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Justification and Limits of State Coercion in Liberal Democracies:

Reconciling Binding Welfare State Policies and a Reformed Classical Liberalism

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Declaration

Certain subsections of this dissertation thesis have previously been published in a similar, preliminary, modified, condensed, or extended version in the articles stated below. All corresponding references are identified in the thesis's text.

- [co-authored with Malte Kayßer] Wedekind, Peter. 2021. "From Unimpeachable Autonomy to Self-Imposed Heteronomy: A Liberal and Foucauldian Perspective on Advance Euthanasia Directives." *Humanities and Social Sciences Communications* 8 (260): 1–9.
- Wedekind, Peter. 2020a. "Against Coercive Paternalism: A Case for Soft Paternalism and the Preservation of Autonomy." *Annales Scientia Politica* 9 (2): 5–15.
- Wedekind, Peter. 2020b. "From the 'End of History' to the 'End of Liberalism'? A Reevaluation of the Merits of Liberal Democracies in Contemporary Global Political Philosophy." *POLITIKON: The IAPSS Journal of Political Science* 45:59–74.
- Wedekind, Peter. 2021. "Paternalism: A Flawed Basis for Liberty-Limiting Policies? Arguments Against Benevolent Coercion." *Politologický časopis - Czech Journal of Political Science* 3:293–313.

Abstract

In this thesis I defend the claim that classical liberalism has the capacity to justify meritocratic state policies that promote greater equality of opportunity. Correspondingly, I adopt an approach uncommon among scholars following the tradition of classical liberalism, given that I conclude with a position that is more frequently associated with the postulates of social welfare egalitarians, such as publicly funded higher education. This strategy serves as a reply to contemporary critiques of liberal democracies and implies that liberalism is endowed with the tools to address the flaws its own (neoliberal) manifestation has brought about. Skyrocketing socio-economic inequalities as well as the marketization trend which, among other things, crowds-out the traditional values of higher education and corrupts a public institution crucial for social mobility into a privilege of plutocratic elites, are just two examples.

To support this argument, I discuss several consecutive claims: Firstly, despite its currently observable flaws, classical liberalism and, by extension, liberal democracy should be regarded as a valuable ideology that ought to be *amended*, rather than *discarded* inconsiderately in favor of an alternative framework. Secondly, classical liberalism entails meritocracy as a system governing the principles of just distributions. However, Western democracies hardly live up to their meritocratic promise: I argue that they suffer from both inherent problems of meritocratic ideology (a system that, *by definition*, produces winners, *and* losers), and from the lack of underlying equality of opportunity. This nexus of the abovementioned interrelated arguments culminates in the main conclusion of the thesis: If classical liberalism as a valuable political framework worth preserving entails meritocracy, and meritocracy entails substantial equality of opportunity, then state interventionism aimed at promoting a more 'even playing field' is not only justified on the liberal grounds but a condition sine qua non of the conceptual consistency and political plausibility of classical liberalism.

Although a myriad of corresponding meritocratically motivated state policies in pursuit of greater equality of opportunity can be imagined, this thesis focusses specifically on the expansion of publicly funded higher education, since colleges and universities are frequently described as 'the great equalizer' with the

capacity to disrupt intergenerational reproduction of hereditary socio-economic advantages and, instead, enable social mobility. Thus, the crux of this thesis lies in the claim that classical liberalism as the foundation of liberal democracies that includes safeguards against *excessive* state interventionism can be preserved without relinquishing the hope that their contemporary flaws can be addressed, and substantial changes can be achieved from within their own principles.

Abstrakt

V této práci obhajuji argument, že klasický liberalismus je schopen ospravedlnit meritokratická státní politická opatření, která prosazují větší rovnost příležitostí. Volím přístup, který není mezi vědci vyznávajícími tradici klasického liberalismu příliš rozšířený, protože docházím k pozicím, jako je například veřejně financované vysoké školství, které jsou častěji spojovány s postuláty zastánců rovnostářského sociálního státu. Tato strategie slouží jako odpověď na současné kritiky liberálních demokracií a zároveň implikuje, že je liberalismus obdařen nástroji k řešení nedostatků, jež přineslo jeho vlastní (neoliberální) ztělesnění. Prudce rostoucí socioekonomické nerovnosti a trend marketizace, který mimo jiné transformuje veřejné instituce klíčové pro sociální mobilitu do privilegia plutokratických elit, a vytlačuje tradiční hodnoty vysokoškolského vzdělání, jsou jen dvěma příklady.

