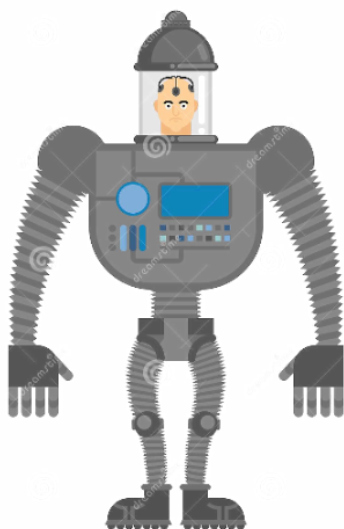


G.A. COHEN: THE ANTI-MOSES



*How One Communist Sought to Turn Men
into Machines, and Why He Was Wrong*

Dmitry Chernikov

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Fierce work melts your prison sentence.

– Soviet propaganda poster

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Introduction

Modern political philosophy is dominated in equal measure by perverts who think that freedom is slavery and fantasists who build utopian castles in the air. This book is about the thought of Gerald Cohen who was both; I criticize his views from the libertarian perspective. In contrast with the ponderous sterility of Rawls, Cohen is spirited and dazzling. He is one of the cleverest socialist egalitarians, and there is sport in picking on him. Cohen was a peculiar combination of first-rate analytical philosopher and devoted Marxist. Indeed, he billed himself as an “analytical Marxist” engaged in the project of, more particularly, making Marx appear less irrational and, more generally, developing “scientific socialism,” an endeavor I suppose as reasonable as scientific polytheism—deepening our understanding of the psychology of Poseidon.

Cohen’s well-to-do grandfather, a timber merchant in Kharkov, Ukraine, along with his family, immigrated to Canada in the 1930s as the Soviet repression began to intensify. Cohen’s mother developed a commitment to the Bolshevik crusade and settled in Montreal among many other communist Jews, and as a result Cohen was born in 1941 into a radical environment which shaped his entire life. One of the paradoxes of his exploits was that Marx eschewed moralizing about social problems; he did not at least for the most part, for example, consider capitalism to be unjust. Accordingly, many of Marx’s followers did not think that it was necessary to justify the revolution philosophically. Capitalism, in their view, was full of contradictions which would intensify with the growth of the “productive forces”; socialism is the next economic stage of human civilization; and finally socialism is inevitable—the solution to the evils of capitalism would be found in the very process of capitalist decay. There was no reason to argue for socialism—“history” would take care of everything promptly, and in any case socialism / communism would feature limitless abundance with the attendant on it end to interhuman conflicts (and hence to problems of justice), and no one could possibly be against that.

Though Cohen rejected the socialist inevitability thesis, he retained full faith in both communism and equality. Drawing on his training as an analytical philosopher, he therefore sought to defend these causes on non-Marxian foundations. In yet another curious and baffling paradox, Cohen says precious little about socialism as a system of *production* of goods, and that is because he does not admit to having any knowledge of economics. Almost all his arguments I am familiar with are attempts to defend equality of *distribution*, which he believes is the true content of “distributive justice” or proper distribution of “benefits and burdens” of social cooperation. He

simply assumes that the goods to be distributed have been produced or are somehow available or even, when he describes the Marxist doctrine, are non-scarce like air. Equality of course is an immensely influential value, even today, and the claim that it is required by justice, social or otherwise, must be faced head on.

Cohen's impressively far-reaching egalitarianism is opposed by both left-statism (or modern "liberalism") and libertarianism. He engages John Rawls as a champion of the former and Robert Nozick representing the latter. As we trace his arguments, we will see that Cohen's main aim is to destroy human nature by turning men into obedient machines without a will of their own. To achieve this goal, he strikes at numerous aspects of humanity. I will begin by previewing a few of his points and retorting to them.

1. Cohen considers after-tax income to be a "reward" to people (*RJE*: 34). This language suggests that he believes that the state legitimately owns everything but, in order to utilize to its advantage the pesky human self-interest which irritatingly makes humans *unlike* machines, sometimes offers "incentives" to talented workers to get them to perform better. Yet, as Mises points out, "there is in the world of reality no mythical agency that rewards or punishes." (*HA*: 846n5) And again: "Reality does not reward toil and trouble. If toil and trouble is expended according to well-conceived plans, its outcome increases the means available for want-satisfaction." (*HA*: 396) For Robinson Crusoe who, alone on his island, grows tomatoes, the tomatoes he produces are precisely his "reward." In other words, Crusoe's success is its own reward, and his failure is its own punishment. In a free economy, what a worker has produced is also his "reward." Cohen makes two claims: first, that the worker has a moral duty to serve; second, that sometimes the worker's dedication may flag, and the state, mindful of human weakness, mercifully and indulgently grants him the grace of a higher wage to motivate him. Both are false: what one produces is automatically what and only what he is able to consume or exchange.

Suppose *A* and *B* each cultivate their own garden. With his superior skills, intelligence, and physical ability, *A*'s garden is luscious and bears much fruit. *B*'s, on the contrary, is barren. In what sense is this situation "unjust" and what would give *B* the right to steal from *A*? This same story prevails in the market. If they each, as per economic law, get their discounted marginal value product, and *A*'s is greater than *B*'s, it means that the fruits of *A*'s labor exceed those of *B*'s, and they each get according to the measure of their success. This success is not a *reward* but a *natural consequence* of their undertakings.

Cohen's argument is that *A*'s gardening aptitude is undeserved by *A*, that the difference between their powers is due to blind "luck" (such as

genetic roll of the dice) and as such is “unfair” and ought, in the name of justice, to be equalized or at least compensated for. We’ll deal with this idea later. For now the point is that people are not rats running mazes for external rewards given out by “distributors.” They produce goods and services for each other’s consumption. As they do so, their incomes are determined accordingly.

It cannot therefore be said that after-tax income is a reward which the state bestows on the worker for which the worker should be grateful and praise his overlords and obey them faithfully lest even what he has will be taken away from him. It’s one thing to argue that one should submit to the injustice of taxation for some greater good such as funding the police department. It’s quite another to claim, in an attempt to break the worker’s spirit, that plundering him of the fruits of his labor that are rightfully his is the essence of justice itself.

2. Cohen proposes that ethics is not vitiated despite the fact that vagueness ineluctably characterizes moral reasoning:

People say that they’d like to give to charity, but that they are so bewildered as to be paralyzed by the multitude of good causes... that they don’t know to which charity to give. No similar paralysis affects them when they have a surfeit of restaurants to choose from. They simply choose one that they know or believe to be good, even if it is not the best, and they think that’s good enough.

And people say that you can’t *know* that a given charitable donation will do any good, thereby erecting a standard for epistemic confidence which, if applied to their own self-interested concerns, would deprive them of a lot of enjoyment, such as that to be derived from investments that merely happen to pay off.

People also press the sorites question (where can one draw the line?) more insistently in a charities than in a self-interested context. People say “If I give them \$10, why not give them \$15? Where am I going to stop?” But nobody says, “If I spend \$10 on a bottle of wine, then why not \$15? Where am I going to stop?” (RJE: 5-6)

The reason for these differences is that the moral law and the duties it promulgates press for *sacrifices* from people who must satisfy the law possibly at the expense of their own pleasures. In such a case, the sacrifices required for the sake of righteousness must be specified definitely and precisely, especially if punishments are administered for noncompliance. The disavowal of vagueness is simply a corollary of the liberal principle of the rule of law. People must know exactly what is expected from them to be safe from sanction.

Now donating to charity is an aspect not of natural law but of Chris-

tian morality of grace; nevertheless, the similarities exist to the extent that people donate less out of present love than out of the sense of Christian justice as works of mercy precisely in order to, in the long run, increase the charity in their hearts. By giving away alms, one gains a holy will and the spiritual light in it; beneficent acts also dispose the soul to the reception of divine grace.

The trick is that this exchange is extremely subtle and roundabout. Specifically, it occurs via the mediation of steady execution of moral duties. How much money to send to charity is not in this formulation a choice of pleasures like which restaurant to go to where there is no right or wrong answer; the confusion Cohen describes is due to the fact that which charity to fund, with how much money, and so on are problems where a mistake makes one objectively guilty if not before the natural law than before God. Since the rules are vague (in fact, grace is by its essence over and above natural law), and what the Lord requires of each particular person to be perfect is not obvious, it's no wonder that people are cautious and reluctant to commit.

The performance of a genuine (natural or Christian) duty then can ultimately be in the interest of the duty-doer. Later in the book we'll have occasion to bring up this essential connection between service and man's spiritual flowering.

3. Cohen discusses the incentive argument (Chapter 1) with respect to the "talented rich" and the untalented poor. The idea is that the welfare of the "poor" can be enhanced by reducing taxes on the "rich." These rich, spurred by the promise of greater "reward," will produce so much more as to benefit the poor, as well. What an exasperating turn of phrase. Those who are rich are rich because of their high *net worth*; the incentives Cohen has in mind apply not to that but rather to *income*. These are different things, as in physics the position of an object differs from its velocity. An income stream is not net worth but the speed at which one's net worth increases with time. There are high-income people with low net worth or even with negative net worth if they are in debt; there are rich people with low income or even who are dissaving and slowly whittling down their net worth. A talented person need not be rich, and a rich person need not be talented. Cohen, with his cruel ethics, impugns *all* the "better off" so much that he fails to make even this elementary distinction.

Wealth of course is a means to income and can be thought of as capitalized income. If you own a house, you can live in it, deriving a stream of *psychic income* from it; you can rent it out and gain a stream of *rental money income*; or you can sell it, obtaining *wealth* (which you can then loan out and procure *interest money income*). One's talents can only be rented out, so by "riches" Cohen must refer simply to enjoyment of life. High-income people

spend more money each month on their own momentary delights which therefore exceed those of the less talented. Indeed, Cohen's egalitarianism demands, with qualifications, equality of welfare in which case high earners are ripe for the plucking. It's true that those talented people who succeed may enjoy more pleasure than the worse off. I deny that they should feel any guilt on that account. Here I want to draw attention to a symmetry. This is that the talented folks who *fail* suffer more pain than the worse off. Talents, intelligence, etc. entail greater sensitivity to life's vicissitudes. The greater potential for happiness for the talented is matched with greater potential for sorrow. One might say this is an aspect of "justice" itself: life is a gift but is not free. Cohen focuses on the winners among the better off who are conspicuous and ignores the losers who suffer in oblivion; he sees the better off in the upper reaches of heaven and ignores the better off in the lower depths of hell. He overlooks their higher responsibility.

Suppose for the sake of argument (what I do not grant) that one's natural and social endowments are underserved. Robert Nozick (1974) points out that the desert bases need not themselves be deserved "all the way down" (225). But in that case, the strains of the forces detrimental to life tug with greater ferocity at the more than at the less talented. Talents are both a boon and a burden. Talented individuals have greater ambitions and face greater frustrations. The greater one's potential, the more fearful and grueling its fulfillment. To triumph over adversity is therefore a greater achievement for the better off. Their victory is more glorious (as their defeat is more crushing), and, if they manage to attain superior happiness, they deserve it to that extent.

4. Inequalities, Cohen argues, "might indeed challenge the sense of self-worth of those who are at the bottom" (*RJE*: 77). This is entirely, and even obviously, true. But it is perfectly fitting and just. Being at the bottom is precisely a sign of social worthlessness. It means that the poor person is useless to the community. No one cares for the services, if any, that he has to offer to other people, at least not much. He needs to reevaluate his approach to life and work ASAP. Moreover, restoring one's self-respect is a result of some kind of successful *action* as a manifestation of individual initiative, of personal involvement in the economy, not of being passively suckled by the state.

The meaning of "community" and "fraternity" is that the person blessed with superior nature and nurture (such as by being born into a better country or family) does not despise the less talented, is not puffed up with pride, does not revel in his superiority as he calls his brothers worthless, but cooperates with them for mutual benefit. The Biblical parable of the talents indicates that both the servant who got 5 talents and made 5 more and the servant who got 2 talents and made 2 more received similar

commendations. On this conception, each person ought to do the best for himself with what he is given. No one is either artificially privileged by the state or artificially oppressed, including by taxes. All are equally exposed both to the danger of failure, which is the more spectacular the better endowed one is – e.g., losing 5 talents of one’s starting capital is more tragic than losing 2 – and to the thrill of success. They respect each other’s nature and contributions and squeeze the most profit for each other from their association and business partnership. In short, “community” is not a synonym for socialism or welfare state.

1. Nuke the Equality

In *Rescuing Justice and Equality*, Cohen aims to save his ideal of equality from the difference principle of the system of John Rawls. You may have heard of Rawls as a major political philosopher whose chief invention consists in the device of the original position (OP). It is a means to working out a hypothetical social contract. Let all members of society gather together as if in some Plato's heaven and seek to discover the just social institutions – what Rawls calls the basic structure of society. But there is a trick. All negotiations are to take place under special circumstances where no one knows his actual place within social cooperation, his religion, class, race, wealth and income, or indeed the demographics of the society being constructed. This way, we ensure impartiality. Rawls woe libertarians by insisting on the strict priority of liberty; he seduces socialists with his difference principle: all goods are to be equally distributed unless inequalities are to the benefit of the worst-off residents of the *polis*; and he is a modern left-liberal in his policy prescriptions. (Does the OP yield the conclusions he favors? In Chernikov 2021, I argue that when rightly understood, Rawls' artifice in fact results in full-blown libertarianism.)

The distribution is of what Rawls calls “primary goods,” which he defines as various universal essential means to every citizen's ends irrespective of what those ends are, and which include money. The difference principle allows, indeed requires, inequalities in material income and wealth if as a result the welfare of the least advantaged comes to be as high as possible. As utilitarians seek to maximize the *average welfare*, so Rawls wants to maximize the *minimum* in terms of *primary goods*, claiming that it is this contract that will be made in the OP. The causal story of how inequalities raise everyone's standard of living varies, e.g., Cohen proposes that “one possibility is that the rich work so much harder when the tax rate goes down that the tax take goes up, and more is available for redistribution. Another is that when the rich work harder, they produce, among other things, (better) employment opportunities for badly off people.” It's more complicated than that, but for our purposes let's agree with him that it is “immaterial” exactly why “when the top tax is 40%, the talented rich produce more than they do when it is 60%” (*RJE*: 35).

Rawls repeats on a number of occasions that the parties in the original position are “mutually disinterested,” e.g.,

they are conceived as not taking an interest in one another's interests (*TJ*: 12);

they are not willing to have their interests sacrificed to the others (*TJ*: 112);

all parties try to win for themselves the highest index of primary social goods, since this enables them to promote their conception of the good most effectively whatever it turns out to be. (*TJ*: 125)

Cohen replies that:

in the original position mutual indifference is assumed for methodological reasons to derive justice from rational self-interest under a veil of ignorance constraint. But it does not follow that the principles chosen by mutually indifferent parties of the original position are consistent with mutual indifference when they operate as rules of interaction in a functioning society. (*RJE*: 81)

Rawls is concerned solely with society's political constitution and economic policy, not personal morality. Cohen demurs. He "rejects the conclusion that impersonal justice is a matter for the state only"; "demands of distributive justice reach personal decision" (*RJE*: 9). He contrasts Rawls' view "that distributive justice is a task for the state alone" with his own, "which is that both the state, with no life of its own, and the individual, who is indeed thus endowed, must, in appropriately different fashions, show regard in economic matters both to impersonal justice and to the legitimate demands of the individual" (*RJE*: 10).

Cohen proposes that "in a society of wholehearted commitment to the [difference] principle, there cannot be so stark a contrast between public and private choice. Instead, citizens want their own economic behavior to satisfy the principle, and they help to sustain a moral climate in which others want the same." (*RJE*: 70) Thus, his *egalitarian ethos* (EE) completes and consummates the difference principle as personal morality that was at first conceived by Rawls as an instrument of government policy. Our author presents some quotes from *TJ* to suggest that Rawls might have viewed his approach with some sympathy, but it is certain that Rawls made no explicit allusion to any such thing in the book. The switch from the discussion of what kind of society is best to personal morality is fully Cohen's own baby. In Chernikov 2021 I go into some detail contrasting act utilitarianism with what I call lawgiver (or passive) utilitarianism. I argue that the former fails utterly, while the latter is eminently defensible. Likewise for the difference principle: for all its faults, applying it to the basic structure, as Rawls has done, makes much more sense than applying it to personal morality as Cohen wants to do. If, as I think, lawgiver utilitarianism is *true*, and act utilitarianism is *false* on independent grounds, then the latter cannot *follow* from the former. The relation between the Rawlsian "political" difference principle and the Cohenian "personal" difference principle may be similar: even

if it is reasonable for a *legislator* to follow Rawls, this need not make it reasonable for a *citizen* to follow Cohen. No man was put on this earth to maximize *either* total utility *or* the utility of the worst off.¹

Rawls' justice is pure procedural: whatever distribution results from transactions under a just basic structure is by that fact itself just. Of course, Rawls did not countenance the "rigors of free trade." He believed that the cumulative effect of market exchanges in the long run tended to undermine justice by infringing on the fair value of political liberties and equality of fair opportunity. Therefore, it was necessary for the basic structure to have a mechanism for "adjusting" the market outcomes. This could perhaps be done with taxation or by means of the economic system Rawls called "property-owning democracy" or who knows how, but Rawls did not seek to interfere with *individual* exchanges either by external coercion or by internal ethos. Such interference is not necessary for the maintenance of background justice and may even harm it.

Lawgiver utilitarianism is a valid top-down method of legislating; trying to upend it by making it bottom-up in the form of act utilitarianism backfires. Conversely, natural law is bottom-up where we elucidate and apply the moral precepts regulating day-to-day interactions; employing it top-down again fails, producing unworkable anarchism. Likewise, top-down Rawlsianism does not entail bottom-up Cohenianism, though in my view both are false. So, the *motivations* behind the difference principle and EE are similar: to coddle the worst off. But on the one hand the freedom embraced by the pure procedural nature of justice precludes EE, and on the other hand EE is not a good personal morality, anyway. Since for Rawls justice is all and only ground rules agreed to in the OP, the Cohenian difference principle will simply be rejected by his method.

Cohen asks, "If people are willing to *vote* according to the difference principle, why shouldn't they *live* according to it, too?" Since utilitarian *law* ordering society as a whole does not entail act utilitarianism as a *moral duty* for the individual, it is not *in general* true that a given basic structure gives rise to mirror-image duties. And in the particular case of the Rawlsian law, i.e., the difference principle, though I'm not sympathetic to it (and do not even think it will be chosen in the OP), it is certainly less implausible than EE.

Rawls "divides labor" between the state which is to uphold distributive justice and individuals who are to be unconcerned with such matters in their personal lives and are to pursue their own self-interest. A libertarian

¹ E.g., "... such rigorism... is not only unreasonably demanding, but also economically inefficient. It reduces the aggregate resources available for distribution." (Thomas 2011: 1107)

opinion is that men do have a number of rather strict duties to each other in their personal lives, such as to respect each other's natural rights, but the state is merely to enforce these rights by punishing people when they violate their duties. Cohen borrows from Rawls the idea that the state must concern itself with distribution of goods; and from libertarians that individuals have duties to each other. He couples this view with the idea that equality in distribution is the essence of justice or rather simply identifies justice with equal distribution: "... my own animating conviction in political philosophy with respect to justice is a conviction... that an unequal distribution whose inequality cannot be vindicated by some choice or fault or desert on the part of (some of) the relevant affected agents is unfair and... unjust." (RJE: 7) Now justice, as Cohen himself points out, pertains to "giving each person his due." It therefore assigns duties to each person toward his fellow men that he must fulfill regardless of his own desires and aims. Duties would then be some sort of categorical imperatives, commands. But it is the essence of man that he acts for ends. He seeks his own pleasure or satisfaction or happiness. Why should he obey any commands? Who shall be insolent enough to bark orders at a random person? Thus, any act of issuing the "law" unto the people, as though one were Moses coming down Mount Sinai with the tablets, must be justified, indeed proven. (Moses, in his particular case, justified it via a divine command theory of ethics coupled with the point that the Commandments were in fact divine in origin.) I mean, who are you to tell people what to do? If you tell people what to do, then you must show that your edicts are indeed correct. Yet Cohen simply *defines* justice as equality and leaves it at that. This is hardly an adequate move.

Equality of distribution for Rawls is the first stage in the negotiation of the social contract in the original position: "a principle of justice requiring an equal distribution [of all resources] ... is... obvious" (TJ: 130). Hoppe comments: "True; for if it is assumed that 'moral parties' are not human actors but disembodied entities, the notion of private property must indeed appear strange." (EL: xv) Rawls does not state that he considers material equality to be an independent value to be balanced with other concerns, in fact he rejects this sort of "intuitionism," but it may be that he defined the OP in such a way as to get the desired result, equality. If so, I think he made a mistake: equality in the actual world does not follow from equality in the OP. Further deliberation may proceed in multiple stages, with the contract getting more elaborate with each new proposal unanimously voted for. The difference principle is the second step, and so on. Whatever is ultimately agreed to in the OP is then R-just.

Cohen cannot then say that his C-justice, which is equality, is the same as R-justice, except that in Rawls justice is contaminated with other

themes such as welfare or best rules of regulation. C-justice is completely different from R-justice. It is quaint to complain about one's definitions. Thus, Cohen asks:

Why should the fact that it improves the lot of the worst off render an inequality *fair*?

Why is 10, 6, however otherwise superior it may be to 5, 5, more fair than 5, 5, even if the worst off person's improvement from 5 to 6 *compensates* for the unfairness of widening the gap? (RJE: 159)

And again:

One might think that what unanimity incontrovertibly does is render the inequality that it endorses legitimate, but why just?

How can the principle that unanimity is here said to favor be declared, quite simply, just, given the standard of justice that made the initial distribution a demand of justice? (RJE: 165)

Well, Rawls' device of bargaining in the OP is *another* case of pure procedural justice. *Whatever* is unanimously agreed upon in that situation is declared to be just. Initial equality, latched onto before considering the difference principle, is a conclusion not a premise. Cohen, on the other hand, has fully assimilated justice to equality. Of course, in that case, any inequality is *ex vi termini* unjust. Since everyone likes justice, justice is an unequivocal good. But now that equality is precisely what justice is, equality, too, becomes a holy and wonderful thing. However, this definitional exaltation of equality hardly convinces.

It is not my interest here to defend Rawls. For example, it is not an unreasonable interpretation of him that he would *like* to have equal distribution on the grounds that all individual natural and social endowments are "morally arbitrary," but thinks that reality intervenes and inequalities are inevitable, and so wants to put inequalities to quasi-egalitarian use by means of the difference principle.² All the accoutrements of his doctrine – contractarianism, the veil of ignorance, choice under uncertainty, etc. – are then mostly a joke, a legerdemain, a distracting and even underhanded way of shoring up Rawls' own prepossessions. He sought not to arrive at any "reflective equilibrium" but to blind us with philosophy. Cohen then objects that justice consists in equality, and the other considerations, though they

² One of the defining events of Rawls' childhood was the deaths of his two little brothers which he inadvertently caused by infecting them with his own illnesses, first, diphtheria, second, pneumonia. Rawls was scandalized by the fact that he was arbitrarily lucky, and his brothers were unlucky. His later philosophy reflected this revulsion from chance in human affairs.

may weigh against the pursuit of justice, are not justice itself. See Chapter 2 for more on this.

In his paper “How to Do Political Philosophy” (*CEJ*: 225-35) Cohen presents some arguments in which different people find different premises, often rashly and dismissively, “obviously wrong,” among which is this:

- (1) Equality requires leveling down...
- (2) Nobody benefits from leveling down...
- (3) Something that benefits no one is in no way good.
- (4) Equality is (at least in one way) good. (*CEJ*: 233)

Cohen rejects (3), and I think vainly. This is because his ideology forces him to reject (2) instead, because it is he, Cohen the leveler, who benefits from leveling down. He gets to observe “justice” being realized, and this fact gives him a nice warm and fuzzy feeling inside. His selfish interest is indeed satisfied at all other people’s expense, but (2) is no longer true regardless. Defining justice in strange ways (which incidentally is what Cohen accuses Rawls of doing) is, in my view, unhelpful. I might define justice differently, such as being less than 6 feet tall. According to this justice, I continue, all tall people are to be cut down to size by having their legs amputated. It will be objected that, just like leveling down, this seems to hurt some people while making no one better off. Yes, I reply, but tallness is an injustice, and I hate injustice, and I would love a society in which justice has triumphed. I would enjoy the contemplation of justice prevailing in and ordering our world. Again I will be called unreasonable, sick, and even insane. In turn I will point out that my justice is indeed largely unattainable in practice and may need to be traded off for various other virtues, but it remains a value to be esteemed. At which point, I think, the discussion will grind to a halt, respecting perhaps Hume’s dictum that “‘Tis not contrary to reason to prefer the destruction of the whole world to the scratching of my finger.” This ultimately is what we will experience with Cohen.

The evaluation of equality and inequality belongs to mathematics; of justice and injustice, to philosophy. Cohen somehow lumps these two fields together. Distribution (5, 5) is more just than (10, 6) because more equal, he claims, even though the latter is Pareto-superior. Now there may be all kinds of reasons why the distribution to (A , B) of (10, 6) is unjust. Maybe B stole some utility from A maliciously, and the distribution should instead be (11, 5). Maybe B has been imprisoned for a crime he did not commit, and he could have obtained 15 had he remained free. Maybe the government passed laws that have curtailed economic progress, and the distribution under *laissez-faire* capitalism could have been (16, 18). That (10, 6) is unjust must surely be more than a mathematical observation; it

requires either a rigorous proof or at least using words in ways consistent with their normal meanings.

The relation between justice and equality is that in some situations equals should be treated equally and unequals, unequally. Justice is often a kind of fittingness; it is, e.g., fit treatment according to true estimation of one's status (Cupit 1996). And so punishment must fit the crime, proper grade must fit an assignment, wage must fit the marginal product, God is fit to be worshipped (and thus latria is due to God by justice), and *equality* in punishment for the same crime follows from the *fittingness* of the same punishment (if it indeed fits). Human inequalities are profound, and so are corresponding unequal fit treatments. Justice is a highly complex and discriminating virtue; in no way does it simply *mean* blanket equality, especially of wealth or income.

The initial equal distribution of “wealth” in the original position is a demand not of justice but of logic, since what Hoppe calls the “free-floating wraiths” there are stripped of any and all identifying characteristics and are unaware of their environment to boot. How else but equally could one distribute *anything* between such strange creatures? On the other hand, why would the ghosts in the OP even need goods? They don't even need *bodies*; they may as well be separated souls whose only interest is pure contemplation and who communicate telepathically. These souls occupying the OP have no need for any material objects; hence there is no need to distribute anything, or indeed to produce anything at all. They are indeed pure spirits assembled temporarily in the abode of the angels to discuss the problem of justice. If we exit the OP and return to this world from our out-of-body experiences, however, the ball game changes radically, and equal “distribution” does not follow. For example, Rawls does not bother to specify where the goods to be distributed equally come from, and if there are any goods at all, they must have been produced by a free-market economy which by its nature entails unequal distribution.

Cohen's egalitarian ethos as a companion to Rawls' ideal government policy at first glance seems unintelligible. What kind of personal moral duty is it, “each shall try to be equal to everyone else”? Given that all people are unique, should Smith try to be equal to Jones, Robinson, Brown, or Green? If Smith adopts Jones as his “role model” and aims to imitate him, and Jones enjoys fame and fortune, then by trying to be equal to him Smith will be very unequal to everyone else. It is obvious that only the state can by coercive leveling make everyone equal to some independent universal standard, in particular a standard to which not a single individual is yet equal. Again, if in a certain city all people are equal, and a traveler passes through that city, does he immediately acquire a duty to be equal to the city's inhabitants? So even if, as per Cohen's assumption, justice demands

equality of distribution, it does not follow that each person is morally obligated to pursue equality.

In practice, Cohen's aim in his moral preaching by his own admission devolves into "inducing agents to accept very high rates of taxation" (RJE: 70n40). (Cohen by the way is in love with taxation. Political salvation for him comes from high income taxes. The idea is not to fund any particular government activities that Cohen likes but simply to combat inequality and, as an essential part of it, to neuter the human pursuit of happiness which he hates.) Now if, as we have just established, no Smith has a moral duty to be equal to any Jones, then at most, Smith only has a duty to render ideological support to the state in violently equalizing people. EE then consists of at least two injunctions: one, to meekly submit to the authorities regarding this matter; two, not to withhold labor when taxed. (We'll see later that the duty to let others have what you produce and the duty to produce anything in particular are separate "ethoses.") Regarding the latter, in a complex industrial economy, unlike perhaps in an agricultural commune of 20 families, it is hopeless to rely on such scruples. I'm just a factory drone, what do I know about my "duty"? The boss needs to give me exact and enforceable orders what to do. Either I am free to contract with others as I see fit, or the second duty folds into the first.

Further, the performance of any duty involves sacrifices of one's own definite goals. If it is true that one ought not to kill, then one must not only abstain from liquidating inconvenient people, but in fact suppress the evil desire to commit murder within his heart. This is painful because desires naturally cry out to be satisfied not extinguished. Yet this process of spiritual purification is inevitable since one way or another the unjust will not be happy. What, however, does a man gain from adhering to the egalitarian ethos in his personal life? This is a question that Cohen nowhere answers and to which I submit there is no plausible answer at all. For example, I don't think that "racism," if understood as awareness of and intelligent response to race differences, is an injustice or vice. But suppose it is. Cohen suggests an imperative to "cleanse your soul of racist bias" (RJE: 356). Perhaps this can further brotherly love or something like that. But what exactly am I cleansing myself of when I am being equalized?

In particular, EE is Cohen's answer to the objection that equality and freedom are incompatible. Suppose Smith advocates that everyone should become a Muslim. It is pointed out to him that most Americans are not Muslims and have no interest in becoming Muslims. So Smith would have to force people to convert to Islam at gunpoint. The two goals, everyone being a Muslim and religious freedom, are incompatible: Smith can have one but not the other. Out pops Cohen and informs us that these goals are in fact compatible to the extent that it is the people's *moral duty* to

become Muslims. It is not some external force that compels the conversion (which if that force were Smith would be unjust) but the cognizance of an internal duty which has to be performed (and ultimately enjoyed!) whether one presently likes it or not. The objective and particularly correct *Islamic ethos*, you see, requires everyone to convert. But is EE a true duty (like the duty not to steal) or fake duty (like the duty to convert to Islam)? Cohen never bothers to prove that it in fact holds.

Mises discusses the difference between social cooperation within contractual bonds and cooperation within hegemonic bonds, pointing out that all thinkers “fully agree in the establishment of the contrast and no less in recognizing that no third principle is thinkable and feasible” (*HA*: 197). Cohen’s ethoses (there’s more than one), to the extent that they diverge from the advice to obey the hegemon, are a desperate, and unlikely, attempt to escape this partition.

1.1. OUR GREAT MIKADO, VIRTUOUS MAN

Cohen begins his argument against the apparent need for incentives by describing a coterie of “politically engaged socialist egalitarians” who “have no strong opinions about inequality at millionaire/billionaire levels. What they find wrong is that there is, so they think, unnecessary hardship at the lower end of the scale.” (*RJE*: 31) Immediately, we can observe that in holding these views, they are hoisted by their own petard. Mises counters their position as follows:

Seen from the point of view of the economically backward nations, the conflicts between “capital” and “labor” in the capitalist countries appear as conflicts within a privileged upper class.

In the eyes of the Asiatics, the American automobile worker is an “aristocrat.” He is a man who belongs to the 2 percent of the earth’s population whose income is highest. (*HA*: 836)

Who is to say that the present working and middle classes in America are not the millionaires of the days of old? For ours is the age, Mises writes,

in which industry supplies the consumption of the masses again and again with new commodities hitherto unknown and makes accessible to the average worker satisfactions of which no king could dream in the past. (*HA*: 605)

The European worker today lives under more favorable and more agreeable outward circumstances than the pharaoh of Egypt once did, in spite of the fact that the pharaoh commanded thousands of slaves, while the worker has nothing to depend on but the strength and skill of his hands. If a nabob of yore could be placed

in the circumstances in which a common man lives today, he would declare without hesitation that his life had been a beggarly one in comparison with the life that even a man of moderate means can lead at present. (1985: 22-3)

There is no nonarbitrary minimum of the wealth of the general public that would satisfy the politically engaged socialist egalitarians and rid their cause of urgency. They are so predictable, we might with good reason sneer. If the standard of living of today's average worker were to reach the level of today's average millionaire, and the standard of living of today's average millionaire were to reach the level of today's average *billionaire*, then this apparently happy development would not, oddly enough, cause the egalitarians to shut up. They'll continue to scream bloody murder even if, as Rothbard (1990) put it, the workers "only enjoy one yacht apiece while capitalists enjoy five or six" (126).

Thomas Woods (2002) describes a "thought experiment" proposed by Donald Boudreaux: "suppose an ancestor from the year 1700 could be shown a typical day in the life of Bill Gates. He would doubtless be impressed by some of what makes Bill Gates's life unique, but"

a good guess is that the features of Gates's life that would make the deepest impression are that

- he and his family never worry about starving to death;
- that they bathe daily;
- that they have several changes of clean clothes;
- that they have clean and healthy teeth;
- that diseases such as smallpox, polio, diphtheria, tuberculosis, tetanus, and pertussis present no substantial risks;
- that Melinda Gates's chances of dying during childbirth are about one-sixtieth what they would have been in 1700;
- that each child born to the Gateses is about 40 times more likely than a pre-industrial child to survive infancy;
- that the Gateses have a household refrigerator and freezer (not to mention microwave oven, dishwasher, and radios and televisions);
- that the Gateses's work week is only five days and that the family takes several weeks of vacation each year;
- that each of the Gates children will receive more than a decade of formal schooling;
- that the Gateses routinely travel through the air to distant lands in a matter of hours;
- that they effortlessly converse with people miles or oceans away;

that they frequently enjoy the world's greatest actors' and actresses' stunning performances;
that the Gateses can, whenever and wherever they please, listen to a Beethoven piano sonata, a Puccini opera, or a Frank Sinatra ballad.

Woods concludes: "In other words, what would most impress our visitor are the aspects of Gates's life that the software giant *shares with ordinary Americans*. When you consider the differences that characterized rich and poor prior to the Industrial Revolution, on the other hand, the 'capitalism-promotes-inequality' myth is further exposed as the ignorant canard that it is." The politically engaged socialist egalitarians are thus inconsistent.

The reason Cohen mentions these people is that they are less committed to equality than he is. They consider equal distribution to be a means to alleviating extreme poverty. Now these egalitarians are wrong on the most fundamental level since poverty can be alleviated only in a progressing economy, one in which the standard of living of the people increases with time rapidly. Only laissez-faire capitalism qualifies as such. But equality of income and wealth is incompatible with the free market. The egalitarians thus competently sabotage their own project. (They are akin to bad utilitarians who try to maximize welfare solely in the short run and destroy the economy in the process.) Our concern, however, is that in partially subordinating equality to human prosperity, our egalitarians become the target of the Rawlsian incentives argument as exemplified in the difference principle. "They cannot just dismiss it," Cohen points out, "without lending to their own advocacy of equality a fanatical hue that they could not themselves on reflection find attractive." (*RJE*: 30)

The incentives argument states that lowering the taxes on the better off or the more talented benefits not only them but also the worse off or the less talented. It's true that society becomes more unequal as a result, but the benefits are worth it. Cohen wants to argue that there is something fishy about this line of reasoning, especially when asserted by one of the better off.

In laying the groundwork for his attack, Cohen posits what he calls a "justificatory community," defined as a relationship between an individual and some group to which the individual may be called to justify his actions. To illustrate it, he gives two examples. First, regarding the wage rates of the British academics: wages should be raised, the argument goes, because

otherwise they will succumb to the lure of high foreign salaries. We can suppose that academics are indeed disposed to leave the country because of current salary levels. The issue of whether, nevertheless, they should emigrate is pertinent to the policy argu-

ment when they are regarded as fellow members of community who owe the rest a justification for decisions that affect the welfare of the country.

Second, regarding Lithuanian independence from the former Soviet bloc.

The Moscow generals might address the... movement leaders as follows: “Widespread bloodshed is to be avoided. If you persist in your drive for independence, we shall intervene forcefully, and there will be widespread bloodshed as a result. You should therefore abandon your drive for independence.” The Lithuanian leaders might now ask the generals to justify their conditional intention to intervene forcefully. If the generals brush that question aside, they forswear justificatory community with the Lithuanians. (RJE: 45-6)

Now it seems obvious that an alleged member of a “community” (a random group of strangers who inexplicably claim authority to judge and harass equally random men on the street?) has a moral duty to justify his behavior to that community only if the community in turn has a moral (or other kind of) *right* to demand such justification. It seems even more obvious that British academics, as presumably free men and not slaves to their “community,” whatever it might be, have a right to migrate to whatever country will welcome them. They are not feudal Russian peasants bound by law to their patch of land. Their countrymen do not have the right of any kind, whether legal, moral, or prudential, to question their choice of residence or employment. Or if they do question, the academics can safely ignore their conceited and inappropriate blather.

Emigration and secession are related. Hence the Lithuanians, too, had a right – natural, moral, and even legal, in light of the fact that the Soviet Union had collapsed and its treaties and organization with it, to secede from the evil empire. The Lithuanians could question the Moscow generals not because the two parties formed a “community” – what nonsense is this, since the former wanted precisely to disassociate themselves from the alleged communist paradise – but because they had a right to self-determination, especially as a well-defined nation. The generals had a moral duty to abstain from intervening in a peaceful act of a formerly conquered territory going its own way.

The two examples, as presented, go opposite ways. In the first, the “individuals” (the academics) can do as they please and need answer to no one, and the “community” is in no position to demand justification for the specific action taken. In the second, the individuals (Moscow generals) are on the hook to justify themselves (we might say to “world community”)

but only because there is on the whole a “brotherhood of men.” This community is marked most significantly by freedom from coercion, by the right of any one man not to be killed or robbed by another, indeed by bourgeois noninterference. It is these kinds of relations that political philosophy specifically deals with, not, to take Cohen’s examples, of language or nationality or within philatelic community.

