

THE PUBLIC INTEREST AND THE WELFARE STATE: CONTEMPORARY POLITICAL PHILOSOPHY

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1 Introduction¹

If a few centuries of political philosophy would have to be summarized in a few words, one could say that it is a quest for the right balance between the concept of the individual as an autonomous being who is responsible for his own life course, and the concept of an individual as a social animal who can only give meaning to his life in relation to the community in which he lives. This quest for the right balance is particularly apparent in theory formation with regard to social security. After all, social security can be described as the collectivisation of risk cover. Thus, by definition, social security transgresses the boundaries of individual interests. The essential question here is what the relationship between the individual and the public interest should be. This chapter addresses contemporary political-philosophical opinions regarding this issue.

This chapter looks at the role played by today's political philosophy based on the proposition that as a result of the Keynesian paradigm in the nineteen sixties and seventies, the reciprocity between the public and private interest gradually unravelled. There was no longer any distinction between both types of interests because the respecting of private interests by the state was justified by economic theories about state expenditure, such as social security payments. Private vices became public virtues, to misuse the words of Mandeville in this context. When, however, the Keynesian paradigm became stranded in the nineteen seventies, the relationship between the private and the public interest had to be reassessed. However, the political philosophy of that time could no longer be of any help.

If it can be said that the entire history of Western philosophy consists of a series of footnotes to Plato, with the same exaggeration the same can be said of the relationship between Rawls and modern-day political philosophy. It is however not an exaggeration to state that the publication of Rawls' 'A Theory of Justice' in 1971 represented a revitalizing of normative political philosophy, which was much needed at that time.² The book broke through a post-war academic stance, which left no space for normative statements about political justice. The

¹ In writing this chapter more use has been made of the following general introductions: Fleischacker, 2004, Hampsher-Monk, 1992, Kymlicka 1990/2001, Scruton, 1981/1985, Stanford Encyclopedia of Philosophy and Wiser (1983). With a view to readability no more separate references shall be made to these works.

² Rawls, 1971. In later years Rawls has his theory amended and adjusted to communitarian and pluralist critics. In 1999 he published a revised edition. In this chapter reference is only made to the 1971 edition.

prevailing logical positivism dictated that statements were only meaningful if they could be empirically proved. Statements related to social justice obviously fell outside this category. In the United Kingdom Isaiah Berlin defended the plurality of values, between which, he argued, it was in principle impossible to choose.³ Subsequently the French structuralists, such as Foucault, announced the end of modern time. According to them the post-modern time no longer accommodated ‘big stories’ such as Marxism or Christianity.

This chapter is structured as follows. It starts with a brief description of the philosophical background of social security and the departure point of modern political philosophy. The following paragraphs explain contemporary philosophy. They examine what each separate movement has to say about the relationship between the public and private interest. First of all focus is on egalitarian liberalism, as described by Rawls. It will then become clear that ‘A Theory of Justice’ cannot only be seen as a starting point for contemporary political philosophy, but also as a fixed point. Other movements included in this chapter can be seen as a response to Rawls’ work, as they implicitly, but more often explicitly refer to it when launching other forms of egalitarian liberalism, such as the “luck egalitarianism” that is related to egalitarian liberalism but which emphasises individual preferences more strongly. Subsequently liberalism sees the emergence of a conflicting movement in the form of liberalism focussing more on self ownership. This is followed by an examination of the criticism aimed at the resurgence of liberalism. Harsh criticism of the liberals’ vision of the individual as the ultimate moral agent and the neutral state came from the communitarian quarter. Although communists can recognize individual normative interests (although they do not necessarily do so), the public interest is always given an intrinsic normative value.

To conclude, a balance is made. The different movements are examined alongside the developments in social security and an evaluation is made of how far the movements have visibly influenced these developments. Key here is the question how far they have been able to contribute to the need for a new look at the relationship between the public and the private interest in social security.

Finally, a note regarding the scope of the subject. Strictly speaking, given the subject of this book, the description of the modern political-philosophical movements could be limited to the opinions of them regarding the nature and scope of the public interest. It does not need to include the relevant legal justice theory. This would, however, render this chapter unreadable, and probably make it incomprehensible. For this reason I have taken the liberty to loosely combine remarks regarding the role of the public interest in the relevant theories with an examination of the material content of these theories.

2 The political-philosophical roots of social security

Social security is rooted in communitarian ground.⁴ Bismarck’s 19th century Germany, to which the origins of social security can be traced, was dominated by Hegelian-Marxist ideas. As we know, Hegel dismisses Kant’s range of liberal ideas, in which the individual autonomy

3 Berlin 1958/2002.

4 Much in this paragraph is derived from Dupeyroux 1966 and Vloemans 1980.

is central. Hegel saw the state as the vehicle of the world spirit, to which individual interests were, when necessary, subordinate. The central role of the state, as formulated by Hegel, found its way into the social democratic body of thought via Marx. Of course there is a world of difference between Hegel's and Marx's concepts of the state. For the first, the state was the objective, for Marx the state was merely a tool in the transition phase to communism, and would ultimately disappear. Both, however, agree that the state is the level at which the public interest is defined, whereby Marx assumes that the state ceases to be necessary once the public and private interest converges, a conclusion that has not been adopted by the social democrats. The Hegelian-Marxist influence over social security in its infancy is expressed in its focus on the employee's labour relationship. Individuals need labour in order for them to strike a balance with nature. A proportional reward is thereby required, or a reward in proportion to the labour performed, so that humans do not become 'alienated' from nature. The public interest in social security aims to provide a fair – in other words a wage-related - reward during temporary periods of inactivity.

Catholic doctrine, the other communitarian source of social security, is also based on the fair wage. '... remuneration for labor is to be such that man may be furnished the means to cultivate worthily his own material, social, cultural, and spiritual life and that of his dependents, in view of the function and productiveness of each one, the conditions of the factory or workshop, and the common good' (2nd Council of the Vatican, Constitution, on the church in the world of today, *Gaudium et Spes*, 7 Dec 1965.). The mere fact that the parties have reached agreement is not sufficient to morally justify the wage amount. But there has always been a strongly strain against the concept of state in catholic (and protestant) teachings. Augustine views the state simply as being the result of the Fall, of the human desertion of God. The true state is The City of God. This argument continued to form the basis for the Catholic Church's approach to the state, even after the "social issue" also became an important issue for the Catholic Church in the second half of the nineteenth century. Thus the encyclical *Rerum Novarum*, published in 1891, also has strong sentiments against the state. In this encyclical the Church announced a corporatist vision of society, in which the public interest is represented by communities of interested parties. In shaping social policy the state was granted only a supplementary – subordinate - role. This has resulted in many European states having many corporatist features, especially those in the southern catholic countries. But the Netherlands too has a corporatist tradition, in particular where implementation is concerned.⁵

Although both these – continental – schools have different views of the role of the state, they both allot the same task to the public interest. The public interest lies in determining the fair wage in return for labour and a wage-proportional benefit during times of inactivity. This standard of justice prevails over individual interests. After all, the fair wage is determined on the basis of material – non-neutral – politico-philosophical notions of what a fair wage is, over which the autonomous individual has no influence.