Na podporu tohoto argumentu uvádím několik vzájemně navazujících tvrzení: Zaprvé, klasický liberalismus a potažmo i liberální demokracie by měly být i přes své současné nedostatky považovány za hodnotnou ideologii, která by měla být spíše upravena, než neuváženě zavrhnuta ve prospěch jiné ideologie. Zadruhé, klasický liberalismus zahrnuje meritokracii jakožto systém, jenž upravuje zásady rozdělování. Tento meritokratický příslib však západní demokracie naplňují jen stěží – argumentuji, že doplácejí jak na problémy meritokratické ideologii vlastní (systém, který již z definice vytváří vítěze a poražené), tak na nedostatek základní rovnosti příležitostí. Spojení zmíněných argumentů, které spolu vzájemně souvisejí, vrcholí v hlavním závěru práce: Pokud má být klasický liberalismus jako hodnotný politický rámec zachován, a

pokud zároveň zahrnuje meritokracii s rovností příležitostí, pak je státní intervencionismus zaměřený na podporu rovnějších podmínek z pozic klasického liberalismu nejen ospravedlnitelný, ale je také nedílnou podmínkou konzistence jeho pojmů a politické přesvědčivosti klasického liberalismu.

Ačkoli si lze představit nesčetné množství meritokraticky motivovaných státních politik usilujících o větší rovnost příležitostí, tato práce se zaměřuje především na rozšiřování veřejně financovaného vysokoškolského vzdělávání, protože to jsou právě univerzity, které bývají často popisovány jako „velké vyrovnávače“ se schopností narušovat mezigenerační reprodukci děděných socioekonomických zvýhodnění, a které naopak umožňují sociální mobilitu. Podstata této práce tak leží na tvrzení, že klasický liberalismus, který tvoří základ pro liberální demokracie a obsahuje pojistky proti přílišnému státnímu intervencionalismu, lze zachovat, a to aniž bychom se vzdali naděje, že může vyřešit své současné nedostatky. Zásadních změn totiž může být dosaženo na základě jeho vlastních principů.

Keywords

Autonomy, Coercion, Individualism, (In-)equality, Justice, Liberalism, Marketization, Meritocracy, Paternalism, Welfare

Klíčová slova

Autonomie, Donucení, Individualismus, Liberalismus, Marketizace, Meritokracie, (Ne)rovnost, Paternalismus, Sociální Zabezpečení, Spravedlnost

Length of the work:

251 Pages, 89.244 Words, 579.900 Characters

Declaration

1. I hereby declare that I have compiled this thesis using the listed literature and resources only.
2. I hereby declare that my thesis has not been used to gain any other academic title.
3. I fully agree to my work being used for study and scientific purposes.

In Prague on

19.05.2022

Peter Wedekind

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1 Introduction

The dissertation project discusses a problem at the intersection between politics, economics, sociology, and philosophical principles: After National Socialism was eliminated in the mid-20th century and the USSR stood at the brink of its disintegration, Francis Fukuyama (1989, 1–5) famously concluded that liberal democracies are witnessing the final form of human government at the endpoint of mankind's ideological evolution. While this claim ironically inverted Karl Marx's anticipation of a historical development towards a communist utopia, the core reasons for liberalism's dominant appearance seemed to be its alleged ideological supremacy and the lack of alternative systems (Fukuyama 1989, 1–5). This situation has changed substantially in the last three decades.

In opposition to Fukuyama's confident (and now revised) claim from 1989, Western societies rapidly became subject to overwhelming critiques: The population strata are segregated by skyrocketing economic inequalities, access to educational opportunities depends on financial means, rather than talent and dedication, and the prominent liberal ideal of equality seems fictional. At a global stage, China's current economic boom, as well as the reemergence of authoritarian tendencies in some European countries and beyond, impose the suspicion that an everlasting unchallenged hegemony of Western liberal democracies is no longer self-evident. Furthermore, some scholars, for example Michael Blake (2001, 257–60), point out that certain fundamental liberal convictions are only scarcely compatible with political facts such as the concept of state borders. On top of that, liberal democracies do not consistently adhere to their own principles on a global scale: A substantial amount of Western wealth can arguably be traced back to postcolonial and neocolonial entanglements, asymmetrical trade, and dubious deals with authoritarian nations – for example, in recent years' attempts to keep refugees at bay. The aspiration to promote liberty as well as the demand for equal concern, respect, and distributive justice is often arbitrarily limited to certain territories or nations, calling into question

liberalism's contemporary value both in domestic affairs as well as in an increasingly globalized framework (Blake 2001, 257–60). The perception that in the name of liberalism not enough will be done to address these critical problems led a growing number of political scientists to conclude that liberalism has failed and the 'liberal world order' will eventually perish. This thesis, however, is motivated by the conviction that liberal democracy is based on principles worth preserving (such as safeguards against severe excesses of state power) and that some of its most prominent flaws can be addressed without undermining liberal values and discarding the political system altogether.