Let us suppose, however, that there is a justificatory community in the interstices between the more and less talented workers. Cohen considers the “threat” of the “rich” to work less hard under higher taxes and shrink the total pie to such an extent that even with redistribution the “poor” will be worse off than under lower taxes to be the same sort of threat that a kidnapper issues to the parents of a kidnapped child. “If the rich could be regarded as external things like machines, of bits of nature,” our author goes on, “it would then be irrational for the poor not to accept their proposal” to set up the incentives for them that “work.” “But the poor know that the rich are persons, and they may regard them as fellow members of a community who can be asked, face to face, for justification.” (*RJE*: 65) In short, Cohen submits that the introduction of incentives for the more talented, such that in seeking their own profit they also benefit the worse off, that is, the difference principle, does not follow necessarily from Rawls’ reasoning. For if justice demands that the worse off be taken care of (as Rawls would have it), then the better off should do their duty to them even without any incentives at all. Let it be proposed:

1. Children should be with their parents.
2. Unless you pay him, this kidnapper will not return this child to its parents.
3. So this child’s parents should pay this kidnapper.

This argument, Cohen suggests, when uttered in this third-person sense, is not offensive. But the following argument, when uttered *by the kidnapper*, on the contrary is:

(A-Major) Children should be with their parents.

(A-Minor) Unless you pay me, I shall not return your child.

(A-Conclusion) So you should pay me. (*RJE*: 39)

The kidnapper “should still be ashamed to voice the argument, just because he makes [the minor] premise true” (*RJE*: 40). He can’t pretend that his crime is as if some natural disaster which it makes no sense to curse or condemn. Very well, but what is the parallel Rawlsian argument? It is something like this:

(B-Major) The less talented people should be richer.

(B-Minor) Unless you lower taxes from 60% to 40% (*or* if you raise taxes

from 40% to 60%), we, the talented, shall produce so much less that the less talented will suffer.

(B-Conclusion) Therefore, you should lower the tax (or you should not raise the tax).

It is true that the talented make the minor premise true. But the talented are being obnoxious only if they have no *right* to respond to the incentives the way they want. The kidnapper is morally wrong in kidnapping; that he is treating himself as a sort of impersonal force of nature is strange – what Cohen calls alienation from his own agency (*RJE*: 66) – but trivial in comparison with his objective guilt. But the more talented simply inform the less talented of their own innocent scales of values; there are things they are willing to do and things they are not willing to do, none of which are crimes. For that reason, B-Minor does not feature alienation, any more than a store clerk saying, “Unless you pay me \$1, I won’t give you this candy.” The clerk does not predict how he will act by sort of watching himself choose, as if his consciousness were split into two in some mental illness; he deliberates self-forgetfully, makes his decision, and then lets the customer know the terms on which he will strike the bargain. The talented person can proceed similarly, thereby avoiding any strangeness. Even the kidnapper need not be alienated from his agency if he is unashamed of his dirty deeds, much less the clerk or the talented worker. Nor is B-Minor offensive in its own right, since people would seem to have a right to produce as much as they want to, or as much as they contractually agree to produce. This suggests that Cohen misunderstands the meaning of “community”: it is indeed an offense against community to kidnap a man; yet sacred individual liberty to be free from coercion *by* community in choosing how much to produce. It is moral idiocy to equate this case with kidnapping. Any alleged duty to work “harder” would fall not under egalitarian ethos but under some *ethos of service* (ES) which Cohen nowhere defends or even acknowledges. Finally, A-Major is exceptionally reasonable, but B-Major is not: no one “should” enjoy any given level of prosperity. It is not written anywhere that anyone “should” be rich. It would be nice perhaps if people were rich, but no one is responsible for making any arbitrary stranger rich or richer than he presently is.

It may be that the kidnapper is accusing the parents who callously refuse to pay the ransom of an injustice which indeed displays a certain chutzpah. The kidnapper is a hypocrite, a pot calling the kettle black. But unlike that case, (1) the talented people are within their rights; (2) they are calling the state not unjust but imprudent; (3) hypocrisy, in any case, is a tribute vice pays to virtue: it is simply *true* that the recalcitrant parents are being unjust, even if the kidnapper is in an uncomfortable position to crit-

icize them.

Perhaps the idea is that the kidnapper *pretends to care* for the child in urging the parents to pay up; but if he really cared, then he would simply release the child posthaste. Similarly, the argument made by the talented seems to imply that they have loving feelings toward the less talented, but in such a case why wouldn't they willingly donate some money to them? But this interpretation is unnecessary. For the better off, this is business not charity, and they are appealing to the self-interest of other members of society with whom they would trade. The better off want their own backs scratched, so they are sensibly advertising to scratch the backs of the worse off.

In Cohen's formulation, the "untalented poor" ask the "talented rich," "Why would you work less hard if income tax were put back up [from 40%] to 60%?" and request "justification" for their answer. (*RJE*: 42) It does not occur to Cohen that the answer, "Because I'd want to," is sufficient, and no further justification is necessary. It is Cohen who must prove that altering one's behavior in the face of a higher tax is objectively unjust, and he nowhere attempts any such proof. He does not grasp that beyond the sphere of moral duty which compels actions and even feelings lies freedom where one may do what he wants without justifying his actions to others, or rather because "I want *X*" is a fully sufficient and adequate justification for pursuing *X*. Such a rationale, Cohen believes, is "incompatible with... ties of civic friendship" (*RJE*: 45). Apparently, one can't make a sandwich for himself without being obligated to explain his behavior to his many "civic friends." Yet what kind of a monstrous society is it which bullies its every member to justify his every move?

In choosing to produce less at 60%, the rich "wield power unjustifiably," says Cohen. (*RJE*: 64) They deprive the poor of some material prosperity from redistribution. The poor, in righteous indignation, would be well-advised, perhaps on strategic grounds, to reject the lower tax proposal even at the expense of their own material well-being, just as one may have a policy never to negotiate with kidnappers. But who laid it down that the poor ought to be more prosperous than they are now? A kidnapper is committing a crime and hence ought not to be doing it; a talented person who produces less at 60% tax than at 40% is not doing anything wrong. He is not intending to harm any poor person; it's just not worth it to him to produce more. The poor are showing a vicious entitlement mentality, thinking they deserve other people's money. They are deluded, and the incentives argument passes muster as a result.

In a free-market economy, each individual serves others in the process of serving himself, and social cooperation satisfies everyone's "selfish" concerns with unparalleled and increasing efficiency. Neither need the tal-

ented sacrifice their own interests for the sake of the less talented. Capitalism harmonizes individual creative initiative with the common good. The talented may charge the “Left” with making it unprofitable for them to contribute to society with full self-giving. Cohen’s argument proves far too much. When Smith exchanges his apple for Jones’ orange, by pointing out that if Jones refuses to hand over the orange, Smith will not deliver the apple, Smith is not “threatening” Jones with withholding a valuable resource from him. He is merely specifying the terms of a mutually beneficial exchange. It is inexpedient and unhelpful to claim that in this case Smith and Jones are blackmailing each other. Again, if Smith is willing to trade one apple for one orange, and the government establishes a price floor of two apples per orange, and Smith will not exchange at that price, it is hardly extortion for him to call attention to the fact that Jones, too, will benefit if the price control is repealed. Similarly, the talented do not *threaten* the untalented that they will refuse to benefit them unless they gain something in return, too. They simply outline the terms of social cooperation that will profit both groups. What could be more innocent than that? It is preposterous to consider these cases to be on par with kidnapping.

It is true that the talented *could* physically produce as much at 60% as at 40% tax. But why ought they to? A kidnapper ought not, morally speaking, to have kidnapped the child. “You shall not kidnap” is a command of natural law discoverable by human reason. Yet who or what allegedly commands a talented person to work unprofitably for himself for the benefit of someone else? There is no such creature, or if there is, Cohen has not pointed it out. He concedes: “I do not question the right of the talented to decide... how much they will work at various rates of remuneration. I question whether it is defensible for them to exercise such a right... in a standardly self-seeking way...” (RJE: 199-200). Suppose we say, in some libertarian fashion: heroin should be legal, and people have a right to use it, but they shouldn’t because it’s bad for their health. Here the distinction between a right and the wisdom of exercising this right is clear-cut. Again, we have a right to lie about certain things, but even in such cases lying is often immoral. But why shouldn’t people elect how much to work? How is choosing here for oneself unwise or sinful?

Cohen’s own ideology treats talented people as machines to be used for the interests of the worse off. The talented have no moral rights to spend the money they honestly acquired; they have highly demanding duties to the poor which they must mechanically discharge. The symmetry of capitalism is replaced with a one-sided exploitation by the poor of the rich.

The problem, once again, is that people act for ends. Presumably, by working they intend to earn money which they then plan to fritter away on their own pleasures. In submitting to the disutility of labor, people aim

to profit. They are not robots who do “duties” automatically and without feeling. It is not the case that the better off are working *essentially* to increase the welfare of the worse off and as a disturbing and unwelcome accident of this improve their own welfare even more. On the contrary, they work essentially for themselves, and as an accident make even the worse off happier. If the first were true, then I’d agree that one could question why they should have “incentives” when it is their discernible “moral duty” to assist the worse off. The talented would be bound to the worse off in a sort of indentured servitude. If the talented then chose to work less hard at 60%, they would be violating their moral duty and hence be blameworthy and even liable for punishment (such as whipping). But if the second, which seems true to me, then it is merely proof that capitalism enriches the entire society. The natural aristocracy is dragooned into the service to society as a whole through the cleverness of the economists.

Schaefer (2007) objects to Rawls as follows: “Instead of urging each individual in a liberal society to make the most of his situation and endowments and esteem himself on that basis, Rawls encourages anyone who considers himself less advantaged to focus attention on compelling others who have more to share the wealth. One need not be an economic libertarian like Nozick to detect a note of social blackmail or extortion in this outlook.” (212) So it is the worse off here who are morally perverse, not the better off.

In short, all that fluff about “presenting the argument” in the first person, alienation, hypocrisy is a red herring. All that matters is objective rights and wrongs.

Cohen then deems the Rawlsian argument disreputable from his own socialist egalitarian perspective. We have seen that his arguments misfire. But that does not mean that the argument is *not* disreputable. And I do find it such from my own libertarian point of view. People should abstain from taxing their fellow men not so much from self-interest as from righteousness. They should renounce stealing because they heed the moral law. The Rawlsian argument parallels the Laffer curve argument: it may be in the interest of the state to lower taxes if, by invigorating trade, it results in more revenue. Well, why should we care about maximizing the thief’s takings? We should starve, indeed kill, the thief. Likewise, the worse off can buzz off; they certainly do not deserve any political privileges such as being tax-fed. But people are wicked and hard-hearted and do not mind high taxes provided that the taxes are paid by people who are not them. The argument can be used to generate political support for the reforms; it can help to recruit the worse off into the cause.

Hence in order to keep working hard even at high taxes, the “rich” must *benefit* from doing just that. Logically, their goal can be one of the

following two things:

1. They desire to improve the lives of the worse off, which means that they love them and acutely feel their pain. This sort of mighty charity is implausible (and in any case irrelevant outside of moral theology), as only God is capable of personally loving each of the billions of humans.
2. They desire universal equality and themselves to be equal to everyone else, though at a higher level of welfare. This is surely a strange and inhuman goal. Probably almost no one who ever lived actually had it. Cohen has not proven that people *ought to* desire this, and that those who do not are despicable sinners who must immediately reform.

To summarize: assume that everyone in a society is a Rawlsian. Then they are committed to B-Major, they want the worst off to be as well-off as possible, indeed they think that justice itself requires that this come to pass. This end can be attained in two ways: through positive legislation or through natural moral duty. But by asserting B-Minor the talented show that they are unwilling to exert personal effort for the sake of justice. They cast their ballots and then do as they please. This shows that their Rawlsianism is weak. They lack the moral fiber to see it through. My reply has been as follows: either the Rawlsian theory exhausts justice, or it doesn't. If it exhausts justice, then the personal difference principle, being impracticable, will not be adopted in the original position. If it doesn't exhaust justice, and there are other moral principles, then Cohen's ethos must be established by means of ironclad deductions.

The Cohenian extension of Rawls can be sketched as follows. Let there be society D_1 marked by equality of distribution. Rawls appears and suggests that everyone in this society can become better off by allowing the talented some incentives to perform but at the expense of equality. The talented thereby work harder and produce more wealth, prospering themselves yet also creating value for the less fortunate. Name this society D_2 . Cohen retorts that a still better society D_3 is possible: one in which the talented work just as hard, but the fruits of their labor are nevertheless distributed equally. Amazing! D_1 has been transformed into richer superior D_3 by a philosophical argument! Cohen seems to have invented a perpetual motion machine that improves economies all by itself. An even more wonderful D_5 is sure to follow.

Of course, Cohen has simply commanded certain people to work harder or brainwashed them into thinking that doing so is their alleged moral duty; if they fall into line, then total product will have obviously in-

creased, and each person's equal share will be greater, as well. But how many times will he be able to crack his whip? Surely, there is a limit to how "hard" any individual must work to appease a boss even as demanding as Cohen?

The ultimate problem here is that such commands and brainwashing have nothing to do with the egalitarian ethos, as understood by Cohen. Desire for equality and devotion to work are not connected in any way. That one is an egalitarian does not entail that he must work more or less hard. The talented do not owe a definite and hefty sum of money to the poor, such that to repay the debt they have to exhaust themselves in hard labor for life. The egalitarian ethos says that the talented owe it to the untalented to be equal to them. It does not say that they owe to them any particular quantity of work or output produced. A person who refuses to work at all while lobbying for an equal share of GDP for himself is not by that fact violating the egalitarian ethos, even if he would choose to work more or less hard depending on the "reward" from "incentives." The fact that one chooses to produce more at the 40% tax than at the 60% tax is not contrary to EE, though it may be contrary to the ethos of service, but Cohen nowhere defends or even mentions ES.

Without ES, it's not that it's not *possible* for the talented to do extra work without incentives, thereby evolving D_2 into D_3 , it's that it's *irrational*. Or in other words, D_3 is *physically* possible but teleologically impossible, being contingent on expenditures of costly means for no profitable ends.

Cohen considers, and dismisses, the idea that the talented might not be *able* (rather than willing) to work as hard at higher taxes. Can the low "reward" cause "a morose reluctance that operates as a drag on performance" (RJE: 50)? Well, is it reasonable to expect people to adhere to ES? No more than it is reasonable for a master to expect his slaves to perform outstandingly. It's easy to forswear stealing; it's practically impossible to sustain the "inspiration" to exhaust oneself in work. Whether the coercion comes from an external force or internal ES, it is a feeble reed to hang the economy on.

Cohen objects to Rawls that the position of the worst off may be "very inferior indeed because of unlimited self-seekingness in the economic choices of well-placed people" (RJE: 130-1). He means something like that the better off do not just *give* their money to the worse off, producing D_3 . Now why would they do this? Perhaps out of charity or utilitarian maximization. But the former is not morally obligatory; it is not the duty of a man who makes \$100k in income per year to donate \$25k to a man who makes \$50k, or at least Cohen does not demonstrate it. As for the latter, maximizing utility solely in the short run is ill-advised, and given economic progress, unlimited self-seekingness, on the part of indeed both the better and

worse off, profits everyone, again both the better and worse off, in the long run. Of course, Cohen cares not at all for charity, and he is not a utilitarian. The better off are to sacrifice from EE + ES.

D_2 is obtained from D_1 causally via the self-interest of the members of society. When D_3 which Cohen judges superior to D_2 is postulated, the self-interest is no longer employed. How then is D_3 to be attained? Either the state has to force the talented to work, or Cohen has to persuade people into thinking that working harder is their moral duty. As per ES, then, people are to work as hard as Cohen stipulates or commissions them to work. Yet nowhere does Cohen even acknowledge this peculiar duty or set any standards about just how his socialist subjects are to be bled in terms of the extent and manner of their labor. As a lawgiver, if his philosophy is not to be relegated into irrelevance, Cohen must specify just how “hard” and long one is to work in every occupation and *justify* it. He has to prove that the ethos of service is true and prescribes exactly the duties that it does. For, as we’ve seen, D_3 is hardly the end. It can easily transition to D_4 and then to D_5 , D_7 , and so on. Where is the sweet spot?

It will not do to say that in D_3 people ought to work exactly as hard as they would in the counterfactual D_2 . For the question “Why work?” is answered differently in the two cases. In D_2 people work the way they do because they want to. One works n hours per day because the cost or disutility of the $(n + 1)^{\text{th}}$ hour devoted to labor to him is greater than the benefit or utility of the product he obtains with it. In D_3 , this reply cannot be resorted to. What the ethos of service requires is entirely unclear. It may require from one more than n hours per day or less. It is Cohen who as the designer of his economy must come up with a definite answer which, however, is not forthcoming.

Cohen might reply that *if* all people worked in D_3 exactly like they did in D_2 , then D_3 , while equal to D_2 in total welfare, would be superior to it in “justice,” i.e., equality. We’ll deal with this claim in Sections 1.2-3.

Another suggestion is to order one to work until the marginal cost of labor to the individual outweighs the marginal benefit of the product (to be distributed equally) to the *entire community*. But this would ruin equality since some people would be enjoined to work longer and harder than others, and Cohen wants to avoid inequality of “sacrifice.” In addition, how would Cohen measure these utilities interpersonally since they go to different people? This is hopeless.

Perhaps the productivity in D_3 could be such that the cost of a marginal hour of labor added to *everyone’s* equal workday is just outweighed by the benefit of extra consumption possible through this exertion. Then D_4 is not possible at all, and D_3 is optimal in both utility and equality. But this has the unfortunate effects of *both* proposals above: (1) it involves forced

labor; (2) it's one-size-fits-all (since sacrifices are subjective); and (3) it calls for utility comparisons that are impossible to make. And these are just the beginning. In considering his moves from D_1 through D_2 to D_3 , Cohen in a childlike manner asks: "At what level is the equality of income and wealth in D_1 pitched, and why is it not postulated to be higher, or lower, than whatever that level is?" (RJE: 99) It's an excellent question. In being so caught up with improving society by magically getting from D_1 to D_3 , Cohen fails to ask how an economy *actually* grows in the first place. It turns out, through capitalist saving and entrepreneurial profit-seeking endeavors of investing the money saved into longer and more roundabout methods of production (often preceded by discoveries of new technologies).

This dynamic is unraveled when Cohen's egalitarian vision is implemented. Hence the level of economic development in D_1 is entirely arbitrary, i.e., can be assumed to be anything for Cohen's own nefarious purposes; however, this level in the actual society would have been achieved via capitalism and permission to people to earn unequal income and to accumulate unequal wealth. Since D_1 is supposed to have equal distribution, Cohen's argument fails to get off the ground: there can never be such an economy as D_1 in the first place. Initial equality is an unrealizable chimera. Cohen might try to salvage his argument by saying that D_1 is the original position, while D_3 is an actual society. In that case my charge that Cohen has proven too much by creating a philosophical engine that would forever improve the economy cannot be sustained. This move, however, creates a different problem. The fact (if it is a fact) that equality is preferable to inequality in D_1 with its "disembodied somnambulists" does not entail that it is also preferable in D_3 with actual people.

It's hard even to conceive how Cohen (and Rawls) imagines D_1 . Are they picturing in their imaginations a large gang of naked people converging on a valley filled to the brim with consumer goods – refrigerators, bicycles, smartphones – perhaps being continuously vomited out into it by some horn of plenty and holding a discussion among themselves on how these goods are to be distributed among them? Even in such a situation, what would be "unjust" about the principle "every man for himself"? I argue in Chernikov 2021 that the equality in D_1 is set at such a low level of prosperity, because that's just how much communism produces, that pretty much any D_2 will be superior to it. There can be no such thing as egalitarian D_3 that resembles D_2 in welfare.

There is another tension in Cohen's thought: by exhibiting displeasure over the lowering of the tax, Cohen shows that he is fully aware that people will not continue paying the higher tax voluntarily. He realizes that in order to get people to fork over the money to the state, taxes have to be kept high or raised. In this case, the taxpayers will be motivated by fear of

punishment from the state for tax evasion. Cohen is not outraged or scandalized by this entirely normal and human response. Why is he so uptight about their being motivated by promise of reward by working harder at the lower tax? Why is it Ok for an individual to take into account the stick, but not Ok to do the same for a carrot?

Cohen might reply that if the “rich” worked harder without pay “voluntarily,” perhaps imbued with the ethos of service, then both the incentive of the lower tax rate and the disincentive of punishment for non-payment of taxes could disappear. There might still be some sort of “law” that 60% and not 40% of income is to be remitted to the state, but the enforcement apparatus could “wither away.” Cohen has more or less embarked on a campaign of teaching and preaching to persuade the “rich” essentially to tithe to the state as if it were a church.

He may even take his fancy to its ultimate conclusion. “Let there be a 100% tax,” he’ll proclaim, “but you, the people, shall not as a result quit working altogether and all starve. Nor, remarkably, am I clamoring for you to be enslaved by the state and *forced* to work. No, instead, you shall work exactly as hard and be exactly as dedicated to your jobs as at 0% tax *because you want to be just* (according to my, Cohen’s, understanding of the moral law). All the goods thereby produced shall go into a common stockpile to be then distributed equally.” If he can convince people to do *that*, then an important obstacle to socialism, namely, the question of who will take out the garbage, will have been successfully resolved. The solution will note that the person who will take out the garbage under socialism for free under the influence of duty is the same person who would take it out under *laissez faire* for money, mysteriously working with identical zeal and eagerness to outshine his competition.

Cohen scolds Rawls for being preoccupied with the “basic structure” of society, that is, the overall coercive legal regime and ignoring the Cohenian ethoses which refer to personal morality. “The basic structure is the primary subject of justice because its effects are so profound and present from the start,” says Rawls (*TJ*: 7). Cohen objects that what people do in their personal lives, too, can be profound. And therefore, for Cohen, “personal is political.” There are several explanations for the singular importance of the basic structure. First, Rawls is a *political philosopher*, and political philosophy, unlike general ethics, concerns itself with the proper and improper uses of *violence* in human affairs. (Thus, e.g., contracts are legally enforceable; promises are not.) Control and direction of violence are fundamental and indeed uniquely profound problems, far from “an arbitrarily narrow definition of his subject matter” (*RJE*: 136). Cohen may as well have said that since *dentistry* has profound effects on human lives, Rawls should have opined on *that*. Rawls’ implausible “branches” of government, such as

the “allocation branch,” the “stabilization branch,” and so on, were tasked with various duties and could, as part of those, shove around income and wealth. But declining to tithe the money one earned to the state in the manner we’ve just described is presumably not a violent act. Cohen may argue that it is nonetheless unjust. But even if so, EE and ES are precisely non-political, meaning that they cannot be, as per Rawls, enforced by the state.

Second, Cohen is a communist who grasps at the straws of his “ethoses” to try to save his crumbling system. Rawls, for all his faults, is a *liberal* and as such, having set up the government, is content, as much as possible, to leave people alone to do as they please. We saw that law understood as (hypothetical) incentives neither entails nor precludes symmetrical duties understood as (categorical) commands. Both philosophy and liberalism (and indeed libertarianism) are of course compatible with setting forth both general laws and particular duties. What may explain Rawls’ focus is that he was liberal in the sense of “nonjudgmental,” and he was reluctant to “command” people, and he also believed that law alone should be sufficient to order society. What Cohen calls a “personal prerogative,” for him a *weak constraint* on the egalitarian ethos, Rawls calls the liberty to pursue one’s “conceptions of the good,” for him *lexically prior* to the difference principle. Rawls is not inconsistent.

We could, if we wanted to, include noncoercive “social pressures” into the basic structure. Such pressures would still generate only incentives. Men in the OP may up and agree to shun “market maximizers,” e.g., by not inviting them to cocktail parties, in hopes of changing their behavior. But it would not follow from this that the maximizers ought not to maximize.

Third, Rawls is eager to empower the state to harass people in various ways to maintain what he calls “background justice” which is allegedly upset when people trade on the free market. This just isn’t something individuals can do on their own accord, regardless of their moral conscientiousness.

Finally, Rawls may have thought that EE and its brothers were too outlandish, counterproductive, and, as Cohen himself suggests, oppressive to be seriously entertained as a moral code. Who wants to be equal to anybody?

The central importance of violence, the contractual origin of the political difference principle, and the inadequacy of the moral difference principle may to some extent protect Rawls from Cohen’s attack.

1.2. CAPITALIST LOVE

There are three general economic constructs of increasing sophistication that we want to consider in order to understand how Cohenian egalitarianism changes the economy. First and most primitive, which we may

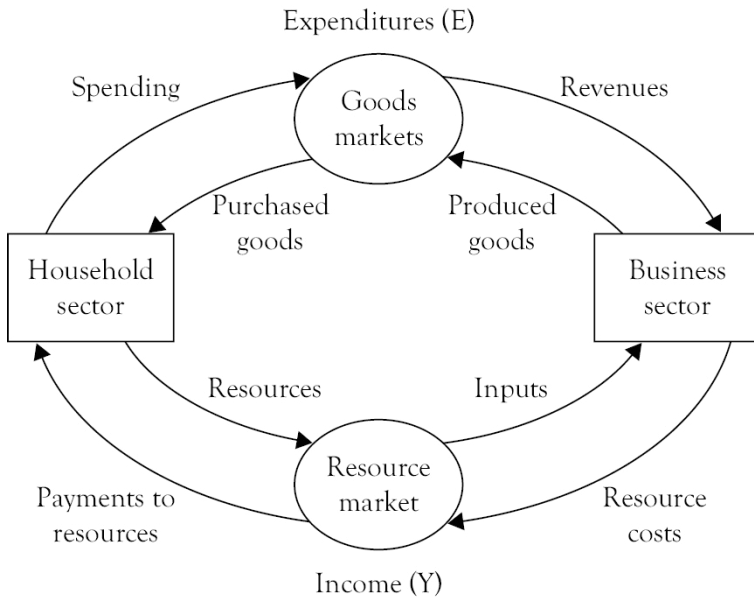


Figure 1. Circular flow of economic activity.

call an aggregate state of equilibrium or A-SEQ, is illustrated by a circular flow diagram as depicted in Figure 1. As we can see, firms, consumers, and workers are treated as collective entities; no distinction is made between different workers' productivities. Individuals work, but why they work is unclear, since goods and services are auto-distributed to them as a group. Time as a factor of production is completely abstracted from; nor are there stages of production or capital structure. There is no inkling of the division either of productive activities (of entrepreneurs between firms) or of labor (of workers within firms). Money is pictured as a medium of exchange but not as a unit of account or store of value. The A-SEQ is precisely what it appears to be: a simple painting of still life.

Building and elaborating on that is the evenly rotating economy or ERE. Unlike the mere snapshot of the A-SEQ, the ERE is a working machine. Separate and distinct firms, their workers and customers, time within a production round, money as a unit of account, and the structure of production (or supply chain) are now visible and relevant. Exchanges are now performed by individuals who receive *psychic* profits from each voluntary transaction, as compared with the state of affairs in which these exchanges are outlawed under threat of punishment. The machine operates smoothly; there are no discordant clashes between its parts; all markets clear; everyone's actions are adjusted to everyone else's. Each factor receives its DMVP; each capitalist receives interest. Nothing is wasted; the system is at its maximum apparent efficiency. The limitation of the ERE is that each

production round is identical to all other rounds. The same goods are produced, priced, and consumed the same way, day after day, and year after year. Though each exchange is mutually beneficial, the same pattern of exchanges prevails forever. The reason why we need this imaginary construction is that this equilibrium is where the real economy tends to upon each disequilibrating jolt inflicted upon it by entrepreneurs.

It is only the individual who acts. The nature of human action is for a man to do *new things*. It can be things that he, that particular man, has not done before, and it can also be things that *no one* has done before. How can the novel goods and services, new ways of doing business, new modes of living that result from human enterprise be rationally incorporated into the totality of the economy? How to sort useful innovations from useless innovations, beautiful cutting-edge art from ugly art? How to harmonize the desire of the individual for rejuvenation and improvement in his own life with the good of society? How to allow exuberant chaos without letting it wear down order? One reaction is to outlaw any attempt to make things better, to beat the individual down into following a mindless routine forever. The ERE is preserved but at the cost of repressing the human spirit and stopping all progress. But there is another way.

This, and our third concept, is the actual market process (MP). It brings into consideration the *entrepreneurs* who seek *monetary* profits and who, through their actions, introduce creative advance into the economy, increasing the public's standard of living. An entrepreneur by his essence is an innovating disequilibrating act who explodes local equilibria yet moves the economy toward global perfection, though it is infinitely far away. The only way to improve upon (illusory) comeliness is to partially destroy it and re-fashion it still better. The entrepreneur increases the *complexity* of the economy; he stirs up profits; he raises real wages. An "economist" in this case is an imitator who, upon every disequilibrating act, drives the economy back toward equilibrium without ever reaching it. Again and again there is a new unpredictable disturbance and a novelty being thrust into the system by disequilibrators resulting in profits (and sometimes losses) that are dissipated over time by equilibrators. The economist tends toward the *unity* of the economy; he douses profits; he raises nominal wages. This yang-yin duality, the chase between the forces of disruption and restoration of local harmony, is what drives economic progress.

To clarify this chaos / order duality, we can use David Keirse's (1998) temperaments theory. It identifies four archetypes: Guardian, Idealist, Rational, and Artisan. To these we need to add two quasi-temperaments in the lower form of humanity: Monster and Barely Human.

Chaos is divided into creative and ultimately divine yang belonging to the highest Artisan temperament and the genderless destructive force

expressed both by the lowest Monster yin and by BH yang. Creation and destruction are taken not in physical terms but in terms of utility. If demolishing a building serves human needs, this too is a creative act.

Order is “what is,” what exists now, the status quo. It is good by virtue of its unity or lack of inner contradictions lest it falls apart from its own flaws. The ERE is perfectly coordinated. Unity belongs to the Idealist yang.

From below, this Idealist order is the Guardian yin: rigidity, monotonous even rotation, hard and frozen resistance to change. It imparts stability to the ERE, equilibrating it when disturbed by creative chaos and protecting it from destructive chaos. It’s a force that repairs and restores order.

From above, order is the Rational yin: that which supplies the content and substance of existence: the complex body that is Idealist-unified – the unity being merely a structure which would be valueless without the complexity and richness of its inner life – in our case, the interlocking matrix of divided labor and the vast variety of material factors of production all cooperating together.

The market process consists in the interaction of the Artisan disequilibrating yang with the Guardian economizing yin for the sake of perpetually enhancing both the Rational complexity and the Idealist unity of the economy. The greater the complexity, the stronger the unity must be to hold everything together. The Barely Human archetype represents error and illusion that cause Artisan entrepreneurs occasionally to make mistakes and incur losses.

First, unlike God who is supremely one and whole in Himself, self-sufficient, and perfectly happy, the human race is shattered into numerous individuals who must, to reach their own personal particular happiness, come together and join with their complements. The market, even as an ERE, is one such glorious thing. This is unity-in-variety. Second, neither the individual Artisan entrepreneur nor the market process as a whole is good in the way that God is good – as existing necessarily and being lovable essentially. Yet God’s goodness is reflected in the Artisan’s act of creating beautiful things and in the market process’ ceaseless growth and development. The thing acting, man, is not good, but the act itself resembles or imitates the creative act of divine self-diffusion of His goodness. This is change-amidst-permanence. The two dualities, representing *state* and *process*, come together in a quadriform system, akin to the four cardinal virtues, the four temperaments as we just saw (such that each individual is born already specialized along one of the virtues), the four estates (rightly understood as scientists, priests, entrepreneurs, and workers), even the four Christian Gospels. (Some quadriformities correspond to the lower four archetypes

out of six rather than the higher four; these include the four theories of punishment – condemnation, deterrence, retribution, and rehabilitation – and four weapons of war – violence, deception, accusation, and temptation.) Fantasy fiction often makes good use of these.

The four fundamental human relations – hostility, equality, hierarchy, complementarity – deserve a special note. If you imagine the four temperaments, for example, arranged in the corners of a square, each can relate to itself and the other three. (Keirsey discusses marriage in detail, and his insights can be generalized in this way.) The logical square of opposition also illustrates. For our purposes, the relations can be identified on both (1) the macro level of the market process and (2) the micro level of the individuals. There is *complementarity* in (a₁) the archetypal forces (yin and yang, contemplation and action) and (a₂) division of labor and output of firms. There is *hierarchy* in (b₁) people's usefulness to society and corresponding income including profits and wages and (b₂) property holdings. There is *equality* in (c₁) consumer sovereignty and (c₂) universal human rights. And there is *hostility* in (d₁) honorable and prosocial market competition and (d₂) exclusivity of private property.

If you confuse or misplace these relations, you are bound to get in trouble in your philosophy. Take Krazy Karl. He, tragically, considered entrepreneurs and workers to be deadly enemies of each other. He falsely saw the highest Artisan yang as vicious; he thought that entrepreneurial profits were money stolen from the workers' wages. It did not occur to him that profits were an essential part of the romantic interplay between economic order and chaos that drove all improvement in human material conditions, and that all profits were *temporary*. The market indeed abhors profits and steadily equilibrates them away, in so doing creating new opportunities for growth. Marx blasphemed against the proper understanding of the market process as containing an aspect of divine creativity. As a result of his influence, for over a hundred years many people held the upside-down doctrine that entrepreneurs are devils and evil exploiters and built horrible regimes based on it over half the world.

The Left is the primary cause of anarcho-tyranny in the United States today. The Idealists, epitomizing the virtue of justice, were in Plato's system tasked with ensuring that all *other* parts of the city worked smoothly without encroaching on each other. So Idealists are found on both the Left and the Right. As for anarchism, the Left, at least to some extent inspired by Rawls, champions the worst kind of lumpenproletarian scum: the criminals, the addicts, the sex freaks, the nutjobs. This is bad enough. But it's the tyranny that takes the cake. Normally, the Left / Right split is the Artisan / Guardian split. The Left would defend the rugged individual, the bold inventor, the creative artist, the entrepreneur, and the Right would defend

the bourgeoisie and law and order. Unfortunately, the Left, and it is the Left that is at the source of the trouble, has failed spectacularly, and instead of Artisans, it sees only Monsters and Barely Humans. It considers human affairs to be a kind of cruel dog-eat-dog Darwinian struggle, “who whom” barroom brawl, perpetual seething turmoil. So it divides society into oppressors and oppressed and rallies under the banner of the state to come in and impose order and even the score. The irony is that when the Left exalts the state, the government interventions it spearheads breed and exacerbate the very problems that outraged the Left in the first place. On the other hand, the Right which is the party of order is not unsympathetic to Artisans, in fact Guardians are naturally attracted to Artisans who are their complements. As a result, the roles become reversed: the Left (badly) defends the Guardians, and the Right, in a reaction, defends Artisans (though only half-heartedly because it is not in its nature and because it doesn’t fully understand them). This inversion wounds our political life. The Left corrupts and discredits both chaos and order. If wisdom is the ability to correctly judge good and evil, and folly is opposite to wisdom, then the leftists are fools. They are unable to distinguish between creative and destructive chaos, between beauty and ugliness, between virtue and vice, between heroism and perversion. Thus, they denounce and torment entrepreneurs and lionize rioters.

The flow of the market process manifests the creative power of man. It fulfills human nature as potentially infinite in a world without end. This dance, no less than the intensification of the division of labor, is the cosmic becoming of the world, the great symphony of the collective striving of man. It is the soul of the economy, its breath. If godless Bolshevik Cohen could see this sacred harmony and how beautiful it was, maybe he wouldn’t be either.

Like love between the sexes, entrepreneurial love is fragile. It takes a massive effort to keep it going and not snuff it out. Specifically, the people must keep the government on a very tight leash. A “rhythm of primitive whole, fragmentation, and reunification asserts itself widely in Western thought,” says Cohen (*KM*: 21). Ok, but if there is reunification, it sure won’t come about through *communism*. On the contrary, it is capitalism that serves as a key natural foundation for the paramount unifying force which is charity. Reunification is not accomplished by a violent upheaval driven by a fake “dialectic.” It requires building peace on earth and good will toward men arduously over centuries brick by brick in terms of economic development and one work of mercy after another. There is no shortcut; love is a cathedral, not a bomb.

It is true that primitive communism develops ultimately into capitalism. A seed grows into a flower. It is *not* true that capitalism in turn births

forth a “classless society” on some higher level. A flower does not turn into a super-seed. This grotesque bit of theology did a tremendous amount of damage.

The reason why socialism is impossible is that the yin-yang entrepreneurial complementarity in it is torn asunder. I will now supply a rigorous proof of this. The simplest economy would be production and consumption of two goods by one person. To picture a typical graph, we have the production possibility frontier (PPF) designating the trade-off between the goods and the optimum point on it that corresponds to the highest tangent indifference curve (IC). In a real economy, there are many complications:

1. There are multiple consumers, and so preferences cannot be aggregated into a single IC, nor interpersonal utility comparisons made.
2. There are millions of projects producing consumer goods with millions of types of resources, so both the PPF and the IC are multi-dimensional. Technological recipes are complex.
3. ICs shift due to changes in consumer preferences.
4. PPFs shift due to new technologies and discoveries of new resources.
5. Unpredictable acts of God occur all the time.

Let’s abstract away from (1) by having only one person in our economy, Robinson Crusoe, who has somehow managed to build and operate an economy the size of our actual global economy. It is easy for him to rank bundles of consumer goods. Let’s suppose that at some time Crusoe has an evenly rotating economy with a system of technological equations like this:

$$m^*P_1 = m^*(5a_1 + 7a_2 + 10a_{15}\dots)$$

$$n^*P_2 = n^*(9a_1 + 3a_{15} + 22a_{42}\dots)$$

...

$$\xi^*P_{1,000,000} = \dots$$

P represents a product; a , some resource, whether original or produced. A utility is associated with each marginal P ; Crusoe wants to organize production by allocating resources in such a way as to maximize his happiness.

Factors like a_1 are (1) scarce (Crusoe only has so many a_1 s), (2) complementary (different a s participate in the production of each P), (3) heterogeneous (a_1 cannot be fully substituted for a_2), (4) partially specific (a_1 can be used in the production of many but not all P s). We do not grant Crusoe technological omniscience, so let’s suppose he discovers a new way of producing P_7 . By taking 3 marginal units of a_1 (say, $15a_1$) from 3^*P_1 for use in the new method, Crusoe unemploys 3 units of all the other resources: $21a_2$, $30a_{15}$, etc. Where shall they go in the whole scheme of things? Suppose we

suggest that $8a_2$ go into P_{50} , although there are many other possibilities. But that means that the factors complementary to a_2 for producing P_{50} , such as a_{104} , a_{451} , ..., also have to be increased. From what other projects shall *they* be taken away to be used in P_{50} ? And so on, with the possibilities spreading in a branching fashion. The consequences of even a single change must result in the rearrangement of the entire production system. And there are countless ways of doing this.

The problem is not to solve the system of equations; it is to conjure a new system that is superior to the old one upon gaining some new knowledge. Crusoe's problem is to set up novel ventures, to improve his production as he learns things previously unknown and unsuspected. At every moment Crusoe is not only ignorant of innumerable things; he doesn't even know what sorts of things he does not know. He is constantly surprised by new data.

