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Self-Realization and the Priority of Fair Equality of Opportunity

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The lexical priority of fair equality of opportunity in John Rawls's justice as fairness, which has been sharply criticized by Larry Alexander and Richard Arneson among others, is left almost entirely undefended in Rawls's works. I argue here that this priority rule can be successfully defended against its critics despite Rawls's own doubts about it. Using the few textual clues he provides, I speculatively reconstruct his defense of this rule, showing that it can be grounded on our interest in self-realization through work. This reconstructed defense makes liberal use of concepts already present in *A Theory of Justice*, including the Aristotelian Principle (which motivates the achievement of increasing virtuosity) and the Humboldtian concept of social union (which provides the context for the development of such virtuosity). I also show that this commitment to self-realization, far from violating the priority of right in Rawls's theory, stems directly from his underlying commitment to autonomy, which is the very foundation of the moral law in his doctrine of right. The reconstituted defense of this priority rule not only strengthens the case for justice as fairness but also has important and controversial implications for public policy.

Introduction: Fair Equality of Opportunity and its Lexical Priority

In his final statement of the two principles of justice, Rawls renders the second principle as follows:

> Social and economic inequalities are to be arranged so that they are both:
>
> (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and

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(b) attached to offices and positions open to all under conditions of fair equality of opportunity. (*TJ*, p. 266)[1]

I will hereafter refer to condition (b) as simply 'Fair Equality of Opportunity' or 'FEO'. FEO has two distinct components. First, FEO requires *formal* equality of opportunity or 'careers open to talents', that is, it prohibits both arbitrary discrimination (on the grounds of race, gender, etc.) and monopolistic privilege (including barriers to entry in labor markets) (*TJ*, p. 62; *CP*, p. 141; *JF*, p. 67 n). Second, FEO demands *substantive* equality of opportunity: all citizens must have a fair chance to achieve advantaged social positions, regardless of their social circumstances (i.e. class status or family background). To achieve such fairness, the state must take action to prevent 'excessive accumulations of property and wealth' and to maintain 'equal opportunities of education for all' (*TJ*, p. 63). More specifically, the state must impose inheritance and gift taxes, limit the right of bequest, and subsidize education (whether directly through public schools or indirectly through vouchers, tuition tax credits, loans, etc.) (*TJ*, p. 245; *CP*, p. 141; *JF*, pp. 51, 161).

Moreover, condition (b) of the second principle is lexically prior to condition (a), that is, 'fair [equality of] opportunity is prior to the difference principle' and consequently cannot be sacrificed for its sake (*TJ*, pp. 77, 266). This priority rule may seem unnecessary: under what possible circumstances would sacrificing FEO be to the 'greatest benefit of the least advantaged', given especially that one of its goals is to 'even out class barriers' (*TJ*, p. 63)? Rawls suggests that 'it may be possible to improve everyone's situation [including the least advantaged] by assigning certain powers and benefits to positions despite the fact that certain groups are excluded from them. Although access is restricted, perhaps these offices can still attract superior talent and encourage better performance' (*TJ*, p. 73). As an example, Rawls offers (though does not endorse) the claims of Burke, Hegel, and others that 'some sort of hierarchical social structure and a governing class with pervasive hereditary features are essential for the public good' (*TJ*, p. 264).[2]

Though these claims are no doubt of historical interest, they may not seem particularly compelling, leaving us still wondering whether the lexical priority of FEO is really necessary. However, we do not need to rely on an example as extreme as this one in order to recognize the possibility of conflict between FEO and the Difference Principle. For example, securing Fair Equality of Opportunity through educational subsidies could be exceedingly expensive, as a disadvantaged family and class background may make it difficult to bring a student up to a level of competence, much less excellence, at any given

1. I will use the following notation for Rawls's works throughout this paper: *TJ* (*Theory of Justice*, revised edition); *PL* (*Political Liberalism*); *CP* (*Collected Papers*); *JF* (*Justice as Fairness: A Restatement*).

2. Also see Bernard Williams, 'The Idea of Equality', in Peter Laslett and W.G. Runciman (eds.), *Philosophy, Politics, and Society* (Oxford: Basil Blackwell, 1962), esp. pp. 125-29, and Michael Lessnoff, 'John Rawls' Theory of Justice', *Political Studies* 19.1 (1971), pp. 63-80, esp. pp. 75 onwards.

task. Might it not be to the 'greatest benefit of the least advantaged' to focus educational subsidies instead on those (often socially advantaged) students for whom such investment would offer the highest rate of return and then tax them for the benefit of the poor? Rather than fighting a costly and possibly futile battle against family and class privilege, one might instead put such privilege to work for the least advantaged among us through redistributive taxation. This thought seems to animate Rawls's own concept of 'natural aristocracy', a kind of institutionalized *noblesse oblige*, and it is precisely what the priority of FEO rules out as illegitimate (*TJ*, pp. 57, 64-65). Thus, contrary perhaps to first impression, FEO's lexical priority has real bite: *the least advantaged cannot trade off their fair opportunities to achieve office and position for the sake of greater monetary benefits*.