And yet, we must admit that many opponents of liberalism, for example, critics in the footsteps of Marx and Foucault, rightly point to the myriad of shortcomings and serious problems to be found in Western democracies, concluding that they must be symptoms of the *fundamental inadequacy* of the liberal framework. Liberal principles, so they frequently claim, are the *origin*, rather than the *cure* of the abovementioned pathologies and injustices many societies have generated. Although I fully agree with such critics on the gravity and urgency of the problems, I argue that these issues are not a sign of something *fatally* flawed with liberalism per se but, instead, they are problems that can be solved using the resources of liberalism itself. The question how (economic) injustice and undesirable consequences of neoliberalization in an era of market triumphalism can be addressed without abandoning the core values of Western democracies clearly exceeds the realms of a purely descriptive analysis. Instead, it calls for an evaluative, normative, and prescriptive methodology. Correspondingly, the dissertation employs a form of analytical philosophy that starts with normative arguments, rigorously scrutinizes their logical consistency, and allows for the conclusions to be applied to real-world scenarios.

With this broad introductory description of the controversial ecosystem of liberal doctrines, flaws, and challenges in mind, we can narrow down the crucial cornerstones of the narrative employed in this thesis as follows: I claim that it is possible to justify a certain set of egalitarian policies from within classical liberal thought. The nature and scope of these policies are crucially determined by *the*

requirements of a genuine meritocracy. Put differently: This thesis is concerned with an interpretation of classical liberal doctrines that stresses meritocracy's *central role* as a system of distribution and justice principle in liberal democracies. Correspondingly, it proposes binding (= coercive) policies promoting an 'even playing' field justified and limited by the meritocratic conception. These policies partially align with the welfare state goals frequently advocated by, say, social welfarists, egalitarians, or communitarians and include, for example, free (higher) education. Obviously, 'free' means 'publicly funded' via taxation, which is a type of binding state legislation we can rightly define as an instance of state coercion in alignment with this thesis' title.

The crucial links of the argument can be summarized as follows: After laying out the definitions of the relevant terminology in 13.1 and 13.2, we start with the claim that despite its flaws, classical liberalism (and by extension: liberal democracy) can be regarded as a valuable ideology (or political system, respectively). This interim conclusion is justified by contrasting the substantial imperfections both in Western liberal states, and in the fundamental principles of liberal thought themselves (see 13.4), with an emphasis on the 'doctrine of freedom' as a crucial *safeguard*. Both liberalism's role as bulwark against totalitarian horrors that history has provided no shortage of examples for, and its ability to serve as an antidote to autonomy undermining legitimizations for state coercion (that is, for example, paternalism) will be discussed in chapter 4. If we, then, embrace classical liberalism, we are very likely to accept meritocracy as (the most) relevant principle of distributive justice, too. As advocates of meritocracy, we are convinced that talent and effort should decide the outcome of 'the race of life', metaphorically speaking. And for this to happen, we need an 'even playing field', that is, a framework that is not 'rigged' in favor of the powerful, rich, and privileged but instead allows merit to 'rise'. To put it differently: Genuine meritocracy requires genuine equality of opportunity.

We must emphasize that this argument follows an 'imperfect' or 'non-ideal' methodological approach, which means that the goal is to promote *relative improvements* rather than to articulate an *ideal*, such as bringing about *perfect*

