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RAWLSIAN JUSTICE AND BASIC INCOME

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2.1 Introduction

In chapter 1 the idea of BI was confronted with self-reliance, reciprocity and the work ethic. I concluded that the idea of a BI is not in apparent conflict with self-reliance. To some extent a BI may even increase the degree of self-reliance among the least productive workers when compared to a work- and means-tested welfare scheme. Although the disbursement of an unconditional BI does not fit nicely into the government-propagated perfectionist work ethic, I argued that promoting this type of work ethic is not a proper task of a liberal government (committed to non-discrimination among various conceptions of the good life). However, the demands of reciprocity and the neutral work ethic pose a very serious problem, namely of parasitism. Taking the reciprocity-based parasitism objection seriously, it clearly imposes severe restrictions on any strategy which tries to justify a substantial BI. In this chapter and in the next I want to hold fast to the parasitism objection against the BI proposal by using a yardstick for the evaluation of freely chosen leisure time that is in conformity with what those who voice the parasitism objection may reasonably expect.

The purpose of this chapter is twofold. Firstly, in sections 2 to 4 a brief outline is given of Rawlsian justice in relation to BI social security. Section 2 presents Rawls's principles of justice and the accompanying primary social goods to which these principles are applied. Sections 3 and 4 deal with two general problems of Rawlsian justice: how to implement the principle of fair equality of opportunity and what to do about the pro-leisure bias of the difference principle. Secondly, sections 5 to 7 address the problem, taking the reciprocity objection seriously, of how to evaluate leisure while simultaneously obeying Rawls's difference principle. In the concluding section, I summarize the findings and consider the implications for the next chapter.

2.2 Rawlsian justice

Liberal-egalitarian theories of justice all try to realize an equal concern for all and non-discrimination

among various conceptions of the good life. The most famous and also dominant liberal-egalitarian theory of justice is 'justice as fairness' developed by Rawls (1971) in his book *A Theory of Justice* (hereafter abbreviated as TJ). Rawls's framework is used by van der Veen (1991), Byrne (1993) and van Parijs (1995) to argue for a BI. Rawlsian justice requires the distributive norm to be *maximin*: priority has to be given to the least advantaged in the distribution of real freedom. Real freedom (in Rawls's vocabulary: primary social goods) refers to the all-purpose means people need to pursue whatever conception of the good life they choose. It is important to note that real freedom can be measured either as the set of opportunities available or the amount of resources at one's disposal, but not as the outcomes or welfare reached by using these opportunities or resources. In this respect, it contrasts with utilitarianism which tries to maximize the sum of utilities over individuals.

That the ruling principle of the basic structure is to maximin the position of those with the least amount of real freedom is clear from Rawls's *general conception of justice*: "All social values - liberty and opportunity, income and wealth, and the bases of self-respect - are to be distributed equally unless an unequal distribution of any or all of these goods is to the advantage of the least favored" (TJ, 303). The general conception of justice is not dependent on a particular conception of the good life (the so-called neutrality postulate). This is also the meaning of the title of an article written by Rawls (1985): *Justice as Fairness: Political, not Metaphysical*. In his most recent book *Political Liberalism* (1993) and also in other articles, Rawls refined and clarified his opus magnum (1971). As we will see later, the most important change with respect to the link between Rawlsian justice and BI is his suggestion (1988, 257 and 1993, 181-2) to include leisure as a primary social good. Using this supplemented list of primary social goods (liberties, opportunities, income, wealth, the bases of self-respect *and* leisure), the mutual priorities (or allowable tradeoffs) among them are not yet established. For instance, it may be possible to improve the income prospects of all by reducing some liberties or opportunities (for example the opportunity to enjoy full-time leisure while receiving unconditionally a minimum income, as would be the case under a BI scheme). Indeed, the major difference between a conditional and an unconditional scheme of social security is that in the former the right to social benefits are connected to all kinds of obligations and requirements, whereas the BI cannot be withheld for any reason. Therefore the mutual priorities and permitted tradeoffs between different social goods must be established. A partial answer is provided by the ranking of the following principles of justice, which can be regarded a special case of Rawls's more general conception of justice:

(1) "Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
(2) 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
(b) attached to offices and positions open to all under conditions of fair equality of opportunity" (TJ, 302).

The principle of equal liberties (1) has a lexical priority above the principle of fair equality of opportunity (2b), which in turn has lexical priority above the difference principle (2a). The basic structure of society shaped according to these principles determines the distribution of primary social goods. Rawls (1982, 62) describes these primary social goods as:

"(a) First, the basic liberties as given by a list, for example: freedom of thought and liberty of conscience; freedom of association; and the freedom defined by the liberty and integrity of the person, as well as by the rule of law; and finally the political liberties;
(b) Second, freedom of movement and choice of occupation against a background of diverse opportunities;
(c) Third, powers and prerogatives of offices and positions of responsibility, particularly those in the main political and economic institutions;
(d) Fourth, income and wealth; and
(e) Finally, the social bases of self-respect."

The liberties under (a) are subject to the principle of liberty (1), and the goods under (b) guaranteeing free career choices are covered by the fair opportunity principle (2b). Powers and prerogatives of office (c) together with income and wealth (d) are subject to the difference principle (2a). As said, in 1988 Rawls proposed to supplement leisure as a primary social good under the difference principle as well. Finally, the social bases of self-respect[1] (e), which Rawls considers as the most important primary social good, is covered by all three principles simultaneously.

