but are adopted for want of anything better. Different grades of employment are established with recognised differentials between them, and the employee is paid according to the appropriate scale. Essentially, distributive justice is codified and replaced by a series of different entitlements, which do not claim to correspond exactly to distributive justice, but are evidence that it is not being entirely ignored.

The approximation to distributive justice is crude, and open to criticism. The differentials can be criticized as being too finicky, or as not being fine enough, and correspondingly it may be urged that they should be smaller and fewer in number, or that they should be refined to take individual differences of desert into consideration. Either move may be appropriate in some circumstances, neither is a panacea. It is right to reduce differentials, and even to abolish them altogether, when there is a strong sense of community fostered by a strong sense of common purpose, as in a monastery or a nation in time of war. Where we have a sense of being all in it together, we may be ready to forgo the differentials which are or due. Some egalitarians, to their honour, have been happy to work for the same wage as those who were evidently not making as large a contribution as they themselves were, just because they believed in equality, and wanted to practise what they preached. On a quite different tack, it may be generally recognised that though different individuals do contribute in different degree, it would be so difficult to try to determine what different individuals had in fact contributed, that it would be expedient not to try, but pay everyone the same, recognising that it was, indeed, rough justice,
but that any alternative would be impracticable. On a different
tack again, equality of remuneration may be appropriate in the
professions, where the identity of purpose of the individual and his
profession is so great that the contribution he is making to the pro-
fession is equally a contribution he is making towards fulfilling his
own aspirations. Some preachers are more eloquent than others,
some pastors more effective than others, some priests more devoted
than others: but no injustice is done in paying them all the same
stipend, because those who have done better by the profession’s
standards have done better by their own, and seek no further re-
ward. The same is true in the academic world, as is shown by the
old practice of Cambridge colleges to pay each fellow an equal div-
idend. We readily agree the principle that some academics make a
greater contribution than others, but know we will not be able to
make an accurate assessment until a hundred years have passed,
and in any case reckon that those who have been able to make the
greater contribution are happy to have done so, and were not doing
it for the money.

In recent years, partly as a reaction against egalitarian prac-
tices, the argument has been the other way. Piece work rather than
hourly wage rates are in vogue, and job descriptions are refined and
awarded more finely differentiated rates of pay, and wherever pos-
sible, salaries are performance-related. It is appropriate where the
job can be precisely specified, and the performance accurately as-
sessed. In such cases, distributive justice is clearly served, and
each employee has a strong incentive to get the best job he can,
and to do it well. By tying its costs closely to its inputs, a firm can
maximise efficiency, and ensure that its resources are being used to
the greatest possible effect. Under suitable conditions more finely
tuned differentials are fairer and enhance efficiency.

But often these conditions do not obtain. What is reasonable to
ask of clergymen or academics is not reasonable to ask of salesmen.
They have no antecedent commitment to selling soap. They may
take a pride in doing their job well, but their job is essentially
determined externally. They do it for money, and if they do it well,
they should have more money, and not be told that they should be
so much identified with the firm that having done well by the firm
should be satisfaction enough. Conversely, differential stipends,
except by way of recompense for extra expenses, are inappropriate
for the clergy and for academic work. And performance-related pay
is not only inappropriate but counter-productive in many walks of
Questions of distributive justice arise within a business enterprise or a profession, where there is some common objective to which individuals make a contribution by cooperating. But in times of peace there is no overriding common objective underlying the existence of the State. The State is an unselective community to which people belong willy-nilly merely by the accident of geographical location: that is why the laws have to be enforced, if necessary by coercion. But without a common set of objectives, the basis for distributive justice is lacking.\textsuperscript{4} We cannot have an incomes policy that is fair. Many people think we should, and are affronted at a pop star’s earning more money than a nurse. It is defensible to think the nurse more deserving, and if the State were a business enterprise, it ought to pay the nurse more. But the State is not a business enterprise, and exists primarily not to carry shared objectives into effect but to provide the framework in which many different people and organizations with different aims can live together in peace. This is not to say that there are no shared values underlying the State. There are: but they do not constitute a single system of objectives that can be realised in a coherent set of activities. And therefore we cannot establish an overall incomes policy based on principles of distributive justice. Pop stars will always get more than they deserve, and nurses, sadly, less.