Not surprisingly, this priority rule has been roundly criticized by many people, including Larry Alexander and Richard Arneson.[3] Alexander seems perplexed by the strength of the condition, believing that it makes a fetish of our status as producers; moreover, he worries that FEO may become a 'black hole' for economic resources due to its lexical priority.[4] Arneson writes that 'enabling all individuals to have real opportunities for job satisfaction, educational achievement, and responsibility fulfillment is not plausibly regarded as a justice goal that trumps all other justice values and should be pursued no matter what the social cost'.[5]

Perhaps due to these criticisms, Rawls himself began to express doubts about the lexical priority of FEO late in his life. Consider the following footnote (apparently written sometime in the early 1990s[6]) from *JF*:

> Some think that the lexical priority of fair equality of opportunity over the difference principle is too strong, and that either a weaker priority or a weaker form of the opportunity principle would be better, and indeed more in accord with fundamental ideas of justice as fairness itself. At present I do not know what is best here and simply register my uncertainty. How to specify and weight the opportunity principle is a matter of great difficulty and some such alternative may well be better. (*JF*, p. 163 n)[7]

3. Larry Alexander, 'Fair Equality of Opportunity: John Rawls' (Best) Forgotten Principle', *Philosophy Research Archives* 11 (1985), pp. 197-207; Richard Arneson, 'Against Rawlsian Equality of Opportunity', *Philosophical Studies* 93.1 (January 1999), pp. 77-112. Also see Thomas Pogge, *Realizing Rawls* (Ithaca, NY: Cornell University Press, 1989), pp. 161-96.

4. Alexander, 'Fair Equality of Opportunity', pp. 198, 202-203, 205-206. On FEO as a 'black hole', also see Arneson, 'Against Rawlsian Equality of Opportunity', pp. 81-82, and Pogge, *Realizing Rawls*, p. 169.

5. Arneson, 'Against Rawlsian Equality of Opportunity', p. 99.

6. Email correspondence with Erin Kelly, editor of *JF* (14 April 2003).

7. There is some textual evidence (admittedly indirect) in *TJ* suggesting that Rawls is responding to Alexander's criticisms. For example, a passage in the *original* edition (p. 87) that was sharply criticized by Alexander ('Fair Equality of Opportunity', pp. 199-200)—who felt that it implied that FEO would never conflict with the Difference Principle—is missing in the *revised* edition (*TJ*, p. 76).

This latter-day ambivalence prompts the following question: what does Rawls's original defense of the lexical priority of FEO look like? We thus arrive at one of the most puzzling lacunae in all of his work. Apart from a single brief discussion (to which I will turn shortly), he fails to offer *any* justification for this priority rule. He defines the priority of FEO, illustrates it, etc., but never gives us an argument for it. This gap in his theory is made all the more surprising by the almost obsessive care he takes in defending (with multiple arguments) the other major priority rule internal to justice as fairness, the priority of liberty.[8]

Over the following pages, I attempt to defend Rawls against both his critics and his own doubts by speculatively reconstructing his argument for the lexical priority of FEO, building not only on the few clues he provides but also on other resources found in *TJ*, including especially the Aristotelian Principle (section 65) and the Humboldtian concept of social union (section 79). Moreover, I show that this reconstruction can be defended against the criticism that it commits Rawls to a substantive conception of the good, thereby jeopardizing the priority of right in his theory. As we shall see, this reconstituted argument for the lexical priority of FEO strengthens the case for justice as fairness as well as having controversial implications for public policy.

Reconstructing Rawls's Defense of the Priority of FEO

Before starting my reconstruction, I should say a few words about method. Any attempt to reconstruct someone else's argument should hew as closely as possible to their own words, methods, concepts, and (insofar as we can discern them) intentions. As I reconstruct Rawls's defense of the priority of FEO, his own words on the subject (which are few and vague, as we shall see) will provide a rough guide. I will fill in the details using methods and concepts drawn from his own writings. Where interpolation or extrapolation is needed to advance the argument, it will be carefully discussed and defended. The final product of this effort should at the very least not be inconsistent with the spirit of Rawls's work; with luck, it will reflect his intentions and fit into the rest of his theory with a minimum of strain.