The lexical priority rules of the above principles establishes the ranking between liberties, opportunities and all the other primary social goods subject to the difference principle. However, it does not specify the relative weights to be attached to the goods of a given priority class. For instance, there is an index problem[2] for each of the four goods (powers and prerogatives, income, wealth and leisure) subject to the difference principle (2a). As long as the list of primary goods and the weight attached to each good are unknown, we cannot determine to what extent a BI scheme meets the demands of justice as outlined by Rawls. If we would adopt the rather ad hoc strategy for identifying the least advantaged by an index comprised of income only, then it is obvious that the BI scheme will be outperformed by a scheme which redistributes benefits selectively only to the poor.

[1] For an elaborate argument in favour of BI to protect self-respect, particularly among low productive workers, see Wolff (1998).

[2] This index problem was first mentioned by Arrow (1973, 254): "... so long as there is more than one primary good, there is an index-number problem in commensurating the different goods".

After all, a BI is paid out to all irrespective of income and wealth, while programs targeted at the poor need only provide income support to those below the social minimum or the poverty level.

The general conception of justice stated above is nothing else than the difference principle applied to all primary social goods. This is why Rawls stipulates that "... in one form or another the difference principle is basic throughout" (TJ, 83). If the difference principle (or maximin criterion) applies to all social goods (liberties, opportunities, powers and prerogatives, income, leisure, wealth and the bases of self-respect), then in general terms (that is, disregarding the priority rules between the principles) Rawlsian justice does offer good points of departure for defending a BI. This is forcefully put by van Parijs as follows: "... there is no doubt that an unconditional income confers upon the weakest more bargaining power in their dealings with both potential employers and the state, and hence a greater potential for availing themselves of powers and prerogatives, than a transfer contingent upon the beneficiary's availability for work and the satisfaction of a means test. Finally, Rawls mentions the social bases of self-respect, and there is again little doubt that a transfer system that is not targeted at those who have shown themselves 'inadequate' and involves less administrative control over its beneficiaries is far less likely to stigmatize them, humiliate them, make them ashamed of themselves, or undermine their self-respect" (van Parijs, 1991, 105). The idea that a BI strengthens the terms of negotiation of individuals with employers is the subject of chapter 4. I do not discuss further the view that a substantial BI is far less stigmatizing than conditional minimum income transfers.

There are two other elements which need to be discussed when evaluating the BI proposal in terms of Rawlsian justice. Firstly, what is meant by the principle of fair equality of opportunity, and what role the BI has in this respect. The most serious threat to fair equality of opportunity is posed by persistent unemployment. A thorough discussion of the relationship between BI and unemployment is postponed until chapter 3. Secondly, the implementation of a substantial BI will certainly change the distribution of (un)paid work and leisure. It cannot be ruled out that under the BI, some part of the labour force will choose to consume full-time leisure, even if it has easy access to paid jobs. Viewed in that light a BI does not appeal to any ambition on the side of the recipients to do something in return. This critique, that the difference principle (and BI, in so far a BI follows naturally from this line of argument) is too less 'ambition-sensitive', is dealt with in section 4. Sections 4 to 7 take up the problem how to evaluate leisure within the primary goods index. The last section contains the conclusions.

2.3 The principle of fair opportunity[3]

[3] This section is for a large extent based on Byrne (1993, chapter 1).

The lexical priority rules imply that before the difference principle comes onto the scene, there should be equal liberties and fair equality of opportunity. The basic liberties do not change if current social security is replaced by a BI scheme. One interpretation of fair opportunities is that there must be fair competition for offices and positions. Fair competition, as in sports, requires only *formal* equality of opportunity, e.g. that no one is excluded to compete. To put fair opportunities on a par with formal equality of opportunities is certainly not 'Rawlsian enough'. The other extreme, to put fair opportunities on a par with *strict* equality of opportunity, is neither very plausible because "... then fair equality of opportunity could require that all available resources be used to maximise the opportunities of those with the least opportunities. Creating opportunities for the least advantaged would take precedence over providing them with anything else" (Byrne, 1993, 18). Indeed, there is no limit to policies (education, affirmative action, job sharing programs, etc.), and to the resources required or forgone to pursue these policies, to attain strict equality of opportunity. This would require that each person, no matter how untalented for a particular job, has the same chance to get it as anyone else.

In between these two extremes, an interpretation is needed which allows the principle of fair equality of opportunity to comply with the general conception of justice. According to this interpretation, *fair equality* refers to the opportunities open to the least advantaged relative to the more advantaged: equality is the baseline, and inequalities are only fair if they enhance the set of opportunities open to the least advantaged.[4] Recapitulating that the principle of fair equality of opportunity refers to the primary social good of free career choices, it is important to note that the subclause prescribes that these are made "against a background of diverse opportunities" (see part (b) of the list of primary social goods above). This implies that agents are able to effectively choose from a sufficiently broad range of activities. Seen from this perspective, the involuntary (long-term) unemployed are the least advantaged because they are barred from the rewards of paid employment. It is absolutely disappointing that the problem of persistent unemployment plays almost no role at all in *A Theory of Justice* (unemployment is not even included in the index). At that time, the Western world experienced almost three decades of nearly full employment so it is not exaggerated to say that near full employment is the underlying assumption in justice as fairness. The task of the transfer branch of the government according to justice as fairness is limited to effectively guarantee a social minimum.[5] Rawls leaves open whether the social minimum income guarantee is conditional, or

[4] In the section 'Further Cases of Priority' Rawls stipulates that "an inequality of opportunity must enhance the opportunities of those with the lesser opportunity" (TJ, 303). That is to say, fair equality of opportunity is the difference principle operated on the good of opportunities.