⁵ But not only where implementation is concerned. The history of the Dutch old age insurance in the late nineteen fifties is a good illustration of the clashing and merging of the state's position with respect to these two forms of communitarianism. The social democrats worked for the introduction of a state pension. The confessionalists feared the intervention of the state would be too great and stuck to the vision of insurance upon which the classical Bismarck model is based. The compromise: a national insurance, whereby the full title of the benefit entitlement is indeed the insurance, but whereby the coverage of this insurance extends to the entire population, including the non-working population. The implementation was in the hands of regional Councils of Labour, a council of employers and employees under the supervision of a chairman appointed by the state. In other words materially a state pension, but in the shape of an insurance scheme.

The liberal influence over social security can be traced to the Anglo Saxon quarter. First and foremost we can point to utilitarians such as Jeremy Bentham and John Stuart Mill, who contributed substantially to the 19th century reforms in the United Kingdom. The reforms introduced by Roosevelt in 1929 in response to the Great Depression form a more recent contribution. Where the response on the continent to the Industrial Revolution was initially political, the measures introduced with the New Deal linked the elimination of poverty to measures to promote the recovery of the economy. The philosophical background to these measures was American pragmatism. These measures were justified by the up and coming economic theory of Keynes which defined government expenditure on social security payments as a stimulus for the economy. For this reason the question as to the form given to the public interest (state or other forms of community) that arose on the European continent never became an issue in the United States. The New Deal led to a system of flat-rate benefits – based on the subsistence minimum, not on notions of justice –, whereby the autonomy of the individual was respected by maintaining the freedom of communication between employee and employer. The public interest lay in the recovery of the economy, which would ultimately make it possible for the free market to once again resume its regulatory function. It is this form of social security that, through the Beveridge Report, influenced the West European systems established in the aftermath of World War Two.

The social security systems that came into being after World War Two in the Western European welfare states are founded on an amalgamation of these philosophies, which embraced strict notions of justice with regard to the public interest. Little by little these ideological theories of justice made their way into the ‘Keynesian consensus’, which had begun to dominate the Western world. As stated earlier this consensus originated in the US in the thirties and was exported to West Europe in the shape of the Marshall Plan. The West European welfare state was able to develop by virtue of the Keynesian notion that government expenditure increases demand and thus promotes economic development. The Keynesian paradigm also included the merging of the private and public interest, or at least they became less easy to distinguish from each other. After all the remuneration of private wishes and preferences through extensive social security schemes also benefited the public interest. In a nutshell, this ultimately led to the ‘permissive society’ of the nineteen sixties and seventies, when the public interest ceased to be recognisable. Where social security was concerned this meant that the concept “reciprocity” was pushed into the background.

When the Keynesian paradigm faltered and the supply economy took over, national states were forced to scale-down their welfare state schemes. This called for a new definition of the public interest, which was necessary in order to redefine the division of responsibility between the state and its subordinates. The concept ‘reciprocity’ had to be re-examined. But, as we recalled in the introduction, the academic ideas in force at that time had no room for normative statements about political justice. The traditional ideologies of the welfare state had lost their resilience. Neither social democracy nor Christian democracy had an answer to the questions that arose following the demise of Keynes. Neither could traditional liberalism come up with an alternative. When Friedrich Hayek discussed this political movement in his famous article in 1973,⁶ he referred to it in the past tense. He observed that liberalism had

⁶ Reprinted in Hayek 1982, p. 119-151.

only a few supporters left, and these were mainly to be found among economists (such as himself).

Thus the scene is set against which today's philosophical debate takes place. As we have already seen, contemporary political philosophy presented itself in the form of 'A Theory of Justice' by John Rawls in the early nineteen seventies. Rawls had been expanding his theory since the nineteen fifties and important parts of it were already published.⁷ However, these publications were largely unnoticed outside the circle of colleagues. It was not until the seventies that conditions were right for his theory to take off.

Rawls' attempts to reconcile the concepts 'freedom' and 'equality' in a single normative theory, 'A Theory of Justice' provided for the (European) need for a theory that once again gave substance to the concept 'reciprocity', without it being necessary to relinquish the principle fundaments of the welfare state. Both social democrats and liberals were (and are) inspired by this in their new approach to the public interest. (Hereby it must be noted directly that this was not Rawls' intention. As an American he is, as we shall see later, not committed to the European model of the welfare state). This resulted in liberalism regaining its position as a political factor and in social democracy focusing more on the responsibility of the individual. Only among the Christian democrats did Rawls fail to gain support. For this his emphasis on the autonomy of the individual was too great.

3 Egalitarian liberalism

Rawls was a great reader and admirer of Kant all his life. As a consequence his ideas regarding the individual and the public interest are also much influenced by him. This applies in particular with regard to his basic assumption that every individual person is a moral entity. Here Rawls adheres to the categorical imperative of Kant that the individual human exists as a subject in itself, not merely as a tool for the random use of others.⁸ Every individual, suggests Rawls in imitation of Kant, is a free and reasonable human individual planning (and perhaps adjusting) his own future unconnected to his position in society or his relationships with other individuals. In this context liberals refer to the individual as 'the unencumbered self', a concept that has come in for much criticism from communitarian quarters, as we shall see below.

The basic liberal assumption of Rawls is thus that individuals are responsible for their own future, but, and here the egalitarian side of Rawls puts in an appearance, undeserved inequality between individuals may not affect the possibility for an individual to shape his own future. Talent and origins are not moral merits and in a just society they should therefore be excluded as being criteria for the division of welfare.