To begin, I will briefly examine Rawls's most powerful defense of the priority of liberty, which will then serve as a model for a reconstructed defense of the priority of FEO. In section 26 of *TJ*, Rawls says that 'parties [in the Original Position] regard themselves as having a highest-order interest in how all their other interests, including even their fundamental ones, are shaped and regulated by social institutions' (*TJ*, p. 131). This highest-order interest in the shaping of other interests (including the religious interest and the interest in integrity of the person) sits atop a 'hierarchy of interests' and is lexically prior to all other interests, that is, it cannot be sacrificed to promote them

8. See sections 26, 33 and 82 in *TJ*, as well as 'The Basic Liberties and Their Priority' in *PL*.

(*TJ*, p. 476). As the basic liberties are necessary conditions for the achievement of this highest-order interest, they cannot be sacrificed for the sake of other primary goods, such as office and position, income and wealth (*TJ*, p. 131). Rawls's argumentative strategy is to justify a hierarchy of goods (basic liberties *over* other primary goods, as required by the priority of liberty) with a hierarchy of interests (a highest-order interest in shaping other interests *over* all other interests, including fundamental ones). Of course, the success of such a strategy hinges on showing (*inter alia*) why this interest in the shaping of all other interests is of such paramount importance, but its connection to our capacity for a conception of the good, which is one element of our autonomy, makes such a showing possible.[9]

So, one orthodox Rawlsian way to justify the lexical priority of FEO over the Difference Principle (and therefore the lexical priority of fair opportunities to achieve office and position over income and wealth) is to justify the lexical priority of the *interest* that FEO supports over the consumption interest supported by the Difference Principle. What kind of interest might this be? Rawls identifies it during his one very brief discussion of the priority of FEO and its defense:

> I should note that the reasons for requiring open positions are not solely, or even primarily, those of efficiency.... [The priority of FEO] expresses the conviction that if some places were not open on a basis fair to all, those kept out would be right in feeling unjustly treated even though they benefited from the greater efforts of those who were allowed to hold them [as was the case with 'natural aristocracy']. They would be justified in their complaint not only because they were excluded from certain external rewards of office but *because they were debarred from experiencing the* ***realization of self*** *which comes from a* ***skillful*** *and devoted exercise of* ***social*** *duties. They would be deprived of one of the main forms of human good*. (*TJ*, p. 73; emphasis added)[10]

Rather than concentrating on the interest in the 'external rewards of office' (including salary and prestige), which after all bears a strong resemblance to the consumption interest supported by the Difference Principle, I want to focus on the interest in 'the realization of self' that the holding of offices and positions makes possible. If it can be shown that this interest is so important as to be lexically prior to the consumption interest, then the priority of FEO will have been justified on orthodox Rawlsian grounds. Rawls's description of self-realization as 'one of the main forms of human good' suggests that such an approach may be a promising one.

9. As I have recently argued in 'Rawls's Defense of the Priority of Liberty: A Kantian Reconstruction', *Philosophy & Public Affairs* 31.3 (Summer 2003), pp. 247-72.

10. This account of FEO's priority may explain Rawls's position on the distribution of educational resources: 'resources for education are not to be allotted solely or necessarily mainly according to their return as estimated in productive trained abilities, but also according to their worth in enriching the personal and social life of citizens, including here the least favored' (*TJ*, p. 92).

In order to demonstrate the importance of our interest in self-realization, however, we must first determine what self-realization consists of. Rawls says that realization of self comes from 'a *skillful* and devoted exercise of *social* duties'. This skeletal explanation can readily be fleshed out by an examination of the Aristotelian Principle (section 65), which motivates the achievement of increasing virtuosity, and of the concept of social union (section 79), which provides the context for the development of such virtuosity.[11] In the course of doing so we will see why and in what way Rawls believes that self-realization trumps consumption.