[5] "... the government guarantees a social minimum either by family allowances and special payments for sickness and unemployment, or more systematically by such devices as a graded income supplement (a so-called negative income tax)" (TJ, 275).

unconditional as would be the case with a negative income tax or BI. In the remainder of this section I will reproduce the argument of Byrne (1993, section 1.3), stating that an unconditionally provided social minimum is not only a very simple and practical device, but also complies with the principle of fair equality of opportunity.

To be sure, a BI does offer more than only formal equality of opportunity, but less than strict equality of opportunity. I do not claim that a substantial BI is the only policy which complies with fair equality of opportunity, but certainly it allows those with the least opportunities to price themselves into jobs (by using the BI as a wage subsidy), or to start their own business (by using the BI as a profit subsidy). It allows those who want to change career to opt out of paid employment for a while and to return to the educational system (by bearing the major part of the finance cost of schooling) and it allows those with a strong vocation unrecognized by the market to stick to it. Byrne (*ibid*., 19) concludes that:

"Free choice of occupation implies that people should not have to work in any job that they would not freely choose and further that they should be free to change jobs if they so wish. The best way to bring this about is to grant a basic income to all of a sufficient size that people would no longer have to take the first job that comes along. The fear of being without a wage for a time would no longer discourage people from changing jobs or career direction. Arguably a state could devote all its resources into trying to create the 'background of diverse opportunities' referred to in the list of primary goods, against which people would choose their occupations. This would hardly constitute the best use of resources. However the introduction of a basic income, sufficiently high to constitute a living wage, would open up a multitude of diverse opportunities for all. People would have the freedom to engage in activities not presently recognised or rewarded by 'the market'. This would maximise the opportunities available to citizens beyond what any state sector, however large, could ever hope to. Basic income would guarantee the maximum occupational freedom and opportunity."

This statement duly describes the potential of BI to provide a broad set of background opportunities which goes even beyond that of paid work alone. A substantial BI facilitates much more than sheer formal equality of opportunity in both educational and labour market career choices, even when there are huge differences in social background. It is however not targeted to those with the lesser opportunity and the non-needy bohemians and the feckless may use the BI to opt out. This complication is covered by the way I take up the inclusion of leisure as a primary social good (see section 5 below). I therefore feel confident that the burden of proof of designing an alternative, which provides at least as good background opportunities for the least advantaged as they have under a BI scheme, rests on the opponents of BI. There are at least some reasons, although not conclusive, why a substantial BI and fair opportunities can go hand in hand.

To conclude this section I want to make some brief remarks about other characteristics of a BI scheme conducive to effectuate Rawlsian justice. Under a BI scheme there is a transfer branch which hands out a BI to everyone, while minimum wages and the poverty trap are eliminated. Social security up to the social minimum is thus organized outside the labour market and there is less scope

for the government to interfere on the labour market by all kinds of measures.[6] This is in accordance with Rawls (TJ, 277) when he says that "... once a suitable minimum is provided by transfers, it may be perfectly fair that the rest of total income be settled by the price mechanism. Moreover, this way of dealing with claims of need would appear to be more effective than trying to regulate minimum wage standards and the like. It is better to assign to each branch only such tasks as are compatible with one another. Since the market is not suited to answer the claims of need, these should be met by a separate arrangement". Byrne argues further that BI can also be seen as a kind of wealth received,[7] and that the least advantaged can be easily identified (the handicapped are of course a separate group).[8]

2.4 The inherent bias in the difference principle

Kymlicka's (1990, 70) twofold critique on Rawls is that "Rawls himself leaves too much room for the influence of natural inequalities, and at the same time leaves too little room for the influence of our choices." Kymlicka thinks it is not consistent to define the least advantaged only in terms of primary *social* goods and not likewise in terms of primary *natural* goods: "Two people are equally well off for Rawls (in this context) if they have the same bundle of social primary goods, even though one person may be untalented, physically handicapped, mentally disabled, or suffering from poor health." (*ibid*., 71). Primary natural goods are only taken indirectly into account in so far as they give rise to lesser amounts of primary social goods (for instance due to the limited earning capacities of physically or mentally handicapped workers). The definition of the least advantaged group is important because the justice of the basic structure consists in the way it deals with natural and social contingencies and the way it shapes the notion of 'equal citizenship'. The citation of Kymlicka above

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[6] There are a few other effects which may be expected under a BI scheme. In chapter 4, I argue that there is less need for a comprehensive legislation on employment conditions (e.g., working hours, vacation days, compulsory retirement age, parental leaves, etc.). In chapter 8, I show that there is an built-in mechanism to moderate wage claims by unions under a BI scheme. If this is indeed the case, there is less need for the government to interfere (e.g., by imposing wage controls).