equality of opportunity. Making, for example, college education 'free' is certainly a feasible improvement aligning with the '*more* equality of opportunity' approach, whereas, as we will see, eugenics, genetical engineering, or the abolishment of the family are atrocious results of a doctrine of equal opportunity put ad absurdum. If we accept this line of reasoning, the argument justifies egalitarian policies that improve equality of opportunity (in opposition to outcome-based egalitarianism) and, in turn, promote a more 'genuine' meritocracy. Such conclusion then implies that classical liberalism is indeed endowed with the tools to address some of the most prominent flaws and subjects of criticism in Western liberal democracies. And this is where the *core* argument of this thesis technically ends. It is a conclusion that says little about the *outcome* a genuine meritocracy may then bring about – unless the outcome, in turn, significantly undermines the equality of opportunity of, for example, the next generation. We may rightly claim that this is already a substantial improvement and a, perhaps not *revolutionary* yet *meaningful*, result: Achieving a more meritocratic meritocracy allows us to justify substantial political changes that push back against a, let's call it, plutocracy of the rich and privileged with hereditary features. This is a substantially different conclusion compared to the arrangements that modern libertarians arguing in the tradition of classical liberalism typically advocate. And yet, justifying (and having) a genuine meritocracy does not further specify what happens after 'the race is over'.

Equality of opportunity can certainly lead to highly unequal outcomes. A further elaboration of this 'problem' (if we define it as a problem, which is not self-evident) exceeds the debate that will be employed in *this* thesis, and every subsequent thought should be regarded as a prospect for future discussions. And we *could* well be satisfied with this conclusion. We might argue that the outcome – as unequal as it may be – is 'just' as long as everyone indeed had his or her *fair shot* entailed by equality of opportunity. We could be willing to accept that having 'winners' living in excessive wealth and having 'losers' living in crushing poverty is morally permissible *if* the distribution is a result of their *merit*, that is, talent combined with effort, rather than the result of a 'rigged race' where the outcomes

are already partially determined before the starting pistol has been fired (which is certainly the case today).

However, if we do not feel comfortable with such an outcome we could (a) further explore if classical liberalism might also have something to say about the outcome after the race has ended. Or we could (b) adopt an 'academic humility' and look for inspiration in other disciplines to find solutions for the remaining 'undesirable' features of meritocracy. It is perfectly reasonable to claim that, on the one hand, a certain principle of justice is the best one we have and that we should, correspondingly, adopt it as a leading paradigm, but that it is, on the other hand, yet *imperfect* and may need a helping hand from other doctrines here and there. A sidenote on Harry Frankfurt's sufficiency approach will illustrate this strategy: We can indeed endorse the idea of a race that is to be won by those who do best, and, correspondingly, follow the conviction that redistribution is, generally, only justified *to bring about the underlining equality of starting conditions*. But this does not necessary entail that we cannot have sympathy for the 'losers' and talk about further redistributions in terms of outcome to make sure that they still have enough - even if their 'failure' is truly their own fault. We can well follow Adrian Wooldridge's conviction that 'more and wiser' meritocracy urges us to remoralize merit by relearning humility and a renewed sense of public duty.

With this introductory explanation of this thesis's narrative in mind, it is important to clarify one distinction early on: The next chapters unite a comprehensive and *critical evaluation* of the current status of Western democracies with a classical liberal quest for *solutions*. These two elements maneuver in different dimensions: For the critique to be meaningful, it must *exceed* the arena of classical liberalism. It includes the positions and claims frequently advanced by social welfarists, communitarians, virtue ethicists, and scholars in the footsteps of Marx and Foucault. Those critical voices will be raised in various places throughout the thesis, however, especially in the chapters 13.1 and 35.1. Furthermore, the implicit claim is *not* that all classical liberals would, without any doubt, acknowledge this myriad of critiques as genuine problems that

we should see ourselves compelled to solve. Yet, if my argument is convincing, it entails that as classical liberals, we *ought to recognize* a substantial quantity of those controversial outcomes especially *neoliberalism* has brought about as problematic. This brings us to the dimension of solutions.

In opposition to the assessment of the critiques liberal democracies find themselves confronted with, the solution (that is, a genuine meritocracy built on adequate equality of opportunity, which, in turn, justifies certain 'egalitarian welfare state policies') claims to stay *within classical liberal doctrines*. This is indeed the whole point of this thesis: I declare liberal principles to be valuable and worth preserving, therefore, the quest is to figure out to which extend improvements to the current system can be *justified* without leaving the ideological turf of classical liberalism (which also serves as a building block for the *limitations*). As already pointed out and as will be discussed in detail in 5.2.3, with Frankfurt's sufficiency approach, one potential solution will be scrutinized which *transcends* pure liberal reasoning, however, this departure is clearly declared as a fix that exceeds the imperatives entailed by the argument advanced in this thesis. Finally, this approach does not guarantee that the proposed solutions will fully satisfy critics of the current neoliberal hegemony such as Michael Sandel or David Harvey. What I wish to accomplish is to take their criticism seriously and to show that by following this thesis's argument, we can at least get 'so far' in solving them while yet preserving what is valuable about classical liberal thought. But, and this will become clear in the subsequent methodology section and in various other places, perfection is not goal.