With each new discovery, there is a new PPF. There are two distinct challenges here. One is to find *any* improvement on the new PPF. The other is to find the *optimal* point or point of highest utility on the new PPF.

Suppose now that Crusoe has access to a powerful computer. Can he program it to solve either of these problems? What sort of task is it to find a better / best new allocation of resources, computationally? Is it tractable or not? I submit that neither is a class P problem, i.e., a relatively "easy" problem solvable in polynomial time. Rather, they are both exponential-time $O(2^n)$ problems. Moreover, while the first problem is in the NP class, that is, can be easily verified given a solution (simply compare the total utilities of the solution and the original system), the second problem is not even that, because to verify that a solution is best one would have to sift through all production possibilities, i.e., verifying a solution is as hard as finding it.

As a result, a real-world economy cannot be run by a single man even with great computational resources. It seems that Crusoe is desperate for *more people* to own and run his factories. There must be a division not just of *labor* of workers *within* factories but also of *productive activities* among profit-seeking entrepreneurs *running* the factories. This is relevant to the question "What constrains the size of the firm?" Firms in the market economy cannot get too big lest they become unable to adjust to new market data. We conclude that Crusoe cannot "rule the world" even if he is the sole human on earth and has a computer the size of the moon to assist him. Call this, to bring Mises' terminology more up to date, the socialist *computation* problem.

Mises argues: "Where there are no money prices there... is no means for man to find out what kind of action would best serve his endeavors to remove his uneasiness as far as possible." (HA: 209) But it seems at

first glance that Crusoe alone on his island certainly *can* act in his own self-interest without prices. The question that interests us is whether Crusoe can manage all of his enterprises if somehow and under admittedly unreasonable assumptions put in charge of a huge economy. I answer no, not because he literally can't calculate, but because he can't adapt his conglomerate to latest developments of whatever kind: changes in ends, technological means, environment, etc.

What after all is *the* difference between capitalism and socialism? Under capitalism, each person seeks his own happiness. Under socialism, only one man, perhaps surprisingly also named Crusoe, acts; every other person robotically obeys his commands. There is no labor market, for example, or any other kind of market. The socialist dictator finds himself in the exact position of the sequestered Crusoe. Under socialism, other people are Crusoe's mindless and compliant tools, like his axe and fishing rod under solitude. And, just like under solitude, Crusoe does not need to calculate in terms of money:

Mankind is to be divided into two classes: the almighty dictator, on the one hand, and the underlings who are to be reduced to the status of mere pawns in his plans and cogs in his machinery, on the other. If this were feasible, then of course the social engineer would not have to bother about understanding other people's actions. He would be free to deal with them as technology deals with lumber and iron. (*HA*: 113)

Even under the free market, (re)calculation is needed solely to deal with *ordered introduction of novelties*, what I call creative advance, change-amidst-permanence. For the market actors can simply be commanded by some great power to *evenly rotate* under threat of a terrible punishment. "From now on," the socialist authorities will decree, "unless still equilibrating, everyone shall do tomorrow and every day hence exactly what he did today (or else)." Upon the establishment of this peace of the grave, money becomes a mere token, its function as a unit of account having already been fulfilled. Everything needful *has already been calculated* upon the forcible arrival of equilibrium.

Now with other people there are certainly additional complications, such as that Crusoe must know their value scales and somehow maximize overall welfare rather than his own. But in order to get to the essence of the socialist quandary, we can assume that Crusoe "feels our pain" and pleasure and is a dotting central planner. We start with an ERE, meaning that Crusoe is at the moment unaware of a better allocation of resources. Crusoe can improve the economy only if he learns something fresh and relevant. Such opportunities arise all the time. But we've seen that the prob-

lem of adjusting production to new data is too hard computationally, even if Crusoe can juggle utilities like a pro. And by “too hard” I mean impossible with all the computational resources the known universe might conceivably supply. “New data” is a crucial proviso. If Crusoe were from the beginning of his adventure endowed with omniscience regarding (1) all possible technology, as well as (2) his own future valuations, and (3) future environmental changes, then even if he was practically immortal, he could make a perfect plan from now until kingdom come and grow his economy at the pace that maximizes his (or his “pawns” and “cogs”) long-term welfare. Otherwise, Crusoe needs fellow freemen to come and rescue him, by taking ownership of his factories and becoming entrepreneurs, from the increasing complexity of his developing world.

It follows that an advanced capitalist economy *can* be converted into full-blown socialism by a sufficiently determined state, but on one condition: nothing in it would from then on ever change for all time.

There are some complications: the present economy is partially disequibrated, and a transition to socialism will need to outlaw any future entrepreneurial actions and wait until equilibration somehow finishes. Further, preserving the state of equilibrium may prove difficult: the new generation may have different consumer preferences; there will be environmental flux and random disasters; foreign trade will muddy matters considerably. But abstracting from these, socialism is possible. There will be no new products, no new technologies, methods of production, factories, tools, or equipment. Whatever exists will be maintained against the entropic forces, but that’s the extent of it. Each new generation will inherit the lifestyle of the old generation and will not improve its own standard of living in any way. Each day will be just like every other day.

Now every evenly rotating economy is also stationary, i.e., one in which the people’s wealth and income and living standards do not change; not every stationary economy need evenly rotate. An ERE is marked by no changes and no improvement; a stationary economy, by some changes yet still no improvement. An ERE thus represents absolute stagnation; while a stationary economy permits minor adjustments though also fails to progress.

A stationary economy is compatible even with the ebb and flow of profits and losses. Thus, a capitalist economy can in principle stay put / shrink if the sum of all entrepreneurial profits in it is perfectly counterbalanced / outweighed by the sum of all losses. This is because profits signify that resources were reallocated well relative to their previous manner of use; losses, that they were reallocated viciously, injuring the consumers. In such a case the creative advance and destructive retreat cancel each other out, resulting in no *overall* change for the better. For example, during a business

cycle, there may be frenetic activity that for all that fails to bear genuine fruit and results in mass losses at the end. Government intervention, in this case credit expansion, has thereby caused social retrogression. Nevertheless, socialist stagnation is fundamentally different from merely interventionist stagnation. And under *laissez faire* we can almost always observe continuous and speedy progress.

It would therefore be sufficient to prove that a socialist economy is at best stationary. However, we can assert even more, namely that socialism *must* take the form of the ERE, because centrally shuffling resources between projects and factories within a country is a computationally insoluble problem, and because once discoordinated, there is no way back to equilibrium.

1.3. GUMMING UP THE WORKS

By taking this detour we have shown that Cohen's socialism results in the devolution of the market process into an evenly rotating economy. But Cohen is not satisfied with this atrocity. He goes further than merely killing the living MP and bringing about an eternal ERE machine. This is because even in the ERE with its absence of entrepreneurial monetary profits, different workers earn unequal wages and hence obtain unequal psychic profits. Driven by his egalitarianism, he wants to break the ERE, too, and substitute the still more primitive A-SEQ for it, in which all workers, one way or another, are allotted equal wages. Is this unholy project realizable on Cohen's own terms?

Cohen might try to insist that D_3 is superior to D_2 : D_2 is better than D_1 in terms of welfare but worse in terms of equality; D_3 is equal to D_2 in terms of (total) welfare but better than it in terms of equality; therefore $D_3 > D_2 > D_1$. Suppose we do away with the troublesome ethos of service and simply at one point in time t_1 in the life of D_2 force all people in it under severe penalties to evenly rotate. At t_2 we shove all the produced goods into a common storehouse and then distribute them equally. In this model, the new slaves could not feign stupidity or malingering in D_3 because they've proven in D_2 that they are competent to do whatever work they were doing. Ignore the now established and devastating point that this makes no provision for future economic improvement – in Cohen's utopia, as in all of them, there is perfect calm. But let us imagine D_2 as an evenly rotating market economy, a mere machine rather than the growing organism of the market process. Is it possible to smash the machine by insisting on equal distribution? Two things will immediately happen given that the same stuff needs to continue to be produced: first, costs of production will change, second, consumer demand and hence business revenues will change. Once all the goods are repriced so that the market clears, some firms will come to be

showing profits, and others incurring losses. This implies that the state will need to take over ownership of the entire economy because only it will be able to use the profits to subsidize the losses.

Up until we froze our D_2 economy at t_1 for the sake of argument, there must have been continuous progress which at t_1 satisfied the consumers better than it satisfied them at every time prior to t_1 . D_2 is globally efficient until t_1 , and, once equilibrated, also locally efficient, a well-oiled mechanism. Equalization amounts to throwing a monkey wrench into the system.

In an ERE, when a worker exchanges labor for money and then for goods, he benefits relative to the situation in which the exchanges are prohibited under penalty of death. In the egalitarian A-SEQ, labor is forced, and some people suffer losses from exchanges, compared to the situation in which they could choose how they worked. In other words, in an ERE, all exchanges are voluntary, and there are psychic profits versus the counterfactual alternative of coercion; in an A-SEQ, there are psychic losses versus the counterfactual alternative of freedom. As for the people who benefit from the redistribution, Smith might work 6 hours / day producing \$10 worth of goods / hour but receive \$20 / hour wage. This time it is not any individual but society as a whole that suffers a psychic loss since Smith as a factor of production could be reallocated by the state to a more productive use. If Smith were paid less, the money saved could be used to produce other more socially important goods. However, this would alter the structure of production, and given our ERE starting point, we cannot do that; and in any case this could not be done while preserving equality, since individual productivities differ.

One might object that the redistribution of consumer goods equally hurts some workers but benefits others; why should that be inefficient on the whole? The answer is that human action is maximally locally efficient when the marginal cost (MC) of every act approaches the marginal benefit (MB). In D_2 , the MB of each resource, what it contributes to production or utility in terms of the consumers' willingness to pay for it, equals its MC to the rest of society. But in D_3 , for the losing workers, $MC > MB$, and for the winning workers, $MC < MB$. This is inefficient but under our conditions irremediable. The *losing workers* lose not just because they now receive fewer goods, but because they would not, if given freedom, work the way they are forced. Some or most of their laboring is unprofitable to them and senseless from their point of view. *Society* loses because the winners fail to pull their weight; it's as if they are artificially privileged and get to exploit others viciously without contributing their fair share.

In the ERE, an entrepreneur could find further improvements, but an economist could not; in the A-SEQ, even an economist could find im-

provements, but he is powerless because the state won't permit their implementation. Since aggregate production is the same in both D_2 and D_3 , and since economizing improvements do not exist in D_2 which is locally perfect yet are discernible in D_3 which falls short, we must conclude that D_3 is worse than D_2 in terms of welfare. Therefore, D_3 can still be upgraded to D_2 in welfare at the expense of equality, and Cohen's argument fails to go through.

Of course, if Cohen tried to realize economizing improvements, then he'd have to let go of equality, and if he tried to realize entrepreneurial improvements, then he'd have to rejigger production, not just consumption, and that he could not do, owing to the socialist computation problem.

1.4. THE CURSED "ETHOSES"

"From each according to his ability" is a strange slogan, because who is it, and by what authority, that is demanding that each person perform up to his ability? Is it "society"? The state? Cohen personally? God? Why should anyone work fully to the extent of his ability? Why can't he do what he wants instead?

Cohen might object that it is an aspect of equality that everyone suffers the same disutility of labor in addition to receiving the same amount of goods. But why must disutility be attached specifically to laboring? Perhaps I'm into bodybuilding and spend a lot of time in the gym; why can't my exertions there count as my share of pain? Suppose I suffer from heartburn; is that enough to equalize my misery even if I refuse to work? Smith is single, and Jones has three children; can Jones work fewer hours or less hard because he is burdened with supporting a family and so has less leisure time than Smith?

Further, why should people work at all? The disutility of labor can be equalized by each person working zero hours. Well, then everyone will starve to death. So then, there is a purpose to laboring, namely, to produce goods. But this would be a collective not individual purpose. It's the purpose of the *state* which "distributes" the goods. Now there is a straightforward prisoner's dilemma under extreme communism in which everyone contributes to the common storehouse and receives from it equally, shown in Table 1.

		All Others	
		Work	Don't work
I	Work	2	4
	Don't work	1	3

Table 1. Communist payoffs.

Here, at any amount of work, the marginal cost (the cost of 1 extra hour of working) is positive, but the marginal benefit is zero. (1) is the best outcome for me, and (4) is the worst. The second row dominates for me, but it likewise dominates for everyone else, and so we end up with a very inferior (3) as opposed to (2). There are two ways of solving the dilemma: through coercion by enslaving everyone and through capitalism by allowing everyone to get just what he produces, and the second way is enormously more efficient. Under Cohenism MB is positive but still is not adjusted to MC. Some people will work too much as they judge it, others too little. Those for whom $MC > MB$ for various amounts of labor are enslaved; those for whom $MC < MB$ are unbecomingly cosseted. Therefore, the egalitarian state cannot avoid villainy. This is not only an inefficient procrustean scheme; it's indefensible from any point of view – why can't people work as much as they themselves choose?

We saw that cooperation can proceed either through mutual self-interest and trade or through violence and plunder. Cohen hates the former but is reticent about the latter. So he proposes that the inner “ethoses” be substituted for outer coercion. The peasant under extreme communism will work because he fears not the punishment by the state but moral defilement from sinning. He is bound not by the *positive* will of his master but by a kind of *natural* law. St. Thomas lists three effects of sin: corruption of nature, stain on the soul, and debt of punishment. (*ST*: II-I, 85-87) Regarding the last of these, “the sinner acts against his reason, and against human and divine law. Wherefore he incurs a threefold punishment; one, inflicted by himself, viz. remorse of conscience; another, inflicted by man; and a third, inflicted by God.” (87, 1) By stipulation, there is no human law here; Cohen is an atheist and cannot appeal to divine retribution; so he must mean that the peasant will have to confess and do penance if he shirks, he must punish *himself*.

But must he? Is declining to work contrary to reason? Clearly not, indeed this is the rational thing to do. There is no natural law that bids one to work, hence the peasant is off the hook. This then is the problem of Slavery, and it refutes the ethos of service since it calls for patent irrationality.

Remember that we are trying to trace the consequences of substituting an egalitarian A-SEQ for a *given* ERE without altering the structure of production. It might seem that if, contrary to fact, the socialist central planner could change what people produced and simply offered workers \$10 / hour for every job of similar disutility with each person deciding how long to work each day, the Slavery problem would loom less starkly. But it's hard to avoid it also because the workers' choices would be so limited, and their freedom of contract would be ravaged. Without business compe-

tion, the worker would depend totally on the grace of the central planner. ES would still be needed under this scheme lest labor discipline would suffer. The state, being the sole employer, cannot justly fire a lazy worker, since the worker would starve otherwise; nor offer incentives for superior productivity, since all wages are equal by design. It must count on one's "moral inspiration" to perform "according to his ability."

Regarding Slavery, Cohen has no concept of marginalism and the laws of diminishing marginal utility and increasing marginal cost, in particular, of the fact that a man will keep acting as long as MC of each further action is below MB and will stop acting when he perceives MC to exceed MB. (The MC of producing to a person is both the *disutility* of labor and the *opportunity cost* of labor in leisure or consumption or even sleep.) He supports enslaving people for the sake of "equality" without even realizing that that's what he is doing.

One's output is not a function of how "hard" he works or of the disutility of labor. Digging ditches and filling them back up may be back-breaking and unpleasant labor, but it yields no useful product. Even if everyone is to work an equal and arbitrarily set 8 hours a day, EE does not specify that one is to produce more than another. Cohen wants to say that a talented person will "naturally" produce more in these 8 hours, and a less talented person will produce less. He imagines that humans produce goods in the same manner in which tomato plants produce tomatoes. But this is false: production requires a deliberate, purposive exercise of reason and skill for a definite payoff. Fish swim, birds fly, but humans do not "naturally" build tractors. This means that all people must be equally devoted to production. But the devotion itself, if not shown from self-interest in order to earn more money, is part not of EE but of ES.

The second problem with enforcing the A-SEQ will then be called Serfdom, which is that some workers will not receive the full product of their labor, and on the contrary that some will be given free hand to receive more than they produce. Since serfdom, too, is unjust (though Cohen is tone-deaf to this), this supplies further refutation of EE / ES. Our author writes:

Egalitarians ask more product or service of the talented, but not more sacrifice. It is an aspect of their greater talent that, usually, producing more product or service than others provide does not mean, for them, more sacrifice than others endure. The point is not to get as much as possible out of talented people, but to get out of them the amount of product or service (which is greater than normal) that comes with ordinary amounts of effort and sacrifice. (RJE: 208)

In the first place, this confuses the import of “sacrifice.” Sacrifices made, labor suffered, costs paid are what make one *deserve* something. The idea is that one ought to get something for his money. If he pays the price by working hard, it is *fitting* that he obtains the reward. But the harder you work, the *more you deserve fruits* (of your labor); it does not follow that the harder you work, the *more fruits you deserve*. Equal sacrifice with another does not entitle one to equal rewards. Labor theory of desert is not a twist on labor theory of value. Cohen thinks that different burdens justify different incomes, but different productivity does not. But that is a flagrant distortion. Burdens by themselves are irrelevant. They enter into the supply and demand and through that impinge on marginal productivity. And it is the latter that determines wages, and ought to.

Sypnowich (2006) calls “ludicrous” the “idea of earning alms..., as though the beggar is ‘working’ for his or her money by self-abnegation” (188). The idea that “sacrifice” entitles one to a wage is equally absurd.

Cohen even says that “what we get when special burden is invoked is not a justification of an inequality, all things considered, but a denial that there is an inequality, all things considered” (*RJE*: 103). He treats burden as extra *pain* and higher wage as compensatory *pleasure*. Overall, equality of *welfare* is maintained. Now the perception of a burden is a subjective appraisal by each individual worker. The market synthesizes out of all of those, and other things besides (e.g., city vs. country, length of commute, climate, crime rate, political system, etc.), a single objective wage for a given job. For Cohen, on the contrary, there can be no objective wage since, in order for equality to be maintained, each worker has to be reimbursed differently for his own personal disutility. The principle is something like this: the more you hate your job, or pretend to by endlessly complaining to your boss, the more Cohen should pay you. It stands to reason that a skilled and competent worker would enjoy his job more than a novice or dilettante. But then “the more skill he acquired in any job, and the less difficult it thus became, the lower would be his annual income.” This “rule would encourage people to choose the work for which they were least suited”³ (Letwin 1983: 38). This is not a plausible economy.

It may be true that catching 5 fish and gathering 1 pound of berries for Crusoe is as burdensome as catching 1 fish and gathering 1 ounce of berries for Friday. The disutility of labor is not the relevant sacrifice that justifies calling egalitarianism “serfdom.” Rather, it’s the fact that in subsi-

³ Under equality, you can increase your *income* by switching to a job you dislike, but you can’t increase your *welfare* since the latter is supposed to be equal. But even if incentives strictly speaking do not exist, and people are indifferent about jobs, many will *randomly* end up in jobs for which they are ill-suited. To overcome this, Cohen needs a “utilitarian ethos”; see below.

dizing Friday until equality of distribution is reached, Crusoe does not receive the full product of his labor. Crusoe produces more than he consumes; Friday, the reverse.

“What’s so special about receiving such full product?” Cohen may ask. Well again, Crusoe is not a robot. He acts for an end, in this case, to feed himself. The sacrifice Cohen presses for is for Crusoe’s labor to be used for the benefit of another economic agent, someone whom Crusoe presumably does not love as himself. He “asks” Crusoe (can Crusoe *answer* by rejecting the petition?) to dissipate his efforts pointlessly for him, to exhaust himself without reaping any benefits from his burden. And that is unjust.

The evil of serfdom indeed resides on *both* sides of the coerced “transactions.” On the part of the gangster, because he is a loser, a nobody; nobody needs him; in fact, other people would be better off if he dropped dead, in which case he would cease to be a drain on them. Commonsense morality disapproves of mooching off others while giving little to them in return.

Rothbard trenchantly puts it this way:

Parasitic predation and robbery violate *not only* the nature of the victim whose self and product are violated, but also the nature of the aggressor himself, who abandons the natural way of production – of using his mind to transform nature and exchange with other producers – for the way of parasitic expropriation of the work and product of others. In the deepest sense, the aggressor injures himself as well as his unfortunate victim. (*EL*: 50)

Under a system of purely private charity, being supported is considered shameful, as something to be shunned for fear of social scorn, as indicative of one’s failure in life, at best a temporary burden to bear. (Thus, it is being given money that is a dishonor, not oneself giving to charity which is a work of mercy.) But when a legal title is given to certain specially privileged individuals or groups to other people’s property, welfarism becomes normalized as socially acceptable and not, as it really is, a symptom of deadly spiritual corruption.

Admittedly, this corruption would be less severe if the parasite, under the influence of the Cohenian ethos, worked full-time and would not increase his productivity if denied his stolen money. But on the other side we still have the victim of parasitism who labors or has labored greatly, yet his actions to further his welfare or the welfare of his loved ones are made *less successful*. Some of his work is expropriated for the sake of the parasites who feed on him. While serfdom is distinct from slavery, it is still true that he is a slave *for a good part of the year*, working thanklessly to support total

strangers. It's as if somebody had deliberately hampered his powers of production, e.g., by forcing him to work while carrying a heavy bag of cement on his back or while constantly listening to rap music to dull his intelligence. He is made into a fool or dupe who seems to waste his energy stupidly. He is used by parasites without his consent as a merely material instrument, yet, unlike market transactions in which we don't have to worry about people making use of each other because we know that everyone is satisfied with the results, in coercive legal plunder one side is treated with contempt, as subhuman, exploited as an animal, someone without even the most elementary human rights. Cohen uses the implausible euphemism "constrained helping" for taxation and theft (*SO*: 68). When people are rioting and looting stores, for example, the store owners are not being robbed, you see; they're merely subjected to a little bit of constrained helping. Do (alleged) "good intentions" really justify any crime?

Moreover, under the welfare state, the characteristic property of parasitism is its perpetuity. It's a permanent imposition on the host, and it's forever, for after all, what are the paradigms of inevitable things but death and taxes, with taxes bleeding the host dry precisely until his very death?

We saw in Section 1.2 that a crucial aspect of justice is harmony between human beings. But there can be no harmony between parasitic exploiters and their prey. Hence Serfdom stands condemned.

In addition, a third problem would arise which we may call Next Generation. If the more productive and skilled occupations pay the same as the less productive, then there is no incentive for new workers to develop their skills. Why go to the trouble of studying and practicing if there is no payoff to it, and especially if one is guaranteed an equal income regardless of his performance? Under capitalism, a man's wage goes up to his increasing contribution; under Cohenian socialism, his contribution goes down to his wage. This means that the division of labor that our A-SEQ inherits from the inequalitarian ERE it replaced is temporary and unstable and will eventually disappear. We can see that Cohen is beholden to yet a third "ethos" which we may call the *utilitarian ethos* (UE): to pick the occupation most profitable to society.

This ethos raises further problems. First, if the market is blown up, then how will we *know* which jobs are more urgently in demand than others? Without market prices for labor, what shall signal jobseekers to allocate scarce labor to its most important uses? Cohen has a ready reply. The nominal wages will remain at their *laissez-faire* levels, but everything above the amount due equally to all will be taxed away. Thus, Smith may contract to receive \$50k per year, Jones, \$80k, and Robinson, \$110k. In fact, all three will get only \$20k after taxes. Cohen dares to suggest that "that way of achieving equality seeks to preserve the information function of the market

while extinguishing its motivational function” (RJE: 122n13). Well, the market is not a game. It doesn’t work this way. Again, people act for ends. They work to hit specific targets in their consumption during their leisure time. In their striving, they will ignore completely the nominal wage and look exclusively at the real wage. The idea seems to be that Jones will treat the \$80k as a kind of medal or high score in a video game, entirely useless other than for some (unequal?) bragging rights. Cohen calls this proposal a “scheme” which is an infelicitous name, since a scheme is a plan that cleverly utilizes people’s self-interest to achieve some sophisticated result. Instead of self-interest, this appeals rather to a sense of duty and to “moral inspiration,” and as we have seen, a duty demands precisely that a given interest be suppressed in one’s soul. Mere external obedience is not enough; there must be inner regeneration, such as, in the case of natural law, a diminution of savage hatred or vicious duplicity in the person’s heart. The duty to be equal must be inculcated into people, and their desire to enjoy life, be repressed. But what horrible thing will happen to my soul if I “transgress”? Absolutely nothing. It’s a bogus duty. This “ethical solution” is not a scheme; it’s a psychopathic indoctrination exercise. There are many ways in which men can be tortured, broken, or destroyed; this is one of them.

This idea is of course untenable from the point of view of the market process. If an entrepreneur makes a \$1,000,000 profit, all but \$20k will be taxed away. Who will compensate him and how if he suffers a \$1,000,000 *loss*? If no one, then who in their right mind, given socialized profits and capitalist losses, would invest? (And how is it fair?) And if the government, then what happens to capitalism in the face of socialized *both* profits and losses? Cohen makes no provisions for future capital accumulation in this make-believe market.

Craig Goodrum (1977) asks, in a paper on Rawls, “Is there enough evidence that the original contractors must assume that no reasonable socialization process could be effective in motivating people to make a maximum effort for an equal distribution?” I think the answer to this question is yes. He goes on: “First, past failure of communitarian or simple communist experiments is not sufficient to judge the issue, for they clearly lacked socialization for equalitarianism.” Propaganda was plentiful in the USSR. “Second, the Chinese experiment is apparently equalitarian, and it is not an obvious failure.” (390) Given that 15 to 55 million people starved in China during its Great Leap Forward, with the famine likely being the largest in human history, I wouldn’t be so sure. It’s true, in Richard Arneson’s (2008) description of Cohen’s position, that “institutions and culture and individual will can shape motives” (373). These things can shape the particular *ends* people have; they cannot shape human *nature* as such. E.g., they cannot, generally speaking, make humans (as rational animals) *irrational* by

severing means-ends connections.

It is physically possible that people, supposing they receive their wages in paper bills, will burn the cash in their front yards until equality is reached. They could do this if they “believed in equality,” just as they could lop off their sexual organs if they believed in transgenderism. They would still be crazy. Assuming some measure of rationality, such actions are teleologically impossible. An ethos, after all, is not an end, subjective and arbitrary such that there is no accounting for taste, but a moral duty, i.e., precisely the *opposite* of an end and *constricting* ends, something that must be demonstrated to hold.

Still, a libertarian might not be able to censure a society in which the economic regime was laissez-faire capitalism, but where many people voluntarily donated or tithed a large percentage of their wages to the “minimal” government which then distributed the cash so as to equalize as much as possible incomes. Such a society seems quaint, however; for example, people *actually* give to charity to provide relief for the disabled, widows and orphans, and so on, i.e., for the sake of welfare not equality, and love not justice.

Second, the essence of utilitarian ethos + ethos of service is that one must struggle mightily out of some moral inspiration to serve other people. Moral inspiration must mean some desire to promote the good of others. But such a thing is, as they say, 1% inspiration and 99% perspiration. Even if, as Cohen maintains, it is false that “people never act out of generous or conscientious inspiration, with no prospect of benefit” (RJE: 193), it is still false that people *always* or even as a rule act out of these impulses or that a durable system of economic affairs can be built out of them.

Cohen considers the case of a woman (call her Mary) who prefers (1) being a doctor at \$50k / year to (2) being a gardener at \$20k / year to (3) being a doctor at \$20k / year. She prefers gardening to doctoring all things being equal but would choose doctoring at a higher pay. The egalitarian “trilemma” is:

If, in deference to equality and freedom, we freeze salaries at \$20k and allow the doctor-gardener to choose her job, she will garden, and then both she and the rest of the community will be worse off than they could be: Pareto will be violated. With pay equal, and freedom of choice of occupation, we get the Pareto-disaster that consumers have no say in what gets produced (in this case, some package of gardening and doctoring services). But if, in deference to freedom and Pareto, we offer the doctor-gardener \$50k for doctoring, then equality goes. And if, finally, in deference to equality and Pareto, she is forced to doctor at \$20k, then freedom

of occupational choice is lost. (*RJE*: 185)

The three ethos (which I identify as such though Cohen does not) can give us (3), which is what Cohen would like to see, without external coercion:

- given UE without EE, Mary will choose (1);
- under EE without UE, she will choose (2);
- with both present, she will choose (3).

Of course, UE on its own is entirely otiose and unnecessary since (1) would be chosen under free markets + inequality, as well; it's just that Mary's pursuit of self-interest and the common good will be harmonized through the market process. Then Mary would still serve society at \$50k / year best; it's just that she would also better serve *herself*, and she is a *part of society*. As Mises writes, Mary "becomes a social being not in sacrificing her own concerns for the sake of a mythical Moloch, society, but in aiming at an improvement in her own welfare" (*HLA*: 160). Moreover, she would (justly) get the full product of her labor.

Cohen argues that it will not do to question whether EE exists because EE is presupposed in the argument. But now that we've distinguished between EE and UE, we can accept EE for the sake of argument and entreat for proof of UE. And UE is just as shaky in Cohen's works as EE and ES. All three are implausible in their own ways. For example, no classical utilitarian has ever managed to demonstrate that I, Dmitry Chernikov, ought to strive to maximize total happiness. The most reasonable suggestion in favor of this thesis might be that I ought to love mankind. But why I ought to love mankind so much as to make its overall welfare *my sole goal in life* remains unclear. I mean, maybe I also love potato chips. Why can't I pursue *that*? In short, Cohen's egalitarian capitalism is a goofy game which could never work. And it is simply fantastic to call the combination of these three ethos, "justice."

In its capacity as laying down moral duties, this dispensation – the egalitarian ethos, ethos of service, and utilitarian ethos – is supposed to be natural, i.e., noncontractual and pre-political and holding for *man*. But what Cohen in fact describes by these ethos is not a *human* society; it's an ant hill. All ants are equal to each other according to EE; they work with full self-giving driven by a powerful instinct as per ES; and they are perfectly content to take whatever positions the ant hill assigns to them, be it worker, soldier, queen, or whatever, satisfying UE. The hill itself of course never changes; there is no such thing as "improvement in the standard of living" of the ants. I, however, disagree with him that human beings are, or should be, ants.

If the parties in the original position know anything, it's that they are human and not ants, hence they would not sign a contract that relegates them to the rank of insects. In addition, the ant morality is rubbish independently of Rawls. Cohen's ethics has neither rhyme nor reason, and his "rescue" fails.

The Marxist catchphrase "From each according to his ability, to each according to his need," Cohen writes approvingly, "divorces labor, the exercise of ability, from income" (*RJE*: 225). In other words, it divorces human actions from the consequences of those actions *for the actor*. Whatever you do, you are not to taste either sweet success or bitter failure. According to UE then, an individual is not to decide *what* he will do; according to ES, he is not to decide *how* he will do it; and according to EE, he is not to reap the fruits of his labors. The transformation of men into machines for Cohen is complete.⁴ Cohen does not need a philosophical refutation; he needs an exorcism. Let me therefore propose the *liberty ethos* that directs one to *revolt* against Cohen who would destroy human nature by tying it up into *his* spurious ethoses. Let the capitalist revolution triumph against necromancer enemies like him.

1.5. THE VIRTUE OF SELFISHNESS

Cohen concedes that "every person has a right to pursue self-interest" but qualifies it with "to some reasonable extent; but a modest right of self-interest seems insufficient to justify the range of inequality, the extremes of wealth and poverty, that actually obtain in society..." (*RJE*: 61). It is unclear why self-interest ought to be "modest" as opposed to being the fundamental part of human nature, animating all human actions. Men contemplate potential future gratifications and set out to bring them about. Ought the self-interest of the "poor" also to be modest? Does Cohen suggest that people repress their emotions and desires? Mises counters this strange view thus:

Our contemporaries are driven by a fanatical zeal to get more amenities and by an unrestrained appetite to enjoy life. ... Without exception all political parties promise their supporters a higher real income. ... Every contemporary statesman or politician invariably tells his voters: My program will make you as affluent as conditions may permit, while my adversaries' program will bring you want and misery. (*HA*: 318)

⁴ The machine *owner* of course receives proper rent from the machine, but the machine itself receives only repairs according to its "need." The relation between machines in a factory and the product is in this sense similar to the relation between bodily parts and organs and the whole man. From each organ according to its ability, etc.

The masses will not listen to exhortations to be moderate and contented; it may be that the philosophers who preach such admonitions are laboring under a serious self-delusion. If one tells people that their fathers had it much worse, they answer that they do not know why they should not have it still better. (1985: 190)

These do not sound like descriptions of people whose self-interest is “modest.” Perhaps Cohen will insist that it *ought to* be modest. But then why have an economy in the first place? The purpose of production, including presumably even of socialist production, is consumption, and the purpose of consumption is pleasure or happiness. “There is hardly any greater divergence in value judgments than that between ascetics and those eager to enjoy life lightheartedly. An unbridgeable gulf separates devout monks and nuns from the rest of mankind.” (*HA*: 87) If it is morally wrong to feel happy and morally right to be weary and bored, if living in “anchoritic reclusion” (*HA*: 179) is the only moral thing to do, then the problem of production vanishes, and with it, the problem of distribution, whether equal or not, as well, given that there is nothing or almost nothing to be distributed. Let people return to autarkic hunter-gatherer lifestyles and couple that with plenty of self-flagellation to stop themselves from enjoying life. Cohen’s reflections will cease to be of any use in such a world. Not even Marx considered his proletarians to be unfeeling machines.

Cohen calls this limited right of self-interest, the “personal prerogative” (*RJE*: 181). What other prerogatives are there? There is the communal prerogative, group or “general” welfare as it were, and some taxation for the sake of law and order may be inevitable, and for sake of some public goods beneficial. But in general, for the bulk of the capitalist economy, there is no conflict between individual liberty and the common good, as economics has taught us. There is the prerogative of justice which compels obedience regardless of aims, but justice involves the hideous egalitarian ethos + ethos of service + utilitarian ethos only on Cohen’s own arbitrary definition.

If people have the personal prerogative, i.e., if they are permitted to do as they please, how far does this freedom extend? Can they produce and trade with each other, make deals, be entrepreneurs? If so, then they’ll form the free market with all the inequalities that this implies, and the “incentives,” so hated by Cohen, will perforce be reintroduced. Cohen needs a definite theory of human rights, and of course he declines to provide one: “we cannot say where the limit of the prerogative lies: with regard to that, everyone must make her or his own principled decision” (*RJE*: 220). Maybe he can’t, but I can: as long as you respect others’ libertarian rights, your personal prerogative is unlimited.

For Cohen, “selfishness, and, too, our equanimity about it, are precipitates of centuries of capitalist civilization. (First capitalism destroys community. Then its defenders say that material incentives are necessary because communal ones aren’t powerful enough.)” (*RJE*: 178-9n71) But “selfishness” is an elemental property of the human will. It “belongs to man to do everything for an end,” St. Thomas states; “the object of the will is the end and the good. Therefore all human actions must be for an end.” (*ST*: II-I, 1, 1) Humans are enticed by future expected utility, and utility is obtained, to some extent, by acquiring and enjoying goods that suit each individual’s personality. (Cohen can’t accuse me of mean materialism here since he himself is preoccupied with distribution of material stuff.) That is the essence of teleological causation that defines the human species. Cohen is denying people their due, the fulfillment of a capacity that belongs to them by their very nature, and that is unjust. The search for happiness is not an effect of capitalism; it is a process which is *best served by* capitalism. (And just what are the “communal incentives”? Medals? Titles? Get real.)

It is true further that capitalism decommunizes society, as in frees each individual from unreasonable social pressures. Far from reversing this process as Cohen apparently desires, we must complete it. “It will require many long years of self-education until the subject can turn himself into the citizen,” says Mises. “A free man must be able to endure it when his fellow men act and live otherwise than he considers proper. He must free himself from the habit, just as soon as something does not please him, of calling for the police.” (1985: 55) Capitalism destroys not “community” understood as brotherhood of men or Christian charity, but coercive violence of the state. It is precisely capitalism that, despite the fact that human interests conflict, makes “friends out of enemies, peace out of war, society out of individuals” (Mises 1962: 295).

Unless people swallow his egalitarian ethos, Cohen writes, “how can they, without a redolence of hypocrisy, celebrate the full realization of their natures as moral persons when they know they are out for the most they can get in the market”? (*RJE*: 131) In this single sentence, Cohen demonstrates his depravity in four different ways. First, he attacks human nature. *Man acts* is the first axiom of economics and a self-evident first principle. A human being can’t help trying purposely to amend his condition, “in the market” or anywhere else. He is not Boxer the workhorse to labor tirelessly for an external to him “communal” end. On the other hand, if people do *not* act, if they do not aim at improvement of their welfare but are taken care of by the socialist state, then it belongs to the central planner to decide whether it is just that no one shall fare either better or worse than anyone else. And why should any cog in Cohen’s machine be privileged? Our author is no respecter of persons. All are to be given equal daily rations,

and similar labor is to be extracted from them, and that is justice. If I am taking care of my livestock, it seems reasonable to take from each cow according to its ability and to give it according to its need, especially since cows seem to be content with fodder. The socialist slogan applies well to the management of cattle. But are human beings to be treated the same way?

Second, man is not a *Homo economicus*. The motives of his actions need not be to obtain “the most he can get in the market,” as if he is “greedy” or some such slander. It is a fact that the vast majority of people “prefer life to death, health to sickness, nourishment to starvation, abundance to poverty” (*HA*: 154). But the actual ends they seek are stupendously diverse, and life, health, etc. can be and are sacrificed every day for other ends.

Third, Cohen assumes that only an egalitarian is a “moral person.” In fact, an egalitarian is a freak, a moral monster, even a madman. What a dreary existence it must be to constantly measure oneself against others, throttle one’s own desires, and hold back *in order not to be in any way better than them!*

Fourth, Cohen thinks that morality is the be-all and end-all of life. Far from it. Moral law justifies one’s relations with other men and helps to build one’s personality. But once man has been purified, he is freed and told: “Do as you will; enjoy yourself; have fun; have as much fun as you want in fact, even if your feelings are far more intense than those of other people.”

As an example of the unnamed by him ethos of service, Cohen invokes people during a war sacrificing for the sake of the war effort, to “shoulder their just share.” But since it is impossible to keep constant tabs on everybody, it is left to individual discretion who will sacrifice how much:

There are too many details in each person’s life that affect what the required sacrifice should be: Max has a bad back, Sally has a difficult child, George has just inherited \$20,000, and so on. “Yes, Jack only goes out once a week, not, like most of us, twice, on guard duty, but then Jack has to take care of his mother.” (*RJE*: 353)

But only rough-and-ready calculations can be made; there is no precision.