[7] "... few writers ever really distinguish income from wealth... a basic income can be looked on as being similar to the income received by the rich from their fortunes... From this perspective we can see the 'wealth' part of Rawls's fourth primary good as demanding that citizens get some kind of unconditional income" (*ibid*., 26).

[8] Rawls does not have an adequate description of the least advantaged group (see below at the end of section 4). According to Byrne (1993, 24), "If everyone gets the same basic income then we know exactly who the least well off are (in terms of primary goods, not welfare). They are those who over a complete life never receive any income other than their basic income. Now, far from being problematic, maximising the income of the least well off becomes an easy task - maximise the basic income". I do not entirely agree with the view of this definition of the least advantaged since this group may contain the non-needy bohemians, nor with the view that the BI must be set at the maximum (sustainable) level (see chapter 3).

shows that identification of the least advantaged in terms of primary social goods only leads to another group than when primary natural goods are also taken into account. I do think Kymlicka is right here, but it does not pose any special problems for the justification of a BI compared to a scheme of conditional social security.[9]

The second part of the critique of Kymlicka has a greater impact on the possibility to justify a BI scheme in terms of Rawlsian justice. That the difference principle is insufficiently ambition-sensitive can be illustrated with the following example. Two persons equal in talents and starting points (e.g., twins) choose for different careers. The first becomes a horticulturist, the second wants to play tennis as much as possible and becomes an odd-job man working only in so far this is strictly needed for his leisurely lifestyle. The income of the horticulturist will be higher than his twin brother's with a preference for tennis, but it is the consequence of his free choice: "Unfortunately, the difference principle does not make any such distinction between chosen and unchosen inequalities. Hence one possible result of the difference principle is to make some people pay for others' choices, should it be the case that those with the least income are, like the tennis player, in that position by choice. Rawls wants the difference principle to mitigate the unjust effects of natural and social disadvantage, but it also mitigates the legitimate effects of personal choice and effort" (*ibid*., 75). Thus there is a bias inherent in the difference principle in favour of those with the higher preferences for leisure. It is noteworthy that this critique is relevant for any social security system with less than full information about citizen's behaviour. To evaluate whether this bias is a problem (and if so, what is the problem), we have to go back to the constitutional phase in which the principles of justice are chosen.

According to Rawls, the principles of justice are those chosen by rational agents (with a moral sense of justice) behind a veil of ignorance: "It is assumed, then, that the parties do not know certain kinds of particular facts. First of all, no one knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abilities, his intelligence and strength, and the like. Nor, again, does anyone know his conception of the good, the particulars of his rational plan of life, or even the special features of his psychology" (TJ, 137).[10] This is what they do not know. Agents are thus ignorant about their talents, preferences and identity. Only information relevant from a moral point of view permeates the veil. What they do know is that their life plans must be conducted under moderate scarcity conditions (TJ, 128). Given the information-deficit, the scarcity conditions and risk-aversion,[11] it is rational to secure the availability of primary social goods

[9] Under both schemes, special transfers and services, in particular provisions in kind, are required for the handicapped.

[10] Because of this information-deficit self-interest coincides with and is equivalent with the general interest: "Therefore, we can view the choice in the original position from the standpoint of one person selected at random" (TJ, 139).

[11] Risk-aversion arises if one puts more weight to the worst outcomes, which may extend over an entire life.

because everyone needs primary goods to pursue whatever conception of the good life and anyone can be unfortunate in the natural and social lottery. The agents will thus decide that the basic structure of society must operate in such a way that it works as much as possible in favour of the least advantaged.

Therefore, each of the twin brothers behind the veil of ignorance do not know whether they will prefer horticulture or tennis. No one can therefore know whether the bias inherent in the difference principle works in his or her advantage or not. So it is still possible that they will agree on the difference principle because income or money is one of the most important primary social goods that is needed to pursue whatever conception of the good life. So although it may be true that the difference principle cannot make the distinction between chosen and unchosen inequalities, for want of something better it is not necessarily that it must. Nonetheless the difference principle may be said to be too less 'ambition-sensitive'. For instance a substantial BI would make the life of our tennis player rather easy because of the grant financed by a heavy tax on his twin brother's gardening activities. Isn't this unjust given the background of equal talents and the requirement of equal consideration? If we really take seriously the requirement that a liberal-egalitarian conception of justice must be 'neutral' to various ways to lead one's life, more has to be said about if it is necessary to stay clear of this so-called Crazy-Lazy bias.