The Aristotelian Principle

Rawls defines the Aristotelian Principle in the following way: 'other things equal, human beings enjoy the exercise of their realized capacities (their innate or trained abilities), and this enjoyment increases the more the capacity is realized, or the greater the complexity' (*TJ*, p. 374). The achievement of pleasure in increasing virtuosity at any given activity is counterbalanced, however, by 'the increasing strains of learning as the activity becomes more strenuous and difficult' (*TJ*, p. 376). This tradeoff between the pleasures and burdens of virtuosity at any given task determines how we will allocate resources (such as time and effort) across tasks:

> Every activity belongs to some chain. The reason for this is that human ingenuity can and normally will discover for each activity a continuing chain that elicits a growing inventory of skills and discriminations. We stop moving up a chain, however, when going higher will use up resources required for raising or for maintaining the level of a preferred chain. (*TJ*, p. 378)

Notice that in allocating resources the tradeoff is between virtuosity at different activities, *not* between virtuosity and consumption. In fact, Rawls only speaks of our tendency to virtuosity being overridden when it comes into conflict with justice itself or when various psychological proclivities (e.g. risk aversion and time preference) inhibit it (*TJ*, pp. 376-78). (I will return to both of these points later.)

The importance of this tendency and its ramifications for institutional design are spelled out in the following passage, which is rich with implications for a defense of the priority of FEO:

> The tendency postulated [i.e. the Aristotelian Principle] should be relatively strong and not easily counterbalanced. I believe that this is indeed the case, and that in the design of social institutions a large place has to be made for it, for otherwise human beings will find their culture and form of life dull and empty. Their vitality and zest will fail as their life becomes a tiresome routine. (*TJ*, p. 377)

11. Alexander speculates that the lexical priority of FEO might be defended using the Aristotelian Principle but does not attempt such a defense himself (Alexander, 'Fair Equality of Opportunity', pp. 205-206).

The social duties attached to offices and positions provide valuable and (as we shall see) unique opportunities for the exercise and improvement of our abilities. FEO and its priority can be seen as creating and protecting institutional space for the use of our skills and guaranteeing resources (including educational ones, in particular) to make their utilization effective. Consumption cannot substitute for self-realization through the skillful discharge of social duties for the very reasons alluded to in this passage: only increasing virtuosity can prevent life from becoming 'dull and empty', whereas increasing consumption—though perhaps initially satisfying, especially where basic needs have yet to be met (*TJ*, p. 379)—has a tendency to become a 'tiresome routine' itself, with titillation giving way to boredom and jadedness in an endless series of addictive cycles.

I should immediately note that Rawls never explicitly makes such a claim about the lack of substitutability between self-realization and consumption. I am extrapolating here, but such an extrapolation is necessary to advance the argument: unless self-realization is of such a nature that consumption can never substitute for it, we will be unable to defend the priority relation between the respective social primary goods (fair opportunities for office and position versus income and wealth) that support them. Moreover, this extrapolation is consistent with many of Rawls's other statements about consumption. For example, during his defense of the Difference Principle, Rawls says that a 'person choosing [according to a maximin rule] has a conception of the good such that he cares very little, if anything, for what he might gain above the minimum stipend that he can, in fact, be sure of by following the maximin rule' (*TJ*, p. 134). This relative indifference to consumption beyond a 'satisfactory minimum' (*TJ*, p. 135) is consonant with (though it certainly does not imply) the above claim about substitutability.[12] I think these considerations militate in favor of provisionally accepting such a claim in order to see whether the reconstructed defense, considered as a whole, is compelling and broadly consistent with Rawls's overall theory.

Before moving on to consider why the Aristotelian Principle should be linked to offices and positions in the basic structure of a just society,[13] we

12. Rawls also says in *PL* that 'were the parties [in the Original Position] moved to protect only the material and physical desires of those they represent, say their desires for money and wealth, for food and drink, we might think that the original position modeled citizens' heteronomy rather than their rational autonomy. But at the basis of the parties' reliance on primary goods is their recognition that these goods are essential all-purpose means to realize the higher-order interests connected with citizens' moral powers and their determinate conceptions of the good…' (*PL*, p. 76). As I will show later, self-realization can be understood as one of these 'higher-order interests'.

13. The *basic structure* is the subject of justice and includes 'the political constitution and the principal economic and social arrangements. Thus the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family are examples of major social institutions. Taken together as one scheme, the major institutions define men's rights and duties and influence their life prospects, what they can expect to be and how well they can hope to do' (*TJ*, pp. 6-7).

should consider another objection to the argument so far. The idea of making the Aristotelian Principle the foundation for a defense of the priority of FEO might be criticized on the grounds that, as a mere *factual* premise, the principle has no moral force and cannot do the normative work that I wish it to do. That is, the Aristotelian Principle is, as Rawls repeatedly emphasizes, a 'psychological law' or a 'natural fact' (*TJ*, pp. 375, 376), a description of an evolved human tendency with obvious adaptive features. To argue from this innate disposition towards virtuosity to a political principle that encourages and protects it is no more valid, so the criticism goes, than to argue from our innate disposition towards violence to a political principle that endorses blood feuds and factional warfare.