Here then is the repulsive vision Cohen incredibly endorses: a society in which everybody *watches* each other jealously in order to prevent anybody from enjoying himself more than his so-called “comrades,” rejoices at the pitifulness of other people’s lives, and maliciously pulls each other down whenever an opportunity presents itself. Cohen affirms that “justice can be mean and spiteful” (*RJE*: 318). Moreover, he is hard-core about it: “egalitarian justice disallows an insistence on retaining enjoyments way be-

yond the norm” (368), and by that he clearly means even *psychic* enjoyments, that literally no one’s life shall be any more *fun* than anyone else’s, however fun is being had. Pure justice for Cohen generates an imperative for the equalization of *happy feelings*.

All the fantastic schemes of “social justice” have one thing in common: they seek to crush the human soul, stop man from striving freely and unselfconsciously for his own good, hold him back from exercising his power to fight evil in life. They envision a utopia in which humans are one way or another “taken care of.” They want to condemn those who achieve more because they are better than the rabble, and inequality for them is the greatest taboo. Success, superiority of any kind is forbidden. In the end, they want people to live meaningless lives, such that all that could be said about them is what the Bible says of the patriarchs: such and such “lived a total of 70 years, and then he died.” Thus, Alexander Gray (1946) points out: “Yet in fact no Utopia has ever been described in which any sane man would on any conditions consent to live, if he could possibly escape. . . . Nothing happens, nothing can happen in any of them.” He adds, “In one of the most insipid of Utopias, *The Coming Race*, Lord Lytton notes the complete extinction of all literature. There is nothing whatever to write about: ‘we have no events to chronicle,’ nor apparently any emotions to register.” (62-3) Cohen wants equality of emotions with the predictable consequence of getting all emotions flattened.

Cohen goes on to say that justice is not supposed to involve exact measurements of who owes what to whom; “that would make a life a nightmare” (*RJE*: 353). This is true, but why? Under capitalism, people tend to keep excellent track of their obligations. Listed prices are fully public. I know exactly how much I’ve charged to my credit card this month. Precisely because the envious hatred made inevitable by the egalitarian “ethos” thereby unleashed to the max would make society unendurable. The fundamental principle of justice for Cohen is self-abasement, and if one fails to abase himself, then others, imbued with Cohenism, will do it for him, standardly through the state.

But isn’t there a sense of community that arises out of shared danger? You protect my back, and I’ll protect yours; only by working together will we survive. The sense of brotherhood felt by soldiers is commonplace, whereas regular employees feel little of the kind. Psychologists say that couples bond when experiencing something fearful, even a roller coaster ride, together. No doubt that’s all true, but this is the kind of bond that is to be avoided unless absolutely necessary. Human life cannot be focused solely on survival. It’s the comforts of peaceful civilization that make life worth living. Furthermore, war is not a natural condition of human beings; peace, not war, is the father of all things. War is hell, and this is still earth. The

warriors' bond, though useful in mobilizing society's defenses, cannot be permanent. It's preposterous to live one's life in fear, much more to *want* to live in fear. Security from imminent dangers, including foreign aggressors, may be one of the first things people seek, but it is hardly the last. Eric Hoffer (1989) had this to say about war:

Hitler dressed eighty million Germans in costumes and made them perform in a grandiose, heroic, and bloody opera.

In Russia, where even the building of a latrine involves some self-sacrifice, life has been an uninterrupted soul-stirring drama going on for thirty years, and its end is not yet.

The people of London acted heroically under a hail of bombs because Churchill cast them in the role of heroes. They played their heroic role before a vast audience – ancestors, contemporaries, and posterity – and on a stage lighted by a burning world city and to the music of barking guns and screaming bombs.

It is doubtful whether in our contemporary world, with its widespread individual differentiation, any measure of general self-sacrifice can be realized without theatrical hocus-pocus and fireworks. (§47)

No wonder that Cohen's only real example of his EE and ES in practice is World War 2. Then as now, the best hope for socialists lay in total war, endless bloody slaughter topped with war communism. But any crisis tends to empower the state as the booboisie flock to it for "safety." This the Fabian socialist R. H. Tawney described as "fellowship." We can see why the Fabians adopted for their logo the image of a wolf in sheep's clothing.

1.6. LUCKISM-LENINISM

Cohen confesses thus: "My concern is distributive justice... of benefits and burdens to individuals. My root belief is that there is injustice in distribution when inequality of goods reflects... myriad forms of lucky and unlucky circumstance." (*RJE*: 126) His quote of Brian Barry (1989) is worth reproducing:

On Rawls's conception of morally arbitrary, all differences in achievement are based on morally arbitrary factors. Perhaps the most plausible presentation would be to talk of three lotteries: there is the natural lottery, which distributes genetic endowments; there is the social lottery, which distributes more or less favorable home and school environments; and then there is what Hobbes called "the secret working of God, which men call Good Luck" – the lottery that distributes illnesses, accidents, and the chance of being in

the right place at the right time.

Let us now add the principle that what is morally arbitrary should make no difference to how well people do in terms of primary goods. Then there is no case at the most basic level of justification for anything except equality in the distribution of primary goods. (226)

In particular, if Smith is smarter or more hardworking than Jones, then Smith's virtues, too, are "morally arbitrary," a legacy of his random genetic predisposition perhaps. For true equality of opportunity to prevail, Smith must be handicapped in his efforts so that he is no better positioned than Jones. But how would you know in the end whether Smith and Jones have enjoyed equal opportunity? Well, by observing their equal outcome.

Equality of opportunity in the strict sense then devolves into equality of result, which serves as a sufficient *reductio ad absurdum* of this ghastly concept. Equality of opportunity understood as what Rawls called "careers open to talents" as an aspect of "natural liberty" may be justified in two ways: (1) from Rothbardian-libertarian natural rights, starting from self-ownership and so on, since it is everyone's right to try to compete in business or workplace; (2) on utilitarian grounds that economic progress speeds up when no artificial legal barriers to entry into any industry or profession are imposed by the state. Many trades are reasonably free-for-all. Even in the unfortunately highly regulated medical profession, people have a *universal right* to try to become doctors; there are *objective criteria* they have to fulfill to become a doctor; and the process of becoming a doctor is *impartially and impersonally administered* (such as by the licensing authorities). But nowhere is there anything so ambitious as equality of Rawlsian "fair" opportunity or attempts to eliminate "luck."

Cohen considers a "libertarian" who "supports *laissez-faire* because he believes in equality of opportunity, and he believes in the latter because he thinks it unfair for people's progress to be differentially impeded and promoted by restrictions and advantages for which they are in no way responsible." He then dismisses him as not "a very clear thinker." Fortunately, he recognizes this creature to be "statistically rare" (*RJE*: 92). And he is right, because libertarians do not, as writers of self-help books do, stress *individual progress*: they rather celebrate *social progress* and *individual rights*. The churning of the social hierarchy, such that an individual is faced with mobility, both upward and downward, is scarcely important, other than as a tool of social progress. If out of two men, one must be the boss, and the other, the fool, does it really matter who is who? What matters is that each man arrives to that position in which he can serve society best, be it indeed the position of manager or technician.

Individual rights are intimately connected with this vision of a successful society in the following way: each person is free to plot and plan, wheel and deal, build and trade, labor and direct production as per the principles of laissez-faire capitalism in order to find such a position. Economic rights are essential to ensuring the smooth unfolding of the market process.

“Natural liberty,” Cohen writes, “is rejected [by Rawls] because it fails to resist the morally arbitrary.” (RJE: 93n19) This is because it is unjust to “permit distributive shares to be improperly influenced by natural and social contingencies so arbitrary from a moral point of view” (RJE: 92). Let’s use an example. A person is doing some computer programming. He is stuck, not knowing how to solve a certain problem, and so he goes online to hunt for solutions. Lo and behold, he finds help in less than two minutes. Isn’t that wonderful? “No!” says Rawls. Our programmer did not *deserve* his happiness. What about others who were unlucky in *their* searches? What of those who tried programming and found it too difficult? Won’t they feel bad? The programmer struck gold because of something that is morally arbitrary. This is a moral outrage; it cannot be tolerated; let the miscreant be taxed.

You see where I am going with this. Luck may be arbitrary and irrelevant morally, but it is not arbitrary and irrelevant for *human action*. It is not arbitrary and irrelevant for *successful* human action. It is true that humans have moral duties. But human life is not exhausted by duties. Reward may indeed be a fitting crowning of righteousness and exactness in fulfilling one’s duties. But we have seen that in a free society’s hustle and bustle, nobody “rewards” anyone. The whole thing is a harebrained nuisance, e.g., “Entrepreneurial profit is not a ‘reward’ granted by the customer to the supplier who served him better than the sluggish routinists; it is the result of the eagerness of the buyers to outbid others who are equally anxious to acquire a share of the limited supply.” (HA: 300) So, there are both things one ought to do and things one is free to do, and for the latter luck is perfectly great. In fact, let’s have as much luck as possible for people, so that their plans, made within law, succeed! Who cares how luck is “distributed”? What could possibly be wrong with good luck?

Rawls and Cohen (R&C) are metaphysically obtuse. The world is clearly suffused with randomness. Randomly generated: human beings and their inborn characteristics and talents, geographic environments from savanna to tundra, locations of various natural resources, the particular families, communities, and states that individuals are born into, opportunities people encounter with random capacities for seizing them, friends and associates, situations of being in the right / wrong place at the right / wrong time, calamities and windfalls, gambling luck are what human lives are defined by. The universal revulsion from incest may well be nature’s way of

giving random variation full sway. R&C survey this incredible diversity, see no purpose to it, and find it offensive.

They are defending “a conception of justice that nullifies the accidents of natural endowment and the contingencies of social circumstance as counters in the quest for... economic advantage” (*RJE*: 104). This is quite absurd. Randomness is such a fundamental and ubiquitous feature of this universe that we must judge it an essential component of divine design. Humans are explicitly *required* to make lemonade out of their particular lemons, that’s pretty much the meaning of life (or key aspect thereof). Attempting to equalize the lemons ruins the lemonade for everyone. Far from forbidding people to seek to turn their luck to their advantage even (and, when victory itself is valuable, especially) when this results in inequality, the moral law mandates it.⁵ To seize the day, to single-mindedly milk every opportunity for all it’s worth are the injunctions of both prudence and courage. Moreover, this design is arguably *wise*, such that it is blasphemy to murmur against God for an alleged injustice. St. Thomas defends God as follows: “in the constitution of things there is no inequality of parts through any preceding inequality, either of merits or of the disposition of the matter; but inequality comes from the perfection of the whole. This appears also in works done by art; for the roof of a house differs from the foundation, not because it is made of other material; but in order that the house may be made perfect of different parts, the artificer seeks different material; indeed, he would make such material if he could.” (*ST*: I, 47, 2, reply 3) The human inequality within the division of labor and market process – both its cause, objective manifoldness of nature and the myriad human subjective valuations of it, and its effect, differential incomes – follows the same pattern: individuals are not equal but complementary to each other in order to allow civilization to exist and grow. Equalizing people would have been much easier in centuries past where the population consisted of peasants, artisans, monks, all mired in already almost equal wretched poverty than today in the world of great differentiation and interdependence. The egalitarian movement flowered as a depressing reaction to this development, attempting to either destroy the cause or preserve the cause and destroy the effect.

R&C call the features of a person’s life randomly assigned “morally” arbitrary. They may be from the point of view of the conception of justice that demands perfect equality. But what if that conception is wrong? In any case, there is far more to life than “morality.” Unique individuals have to make the best of their unique positions, including pursuing economic ad-

⁵ Kymlicka (2006) inverts this as follows: “Part of what it means to respect others involves not exploiting our undeserved natural talents for financial advantage...” (24). Why not just lay down and die? And is there anything *else* one may exploit for financial advantage?

vantages. R&C seem to think that this sort of thing needs to be justified morally. But that's a complete misapprehension. The end – and only the end, as Rothbard pointed out – justifies the means. The end of eating a sandwich justifies the means of buying the ingredients and making the sandwich. My end of happiness justifies forging my expertise and using it for my profit. Morality, such as that one ought not to steal or whatever, has nothing to do with this general fact. One is never content with merely following the moral law, for a stone or any other inanimate object, too, is perfectly righteous in this sense. One follows the law for the sake of physical or spiritual *survival*. But he seeks *happiness* by working to satisfy his various desires and to succeed in his pursuits. The moral law prohibits a few definite crimes, yet whatever is not explicitly outlawed is permitted. The law tells you the 10 things you *should not* do; what, out of the 1,000,000 things you are free to do, you *should* do is entirely up to you.

R&C believe that randomly generated assets are undeserved. Are they? Any natural or social privilege, such as a talent, is a source of obligation, such as to develop the talent and use it gainfully for oneself and society. And an obligation well fulfilled makes you deserve the privilege in retrospect. In the parable of the talents, Jesus did not indicate that the master was going to take the *original* talents back. And in real life, talents are gifts, not loans. Likewise, parents who invest care and money into their children are pleased when those children flourish; the investment itself need not be paid back.

It might seem that divine mercy shown to you (in this life) is a free gift and is undeserved. In fact, this gift must be followed by repentance and attainment of righteousness. If it is so followed, you end up deserving the mercy retroactively. God invested well. If it is not, the gift will have been wasted and will be taken away from you, and you will face judgment. Similarly, your capacities, powers, and abilities come to be deserved by you upon getting ahead and prospering.

A tree that bears sweet fruit deserves to have been planted; at the same time “the ax is already at the root of the trees, and every tree that does not produce good fruit will be cut down and thrown into the fire” (Mt 3:10).

Freedom and responsibility are two sides of the same coin. It may be proper to reward responsibility, but the success of freely chosen actions is its own reward. R&C fail to come to grips with the reality of human life wherein there is a continuous chain of *actions*, dampened only in some areas by *duties* which one must unflinchingly carry out. But human beings are not duty-doing machines. The society chosen in the original position would be one in which not only merit is honored and rewarded but also there is greatest possible triumph for the “greatest number” which social cooperation can furnish. For everyone behind the veil of ignorance has a vested interest

in living not only in a just society but also in a *successful* one, that is, in one with the highest possible rate at which the productivity of human effort and capital accumulation increase, luck or no luck. In other words, success *as such* does not need to be justified before the moral law; it is entirely self-justifying. (Particular actions have to be checked against the moral law but not the legitimacy of acting as such.) And success consists almost entirely in making smart use of the resources at hand, including and especially those that are randomly produced.

Hayek (1960) puts the matter this way: “the growth of civilization rests largely on the individuals’ making the best use of whatever accidents they encounter, or the essentially unpredictable advantages that one kind of knowledge will in new circumstances confer on one individual over others” (385). The human pursuit of happiness consists in random agents exploiting and shaping random environments, indeed arbitrary “morally,” in regard to just human relations, but not physically, in regard to narrow happiness. There is no reasonable sense in which any aspect of this activity is “unjust.”

We saw that a person’s inborn attunement toward one of the cardinal virtues is called a (Keirseyan) temperament. Thus, a Guardian who practices temperance can be praised for this virtue. High IQ is correlated with peacefulness. Insofar as virtues matter morally, the inborn traits matter morally too. We cannot then claim that *moral* virtues, either as natural inclinations to the good or developed to perfection in the course of life, or for that matter law-abidingness, are *morally* arbitrary. What Rawls means by this phrase is that these things are arbitrary regarding *distributive* justice, the distribution of primary goods. And perhaps the “distributor” should not “reward” temperance or IQ with money, whatever that means. This does not entail that “deliberately exploiting a morally arbitrary advantage” (RJE: 154) is wrong. One’s gifts are not *physically* arbitrary, and one ought to exploit them to the hilt in order to capture narrow happiness, i.e., pleasure, such as indeed economic advantage. Cohen falsely claims that making smart use of one’s assets including natural and social endowments for the sake of enjoying oneself is “unjust.” A man who thereby comes to love his life can be lauded and admired for his *success*.

In saying that “I consider a society unjust to the extent that the morally arbitrary, even unavoidably, prevails in it” (RJE: 155), Cohen loses it. That the cat is on the mat, that I like Ike, that $2 + 2 = 4$ are all morally arbitrary; they may even contribute to inequality, but so what? Wild plants exhibit different degrees of health, vigor, and size; is there an injustice that botanists need to concern themselves with because each plant grows upon its own instinct to be beautiful? And when a plant flowers, quite unequally with every other plant, *it* will have succeeded, by its own power and for its own glory, not by help from the Rawlsian “distribution branch” of the plant

kingdom.

Rawls designed the OP to reflect the “arbitrariness” of natural and social endowments such as talent differences. Initial equality in D_1 is then an implication of the veil of ignorance. “We want to define the original position so that we get the desired solution,” he tells us (*TJ*: 122). Rawls, according to Cohen, affirms “a post-medieval principle that none should fare worse than others through no fault of their own” (*RJE*: 156). In the first place, why is this principle true? Who laid it down? People after all do fare differently through an immense variety of causes. Must we transvalue all values? Is it supposed to be self-evident? Is it an empty sentiment like “Wouldn’t it be nice if all people were happy?” Is it a theological complaint, a call to justify God’s ways to men? Cohen mumbles something about “fairness” and says little else.

Some things like money income can be redistributed, other things like eyesight cannot be. One solution to the latter problem is to level down. But this is surely untenable insofar as it adjures that, in the name of equality, the sane be driven insane, the sighted be blinded, the happy be pushed to suicide, and perhaps even that the living be made equal to the dead. To some extent the perversity can be avoided by postulating that we’re dealing with “normal” cases: there is an average level of welfare, with some happier than that and others less happy but all falling within the normal range; below are pathological cases which we exclude from consideration. Still, leveling down seems crazy (though of course for Cohen *any* equality is more *just* than any, including Pareto-superior, inequality). So Cohen wants to *compensate* for non-redistributable inequalities with cold hard cash. This neither restores sight to the blind nor blinds the sighted but meets both in the middle. We *can’t* increase welfare, and we *don’t want* to decrease welfare; instead, we want to keep welfare the same yet increase equality. If we value both welfare and equality and can increase the latter without harming the former, it’s a Pareto-superior move and therefore justified. Another formulation of this is the maximin principle, though not quite the Rawlsian kind, as exhibited by a thermodynamic system with respect to energy.

Our author’s “On the Currency of Egalitarian Justice” (*CEJ*: 3-43) is an astonishing and extremely subtle essay in which Cohen debates with other remarkable characters what exactly should be distributed equally. We may interpret his position as that a *disability* is an objective evil, defect, deviation from the norm; *poverty* is not since no particular amount of prosperity is normal. But alleviation of both is good. Cohen thinks that both make one eligible for compensation. Now if A and B , otherwise totally equal, freely choose to utilize their resources differently, with A working hard and B lying around, then Cohen is uncomfortable redistributing A ’s higher income to B . He feels the need to accommodate “the most powerful idea in

the arsenal of the antiegalitarian Right: the idea of choice and responsibility” (*CEJ*: 32). Where Rawls does not distinguish between responsibility and luck (and so postulates perfect equality as the first step in the negotiations in the OP), Cohen does; and where Rawls depreciates the principle of redress in favor of the difference principle (as the final contract), Cohen enshrines it. Therefore, inequalities due to different “choices” are allowed, inequalities due to “brute luck” (see below) are not.

Norman Daniels (1990) summarizes luck egalitarianism as follows: “The intuition is that whenever we are made worse off through no fault of our own, or as the result of nothing that we could control, then we have a legitimate initial claim on others for assistance or compensation for our misfortune.” (275) This, according to justice. So, if I’m walking down the street, trip, fall, and dislocate my shoulder, by that fact alone I can demand that random passersby pay me money and enforce this demand in court. This seems *extremely* counterintuitive, not to mention contrary to every known system of contract and tort law. Perhaps it is my right to have the *state* pay me money to which everyone pays taxes. The state, in this conception, is a giant monopoly insurance company that coercively insures everything that can possibly be insured. This fantastic construct for Cohen is an aspect of egalitarian justice. Likewise, Kymlicka (2002) believes that “people have rights to the possession and exercise of their talents, but the disadvantaged may also have rights to some compensation for their disadvantage. It is wrong for people to suffer from undeserved inequalities in circumstances, and the disadvantaged have direct claims on the more fortunate...” (127). He thinks that if I (say) am a good philosopher, and he is a bad philosopher, then as a result I owe him money. If his mama, unluckily, dropped him on the head when he was little, this alone empowers Kymlicka to steal things from the “more fortunate.” He would be a member of an oppressed class, the philosophic retards.

Cohen’s paper deals with such problems as whether a person with “expensive tastes” like someone who grew to love bullfights and wants to travel to Spain to watch them ought to be satisfied; whether “we” should “compensate cheerless people fully for their gloominess”; and whether, as regards a person who feels excessive religious guilt, “we” might “give him priority when we distribute scarce recreational facilities.” Like all socialists, Cohen imagines himself to be the owner and distributor of all goods on earth and seeks to discover how he “should” scatter the largess to the wretched populace in his care. As he writes, “the distributor in my inquiry is unitary. It is the state...” (*CEJ*: 63), and when he says “state,” he means, “I, Cohen.” He never expressed any qualms or fear about this self-deification; it never occurred to him that he might not have the *authority* to be distributing anything. This is because he strove very hard to be a *moral*

god, a *decent divine person* who was “fair.” Indeed, Christine Sypnowich called him the “egalitarian conscience” in a book by that name.

Now the welfare equalization project runs into an insuperable difficulty at the very outset. First, welfare or happiness is not an extensive magnitude. It is impossible to measure it according to any unit. There is no such thing as a “util” as a unit of happiness, indeed “util” lacks both meaning and reference at the same time, being similar to a square circle in this regard. One can’t say that the welfare of *A* is less than, equal to, or greater than the welfare of *B* because such things cannot be quantified at all. Let *A* and *B* both get a \$20 / hour wage, but *A* is sighted and *B* is blind. How can one try to equalize their welfare? Suppose we question them and they both have the following identical preferences: they are indifferent between being blind at \$20/h and sighted at \$10/h, and between blind at \$40/h and sighted at \$20/h. We might be tempted to tax *A* at \$5/h and with this money subsidize *B*. There are two problems with this: first, we cannot ensure or even make sense of the idea that we subtract from *A* and add to *B* the right “amount” of pleasure since money does not measure utility; second, their original welfare is likewise incommensurable. Neither marginal nor total utilities can be compared interpersonally.

It might be proposed in reply that happiness is a kind of *intensive* magnitude rather like light. We can say that one object is brighter than another even if we cannot gauge their brightness. There are two reasons why this idea hardly rehabilitates egalitarianism. First, happiness is not something that can be assimilated to a simple magnitude, even intensive. It belongs to a subject, in all his complexity. When comparing two sticks, we can abstract away from everything in them except their lengths. But we cannot do so with human happiness. Happiness is not some homogenous utility juice in the heart. It is, for example, tightly bound with all three kinds of virtues: theological, moral, and intellectual, the “self” understood as a reasonably well-integrated system of ends, consciousness, knowledge of the truth, even beauty of one’s body. To get anywhere, Cohen would have to *judge* each man as a whole, the way God is supposed to do at the end of the world. Second, even if happiness is like light, it is *inner* light; it is hidden from sight. People do not advertise their happiness the way the blessed shine in heaven. Now maybe Cohen can, to some extent, feel his wife’s happiness, but he does not feel mine or John Rawls’, and none of the three of us can ever know which one of us is happier. Thus, welfare is a multifaceted, secret, intensive dimension which is therefore impossible to compare between people, and so its equalization is a nonstarter. However, for the sake of argument in what follows, I am going to set this point aside.

Cohen derives inspiration from the socialist slogan, “To each according to their needs – according, that is, to what they need for fulfillment

in life”; and of course, in the face of scarcity rather than Marxian limitless abundance that the slogan presupposes, it will be Cohen who will be determining who “needs” what, and that itself in terms of what Cohen can afford. (Lewin 1983: 42) For example, he is sympathetic to compensating people for expensive tastes for which they are not “responsible” but presumably does not want to encourage people to *cultivate* new expensive tastes. This will require careful balancing. “I believe... it is unjust if I have to pay more for figs than you do for apples simply because few people like figs and many like apples – always assuming that you get from apples more or less what I get from figs.” (*CEJ*: 104) Well, if you absolutely have to, you can always try to *steal* the figs, professor.

Cohen then likes to “distribute” things (whatever ultimately they turn out to be) equally and pretends that this subjective preference of his has the imprimatur of objective justice. Cohen does not think that each individual *deserves* to get an equal share of goods; he thinks it is *fair* for him, Cohen, to distribute all goods equally. It’s a Cohen-centered morality. We are to ask, “What would Cohen do?” There might be *something* to it in the morality of the *nursery*: we might think it improper if a nurse were to lavish attention on one infant while neglecting another. I can see the deprived baby thinking, if he could think, “What am I, chopped liver? Why am I getting shafted?” This morality, however, is completely inappropriate for the world of adults.

Cohen wants to “to extinguish the effect of brute luck on distribution” (*CEJ*: 29) which is an infelicitous expression. How much each Cohenian citizen gets depends on what goods the “state” happens to own and on the level of population. This itself is entirely arbitrary. It’s not as if anyone *deserves* to be allocated by the state any particular amount, or that the amount given is somehow due to choice. Luck is not “extinguished,” it is simply made equal. We have seen that luck or randomness is an all-pervading feature of the universe. Its purpose is for the individual to exercise himself to use it profitably and for society to become whole through it. Equalizing luck hinders the individual and disintegrates society. This too fails as the right ethic for the real world.

R. George Wright (1977) even suggests that “perhaps common to all [reasons for redress], at least implicitly, is the notion that it would be characteristic of higher sorts of beings than men to be free from the effects of arbitrary contingencies in the form of blind, undeserved inequalities. Through redress, we emulate the ideal pattern of such a species as whose members are genuinely free and equal.” (76) I don’t see how equality between men uplifts man into a higher species. Each individual, after all, is still as limited or bounded as ever, indeed some, i.e., those who are looted during the redress, more than before, and the species is no nobler than the

individuals composing it. It seems implausible that ants would be metaphysically downgraded if they featured greater diversity; on the other hand, each angel is its own species which means that angels are radically unequal, yet angels are great beings, in fact superior to humans, for all (and perhaps because of) that. Still further, individuals are born unequal and develop into inimitable fully actualized adults through interaction with other curious characters and through making the best of their singular opportunities. To turn humans into clones of each other is to stifle their personalities and thereby to degrade the species, too.

Perhaps the claim is that it's somehow wrong that some children are born in poverty and others into wealth. In the first place, I don't think that the claim of injustice is true. If parents earned their money justly and decide to spend some of it on their kids, that's fine, indeed admirable. If inequality between parents is Ok, then logically, so is inequality between children. But even if we find something incongruous about it, surely it's not the case that the better-off children deserve to have their advantages coercively stripped from them for the sake of "redress." If you want to help the poor, you're welcome to do so; but you do not in so doing dispossess and abuse everyone else.

The genesis of luckism, according to Cohen, is the perception of the "injustice of actual social inequality" which comes "from the sheer luck of inheritance and circumstance: it has nothing to do with people's choices." This "outrage at the unfairness of mere luck causing a huge social inequality" is "intelligible" (*CEJ*: 120-1). I point out in Chernikov 2021 that the "outrage" is merely a debased and counterfeit version of the theological problem of evil. "Why does a good God allow some to suffer?" is supplanted by "Why should a good state allow some to be unequal?" On the one hand, the true God vanishes, and the state is, in a fake manner, deified (insofar as it now owns everything and dispenses blessings from on high); on the other hand, the true evil of suffering is replaced with the equally fake "evil" of inequality. For theologians, the problem of evil is theoretically of logic and practically of an obstacle to faith, moreover they do not usually solve it by disavowing God's goodness. Cohen interprets *his* problem as of justice, judges the inequality-permitting state itself evil, and is filled with zeal to reform it, to improve his god. How different is he from the Jewish prophets! They sought to make man conform to the true law of the true God so that man could be saved; Cohen wants his false god to conform to the false law so that man could be destroyed. Cohen's atheism makes him unable to see what's really going on.

According to the law of comparative advantage, the more and less talented will always find it salutary to divide labor and cooperate. The talents of the talented thereby work to the benefit of the untalented. Under

capitalism one faces every incentive to develop and utilize his powers for the welfare of society. This is the consummation of Rawls' difference principle (which Rawls privileges over redress), to make people's natural and social endowments work for each other. Under such conditions compensations seem at least superfluous.

The responsibility / luck cut seems dubious, too. God is ultimately 100% responsible for what goes on as first cause; every creature emanates from Him. But not so for man. Every enterprise depends for its success on good fortune. Man shares responsibility with it. But though fortune may be personified in mythology and art, it is not a person or factor of production; it does not appeal for a cut of the profits or have a marginal product. So it's true that if I'm fishing, I am only partly "responsible" for the catch because I was lucky that the fish decided to bite. It does not follow, however, that I don't deserve to eat or that the "state" has the authority to pilfer some of the fish on that account. Fortune smiles at some and not at others; the lucky owe nothing to the unlucky. The favor of the gods belongs to the favored.

As a result, "distribution" itself, too, is morally irrelevant. Neither equality nor inequality is either just or unjust. Distribution is not a normative issue at all, and ethics is not the proper discipline to opine on it, though economics perhaps is. For example, in the market economy it is the consumers who by spending their money as they please distribute incomes to the producers. There is no distributor, and at the same time everyone plays a role in the distribution. That does not of course mean that theft is not unjust: when Smith steals from Jones, he wrongs Jones because Jones justly owns his goods, but not because Smith makes the resulting distribution either more or less equal.

Another question is *what* after all is morally relevant. Well, man is both a capitalist with his inborn or acquired human capital and entrepreneur who himself directs his own efforts. Even if his initial cache of capital does not (at first) earn him acclaim, straightforwardly, successful self-direction and both the resulting dividends (happiness) and capital gains (his talents developed) are praiseworthy. Hence how prudently and courageously one invests his human capital is the essence of intelligent exploitation of "advantages," however "morally arbitrary," and itself highly morally significant.

Human capital, like any other kind of capital, is potency. It has no capacity to increase on its own; in fact, on its own it only depreciates.⁶ It is

⁶ A machine will depreciate in two ways: physically, by wear and tear, such that it will rust and break with time; and it will lose value as competing firms build more technologically advanced machines which will make the employment of the old machine no longer profitable. Similarly, human capital such as a skill will naturally depreciate: if you don't practice the skill, you'll get rusty; in addition, you have to struggle to keep your skills up to date since future economic progress will eventually make your present competence with exist-

the act within each human being, the primal life force in the heart of the will – “the impulsion of all impulses, the force that drives man into life and action, the original and ineradicable craving for a fuller and happier existence,” as Mises puts it (*HA*: 882) – that can preserve and multiply this capital. Make a few bad decisions in life, and your capital, no matter how initially high, will be lost; indeed, the more gifts the gods gave you, the more traumatic your demise will be if you misuse them. The bigger you are, the harder you fall.

Again, capital, including human capital, does not “beget profit”; capital, left to itself, decays and begets only loss; the greater the amount of capital, the greater the loss. Now justification implies some sort of merit for which a reward is due. Cohen’s luck egalitarianism proposes that “inequalities are just if and only if certain facts about responsibility obtain with respect to those inequalities” (*RJE*: 300). But the responsibility of shepherding one’s talents toward a successful career grows with the amount of the talents, since the greater the human potential unrealized or even perverted toward evil, the greater the catastrophe and shame. A talented man’s destiny is more fearful, unforgiving, poignant, and uncertain than a dullard’s. And one merits a proportionally greater reward for fulfilling duties where more is at stake. An illustration from Scripture may be opportune. Says Jesus: “Woe to you, Chorazin! Woe to you, Bethsaida! For if the mighty deeds done in your midst had been done in Tyre and Sidon, they would long ago have repented... But it will be more tolerable for Tyre and Sidon at the judgment than for you.” (Lk 10:13-14) This passage gives rise to theological problems like whether it is “just” for God to condemn Tyre in light of the fact that it *would* have repented if nudged a little, whether God was “at fault” for not having helped. For our purposes, both Chorazin and Tyre sinned, but more grace was given to Chorazin, and therefore it is more blameworthy. Likewise the talented are judged more severely. “With great power comes great responsibility” is false in politics insofar as the powerful there do whatever they can get away with but true in this case.

The human capital one finds himself with is morally arbitrary, but merit and moral desert are obtained for nonarbitrary entrepreneurial victory over adversity in which this capital plays a role. The reward is not anything external: success and the happiness achieved are their own rewards. And yet they are justly one’s own, and it would be unjust for the “state” to take or tax them away.

Ronald Dworkin (1981) defines “option luck” in terms of “how deliberate and calculated gambles turn out” and “brute luck” as any other kind of random occurrence. (293) The distinction, as he himself admits, is “a

matter of degree.” If I’m driving and someone rear-ends me, is that brute luck? But if I could have avoided driving by taking a bus, is it then option luck? Buying a stock is a deliberate and calculated gamble (calculated in the sense not of having precise probability but simply of intelligent), and the outcome is a matter of option luck, but the events on the market that will make a particular investment profitable or unprofitable in the future are brute luck. Luck egalitarians consider inequalities caused by brute luck to be unjust but those stemming from individual choice and responsibility permissible. But there is no such thing as a capitalist (whose stock of capital is presumably a matter of luck) who is not an entrepreneur or an entrepreneur (who exercises agency) who is not a capitalist. Capital goods are not merely physical objects; they are capital only when they participate in some entrepreneur’s plan of production. They have a subjective element of being useful to various people in definite ways. A man who has saved money that he is not investing or planning to invest in the near future is merely a hoarder, i.e., one who is saving in order to safeguard himself against uncertain future. Conversely, no novel production can be undertaken without capital. An entrepreneur is not just an idea man who discovers profitable opportunities; this is because talk is cheap, and that a man is a good entrepreneur must be proven in action, specifically by guiding his venture to fruition and therefore risking capital. An opportunity must not only be discovered as some objective feature of reality but also seized; there must be a flawless physical execution of the blueprint formed in the mind. An entrepreneur’s job is not mere contemplation of possibilities but also realizing them in action; and, like an artist or athlete, his skills may be more or less adequate. Hence luck and skill / choice are inextricably enmeshed into each other; the skill must operate, and can only operate, on whatever capital one has available, including capital accrued through brute luck. “Capitalist” and “entrepreneur” therefore are ideal types distinguishable in the intellect but always found together in every acting man. Almost every welfare inequality will be due to a combined cause of luck and choice which cannot possibly be disentangled.

Dworkin calls his egalitarian proposal “equality of resources.” (Equality of welfare can result in inequality of resources and vice versa.) According to him, Smith is said to *envy* Jones if he prefers Jones’ bundle of goods to his own. Equality of resources is defined as any inequality that passes the envy test. On a desert island Smith works 5 hours per day and gathers 5 pounds of berries, Jones works 10 hours and gathers 10 pounds. Jones is richer than Smith, and it might seem that Smith will envy Jones. Not so, says Dworkin, for Smith still prefers his life as a whole to Jones’ life, Smith does not envy Jones over the entire course of their lives, hence they are still equal in resources. It’s hard to see in what sense Dworkin priv-

ileges equality rather than alleviation of envy in his system. If Smith prefers his own life to Jones' and vice versa, there is a double inequality, not equality. A Trappist monk and a billionaire might not envy each other, but they are hardly equal in resources, however understood. Further, if envy is a mortal sin, and the righteous are free from envy, are they by that fact alone equal in resources? So absence of envy is insufficient for equality. But further if Smith and Jones literally have equal amounts of something, even if one of them envies the other for whatever reason, how is the mathematical relation disturbed? So absence of envy is unnecessary for equality. Perhaps "to envy" for Dworkin means not to sorrow for neighbor's good, to hate him and seek to tear him down, but "to covet." (There is a sexual thing in envy, I think, a desire to humiliate and dominate.) But even if Smith does not covet Jones' life in Dworkin's sense, he still covets in general. Smith might, for example, prefer a different economic system (such as with inequality) in which he has more. He then covets Jones' goods indirectly, so it's unclear what is achieved by the satisfaction of the envy test.

It's unclear also what the motivation behind the concern with envy is, anyway. Letwin (1983) responds to the argument that envy is a source of social instability. Among his objections is the following: "To argue that equality is an eligible cure for envy is to *assume* that inequality is evil and that envy is a natural reaction to it. If, on the contrary, inequality is natural whereas envy is corrupt, then the entire argument for equality as a cure for envy collapses. To try to eliminate envy by abolishing inequality is like trying to eliminate crime by abolishing law." (19) "Envy" seems to be a complete red herring.

Dworkin considers and rejects the "starting gate" theory, i.e., equal initial distribution and then *laissez faire*. There might be something to this theory if life were an athletic race enjoyed by the angels in heaven as a spectator sport. It does seem incoherent. What's the point? If we are libertarians, why bother with initial equality rather than Lockean appropriation (or for that matter the actual pattern of property rights prevailing right now)? And if we are egalitarians, why would we stress over liberty? Dworkin does want to start out equal, but he wants to maintain equality (in his sense of envy-free distribution). He wishes to do this with – drumroll please – income taxation. His rickety scheme need not detain us. Dworkin favors "a certain view of the distinction between a person and his circumstances, and assigns his tastes and ambitions to his person, and his physical and mental powers to his circumstances" (302). He is Ok with inequalities based on different individual desires and therefore different things that satisfy those desires. This distinction saves the egalitarian from having to maintain that if I prefer tea and you prefer coffee, both of us should be given water (and later reeducated to *want* water). Presumably, the "liberal egalitarian" is lib-

eral because he defers to people's "tastes" and egalitarian because he wants to equalize, by means of monetary compensations, people's "circumstances."

Dworkin focuses on genetic luck. This is intractable enough. But what of the second and third types of luck mentioned by Barry? The fact is that each individual is constantly bombarded in life with both option- and brute-lucky events, both good and bad. No redress, other than occasionally from voluntary insurance, can reasonably be made for such things. Every moment of every day, each man finds himself in *sui generis* circumstances and facing peculiar opportunities relative to his fellows. Circumstances are inputs to the intellect which, by listening to the will, processes them and makes a decision. Circumstances and preferences to the mind is like data to instructions in computing. On the one hand, the idea that circumstances can be equalized is incoherent. A choice made by any individual alters the circumstances for everyone, unequally; these new circumstances change the choices that will be made in the future. The market process is "indissoluble intertwinement of actions and reactions, of moves and countermoves" (*HA*: 333). Every human action reverberates throughout the entire economy which adjusts and responds to it as a result. The market has been built up by choices, but other people's choices are brute luck to me in terms of my relation to the market and vice versa. We can say that in the market, everything is luck and everything is choice, all at the same time. Dworkin's equality is incompatible with any realistic market other than perhaps of self-sufficient farmers who, once in a while, trade their crops. On the other hand, how does it make sense to exempt preferences when both circumstances and preferences can be due to both choice and luck (this is Cohen's argument)? And what of differences in people's intellects that cause some decisions to be better than others? By assimilating "mental powers" to circumstances, Dworkin ends up equalizing wisdom and folly.