Van der Veen, in a comment on the Surfers-article by van Parijs, shows that the maximin version of real freedom and the Crazy-Lazy bias does not violate the most tenable norm of non-discrimination. Non-discrimination can be taken in two ways: "The first, and most demanding, interpretation holds that a social arrangement discriminates against some people's way of life or preferences when it has the inevitable effect of making these ways of life more difficult to live, or these preferences harder to satisfy, than those of others. On the second, and much weaker interpretation, a social arrangement is discriminatory if and only if it has been put in place with the express purpose of making some people's lives more difficult to live... on the basis of a value judgement concerning the worth of their respective conceptions of the good" (van der Veen, 1992, 13).[12] It is clear that any redistributive proposal (even the abolition of slavery) will affect the opportunity or resource sets of some people and therefore violates the first, untenable, interpretation of non-discrimination. Decisive for the second interpretation is not the effects redistributive proposals bring about, but the reasons underlying or the justification given. Any proposal not motivated by value judgements concerning the good life can pass the second interpretation. The main rationale for applying the maximin rule is not to promote leisure-intensive plans of life, but to improve the position of those with the least amount of (ex post) real freedom. The only difference between the twins is the amount of money income and leisure they enjoy. The bias in the difference

[12] The first, most demanding and untenable interpretation of the neutrality thesis is known as 'neutrality in effect', while the much less stringent second interpretation is known as 'neutrality in justification' or 'neutrality in aim'.

principle results because Rawls proposes (before he amended his position by including leisure as a primary social good) to identify the least advantaged by measuring income: "The serious difficulty is how to define the least fortunate group. Here it seems impossible to avoid a certain arbitrariness. One possibility is to choose a particular social position, say that of the unskilled worker, and then to count as the least advantaged all those with the average income and wealth of this group, or less... Another alternative is a definition solely in terms of relative income and wealth with no reference to social position... I suppose that either of these definitions, or some combination of them, will serve well enough." (TJ, 98).[13]

Although one may still consider it as a weakness that the standard formulation of the difference principle as maximin equality does not look at why unequal money incomes arose, as in the case of Lazy playing tennis and Crazy working hard in the gardens, it does however not mean that the neutrality postulate is thereby violated.[14] According to van der Veen, the reason why redistribution from Crazy to Lazy is held to be unfair is because such a redistribution unnecessarily violates the norm of reciprocity, while at the same time real freedom[15] ex ante is distributed in an equal fashion. In the next section I want to point out that there is an alternative way (namely the criterion to include leisure in the index of primary goods and to evaluate leisure against forgone production) which removes the bias inherent in the difference principle, irrespective of whether real freedom is measured ex ante or ex post. This criterion is also the one warranted by the neutral work ethic outlined at the end of chapter 1.

2.5 How to evaluate Lazy's leisure?

The evaluation of Lazy's leisure has proved to be problematic. Both van Parijs (Real Freedom for All, hereafter RFA, 1995, chapter 4, especially sections 4.1 and 4.2) and Rawls (1988) encounter this

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[13] Given the critique of Kymlicka, I think Rawls does not provide an adequate answer to the problem how to identify the least fortunate group, or disposes of with the unsatisfactory remark that: "In any case we are to aggregate to some degree over the expectations of the worst off, and the figure selected on which to base these computations is to a certain extent ad hoc. Yet we are entitled at some point to plead practical considerations in formulating the difference principle. Sooner or later the capacity of philosophical or other arguments to make finer discriminations is bound to run out. I assume therefore that the persons in the original position understand the difference principle to be defined in one of these ways" (*ibidem*).

[14] See also van der Veen (1998, 151n): "... Van Parijs mixes up his claim that these Rawlsian variants unfairly discriminate against people with certain conceptions of the good with the further objection that the acceptance of these regimes violates the liberal principle of neutrality. That is to say, he supposes that such regimes 'could be vindicated only on perfectionist premises'... I do not agree with this further objection... The unfair discrimination... has nothing to do with infringements of liberal neutrality."

[15] Both have equal opportunity to do paid work and both have equal earning capacities. There is only a difference in the preferences, but these are not a component of real freedom.

problem, and in what follows I address the issue once again, attempting to answer how one should evaluate Lazy's leisure. Crazy and Lazy are assumed to be equally talented but to have opposing preferences concerning their favoured mix of labour and leisure. Van Parijs asserts that despite their equal internal endowments, "Rawls's position and in particular his Difference Principle appear to recommend... a wealth-distributing, power-conferring, self-respect-preserving unconditional basic income, indeed that one should introduce such an income at the highest sustainable level" and that "Rawls should fully endorse, in the Lazy-Crazy case, the scheme that maximizes the level of basic income, and hence favours as much as possible Lazy's interests" (RFA, 95). This may be true,[16] but only if the difference principle is applied to *actual* rather than *potential* income[17] and possibly to wealth, besides the other primary goods (powers and prerogatives, and the social bases of self-respect). The difference principle will be biased because a substantial BI (e.g., a BI as high as the social minimum) is rather conducive to Lazy's conception of the good life but not to Crazy's. Crazy knows that her net income would have been much higher, and correspondingly the net income of Lazy's no-work option much lower, under a conditional (work- and means-tested) scheme of social security compared to a BI scheme.

Although Rawls himself is not an advocate of a BI,[18] he also criticizes welfare states which rather than implementing "the widespread ownership of productive assets and human capital at the *beginning* of each period" aim at "the redistribution of income to those with less *at the end* of each period, so to speak" (Rawls cited in RFA, 96).[19] Indeed, this end-state or outcome approach will result in a bias of the difference principle in favour of Lazy.[20] In order to correct for this bias, Rawls proposes to include leisure in the index of primary goods.[21] The primary goods in this modified list

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[16] A difficulty here is that one should distinguish between what Rawls himself says, what his theory says or implies, what Rawls says according to van Parijs and what Rawls's theory says according to van Parijs.

