

Equal Rights to Extensive Basic Liberty

The Two Principles of Justice

JUSTICE AS FAIRNESS

1. **Equal Rights:** Each person is to be granted an equal right to the most extensive basic liberty compatible with a similar liberty for everyone else.
2. **Social Inequality:** Social and economic inequalities are to be arranged so that they are ...
 - (a) ... attached to positions and offices open to all under conditions of fair equality of opportunity (*Equal Opportunity*);
 - (b) ... to the greatest expected benefit of the least advantaged (*The Difference Principle*).

1.>2.

2.(a)>2.(b)

(Where '>' means *lexically prior*)

Examples of **Equal Basic Liberties**: Political liberty (right to vote, right to hold public office); Freedom of Speech & Assembly; Liberty of Conscience & Freedom of Thought; Freedom of Person; Right to Property; Freedom from Arbitrary Arrest and Seizure; ...

Case I: Money, Influence, & Political Liberty

Lessig argues that money buys political influence (via lobbying, PACs, campaign donations, etc.) and that, consequently, our democratic political institutions are *institutionally corrupt*.

Question: if this is true, would that mean that Rawls' First Principle is violated?

Lessig's Proposed Solution: Democracy Vouchers. Every eligible voter will be given \$50 in "democracy vouchers" that they can allocate to issues and candidates of their choosing. Candidates are eligible to accept these vouchers on the condition that they fund their campaigns only with democracy vouchers and small dollar (\leq \$100) donations.

- o **Question 1:** What is the intended affect of this proposal? Do you think it would work?
- o **Question 2:** Does this proposal, in its quest to restore equal representation, undermine other important liberties?

Freedom Of Speech: Is "money speech"? Is donating money to a political cause an *expressive act* and, therefore, protected speech?

Institutional Corruption:

"*Institutional corruption* is manifest when there is a systemic and strategic influence ... that undermines the institution's effectiveness by diverting it from its purpose or weakening its ability to achieve its purpose, including ... weakening either the public's trust in that institution or the institution's inherent trustworthiness." [Lessig, "Institutional Corruption, Defined"]

In the case of Campaign Finance, Lessig thinks that the current system has two consequences:

- (1) the government (in particular, Congress) doesn't track "the will of the people"; rather, it represents the interests of the ultra-rich; and
- (2) because of this, we've lost trust in the democratic political process.

Campaign *contributions* vs *expenditures*.

Is Lessig's proposal *paternalistic*?

Case II: Economic Liberty & Tomasi's "Free Market Fairness"

Rawls' First Principle of Justice guarantees "*an equal right to the most extensive basic liberty compatible with a similar liberty for everyone else.*"

Tomasi criticizes Rawls for neglecting the importance of *economic liberty*.

"For many people, commercial activity in a competitive marketplace is a deeply meaningful aspect of their lives." [Tomasi, 182]

ECONOMIC LIBERTY

What are economic liberties and why are they important?

Economic liberties must be secured . . . "as a sign of the respect we owe our fellow citizens to make decisions about **saving, working, and spending** in light of their own values and ideals. How many hours to work each week, and on what terms? How much to spend on living now and how much to save for retirement and health insurance? How to balance the calls of work with the calls of family and other projects? [30]

Having the liberty to make decisions about these sorts of things is important: it's an expression of our *agency*.

Unlike **Nozick**, Tomasi does *not* ground the importance of economic liberty in robust inviolable *property rights & self-ownership*. Rather, his argument is **Rawlsian**.*

Some Questions . . .

Question 1: Are economic liberties as important as Tomasi contends?

Question 2: What are economic liberties, exactly? For example, do anti-discrimination laws violate our economic freedom?

Question 3: Is Tomasi correct that various social programs and policies (e.g., welfare, state-provided health insurance, social security, minimum wage laws, etc.) undermine our agency? Our capacity for self-authorship?

Question 4: Is the free market the best way, or the only way, to ensure that our economic liberties aren't compromised? (Will the free market ensure that everyone has an *equal* degree of economic freedom?)

Tomasi attempts to reconcile Rawls & Libertarianism by endorsing **Market Democracy**:

1. Economic liberties are to be protected; but
2. Institutions are to be designed so that the least well-off benefit.

In a Market Democracy, the government plays a small role (e.g., provides some public goods). The market will allow for economic growth, which will benefit all (the less well off, in particular).

*Here's the idea:

- (1) Because society is a joint venture, its institutions should respect everyone's *highest-order interests*.
- (2) In particular, everyone should have the opportunity to develop and exercise their capacities for *self-authorship*.
- (3) Because *economic decisions* are an important part of self-authorship, economic liberty must be protected.

Free and equal people, under conditions that are fair, would agree to protecting Economic Liberty.