Indeed, everything whatsoever, even beyond the market, that we do has luck built into it. I go to the grocery store and by sheer coincidence meet a friend there who in conversation reveals an important truth. Am I to be taxed for this lucky event? On the other hand, I go to the same store and meet an enemy who, again in conversation, misleads me (e.g., by making me into an egalitarian). Am I by that fact entitled to compensation?

My current position is based on my actual choices given my actual luck. If my luck had been different, my choices would have been different too, and it is impossible to say what my position then, in those infinitely varied counterfactual situations, would be. Indeed, because of the interconnectedness of things, the history of the entire world would have unfolded differently. Let talented *A* now be better off than untalented *B* with each working equally hard. But if *B* had been born as talented as *A*, he would

have chosen to work much harder and ended up better off than *A*. On the other hand, if *A* had been born as *untalented* as *B*, *he* would have chosen to work much harder and still ended up better off than *B*, indeed by the amount greater than that by which he is better off than *B* now (so *A*'s talent is kind of bad luck income-wise). Is the Ministry of Equality to compensate *A* or *B* and how? And if this puzzle is mind-boggling, how astronomically more so one that involves the entire economy!

Dworkin green-lights the consumer goods market where prices are determined by supply and demand in a futile attempt to defuse "envy." But he, I take it, affirms socialism because capitalist entrepreneurs face unequal "circumstances." And he seeks to ban the labor market again because workers are not equally productive. All jobs shall pay the same hourly wage; this accommodates "luck." But people can choose how many hours per day they work; this accommodates "ambition." This choice we might note is rather perfunctory since under such a regime the state will have to determine everyone's occupations, train them, and assign them to particular places of work. Like Cohen, Dworkin condemns the market process, and he condemns the evenly rotating economy, preferring in their stead some form of aggregate state of equilibrium. His luckist refinements add little to the socialist project.

In what sense is luck egalitarianism egalitarian, anyway? *Of course* people make different choices in life and because of that meet different destinies. How can an observation so perfectly banal as this be considered an insight? Egalitarians recognize that people *are* unequal, but they claim that they *ought to be* equal. Specifically, they argue that inequalities must be violently suppressed by the state. To assert that inequalities due to "choice" or anything else are just and permissible is to abandon egalitarianism. If it is admitted that unequal people should be treated unequally, if "equality no matter what" is no longer true, egalitarianism is done for. For example, if you make faulty choices and through superior luck still end up equal with others, then the *equality* is unjust. Once luck is equalized, everyone ought to get his just deserts. The flip side of Luck Egalitarianism is, as Arneson (2008) calls it, Moral Meritocracy: "People ought to gain better or worse conditions of life corresponding to their moral deservingness." (388) Luckists then do not defend Equality; they defend Extinguishing the Morally Arbitrary in distributions. But if I can prove that the moral distinction between "endowments" and "ambition" is spurious, and it's Ok for unequal endowments, no less than for unequal ambitions, to produce unequal results, egalitarians will have to retreat still further. What if it is a bad idea to turn the government into an all-encompassing insurance firm?

Cohen of course propounds that the fundamental value behind egalitarianism is "fairness," presumably of the nursery kind mentioned

above, and that inequalities *in* luck are unfair but *due to* choice are fair (cf. Nielsen 1985: 7-8). Here I suggest that his intuitions went haywire: fairness which he misrepresents entails no such things. For example, Geoffrey Cupit (1996) argues that in the case when “nature, fate, or fortune” produces some result, talk of justice and injustice is “idiomatic.” “We do not believe that there is anyone who has really treated the victim, and we do not, therefore, believe that anyone has been treated, and hence cannot consistently believe that anyone has been treated unjustly. It is, then, the absence of a treater which makes this seem not a genuine case of injustice, and certainly not a case of injustice calling for prevention or rectification.” (45n17) Cohen mistakes a metaphor for the real thing.

Consider an extreme case. You are a talented young person who is about to graduate from college. You’ve worked very hard, are exhausted, and take a brief vacation by going down to the coast. So here you are, floating gently in the ocean, and everything is so peaceful, and then a *shark bites off your head*. This seems like a metaphorical injustice because it’s as if you were robbed of a chance to compete and prove yourself in life. Pursuit of happiness is supposed to be a God-given inalienable right. St. Thomas argues that “It is also due to a created thing that it should possess what is ordered to it; thus it is due to man to have hands, and that other animals should serve him. Thus also God exercises justice, when He gives to each thing what is due to it by its nature and condition.” (*ST*: I, 21, 1, reply 3) If you are born without hands, or if the shark rebels against you, you are entitled to ask what is going on. Regardless, (1) the “injustice” consists in the *objective* disability or in violation of a right or quasi-right, not in inequality, and (2) for mere *subjective* welfare, *neither* absolute poverty, however reckoned, *nor* being relatively less well off than someone else caused by differential fortune is unjust. There is no sense in which God “owes” anyone any money or good luck. Cohen could probably pick on this distinction, but in any case the “injustice” is a problem of theology not political philosophy. If, like Cohen, you are an atheist, the issue should not arise at all: nature is neither just nor unjust; it makes no sense to ascribe justice to nature any more than any other virtue like modesty or patience. I say “should not” because Cohen thinks *he* is God and wants *himself* to be “fair.”

Here for example are some unpleasant consequences of the endowments / ambition distinction. As Anderson (1999) has argued, under luckism people will face an “incentive to deny personal responsibility for their problems, and to represent their situation as one in which they were helpless before uncontrollable forces,” fostering “passive, whining victim’s mentality” (311). It is part of the art of begging to pretend to be pathetic, and this will be encouraged. Likewise there will be incentives to hide and not develop one’s talents in order to get free money, similar to how slaves

will want to do in order not to be swamped with hard work. Unlike in private charitable giving where these problems can be managed, the impersonal social justice bureaucracy will be completely helpless. Further, why actively seek out further opportunities in life if that is punished while dull sloth is rewarded? *Both* you *and* your fortune which includes the brute kind must seek *each other*; and it is well known that you can make your own luck. Entrepreneurs are the driving force of the market, as Israel Kirzner pointed out, and their chief virtue is alertness to profitable opportunities. The opportunity I see is clearly luck; my choice to seize this opportunity is clearly ambition; but is my alertness luck or choice, and is it, on egalitarianism, to be taxed while absentmindedness on the contrary to be subsidized?

I should say that things have gone downhill since Cohen. Older egalitarians acknowledged human differences, such as in earning power, but argued that they should not result in unequal incomes. If Smith is smarter than Jones and as a result earns more money than Jones, they told us, this is “unfair,” and Smith ought to be taxed and the money “transferred” to Jones. Modern egalitarians, on the other hand, find the ideas of superiority and inferiority so unthinkable that they deny that people are different at all. The reason why Smith earns more money than Jones is not that Smith is smarter than Jones. That is an impossibility since everyone is already equal. Instead, *society* for whatever reason viciously discriminates against Jones. This discrimination is a sin and must be rooted out. Thus, whites are not smarter than blacks. Rather, blacks are discriminated against, they are unjustly marginalized and oppressed, etc.

There is a difference between “men and women are unequally productive on average but should receive the same wages despite this inequality” and “men and women are equally productive but society privileges men and subjugates women and this inequality is unjust.” The former is false philosophically, the latter is false empirically, but I prefer the former lie because it is less gross than the latter. Philosophical egalitarianism is a terrible doctrine, and it is hard to imagine anything worse than it, but there it is. Ford just *is* equal to Lexus, and the reason why they drive and cost differently is failure in “diversity, equity, and inclusion.” Before they condemned supply and demand, now they condemn (e.g., as racist) the suppliers and the demanders.

In sum, the idea that the fact of the random “lotteries” to which each human being is undeniably subject can or should prevent any man from striving to improve his lot in life is a non sequitur and inexcusable delusion.

2. Bizarro Justice

Cohen's critique of Rawls and other justice "constructivists" consists in part in arguing that their reasoning is contaminated with concerns other than "fundamental" justice. Specifically, Rawls, perhaps unbeknownst to himself, is interested not in justice per se but in what kind of society we want to live in, what Cohen calls "rules of regulation" or principles that will order and govern the citizens' common life. This question Rawls proposes to settle by means of deliberation in the original position, wherein the deliberators are supplied with certain information (more in some formulations, less in others), etc. By this method, whatever this clunky machine for manufacturing social legislation will actually churn out, it will not be justice as such: "the influence of other values means that the principles in the output of the procedure are not principles of *justice*, and the influence of factual contingencies means that they are not *fundamental* principles of anything" (*RJE*: 283).

Cohen's attempt to rescue justice from "facts" at first glance seems strange: "facts are irrelevant in the determination of fundamental principles of justice. Facts of human nature and human society of course (1) make a difference to what justice tells us to do in specific terms; they also (2) tell us how much justice we can get; and they (3) bear on how much we should compromise with justice, but... they make no difference to the very nature of justice." (285) But surely, those facts of human nature that make humans human would seem to matter in the construction of ethics for our species, otherwise the ethics for man would be identical to the ethics for elephants or books. Thus, if, as Cohen believes, equality of distribution is just for man, and if the facts of human nature are irrelevant to the derivation of this proposition, then equality is presumably just for books, too, and books therefore "ought to" be the same in their number of pages, price, or quality of their content. Cohen asserts, for example, that individual talents are morally irrelevant as regards distribution, but that presupposes that human beings, very much unlike elephants or books, *have* talents and that these talents differ. An example in favor of Cohen's thesis might be the principle "We should try to rehabilitate lawbreakers." Though books can't violate the law, *if*, per impossibile, they could, then they too might be eligible for rehabilitation, again, *if* they could profit from it. Still, it seems a considerable stretch to say that this fact-insensitive principle applies both to humans and (vacuously) to books. How about "Private property rights ought to be respected"? Books cannot own property, but if they could, then their rights too would have to be respected. But I don't find this counterfactual obvious because its truth would depend on other unspecified features of property-

owning books in our fantasy. One fact of human nature, for example, is that humans have interests, and those interests conflict. A fact-insensitive principle “Creatures’ interests ought to be harmonized” applies to human creatures but not to the eternal enmity between wolves and sheep. In the case of “Happiness ought to be promoted,” human happiness indeed ought; the happiness of mosquitoes ought not. If “property” means something like “external objects appropriated for one’s exclusive use,” then property rights for humans ought to be enforced, but not such rights for lions: the hyenas who steal a lion’s kill are not being unjust. It’s at the very least unclear which facts of human nature and society Cohen admits influence justice and which do not.

“Humans ought to love one another” is not a fact-insensitive principle because it presupposes the facts that humans are as they actually are, and the world is as it actually is. Counterfactuals are tricky. Suppose we say with Kripke, “If Nixon had only given a sufficient bribe to Senator X, he would have gotten Carswell through.” This simple counterfactual may be true. Suppose Nixon had given the bribe. Would Watergate still have happened? There is no answer to this question involving a complex counterfactual. So alternative history is pure fiction. Let’s now ask with Lewis, “If kangaroos had no tails, would they topple over?” The possible world must be specified further, otherwise we are unbound. Perhaps not if the tailless critters had recourse to crutches. What if the crutches were often defective? Some defter kangaroos might adapt anyway; others would keep toppling over. What if the government, in order to enforce equality, outlawed the use of crutches? In the black market that would arise, how many kangaroos would be priced out? Etc., ad infinitum. Very simple counterfactuals where we alter one or two things in the actual world can avail in moral philosophy for isolating principles, but anything beyond that is hopeless. For questions of what would be right or wrong in worlds of imagination sufficiently far removed from reality, either there is no answer at all, or we can’t find one due to “normative turmoil” (*RJE*: 247).

We could of course rewrite the statement as “For all X, Y, if X and Y are human, then they ought to love one another.” We could also try to pinpoint the qualities essential to charity. Let’s say they are a combination C of rationality, animality, ability to cooperate for mutual benefit, and receptivity to divine grace. Qualities such as height or skin color are accidental. Then “For all X, Y, if X and Y share C, ...” It seems to me to be a *fact* that humanity or C makes charity possible and desirable, but I am not sure whether Cohen would call it that.

Cohen is convinced that distributive justice = equality, and the fact that equality is unnatural or unachievable is, just like that, irrelevant: “it is so often the facts that make equality ineligible (as opposed to not identical

with justice)” (300).

The second part of his critique proposes that the difference principle, Pareto efficiency (which of course is a very poor man’s market process), stability, publicity, and so on are things with which justice is supplemented and which are used to compromise what falls within pure justice’s ambit. Design of society requires us to take into account lots of things which are not justice-related. Rawls’ project therefore is not a theory of justice but an attempt at system building. It calls “justice” what is in fact an agglomeration of numerous excellencies including but certainly not limited to justice as such. Again, “sound rules of social regulation must satisfy virtues other than justice, and must defer to factual constraints that do not affect justice itself” (*RJE*: 291).

For example, distribution (2, 2) is more just than (7, 3), says Cohen, but the latter “is preferable on grounds of human flourishing and might therefore reasonably be chosen” (*RJE*: 319). Relative to the “ideal” and often unfeasible distribution (5, 5), (2, 2) sacrifices welfare (which is not justice), while (7, 3) sacrifices equality (which is). Cohen thus believes that reckoning with matters other than justice (as he understands it) in constructing the overall social policy is fully legitimate, even mandatory: “it is... crazy, a piece of fetishism..., to care only about justice” (*RJE*: 307). Nevertheless, justice proper, Cohen suggests, must be distinguished from those things and given its due.

There is an obvious objection to this treatment which Cohen himself takes up on p. 302 of *RJE*. Rawls simply *defines* “justice” as the ultimate social contract made by the choosers in the original position. How can it make sense to criticize a definition? It is possible to say, “what is due to people, which is therefore the essence of justice, is equal distribution of stuff.” But it is also possible to say, “what is due to people is what the parties behind the veil of ignorance decide will be given to them.” Rawls’ definition of justice, Cohen replies, is a “neologism,” almost as silly as defining justice as number 5, perhaps, and hence is unhelpful. Justice, he writes, is “an elusive virtue discussed for a few thousand years by philosophers who did not conceive themselves to be (primarily) legislators and who consequently had a different project” (*RJE*: 304). Rawls is refusing to contribute meaningfully to the dialogue. I would charge Cohen with the same crime: that justice consists in equality is also a definition arbitrarily made by him. He spends half his book trying to rescue equality from Rawlsian-style arguments, but that’s different from proving that equality is *just*.

Rawls’ rules of regulation then incorporate matters of feasibility of justice which are separate from justice itself, and they also seek to give their due to lofty ideals other than justice. Cohen aims to “rescue” justice from these mixtures. But if Rawls’ definition is startling for being weird, then

Cohen's definition is startling for being brutal, cruel, and dark. It is unclear whose justice is less freakish. What then is justice? By now we have seen enough to complete Plato's system. The essence of justice is to secure a twofold end: *harmony* and *progress*, and we saw how the market does it in Section 1.2. (Recall that the ERE is contemplative harmony, the yin-yang MP is active progress.) We can call this *social* justice. Likewise, Rothbardian / Nozickian justice harmonizes by means of nonconflicting universal human rights and kicks off progress by means of privatization of the world, production, and Pareto-improving exchanges. We can call this *individual* justice (see Chapter 3). Cohen's socialism smothers progress, and his egalitarianism butchers harmony. What Cohen calls justice is simply the exact opposite of it: injustice. *This* is the vice Cohen spent his entire life promoting. "Injustice is justice" thus joins the unholy litany of "freedom is slavery," "speech is violence," "men are women," "marriage is prostitution," "blacks are geniuses," "(homosexual) love is (heterosexual) love," and so on, ad nauseam. What saves Cohen to some extent is that his *reasons* for rejecting Rawls may be sound even if his own theory fails.

The distinction between justice and rules of regulation may be illustrated by Cohen's discussion of the "ought implies can" principle. Oughts that imply can, Cohen argues, abide by the following conditional: if it were possible, then it would have to be done. Something remains *by essence* a duty despite the fact that reality *by accident* makes it impossible to carry it out. We may even interpret it as follows: one must have the habit or virtue of justice even if one cannot for whatever reason act justly in a given situation. The ought part for Cohen can remain a valid moral principle even if circumstances conspire to make one unable to follow that principle. Suppose we say, humans ought to fly by flapping their arms about, imitating birds. It is objected that humans cannot fly like this. This observation, however, is no counter to the moral principle that men ought to fly in a birdlike manner. The proper argument (as Cohen would have it) would rather be a proof that even if men could fly, the moral law would still not insist on it. Now I am not persuaded by this line of reasoning because it's hard to philosophize about possible worlds. If men could fly, the whole world might be different including in its moral structure, but different how? No one can tell. Cohen then writes:

It is indeed a reason not to adopt a rule when and because the fact that no one can follow it makes it futile, but it is equally a reason not to adopt a rule when futility reflects the different fact that no one *will* follow it, even though he can. But one would never say, investing the statement with the sort of importance that attends the typical announcements that "ought" implies "can," that

“ought” implies “will.” (RJE: 253)

The first ought applies to the question: “Ought there to be a law?” The second to: “Ought I to do my duty, for example, by obeying a law?” The first ought which regards rules of regulations is thus sensitive to both “can” and “will”: there ought not to be a law if people can’t obey it or if people won’t obey it, e.g., because of the difficulty of enforcing it. Thus, it is stupid and counterproductive for the government to issue a law that the people *will* hold in contempt and flout even though they are fully capable of heeding it. The second ought which regards justice tracks only “can,” because choosing not to do one’s duty does not cause the duty to come to fail to hold. Cohen seems to think that the duty “ought” implies *neither* “can” nor “will,” but I do not agree insofar as “will not” condemns the doer, while “cannot” condemns the moral rule.⁷

We have seen that imposing equality of distribution necessitates as a first step the killing of the market process and the substitution for it of an evenly rotating economy; and as a further second step, the breaking of the ERE and bringing about some form of aggregate state of equilibrium. An ERE is already a world of “soulless unthinking automatons” (HA: 248); going beyond it to replace the ERE with an A-SEQ with the resulting problems of Slavery, Serfdom, and Next Generation not only annihilates the economy utterly, but also crushes the human spirit. Remarkably, Cohen says, all this is irrelevant in regard to the question of whether egalitarianism is *just*. If equality is indeed the apotheosis of justice, then equality would be just even if it could not possibly be implemented in practice. Cohen indeed explicitly argues that “justice is an unachievable (although a nevertheless governing) ideal” (RJE: 254).

But surely people act justly every day. They abstain from murder and theft, and so on. Why is the specifically Cohenian justice *in general* (as opposed to in some extreme cases) such a *vicious virtue* that attempting to adhere to it would result in social disintegration? And indeed Cohen rejects the idea that “the implementation of principles of justice should lead to a morally attractive society” (CEJ: 234). Justice by his own admission is immoral. Isn’t that a self-evident absurdity, a complete failure to grasp what justice is? Could it be Cohen himself who is morally warped? That Cohenian communism is so clearly suicidal suggests, since it stands to reason that justice ought to be compatible with (indeed as we have seen aims to secure) smooth functioning of the economy and society, that egalitarianism can scarcely be aspired to. Indeed, such compatibility is a major reality check for the philosopher. The virtue of justice, in particular, straightens

⁷ A goal can remain desirable even if it cannot be achieved, but a moral duty ceases to be such if it cannot be performed.

up interhuman relations. In the market process, people in fact stand in relations to each other; there are *such things as* human relations. But in an A-SEQ everyone is equal to each other, like grains of sand. But grains of sand do not interact with each other; they are stripped of any relational complementarity, and there is nothing to justify in the first place.

In other words, equality is an insatiable value; despite Cohen's refinements, it cannot be satisfied until it has ground everyone into dust. To see this, compare it with Rothbardian anarcho-capitalism (A/C) as laid out in his *Ethics of Liberty*, for example. Anarchists have been rebuked with queries like, without government: "How will crime be deterred?" "How will road building be financed?" or "How will air pollution be managed?" Some of these are more easily answered than others, but I won't propose any solutions here. Suppose it's true that pure A/C is unattainable in practice. So what? Justice still demands it. We care for things other than justice, such as effective punishment of criminals, production of certain special public goods like intracity roads, control of externalities such as through basic sanitation legislation, and suchlike. Combining all these still yields a libertarian *laissez-faire* economy *with*, however, a minimal government to take care of such matters.

Consider, for example, the problem of (local) taxes. Some people say they are "proud" to pay them. Anarchists shower them with contempt for this attitude. Why, if you are so proud, don't you pay more? *You* are proud; but why do you coerce others into paying, as well? Etc. But check out how Hume characterized government: "Thus bridges are built; harbors opened; ramparts raised; canals formed; fleets equipped; and armies disciplined everywhere, by the care of government, which, though composed of men subject to all human infirmities, becomes, by one of the finest and most subtle inventions imaginable, a composition, which is, in some measure, exempted from all these infirmities." (*A Treatise of Human Nature*: 3.2.7) A person is proud that he has successfully cooperated with his fellow citizens to implement this "subtle invention," this apparently uniquely important technology.

To argue against A/C, one must show not that it is *somewhat impractical*, for I grant that, but that it is *unjust*, and no one has ever done this satisfactorily. A/C as it stands is unachievable, but if it *were* achievable, it would have to be put into practice as per the recommendation of justice. I agree with Cohen that the teachings of justice stand or fall on their own, regardless of other considerations. I disagree with him regarding *what* is just: he prefers his egalitarian socialism; I, my Rothbardian anarchy. Far be it from me, however, to concede any other parity between these theories of justice. Perfectly just yet a little impractical A/C is very close to a slightly less just but fully workable (e.g.) libertarian decentralized city-state minar-

chism; Cohen's vision is light years away from anything resembling a sane economic and social system. A functional A/C would be a boon to mankind; achievable equality would threaten to plunge society into darkness and despair. We should regret that A/C is impossible, chalking it up perhaps to the original sin or something like that; we should *rejoice* that egalitarianism is impossible and that attempts to implement it will ineluctably be frustrated by "human nature."

In other words, we may admit that A/C is unfeasible. But when we contemplate it, we do not posit human nature *changed arbitrarily* as we would if we started to imagine possible worlds, nor *corrupted* as Cohen's view entails, but *purified and righteous*. Sin, though unnecessary, is inevitable in life. The state and all that that implies exists not because people cannot be just, but because they will not. The Cohenian citizens, on the other hand, *cannot* internalize his norms lest they destroy themselves and social cooperation if they try. A/C is a dream about a holy world; Cohen's contrivance is merely a nightmare.

Since Cohenian justice conflicts in a stark way with other values, such as liberty, market coordination, progress, self-ownership, justice in buying and selling, and so on, it is unattainable, and severe compromises must be made. But in Letwin's (1983) words, "To defend halfway policies as 'moderate' is to pretend that a mitigated vice is really a positive virtue. On such reasoning, an assailant who wounded but refrained from killing his victim ought to be lauded as a benefactor. Halfway to an undesirable goal is too far by half." (45)

Best I can tell, Cohen embraces egalitarianism because Rawls' OP seems to yield equality as the first step in its constructive process, which itself, our author proposes, harks back to the moral arbitrariness of human natural and social endowments. We have seen that Cohen denies that Rawls' peculiar recipe outputs justice, instead of a more or less comprehensive recommendation for a good society on the whole. Cohen does not even think the Rawlsian machine is good for the latter: he "happens not to believe" that "Rawls' original position, or some variant of it, might be the right procedure for generating rules of regulation," anyway (284). For example, he wonders why the design of the choosers in the original position "should enjoy authority over flesh-and-blood human beings, such as us" (RJE: 290).

Rawls proclaims that "among the essential features of this situation is that no one knows his place in society, his class position or social status, nor does anyone know his fortune in the distribution of natural assets and abilities, his intelligence, strength, and the like. I shall even assume that the parties do not know their conceptions of the good or their special psychological propensities." (TJ: 11) Still, they "know the general facts about hu-

man society. They understand political affairs and the principles of economic theory; they know the basis of social organization and the laws of human psychology.” (*TJ*: 24) Hoppe comments that “Rawls’ imaginary parties had no resemblance whatsoever with human beings but were epistemological somnambulists; accordingly, his socialist-egalitarian theory of justice does not qualify as a human ethic, but something else entirely” (*EL*: xv). Cohen does them one better by arguing that Rawls’ original position, by focusing on overall policy and not strictly on justice, “endows the legislators with cognitive resources that are redundant from the point of view of specifying what justice is” (*RJE*: 284). Redundant!? Then do the legislators know anything at all? Is there *any* truth they are not divested of? Cohen’s wraiths have become full-fledged mindless placeholders; that equal distribution among *them* is supposedly required has zero influence on any real-world ethics or “ethos.” For some reason, then, Cohen has picked on a fairly insubstantial scrap of Rawls’ reasoning, namely the initial equality, and elevated it into the core argument for his egalitarian “justice.”

Cohen considers a situation in which manna falls from heaven and is distributed equally among the villagers. One day an extra piece of “irremovable but destructible” manna falls on Jane’s property and comes to be owned, in a certain sense, by her. But she refuses to take advantage of her fortune and decides to burn the manna. Our author denies that Jane is being foolish. “I would think,” he writes, “that she is simply a remarkably just person, and I think we should commend her for being one...” (*RJE*: 318). It certainly constitutes devotion to equality to level *yourself* down! Compare and contrast this with penance in Christianity. Why punish yourself? First, the diminution of your status mirrors your attempt to raise it by illegitimate means. The reaction *fits* the action. Second, the pain fits the spiritual degradation caused by sin. Third, penance and resolve to improve are means to forgiveness, reconciliation, and healing of the soul. The means fit the end. It is these connections that make penance just. What, however, fits what in Jane’s case?

Finally, we must honor not only our bold ruminations on what ought to be but also, in the humble Hayekian manner, what is, if what is has emerged as a result of long social evolution and is so subtle and complex as to be hard fully to understand. Cohenian justice completely ignores the body of existing – and intricate and inegalitarian – law which has been built up over centuries of civilizational progress. Like the corrupted Prince Arthas in the game *Warcraft III*, Cohen proclaims, “This kingdom shall fall, and from the ashes shall arise a new order that will shake the very foundations of the world!” Could Cohen please *not* destroy everything? Notions of justice that are as radical and sweeping as Cohen’s are a sign of a certain fatal conceit.

3. Cameras in the Boardroom

Cohen's *Self-Ownership, Freedom, and Equality* is a juicy book, not so much for its arguments but for its concessions as to the inadequacy of various arguments in favor of egalitarianism and socialism.

To begin with, classical Marxists, says Cohen, did not find it necessary to enter into the examination of either the economics or the ethics of socialism because they considered the coming of socialism to be "historically inevitable." The forces of social evolution would arrange, "inexorably," everything for the best. Ideas and individual human choices guided by them play but a very subordinate role in this grand process, such as in determining how to make socialism "come as quickly and as painlessly as possible. ... You do not have to justify a socialist transformation as a matter of principle to people who are driven to make it by the urgencies of their situation, and are in a good position to succeed." (*SO*: 6-8) The choice of the word "driven" is revealing. It is not individuals who drive history, as per Marxism, but somehow history drives them. It's "matter (i.e., the 'material productive forces') over mind."

What then constituted the agents of social change? "One was the rise of an organized working class, whose social emplacement, at the short end of inequality, directed it in favor of equality. ... [Second] was the development of the productive forces, the continual increase in the human power to transform nature for human benefit." The latter was supposed to result in some sort of "post-scarcity" society, in which "anything that anyone needed for a richly fulfilling life could be taken from the common store at no cost to anyone" (6). However, "history has shredded [these] predictions." As regards the first of these, capitalism most efficiently converts "proletarians" into bourgeoisie and has: "the proletariat never became 'the immense majority,' and it was ultimately reduced and divided..." We can add that the empirical demonstration of the fact that socialism impoverishes, while capitalism enriches, the masses cannot at present be doubted; socialism, as its every obedient victim has learned, is filth, squalor, hopelessness, and nothing works. But it is the second prerequisite for the socialist revolution that was annulled most decisively, according to Cohen. "The development of the productive forces now runs up against a resource barrier: ... the planet Earth rebels: its resources turn out to be not lavish enough... to generate unceasing expansion of use-value" (7):

The new basis of a demand for equality relates to the ecological crisis, which is a crisis for the whole of humanity. ...

(1) Our environment is already severely degraded, and (2) if there is a way out of the crisis, then it must include much less ag-

gregate material consumption than what now prevails, and, as a result, unwanted changes in lifestyle, for hundreds of millions of people. ...

Western consumption must fall drastically; we cannot achieve Western-style goods and services for humanity as a whole...

A (supposedly) inevitable future plenty was a reason for *predicting* equality. Persisting scarcity is now a reason for *demanding* it.

“We can no longer sustain Marx’s extravagant, pre-green, materialist optimism,” concludes Cohen. (*SO*: 9-10)

Now I may be able to see a reason for “equality” under Cohen’s assumption: if competition between entrepreneurs and workers has now, because of the “ecological crisis,” become zero- (or negative-) sum and cannot be harnessed for the sake of economic improvement, then there is little reason to permit it. If the standard of living is forever fixed and may even worsen, such as with population growth, then the key advantage of the free market – ever better and cheaper goods and services for the masses – disappears. Perhaps the economy should be frozen in place for all time to mitigate the perverse and vicious competition which churns the social hierarchy but only makes things worse on the whole. If, as part of such eternal economic rest, the government takes over production and distributes consumer goods equally, not much damage will be done to this Cuba-like world in which nothing that is both new and good is already guaranteed ever to happen.⁸

But wasn’t Cohen deceived yet again by the false “ecological” scares of the early 90s? If his new presumption of relentless global economic deterioration does not hold, what other straws will our author grasp at to bolster his hope for egalitarian socialism? Or is he really finished this time for good? George Reisman (1998) writes that “the green movement is the red movement no longer in its boisterous, arrogant youth, but in its demented old age” (102). Can we finally mercifully take Cohen and his fellow comies off the ventilator?

As far as the environment is concerned, consider this. They ran some experiments where they’d put a few fruit flies along with some food into a sealed bowl. The flies ate the food, they reproduced, they multiplied, they grew into a swarm, and finally they trashed the bowl and all died, poisoned by their own waste. Well, humans are *not like that*. If you think they *are* like that, then you need to have more faith in man, and indeed in God who would not have designed us so poorly. Our technologies are still crude,

⁸ See the discussion above of the devolution of the market process down to the evenly rotating economy and then still further to a form of aggregate state of equilibrium.

and in this transitional stage we may inflict collateral damage on the environment. We have a great deal of *power*, but we lack perfect *control*. The solution is to go not backward toward some sort of deindustrialization and depopulation but on the contrary forward, full steam ahead with economic progress so that soon enough these external costs can be mitigated through superior mastery of all the physical world. The salvation of the “planet” lies in the future not the past. Mother Nature should be neither destroyed nor left alone but rather dominated.

Cohen discusses three “solutions” to inequality, three opinions on how equality can be brought about. The first comes from Marx as interpreted by Cohen. Marx, he argues, pinned his hopes for communism on the eventual attainment of “limitless abundance.” He “thought that anything short of an abundance so fluent that it removes all major conflicts of interest would guarantee continued social strife, a ‘struggle for necessities... and all the old filthy business’” (*SO*: 131-2). Even disutility of labor will fade away when in that absolute perfection labor becomes “life’s prime want” (*SO*: 126).

Cohen quotes from the Soviet textbook *Fundamentals of Marxism-Leninism* to “provide the reader with a taste of what Stalinist faith in the development of the productive forces was like.” It is necessary, the book proclaims,

to prolong man’s life to 150-200 years on the average, to wipe out infectious diseases, to reduce non-infectious diseases to a minimum, to conquer old age and fatigue, to learn to restore life in case of untimely, accidental death;

to place at the service of man all the forces of nature, the energy of the sun, the wind, and subterranean heat, to apply atomic energy in industry, transport, and construction, to learn how to store energy and transmit it, without wires, to any point;

to predict and render completely harmless natural calamities: floods, hurricanes, volcanic eruptions, earthquakes;

to produce in factories all the substances known on earth, up to most complex... and also substances unknown in nature: harder than diamonds, more heat-resistant than firebrick, more refractory than tungsten and osmium, more flexible than silk, and more elastic than rubber;

to evolve new breeds of animals and varieties of plants that grow more swiftly and yield more meat, milk, wool, grain, fruit, fibers, and wood for man’s needs;

to reduce, adapt for the needs of life, and conquer unpromising areas, marshes, mountains, deserts, taiga, tundra, and perhaps

even sea bottom;

to learn to control the weather, regulate the wind and heat,
... to shift clouds at will, to arrange for rain or clear weather, snow
or hot weather.

Cohen comments: "It goes without saying that even after coping with these magnificent and sweeping tasks, science will not have reached the limits of its potentialities. There is no limit, nor can there be any, to the inquiring human mind, to the striving of man to put the forces of nature at his service, to divine all nature's secrets." (*SO*: 133n39) I agree that there is probably no limit to improvement in economic conditions regardless of what has already been achieved. But the general tendency toward such improvement does not entail ever arriving at any actual "post-scarcity" economy. A growing *potentially* infinite sequence stays at every moment at a finite number without ever becoming *actual* infinity which is a mathematical abstraction in any case.

Socialism, according to Marx, as the lower stage of his utopia, was supposed soon enough to produce the limitless abundance that would inaugurate communism, the higher stage. But here Cohen denies that the market is "inefficient" or wasteful, saying that the "traditional socialist view about the market's lack of planning was misconceived. It failed to acknowledge how remarkably well the unplanned market organizes information... von Mises and Hayek were right." (*SO*: 260) Now regarding this in *RJE* Cohen proposes that "socialist egalitarians are... unimpressed by the desert, entitlement, and utility justifications of inequality" (30). He has in mind the more modern socialists. But in *SO* he admits that one of the socialist criticisms of the market "in the past" was that it failed to deliver the goods. To trounce the socialists on utilitarian grounds is to force a massive retreat. So if socialism is an economic shipwreck, and capitalism, despite its wealth-generating power, still cannot eliminate scarcity 100%, then communism is unachievable according to Marx in this interpretation.

A somewhat different way to approach Marx is that for him, without the last-minute "dialectical" intervention to get us to paradise on earth, "raw" communism or socialism that would be established after the revolution is not only pointless but indeed a horrible, monstrous system that is much worse than capitalism. He says so in his essay "Private Property and Communism." According to Robert Tucker (1972), raw communism "is not the real transcendence of private property but only the universalizing of it, not the overcoming of greed but only the generalizing of it, and not the abolition of labor but only its extension to all men. It is merely a new form in which the vileness of private property comes to the surface." Again, quoting Marx, "In completely negating the personality of man, this type of

communism is really nothing but the logical expression of private property. General envy, constituting itself as power, is the disguise in which greed reestablishes itself and satisfies itself, only in another way. ... In the approach to woman as the spoil and handmaid of communal lust is expressed the infinite degradation in which man exists for himself.” (155, italics removed) Unlike Marx, Cohen does not put his faith in the dialectic to transform hell into heaven, instead he holds that raw egalitarian communism is required by justice. The righteous *should* live in hell.

If complete abundance, where “roast pigeons will in some way fly into the mouths of the comrades,” as Mises lampoons it (1990: xvii), is an empty daydream (such as because socialism does not work or because the dialectic is nonsense), then the first solution is immediately undone.

Note by the way that the limitless abundance which for Marx communism depended on does not eliminate but merges the “classes.” Every worker metamorphoses into a capitalist-entrepreneur who can grab any capital good as if from thin air and use it in whatever projects he would fancy undertaking. We might imagine some *Star Trek*-like “replicators,” whose power is limited only by human scientific and technological knowledge not by scarcity of material factors of production. (The show itself was obviously inspired by a communist vision.) Once we learn how to “program” a replicator to build an object, the object ceases to be scarce. Uttering a command like “Tea, Earl Grey, hot” to the replicator is sufficient to produce a cup of tea without diminishing the supply of other goods to other people. Once you drink the tea, you throw the cup into a “disintegrator” which grinds it down into elements and separates them, thus solving the problem of pollution. The information technology revolution that we are in the middle of today and which no one could have predicted may eventually bring us closer to this vision. But even if a post-scarcity world is possible, it will not abolish capitalism but fulfill it.

Many socialists disparage capitalism for not providing people with “meaningful work.” Nozick (1974) pointed out that to the extent that meaningful work is a valued good, it is not free and has a price, often in the form of lower income. (246-50) The Japanese *ikigai* diagram shows that finding “reason for being” or meaning in life, at least in terms of career, requires doing what satisfies four desiderata: what you love, what you are good at, what the world needs, and what you can be paid for. This is hard to achieve, and trade-offs are inevitable. Marx appeared to deplore the influence of the last of these, what you can be paid for, and sought to dissolve it by fantasizing about the world becoming the land of Cockaigne and work becoming play.

Cohen’s second solution, which he seems to dislike, involves the creation of some New Communist Man, who “will become a ‘social indi-

vidual' who identifies himself with the interests of other people" (*SO*: 134). This is "Marx as interpreted by others." He senses that "altruism in which people care only about the interests of other people is paradoxical, because there are then no interests for anyone to care about" (*SO*: 140n56). The idea of New Men is in any case fishy. Capitalism certainly caused a major social transformation. But it was driven by an ideological revolution. This revolution consisted in the realization that vastly different means – abolition of feudal restraints, free trade, rule of law, democracy, etc. – would better serve individual ends. It was rational, liberating, and took humans as they were which is precisely why it was both beneficial and successful. It did not overturn the ends themselves or reshape human souls. The creation of New Men seeks to do just those things. And that is both undesirable and impossible; we can to be sure *mess* with people but will only degrade and ruin them in so doing. We can even say that the idea of transforming human nature, or the nature of anything for that matter, is incoherent. If *X* has nature *N*, then changing *N* to *M* corrupts *X* entirely and possibly generates something else *Y*. To change human nature is to mutate man into a different species and thereby to destroy man. A version of this is some sort of mighty Christian self-forgetful charity, which is not paradoxical at all (because divine grace does not *change* or violate nature but perfects it), in which "the use of any material object, on any occasion, falls, with everyone's consent, to whomever would appear likely to get the most satisfaction from it" (*SO*: 143). This seems implausible, and if God could do it, He would have done it long ago; utilitarianism is not required by Christianity; and in any case Cohen is an atheist, and this answer is unavailable to him.