[17] Or to ex post rather than ex ante real freedom.

[18] See Rawls (1988, 257 and 1993, 181-2).

[19] Rawls is unexplicit about which institutional framework of society can realize something like a 'property-owning democracy'. This theme is very important in the debate about market socialism, but beyond the scope of this chapter.

[20] How an end-state or outcome-approach social security system works partly resembles the story of the prodigal son. He left his parents voluntarily, and took his inheritance share with him. After a while he returned penniless. Nevertheless, he was welcomed. If somebody in The Netherlands quits his job and spends all his savings on a journey around the world, he is entitled to receive a social assistance benefit when coming home penniless. This illustrates that the critique of 'ambition-sensitivity' is not only relevant for a BI scheme, but also for the present scheme of social security. However, the pension schemes presently in force show that at retirement most people are confronted with their (voluntary) choices made earlier in their careers. This is exactly the opposite to what one should expect, since it seems unreasonable to make persons responsible for what they did a long time ago, when they were a 'different' person, while it is not unreasonable to make them responsible for their actions and choices in the more recent past.

[21] Musgrave's (1974) solution is to equalize or maximin potential welfare, but it is based on a welfarist approach which is

must be distributed in a maximin fashion. Each hour of leisure need to be evaluated against an opportunity price. It is the choice of the opportunity price which poses the problem. The solution proposed by Rawls is to evaluate against the index of primary goods of the least advantaged full-time worker.[22] I assert that it is, on a first-best level, wrong to evaluate leisure in this way. Instead, I propose to evaluate Lazy's leisure against the production that is forgone when Lazy chooses not to work full-time or not to work at all. Crazy cannot be held responsible for Lazy's choice or preference for leisure, and Lazy must therefore bear the full cost of this choice. This criterium is even more severe towards Lazy than Rawls's proposal. The next section presents side by side Rawls's proposal and the proposal to evaluate leisure against forgone production. This is done in a two-person model, with the advantage that such a model clearly shows who is a net recipient and who a net contributor to redistribution policies.[23] In section 7 the impact of unequal distributed wealth on the opportunity price of leisure is considered.

2.6 Evaluating Lazy's leisure

Rawls's proposal to evaluate Lazy's leisure against Crazy's opportunity costs of leisure is also elaborated by van Parijs (see RFA, 96-98 and the Appendix of chapter 4) when dealing with the Crazy-Lazy challenge. Van Parijs assumes that the net wage rates will be equal for both Crazy and Lazy. However, under a BI scheme, Lazy will work less than Crazy over their lifetimes. As a consequence, given their equal innate talents, Crazy's hourly wage rate will be higher than Lazy's due to the greater work experience accumulated by Crazy. Suppose Crazy works full-time (n hours) against an average lifetime hourly gross pay of w_C, and Lazy works $m<n$ hours against $w_L<w_C$. I will present side by side Rawls's proposal and the proposal to evaluate leisure against forgone production. In the formulas presented below, the former is always on the left and the latter (indicated by apostrophes) on the right.

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rejected by Rawls and van Parijs alike.

[22] The logic behind this proposal is that those who want to surf all day off Malibu beach are assigned as much primary social goods (in terms of opportunity costs of leisure time) as enjoyed by the least advantaged workers. As a consequence, they do not have any legitimate claim to social benefits.

[23] See also Wolff (1998, 100): "... theoretical micro-worlds... remind us that to give from Peter is to take from Paul." Wolff though finds that the examples like the gardener and tennisplayer do not contain all values of interest (e.g. for egalitarians) and do not say anything about how likely these cases are (*ibid*., 101). Including the value of respect in addition to fairness of opportunities, Wolff asserts that an unconditional basic income serves better the egalitarian ethos compared to conditional social benefits "... because of issues of disrespect communicated by subjecting the poor to a level of scrutiny and control not experienced by the better off, and because of the harmful effects on respect-standing and self-respect caused by shameful revelation" (*ibid*., 121-22).

The expanded primary goods indices (PGI) of Crazy and Lazy are equal to:

(1) $PGI_C = (1\text{-}t)nw_C + b$ (1') $PGI_C' = (1\text{-}t')nw_C + b$

(2) $PGI_L = (1\text{-}t)mw_L + b + (n\text{-}m)(PGI_C/n)$ (2') $PGI_L' = (1\text{-}t')mw_L + b + (n\text{-}m)w_C + m(w_C\text{-}w_L)$.

Eq. (2) states that Lazy's primary goods index is equal to money income (which is the sum of net labour income ($(1\text{-}t)mw_L$ with t the tax rate) and the BI grant (b)), plus the opportunity costs of leisure for Lazy. The latter is, in conformity with Rawls's proposal, evaluated against Crazy's primary goods index, proportionally to the number of extra leisure hours (n-m) enjoyed by Lazy.