Liberalism is a broad topic. Correspondingly, it is inevitable that not every important thought can be captured and not every crucial author can be adequately discussed. Furthermore, liberalism (and its evolution) manifests itself in very different dimensions: A political economist may be inclined to scrutinize especially the *economic* side of classical liberalism, drawing on the fundamental work of Adam Smith, Joseph Schumpeter, and John Maynard Keynes, contrasting it with the critical voices of Karl Polanyi and Dani Rodrik, say. And while this thesis indeed grapples with the economic side of liberalism – especially within the

critique of modern neoliberalism and marketization in 13.1 and 35.1 – and, correspondingly, *does* address authors such as Adam Smith, Joseph Stiglitz, and Branko Milanovich, it yet maneuvers predominantly in political theory and philosophy. Therefore, John Stuart Mill, John Locke, John Rawls, and, relatedly, Immanuel Kant rank among the reference points of most fundamental importance. The thesis also draws on more recent philosophers and theorists in the tradition of Western liberal political thought and jurisprudence, such as Richard Arneson, Isaiah Berlin, Gerald Dworkin, Ronald Dworkin, Joel Feinberg, Harry Frankfurt, and Alan Wertheimer. Regarding the 20th century interpretations of (neo-)liberal doctrine, the thought of Francis Fukuyama, Friedrich August von Hayek, and Ludwig von Mises will be introduced while especially Sarah Conly, Michel Foucault, David Harvey, Thomas Lemke, Jo Littler, Michael Sandel, and James Sterba provide important impulses focusing on the downsides of neoliberalism, marketization, meritocracy, and the increasingly plutocratic Western framework. While David Miller and Daniel McDermott provide a compelling methodological foundation for this philosophical endeavor, Adrian Wooldridge's (2021) recent *The Aristocracy of Talent* deserves a particular recognition as one of the most crucial reference points for the discussion and defense of meritocracy in part II of this thesis.

Finally, although a myriad of meritocratically motivated state policies in pursuit of greater equality of opportunity can be imagined, this thesis focusses specifically on the expansion of publicly funded higher education, since colleges and universities are frequently described as 'the great equalizer' (see 36.1) with the capacity to disrupt intergenerational reproduction of hereditary socio-economic advantages and, instead, enable social mobility. Furthermore, universities in recent decades serve as an institution in which the 'marketization' trend can be clearly observed which, as an extension of neoliberal rhetoric, will be critically discussed in 35.1. Thus, the crux of this thesis lies in the claim that classical liberalism as the foundation of liberal democracies, that includes safeguards against *excessive* state interventionism, can be preserved without relinquishing the hope that their contemporary flaws can be addressed, and

substantial changes can be achieved from *within their own principles*. With this layout in mind, let us begin the quest at hand.

2 Methodology: Analytical Political Philosophy for Earthlings

An adequate methodological framework is the backbone of a meaningful treatise of every research question in political theory and beyond. With this thesis's ambitions, goals, arguments, and conclusions in mind, a suitable foundation must meet a specific set of quality criteria. These criteria are, in turn, determined by the fact that this dissertation project is not concerned with a grand endeavor in metaphysics or a quest for universal truths about morality. Instead, this thesis shows concern for real-world phenomena that frequently give rise to controversial modern political debates on both sides of the Atlantic. It depends on a methodological foundation that stresses context dependence and feasibility conditions in societies that broadly fall under the umbrella of 'Western liberal nations'. Finally, there is a certain pragmatism to this thesis's primary subjects of interest: With the focus on marketization, meritocracy, and equality of opportunity in modern 21st century liberal democracies, we do not debate an entirely new, unexplored, and revolutionary terrain. The clear goal is to bring about *improvements* while explicitly trying to *preserve* a substantial quantity of the fundamental ideological building blocks of the classical liberal tradition. Correspondingly, it is not about promoting a cosmic blueprint for the ultimate society or to advance an *ideal theory*, broadly speaking. Instead, the real concerns of real people at this moment of time demand an approach that operates based on the imperatives of a *non-ideal theory* which is clearly destined to be *imperfect* but has yet the capacity to justify meaningful improvements – albeit perfection is not the goal. The methodological foundation that will subsequently be explained serves this end.