This criticism may lose its force, however, if its own premise is challenged: perhaps the Aristotelian Principle, despite Rawls's assurances, is something more than a mere 'psychological law'. Few readers of *TJ* would question the moral role that autonomy plays in Rawls's theory; in sections 40 and 78, human autonomy is represented as the very ground of the moral law. Yet the form of its depiction, both there and elsewhere, is always factual in character: thus Rawls speaks of our '*nature* as free and equal rational beings' (*TJ*, pp. 222, 452, 455; emphasis added) and of our observable capacities both for a conception of the good and for a sense of justice, which are the constitutive elements of human autonomy (*TJ*, p. 442).[14] Thus, Rawls often clothes his normative premises in factual language, and so his use of such language when describing the Aristotelian Principle does not necessarily rob it of moral force. Given the importance of this premise in defending one of the key elements of Rawls's justice as fairness, I believe we are justified in ascribing to it more than merely factual significance.

Social Union

Throughout his discussion of the Aristotelian Principle, Rawls constantly highlights the social context within which we develop our various skills. The increasing virtuosity of our fellow citizens, for instance, is a good for us, as their improved skills may help us to advance our own ends, may inspire us to similar forms of excellence, or may simply be a source of pleasure when they are publicly exercised (*TJ*, pp. 373, 375-76). Such virtuosity can be developed and displayed in any number of social settings, including even games and other forms of play (*TJ*, pp. 374-75, 377).

This last observation raises the following important question: why would the Aristotelian Principle bear any *special* relationship to offices and positions in the basic structure, as required by the proposed defense of the priority of FEO? In order to understand this connection, we must first examine the Humboldtian idea of social union, discussed by Rawls in section 79. As

14. Thus Rawls asserts that 'these claims [about human moral capacities] depend solely on certain natural attributes the presence of which can be ascertained by natural reason pursuing common sense methods of inquiry' (*TJ*, p. 442 n).

Rawls notes there, individual men and women have neither the time nor the requisite inborn potentials to achieve all the possible forms of human excellence. They are forced to *specialize*, choosing to develop some skills and allowing others to lie fallow. Fortunately, however, they can participate in and enjoy the complementary excellences of their fellow citizens through social cooperation in the pursuit of shared ends (*TJ*, pp. 458-59). Rawls's example of a symphony orchestra provides a nice illustration of these points: individual members of an orchestra may lack the time and/or ability to learn to play (or play well, at least) all or even most instruments in an orchestra, but they can specialize by training themselves on one or a few instruments and then cooperate with others in the orchestra to produce music together, thereby participating in the complementary excellences of their fellow musicians in the pursuit of a common goal (*TJ*, p. 459 n).

Now, as Rawls notes, such social unions can take many forms, many of which are *not* properly thought of as part of the basic structure of society, which is the subject of justice. So, for example, friendships, chess clubs, art associations, churches, and so on, may be important examples of social unions, but membership in them would generally not be regulated by FEO. What then distinguishes those social unions that are part of the basic structure—governments, private and public corporations, universities, NGOs, and so forth—from social unions more generally? What makes them distinct (*inter alia*) is that the offices and positions associated with them require a major and usually dominant commitment of time and energy and act as the primary sources of livelihood for those who hold them. The social duties associated with these offices and positions and the rich repertoire of skills necessary to discharge them will consequently become a central focus of the lives of the officeholders, especially their pursuit of virtuosity. Such centrality is the source of the special connection between the Aristotelian Principle and the offices and positions of the basic structure, and it explains why FEO is of such overwhelming importance: fair access to these positions is by far the most important way (though certainly not the only way) to help citizens achieve the excellences of which they are capable.

A Threshold Condition for the Application of the Priority of FEO

Earlier I mentioned that the pursuit of virtuosity might legitimately be overridden if it conflicted with justice itself (*TJ*, p. 378). For example, the priority of liberty would prevent the state from banning paeans to consumerism if its purpose in doing so was to keep citizens from being distracted from self-improving activities. The first principle of justice is, in other words, prior to the second. But FEO might be overridden, and its priority postponed, for reasons *internal* to the second principle as well. For instance, Rawls notes that 'the Aristotelian Principle characterizes human beings as importantly moved not only by the pressure of bodily needs, but also by the desire to do things enjoyed simply for their own sakes, *at least when the urgent and pressing wants are satisfied*' (*TJ*, p. 379; emphasis added). Rawls is recognizing here

that the pursuit of virtuosity, at least for limited physical beings such as ourselves, has preconditions: we cannot effectively hone our skills when we are racked by cold, thirst, hunger, or other such afflictions. Thus, the priority of FEO would have to be relaxed if such relaxation were necessary to allow the accumulation of sufficient income and wealth to make the pursuit of virtuosity itself feasible.