The impossibility of there being an incomes policy based on principles of distributive justice has been taken by many thinkers to show that appeals to principles are always out of place, and the market alone can determine what people are to be paid. But that does not follow. We cannot have an overall incomes policy, but sometimes we have to make collective decisions about incomes and cannot leave it to the market. How much should the Queen be paid? There is no market in queens. Lots of people would be prepared to be Head of State, Prime Minister, Member of Parliament, Admiral of the Fleet for no pay at all, and we have no means of determining what the going rate for the right sort of person would be. We have to decide. We base our decision in part on the expenses of office, and the compensation we should give people who have abandoned more lucrative occupations in order to serve their country in public office, but we are often also guided by some idea of the contribution made by the office holder to the safety or well-being of the realm, that is, by some canon of distributive justice.

\textsuperscript{3} See further below, ch.13, §2, p.4 of confron0.doc
\textsuperscript{4} See Aristotle, \textit{Politics} RefReq.
§10.5 Legitimacy

The impossibility of there being an incomes policy based on principles of distributive justice means that incomes, and the possession of wealth generally, is unfair. People do not get what they deserve; nor, it should be added, what they need. There is not a simple argument that can be addressed to people at the bottom of the pile to show them why they should get less than everybody else. The justifications we can give are complicated and tenuous, and may well fail to carry conviction. But justifications are called for. People do lose out: we owe them some explanation, some attempt to reconcile them, some attempt to make things easier to be reconciled to.

Much of the explanation is the old one, that the alternative is worse. At present in the aftermath of the communist experiment, it is easy to mount that argument, and be believed. But just as the memories of the Civil War and of the French Revolution faded, and ceased to reconcile the poor to their lot, so in time to come the horrors of communism will be forgotten, and the manifest defects of the economies then in operation will provoke serious questioning. And it will be seen that theoretically a better arrangement would be possible: what is less easily seen is that in practice most changes will be for the worse. Revolutions have a natural tendency to go sour. Those who get into power to overthrow the established order become corrupted by the power they have seized, and use it for their own aggrandisement rather than for improving the lot of the underdog.

We need to dispel false images, and point out evident truths. As long as people think of money in quasi-material terms, it will seem evident that the way to make the poor richer is to make the rich poorer, and greed will reinforce envy to destabilise society. As long as the theory of business is that of the Economic Man out solely for himself, others will feel entirely alienated from him. The stable framework of law that enables the rich man to be rich secures also the life, liberty and possessions of the poor. Although the “trickle-down effect” has been derided, it remains true that the poor in rich countries benefit enormously from the productivity of the economy and the wealth of the rich: slum-dwellers in the United States who riot would not have TV sets at all if there had not been rich people who could afford to buy the first, pricey, models.

The arguments, though tenuous, are valid. But where emotions are concerned, attitudes are more telling than arguments. Our attitudes are uncaring. The admass society conveys the impression
for caring only for the customer’s dollar, not for the customer himself. In part, as we have seen, it is the other side of the coin from freedom; but it is greatly reinforced by the adversarial aspect of economic transactions, untempered by considerations of justice. The emphasis of much contemporary thought about how business should be conducted is not only wrong, but wrong-headed. By concentrating on profit-maximisation alone, to the exclusion of all other considerations, a businessman portrays himself as essentially external to everyone else, alien and hostile. If only the emphasis were on fair dealing, the sense of alienation would be greatly assuaged.

A sense of togetherness is the strongest antidote to alienation. A society in which there are many different associations sharing common interests and objectives is one in which everyone can find a niche where he belongs and is valued for himself, and not his money. Many of these associations will not be business ones, although, as will be argued in Chapter Thirteen, it is perfectly proper for businesses to make donations to them. But businesses, too, can share objectives with the rest of society, and the more they are seen to be doing this, the greater will be the identification with them, and the greater the legitimacy of the economy in which they operate. The legitimacy of the economy, like the legitimacy of the State, is always under strain: things are often not what we should wish them to be, often not what we think they ought to be, but we are required to put up with them none the less. The mere fact of being the established order confers some measure of legitimacy, but is not conclusive. Beyond that, legitimacy can be earned, and can be lost. The underlying thrust of economic transactions is cooperation, but there is an inevitable adversarial aspect also. By stressing cooperative concerns and being guided by canons of justice businessmen can enhance the legitimacy of the economy, and make it more acceptable even to those who least benefit from it.

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Basil Mitchell would like a section on Trade Unions, perhaps here

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5 See above, ch.3 (Money), §2, p.4 (Ambridge).