Foremost in Rawls' theory is thus that it is up to the individual to put his own life plans into action: the state must remain neutral with respect to different conceptions of the good life. In Rawls' eyes the public interest has no intrinsic moral value; the state is 'a cooperative venture

7 The majority of these publications are contained in Rawls 1999.

8 Kant 1785/1997, p. 81.

of mutual advantage'.⁹ The central question Rawls asks himself is under what conditions the state can regulate the conflicting individual interests so that the individual members of the society can optimally realise their life plans.

Rawls therefore sees the public interest as being the ‘well-ordered society’ within which the individual human is able to optimally realise his ideal of the good life. This does not imply that a well-ordered society must provide for all the wishes and requirements that an individual can think of. To Rawls the neutrality - and definition - of the public interest means that the state is only responsible for the just division of the so called ‘primary goods’. Rawls understands primary goods to be the basic liberties, equal opportunities to hold social office, income and wealth and the social basis for self-respect, such as the possibility to start a family and to join organisations. These are the ‘Lego blocks’ that make it possible for every reasonable individual to plan his own future in his own way and which are fairly divided within a ‘well-ordered society’. It is not a public interest to realise personal preferences that cannot be satisfied using the primary goods.

The core of Rawls’ argument is based on the principle that this division takes place on the basis of the principle that ‘free and rational persons concerned to further their own interests would accept in an initial position of equality as defining the fundamental terms of their association’.¹⁰

With this Rawls returns to the tradition of the social contract, as developed by Hobbes, Locke and Rousseau. However, his model of a social contract is substantially abstracter by nature. He does not refer to a historical original position, but he places the – notional – participants in the social contract in a fictive original position, whereby they are ignorant of their social place in or value to society. In the original position the participants are, in the words of his famous metaphor behind a ‘veil of ignorance’. With this mental experiment Rawls attempts to enable the participants to formulate the just society on the basis of moral principles and not based on their expectations regarding the manner in which their specific individual qualifications and skills shall be valued in the society designed by them. Rawls’ claim is that the contract participants placed in such a fictive original position shall opt for the following two principles of justice for distributing the so called primary goods.

In the first place each person has an equal right to the same *basic liberties*. The basic liberties of individuals are the right to the integrity of the person, freedom of speech etc. These basic liberties can be traded off against each other, but this trade-off must apply to everyone in the same way; in allocating the rights and implementing the trade-offs no distinction whatsoever may be made between individuals.

The second principle is hierarchically subordinate to the first and concerns the distribution of *social and economic goods*. It is the best known part of Rawls’ theory. Rawls permits inequalities in the distribution of social and economic goods to individuals, but in a just basic societal structure these goods are distributed in such a way that each inequality benefits the worst-off members of the society (the famous ‘difference-principle’). This is attached to the

9 Rawls 1971, p. 4.

10 Rawls 1971, p. 11.

condition that offices and positions are open to all. In other words, everyone must have equal opportunity to obtain the same social and economic benefits.

Rawls is indeed referred to as the philosopher of the liberal welfare state¹¹, but this typification is not without its problems. Indeed, in his later work Rawls even explicitly rejects the capitalist ‘welfare state’:

Welfare-state capitalism (...) rejects the fair value of the political liberties, and while it has some concern for equality of opportunity, the policies necessary to achieve this are not followed. It permits very large inequalities in the ownership of real property (productive assets and natural resources) so that the control of the economy and much of political life rests in few hands. And although, as the name ‘welfare-state capitalism’ suggests, welfare provisions may be quite generous and guarantee a decent social minimum covering the basic needs, a principle of reciprocity to regulate economic and social inequalities is not recognized.¹²

Although in his ‘Theory of Justice’ Rawls does not yet adopt a position with regard to the type of community that best reflects his principle of justice theory, or which does so not at all, this harsh judgement of the capitalist still does not come totally out of the blue. This can be explained with reference to the part played by reciprocity in the difference principle. “(T)he difference principle expresses a conception of reciprocity. It is a principle of mutual benefit.”¹³ The cooperation of all can only be assured through the application of the difference principle: it gives the worst-off a concrete incentive to play their part as they are able to share in the profits; on the other hand, it is a just basis on the grounds of which the better endowed and socially better equipped individuals can expect to receive the cooperation of all for the benefit of the common interest.¹⁴ Although he does not say so as such we can glean from Rawls’ criticism of the welfare state that he is concerned that social security could undermine the reciprocity principle and in so doing deny the citizen his liberties. Or, to put it more strongly, a benefit granted by the state erodes the autonomy of the individual. After all Rawls’ basic starting point is that the free citizen shapes his own future. In this portrayal of the citizen it is fitting that the citizen takes precautionary measures *ex ante* to enable him to cope with any misfortune that may come his way. By compensating misfortunes *ex post* the state runs the risk of creating a benefit-dependent ‘sub-class’.¹⁵

In other words Rawls also sees a public interest in the maintenance of the reciprocity principle. Rawls distinguishes two problems that could undermine the “difference principle” as a result of the reciprocity being broken. First of all he refers to the so called “free-riders” problem. How do you avoid the situation in which an individual ceases to make his contribution to the community because he will get his share anyway? Alongside this he distinguishes the ‘prisoner’s dilemma’ as being potentially damaging to the difference principle. Why should I make my contribution to the community if I cannot be sure that my neighbour will do so too? This means that a society cannot operate without some form of state that is able to monitor whether and penalise if the citizen fails to deliver his or her fair share:

11 In the Netherlands: Wibren van der Burg 2003.

12 Rawls 2001, p. 137-138.

13 Rawls 1971, p. 102.

14 Rawls 1971, p. 103.

15 Here Rawls touches upon the recurring theme in the work of Foucault that the social institutions consolidate the balance of power within society.

Therefore, to maintain public confidence in the scheme that is superior from everyone's point of view (...) some device for administering fines and penalties must be established. It is here that the mere existence of an effective sovereign, or even the general belief in his efficacy, has a crucial role.¹⁶

Rawls' Theory of Justice inspired many subsequent authors to publish their own interpretation of egalitarian liberalism. Many authors have endeavoured to refine or improve Rawls' Theory of Justice. However, they continue to work within the framework of the question posed by Rawls as to how the neutral public interest of the autonomous individual can best be promoted.

Capability approach

Thus Sen argues that what individuals can make of their lives cannot depend exclusively on the degree of access that individuals have to primary resources. As an alternative, Sen proposes the concept of 'basic capability equality', which also takes into account the personal potential of the individual to be able to shape his or her future.¹⁷ This idea also affects the interpretation of the public interest. After all the state need not concern itself with the distribution of primary resources but with the development of the individual's basic capabilities, through which an individual is able to shape his or her own future. These basic capabilities include health, being able to enter into relationships with others (which the state can support by creating institutions such as marriage) and being able to participate in the political decision-making process.