This last example raises a larger question: under what conditions does the lexical priority of FEO come into effect? Rawls explicitly addresses this issue in *PL*, drawing a parallel between the first and second principles of justice:

> The notion of fair equality of opportunity, like that of a basic liberty, has a central range of application which consists of various [non-basic] liberties [such as free choice of occupation and freedom of movement] together with *certain conditions under which these liberties can be effectively exercised*… Just as in the case of basic liberties, I assume that this range of application can be preserved in ways consistent with the other requirements of justice, and in particular with the basic liberties. (*PL*, pp. 228, 363-64; emphasis added)

In the case of the basic liberties, these conditions include an unspecified level of social, legal and economic development (especially a modicum of material comfort) (*TJ*, pp. 54-55, 132, 474-76). Something similar is evidently intended for FEO: adequate socio-political and material resources must be available before the priority of FEO goes into effect, where 'adequate' means whatever level is necessary for the liberties associated with FEO to be 'effectively exercised'.

Given what Rawls has said on this subject, we can speculatively reconstruct the nested set of thresholds for the application of the lexical priorities of liberty and FEO. Begin with his general conception of justice, in which 'all social values—liberty and opportunity, income and wealth, and the social bases of self-respect—are to be distributed equally unless an unequal distribution of any, or all, of these values is to everyone's advantage' (*TJ*, pp. 54-55). This general conception presumably applies to all societies below a certain level of development. Once the requisite level of social, legal and economic development has been reached, however, the first priority rule (the priority of liberty) comes into play; given the priority of the first principle to the second, an increasing social resource base must first be used to secure the priority of liberty.[15] As the resource base continues to grow, though, a point will eventually be reached where the second priority rule (the priority of FEO) will come into effect; the special conception of justice will then be fully implemented.

15. Rawls argues that 'the case for certain political liberties and the rights of fair equality of opportunity is less compelling [than the case for 'liberty of conscience and the rights defining integrity of the person']… It may be necessary to forgo part of these freedoms when this is required to transform a less fortunate society into one in which all the basic liberties can be fully enjoyed' (*TJ*, p. 217).

The Priority of FEO versus the Priority of Right?

An important question now arises: does the commitment to self-realization that I argue is implicit in the lexical priority of FEO simultaneously commit Rawls to a substantive conception of the good for its defense, thereby jeopardizing the priority of right in his theory? Arneson asks much the same question and answers it as follows:

> Within Rawls' theory, which eschews any social evaluation of people's conceptions of the good, there does not seem to be a basis for affirming that the goods of job satisfaction and meaningful work trump the goods that money and other resources distributed by the [Difference Principle] can obtain. From the different perspectives afforded by different and conflicting conceptions of the good, individuals will differ on this question… For some, work satisfaction and entrusted responsibility fulfillment may loom very large; for other individuals, quite other goods are crucial.[16]

Interestingly, Rawls's own criticisms of moderate perfectionism (in section 50 of *TJ*) for being inconsistent with the priority of right may militate against the proposed defense of the priority of FEO. He says there that the 'criteria of excellence are imprecise as political principles, and their application to public questions is bound to be unsettled and idiosyncratic, however reasonably they may be invoked and accepted within narrower traditions and communities of thought' (*TJ*, p. 290). Granted, the perfectionism involved in Rawls's privileging of the pursuit of excellence through office and position is extremely weak and pluralistic compared to, say, Nietzsche's perfectionism (*TJ*, p. 286). Nevertheless, it is initially unclear why the overriding importance ascribed to self-realization through work is any less 'unsettled and idiosyncratic' than that ascribed by Nietzsche to creating and elevating *Übermenschen*.

Might there be some way for Rawls to respond to these criticisms and to show that the priority of FEO and the priority of right are in fact consistent? One possible response is that just as *reasonableness* (i.e. our capacity for a sense of justice) and *rationality* (i.e. our capacity for a conception of the good) are facets of our autonomy, of our independence from natural and social contingency, so is self-realization. Since human autonomy is the very ground of the moral law in Rawls's doctrine of right, as we noted earlier, this response may rescue him from the charge of inconsistency.