Alternatively, given that both are equally talented, one may be tempted to hold Lazy responsible for his lifetime leisure choice in excess of that chosen by Crazy, and consequently also for his lower life time wage rate and his lower labour income. This offers an alternative way of evaluating Lazy's leisure. Lazy's leisure can be evaluated against the real (social) opportunity costs of his choice for leisure. From eq. (2') we can see that Lazy's leisure is evaluated against forgone production, which equals the extra amount of leisure that Lazy enjoys (n-m hours) times the potential wage rate (w_C), plus the decrease in productivity during Lazy's labour time which results from the lack of accumulation of work experience. Thus the real *social* cost of Lazy's choice for leisure, which I take here as the relevant yardstick, is greater than his *private* cost in terms of forgone net income (because of the forgone tax revenues), and is equal to the total value of the forgone production. In this way, Lazy bears the full cost (equal to the reduction in output which results) for his choice for leisure.

Deployment of the difference-principle requires the maximization of the primary goods index of the least advantaged (in this state of affairs, it is even possible to achieve equality of primary goods indices):

(3) $PGI_L \leq PGI_C$ (3') $PGI_L' \leq PGI_C'$.

Substitution of (1) and (2) into (3) gives:

(4) $b \leq (1\text{-}t)\, nm(w_C - w_L)/(n\text{-}m)$ (4') $t' = 0$.

According to Rawls proposal, the BI grant can be positive if Lazy chooses to work more than zero hours but less than full-time. The pro-Lazy bias is thus not completely removed. The criterium to evaluate Lazy's leisure against forgone production is more severe towards Lazy: whatever Lazy's choice, his index is equal to Crazy's. For any positive tax rate, Lazy's primary index will be higher

than Crazy's.[24] Only a zero tax rate, and hence no BI grant, yields index equality (for both, the index then equals nw_c). For the moment it suffices to note that the criterium to evaluate leisure against forgone production is not subject to the pro-Lazy bias, whereas Rawls's proposal does not remove this bias completely.

2.7 Unequal distributed wealth

In the previous section both proposals to evaluate leisure where actual labour income is unequally distributed were elaborated. Now I shall introduce another element into the analysis, namely that wealth is unequally distributed. Suppose that Crazy has some wealth (due to an inheritance) from which he draws every year the interests equal to N. Adjusting the indices accordingly gives:

(5) $PGI_C = (1\text{-}t)(nw_C + N) + b$ (5') $PGI_C' = (1\text{-}t')(nw_C + N) + b$

(6) $PGI_L = (1\text{-}t)mw_L + b + (n\text{-}m)(PI_C/n)$ (6') $PGI_L' = (1\text{-}t')mw_L + b + (n\text{-}m)w_C + m(w_C\text{-}w_L)$.

Using again eq. (3) gives:

(7) $b \leq (1\text{-}t)m(n(w_C - w_L)+N)/(n\text{-}m)$ (7') $t' \leq N/(nw_C + N - mw_L)$.

If Lazy chooses not to work at all (m = 0), then according to Rawls's proposal he would forfeit any compensation for his lack of wealth because b would be equal to zero. In a strange way Lazy receives a share of the income from wealth, but only in terms of more expensively treated leisure (see eq. (6), the higher N, the higher Lazy's opportunity costs of leisure, because N is included in PGI_C).

The level of the grant when leisure is evaluated against forgone production can be derived by making use of that tax receipts $(t'(nw_C + N + mw_L))$ are equal to the number of grants disbursed (2b'), so:

$b' \leq N(nw_C + N + mw_L)/(2(nw_C + N - mw_L))$.

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[24] Evaluating Lazy's leisure against his private instead of social opportunity costs of leisure does not change this result. Using Lazy's private costs of leisure, that is his net income forgone, gives:
$PGI_L = (1\text{-}t')mw_L + b' + (1\text{-}t')(n\text{-}m)w_C + (1\text{-}t')m(w_C\text{-}w_L) = (1\text{-}t')nw_C + b'$,
which is equal to Crazy's index. Although in this case any level of the grant (whether negative, zero or positive) would maintain index equality, it violates unnecessary the demands of reciprocity. The result that no grant should be implemented is in accordance with the comment of van der Veen (1992, 13) that "For in the world of the Crazies and Lazies, where everyone is assumed to be identically talented, and equal in respect of all freedoms and opportunities, there are no worst-off socio-economic positions whose real freedom should be maximized."

For m=0, b' equals N/2. For any m>0, b'>N/2 but Crazy will always pay N/2 more taxes than he receives in terms of the grant, while for Lazy the grant will always be N/2 in excess of what he has to pay in taxes. This can easily be derived by substitution of the tax rate (eq. (7')) and the expression for b' above into:

$t'(nw_C + N) - b' = N/2$ for Crazy

and

$t'mw_L - b' = -N/2$ for Lazy.

This result is very similar to van Parijs's elaboration of Rawls's proposal in the case of the unexpected discovery of a natural resource, say gas or oil. Such a resource is an 'exogenously generated benefit', because it is a source of income for the community irrespective of the amount of work performed (e.g., as oil in Saudi Arabia). The revenue from this natural resource, in so far it is not used to improve the infrastructure, can be distributed in several ways: as a BI, as an overall reduction in the tax rate or as a subsidy proportional to the number of hours worked. Each manner of distribution has a different impact on the degree of feasibility of citizens' life plans. Although it is clear that a more (less) than proportional work subsidy favours the full-time (part-time) workers, it is not at all clear why these revenues should be distributed in the form of subsidies proportional to the number of work hours, or should be used for an overall reduction in the tax rate on labour income. Why not distribute it in the form of a subsidy proportional to the number of hours of leisure?