Luck Egalitarianism

Other egalitarian liberal philosophers argue that the emphasis placed by Rawls on the equal distribution of primary resources is at the expense of individuals' notions of the good life, and the choices they make as a consequence. Rawls does not distinguish between the hard working factory worker who is willing to work overtime and the surfer in Malibu who spends half the day on the beach and makes shift with a modest income. On grounds of the difference principle the surfers in Malibu should indeed have a share in the output of the factory workers' overtime. The so called luck egalitarianism therefore makes a distinction between brute bad luck and risks consciously taken 'bad option luck'. The individual bears full responsibility for risks consciously taken. He can take out – private – insurance against these, but state intervention would be paternalist. The public interest relates solely to the removal of inequalities that are the result of brute bad luck, for instance origin, lack of talent or physical defects.

The best-known advocate of the luck egalitarianism is Dworkin.¹⁸ His target is equality of resources. In other words everyone should possess the same level of resources with which they can shape their own future. To achieve this Dworkin has come up with a new variant of the contract theory. He hypothesizes a desert island and imagines a group of people are

16 Rawls 1971, p. 270.

17 See for example Sen, 1979, Martha Nussbaum has elaborated upon this 'capability approach' in a large number of articles and books. A (temporary?) conclusion was made by her in Nussbaum 2006. There is an association, of which Sen was the first chairman, and Nussbaum the current, for promoting the concept "capability approach" <www.capabilityapproach.com>.

18 Dworkin 1981. Dworkin himself however did not consider himself to fully represent the "Luck Egalitarianism", see Dworkin 2003.

stranded there and form a new community. How should they distribute the island's resources? Dworkin proposes they have an auction: every member of the community receives the same measured quantity of clamshells, which they can use to bid for the island's resources. An individual who likes apples will bid a higher price for an apple tree than will an individual who likes pears. The idea is that at the end of the auction, when everyone's shells are finished, the island's resources will have been distributed in accordance with the personal preferences of each member of the community, so that nobody has cause to be jealous of another individual's parcel of resources.

But Dworkin can't stop there. One individual will be better equipped than another to achieve a happy life with the resources purchased at the auction. After all, talent and physical qualities are unequally distributed. An individual who, as a result of brute bad luck, was born blind is entitled to – financial - compensation because his handicap limits his capacity to shape his own future. Dworkin therefore supplements his auction theory with an insurance scenario as a means of determining the amount of this compensation. He claims it is a public interest to provide coverage against the risks that the stranded person would have guarded himself, if he was unaware beforehand whether he would incur the risk, whereby everyone has an equal chance of incurring the risk. The amount of tax – or social security contributions - to be levied is determined based on the amount of the hypothetical insurance premium that in such a case the inhabitants of the island would be willing to pay.

Dworkin thus claims it is a public interest that everyone is equal at the starting gate from which position they can make their own life choices. Everyone must be given the opportunity to achieve the same degree of happiness. Obstacles to such happiness, for instance lack of talent or physical defects should therefore be removed using resources financed from public means. However, if an individual's future is derailed by misfortunes that are the result of the individual's own life choices, then the state no longer acts as a safety net. In this case the solution must be sought in the private sphere. An individual who is blind from birth is entitled to a benefit financed from public means; the individual who loses his sight setting off fireworks is only entitled to an invalidity benefit if he has taken out private insurance against such a risk. Other 'luck egalitarians' go even further than Dworkin and claim 'equality of welfare'. They do not take into account the starting gate but the final position.

Democratic liberalism

Elizabeth Anderson has expressed important and influential criticism of the 'luck egalitarianism'.¹⁹ Her chief objection is that luck egalitarianism violates the equality that should underlie the relationship between all individuals. Anderson claims that if it is a public interest to compensate a citizen due to lack of talent, or birth defects, in doing so the state not only expresses a moral, but also an offensive opinion regarding the ability of a citizen to live a fulfilling existence.²⁰ In her eyes luck egalitarianism is based on the implicit implication that some individuals are unable to obtain quality of life. As an alternative to luck egalitarianism Anderson proposes 'democratic liberalism', which assumes all individuals are fully equal, making it unnecessary to compensate specific categories of individuals. It is, however, in the

19 Anderson 1999. She does not explicitly state that her criticism also includes Rawls. According to Pierik, 2007 a distinction should be made between Rawls and Anderson on the one hand ("citizen egalitarianism") and Dworkin and others on the other hand.

20 Her examples are hilarious. For instance she gives examples of a letter from the hypothetical State Equality Board with the following tenor: 'Sir, you have been born so ugly that you may never find happiness in marriage. You are therefore eligible for damage compensation.'

public interest that everyone is able to participate fully in social and political life, whereby the cause of an individual's physical or mental defect is, in principle, irrelevant. The individual who is unable to walk as the result of a birth defect, is not entitled to compensation because his life is supposedly incomplete, but he is, however, entitled to any resources that allow him to lead a life that is as normal as possible, for instance a wheelchair. In other words Anderson does not consider distributive justice as being a criterion in itself for compensating individuals who are worse-off due to factors that are morally irrelevant. From her argument that society is a system of cooperation it follows that she supports the notion of a safety net, also for less careful individuals, this can be defined in the form of a minimum wage or invalidity insurance schemes. Mandatory social insurance for medical care is also in the public interest according to Anderson. Her reasoning behind this is that everyone is entitled to medical care, even the heavy smoker. It follows from this that everyone must contribute by means of premiums or tax. This is not paternalist as luck-egalitarians may think, after all everyone is at liberty to refuse such medical care if is offered to him.

4 Libertarianism

'Individuals have rights, and there are things no person or group may do to them (without violating their rights).' With this famous opening sentence Robert Nozick lays his claim in his book '*Anarchy, State and Utopia*' for 'the minimal state' in which there is no room for the state as distributor of social justice.²¹ Nozick's book can thus also be seen as a plea for the minimization of the public interest. With this book, which was published in 1974, and that is a direct response to "*A Theory of Justice*", Nozick entered acceptable circles, in particular those of the American intellectuals, and has thus (together with Hayek) laid the philosophical grounds for the economic neoliberal reforms of Reagan and Thatcher.