As the name indicates, the foundation applied in this thesis is a combination of the methodological insights originating from Daniel McDermott's (2008) *Analytical political philosophy* and David Miller's (2008) *Political philosophy for Earthlings*. The normative and prescriptive approach utilized in

this project falls under the umbrella of political philosophy and political theory. After having considered various methods and strategies in political theory, it became evident that the methodological tools suggested by these two influential contemporary political theorists form a synthesis perfectly aligning with the orientation and scope of this thesis. The arguments discussed in the following chapters do not hold context-independently. Instead, (and as Aristotle already famously proclaimed in his *Nicomachean Ethics*) it is the nature of the specific subject of inquiry that determines the level of 'certainty' available, and in dealing with particular cases, "the agents themselves must in each case consider what is appropriate to the occasion" (Aristotle 2009, 3-12, 24-27). The thesis at hand is predominantly concerned with problems that have their origin within liberal principles. Correspondingly, the synthesis of McDermott's and Miller's approaches is a perfect fit because it has the capacity to be utilized for a debate about political phenomena that can be said to be internal to the liberal discourse. Accordingly, certain axiological intuitions liberals typically subscribe to can be taken for granted and competing philosophical methods that might be called for when, for example, adjudicating between various political ideologies or theories can be discarded.

In essence, the framework is a suitable choice because it fulfills at least three crucial roles: (1) It defines the general approach and ambition of this thesis (that is, a contribution to the discipline of *political philosophy/theory – a non-ideal type of theory* that does not seek to engage in a cosmic quest for the ultimate foundation of morality but to promote *context-specific suggestions*). (2) It provides a set of criteria that allows for the quality and analytical soundness of normative arguments to be evaluated. This prospect deserves attention given that political philosophy is in the business of analyzing 'oughts' – an endeavor complicated by the fact that there is substantial disagreement about the question whether 'moral truths' even exist and whether they can be compared in any meaningful way (McDermott 2008, 11–15). (3) It defines the societal frame (that is, Western liberal democracies) in which the theory can be applied and therefore limits its scope by stressing the context-dependency of the arguments provided.

Those three purposes are reflected in the methodology's name, and its fragments can be molded into three simple questions as follows: (1) How can we define 'political philosophy'? (2) What makes it 'analytical'? (3) What brings it 'down to earth'? These questions are successively answered in this chapter based on a conglomerate of McDermott's and Miller's deliberations.

McDermott (2008, 25) eventually concludes that political philosophy "is concerned with identifying the moral grounds of legitimate state action, all of which, ultimately, is based upon coercion" – an exercise in moral philosophy that is mirrored in the very title of this thesis. In this vision, political philosophers are dedicated to evaluating whether a certain action is legitimate and justified – 'justified' in a sense that we can rightly claim "some standard has been met, that in light of the available evidence the conclusion that we ought to act is warranted" (McDermott 2008, 26). The idea that a philosopher (or anybody else) is capable of producing 'warranted conclusions' within a normative discipline is not self-evident. Correspondingly, it is useful to follow McDermott's *full* arguments bottom up in order to recognize how political philosophy is indeed concerned with concepts like 'intuitions' or 'moral facts' but is yet not deprived of the same level of clarity and logic we frequently encounter in the sciences.

Political philosophy is a discipline dealing with normative elements. Correspondingly, a political philosopher tries to determine what ought to be done in light of certain information and empirical facts about, for example, human behavior and political institutions (McDermott 2008, 11). Following this description, the discipline "is thus a branch, or subset, of moral philosophy" (McDermott 2008, 12). Such normative concern with morality leads political philosophers to start with intuitions – a readily available resource given that most "sane adults are in possession of a complex package of beliefs" (McDermott 2008, 12). And yet, political philosophy should not be mistaken with an 'intuition-ology' (McDermott 2008, 15). Intuitions are not to be confused with the *rules of morality* the scholar is eventually trying to derive based on the relevant information, but they serve as a starting point for a straightforward method: "start with what we think we know and use that as a basis to investigate what we don't

know" (McDermott 2008, 12). In this broad sense, the philosopher's quest does not differ substantially from the approaches applied in the sciences: He encounters a problem (or simply something he does not understand yet), follows an assumption based on pre-existing knowledge and/or intuition, and eventually attempts to derive corresponding rules of nature or morality, respectively (McDermott 2008, 15–16).