But how could self-realization possibly be construed as a facet of our autonomy? To see how, first consider why *rationality* is such a facet. Rationality might at first seem heteronomous because unduly influenced by our needs and desires, which are themselves often the products of natural and social contingency. Rawlsian rationality is detached and critical, however, and requires that moral agents distance themselves somewhat from their immediate wants:

16. Arneson, 'Against Rawlsian Equality of Opportunity', pp. 98-99.

> The aim of deliberation is to find that plan which best organizes our activities and influences the formation of our subsequent wants so that our aims and interests can be fruitfully combined into one scheme of conduct. Desires that tend to interfere with other ends, or which undermine the capacity for other activities, are weeded out; whereas those that are enjoyable in themselves and support other aims as well are encouraged. (*TJ*, pp. 360-61)

Far from blindly serving what Plato called the 'manifold beast' of desire, rationality schedules, prioritizes, tempers and prunes desires as well as organizing them into a coherent plan of life.[17] By doing so, it exemplifies our autonomy and demonstrates that we are more than simply the resultant vectors of genetic, familial and social forces.

Rationality's task of designing and implementing a plan of life requires the utilization of external resources, including especially the generic, liquid form of such resources—money. But there is a middle term, so to speak, between a plan of life and the external resources needed for its realization: *internal* resources, including skills, drive and self-discipline. As we noted above, self-realization is solely concerned with cultivating such resources, just as rationality is focused on organizing and culling desires. Moreover, like rationality, self-realization may be impeded by refractory animal impulses. As Jon Elster has noted, akrasia, myopia, and extreme risk-aversion can act as barriers to the development of internal resources: creating such resources in ourselves is initially painful (hence akrasia and myopia as barriers) and not guaranteed to succeed (hence risk-aversion as a barrier).[18] So self-realization is in large part a struggle against these natural inertial tendencies, as Rawls himself intimates (*TJ*, pp. 376-77), and our success at it is as emblematic of our autonomy as the struggle of rationality against untoward desires.

I do not intend to suggest here, of course, that people develop their skills *only* as a way to advance their life plans. As Rawls emphasizes, 'the Aristotelian Principle characterizes human beings as importantly moved…by the desire to do things for their own sakes…' (*TJ*, p. 379). That is, the perfection of one's skills can be not only a means to, but also constitutive of, one's plan of life. Such duality should not present a problem: virtuosity, like health, is both good in itself and good for what it makes possible.

Given the Kantian provenance of Rawls's theory, it is illuminating to note that these three facets of autonomy—reasonableness, rationality and self-realization—are paralleled by the three varieties of maxim in Kant's practical philosophy: maxims of morality, maxims of prudence and maxims of skill, respectively.[19] As the connections between reasonableness and morality and

17. Plato, *Republic* 589a.

18. Jon Elster, 'Self-Realization in Work and Politics: The Marxist Conception of the Good Life', *Social Philosophy & Policy* 3.2 (Spring 1986), pp. 97-126, here 107-108.

19. Immanuel Kant, *Groundwork of the Metaphysics of Morals* (trans. Mary Gregor; Cambridge: Cambridge University Press, 1997), pp. 26-27. Also see H.J. Paton, *The Categorical Imperative: A Study in Kant's Moral Philosophy* (Philadelphia: University of Pennsylvania Press, 1947), pp. 89-96.

between rationality and prudence are fairly clear, I will focus on the third of these connections, that between self-realization and skill. For Kant, the maxims of skill are *technical* imperatives: they determine not 'whether the end [sought] is rational and good…but only what one must do in order to attain it… Since in early youth it is not known what ends might occur to us in the course of life, parents seek above all to have their children learn *a great many things* and to provide for *skill* in the use of means to all sorts of *discretionary* ends…'[20] Once individuals have reached adulthood, of course, they continue to develop these and other skills in the pursuit of their chosen ends, and, as we have seen, this quest for excellence is the prime element of self-realization. But Kant also emphasizes that the development of one's skills is a self-regarding *duty* (if an imperfect one): 'as a rational being he necessarily wills that all the capacities in him be developed, since they serve him and are given to him for all sorts of possible purposes'.[21] Thus, for Kant as for Rawls, self-realization is a *moral* imperative.

Kant goes on to note that these three varieties of maxim are 'clearly distinguished by *dissimilarity* in the necessitation of the will'.[22] Whereas the maxims of morality bind rational agents unconditionally, maxims of prudence have force only in relation to a universal subjective end (i.e. happiness), and maxims of skill constrain only insofar as agents actually will the ends to which these maxims specify the means. Hence, a hierarchy exists among the maxims: morality limits the pursuit of happiness, which in turn dictates the development of certain skills. A parallel hierarchical relation holds among Rawls's three priorities: the priority of right (grounded in our reasonableness) is paramount; the priority of liberty (grounded in our rationality, as noted earlier) comes second but is the first priority 'internal' to justice as fairness; finally, the priority of FEO (grounded in our capacity for and interest in self-realization) comes third. Thus, while all three of the facets of autonomy are emblematic of our independence from natural and social contingency, the degree of independence differs, and this *dissimilarity* motivates the hierarchical relation among both them and the priorities that they ground.