The reason why van Parijs discusses this issue is that if these revenues are distributed as work subsidies, Crazy's and Lazy's indices move upward in the same way, in terms of money income for Crazy and in terms of higher opportunity costs of leisure for Lazy. Full-time workers receive the maximum amount of subsidy that is made available by the natural resource, but if Lazy chooses not to work, he receives nothing. Therefore, van Parijs concludes that: "Why could this subcategory of the least advantaged not claim a real share in the exogenously generated benefit, instead of being treated to a sheer semantic trick? What the proposal (and beyond it the whole idea of adding leisure to the list of primary goods) amounts to is a prescription to share out among the sole workers, and as a function of their working time (somehow measured), the whole of the production surplus - that is, of whatever is left of the product after taking away what is needed to feed and motivate the workers - whatever the sources of this surplus" (RFA, 98). So in the case when all revenues from natural resources are distributed by way of proportional work subsidies or lower income tax rates, the benefits tend to be concentrated in the hands of the Crazies, leaving the Lazies with what seems to be

very expensive leisure. It follows, according to van Parijs, that Rawls's proposal is unfair.[25]

To take stock of the arguments given so far, the analysis has up to this point provided a critique of Rawls's proposal. Firstly, Rawls's criterium to evaluate Lazy's leisure does not entirely eliminate the pro-Lazy bias of the difference-principle. Secondly, it cannot deal satisfactorily with an unequal distribution of income from wealth between workers and non-workers because this amounts to a rather artificial increase in the opportunity costs of leisure. The proposed solution to these problems is to evaluate leisure time against forgone production. This proposal may also hold in a setting where persons are unequally talented, although it encounters the problem of 'slavery of the talented' (RFA, 64).[26] The only thing which needs to be known is the full-time potential earning capacity of each person. Under maximin, everyone is entitled to compensation if potential earning capacity is rather low. One is not entitled to compensation if *actual* earning capacity is low due to *voluntarily* choosing a large amount of leisure time, as potential earning capacity is (still) high. Those who are voluntarily unemployed should bear the full costs of their choice for full-time leisure. However, in chapter 3 I will argue that taxation of labour income and distributing a BI is legitimate if there is scarcity of jobs (un(der)employment), even when talents or earning capacities are equal.

Summary and conclusions

In this chapter I started from Rawlsian justice and identified two problems. Firstly, how to realize the principle of fair equality of opportunities in such a way that anybody can make free career choices 'against a background of diverse opportunities'. Secondly, how to deal with the pro-leisure bias in the standard formulation of the difference principle. With respect to the first problem, my contention is that a substantial BI offers a fairly wide spectrum of background opportunities to all.

The second problem turned out to be more difficult. A straightforward application of the difference principle (using actual rather than potential income) appears to recommend the implementation of the highest feasible BI. However, this 'naïve' Rawlsian BI is subject to the pro-Lazy bias of the difference principle, although not an illiberal bias violating neutrality in justification. Rawls's own solution, to include leisure as a primary good weighted by the index of the

[25] The pro-Crazy bias is "a decisive defect which can only be remedied by turning to an alternative strategy" (*ibidem*.).

[26] Note though that an austere welfare state, which transfers social assistance benefits conditionally on willingness to work and reduces the benefit pound for pound when labour income increases, can be characterized as a regime with 'slavery of the untalented'. A talented person, if her potential earning capacity is high enough, may choose to work part-time. This same option is not available for untalented welfare recipients whose potential earning capacities are not higher than the level of the welfare benefit.

least-advantage full-time worker, proves to be unsatisfactory for three reasons. Firstly, it does not entirely eliminate the pro-Lazy bias. Secondly, it cannot deal adequately with the presence of unequal income from wealth between workers and non-workers or non-negligible stocks of natural resources. Rawls proposal leads to the result that the Lazies must stick with expensive leisure. Instead of a bias in favour of Lazy, Rawls's proposal leads to the opposite effect giving a bias in favour of Crazy. Thirdly, the proposal is in conflict with the principle of voluntary choice. It seems natural that Crazy cannot be held responsible for Lazy's choice for leisure and that Lazy should therefore bear the full cost (equal to the reduction in output which results). If one agrees that one should bear the full cost of voluntary choices, the weight used to evaluate leisure should be forgone production.

The BI that can be financed out of the revenues from natural resources as oil or gas or out of maximin taxation of inheritances will probably be rather small. It can be much higher when the fund of the BI includes not only the market value of natural and non-natural resources, but also the market value of other scarce assets (e.g., jobs and the amount of permitted pollution). The question of whether the level of the thus justified BI is high enough to enable people to live a decent life or if it may fall short of the social minimum is not yet answered. More about this will be said in the following two chapters. Admittedly, the argument in favour of BI to realize the demands of the fair opportunity principle only holds if there is a substantial BI, close to the prevalent social minimum, whereas the suggested solution to remove the pro-leisure bias reduces the level of the justified BI. Somewhat premature, the overall conclusion of chapter 3 is that the level of justified BI is higher, the higher the scarcity of jobs, but probably still lower than the maximum sustainable level of BI. However, chapter 4 brings in an additional argument, that of compensatory justice, which strengthens the case for a substantial BI close to the social minimum.