The third solution invented and favored by Cohen himself is for people to become motivated by a view of justice in which inequality of distribution is unjust and equality is just, and "voluntarily" pay various taxes designed to promote justice by minimizing inequality: "We should accept that there will always be substantial conflicts of interest... I am premising an abundance which, while smaller than what I think Marx prophesied, is great enough to ensure that very considerable self-sacrifice for the sake of equality of condition will not be necessary." (*SO*: 135) We have dealt with the egalitarian ethos above. Cohen now apparently freezes the economy at some arbitrary standard of living that does not even pretend to resemble "limitless abundance." He gives no thought to the people's desire for and live possibility of further improvement. Ever since Cohen has become a "green," he by his own admission no longer believes in everlasting progress, foreseeing only gloom and doom for humanity. Far from abundance, he predicts only declining living standards that will take us even below what people enjoyed at the time of his book's publication.

Cohen's vision then is of a miserly, hopeless, dull, often worsening

or at best unchanging existence for man, a world in which little of interest happens. Humans are born, live, and die, leaving no trace and making no difference. “Humanity’s uniquely teleological contribution to the universe,” in Salerno’s words (Mises 1990: 50), has, in Cohen’s melancholy view, come to an end.

3.1. ROBBING WILT CHAMBERLAIN

Robert Nozick in *Anarchy, State, and Utopia* assumes at the beginning of his argument that, in position D_1 , all goods are distributed equally. A socialist is invited to consider this initial position just. Nozick then proposes that there is no injustice in voluntary exchanges between members of society. He argues that free trade will shatter the equality by bringing about D_2 marked by considerable inequality. But since the latter unequal state emerged from a *just distribution* by means of a series of *just steps*, it, too, is just. In particular, it seems permissible for a million basketball fans to pay a quarter each to see Wilt Chamberlain play. Yet in the process Wilt will garner for himself a tidy sum of money.

Cohen claims that “the Chamberlain story... impugns not the original distribution but the *exclusive* rightness of the principle mandating it,” i.e., equality. (SO: 24) That seems like a wrong interpretation. The story illustrates rather that justice is fully compatible with both equality and inequality alike, and hence equality cannot be a principle of justice at all. It’s not the case that equality is one but not the only sufficient condition for justice. For let D_2 be equal but have been brought about by looting Chamberlain. Then it is not just for all that.

One move by Cohen as we have seen is to call justice equality by fiat in which case of course just steps do not preserve justice because they do not preserve equality. Instead, he argues, *legitimate* steps preserve *legitimacy* by which he means roughly a state of affairs about which no one can complain. (CEJ: Ch. 6) And that seems to suggest something like “universally willed,” yet even what is universally willed can be unjust (can it?). So, Nozick’s formulation, Cohen argues, is troublesome for egalitarians but false because equivocal – the initial distribution is just in one sense (equal), the steps are just in another (Pareto-superior), the final distribution in still a third sense (legitimate); Cohen’s rephrasing is true but compatible with his views. Ok, but the injustice of D_2 is a cause for complaint, in fact *everyone* can complain about *that*. But how does it make sense for a person to complain *ex ante* about the consequences of his own choices? Perhaps Cohen means that the sacrifice of equality, and hence by definition of justice, is a cost everyone reluctantly bears in order to watch Chamberlain play. It is only human to complain, even if futilely, about costs. This is problematic. For justice enjoins compliance with its duties independently of ends and

desires. The moral law is a set of categorical imperatives: one ought not to murder even (and especially) if he wants to murder. If equality is just, then one cannot breach it to be entertained. “But I *wanted* a candy!” is no excuse for shoplifting the candy; similarly, “But I *wanted* to watch the game!” is no excuse for spoiling the holy equality. So this is one kind of “cost” that ought not to be paid. Two things follow (from identifying justice with equality): first, Cohen’s rephrasing is false (insofar as no injustice is legitimate); second, the steps of voluntary exchanges are in fact unjust and wrongful and ought, as the cause of injustice, to be banned. But Cohen accepts that they *are* just (and not merely legitimate) and so is caught in a self-contradiction.

Cohen objects to capitalist acts between consenting adults on the grounds that they (may) have wider repercussions. He finds the Chamberlain fans “insufficiently reflective, when we think through, as they do not, the *full* consequences of what they are doing” (SO: 23). What are those? They consist in Chamberlain’s “special position of power in what was previously an egalitarian society” (SO: 25). If the fans had realized the pernicious newfound power this sinister tyrant has acquired over them, then they might not have *collectively* agreed to exchange with him. Yet Cohen’s only example is that

a person’s effective share depends on what he can do with what he has, and that depends not only on how much he has but on what others have and on how what others have is distributed.

If it is distributed equally among them, he will often be better placed than if some have especially large shares. (SO: 26-7)

I am mystified by how Cohen came up with this idea. He does not defend it; nor did I ever see it asserted elsewhere. Why, when *others* have equal wealth, am *I* better off than when they do not? What economic logic demonstrates this alleged principle or law? It’s true that after earning his quarter million, Wilt has power over consumer goods, i.e., “purchasing” power; he can take off the market for himself a lot of goods by spending his cash. But first, a million *other* people (namely, his fans) now have a tiny bit less (namely, 25¢ less) of such power, with the overall effect being that the supply of money in *all* other people’s hands is the same, which makes me in general, assuming stable demand for money, neither worse off nor better off than before. The consumer goods are still on their shelves in stores awaiting my own money. And second, Wilt compensated the rest of the people for this “power” with the good time he produced for them. His purchasing power is not only justly acquired but also justly spent. Cohen fears that Chamberlain might “buy a set of houses and leave them unoccupied, with speculative intent” (SO: 27), as though there was something either morally wrong or economically inefficient about that.

A negative *real* externality to a third party is essentially *physical* damage to or invasion of his property. This can be a source of injustice, and courts must deal with it. It is distinguished from a *pecuniary* externality which is a change in the *market value* of one's property. If I buy a bag of oranges, one consequence is that I may bid up the price of oranges, and as a result you'll become slightly worse off (so the value of your money may change). Economic development can cause your farm to appreciate or on the contrary drop in value. Shifts in the supply and demand are not, on any reasonable morality, injustices at all, and other people have no recourse against a Nozickian voluntary exchange. In addition, under capitalism, pecuniary externalities tend to be positive in the long run due to economic growth. Remarkably, Cohen shows awareness of this point on pp. 227-8 of *SO* without seeing that here he has no case.

Our author's second attempt to trace the more remote consequences of free exchanges is that people might be upset that "a society of equality is in danger of losing its essential character. Reflective people would have to consider not only the joy of watching Chamberlain and its immediate money price but also the fact, which socialists say that they would deplore, that their society would be set on the road to class division." (*SO*: 26) But how can an *individual* demonstrate his commitment to equality? One may desire to live a just and prosperous life; in a libertarian society it is within his own power to achieve both (the former by refraining from stealing, etc.). But we have seen that one cannot of his own accord become "equal" to everyone else. In order for that to happen, he must subdue his fellow men. In practice, he must unite with everyone else to form a government that will be subduing everyone equally. One can commit personally to, say, a religion without any need to involve anyone else in his decision. But one cannot thereby commit to "equality."

We may ask, what if people like equality? Can't they repress these exchanges so as not to spoil their regime? But equality is not a consumer good like a smartphone, nor a lifestyle, but an ideological vision. It's not an arbitrary subjective preference, as if for chocolate ice cream in comparison with which capitalism would be vanilla. If it were such, then we might argue that *de gustibus non est disputandum*. But if it's an ideology, then figuring out whether this ideology is true is precisely the issue at hand. It would, after all, be irrational to pledge to a set of unsound ideas, and an objectively false or vicious doctrine can hardly be a source of subjective value. For example, Cohen has not established that group *G*, the members of which all want to be equal with each other, may justly coerce people uninterested in equality also to be equal to *G*, which is what his reflective socialists must resort to. That is, if what is due to each man is equal share of the social product, then every man on earth is by justice required to be absorbed into the commune,

lest if he chooses to remain independent and keep the full fruits of his own labor, equality will be frustrated. The imperialistic aspect of this creed that apparently calls for instant subjugation of the entire world makes Cohenism even more implausible. Perhaps Cohen would go so far as to invoke O'Brien's defense of it in 1984: "the individual is only a cell... Slavery is freedom. Alone – free – the human being is always defeated. It must be so, because every human being is doomed to die, which is the greatest of all failures. But if he can make complete, utter submission, if he can escape from his identity, if he can merge himself in the Party so that he *is* the Party, then he is all-powerful and immortal." But in that case it seems sufficient to object that, sorry, Cohen, I will take my chances with *actual* freedom.

Hence if allegiance to equality is absurd, such as if we can prove that it is abhorrent to justice, liberty, and welfare, then Cohen's argument fails.

Socialists will defend their prohibition, Cohen suggests, "by reference to the social good and widened freedom that it promises" (*SO*: 30). Regarding the first, Cohen replies to a deontological argument with a utilitarian one: good consequences (in terms of welfare?) make an inherently unjust act Ok. This is hardly decisive. Further, what if it can be proven that socialism results, as it in fact does, in the destruction of the economy, abject impoverishment, and mass extinction of the human race? (Given Cohen's recently raised "environmental" consciousness, perhaps that's exactly what he wants.) For example, contra Cohen, a self-interested exchange is a Pareto-superior move, whereby two people (such as a given fan and Chamberlain) become better off with no one becoming worse off. Outlawing this transaction straightforwardly diminishes human happiness. No compensatory "social" good seems to ensue. Regarding the second, no proof that *freedom* would in fact be widened by a *prohibition* is adduced by Cohen, which keeps this claim obviously self-contradictory on the face of it.

In *RJE*, he argues: "You cannot begin with equality because all inequalities are morally arbitrary in origin, and therefore unjust, and then treat an unequalizing Pareto-improvement as lacking all strain of injustice." (170) The injustice must then lie in the fact that exchange is permitted by the state. Now the ultimate cause of producer *insecurity* in the market is "the propensity of everyone to take advantage of any opportunity offered for an improvement of his own well-being" (*HA*: 852). But *inequality* has the same cause. What explodes any initial enforced equality is every person's endeavors to seek his own happiness. Cohen is cognizant of that: "if all means of production were distributed equally across the population, and people retained self-ownership, then differences in talent and time preference and degrees of willingness to take risk would bring about differential prosperity..." (*SO*: 120). Luck egalitarianism which forbids inequalities due to brute

luck (“the luck which, unlike that of a deliberate gamble, we cannot reasonably be expected to avoid or escape” (*CEJ*: 116n2)) but sanctions them due to individual choice is thereby undone, because any egalitarian D_1 will grimly slouch into an unequal D_2 if people are left free to produce and trade with each other, and these inevitably involve luck.

It seems that Cohen must bite the bullet and call mutually beneficial exchanges, indeed all trade as such, unjust, because the two parties, by benefiting from their transaction, become not only happier than *before* but by that very fact happier than *the rest of their fellows* to whom they were equal before the exchange but no longer are. The egalitarian ethos thus prohibits all trade and commerce, and of course history abounds with utopian communities organized on precisely this principle. E.g., the English communist Gerrard Winstanley, Rothbard (1990) relates, in 1649 had a vision in which

a version of God had created the universe; but the spirit of “selfishness,” the Devil itself, had entered into man and brought about private property and a market economy. The curse of the self, opined Winstanley, was “the beginner of particular interest,” or private property, with men buying and selling and saying “This is mine.”

He realized, Rothbard continues, that in his ideal community

all wage labor and all commerce would have to be prohibited on the penalty of death. Winstanley was quite willing to go this far with his program. Everyone was to contribute to, and take from, the common storehouse, and the death penalty was to be levied on all use of money, or on any buying or selling. (131-2)

Again, in the French writer Étienne-Gabriel Morelly’s design in *The Code of Nature* published in 1755, “In accordance with the *sacred laws*, nothing will be sold or exchanged between citizens.” (Fried 1992: 21)

Cohen is too squeamish to bring his ideology to its proper logical conclusion. If he wants to crack down, then he should, like Winstanley and Morelly and numerous others, go all the way. Indeed, equalization requires maximum brutality. For example, it may be necessary to liquidate class enemies, starve people, and ensure that citizens will “submit to examinations as intimate as those given to workers in Mexican diamond mines” (Wolff 1998: 122, quoting Adolphe Thiers). Cohen refuses to get his hands dirty. Practically the only “tool” he is willing to use is taxation because it is still for whatever reason politically correct. A dubious measure to pay the cops and finance road construction is elevated into the source of egalitarian salvation. Cohen is hoping against hope that the holy tax system will deliver him from inequality. He prays every day for the Lord to send out His tax

collectors who will fix everything. “You *shall* steal,” Cohen’s list of commandments declares, “in the name of equality.” In his delirious obsession it does not occur to him that righteous people seek not to *tax* others but precisely to *lighten their load*.

But perhaps coercion will be unnecessary. “In traditional socialist doctrine capitalist action wanes not primarily because it is illegal, but because the impulse behind it atrophies, or, less Utopianly, because other impulses become stronger, or because people believe that capitalistic exchange is unfair.” (*SO*: 28) If the impulse within human beings to better their lot in life including through production and trade does atrophy, and humans become machines without a will of their own, then I concede the argument.

People may “develop... desire for community, a relish for cooperation, and an aversion to being on either side of a master/servant relationship” (*SO*: 29). Cohen confuses community with coerced conformity. It is not a community in which his “mean and spiteful” comrades pull down anyone who dares to stand out from the crowd. It is not a community where people, deprived of any chance of advancement in the rigid bureaucratic regime, take to the bottle. Cohen does not realize that capitalism is indeed a system of social cooperation with competition being an aspect of cooperation. Competition means “the opportunity to serve the consumers in a better or cheaper way without being restrained by privileges granted to those whose vested interests the innovation hurts” (*HA*: 276). It is rivalry by the businessmen as regard who can please their customers best, not, as he absurdly holds, an aspect of “the predatory phase in human development” (*WNS*: 82). In *competing* against each other, entrepreneurs and workers *cooperate* to promote greater social good. And Cohen overlooks the fact that under capitalism, there are no masters or servants; it is the pinnacle of social development under which institutional exploitation, unlike under the more primitive slavery and serfdom, does not exist.

Cohen’s replies assume a special “socialist psychology” (*SO*: 31). Well, if human beings stop being human and turn into ants with the corresponding psychology of the ants, then perhaps his argument will work then.

I am not sure whether Cohen rejects deontological talk of rights as such or merely libertarian rights. He complains that “if children are undernourished in our society, we are not allowed to tax millionaires in order to finance a subsidy on the price of milk to poor families, for we would be violating the rights, and the ‘dignity’ of the millionaires” (*SO*: 31). But we are not talking about a cartoon story line in which a holy Old Testament prophet smites a greedy and grasping rich man in a top hat and monocle and spends the spoils on children’s health *but* about either a capitalist society that has millionaires or a socialist society that does not have any at all. In the former, an act of theft (and make no mistake, taxation is theft as per

libertarianism) is impermissible according to basic justice (and incidentally does violate the dignity of the victim as a human being with natural rights). In the latter, such acts can never occur for lack of millionaires in the first place. What then is Cohen's point?

In addition, capitalism is the premier form of human social cooperation that alleviates poverty with maximal celerity. I do not grant to Cohen the claim that capitalism endangers children; on the contrary, children fare worse, and in the long run *much* worse, under socialism than under capitalism.⁹ Cohen's arguments bear upon equality, and he should stick to that; in regard to welfare, whether of children or the poor, he has no case at all.

Cohen also confuses power (which he carelessly calls "effective liberty" (*SO*: 31)) with freedom. The fact that I lack the power to travel to Alpha Centauri does not mean I have no right to (try to) do so; the fact that I have the power to kill a person does not mean I'm free to do it. Granting to him all his zany assumptions about the callousness of capitalism and of rich men, taxing the millionaire may boost *welfare*, but it *both* abridges freedom and diminishes its total amount. It does not follow from his example that socialists can successfully "restrict freedom in order to expand it" (*SO*: 33).

Regarding the meaning of "force" or "coercion," Nozick is himself unclear. To test his definition, Cohen compares the situation of villager Victor with either farmer Fred or farmer Giles, both of whom, let us suppose, own a tract of land near Victor. Victor has a right of way across Fred's land but not Giles'. When both Fred and Giles build an insurmountable fence around their properties, Victor is said to be equally "forced" to find another route. But the word "force" is inextricably linked to injustice. Fred violates Victor's right and so makes him worse off unjustly. But since Giles is within his rights, no injustice takes place, and there is no "forced" imposition on Victor.

With the semantics thus clear, it remains to ask Cohen whether he really imagines that under socialism people will not be subject to hunger and will not be "forced" by the prospect of starvation to work. The worker is *forced* (so to speak) to sell his labor not by the capitalist system or by legal oppression but by natural necessity; the worker is *free* to sell his labor in the sense of *to all comers*, because numerous capitalists are competing for it. "It would be highly inexpedient and misleading to say that a man is not free because, if he wants to stay alive, his power to choose between a drink of water and one of potassium cyanide is restricted by nature," argues Mises

⁹ Self-ownership, Cohen claims, "disinsures the availability of resources required to nourish children's capacity to choose" (*SO*: 236). Are we really to be spared nothing?

(HA: 281). “When we say that ‘man is not “free” to leap the ocean,’ we are really discussing not his lack of freedom but his lack of *power* to cross the ocean, given the laws of his nature and of the nature of the world.” (EL: 33) A worker is free when he (1) is mobile as opposed to bound to land; (2) has permission to seek work at any business firm rather than being enthralled to a particular lord; (3) is subject to no government licensing requirements; (4) can at will become a capitalist and entrepreneur as opposed to being fettered with state-imposed barriers to entry into any industry. All these hold under capitalism; none obtain under socialism where a single authority determines (as it should if there is to be a coherent central plan) one’s occupation and place and conditions of work.

3.2. ON THE STRAIGHT AND NARROW

We have seen that Nozick has argued that if we start in a just situation and from then on permit only non-unjust transactions between persons, such as voluntary “market” exchanges, then any resulting state after however long a time will also be just. Cohen aims to cast doubt on this law with several counterexamples. As will become clear, none of them turn out to work.

1. “Imagine that one of my justly held rolling pins rolls out of my front door and down the hill and through your open door, without your knowledge. You innocently mistake it to be the one you mislaid, and you keep it and use it. Now, so I take it, not everything is justly held, but no one has behaved, or is behaving, unjustly.” (SO: 44)

I find this a rather inoffensive state of affairs. To spice things up, let’s consider an even stronger case. Smith loses a \$20 bill; Jones finds it and keeps it. This time, Jones *knows* that the money (or pin) is not his. But what’s the big deal? Who convinced Smith that he is guaranteed never to suffer any unfortunate accident? In this case, straightforwardly, Smith loses ownership of the \$20; the banknote is then put back in the state of nature and becomes unowned; finally, Jones homesteads it and gains ownership of it, all perfectly lawfully.

In cases where the lost value is considerable, the justice of the situation depends on the possibility and cost of rectifying the mistake. If Jones cannot find the owner, nor the owner him, then the title to the money goes to Jones. If the parties can find each other at a reasonable cost, then Jones may have a duty to cooperate in fixing the error (and perhaps be entitled to a reward for his conscientiousness). For example, the situation would be relevantly different if Jones were to receive a package containing \$1 million in cash intended for Smith by mistake. It would be reckless, criminal, and quite likely suicidal for Jones to up and keep it without an earnest attempt

at setting things right. In this latter case, Cohen would grant that if Jones keeps the package, then he is doing something wrong, but he insists that Jones' crime consists in merely perpetuating an already unjust distribution of goods. And this distribution appears to have resulted from a just state without anyone being guilty of any wrongdoing.

However, the "distribution" is of legal titles to property rather than of physical locations of items. That an object moves from point *A* to point *B* is neither necessary nor sufficient for a change in who owns what to occur. When Smith exchanges his apple for Jones' orange, titles are transferred lawfully, preserving a just distribution. The actual positions of the apple and orange in space are incidental. There is a difference between buying an object and having it delivered; the delivery is incidental to and may not even be a part of the transaction. When I buy an item online, I come to own it the moment my credit card is charged, long before I obtain physical possession of it when the package arrives. If a thief steals *X* from me, I remain the true owner of *X*. If the thief eludes detection and convinces society that the stolen good is really his, I may have no recourse other than to let the matter be and acquiesce in an unjust distribution. But if I catch the thief and recapture *X*, then there will have been no change in the distribution of titles to property, because I was owning *X* even when the thief had physical control of it.

Again, when an authority falsely yet publicly *denies* that Smith has a property right to *X* (such as a natural right) in the first place, accuses Smith himself of an injustice if he insists on holding on to *X*, seizes *X* by overwhelming force, and "officially" grants the title to *X* to Jones, the title is transferred wrongfully resulting in an unjust distribution. Of course, both the thief and the government would be committing unjust acts in the process, so Nozick's law survives. An unjust distribution then arrives on the scene only when the true owner gives up on finding justice. But in the case of the misdirected package, Smith still owns the money, and everyone knows it. Again, the mere fact of Cohen's pin innocently finding its way through my door to me does not create an unjust distribution. Either Cohen still owns the pin despite temporarily forsaking control over it through a "misadventure," or the pin has been "lost" and is now up for grabs, in which case I can appropriate it.

More distinctions are in order. Let an unjust *act* consist in deliberate unauthorized use of another's property marked by contempt for that person's rights. An unjust *situation* would be such felonious trespass nonchalantly prolonged over a period of time. And an unjust *distribution* prevails when there is reluctant general acceptance of unjustly obtained existing property titles. We have to be practical here and assert that in a market economy where there is continuous production, exchange, and consump-

tion, the injustice of a distribution *fades* over time. The more times a good is exchanged or transformed, or in the case of money, spent, the more remote the possibility of tracing it to the original owner and returning it to him becomes. In addition, every claim of an injustice must be established; everyone is innocent until proven guilty. For practical purposes, a distribution will be just so long as no convincing proof of its injustice, such as in a court of law, can be furnished.

Thus, every time Jones spends some of the money in the package (perhaps indeed under false pretenses), he acts unjustly; if he is allowed to persist in this, then he will have also created an unjust situation. But there is an unjust distribution only at the point when Smith abandons his efforts to locate the money, so that Jones' *de facto control* over the \$1 million is upgraded to *de jure ownership*. Thus, if Jones keeps the package locked up (say, to wait out Smith's frantic search while Jones arranges a retirement in the Caribbean), he is physically and in a clearly unauthorized manner preventing Smith from recovering and using his property. This is an unjust situation. When Jones finally moves to the Cayman Islands and is safely out of reach, there is now an unjust distribution. As a result, my knowingly misappropriating Cohen's pin begets an unjust situation but not, at least at first, an unjust distribution. The former, because I am using it continuously without permission and also perhaps because I am refusing to return it. The latter, because Cohen nevertheless still owns the title to the pin which has not been transferred or redistributed either lawfully or, insofar as he is still looking for it, unlawfully. To summarize:

(1) If Cohen concedes in his heart that the pin has been lost, then by that fact he abandons ownership of it. If I then find it and keep it, there is no unjust distribution.

(2) If I find the pin and can't locate the owner though I try, then the pin becomes mine at least provisionally even if Cohen is still looking for it, because it makes no sense to let a good pin just sit there in the barn doing nothing. Such a rule is also prosocial by posing rigorous incentives to people *not* to lose their stuff. Again no unjust distribution follows.

(3) If I find the pin and maliciously hide it, and later Cohen gives up trying to find it because of my skulduggery, then there is an unjust distribution, but it was brought about by my unjust acts.

Nozick's law then is undamaged by the first of Cohen's attacks. His further examples bomb more straightforwardly.

2. A case of "extreme ignorance: I sell a diamond to you for a pittance (or I give it to you on a whim), a diamond that we both think is glass. *By that...* just step, a situation arises in which you hold a diamond. But few would think that justice is fully served if, its true

character having come to light, you now hang on to it, even though no one behaved unjustly in the generating transaction.” (SO: 45)

It is perfectly just, from the libertarian point of view, both situation and distribution. No one is immune to making mistakes; and a mistake like undervaluing a diamond is one’s own responsibility. Even if I know that the diamond is real, I am not duty-bound to inform Cohen that his choice to sell it to me is foolish. It is completely just (even praiseworthy, though at times perhaps not “nice”) to take advantage of another’s economic ignorance. A fortiori, it is not unjust to keep the diamond if I did *not* know it was real at the moment of the exchange. Let it be a lesson to Cohen not to be a sucker. Matters are relevantly different if I am a jeweler whose job it is to appraise gemstones. But in this case I am contractually (rather than naturally) obligated to be competent and tell the truth.

3. “An insurance company (innocently) goes bust and thereby (in the absence of state assistance to them) ruins the lives of people who could not have known that its position would come to be exposed, people who now have to sell their assets voluntarily (in the relevant libertarian sense), for a snip, to alert non-fraudulent buyers.” (SO: 46)

What could indeed be more innocent or ubiquitous than a company in the free market losing money and going out of business? If *that* is “unjust,” then is there anything that isn’t? The people who trusted the company in vain will learn to be smarter in the future, that’s all. No, taking business losses is not unjust.

4. Nozick’s own example of the “monopoly holder of drinking water,” such as presumably an oasis in a desert which is the only source of water for hundreds of miles in any direction. (SO: 46)

Mises describes this situation as follows: “Such a monopolist has the power to starve to death all those who do not obey his orders. He dictates and the others have no alternative but either to surrender or to die. With regard to such a monopoly there is no market or any kind of catallactic competition. The monopolist is the master and the rest are slaves entirely dependent on his good graces.” But how relevant is this case for a paradigmatic market economy where people *transform* deserts into thriving civilizations? A jab against Cohen would be that “a world-embracing socialist state would exercise such an absolute and total monopoly; it would have the power to crush its opponents by starving them to death” (HA: 277). A general could keep his troops in check by addicting them to a drug without which they would die, with him having the only supply. Such science fiction scenarios

are really beside the point. Even here, there is no *injustice* in such a monopoly, though it can be objected to on other grounds.

Say I'm crawling through the desert dying of thirst. You in your caravan come across me and offer to save my life in exchange for giving you all my money or becoming your slave. Since this is a profitable exchange for both of us, it may be *immoral* for you to seize all the gains from trade, but I wouldn't call it *unjust*. We can even concede that certain extremely unlikely end-state distributions, such as one man owning the entire world, would be problematic even if they occurred justly. But they would be problematic for reasons other than injustice.

5. Voluntary slavery: "*A* and *B* are identical in talents and tastes. Each would so like to have a slave that he is willing to risk becoming one in exchange for the same chance of getting one. So they toss a coin, *B* loses, and *A* clamps chains on him." (*SO*: 47)

There are at least a couple of problems with slave contracts, such as when I pay you a large sum of money up front to commit you to serve me for the rest of your life. First is that such a contract is self-contradictory. (1) It seems a part of the definition of "slavery" that a slave cannot own property, including whatever the master paid him as per the contract's terms. Or, whatever the slave allegedly "owns," the master can lawfully expropriate at any time at will. (2) The slave need not be allotted any leisure time to enjoy himself or his money. (3) The master's power over the slave is by the nature of this relationship unlimited and absolute; hence for example, if a slave gets sick and the master does not want to expend money on treatment, he can kill the slave. This is a reason to condemn the master-slave bond as inherently unjust.

Second, such contracts are counterproductive since slave labor is mostly worthless, and the incentives proper to free workers to accumulate human capital, i.e., improve their skills, under capitalism evaporate. It would usually make no sense for any two people to contract this way. Slavery is bad for the master because he can't *fire* the slave. This is a reason to condemn a society that recognizes slavery as legitimate as barbaric and primitive. As a result, it is reasonable to outlaw voluntary slave contracts at the outset.

This particular example, however, does not seem self-contradictory, any more than, say, a freely entered into two-man Russian roulette where the winner procures some prize while the loser dies. Boxing matches have been known to end in one contender's death. I would not say therefore that a libertarian must necessarily consider such a slave contract to be unjust. If it is not libertarianly unjust, then Cohen has run out of examples.

In general, there may be various more or less subtle conditions that

must be satisfied in order for a contract to be valid or enforceable. Then a just exchange is one that takes place in accordance with such a valid contract. Such considerations by themselves are not a counterexample to Nozick's law ("Whatever arises from a just situation by just steps is itself just").

Cohen objects to the idea that *actual* market transactions preserve justice on the grounds that future consequences of exchanges are mysterious. From the point of view of the market process, there is indeed uncertainty of the future and people's differential knowledge about the present state of the market and opportunities for gain and different powers to actualize their plans. But that's the bird's eye view, such as when we discussed the Keirseyan archetypes above. The down and dirty details, the nitty-gritty material cause of the market are individual exchanges, as simple indeed as Smith's knife for Jones' fork. If Smith justly owns the knife and exchanges it for an equally justly owned fork, what possible argument can be made against the proposition that Smith now justly owns the fork? Cohen adduces no such argument, and his charming appeal to Austrian economics (he even quotes Israel Kirzner) is a red herring. He asks, in this instance, suggesting that ignorance and entrepreneurial error make trouble for justice: "How could everyone, or even anyone, know, for example, what (all) future stock market prices are (so much as) *likely* to be?" (*SO*: 52) Of course, no one knows such things. But, supposing that I justly own \$20k and buy a stock with that money, how does this ignorance result in the injustice of, upon completing the transaction, my owning the stock and taking the future profits or losses on my investment? Justice regards *rights* to property, not *value* of property. One owns a *thing* which is an either-or proposition, not its *market value* which can fluctuate wildly since such value depends on other people's attitudes. Losing money on the stock market or having the value of my house drop after some undesirables move in next door does not make me a victim of injustice, as I would be if someone hacked my brokerage account or hurled a brick through my window. It is precisely security of property rights that makes stock market speculation and house ownership possible and rational.

According to this, there are two libertarian conceptions of justice. One involves Lockean initial appropriation, capitalistic property rights, liberty, normally dispersed ownership (so that it's not the case that one man owns the entire earth), and voluntary exchanges. These are sufficient for any distribution to be just. This is (1) the *crude* conception of justice since it is evident to all (except Cohen). On the other hand, we also want to allow people to garner the full fruits of their labor, and as economics has taught us, under capitalism people do tend to get their (discounted) marginal value product. This is (2) the *subtle* conception of justice since it takes economic

reasoning to demonstrate it. Here is an example of (1) without (2): imagine a natural scientist at the university who makes a breakthrough that alters industry and eventually results in a higher standard of living for everyone. He publishes his findings in a paper or book and blesses society but does not actually get paid for his contribution beyond his normal university salary. So he gives more than he receives and does not get the entirety of what he produces measured in the benefits to others. Now as long as this is an exception, it is not especially worrisome. The scientist *could* have gotten a regular job *J* where he *would* have gotten his full DMVP. If he instead chose science, this demonstrates that he preferred this career to all others. And on the other hand society profits more with him doing his research because the gains to it are even greater than his salary and hence greater than they would have been with him at *J*. Both parties are in their best positions which is hardly an injustice. Or we can say that the scientist voluntarily waived his right to just treatment.¹⁰ But (2) is still important since if it *never* held, (1) would lose much of its persuasive power. It may even be that (2) is the ultimate hidden reason for the intuitive plausibility of (1). It is more difficult to find a case of (2) without (1): it seems to require some sort of socialist economy which marvelously imitates the market which is plainly impossible. It is a happy fact that crude justice as delivered by basic morality and subtle justice as attested to by economics complement and support each other.

3.3. FREEDOM RIGHTLY UNDERSTOOD

Cohen notes correctly that libertarians cannot extol mere “freedom,” apprehended as the state of affairs of not needing to ask anyone’s permission to use an object. For (nonmoralized) freedom as such is maximized in an anarchist society which has no laws at all. Suppose that:

I want to perform an action which involves a legally prohibited use of your property. I want, let us say, to pitch a tent in your large back garden, perhaps just in order to annoy you, or perhaps for the more substantial reason that I have nowhere to live and no land of my own, but I have got hold of a tent... If I now try to do this thing that I want to do, the chances are that the state will intervene on your behalf. If it does, I shall suffer a constraint on my freedom. (*SO*: 56)

It is obvious that freedom is inextricably linked with *rights* to property. One

¹⁰ Institutions like the Nobel Prize can be viewed as attempts to mitigate the appearance of impropriety such as this. The idea is to confer an external reward (including in prestige and glory) where natural consequences have not been adequate.

is free to exercise his right without asking anyone's leave. The question then is, what is my protected sphere of action? Rights to me come with duties to you to honor those rights. As rights expand my freedom, so duties shrink yours. Libertarians like libertarian rights, such as the right to private property in the means of production, and dislike anti-libertarian rights, such as the alleged right "to health care" or "not to be discriminated against" by a private business. It's true, for example, both that a private property owner will call the cops if you steal from him and that a socialist state will punish you if you misappropriate something from the state-owned factory you labor for. But *that* is not at issue, and both laissez-faire capitalism and communism will take recourse to physical force in self-defense, deterrence, and punishment. So, one difference is that the positive laws that are in effect under socialism are monstrously *unjust*. It's not that they are enforced with violence that it is the problem but that the violence used in this enforcement is wicked, wrongful.

Cohen objects that this explanation "entails that a properly convicted murderer is not rendered unfree when he is justifiably imprisoned" (*CEJ*: 153). Well, normally a person has a right to "walk around." To imprison him is to make him straightforwardly unfree – the prison authorities are unjustly preventing him from exercising his right. But a murderer forfeits that right, in fact he has a duty to report to prison. Cohen charges that he is unfree in a nonmoralized sense but counterintuitively free in a moralized sense. But this is not true: he loses his moralized freedom too *by virtue of losing his rights*.

Again, it is true that rights to private property make you unfree to steal. But the "right to steal" is self-contradictory. It might mean that anyone has a right to take any object he wants for his own use. If Smith takes a hammer, say, for his use, then he is within his rights, and Jones ought not to interfere. Yet Jones, too, has a right to take this very hammer that Smith has just taken and is using for *his* own use. Jones then both lacks and has a right to the hammer. The "freedom" to steal annihilates both rights and itself when understood as unfettered exercise of rights. The prohibition of theft is merely a corollary of the essential fact that different people's rights cannot clash.

Cohen complains that Nozick does not provide his own "characterization of people's rights." Well, this is a nontrivial and thorny problem, and Cohen is engaging a straw man in claiming that libertarians hold that "people have those rights the possession of which secures their freedom" (*SO*: 61).

In any case, libertarians are not guilty of the gross error of failing to realize that every economic system "distributes both freedom and unfreedom." Freedom is not thereby reduced to a zero-sum game between sys-

tems of rights, because some non-irrational systems increase *overall* freedom. For example, let Cohen have a right to pitch a tent on anybody's property. Either he has obtained a unique government privilege granted to him only, or everyone has such a right. In the first case, Cohen is some sort of sovereign monarch-beggar. Cohen and perhaps his buddies have become a superior caste whose legal claims override everyone else's. Our author would pretty much suck all the freedom out of the realm. In the second case, everyone has a right to squat on any "private" property. Here are some implications:

1. I have a right to pitch a tent *inside Cohen's own tent*.
2. I can throw Cohen out if I am stronger than him and pitch my own tent where his used to be.
3. I can go to the CIA headquarters in Langley and pitch a tent there.

It is clear that this universal right to squat on any piece of land results in complete chaos as land is effectively nationalized, yet absurdly the government that now owns the land refuses to allocate it via appropriately strict bureaucratic rules. Instead, it permits an utter – and self-contradictory – free-for-all, i.e., a war of all against all. If by nonmoralized freedom we mean absence of external law or internal duty, then the "war" would seem to maximize that: everyone does what is right in his own eyes. But in the absence of law we have individual discretion. Other individuals can "privately" interfere with my freedom as much as the state. On the whole, nonmoralized freedom (such as the freedom to make and execute long-term plans) is likely to be seriously abrogated. As for moralized freedom, rights that are not secure from violence are hardly rights at all. Far from being enhanced, freedom understood as permission to make use of one's rights vanishes, along with the rights themselves. But if the government does begin to regulate the commons, then it takes freedom away from *everyone*, because everyone will now have to ask permission from the government whether they can use any parcel of land as they want to. Cohen might of course point out that the *bureaucrats* or the central planner will now possess maximal freedom to dispose of the land. But this is hardly satisfying.

For example, a family member returning from a trip to Italy reports how an olive grove owner said to her that in order to plant another tree in his own garden he had to ask government permission and pay a bribe. Such red tape and corruption clearly undermine even nonmoralized freedom. The permission-giving bureaucrat may be said to have this freedom, but he cannot use it himself, while the owner does not have it though can use it. This separation ruins freedom for both. Socialism takes away entrepreneurial freedom by forbidding people from owning means of production. The socialist central planner of course has this freedom. But consolidating this

crucial liberty in one man and denying it to all others seems to diminish “total” liberty enormously on any reasonable calculation. Ditto for government regulation and prohibitions such as banning alcohol or Christianity or international trade. Cohen ignores the mountain of liberty-crushing interventionist laws. Or consider the military draft; surely it represents a ferocious assault on nonmoralized freedom. The state’s modus operandi is primarily to *restrict* freedom not *transfer* it.

Regarding Nozick’s argument in the Chamberlain example that liberty upsets patterns, nonmoralized liberty would be unambiguously shrunk by a ban on transactions (enacted in hopes of preserving a pattern). Observe the difference between outlawry of theft and outlawry of trade. In the first place, the former truncates your liberty to steal and enhances my liberty to use my property as I see fit. But the latter shreds everyone’s liberties. Second, the former does not, and the latter does, require a totalitarian state to enforce it. Moralized liberty would suffer too because it rests on the right to transfer which can be demonstrated simply by reflecting on the nature of money. Money fundamentally is a medium of *exchange*. If transactions are banned, then Nozick’s example loses meaning: the quarter that each spectator gives to Chamberlain ceases to be money and becomes a rather useless metal disk. If we are to have money at all, it is part of its essence that it can be exchanged for goods and services.

It is not a persuasive argument that total liberty stays put just because the lesser freedom of the locked-up prisoners is counterbalanced with the greater freedom (or rather power) of the jailer who has the key.

Cohen presents an example of two neighbors, each of whom owns some tools. A tool-sharing arrangement is entertained in which “each may take and use a tool belonging to the other without permission provided that the other is not using it and that he returns it when he no longer needs it, or when the other needs it, whichever comes first.” Cohen claims that this “communism” enhances freedom. (*CEJ*: 155-6) (It’s not even communism if, as Cohen himself suggests, the neighbors contract with each other to set up this system.) I don’t agree. In reality, what it enhances is not freedom but efficiency, and that too is an illusion because the scheme results in chaos and completely breaks down if we increase the number of participants to, say, a hundred. Even for roads, if they *could* be privatized profitably for society, I wouldn’t mind paying for their use, so overall freedom may even be increased.