Conclusion

I have argued in this article that the lexical priority of FEO in Rawls's justice as fairness can be successfully defended against its critics, despite his own doubts about it. Using the few textual clues Rawls provides, I speculatively reconstructed his defense of this priority, showing that it is grounded on our interest in self-realization through work. This reconstructed defense made liberal use of concepts already present in *TJ*, including the Aristotelian Principle (section 65), which motivated the achievement of increasing virtuosity, and

20. Kant, *Groundwork*, p. 26; original emphasis.
21. Kant, *Groundwork*, pp. 32-33.
22. Kant, *Groundwork*, p. 27.

the Humboldtian concept of social union (section 79), which provided the context for the development of such virtuosity. I also showed that this commitment to self-realization, far from violating the priority of right in Rawls's theory, stems directly from his underlying commitment to autonomy, which is the very foundation of the moral law in his doctrine of right.

Alternative defenses of FEO's lexical priority are no doubt possible. For example, one implication of this priority is that eliminating *social* inequalities (i.e. those arising from family and class privilege) is infinitely more important than counteracting *natural* inequalities (i.e. those arising from differences in ability and ambition) (*TJ*, pp. 63-65, 73-78). Thus, one might be able to provide a basis for the lexical priority of FEO by arguing that social inequalities are infinitely worse than natural inequalities. Why might this be so? Perhaps social but not natural inequalities prevent us from being full and equal participants in the basic structure of a well-ordered society or cause special injury to the self-respect of those denied fair opportunities, owing to the fact that social inequalities seem more a product of conscious human action and even human design than natural inequalities. Thus, the *social* dependency implicit in Rawls's idea of 'natural aristocracy' might be deemed infinitely more degrading than the *natural* dependency that is arguably implicit in the Difference Principle itself, which makes the income of the least advantaged dependent in large part on (properly motivated) able and ambitious people.

Without denying the promise of such alternatives, I do want to point out two advantages of the self-realization defense. First, it is clearly based on Rawls's text, as I noted near the beginning of the second section of this article. When Rawls argues that those denied fair opportunities would be 'debarred from experiencing the realization of self which comes from a skillful and devoted exercise of social duties', he seems to be indicating his preferred way of defending FEO's lexical priority (*TJ*, p. 73). We are not bound, of course, to follow Rawls's lead, but given his own words and the way that the resulting self-realization defense fits neatly within his theory, a certain deference may not be inappropriate. Second and more importantly, the self-realization defense is shown in the third section of this article to flow from the same underlying commitment to autonomy that ultimately grounds not only the priority of right but also the priority of liberty. This defense thus serves as a constituent element of a unified, autonomy-based defense of the three priorities in justice as fairness. Other approaches to defending the priority of FEO would likely lack this coherentist justification.

Whichever approach to defending the priority of FEO that we ultimately decide to take, we must still ask: why is its defense so important? Given Rawls's admission that the argument for the Difference Principle is 'unlikely ever to have the force of the argument for the two prior principles', most of the power and distinctiveness of justice as fairness would appear to derive from the two internal priorities of liberty and FEO (*TJ*, p. xiv; cf. *TJ*, p. 220). Therefore, a persuasive defense of FEO is a vital support for his theory, the

success of which would otherwise depend mostly, if not exclusively, on the defense(s) of the priority of liberty. But the implications of a compelling defense of FEO's lexical priority extend much further than this. Though the United States has utterly failed to provide either fair equality of opportunity or a satisfactory social minimum for its own citizens, its *relative* emphasis on the former (especially in the form of subsidies for higher education) may draw some support from the lexical priority of FEO: the decision to commit resources to state colleges and universities, subsidized student loans, and so on, rather than to broader financial support for the poor, may be partially justified by the modest perfectionism of the self-realization defense.[23] Thus, far from being an obscure and poorly motivated companion to the priority of liberty, the priority of FEO is arguably its peer in terms of both its importance to justice as fairness and the controversialness of its policy implications.

23. The United States and South Korea are tied for the second-highest level of post-secondary enrollment in the world (72% of the relevant age group), behind only Finland (84%). Figures from *The Economist Pocket World in Figures (2004 Edition)*, p. 74.