To further elaborate on the political philosopher's method, his claims, his approaches, and the alleged similarity to the sciences, it is helpful to briefly debate what a sceptic may object: Scientist, be it biologists or physicists, can ground their claims on empirical facts that may be *discovered* or *reproduced*. Such facts do not care about the intuitions of the scientist conducting the experiment or doing the discovery. Doesn't this mean that the sciences differ substantially from the endeavor of political philosophers who are concerned with *normative* issues, who, correspondingly, cannot generate anything that deserves to be called a 'fact', and certainly cannot even shield themselves from getting lost in metaphysical questions? The following answer indicates that this juxtaposition is not necessarily accurate, and it briefly defines the, say, functional and pragmatic version of political philosophy applied in this thesis.

A political philosopher attempts to "identify the *content* of the rules of morality" which certainly sounds like a tremendous and uncontrollable project (McDermott 2008, 16). However, he can (and must) limit his own project in the very same way natural scientists do, and he is not destined to get lost in an eternal metaphysical limbus. Political philosophers may rightly adopt a 'pragmatic' stance and depend on a certain "division of labour" within their discipline (McDermott 2008, 15): Biologists can rightly feel comfortable about sharing a new discovery and proposing a corresponding new theory without allowing "worries about the origins of the universe to distract them from their projects" (McDermott 2008, 16). The same can be said about political philosophy: An attempt to discover rules of morality is "a project that can and should proceed without getting bogged down with worries about the nature and origins of those rules" (McDermott 2008, 16). Put differently: It is certainly feasible to have a

meaningful debate about the rules of chess (and about how they potentially might be improved) without getting lost in a cosmic quest for a definition of what we could possibly mean when we refer to a 'rule' (McDermott 2008, 16). This short illustration is by no means intended to sound condescending. Schools of philosophy that explore and scrutinize the most fundamental concepts within disciplines typically associated with the humanities and social sciences certainly *do* contribute crucial insights to the theoretical discourse. And yet, the methodological approach applied here appeals to the beforementioned division of labor and takes certain assumptions and convictions for granted. With this argument in mind, it is a reasonable perception that a political philosopher has the capacity to come up with a set of justified and coherent normative rules without engaging in all-encompassing debates on the origins of morality, the nature of existence, or the limits of knowledge.

Similar examples can be introduced to illustrate how it is furthermore indeed possible to claim that the existence of moral facts can rightly be assumed. First, one may argue that the lines between political philosophy and the sciences are, again, blurred. Just as it is the case for moral facts, "truths of mathematics and logic, for example, cannot be empirically tested" (McDermott 2008, 18). However, second, one should add: nor "can the truths of etiquette and grammar" (McDermott 2008, 18). This argument illustrates how we can rightly engage in meaningful debate about rules and truths within a normative terrain that indeed escapes an empirical grounding. We *do* attribute ourselves the ability to distinguish a grammatically correct sentence from a grammatically wrong sentence in the field of linguistics. Furthermore, we *do* assume the existence of rules of etiquette, (hopefully!) concluding that it would be inappropriate "to throw a drink in my host's face at a dinner party" (McDermott 2008, 18). None of these rules have an empirical grounding that can be discovered by looking through a microscope and yet they 'exist', they are typically honored, and they can be scrutinized.

Given that (a) political philosophy is a discipline that does not utilize methods entirely different from the sciences, (b) we can conclude that the

existence of 'truths' can rightly be assumed, even in normative disciplines or areas that escape an empirical grounding, and (c) a philosopher can engage in moral discussions in a certain practical subfield without getting lost in metaphysical debates, there *is* a methodological foundation to be found that allows for suitable assumptions to be applied and for meaningful arguments to be derived within the narratives relevant to this thesis. For such an endeavor to be successful, however, a political philosopher "requires the confidence to make assumptions, along with the wisdom to tell the good from the bad" (McDermott 2008, 17). This is where the *analytical* features of this method must be complemented.

Analytical philosophy is often seen in "contrast with other styles of philosophy, such as Continental and Eastern" (McDermott 2008, 11). Broadly speaking, the analytical enterprise is frequently associated with features such as "clarity, systematic rigour, narrowness of focus" and it is led by an "emphasis on the importance of reason" (McDermott 2008, 11). Although it can probably be described in numerous different ways, one may assume that analytical philosophy is a type of practical reasoning organizing ideas and allowing for normative theories to be engaged with in a clear and structured manner. Despite their normative character, such theories, in turn, can be systematically scrutinized given that they are composed of certain elements "such as principles, rules, goals, rights, and duties" which "serve to illuminate the connections and relationships between the oughts" (McDermott 2008, 13).