Nozick's theory is based on the assumption, and here he does not differ substantially from Rawls, of self-ownership. But whereas Rawls describes society as a communal enterprise focusing on mutual advantage, Nozick accepts no such responsibility for the fate of others. A society is based on voluntary cooperation, whereby the members of the society, contrary to what Rawls believes, do not have a normative relation. Rawls stated that the participants in the social contract are reasonable human beings (in other words are able to take the interests of others into account) who plan the course of their lives in a rational manner. Nozick does not distinguish such a basic Kantian standard in the mutual relations between individuals.

From the concept 'self-ownership', as summarised by Nozick, flows the concept of absolute property rights and the justification of the free market (property-ownership). Where Rawls was greatly influenced by Kant, Nozick is inspired by Locke. According to Nozick, property can only be 'justly' acquired on the grounds of three principles. First of all is the principle of transfer, what is justly acquired can be justly transferred. This is the principle upon which the free market is based. The principle of just initial acquisition explains how an individual first acquired a good that can be transferred in accordance with the principle of transfer. A good that is appropriated from nature without causing disadvantage to others, can be justly transferred. The third principle, the principle of rectification of injustice provides for rectifi-

²¹ Nozick 1974.

cations of violations of the first two principles. These three principles are jointly referred to by Nozick as his entitlement theory.

It is important to dwell upon the principle of initial acquisition, the principle that legitimates property appropriation in the initial natural state. The assumption is, as we have seen, that ownership in the natural state is justly acquired through appropriation, such as the picking of fruit or the tilling of the land. As a result of self-ownership, an individual has an inviolable right to that which is produced by the labour of his own body.²² The fact that an individual has the absolute right of self-ownership means that justly acquired property cannot be disputed in any way.²³ This privatization of the common property is however subject to one condition. It must not result in other individuals in nature being worse-off than they would have been if privatization had not taken place. In other words: you have to make sure there is enough left over for others. Locke also laid down such a condition and it is therefore referred to as the ‘Lockean proviso’.²⁴

The entitlement theory is the starting point of Nozick’s political philosophy. Rather than a contract theory he uses the invisible hand explanation of his interpretation of the state. According to his theory, which makes no claim to historical correctness, in the state of nature individuals shall spontaneously, as if driven by an invisible hand, form protective associations to guard their acquired property against attacks from third parties. These separate protective associations shall, Nozick goes on to suggest, not fight out their differences among each other but shall lay them before a third organisation, the dominant protective association. These associations are the first forms of state. In Nozick’s words: ‘...there arises something very much resembling a minimal state ...’²⁵ But this is as far as the public interest goes as far as Nozick is concerned. He rejects all forms of state that go beyond a minimal state, the night watchman state, and which intervenes in matters such as the distribution of welfare and education, because such a state breaches his entitlement theory and in doing so is an unacceptable violation of its citizens’ rights of ownership. Nozick most strikingly suggests that the levying of taxes is on a par with forced labour.

Thus Nozick also abhors political philosophies, such as those advocated by Rawls and Dworkin that are based on a desired pattern for the distribution of welfare. The best known example used by Nozick to explain his horror of patterned theories is that of Wilt Chamberlain, the top NBA basketball player at the time his book was published and still a legendary name. Suppose, says Nozick, that a community has been created in which a just system of income distribution applies in line with notions of justice stated beforehand (a patterned theory). Now suppose that Chamberlain has concluded a contract with his club under which he shares in the takings. How in this case can the patterned theory be applied to solve the problem that arises when it appears that people are willing en masse to pay an additional twenty five cents to see Chamberlain play? These shifts in income, which make Chamberlain a rich man, lead to a disturbance in the pattern that had previously been stamped as the only form of just distribu-

²² According to John Locke’s statement regarding property acquisition: “Whatsoever then he removes out of the state that nature hath provided, and left it in, he hath mixed his labour with, and joined to it something that is his own, and thereby makes it his property.” John Locke, 1690, Sec. 27.

²³ It is this mental leap in particular for which Nozick came in for much criticism, because it was claimed that it lacked a philosophical base; see for example Nagel, 1975.

²⁴ “...no man but he can have a right (...) at least where there is enough, and as good left in common.” Locke, 1690, Sec. 27.

²⁵ Nozick 1974.

tion. Do the incomes have to be distributed again to return to the original just distribution? And what happens if people want to watch Chamberlain again? Will there be redistribution? Nozick shrinks from the state intervention that would result from this.²⁶

Political theories such as Nozick's (and Hayek's) have influenced the neo liberal economists who, led by Friedman, sought a new way of allocating responsibility with respect to social security. Pinochet's Chile was used as a pilot project for a new pension system. A defined contribution scheme was introduced, under which the amount of the contribution is fixed but the amount of the benefit is not guaranteed, being dependent on the results on the stock exchange. This model has been adopted in many South American countries. The schemes, under which pension risks were borne collectively, were wholly or partially replaced by private savings accounts, which are not based on solidarity, but by which the individual bears the risk associated with the yield of his investment. As a result multi-pillared pension schemes were usually created; an individually borne second pillar was added to the collectively financed first pillar. This multi pillar model has been adopted by the World Bank,²⁷ and therefore also forms the basis for the pension reforms in many Central and East European countries. Much more modest forms of private savings accounts have also been introduced in Sweden and the UK. In America itself this form of financing is used for occupational pensions. Even before the advent of the credit crisis, however, it appeared that this pension system failed to yield what was expected of it. Not only were the profits on the stock exchange disappointing after the Internet bubble burst, but, in practice the administrative costs turned out to be disproportionately high.²⁸ The World Bank also partially retraced its footsteps to the extent that the report published in 2004 entitled 'Keeping the Promise' gave greater import to the collectively financed pillars.²⁹

Nozick is generally referred to as a right libertarian. This, however, only applies with respect to his economic opinions. With regard to ethical issues Nozick is unmistakably left-wing. Alongside Nozick there are also left libertarians and libertarians who can be considered as being much more right-wing. These qualifications can be awarded in accordance with their interpretation of the Lockean proviso. To start with the extreme right libertarians, for instance Rothbard, refuse to accept that there are any moral conditions attached to the acquiring of property.³⁰ If an individual has the right to own his own body it follows that everything an individual appropriates from nature belongs to that individual as long as the bodily integrity of others is not violated. Rothbard leaves so little room over for the public interest that he should in fact be seen as an anarchist.