In another example, let there be in society a pen-loaning market. At one point, Cohen the philosopher-king decrees that everyone has a right to chew on borrowed pens. Far from increasing freedom, this policy decreases it by abridging the *freedom of a pen owner and borrower to contract* with each other as they see fit or as they negotiate the terms according to their own counsel.

An owner will no longer be able to stipulate as part of the agreement that the borrower abstain from chewing on the borrowed pen. Economically, there are two negative effects of this policy, one immediate and one possibly more remote. First, it will reduce the number of pens loaned, since some owners will rather refuse to loan than suffer from having their pens chewed on. It will coincidentally raise interest rates, as pen owners seek extra compensations from potential pen-chewers. Second, consider an innovation in pens that will be made 10 years from now. It promises to massively enhance consumer happiness, but the new advanced pens are slightly fragile and cannot be chewed on. The government regulation in a nuclear blast from the past decimates the pen loan market, since lenders cannot ensure that the pens will be returned to them undamaged. In a coup de grace, because of Cohen's reckless and imprudent intervention, the pen revolution is never even commercialized in the first place. The *entrepreneurial freedom* to bring novel goods to the market has dwindled.

Cohen may again object that one's freedom to compete against existing business firms entails the latter's duty to put up with competition or that it features absence of protectionism and special handouts to the vested interests which would be a form of "freedom" to them, a sort of freedom "from competition." This, too, is a weak and improbable move. "Freedom from competition" is not a liberty but an (unjust) government privilege.

Cohen's aim is to deny that capitalism widens nonmoralized freedom. It's not entirely easy to measure such things. For example, the Russians in the USSR had the freedom to drink themselves into a blind stupor every day without suffering as many economic costs as they would under capitalism where freedom is joined with responsibility. Does that count as a benefit of socialism? I think the idea of freedom must be rightly understood. Mises (1994) puts it this way: "The alert youth of the West looks upon the world as a field of action in which he can win fame, eminence, honors and wealth; nothing appears too difficult for his ambition. The meek progeny of Eastern parents know of nothing else than to follow the routine of their environment." It would be sad if the former "should seek contentment in a system in which their only task will be to serve as cogs in a vast machine designed and operated by an almighty planmaker" (82-3). It's hard to deny that the liberty to shoot for the stars, dare fearlessly, challenge the status quo, advance through personal effort, and make one's own way in the world is much greater under capitalism, indeed Cohen's ideology is based on the implacable hatred of such liberty.

So even nonmoralized freedom is maximized under capitalism. Taxation is a yoke and an injustice, but I agree that it is not a *direct* imposition on liberty (other than in terms of invasion of privacy). It is, however, an indirect such imposition, insofar as a man whose income is taxed at 14%

ends up working one day per week for the state, even if he is not involuntarily conscripted into doing so. In this sense, tax serfdom is a more efficient form of, indeed a definite advance over, slavery. Taxation also interferes with liberty in the sense that, by levying external burdens in addition to natural costs, it reduces the range of profitable actions, e.g., it will foreclose some risky investments.

Cohen has an amazing view of money, arguing that it grants freedom:

If *A* owns *P* and *B* does not, then *A* may use *P* without interference and *B* will, standardly, suffer interference if he attempts to use *P*. But money serves, in a variety of circumstances (and, notably, when *A* puts *P* up for rent or sale), to remove that latter interference. Therefore money confers freedom, rather than merely the ability to use it, even if freedom is equated with absence of interference. (*CEJ*: 176, italics removed)

Money provides freedom because it extinguishes interference with access to goods and services: it functions as an entry ticket to them. (*CEJ*: 181)

Cohen the communist probably imagines a situation in which goods are owned in common, and the “poor” are deprived from taking their “fair share” from the common storehouse. Everyone is, or for Cohen should be, issued the same number of tickets which they give to the storehouse guardian to obtain goods. A ticket for him represents a right of access to the storehouse, as if perhaps a password to a computer resource; hence lack of tickets means you’re locked out and in a certain sense unfree. And certainly to a primitive intellect money may indeed appear to be a ticket which grants access to earthly delights, a magical key that unlocks the merchants’ chests full of wonderful treasures. Even some economists who should know better have referred to money as “non-interest-bearing debt” by which they mean debt of “society” to the money holder; in exchange for money, society is obliged to shower the individual with gifts. The fallacy here is that no one *has* to exchange any goods for money as if one were in debt and according to justice. People exchange not because they are duty-bound to do so but in order to profit from the exchange. A dollar is a “ticket” for Cohen to a piece of candy, but the candy is equally a ticket for the store owner to the dollar and through that, to some other good.

A merchant who is selling candy then is not “interfering” with the customer’s enjoyment of the candy by putting a price on it any more than the customer is interfering with the merchant’s enjoyment of money by being careful how he spends it. In Section 1.1 we saw that Cohen likens trade to mutual blackmail; here he outdoes himself by likening it to mutual slav-

ery. Mises (1988) refutes this preposterous idea as follows: “learned doctors” (indeed like Cohen) argue that “the canning corporation is in a position to restrict the housewife’s freedom because, in asking a price for the tin can, it puts an obstacle to her use of it.” He replies that “the canned product was turned out by the cannery, and... the corporation in producing it removed the greatest obstacle to a consumer’s getting and using a can, viz., its nonexistence” (36).

“The whole point of money is to extinguish unfreedom,” writes Cohen. (*CEJ*: 178) No, the whole point of money is to serve as a medium of exchange, normally a commodity or indeed a “thing” that has over time acquired exchange-value in addition to its use-value. You have to produce first before you exchange and in order to exchange. Under barter, your strawberries will be means to someone else’s walnuts if you manage to overcome the problem of double coincidence of wants. It is grotesque to contend that, if you lack strawberries, then you are unfree because the authorities will interfere with you if you try to seize the walnuts from their owner by force. And it is autistic to argue that offering the (sufficient amount of) strawberries in exchange for the walnuts “extinguishes interference” with one’s enjoyment of the walnuts, as if one were adjusting his TV antenna for better reception.

In any case, once *B* has bought *P*, it will be *A* and indeed everyone but *B* who will now lack the freedom to use *P*. Money does not “extinguish interference”; it merely changes who will be doing the interfering, in this case from *A* to *B*. If *P* is a consumer good, such as a candy, then once *B* has it, he is presumably going to eat it, thereby denying it to everyone else, and this time not even money will be able to “extinguish the interference” that *B* is going to apply if anyone tries to take the candy from him by force. Likewise, *A* will be interfering with others regarding the use of the dollar *B* paid to him. The exchange between *A* and *B* is a transfer of property titles or rights. Whether before or after the exchange, the total amount of freedom is exactly the same.

For moralized freedom, if you have money, then you can pay me to do things for you or to let you use my property, but you are still unfree to coerce me to do those things. You are free to buy and unfree to steal regardless of whether you have money or not. As for nonmoralized freedom, if you have \$1, you are free to exchange it for candy, but having exchanged it, you lose control over the dollar and the freedom to use it. “Interference” (as far as you are concerned) was extinguished for the candy and inflamed for the dollar. Whatever you own, you are free to use; the more you own, the more you are free to use; it does not follow that the more you own, the freer you are.

Further, since one cannot have the (as we have seen, self-contradic-

tory) right to steal, and freedom regards permission to act out one's rights, one's freedom is not diminished by private property or the facts that consumer goods are owned by merchants and that punishments are inflicted by the state for theft. The "interference" with theft is not an abridgement of freedom because stealing is an evil deed, and it is the moral law itself that prohibits it. *A*'s readiness to interfere is a corollary of the fact that *A* cannot both have his candy and let *B* eat it, too. First, *B* who is short on money and can't afford *P* has no right to *P* and hence no freedom to use *P*; second, stealing *P* is a moral wrong, and one likewise has no freedom to do what is wrong; hence even if *B* lacks freedom, he lacks it *vacuously* for these two trivial reasons.

Genuine freedoms, when belonging to both *B* and *C*, do not clash. But *B*'s money competes with *C*'s money for the goods on the market. The particular *P* that *B* buys and keeps for himself cannot also be bought by *C*. If the government inflates the money supply by printing banknotes and gives the new cash to *B*, it by that very fact makes *C* poorer. The total supply of goods stays the same, and the increase in *B*'s purchasing power has come at *C*'s expense. And this – power rather than freedom – is precisely what money confers. Under capitalism, *A*'s and *B*'s freedoms to exchange goods are compatible and secure even if in a given situation they are unwilling to trade *P* for money, such as when *B* is not willing to pay the price that *A* is asking. Capitalism enshrines freedom in this straightforward sense of "free trade."

Our author babbles something about how being poor allegedly restricts one's freedom, such as when someone "is too poor to visit her sister in Bristol" (*SO*: 58). Suppose the woman lives in a totalitarian society where travel is prohibited, and people are bound to their places of work and residence. She will then need special government permission, a pass, to go to Bristol. Perhaps it takes months for the bureaucracy to issue a pass. Perhaps the government needs her toiling at the factory and refuses to let her go. She is unfree and cannot of her own pleasure visit her sister, *even if* she is rich as Croesus.

In a free society, she may indeed be too poor to go. But that is a qualitatively different constraint. It's true that she is surrounded by other people's private properties, but those are open to her on the condition that she pays for service, such as the train ride. The entrepreneurs running these establishments will love her and cater to her every whim for money. How much money she has depends mostly on her skill at earning it. She remains her own free woman and a sovereign consumer. Other people, the entrepreneurs, serve her and depend on her arbitrary whim as to how it pleases her to spend her money, including on the trip to Bristol. In bossing around the producers, she is the master. On the other hand, whether she gets a

state-issued pass depends on the indifferent bureaucrats who this time are sovereign over her. In being thus dependent on the arbitrary whim of another to whom she is an annoying nuisance, she is a slave. Cohen in vain tries to confuse freedom with slavery.

Cohen writes that being forbidden by the state to travel to Australia, even if he does not want or have the money to do so, is an insult to his status and dignity, unlike a private business (such as an airline) refusing service unless paid. (*CEJ*: 191-2) But why? Presumably because travel is a universal human right, while flying for free is not. But in that case the government prohibition makes him unfree in a moralized sense by stripping him of the right he should be free to exercise, while the airline insisting on payment does not. Nor is nonmoralized freedom curtailed by the airline: the (supposed) unfreedom of Cohen who can't pay is counterbalanced by the freedom of the airline to exclude him. The symmetry between him and the airline is absent between him and the state.

These are then some of the senses in which freedom is lessened by government interference with private property and the free market. Since freedom is permission to exercise one's rights, we don't want too few rights; but since rights to one man entail duties to all others to respect those rights, we don't want too many rights either. A judicious collection of rights would be able to maximize meaningful freedom. Libertarian rights, in particular, hands down enhance individual liberty quite apart from their grounding in self-ownership, theories of property, aggression, self-defense, and the like.

3.4. I CLAIM THESE ISLANDS FOR ME

Cohen wants to block the inference from self-ownership to ownership of external resources. To further this end, he seizes on libertarian theories of original appropriation of unowned land and natural resources and criticizes their justice.

Locke's theory stresses that appropriation is permissible as long as the new owner leaves "enough and as good" for others. Nozickian proviso seems weaker, as he requires only that those whose position may have been worsened as a result of any *particular* appropriation be compensated with the *overall* benefits of capitalistic social cooperation. Our author chides Nozick for comparing a private property regime solely with the state of nature and not with *all* the alternative property arrangements. As an example, he describes a situation in which two men, *A* and *B*, presumably on some small desert island, get *m* and *n* units of some good respectively when the land is unowned. If *A* were to appropriate the entire island and employ *B* for wages, then both men's shares would increase to $m + q$ and $n + p$, where $q > p$. The Lockean proviso is obviously violated, but the Nozickian proviso is seemingly satisfied, because both *A* and *B* are better off under

private property than under a commons. But not so fast, argues Cohen. For if *B* had been able to appropriate the land instead, then it would have been he who would be enjoying the increase of *q*. Hence, *A*'s claim harms *B* relative to the counterfactual setup of *B* staking the claim instead.

This, of course, is a contrived and unrealistic scenario which does nothing to help us formulate rules for developing human civilization starting at the beginning of recorded history until a thousand years in our future. The "nature" whose "state" we are considering in Cohen's fantasy bears no relation to the actual human environment. It's almost a "lifeboat situation" such as when two people are contesting for a plank to hold on to after a shipwreck. Ought the first person who reaches the plank to keep it and save himself, while the second guy who was a minute late to drown? Rothbard says yes, adding that "(a) that we are *already* in an intolerably harsh and fortunately rare situation where *no* solution is going to be humane or comforting; and (b) that *any other* principle of allocation would be truly intolerable" (*EL*: 150-1).

Likewise, even this far-fetched impasse can be resolved by the rule that the *first* person to mix his labor (or whatever) with matter gets to own the resulting good. Whoever arrives at the scene later has the duty to heed the newly arisen property right. In that case, *B*'s claiming the land instead of *A* ceases to be a counterfactual if we keep fixed the assumption that *A* was there first, and there is no longer a need to deem it an alternative. In other words, *B* cannot claim the land *if he is not there*, and *A* is permitted to claim the land because at the moment of asserting ownership there is no one around to complain or compete with him. When *B* at long last makes his appearance, he is faced with an existing property right and must take it as given; once again he does not have the luxury of objecting. Cohen seems aware of this argument: "Why should *B* be required to accept what amounts to a doctrine of 'first come, first served'?" he asks (*JO*: 80). There are a number of reasons.

1) It is an orderly rule to conduct privatization of resources conflict-free.

2) There is no rational alternative. Should it perhaps be "second come, first served"? But that's essentially tax serfdom wherein the second person is a self-proclaimed feudal lord who subjugates the rightful owner, forcibly converts him into a mere "tenant," and demands that he pay rent-tax to him. This seems singularly senseless and illegitimate. It also eviscerates any incentive to privatization. Equalizing chances for appropriation (mentioned in Kymlicka 2002), presumably of every parcel of land between everyone in the world, will not work because it would in practice mean that nothing can ever become owned. It's also pointless; it doesn't matter *who*

claims the land as long as it gets claimed.¹¹ FCFS is basically the only workable system.

3) It encourages everyone to go out and explore the earth as fast as he can, so that he may claim for himself land and other goods. This presses resources into social use most readily. As sperm cells race to fertilize the egg, so let people race to acquire property, and may the best man win.

4) Prior to homesteading, no one controlled or used the land. But controlling and improving (or having at one time improved) the land is both necessary and sufficient for the land coming to be under private ownership. Thus, (a) the land was first unowned; (b) whoever makes profitable use of the land first gets to own it. This point reveals a problem with the Lockean proviso. It allows people in some situations (namely, when initial appropriations will *not* leave enough and as good) to object to an appropriation. But that entails that they have some claim over the land which contradicts the idea that the land is unowned. The proviso appears to be some sort of mutual understanding or hypothetical contract, but such a thing suggests common ownership, not absence of any ownership. It may be better to abandon it. Indeed, the ideal situation is that every inch of land and even sea be privately owned. We should place no obstacles to privatization, including the Lockean kind.

The labor theory of property (LTP) can be justified likewise. Labor mixing is not a pointless ritual that magically confers ownership. There is a purpose to it which is to encourage developing land and bringing resources into productive use and to the market. We want to give people every incentive to do just that. Land is valued at least (1) as space and (2) for the generative power of nature that it embodies. For example, more fertile land will be valued higher than less fertile, and any permanent improvement to the land that enhances its productivity, such as an irrigation system or dam, will factor in the price of the land; at the same time a plot of barren dirt in the New York City will be valued mostly as standing room. It may be permissible to consider space itself to be a service that is continuously “generated” by land. To own land is to own its power. Both the improvements made and labor invested are *desert bases* which ground ownership, the former in terms of creative outpouring, the latter in terms of sacrifice; in addition, labor is *public evidence* of the claimant’s intention. It also helpfully prevents any individual from claiming the entire world and in practice disperses own-

¹¹ Cf: “... the consumers are not concerned about the problem of whether or not the men who shall serve them start their careers under equal conditions. Their only interest is to secure the best possible satisfaction of their needs. As the system of hereditary property is more efficient in this regard, they prefer it to other less efficient systems. They look at the matter from the point of view of social expediency and social welfare...” (HLA: 276). “First come, first served” with respect to original appropriation too has a utilitarian defense.

ership, generating competition. It is up to lawyers not philosophers to work out the details of what exactly it takes to gain title; the rules have to be whatever's reasonable, whatever works.

The relationship between self-ownership, labor, and external property can be put this way. It is not strictly speaking meaningful to say that I own my labor because labor is not an object that can be owned but a process, an act. It's an act of *laboring*. I can own wood but not "chopping wood"; I can own a house but not "building a house." It's impossible to own actions. (This shows that the worker under capitalism always owns, and can't alienate, because he is free, his labor *power*; what he sells, and what his employer pays him for, is using this power to cause an *act* which can't be owned that creates *value*, ultimately assigned by the consumers, but alienable and owned by the firm.) What I do have is the *right to* labor. The formal argument then is as follows:

- 1) If I do not come to own the good labored on, then the fruits of my labor are not secure from expropriation.
 - 2) If the fruits of my labor are not secure (in the legal sense), then the right to labor is meaningless (or ineffective).
 - 3) If the right to labor is meaningless, then I do not really own my body.
 - 4) But I do own my body.
- Therefore, by *modus tollens*,
- 5) I own what I labor on.

Cohen goes on: "Perhaps *B* abstained from appropriating out of regard for *A*. Ought *A* to profit only because he is more ruthless than *B*?" (*SO*: 80) *B* has a strange notion of "regard" if he abstained from a course of action that would have made *A* better off by *p* units. And if *B* is an "after you, my dear Alphonse" kind of guy, then yes, *A* ought indeed to profit because he is more ruthless than *B*. Another word for ruthlessness is courage and enterprise. (Cohen has a penchant for making exasperatingly child-like objections such as this.)

We then want *someone*, whether *A* or *B*, to own the land, so that the process of human filling and subduing the earth can commence, and we adjudicate competing claims with the help of the (exceedingly reasonable) "first come, first served" rule. If *A* and *B* are *both* tilling the same unowned patch of land at the same time, they may well be considered *de facto* co-owners and will need to bargain with each other if they want to privatize it.

Nozick (1974) asks, "Why should one's entitlement extend to the whole object rather than just to the *added value* one's labor has produced?" Well, we can propose the general principle that when one forms order out of chaos, he comes to own not just the form but the matter as well, indeed the combination of the two. Suppose a man has carved a statue out of a

block of marble appropriated from nature. One immediate point is that it is quite impossible to give all others rights to the marble without by that fact giving them the right to the statue insofar as the form and matter are one. Now perhaps those others are owed compensation. But matter is good by virtue of its form and by itself has almost no value, and thus wilderness is of little use. Not much is gained by trying to separate the two. If privately owned cultivated land is 100 times more productive (physically or in terms of market value) than a commons, Locke argued, then it seems petty to deny the appropriator the right to the entire thing.¹² Above I expressed reservations about the Lockean proviso, but *if* it is satisfied, strangers have no cause for complaint. In such a case, by claiming unowned land I do not harm anyone. I may narrow other people's *future* options but not their present prosperity. And I at least have a right to do things that benefit me and inflict no external costs. Another reason is the wretched inefficiency of communism, and so by enjoying full title to land one does everyone else a great favor by increasing the social product. Still another is avoidance of the tragedy of commons, indeed land privatization for that reason is not only a right but a moral duty, lest we ruin the earth and fail to leave "enough and as good" for our children (Schmidtz 1990). And finally any other system is impractical: "No workable or coherent value-added property scheme has yet been devised, and any such scheme presumably would fall to objections (similar to those) that fell the theory of Henry George." (175)

Now there is a regress problem with the Lockean proviso (*L*) which seems to make it difficult to satisfy. Nozick (1974) describes it as follows:

Consider the first person *Z* for whom there is not enough and as good left to appropriate. The last person *Y* to appropriate left *Z* without his previous liberty to act on an object, and so worsened *Z*'s situation. So *Y*'s appropriation is not allowed under Locke's proviso. Therefore the next to last person *X* to appropriate left *Y* in a worse position, for *X*'s act ended permissible appropriation. Therefore *X*'s appropriation wasn't permissible. But then the appropriator two from last, *W*, ended permissible appropriation and so, since it worsened *X*'s position, *W*'s appropriation wasn't permissible. And so on back to the first person *A* to appropriate a permanent property right. (176)

¹² Unowned land has no market price, and its marginal product, such as revenue from hunting or foraging, is very low and goes to possibly many different people. The marginal product of privately owned land depends on the stock of still unowned land and market conditions, but it can be much higher; it need not be 100 times smaller than the marginal product of labor. The argument requires only that labor adds comparatively massive value to *unowned* land.

Thus, even A cannot appropriate anything because there is not “enough” for B - Z collectively; some people, such as Z , will not be able to appropriate at all. We can repair L by modifying “enough and as good” with:

L^* : Enough (1) for at least one more person (2) if at all possible.

(1) ensures that X can appropriate since there is enough for *one* of Y or Z ;
 (2) ensures that Y can appropriate since it’s impossible to leave enough for Z .

Cohen’s example can be neutralized by similarly modifying the Nozickian proviso (N^*) with “if at all possible (fully to compensate the latecomers, whoever they turn out to be).” Then A can appropriate the land even if, had he abstained, B would have been much better off. This is because it’s impossible to ensure such maximum prosperity for both A and B .

Our author suggests that Nozick presupposes the “empirical” fact of capitalism’s superior productivity in order to establish that “if a private property system exists, then the fact that some people own no or little private property in it is not a reason for removing it” (*SO*: 85). The idea again is that today’s advanced capitalism began eons ago with original appropriations compensates all adequately for the disadvantage of the loss of this primordial freedom. No one’s appropriations have made anybody worse off. It’s a true, good, and important argument if it is used to justify previous appropriations to *latecomers*. But it’s beside the point when applied to *non-property owners*.

It may be that in 3,000 AD, all or most land and even oceans will be privately owned, which will result in the proviso to “leave enough and as good” becoming inoperative at that time. But this fact will not invalidate the then *existing* property titles, which will have been justly traded hundreds of times by that time; nor will it make unjust the original appropriations of parcels of land amidst a mostly wild world by our ancestors in 4,000 BC. Hence we do not need the argument in favor of keeping private property proposed by Cohen. In the first place, it is unclear what the propertyless people have to do with the case. Maybe people who own no private property (i.e., means of production) don’t *want* to own it; they are satisfied with wage income. Non-owners can always sacrifice immediate consumption, save money, and invest it in land or the stock market, say, and hence come to own private property; some owners may want, on the other hand, to sell their investments and spend their money on consumer goods. It’s not as if the drying up of opportunities to appropriate unowned goods entails the drying up of opportunities to *buy owned* goods.

If the fact of some people owning no property *were* a reason to “remove” the private property system, Cohen’s job would be easy. For clearly,

children are born owning literally nothing; their parents grace them with the gift of care. It is perfectly legitimate for a parent to throw a child out of the house at a high enough age with nothing but the clothes on his back and tell him to go and fend for himself. But no one takes the existence of children to impugn capitalism. Neither then can the existence of property-less *adults* do so.

Cohen's second counterfactual is cooperation between *A* and *B* "under a socialist economic constitution" (*SO*: 87). Anything is better than the unowned commons (subject to the ruinous tragedy) including socialism, so the Nozickian proviso is satisfied. Now the proviso is a weak constraint on the LTP. It is not constitutive of this theory. Even if satisfaction of the proviso is necessary for any theory to be plausible, it is not sufficient. It may indeed be satisfied by other theories, too. One reply is that socialism does not work, and it is in the interest even of the non-property owners to endorse *laissez faire*. For example, the tragedy is ameliorated by *private* ownership; any collective ownership, "state ownership, worker self-ownership, kibbutz-like communal ownership" (Kymlicka 2002: 118), etc. will be less efficient and may even fail to address the problem. But another is that Cohen owes us a different theory of original appropriation. If the LTP is accepted, then the only ownership regime that will credibly arise out of appropriations guided by it is the libertarian kind. It may be that later people will be influenced by statism and (unjustly) restrict existing ownership rights. But not right away, not in the state of nature.

To journey along these lines, Cohen asks why we cannot consider the world's resources to be jointly owned by all mankind, such that "what each may do with it is subject to collective decision" (*SO*: 84). First of all, ownership is a legal notion, but in the state of nature there is no law other than natural law. Though self-ownership is part of natural law, nothing in this law prescribes anyone's *particular* ownership of any specific parcel of land or capital good, least of all joint collective ownership by all humans of the entire world.

Second, it is explicitly absurd; Rothbard considers the "communist' Universal and Equal Other-ownership," perhaps whereby each man out of the 8 billion presently living owns $\frac{1}{8}$ billionth (nontransferable?) share in every other man. Nobody out of this multitude will be able to do anything but upon securing universal permission or approval from everyone else:

It is physically impossible for everyone to keep continual tabs on everyone else, and thereby to exercise his equal share of partial ownership over every other man. In practice, then, this concept... is Utopian and impossible, and supervision and therefore ownership of others necessarily becomes a specialized activity of a

ruling class. Hence, no society which does not have full self-ownership for everyone can enjoy a universal ethic. ...

Can we picture a world in which *no* man is free to take *any* action whatsoever without prior approval by *everyone else* in society? Clearly no man would be able to do anything, and the human race would quickly perish. But if a world of zero or near-zero self-ownership spells death for the human race, then any steps in that direction also contravene the law of what is best for man and his life on earth. (*EL*: 45-6)

Hence, Rothbard concludes, “communism” is contrary to natural law. The same sort of argument can be deployed against universal and equal *world*-ownership, too. If people in North America, say, had to wait for the permission of the people in Mongolia to appropriate land or resources, then they’d all have starved or at least never taken any steps toward improving their lot and creating a civilization. And what if the Mongolians had explicitly forbidden it, perhaps out of spite; wouldn’t that be an intolerable absurdity?

Cohen presents a rather similar objection himself:

... the joint ownership element deprives the self-ownership with which it is combined of its intended effect, which is the provision of autonomous self-governance. For people can do (virtually) nothing without using parts of the external world. If, then, they require the leave of the community to use it, then, effectively (as opposed to formally, or juridically), they do not own themselves, since they can do nothing without communal authorization. (*SO*: 93-4)

What is the point of my owning myself if I can do nothing without the agreement of others? ... Does not joint world ownership entitle a person to prohibit another’s wholly harmless use of an external resource, such as taking some water from a superabundant stream, and is it not, therefore, inconsistent with the most minimal *effective* self-ownership (and independently indefensible to boot)? ... Self-ownership is not eliminated, but it is rendered useless... (*SO*: 98)

Cohen’s reply is starkly terse and brazen. You see, a capitalist society *also* fails to make self-ownership effective. Libertarians and Nozick in particular imagine that “the most abject proletarian – call him *Z* – who must either sell his labor power to a capitalist or die, enjoys the relevant rights.” In fact, however, *Z* *lacks* effective self-ownership, too, because he cannot “do anything without the agreement of the... capitalist”! In an attempt to demonstrate this, Cohen considers an example of joint ownership of some land by

“Able” who can work and “Infirm” who cannot and decides that Infirm will likely withhold permission to Able to do anything unless Able agrees at least to keep Infirm alive or even to give him one-half of the fruits of his labor. This seems unjust because it denies Able effective self-ownership. But now,

The resulting dilemma is... either capitalism does not confer consequential self-ownership, since *Z*'s self-ownership is not robust enough to qualify as such; or, if it does so qualify, then genuine self-ownership allows the enforcement of equality of condition, since Able's self-ownership is at least as robust as *Z*'s, and no inequality follows from self-ownership in the Able/Infirm world. (*SO*: 100)

In the first case, we have “the bare bourgeois freedom which distinguishes the most abject proletarian from a slave”; in the second, it is “the more substantive circumstance of control over one's life.” This latter Cohen cashes out as “autonomy” which he believes is what self-ownership under capitalism implicitly promises but fails to deliver, though in a different manner than the joint ownership just discussed. (*SO*: 101-2) It is plain that Cohen's argument depends fully on the truth of the assumption, nowhere in the book proven or even elaborated on, that “propertyless proletarians” under capitalism fail to enjoy effective self-ownership. But isn't it obviously false? Let's recall some basic facts about even somewhat well-developed laissez-faire capitalism.

1. Able must literally accede to being robbed by Infirm. But in a capitalist economy there are numerous capitalists who compete with each other for labor, thereby bidding up wages. *Z* fares far better than Able.

2. An individual capitalist, no matter how well endowed with capital goods, too, must buy the proletarians' labor – as an essential complementary factor of production – or die. Of what use would a capitalist's factory full of machines and raw materials be to him without workers?

3. As capital goods become more sophisticated and varied purely from the engineering standpoint, the complementary to them *human* capital, i.e., workers' skills at using such *physical* capital productively, too, become increasingly more diverse, and division of labor intensifies. As previously unconnected markets unite into a more global economy, this division also becomes more extensive. Capitalism grants to each “proletarian” a massive choice of his vocation, as well as regarding places, wages, and conditions of work.

It is rather Cohen's socialist egalitarianism that denies the worker any effective career choice: one has to work for the state, in a state-assigned occupation, at an equal to everyone else's wage/burden combo.

4. With an increase in prosperity under progressive capitalism, the amount of capital invested per capita increases. As a result, a marginal capital good loses value, as per the law of diminishing marginal utility, which by itself increases the value of the marginal laborer, given stable population. Each worker with time becomes increasingly more valuable to society and more productive and hence able to command ever higher real wages.

5. It's not the case that entrepreneurial profits or interest returns to savers always or even typically exceed income from wages to workers. Wages are more secure and stable than profits which as we have seen are short-term and fluctuating. Rothbard points out further that "above-subsistence living standards depend on the supply of labor being scarcer than the supply of land, and, when that happy situation obtains, considerable land will be 'sub-marginal' and therefore idle," still the case at the present time. (*EL*: 64-5n3)

6. There are no legal barriers to entry into any social role: any proletarian can save a part of his income and start his own business or invest it into stocks or what have you, becoming a capitalist and entrepreneur, or develop submarginal land and become a rent-collecting landowner.

7. There are three more major disanalogies between Able and Z. First, under common ownership Able has to secure *everyone's* permission to do anything; Z needs only to convince *one* capitalist to hire him. Second, there is all the difference in the world between seeking *permission* from apathetic or even malicious lords and engaging another's *self-interest*. The consent of some capitalist will usually be forthcoming given the right offer. Third, the employer with whom Z is interviewing serves a purpose and benefits Z; Infirm is a parasitic exploiter. Cohen's argument implies that if I have a hammer and no nails and you have nails but no hammer, then we are defeated. But the fact that Z needs to get a *job* to wield his skills does not deprive him of self-ownership. The firm where he works, far from depriving him, does him a favor by assembling all the complementary factors required for him to make profitable use of his property. The fact that everyone in a city is surrounded by everyone else's private properties is no obstacle to effective self-ownership.

8. Finally, let me quote Mises for a decisive coup de grace:

Modern capitalism is essentially mass production for the needs of the masses. The buyers of the products are by and large the same people who as wage earners cooperate in their manufacturing. (*HA*: 590)

The outstanding fact about the Industrial Revolution is that it opened an age of mass production for the needs of the masses. The wage earners are no longer people toiling merely for other

people's well-being. They themselves are the main consumers of the products the factories turn out. Big business depends upon mass consumption. There is, in present-day America, not a single branch of big business that would not cater to the needs of the masses. The very principle of capitalist entrepreneurship is to provide for the common man. In his capacity as consumer the common man is the sovereign whose buying or abstention from buying decides the fate of entrepreneurial activities. (HA: 621)

A Cohenian proletarian, then, far from being mostly a slave, is in fact, together with his not-so-disenfranchised brethren, a *ruler* of the market economy. Capitalists serve *him*. I think Cohen is under the influence of the Marxian immiseration thesis; "in Marx's account," he tells us, the proletariat "sell their labor power to capitalists because otherwise they die..." (SO: 168). Could they sell their labor power to capitalists in order to buy fancy cheese and opera tickets instead? Cohen writes that the "revolutionaries and progressives" at one point saw the working class "as a set of people who both make the wealth and do not have it" (SO: 153-4, italics removed). This was one of the big lies of socialism, to some extent repudiated by our author. Armed with this understanding, we can reject Cohen's claim of the "dire predicament" of his proletarian Z (SO: 100n11).

Finally, it's unclear how Infirm was able to come to own the land. He could not have homesteaded it by mixing his labor with it, since by stipulation he can't work. If he had bought or inherited the claim to the land, then the details of his business relationship with Able will be specified by their partnership agreement. This agreement can be anything and need not split the income 50-50.

3.5. CUTTHROAT IDEOLOGY

Cohen levels a devastating critique of a contradiction within Marxism. Marxists claim that workers are exploited under laissez-faire capitalism. Capitalists viciously expropriate and steal workers' "labor time" in much the same manner in which feudal lords stole the time of their enthralled serfs by forcing them to cultivate the demesne. In that case, the worker is cheated of the full product of his labor. Now this is actually nonsense animated only by a lamentable failure to grasp the nature of interest income, the market process, and the social function of entrepreneurs. But let's assume it for the sake of argument. How then can there be a *theft* by a capitalist of the worker's sustenance unless the worker had a *moral right* to the fruits of his labor and in particular owned himself? Thus, Marxists must willy-nilly accept the fact of self-ownership and all that it implies.

This has two consequences. First, it breaks apart the political alli-

ance between socialists and welfare statistes. For the taxes extracted from the workers by the state, too, violate self-ownership that the socialists implicitly affirm and denude workers of the full products of their labor. Feudal lords exploit workers (both Marxists and libertarians agree); capitalists exploit workers (only Marxists think so); *but also* the state exploits workers (as only libertarians hold, but as Marxists, Cohen argues, are led to admit, as well). There was indeed for a long time a tension between socialists and interventionists; as Mises (2004) points out,

Marx was opposed to social legislation – social security and so forth... On the advice of Marx himself and, after his death, of Friedrich Engels, the German Reichstag voted against socialized medicine, social insurance, and labor legislation, calling them frauds to exploit the laboring classes even more than before. (28-9)

Here Cohen is ambiguous. At one point he endorses social legislation, e.g., he claims that workers in “contemporary rich capitalist countries” have more “power” “because of a hard-won institutionalization of a measure of protection for working-class people” (*SO*: 34-5). This is a delusion: such things are at best superfluous (mandating what the market does anyway) and as a rule harm people both in their capacity as workers and, by also reducing productivity, in their capacity as consumers. These capitalist countries are rich not “because of” but on the contrary *despite* the institutionalization of these fake “protections.”

On the other hand, as Cohen interprets Marx, communism becomes possible only under “limitless abundance.” Socialism as its lower stage is supposed to develop the “material productive forces” more adeptly and rapidly than any other system until such abundance is brought forth. Capitalism, though causing impoverishment of the great masses of men while at the same time concentrating wealth in the hands of the very few, should be left in its pure *laissez-faire* variety so that it could “mature” and be transcended ASAP. As a result, government interventionism, welfare state, etc. only delay the revolution.

Second, it neatly refutes Marxism’s own exploitation idea:

Let e = in any capitalist relationship the worker is unjustly exploited, and let s be the self-ownership thesis. The Marxist’s account of e (his condemnation of the capitalist as a thief) shows that he is committed to s ...

But the case of the cleanly generated capitalist relationship [via libertarian original appropriation and just transfers thereupon] shows that s disproves e . So, if e is true, s is true; but, if s is true, e is false.

And that is a *reductio ad absurdum* of the Marxist claim that propertyless workers are, as such, exploited. (SO: 162)

The Mensheviks (i.e., left-statists) can apparently reject the self-ownership thesis with less trouble for their own doctrines than the Bolsheviks (i.e., socialists) can. In the next section, we'll see Cohen gurgling and guggling desperately.

3.6. NO GODS, LOTS OF MASTERS

As Cohen concludes, "the thesis of self-ownership [SO] cannot be refuted" (SO: 244). But he hopes to besmirch it and make it less attractive.

Three arguments for SO are analyzed. (1) First, that rejection of SO licenses slavery. Cohen objects that *all* duties, such as between parents and children, limit freedom. Of course, the duty to care for one's mother, etc. is merely a moral not legal duty enforceable by the state, and Cohen is fully aware of that. In political philosophy we deal with the question of just and unjust uses of *violence* in society. An obligation that, if you fail to fulfill it, entitles the injured party to punish you with violence is a legal one; your duty to help your mother is at most a moral duty. Your mother cannot imprison you for neglecting to assist her. You have a right to refuse to help your mother; a slave does not have a right to refuse to work for the master. In the first case, there is self-ownership and freedom; in the second, no self-ownership and slavery. Thus, it is only *legal* noncontractual obligations that can be likened to slavery. Self-ownership is thus incompatible with noncontractual legal duties but compatible with noncontractual moral duties whose breach does not constitute an unjust use of physical force on the part of the offender. Libertarianism is not the whole of morality; there might be "good reasons" to help your mother other than fear of punishment by the authorities. The domain of the law and state is involuntary and impersonal (involving rule-following); the domain of the family is voluntary and personal (involving I-Thou relations); legal duties arise as involuntary or noncontractual; familial duties remain (ultimately) voluntary and arise out of being personal; hence SO admits the latter.

Cohen replies that there may be an independent (though indeed noncontractual) political obligation of a citizen to, say, pay taxes. If we have natural duties to serve each other in certain ways, then the state, in enforcing these duties, does nothing wrong. In such a case, absence of self-ownership does not entail slavery. But doesn't that beg the question? Self-ownership precludes such obligations. Hence Cohen must *prove* that the latter exist which is a nontrivial task that is not broached in his books. Even more, it seems easy to prove that there are no natural "welfare" rights, nor corresponding duties for any one man to labor for another without a definite

agreed-upon compensation.

For any human interaction is naturally voluntary and to mutual benefit, or else it will not occur. If Smith has welfare rights against Jones, then Smith's existence is a burden to Jones. Jones loses from the fact that Smith is in the vicinity. He'd prefer it that Smith drop dead and free him from laboring to support Smith. Where before, realizing that another human being is present was a cause for rejoicing, since specialization and division of labor greatly increase the productivity of labor to everyone's advantage, now Smith is an enemy, either to be fought or endured through despair. All human beings are natural friends of each other, but welfare rights turn people against each other; they make, to reverse Mises, enemies out of friends, war out of peace, and hatred out of love. Hence they are unnatural. (It may be that Smith, though he loots Jones, nevertheless is not a full-time parasite and cooperates with Jones well enough to take away Jones' incentive to kill him. Regardless, the enemies, war, and hatred, though less pronounced, are in attendance still since, in marked contrast to libertarian equality of rank, Jones will want to switch places with Smith, by force or guile.) If any positive obligation is incumbent on Jones toward Smith, it is not a natural one but in the order of Christian grace and so above nature. All *natural* rights are by their essence negative.