Left libertarians

The left libertarians, who, just like Nozick attempt to minimize the role of the public interest while trying to link it to an egalitarian notion of the distribution of resources, are indis-

26 With this sort of criticism Nozick is close to Friedrich Hayek, another source of inspiration for him, who in his famous book 'The Road to Serfdom' saw state intervention in the well being of the individual as the first step down the road to dictatorship.

27 See the report by the World Bank: 'Averting the Old Age Crisis' of 1994.

28 Fultz 2004.

29 It is apparent that pension beneficiaries in countries that have embraced this form of national capitalism most enthusiastically, for instance in Bulgaria much more than Poland, are being hit hardest by the crisis. Because with respect to ten years ago the stock exchanges have made no progress, no pension accrual whatsoever has taken place. On the other hand, there is no guarantee that the collectively financed systems will survive the current crisis, although the most recent reports are apparently more positive about this.

30 Rothbard 1998.

tably more interesting from the point of view of the social security debate. Left libertarians base their ideas on the assumption that the natural resources are common property. However, whereas Locke and Nozick accept that an individual may acquire property as long as others do not become worse-off as a result, left wing libertarians argue that the acquisition of property may never detract from other individuals' rights to the common property. In other words, left-libertarians do not accept the Lockean proviso as justification for the acquisition of property. In the words of Tideman and Vallentyne:

Unlike right-libertarianism, left-libertarianism holds that natural resources (land, oil, air, etc.) are owned in some egalitarian sense and can be legitimately appropriated by individuals or groups only when the appropriations are compatible with the specified form of egalitarian ownership.³¹

A striking example of this movement is Philippe van Parijs, who, on the basis of libertarian motives argues for a basic income.³² He arrives at this conclusion in two stages. (a) Everyone has an equal claim to all the natural resources. (b) To keep state intervention with regard to the distribution of these resources to a minimum this claim can best be expressed in the form of a basic income. Moreover from (a) it follows that the granting of a basic income may not be subjected to conditions. This brings him to the conclusion that individuals, who have a preference for spending the whole day on the beach at Malibu, are also entitled to a benefit. Hereby he also notes that the amount of this benefit need not be above subsistence level, and that over-priced surfboards do not fall within the justified expenditure pattern. Rawls warded off this criticism aimed at Van Parijs by supplementing his list of primary goods with leisure time.

A frequently heard criticism of left libertarians is that they adopt a progressive position that, for political reasons, is packaged in a neo-liberal argumentation.³³ Now that the neoliberal tide would seem to be turning, we will see whether left-libertarianism can continue as an independent movement.

5 Communitarian criticism

The Communitarian roots of social security were described earlier in this chapter, namely the Hegelian-Marxist and Catholic doctrine. It is striking that present-day Communitarianism is almost entirely disconnected from these roots. Echoes of Marxism are virtually inaudible in the social security debate, in reality the same applies for the confessional philosophies.³⁴ Present-day communitarianism is first and foremost a response to liberal philosophers such as Rawls and Nozick, not a continuation of the past. But history does repeat itself. Whereas Hegel is a response to the liberal enlightenment ideal, the communitarians oppose the budding liberalism of Rawls and Nozick.

31 Tideman 2001.

32 Van Parijs 1988.

33 Fried 2004.

34 The political scientist Jos de Beus called it remarkable in a recent TV programme that the Christian-democrat prime minister in the Netherlands sought inspiration from among the American communitarian Etzioni rather than falling back on the European Christian heritage.

The different communitarian writers are linked in their criticism of the liberal concept of the neutral state. They propose the ‘embedded self’ as an alternative to the ‘unencumbered self’, the individual who is embedded in the context of the environment in which he lives, for instance his family, is not (fully) in a position to determine his own aims as an autonomous being.³⁵ Communitarianism consists, no more than liberalism, of a homogenous group of authors. The spectrum is broad. As two extremes in this spectrum we will examine two very different authors, Alasdair MacIntyre and Michael Walzer, who only have in common their criticism of Rawls’ and Nozick’s liberalism.

MacIntyre

MacIntyre remains in tune with the Catholic tradition by resolutely rejecting the state and through his references to Catholic icons such as Thomas van Aquino and St. Benedictus.³⁶ However, he is first and foremost the modern advocate of the re-examination of Aristotle’s virtue ethics. For him, defending these classical values means that he fundamentally rejects the Enlightenment Project, including the liberal nation-state that he considers to be a product of the Enlightenment. What we have lost as a consequence of the Enlightenment is a common *tells* (‘objective’). He believes we no longer have public standards for gauging what a good life is. The result of this is a pluriformity of values in which an individual is no longer able to convince another individual that he is right.³⁷ MacIntyre illustrates this by comparing Rawls and Nozick.³⁸ Both are in the right insofar as the principles they believe in work out. Their principles are, however, irreconcilable. MacIntyre takes this seriously. In his eyes modern politics is ‘... civil war carried on by other means ...’³⁹ In this context he also talks of a social catastrophe.

What is MacIntyre’s alternative to the Enlightenment Project? Central to MacIntyre’s political philosophy is the concept of the ‘common good’. The concept of the “common good” is not, as is the concept of the ‘public interest’ advocated by the liberals, subordinate to the separate interests of individual members of the community, but has an intrinsic normative value. First and foremost the members of a community are bound by a common understanding of the good life. Examples of human communities are the family, neighbourhoods and professional groups. In this context MacIntyre explicitly refrains from referring to the state. The good life is not the result of common activities in these communities, but rather the manner in which this result was achieved. Individual members of the community find their value and self-respect through the manner in which they contribute to the ‘common good’. Examples of the manner in which individual members can contribute are the concepts derived from Aristotle’s ethics such as ability, professional pride and merit. In defining the good life a major role is attributed to the public interest. This is namely the role of ‘governing institutions’ in creating an arena in which the good life can be defined in common deliberations. It is important that no one is excluded from this debate. For MacIntyre this is an important as well as a practical reason to reject the modern nation-state: it is quite simply too big to enable everyone to have their say. MacIntyre is, however, first and foremost a moral rather than a political phi-

35 See for example Sandel 1984.

36 For this paragraph use have been made of, among others, Murpy 2003.

37 In fact he comes to the same conclusion as Isaiah Berlin (see note 4). Berlin however took this conclusion much more light-heartedly. Put more strongly, he considered this to be a requirement for a strong democracy.

38 MacIntyre 1981, chapter 17.

39 MacIntyre 1981.

osopher. He has never developed his theories about the right form of government any further, although they are grist to the mill of supporters of the corporate model.

Walzer

At the opposite end of the communitarian spectrum we have Walzer, who claims to belong to the social democrats.⁴⁰ His arguments regarding distributive justice contained in his book ‘Spheres of Justice’⁴¹ find expression in his assumption that human beings are most of all social beings. Walzer attempts to reconcile this conviction with the principles of the liberal nation-state.

In Walzer’s opinion the public interest is the common definition of the good life. This definition is not the sum of what individuals envisage, but is the result of a quest for standards already existing within the group. Walzer is not searching for objective truths and universal opinions in his theory of distributive justice, but for the hidden meanings of shared values, ‘shared meanings’, as these apply in the existing community. In his eyes philosophical notions of a just and egalitarian community are always hypothetical. ‘If such a society isn’t already here – hidden as it were in our concepts and categories – we will never know and realize it in fact.’⁴² Thus Walzer considers Rawls’ social contract to be nothing but a clinical mind experiment that says little about what happens in real life let alone that it contributes to a more just society.

The importance attached by Walzer to the research and explanation of ‘shared meanings’ has resulted in his concept of justness being bound to the borders of the national-state.⁴³ After all shared values only have meaning and remain meaningful if they can be set-off against the shared values of other groups; otherwise they lose their ability to differentiate.

Walzer calls for equality within the borders of the national state. The manner in which goods are distributed must recognize and confirm the equality of the members. But Walzer’s concept of equality is complex. In a liberal society it is permitted to distribute resources unequally provided the differences are limited within a single sphere of justice. Walzer argues that the modern liberal nation-state has different spheres of justice, such as politics, education, health care etc., between which watertight partitions must be erected whenever just distribution is concerned. The powerful politician is not entitled to priority treatment with respect to health care; children of millionaires have no right to special treatment when it comes to education. The specific communitarian element in Walzer’s argument is, as observed above, the great importance he attaches to shared meanings. Thereby the community itself also attends to the needs of its members: ‘But one of our needs is community itself: culture, religion and politics. It is only under the aegis of these three that all other things we need become *social recognized needs*, take on historical and determinate form.’⁴⁴ Walzer explains this with reference to, among other things, health care. The importance currently attached by Western society to good health can, according to Walzer, only be understood in the context of present-day cul-

40 For this paragraph use has been made, among others of Trappenburg 1994.

41 Walzer 1983.

42 Walzer 1983, p. XIV.

43 Another consequence is that his book is very narrative, which has resulted in it being criticised as anecdotal.

44 Walzer 1983, p. 65.

ture and its level of knowledge. Today's health cult would mystify the mediaeval man, who sought only spiritual welfare and who put up with physical discomforts.

Etzioni and Giddens

Since the nineteen nineties communitarianism has been highly influential as a counter balance to liberal notions. The emergence of these philosophers coincided first and foremost with a growing social dissatisfaction about the lack of 'values and standards' and the state's neutral disposition. As a result ideas related to a morally tinted public interest were surreptitiously included in the formation of public opinion. In the Netherlands this was fodder for the debate about society's 'standards and values' that emerged during the nineteen nineties.

But communitarianism also became so influential due to authors such as Anthony Giddens and Amitai Etzioni who formulated the communitarianism philosophy, both in their books and in their personal recommendations to government leaders, in such a way that it became suitable for political use.⁴⁵ Giddens was the founder of the Third Way ideology, the movement that attempted to link neoliberalism with the communitarianism of social democracy. This movement sought to find a balance between the social democrat concepts such as Community (community-minded) and Opportunity (opportunity for individuals to advance themselves), and the liberal principles of Responsibility and Accountability (between individuals and the government). In doing so he helped to found the New-Labour movement under Tony Blair, and in general boosted the revival of social democracy in Western Europe during the nineteen nineties. In the Netherlands, the Third Way ideology opened the door for a coalition between the social democrats and the liberals.

Etzioni's work focuses on strengthening the moral foundation of modern societies. Although he uses the individual and his rights as a starting point, he is concerned about the dislocating and alienating effects of an ideology that allocates overmuch importance to individualism and the free market. For this reason he calls for a better balance between the individual and the community.⁴⁶

6 Balance

At the start of this chapter reference was made to the need that arose in the mid nineteen seventies, as a result of the running aground of the Keynesian consensus, for a new look at the relationship between the public and the individual interest in social security. It was claimed that this consensus had led to the watering down of the differences between the public and private interest. Once it appeared that the validity of Keynes' economic theory had run its course, it became necessary to reformulate the relationship between the public and private interest. This is followed by a description of the major movements in political philosophy that have endeavoured to respond to this need. The distinction between liberalism and communism is a red thread running through this description.

45 Well known books by them are Etzioni 1996 and Giddens 1998.

46 Mark Bovens, Het communitarisme als "catch-all" stroming, in Bovens 1998.

Liberals are united in their opinions regarding the autonomy of the individual and the neutrality of the state. Egalitarian liberalism formulates the public interest as being a ‘joint venture’ for the benefit of the individual participants. It puts strong emphasis on reciprocity because the cooperation of all is needed to make the joint venture a success. Through this the concept of distributive justice, including social security, acquires instrumental characteristics: it is considered by these liberals as a means to ensure the cooperation of all. Libertarians do acknowledge a common fate, but this goes no further than providing mutual protection in the face of external threats. The public interest is principally revealed in the protection of the inalienable rights of the individual, in particular the right of ownership. The private interests can be best realised through the operation of the market.

Communitarians oppose both notions. In their eyes the individual can only be comprehended as part of the community in which he lives: as a result the individual is not autonomous and neither is the state neutral. By its very nature communitarianism is immersed in the reciprocity principle. After all the very core of communitarianism is that the individual can only develop in interaction with the community.

At this point the question arises as to how the developments in social security since the nineteen seventies can be explained on the basis of these antipoles.

The developments within social security display a hybrid picture, within which a number of trends can be distinguished. On the one hand these developments have been derived from libertarian thoughts, inspired by Nozick, on the other hand they can be reduced to communitarian ideas regarding the role of the state and the individual.

The first response to the economic crisis that manifested itself in the late nineteen seventies as a result of the collapse of the Keynesian paradigm, is of a financial-economic nature. Cuts are made in the system by reducing the level of benefits. Alongside this ‘volume management’ is practiced by tightening the entitlement requirements, or introducing or extending qualifying periods. This budget-based approach to social security stems from libertarian ideas of the public interest within social security. The community no longer feigns full responsibility for the welfare of the individual and will only continue to provide the primary guarantees for his existence.