In Chapter 2 we identified harmony as one of the two components of justice. Welfare rights tear harmony apart and are to that extent unjust.

Cohen mentions the idea that "the state simply cannot have the particular right [to tax] unless it has the comprehensive right over me that betokens slavery" (*SO*: 234). There is much wisdom in this observation. For if the state has the right to tax us, then it is the state and only the state that determines the *amount* of the tax. Nothing other than public opinion (and perhaps the Laffer curve, though it is nugatory under an inflationist regime) prevents the legislators from imposing either a 1% or 99% income tax. The government then effectively owns everything that we produce and alone decides how much to take and how much to let us keep. It follows that individuals *are* almost fully enslaved, and the only freedoms they enjoy are due to the magnanimous decision of the rulers not to interfere too much. That the slave master is at times less cruel and demanding than he could be does not take the sting out of being a slave. Or, as Mises thought, "but for the inefficiency of the lawgivers and the laxity, carelessness, and corruption of many of the functionaries, the last vestiges of the market economy would have long since disappeared" (*HA*: 859).

Cohen adduces two more arguments in regard to slavery. First, that even many libertarians countenance taxation for the purpose of financing the police. "It is impossible to argue that an hour's labor that ends up as part of somebody's welfare payment is like slavery, while an hour's labor

that ends up as part of a policeman's salary is not, when focus is on the condition of the putative slave himself." (*SO*: 235) Now it's true that self-ownership has anarchistic implications as Rothbard amply demonstrates. The problem with natural-law anarchy is that it would only work in a state of pure and uncorrupt nature. But nature in fact fails at least occasionally. The inherent injustice of taxes for law enforcement and a few other essential government services is permitted to a small degree *so that* the heavens do not fall. It's a deal with the devil. We submit to it out of necessity. Further, taxation for the sake of police, etc., constitutes the absolutely essential taxes which fall far short of Cohen's preferred egalitarian redistribution. His first argument can in fact be brought to bear *in favor* of SO: "Suppose that you are an innocent person and that I forcibly detain you in a room for five minutes. . . . there is a massive *normative* difference between this brief detention and life-long imprisonment. Brief detention of an innocent person might be justified by, for example, temporary needs of social order, even if life-long imprisonment of an innocent person could never be justified." (*SO*: 231) Very good, then SO survives practically intact the imposition of a small tax by the local government to safeguard law and order.

Second, that slavery is as much a problem for libertarianism as it is for statism, because it need not be unlibertarian to allow voluntary slave contracts. In the first place, Cohen wants to show the compatibility of absence of self-ownership and absence of slavery. Showing the compatibility of self-ownership and slavery hardly helps. Further, as I suggested in Section 3.2, slave contracts are both somewhat self-contradictory and senseless. And finally, while you can alienate and therefore sell your labor, you cannot alienate your control over your body as such. These are some of the reasons not to recognize slave contracts in a free society. If, however, some such contracts are not unjust, then Cohen's argument is fixed by modifying "slavery" with "coerced / noncontractual" (such as regarding its being morally intolerable).

(2) The second argument deals with decreased autonomy under no-SO. By "autonomy" Cohen means "the range of a person's choice, as opposed to a feature of a person's character, related to his powers of deliberation and self-control" (*SO*: 236). In response, Cohen invokes his pathetic propertyless proletarians who allegedly lack autonomy under capitalism. I've dealt with this claim earlier. Consider the situation of a creative artist that Cohen uses. Mises makes the following point: to promote the arts "all that society can achieve. . . is to provide an environment which does not put insurmountable obstacles in the way of the genius and makes the common man free enough from material concerns to become interested in things other than mere breadwinning" (*HA*: 155). The plight of a creative man under socialism is twofold. First, socialist citizens are required to worship

the totalitarian state. A creative artist becomes a popular rival to the state for the people's affections. This cannot be and usually is not tolerated: the state is a jealous god. In addition, "under a bureaucratic system it is necessary to convince those at the top, as a rule old men accustomed to do things in prescribed ways, and no longer open to new ideas. No progress and no reforms can be expected in a state of affairs where the first step is to obtain the consent of the old men. The pioneers of new methods are considered rebels and are treated as such. For a bureaucratic mind law abidance, i.e., clinging to the customary and antiquated, is the first of all virtues." (1946: 67) SO then loosens creative advance by freeing artists and innovators from the necessity of seeking permission from the authorities to contribute to society.

(3) The third argument suggests that absence of self-ownership entails using people in an un-Kantian manner as only means rather than also as ends. Cohen replies that even in the free market people "use" each other quite legitimately: "*Of course* I treat the ticket-seller as a means when I hand him the money and thereby get him to hand me my ticket. For I interact with him only *because* he is my means of getting a ticket." (SO: 239) But this is beside the point which is rather that Cohen may not coercively conscript any Smith into causes for which Smith himself does not care, including helping the disabled or whatever, threatening him with punishment if he disobeys. Cohen would then be using Smith to further ends to which Smith is opposed or at least indifferent to, with Cohen commandeering Smith's property against his will and imposing a pure cost on him without conferring any corresponding benefit. Treating one as an end means recognizing that each person has *his own* ends for which he cares; and that in a good society each transaction between any two individuals should profit both of them. One should naturally rejoice that other human beings exist. Unlike social cooperation, state coercion introduces a discordant element into life, a contempt for the nature of the person being coerced. One on the receiving end of violence is being treated as an inanimate object to which no reciprocity or consideration is due. Thus, unlike a ticket-selling machine, a human clerk is presumably being requited with a mutually agreed-upon wage in exchange for his work, and his employer profits, too, from the sale of the ticket to Cohen, just as Cohen in his turn nets a psychic profit from buying the ticket. These exchanges immediately benefit all the parties involved. It is in this sense that redistributive taxation ignores the victim's own values and goals and projects, treating him only as a mechanical tool to be used by the redistributor and his allies for the latter's own selfish ends. As we have seen, Cohen has not made peace with the teleological nature of human beings; he has remained a wolf to man precisely because he doesn't know what sort of creature he is.

Finally, Cohen puts forward the following thought experiment:

Suppose that people are born with empty eye sockets... and there is a well-established practice of perinatal implantation of perfect artificial eyes by the state. Sometimes a mishap occurs in which a grown-up loses her eyes, and the only way to endow her with an eye is to take one from a "sighted" person... If an eye lottery is proposed by way of remedy, should we not feel as unhappy about it as we would about such a lottery for natural eyes? If so, the suggestion arises that our resistance to a lottery for natural eyes shows not belief in self-ownership but hostility to severe interference in someone's life. For... eyes... could be regarded as on loan, with one of them being retrievable if your number comes up in a lottery. (SO: 243-4)

Yet Cohen himself regards this scenario as inconclusive: "stalwart believers in self-ownership will think that... the difference between congenial and state-implanted eyes makes a big difference to the acceptability of the proposed lottery, precisely because the former are owned by the sighted person and the latter are not." Under SO, I could object to a lottery in natural eyes on the grounds that it is unjust; if all there was to it was visceral distaste over "severe interference," one could argue that the disutility of being interfered with, even severely, is outweighed by the utility to blind people of being able to see; or even that equality *is* the true meaning of justice, and no one by this correct justice should enjoy better vision than anyone else. The Cohenian lottery in state-owned artificial eyes could not take recourse to this argument from SO and may well be permissible and even praiseworthy. Another example is that there is something "untoward about marketing one's own eye, whether by selling it or by hiring it out." I agree that this, rather like selling one's own kidney, is creepy, but probably because one ought to love one's own body in a special way. If one loses a sum of money, he can earn more; one can't replace a ruined body. But creepiness does not betoken unlawfulness. Further, "you can condemn rape (the violent borrowing of sexual organs) while also condemning prostitution (the peaceful hiring out of the same), and thereby questioning some rights of self-ownership" (SO: 244). Perhaps, but you'd condemn these things for different reasons. Rape is a violent crime; prostitution is at most a sin or vice, and vices are not crimes. It may even be strictly speaking unjust for local cops to chase away hookers, but they might sacrifice libertarian justice in this case for the sake of public health or maintaining property values.

In sum, Cohen's critique of libertarianism, specifically of its focus on freedom, as well as of the justice of self-ownership, initial appropriation of unowned land, and voluntary exchange, does not hit its targets.

4. Two Men Enter, One Man Leaves

Cohen admits that individual proletarians are free to exit their “class” and become bourgeois. Workers can save and borrow money and invest it in their own businesses. He claims, however, that this is not true of the proletarians collectively. The fact that some workers may exit is contingent on the fact that not all workers try to exit: “each is free only on condition that the others do not exercise their similarly conditional freedom” (1983: 11). The number of exits is strictly limited. The only reason why a worker is free to leave is that the majority of other workers choose to remain. This predicament he calls “collective unfreedom.” The *individual* freedom of some to leave the proletariat is only “part of the genius of capitalist exploitation”: it promises salvation by disguising its true purpose to divide and disarm the proletariat ideologically and politically. Only perhaps a socialist revolution will free everyone at the same time.

David Gordon (1990) has an excellent discussion of this problem. One argument he deploys is that even if it’s false that all workers *can* exit, it remains possible that the counterfactual “if they *were* to exit, they would soon succeed” is true. Here’s why. All people in America right now are collectively unfree to buy fancy Japanese soap, simply because there is not enough such soap for everyone. Well, of course not, because the quantity supplied of the soap is adjusted to the demand which is actually low. But if every American did suddenly acquire a burning desire to buy Japanese soap, matters would be different. At first prices would skyrocket, but that would create massive profit opportunities for entrepreneurs to enter this industry and ratchet up soap production. Supply would then increase, though it might take a bit of time, and eventually the demand would be met, such that most Americans would enjoy their soap at the expense perhaps of various other goods.

People are collectively unfree right now to buy galactic quantities of such soap, but only because they don’t actually want to. If they wanted to do this and were willing to express their cravings in action, then the market would adjust and deliver. They would then be collectively free. By a similar reasoning, if most people did decide to exit and become employed in co-operatives, the market would in short order morph to satisfy their new desires.

Marxists contend that “the proletarian is forced at t to *continue* to sell his labor power, throughout a period from t to $t + n$, for some considerable n ” (1983: 8). This, however, seems straightforwardly false. People in today’s economy are collectively unfree *all at the same time* to quit their jobs en masse as one and start looking for new jobs, and yet each individual in

the course of his career as a worker can be expected to change jobs numerous times. One or more of such transitions may easily be into a business owner or member of a cooperative. So workers *are* free, both individually or even collectively, to change their places of employment; it's just that the exits have to occur in an orderly fashion.

Second, Cohen has again confused freedom and power: workers are not coerced into not leaving; no one, including the state, is refusing permission to them to leave; they are simply incapable of securing for themselves the happy consequences of leaving. But it's hardly a restriction on my freedom that I cannot enjoy the consequences of jumping under a bus (and therefore lack the power to both jump and live). It's not as if some authority was threatening workers with punishment for acquiring means of production or joining cooperatives; it's that the workers themselves won't relish a mass exodus. We are therefore at the most collectively *powerless* to exit the proletariat, not collectively unfree. We are simply not omnipotent and cannot successfully execute the exit. No defender of the free market said that the market maximizes human power as opposed to human freedom. (In a sense, capitalism does maximize human power over nature, or rather increases such power at maximum speed. But that is a separate argument.) But that we are collectively powerless to go to Alpha Centauri, for example, because there is no technology that would enable us to do so does not mean that we are not free to make every effort to try.

It follows from this that the collective powerlessness of all workers to exit the proletariat at the same time is not a bug of capitalism but its essential feature. If an attempt at such collective exit would be disastrous and destroy the economy, such that everyone would starve to death, then that workers stay put is godsend. If in addition the state were to *outlaw* such an atrocity, it might serve to save people from themselves. If workers were stupid and reckless enough to try to leave all at once, in so doing dooming themselves, massive coercive measures against them might be justified paternalistically for their own sake. So, on the one hand, what we lack is not freedom but power; and if we tried anyway, it would be desirable for all of us to lose our freedom. It is then true that a worker may want to leave while at the same time not wanting *other workers* to leave, as well, but *not* for the reasons (supposed competition due to collective unfreedom) Cohen gives. Therefore, a system in which a worker can ascend only if he possesses some rare talent, such as entrepreneurial prowess, is precisely what we want. And that's capitalism under which this talent is not arbitrary but filters workers who want to become business owners in such a way as to maximize efficiency and human welfare.

Why moreover is this collective powerlessness an indictment of capitalism and not indeed of whatever the alternative system *S* (socialism, a

system of mass cooperatives, or whatever) is being contemplated? Capitalism seems to work; the fact that a mass flight and attempt to create S would fail condemns precisely S as unworkable. It's not capitalism's fault that socialism implodes or that a cooperative is an uncompetitive business model.

Sometimes it is considered a counterexample to Kant's categorical imperative "Act only on that maxim through which you can at the same time will that it should become a universal law" that it seems to entail that I cannot become an interior decorator since it would be disastrous if *everyone* tried to become decorators, because the division of labor would then be wrecked, and the economy could not function this way. Switching from Kant to Cohen, first, surely, our collective unfreedom to become interior decorators is irrelevant; and second, the fact that there are natural, embedded within the market system protections against this sort of thing (namely, wage incentives) is perfectly great. Gordon similarly points out that we are collectively unfree all to become self-sufficient farmers since the current level of population is far too high to be fed like this. But so what? This hardly seems important or tragic. Perhaps the proletariat's collective unfreedom is similarly innocuous.

Finally, suppose that the workers are indeed "collectively unfree." If it is contrary to the interest of most of them to leave, of what concern is this lack of freedom? First, amassing capital requires saving which takes painful renunciation of instant gratification, and not everyone is willing to do this. Second, workers get their wages immediately, while an entrepreneur must wait until production is completed (which in complex projects may take months or years) and the product is sold. Third, workers are guaranteed their wages whether or not the business succeeds, while an entrepreneur is saddled with the *risk* of failing to profit and of losing his investment. Not everyone can make the cut as an entrepreneur. And there are advantages to abiding as a worker. E.g., why haven't all those people who could leave already left? Why aren't we already *both* individually and collectively unfree? Cohen replies because they refuse to leave out of solidarity with their oppressed brethren. But that's an empirical claim and Cohen gives no evidence for it. Isn't it more plausible to hold that the vast majority are simply content to remain workers?

According to a 2022 Gallup poll, 58% of Americans own stock ("April Economy and Personal Finance"). A much higher percentage will have owned stock at some point in their lives. Now just because one owns productive property does not mean that he can stop working since his savings may be low. But given how easy it is to become an investor, the differences between capitalists and workers reduce to the differences between rich and poor since the rich (by definition) can generate at least as much income through dividends as the poor do by selling their labor. Cohen must

then claim that while anyone under capitalism is free to become rich (i.e., rich enough in money terms not to have to work), and many do become rich, the poor are collectively unfree to become rich. But this is plainly false: no one's act of saving impoverishes anyone else. When too many workers begin saving money in hopes of becoming capitalists, what happens is that interest rates will fall. This will slash incomes to capitalists and concomitantly raise incomes to workers. The payoff to leaving will decline, deterring others. So there is a natural equilibrium here which governs people's career choices and which does not signify any unfreedom.

There is collective unfreedom of capitalists to become workers too. Even if some capitalists would like to sell their factories and consume the proceeds, not all of them can since for every seller there must be a buyer. *Someone* must direct production. Cohen might object that capitalists do not want to become workers. But we have just seen that many workers likewise do not, for very ordinary reasons, want to become capitalists. If the fact that many capitalists are content with their position makes the fact of their collective unfreedom "unregrettable," why can't the same be said about the proletarians?¹³

Cohen suggests that, since there are more workers than capitalists, all capitalists, if they wanted to, could trade places with some workers, but not vice versa – all workers could not trade places even with all capitalists, and therefore capitalists are not collectively unfree. If every business is a sole proprietorship, as I think Cohen imagines matters, the former exchange is as "structurally impossible" as the latter. The stock market may seem to change the situation. Usually the shareholders trade both with newcomers and each other. It is conceivable that one half of the country that owns shares sells them to the other half that doesn't. *All* capitalists then exit while only *some* workers become capitalists. Obviously, this is completely implausible since it requires a concurrence of this kind of supply and demand. Without it, any attempt by existing stock owners to pull off such an escape would cause such a mother of all panics as to fully defeat itself. So this is hardly an instance of *collective* freedom.

Even if it is true (what I have denied in Chapter 1) that profitable businesses exploit workers, because the goods are sold for more than total wages, it then becomes true that *workers* exploit *failing* businesses since the

¹³ Cohen says something about how workers have no alternative to selling their labor, while capitalists do have an alternative to investing capital: they can sell their labor. (1983: 20-2) I do not understand this argument because the discussion in the paper under consideration here revolves around the fact that workers *are* individually free to save and become capitalists. Of course, for the rich, spending results in a bout of short-term pleasure, while for the poor saving entails short-term discomfort or sacrifice, but so what? The symmetry is not broken.

incompetent entrepreneur subsidizes his workers by selling his product below costs. Perhaps these cancel each other out, and no overall exploitation ensues.

Gordon gives an example of two people one of whom specializes in growing wheat and the other in growing barley. If they exchange part of their products with each other, both benefit and no one is subordinate to the other. We could say that the two farmers in this example both *use* each other and *serve* each other. They use each other insofar as division of labor allows both of them to get more goods than they could obtain under autarky. They serve each other insofar as each farmer has an incentive to produce what the other wants. The same contractual relationship occurs in the employer-employee nexus: there is both mutual use and mutual service. In using the other, each is his master; in serving him, each is his servant. Again the two are symmetrical and cancel out, leaving both equal in dignity. Where's the exploitation?

In any case, workers do not ultimately work for capitalists; they work for the consumers, i.e., for themselves. Mises puts it this way:

The orders given by businessmen in the conduct of their affairs can be heard and seen. Nobody can fail to become aware of them. Even messenger boys know that the boss runs things around the shop. But it requires a little more brains to notice the entrepreneur's dependence on the market. The orders given by the consumers are not tangible, they cannot be perceived by the senses. Many people lack the discernment to take cognizance of them. They fall victim to the delusion that entrepreneurs and capitalists are irresponsible autocrats whom nobody calls to account for their actions. (*HA*: 272)

Capitalists are subject to the supremacy of the consumers, and so are, through them, their employees. But the workers are the main consumers of the stuff they produce. And each worker, in his capacity as a consumer, is keenly interested in the preservation of the capitalist system of production under which the productivity of human labor snowballs marvelously. Again it follows that collective unfreedom (if any) is a blessing not a curse.

All that remains of the argument is a formal puzzle. Cohen outlines it as follows:

Ten people are placed in a room, the only exit from which is a huge and heavy locked door. At various distances from each lies a single heavy key. Whoever picks up this key... and takes it to the door will find... a way to open the door and leave the room. But if he does so he alone will be able to leave it. Photoelectric devices

installed by a jailer ensure that it will open only just enough to permit one exit. Then it will close, and no one inside the room will be able to open it again. (1983: 9)

Before anyone gets out, are the prisoners free, and if so, in what sense? My answer is that they are free, but the idea of freedom includes in itself a certain amount of security of rights and stability of social order. If you are free today, but chaos in the streets threatens to take your freedom away from you tomorrow, then to that extent even your present freedom is compromised. Likewise the prisoners in the story enjoy only fleeting and impermanent freedom, especially because all incentives contrive toward its swift expiration shortly. Another way to think about it is that in the story as told by Cohen, the prisoners have not so much freedom to leave as freedom to compete with each other for the prize of escape. It is arguable that the latter freedom is less valuable than the former. None of these considerations, I maintain, bear on the *proletarian* unfreedom.

5. There Is an “I” in “Community”

It might seem at first glance that the Cohenian “community” is built upon Christian charity. Not so. Charity or love for fellow man, St. Thomas teaches, has the effects of (spiritual) union, mutual indwelling, ecstasy (as standing beside oneself self-forgetfully), and zeal (of the lover on behalf of the beloved). (*ST*: II-I, 28) It involves an interpenetration of souls, a merging of wills or in economics-speak of value scales not only without effacing individuality but on the contrary sharpening it. Cohen defines community differently:

In community motivation, I produce because of my commitment to my fellow human beings and with a desire to serve them while being served by them. In such a motivation, there is indeed an expectation of reciprocation, but it nevertheless differs critically from market motivation.

Christian charity, though of course *mutual* friendship, does not by its essence require reciprocation and hence is altogether superior to the Cohenian community. A man who loves can serve without asking for anything in return because the profit he gives to the beloved is his profit, too. Conversely, a man who is loved can take without fearing that he will need to repay the favor: his profit is the profit of the lover, as well. Unlike “unselfish” (by definition) altruism, charity is perfectly selfish; it’s just that it seeks the felicity of a united will, of hearts intertwined. (Note that wills are *immaterial*, and their union in no way entails communized material property. Wills are also *real* unlike ideal abstract objects, so the problem has nothing to do with intellectual property.) We can even say that moral duties which draw out sacrifices are transcended with charity. What then is the purpose of Cohen’s uncoordinated “serving”? We can get an idea of the silliness in the following passage:

The marketeer... does not desire the conjunction (serve-and-be-served) as such, for he would not serve if doing so were not a means to get service. The difference is expressed in the lack of fine tuning that attends non-market motivation. Contrast taking turns in a loose way with respect to who buys the drinks with keeping a record of who has paid what for them. The former procedure is in line with community, the latter with the market. (*CEJ*: 218)

It appears that Cohen simply and inexplicably hates accounting and wants to abolish it. Mises replied to this bizarre *idée fixe* as follows: “Our civilization is inseparably linked with our methods of economic calculation. It

would perish if we were to abandon this most precious intellectual tool of acting. Goethe was right in calling bookkeeping by double entry ‘one of the finest inventions of the human mind.’” (*HA*: 230) “Community” is just another fantasy.

The “generous” Cohenian man apparently does not care in the least about anything including whether he lives or dies. Nothing matters to him, and because of that he is released from suffering. He does not bother with accounting or the consequences of his actions. He is freed from all self-control, he is completely irresponsible, happy-go-lucky, light-minded, and carefree. We might even say he is having an out-of-body experience or is rapt in mystical ecstasy. Now needless to say, it does not work this way. A Cohenian man cannot exist, and if he did, then he would die within hours of adopting Cohen’s ideology.

It may be, less radically, that Cohen has in mind specifically Artisan generosity. Generosity is exactly what this type “prizes.” As Keirsey (1998) writes, “Child-like in other ways, perhaps Artisans are most child-like in the life-long pleasure they get out of giving. They never really lose the sense of fun that accompanies fortuitous generosity – not giving because something is owed to them or by them, but giving that is done spontaneously, for no reason other than having fun. For SPs giving out of duty isn’t fun at all, but impulsive giving is very gratifying.” (58-9) This is an admirable quality no doubt, but we can’t generalize it either to other temperaments or to the economic order.

I can imagine a man in a bar with friends celebrating some big success or promotion, yelling out in exultation, “Drinks for everyone!” His euphoria overflows. Why a guy next to him who is *not* celebrating anything, who may be in the bar to drown his sorrows, should do likewise is unclear.

And what will Cohen do with people who consume others’ services but themselves refuse to serve? I see no remedy for such an outrage but to force them to serve. Under the skin of pleasant-sounding socialist “community” thus lurks the skull of coercion. Presumably, however, *how much* people are to be forced to serve in return for services rendered to them by others must be determined by the state with precision for fear of injustice, of punishment not fitting the crime. Strict accounting must perforce be re-introduced.

Cohen’s “servants” are then neither self-interested nor loving. And therefore they are to abase and humiliate themselves before each other in “serving,” like so many pairs of homosexuals. It’s disgusting.

I see no value in the “conjunction of serve-and-be-served” other than in its effect on human happiness. Cohen’s community fails at the level of human nature, since he concedes that “we do not know how to make [an economic system] work on the basis of generosity”; and it fails at the

level of divine grace, because it falls far short of Christian charity. In short, it's nonsense.

In *Why Not Socialism?* Cohen describes a camping trip as an alleged example of a socialist community. This, too, is a mistake. Every activity in the camping trip Cohen recounts, from fishing to gathering firewood to cooking, is an aspect of *consumption*. Fishing in this case is not labor which is costly but sport which is a source of utility. It's a fun part of leisure. The fisherman does not want to minimize the time and effort it takes for him to catch fish; he may try to prolong it. He may even be happy when the fish are not biting too well, as this gives him a reason to savor fishing longer. Since socialism is a system of production which, like any system, seeks to *economize*, i.e., to minimize costs and maximize benefits, and there are no costs in the camping trip, there is no need for *any* system, including socialism. One is free simply to enjoy life. There is, for example, no "government" among the campers that owns the "means of production." All the objects and tools used during the trip are privately owned and were privately produced by the market economy outside our little society; they are shared only for the duration of the trip. The camping friends are enjoying the trip not equally but to the extent they are capable of. Nor is the distribution egalitarian, since it would have made sense for each person to bring to the trip things he knew he would want without sharing them with others (such as medications). It's a dangerous thing to embark on a camping trip unprepared, and it's up to each individual to make his own preparations. As we have seen, it is true that shared danger and hardship can forge bonds and bring people together which is what a camping trip may try to simulate. But society does not work this way. Cohen has confused not only economic science with *home* economics, but also civil society with some sort of eternal war zone.

Cohen's community sounds like it promotes fellow feelings, but that is an illusion. It's not just that inequalities will inevitably spring up from individual actions and will have to be coercively suppressed by the state. But it's false even that you can avoid being raped by the state by blending in, staying anonymous, as one of numerous innocent people just minding their own business. Why would the state pick *you* to harm? And if you are in trouble, can't following the law save you from destruction? In the movie *Schindler's List*, the Jews in the concentration camp indeed enjoyed both equality and community in Cohen's sense. Was that enough to redeem the situation?

We were on the roof on Monday, young Lisiek and I, and we saw the Herr Kommandant come out of the house on the patio right there below us, and he drew his gun and shot a woman who

was passing by.

Just a woman with a bundle, just shot her through the throat. She was just a woman on her way somewhere, she was no faster or slower or fatter or thinner than anyone else and I couldn't guess what had she done.

The more you see of the Herr Kommandant the more you see there are no set rules you can live by, you cannot say to yourself, "If I follow these rules, I will be safe."

The warden could kill that woman without qualms because she was *irrelevant* to him and to all others in that prison. Nothing was lost because of her death. The ant hill is not diminished if a single ant dies, or if a million. The comrades in the Cohenian community are equally worthless and equally disposable. The soothing comfort of imagining that you are not a loser just because other people are not winners fades when you realize that you're *all* losers. As O'Brien points out to Winston in Orwell's *1984*, which is true of all the comrades, "You do not exist." Kai Nielsen (1985), in a crazy book, declares that "there must be an equal concern on the part of society for the satisfaction of the needs of all human beings. ... No one in such a circumstance can be treated as being simply expendable. Rather, all needs and all interests must, as far as that is possible, be equally considered." (9) He imagines that under equality everyone will become equally important. In fact, however, under equality everyone is only equally insignificant.

In the movie *The Third Man*, Martins and Harry Lime are up on a Ferris wheel discussing philosophy:

Martins: Have you ever seen any of your victims?

Lime: Victims? Don't be melodramatic. Look down there. Tell me. Would you really feel any pity if one of those dots stopped moving, forever? If I offered you twenty thousand pounds for every dot that stopped, would you really, old man, tell me to keep my money, or would you calculate how many dots you could afford to spare?

Nobody thinks in terms of human beings. Governments don't. Why should we? They talk about the people and the proletariat; I talk about the suckers and the mugs – it's the same thing. They have their five-year plans, and so have I.

Yet Lime's crimes are trivial, pale in comparison with the inevitable crimes of the socialist states, including through their total wars, which is precisely the point meant to be conveyed by this exchange. As Michael Huemer (2013) contends, "no one has ever managed, working alone, to kill over a million people. Nor has anyone ever arranged such an evil by appealing to

the profit motive, pure self-interest, or moral suasion to secure the cooperation of others – except by relying on institutions of political authority. With the help of such institutions, many such crimes have been carried out, accounting for tens of millions of deaths, along with many more ruined lives.” (109)

Unlike the former Soviet Union and Communist China, America is composed not of a herd of undifferentiated “masses” but of *individuals*. We prize *success*, and that involves contrariwise separating oneself from the crowd. The suggestion that we’ll be safe from the state only if we toe the line and blend in and be just like everyone else is utterly un-American, not to mention generally inhuman and as we have seen, false. It is a holy society in which one can deviate from the “norm” without being martyred.

Cohen argues that on the market people are motivated by “greed and fear,” and these are “horrible ways of seeing other people” (*CEJ*: 218). Substitute “pursuit of happiness” or “seeking joy and avoiding sorrow” for “greed and fear,” and suddenly this statement loses its cynical bite. Social cooperation under capitalism promotes the aspect of this pursuit that comprehends material welfare as smoothly and vigorously as possible, and this is one reason why capitalism is desirable. An analogy with the drinks in Cohen’s story is a bar in which as time goes on, there is an increasingly greater variety of drinks, of improving quality, and at ever-lower prices. But to achieve this marvelous result, both the owner and the patrons must use strict rather than loose accounting of their expenses. Isn’t it a small “price” to pay for everlasting progress? The charge that capitalism encourages greedy selfishness is empirically implausible in any case. Certainly people choose their occupations and develop skills and improve their productivity to a great extent for the sake of money, i.e., their own prosperity. But while actually at work, in the midst of their daily commotion, their normal motivation is not that they love themselves excessively or that they love others, but that they (eventually come to) love their jobs.

Perhaps Cohen’s objection is to the hostility relation among men discussed in Section 1.2. On the macro level one chases after profits which is “greed” and grapples with competitors which is “fear.” On the micro level one savors his wealth – again, greed – and worries about thieves – fear. Unfortunately, I see nothing morally wrong in any of these four attitudes. Nor should Cohen. For example, even under equality, one is presumably allowed to enjoy his equal share and be apprehensive about having it stolen; there would still be such a thing as property, even if only in toothbrushes. People would have the right to strive for profits if it happened that such striving could raise welfare while preserving equality. And the “fear” of competitors can be purified with sportsmanship, indeed there can be a communion among athletes and entrepreneurs in their one-upmanship.

Now there is a grain of truth in Cohen's thesis. In a world without a conscience, or where love is against the law, men are driven by the lower three chakras of their souls. People on top are motivated by power, they seek to beat the world into either submission or ruin. People in the middle are hedonistic mercs, motivated by greed. People at the bottom are cattle motivated by fear. But this is not the fault of *capitalism*. The market serves all human values, contending with "all ends and all means, both material and ideal issues, the sublime and the base, the noble and the ignoble" (HA: 3), including those manifested by the highest human faculties.

In the order of nature, we human beings are *useful* to one another. It is then true that we use each other as means to our own ends. Call this fact *U*. Cohen is repulsed by *U*. This attitude is precious to say the least. First, *U*, the prevalence of general harmony of interests in the free society, is the source of all peace and prosperity. Second, in daily life, few are driven by the ruthless lawless venal cunning that Cohen claims follows from *U*. The predominant feeling is respect for individual rights and good will toward men. Third, *U* is not the end of things but the beginning. We do not stop with looking at each other as *mere* means. We can, with plenty of divine aid, be ends. Here Cohen is *not* helping.

The whole thing is of course self-contradictory. In community, Cohen tells us, "the relationship between people is... the wholly noninstrumental one in which I give because you need" (CEJ: 219). But aren't your "needs" equally selfish? In needing anything, aren't you still motivated by greed? Aren't you still using me? The idea is that you announce your need to the world, and someone helpfully arises to satisfy it, entirely for free. Once again Cohen has confused the economy with the nursery. An infant cries and the dutiful nurse (representing the state) is thrust into action to soothe him. Wah! I need my bottle, mister prime minister! It would be funny if it weren't dangerous.

In the Disney cartoons, Scrooge McDuck had perfect mental health, in particular he relished and was unashamed of his wealth. More than that, he constantly strove to get richer. I want a world in which men are like that. The dignity of man is affirmed in unselfconscious pursuit of just profit. The bourgeoisie deserve not only their prosperity but their respectability and moral authority too. Cohen's inculcation of false guilt to demoralize and weaken people is a monstrous sin. No man should be afflicted with counterfeit duties or "ethoses."

Cohen wants to suppress "self-interest" and promote "generosity," and "we do that, for example, when we tax, redistributively, the unequalizing results of market activity" (CEJ: 218-9). I don't know how progressive it is to substitute self-interest with fear of punishment for not paying the taxes. And it's certainly easy, though arguably unjust, to be generous with

other people's money. Perhaps Cohen should've learned to be generous with his own.

I agree that man ought to be a lover and gift who gives of himself to the world. However, I hold that this self-giving generosity is not natural to man but is itself given to him by God in the form of grace. And this noble generosity of grace cannot be realized by destroying the human nature of enlightened or rightly understood self-interest on which this grace rests. Attempts to do so fail, and have failed time and time again, horribly, and the grace and charity now lacking a foundation, too, collapse. But Cohen is hardly a grace-filled Christian. "All you need is love," though false, is at least a nice sentiment; "All you need is taxes and some weird 'ethos'" is ravings of a lunatic.

Conclusion

Justice seeks, on the one hand, to balance the existing forces of life in man, and on the other, to nurture their future growth. Justice is a healing and unitive force, though on a lower level than love. It is what overcomes alienation, the heartbreak of loneliness. As the Idealist master virtue, it fits, integrates complementary things in human affairs into a whole, with every part in its proper place and playing its proper role. Justice, both individual and social, is the crucial means to the development of human potential; it is the catalyst that enlivens and energizes everything around it. It is only through the harmony based on justice that men can grow in charity, and charity is how one imitates God. And it is a fundamental impulse of life for every individual to struggle perpetually to improve his well-being; each can fulfill his essential nature by means of the social progress made possible by the right economy. Justice marshals all four human relations, even hostility, towards these ends. In these senses, the legal system undergirding capitalism is just. Under socialism, on the other hand, society either ossifies as in Cuban-style “evenly rotating” socialism or falls apart as in Soviet-style “planned chaos” socialism. And under equality, mean and spiteful and morally unattractive as Cohen freely admits, men become enemies of each other, pulling down or at best pillaging anyone who dares to try to be happier than the rest. It is not the “cartoon capitalists of a socialist demonology” (Flew 1989b: 194) but socialist subjects who are the most materialistic, greedy, base, mean, and ruthless of all people. The Soviets were morally twisted, envious, ignorant, crude little goblins. North Korea has been described by the refugee Yeonmi Park as a land with neither freedom nor love – and, as we can now ascertain, with no justice, either.

Both Rawls and Cohen went mad with power, thinking that *they* were the owners of all goods on earth. Both claimed that their inclinations about how to dole out those goods to the masses in their custody were the quintessence of justice. Both, through this steadfast “righteousness” and overflowing benevolence, aimed to be first in the kingdom of heaven even if they drove everyone else to hell. Neither, as regards justice, knew what they were talking about.

Neither Rawls nor Cohen, moreover, addressed the question of what should be *produced*, that is, *before* it is distributed. They did not put forward any central plan. Presumably, then, they would agree that what should be produced must bear some relation to what people want to consume. But the only economic system capable of rationally matching productive efforts with consumer desires is capitalism, and that entails inequality in both wages and profits.

I suggest that Cohen's egalitarian socialism is at best a Christian heresy which hopes to rescind the Law in order to make room for Grace. And at worst, Cohen does not care about grace at all, and his "ethoses" – the egalitarian ethos, the ethos of service, and the utilitarian ethos – are a corruption of the true law, cooked up not to justify people but to enslave them. He is a bad Jew, an anti-Moses, a false prophet in the full Biblical sense. It might be said in Cohen's defense that if one were to make a mistake, then why not this one? But few human mistakes have resulted in so much global misery and horror as the false religion of socialism. It's not some gambling vice but an awful mortal sin.

We have seen that the socialist idea was to turn men into machines. If you are a more powerful machine (have more "ability"), you contribute more; if less, less. You are still to get from the common repository according to your "need," i.e., whatever is needed for your physical maintenance. This was the final solution to inequality. No longer would egalitarian measures violate individual rights, take away liberty, and harm production. Machines have no rights, they do not need liberty, and they work with full self-giving without asking for anything for themselves. This was the enemy's great plot in the 20th century, to extinguish the light of man, to be realized by means of men like Cohen.

Cohen is not anti-welfare in the sense that he despises pleasure or satisfaction of desires, but he wants to stop humans from acting on their own accord, from using their individual powers to work to satisfy their own desires because such aspirations or endeavors will produce unequal results. He aims to abolish the human pursuit of happiness, human action as such. He seeks, in short, by inducing despair, to kill the heart of man. Cohen then is become Death, the destroyer of worlds, far more horrible than a mere nuclear bomb.

A human being is, among other things, a union of three faculties: will, intellect, and body. Physical death is separation of will and intellect, still united, from the body. Now Jesus warns us repeatedly of hell in the Bible, of the second spiritual death. Here is a bit of occult knowledge: spiritual death is the decapitation of the intellect from the will, the mind from the heart. The will is absorbed into the pool of life; the intellect is cast into hell to burn forever. The union of mind and heart for humans is just like rest energy for merely material objects, inseparable unless the unthinkable happens – you corrupt yourself beyond repair. It is a fact about man that he has ends (in the will) and uses means (in the intellect) to attain them. Not for Cohen. The means man uses have no connection to any ends. The intellect is powerless to make the will happy. It is already sliced off. Thus, Cohen seeks literally to bring hell on earth.

J.R. Lucas (1983) argues as follows: "Although we have feelings of

pleasure and pain, and can have possessions, we are first and foremost *agents*, who do things. We are happy, we love, we are educated, in and by doing things, not in having things done to us or being given them.” (74) Cohen rejects this insight. On the one hand, he mistakes the human society for a maternity ward in which the nanny state “takes care” (or not, as the case may be) of its mindless helpless passive charges. On the other hand, Cohen hates adult profit-seeking industry, enterprise, and initiative and the free and proud independence that they imply and yearns to put an end to them. Deification of the state goes hand in hand with infantilization of the people. Indeed, much of egalitarianism is simply the maternal instinct perverted, and Rawls and Cohen are the Jungian devouring mothers.

As a result, I expect Cohen (who died in 2009) himself to be in hell, ironically being forced by the devils to strive perpetually to be equal to a tree stump.

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