In later years there is a further neoliberal sequel to this budget-based response, as the operation of the market is seen as the means for best realising the private interest. This resulted in parts of the social security system being privatised. In the Netherlands this resulted, de facto, in the abolition of the Sickness Benefit Act, which was replaced by an obligation under private law for the employer to continue to pay wages. The employer can choose whether or not he wants to take out insurance to cover this risk. In addition major parts of the health care system were privatised, whereby public guarantees were created with regard to the scope of the care package and the contribution amount. In other European countries private elements are creeping into the pension systems, as described earlier in this chapter.

On the basis of these developments it should not be assumed that neoliberal or libertarian ideas had the upper hand. Other trends demonstrate communitarian leanings. Firstly, the community’s boundaries are being more strictly defined. The declining growth in welfare in the nineteen eighties, in combination with an increasing flow of migrants, put the issue of

welfare distribution on the agenda. Where less can be distributed, the circle of entitled persons has to be more strictly limited. Solidarity can only be applied within a group that has a certain degree of commitment. Or in the words of Walzer: ‘The idea of distributive justice presupposes a bounded world within which distribution takes place: a group of people committed to dividing, exchanging, and sharing social goods, first of all among themselves.’⁴⁷ In the Netherlands this was expressed most markedly in the shaping of the Dutch admissions policy in combination with the introduction of the so called Linkage Act in 1998. The admissions policy for immigrants is becoming increasingly restrictive in nature. Whereas in the nineteen sixties and seventies migrants were actively sought after, since the nineteen eighties only labour migrants with an added value for the labour market are being admitted (for instance knowledge migrants) or those who are prepared to perform low skilled work that the native Dutch population refuses to perform. At the same time the introduction of the Linkage Act meant that those persons not admitted to the Dutch labour market could no longer call upon public measures, for example the right to social security.

The relationship between the public and private interest was subsequently reconsidered within this tighter circle of solidarity. This reassessment revealed itself in a stronger emphasis on the reciprocal relationship between the citizen and the state. This emphasis on reciprocity in social security means that benefits and work have become more closely connected. The principle goal of social security is no longer income protection; the goal is shifting towards the return to work, whereby in return for his benefit the individual has obligations imposed upon him intended to bridge the distance to the labour market.

This communitarian reassessment of the relationship between the private and the public interest must be analytically distinguished from the neoliberal trends described above. Communitarian and neoliberal movements do have parallel interests – both movements aim to reduce the state’s (financial) contribution to the private interest –, but they do not have parallel motives. Whereas the neoliberal or libertarian tendency is based on a public interest that is normatively neutral, the communitarian movement has strong normative visions regarding the best way in which an individual can do justice to himself. The community standard is based on the working individual and if necessarily the community actively encourages behavioural changes to achieve this standard.

For social security this means that a stronger emphasis is put on reciprocity. On the European continent the source of the ‘activating social security’ was to be found in the Scandinavian countries as early as the nineteen seventies. These Scandinavian programmes are based on the assumption that the universal coverage of the welfare state remains intact, but that within this model strategies are sought to lead those eligible for benefits back to the labour market, whereby greater demands are made on individual responsibility. In Anglo-Saxon countries reciprocity is stimulated slightly more. In these countries since the nineteen eighties programmes have been set up under the name Welfare, in which all able-bodied beneficiaries are obliged to participate and which focus less on the personal development of the beneficiary in the longer term.

⁴⁷ Walzer 1983, p. 31.

In the Netherlands these developments can be found particularly in the reform of the disability benefit scheme and the National Assistance Act. Incapacity for work is no longer interpreted as a numeric concept, the presumption is that no one is fully incapacitated for work and hence all individuals incapacitated for work should make themselves available on the labour market to make use of their remaining capacity for work. In fact this means that the traditional distinction made in social security between incapacity for work and unemployment is fading. The granting of assistance is also less automatic. Obligations to apply for jobs are being tightened, even for groups that were previously exempted, such as single mothers.

To conclude, another effect of the increasing reciprocity is an increase in punitive elements in social security as a means of encouraging behavioural effects. In the Netherlands the Act on Fines and Measures entered into force in 1996, on the grounds of which benefits can be (partially) withdrawn and fines can be imposed when compliance rules are violated.

In the introduction to this chapter it is claimed that modern philosophy started with Rawls. But where does ‘Rawlism’ stand now in relation to the libertarian and communitarian trends in social security described above?

There is no easy answer to this question. The troublesome relationship between Rawls and social security has been summarised earlier in this chapter. After all Rawls’ starting point is the free citizen creating his own future. In this vision of the citizen, the citizen himself must make arrangements to deal with any misfortune, for instance by saving or taking out private insurance. In this the state is expected to remain neutral, because the moral autonomy lies with the individual. In this respect Rawls is fully in line with the liberal tradition and would distance himself from communitarian concepts of social security with normative features, because these features would violate the individual autonomy.

On the other hand the function of the public interest is to regulate the private interests so that full justice can be done to them. Hereby, as we have seen, the concept of reciprocity plays a major role. For Rawls is the difference-principle a form of reciprocity, that forges the link between the interests of the autonomous individual and the neutral state. Social security can help the difference principle to take shape. The most important question Rawls hereby lays before the participants of the social security debate is how a bridge can be built between libertarian opinions regarding the autonomy of the individual and communitarian concepts of reciprocity. In his eyes reciprocity between the public and private interest may not be at the expense of the freedom of the individual (and the self-respect that can be derived from such freedom), which would be the case if the public interest is painted too normatively.

Political philosophy remains a quest for the essence of the individual: the individual seeks the protection of the community, but while doing so it does not wish to lose too much of his autonomy. The same quest applies to social security.

Epilogue

While this book was being written it was announced that as a result of the current financial crisis the number of people in the world suffering from hunger has risen to more than one

billion.⁴⁸ This adds urgency to the question of whether the national state is properly representing the public interest in social security. If egalitarian liberals see a public interest in the discarding of morally irrelevant factors such as talent and origins for the sake of a just distribution of welfare, the question of whether an individual's country of birth is not equally such an irrelevant factor is unavoidable. This question, first posed by Peter Singer a year after the publication of 'A Theory of Justice', has led to a wholly new, parallel debate about justice world-wide, and the question of how the public interest should be given substance.⁴⁹ This debate heavily emphasises that the state is not an absolute entity when it comes down to realizing the public interest.

48 NRC Handelsblad, June 20 2009.

49 Peter Singer 1972.

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