In conclusion, analytically political philosophy serves as a method that allows us to engage with normative theories in the subfields of moral philosophy. A common example that serves as a suitable illustration of how political philosophers grapple with normative theories is 'consent theory' "which holds that state legitimacy is grounded in the consent of the governed" (McDermott 2008, 13). It starts with a widely shared intuition, namely that the voluntary consent of individuals justifies a transfer of rights (McDermott 2008, 13). The power of this theory (in its basic version) is derived from the fact that most people indeed *do* subscribe to this intuition and frequently apply the principle in their

everyday lives. However, in an analytical fashion, its implications can be put to the test: In the case of justifications for state legislation/coercion (for example, tax collection) we find that far from all citizens have *explicitly* consented to being subjected to the state's laws. Therefore, for consent theory to serve as a justification for rights-transfers and binding legislation via a state, it must be modified (McDermott 2008, 19). *Tacit* consent is one possible alternative. With tacit consent theory, the gap between the number of people who are governed by a certain state and the number of people who have *actually* consented to the necessary transfer of rights can be closed. This, however, is where we analytically put the power of consent theory as a justification for state legislation to a test: In its original form, it "drew its strength from its consistency with the larger pattern of oughts, all those other cases where a *voluntary* choice leads to a transfer of right" (McDermott 2008, 19). But the *revised* version casts the element of voluntarism aside, given that people now "'consent' even if they are unaware" (McDermott 2008, 19). Practical reasoning, therefore, leads us to conclude that there is something severely flawed about tacit consent theory since it undermines the importance of voluntary choice as a core principle: It is "thus not merely a minor inability to handle a troublesome case – it is that this version is inconsistent with the very principle that made consent theory plausible in the first place" (McDermott 2008, 19).

Analytical philosophy, correspondingly, serves as a method to systematically evaluate normative theories within a discipline that is concerned with moral truths and rules of morality, rather than scientific facts. It invites us to reason whether, perhaps, "coercion will only be justified if it is approved by a particular type of institution, using certain kinds of procedures (say, a majority vote), acting for particular types of reasons, and there are lots of other conditions we might wish to add" (McDermott 2008, 27). McDermott's (2008, 27) concluding remarks are most suitable for a thesis that is (a) concerned with justifications for coercion and (b) maneuvers in the arena of liberal societies: "Liberal political philosophy is, to a large degree, a spelling out of those conditions: it is a project aimed at identifying the kinds of constraints that must be

placed upon political institutions in order for their coercive actions to be legitimate". However, it must be noted that the methodological framework applied in this thesis slightly transcends the analytical political philosophy McDermott advocates. He argues that the goal of science is "to pursue the truth" (McDermott 2008, 25). This goal, so he continues, is the same for political philosophy: It "is about discovering the truth", not so much about "getting things done" – politically speaking (McDermott 2008, 25). This is precisely where McDermott's methodological framework is complemented with Miller's vision of political philosophy. The result is an attempt to bring analytical political philosophy down to earth – an act that allows for the interdependency between moral ideals and context-specific conditions to be taken into consideration.

In his introductory paragraph, Miller (2008, 29) points out that political philosophy for Earthlings is concerned with "the relationship between political philosophy as a normative enterprise whose purpose is to identify and justify principles intended to guide us politically, and what we can call the facts of political life – everything that we know about human beings and human societies, either through common sense or through the more formal methods of the social sciences". In an attempt to specify its features, it is helpful to first illustrate what political philosophy for Earthlings is *not*.

A not too uncommon approach in the disciplines of political theory and philosophy is a perspective one may call the 'starship view' – the idea that principles can be established "without reference to empirical questions" (David Miller 2008, 30). It is our ability for rational reflection, so the argument unfolds, that allows us to decide upon "fundamental principles of liberty, justice, democracy, and so forth" (David Miller 2008, 30). According to the starship view, such principles are universal and, therefore, context independent (David Miller 2008, 30). Upon encountering a new planet or habitat, it is then, in a second step, for the starship's crew to evaluate – based on the factual evidence about the society they find – to which degree the universal principles can be implemented in that specific community. Being equipped with the blueprints for the fundamental principles previously reasoned into existence on the starship, the crew of political

philosophers is then in the business of determining whether "there may be empirical barriers to the full realization of our favoured principle of justice, say" (David Miller 2008, 30). With the newly discovered empirical evidence in mind, they speculate, for example, which institutions are feasible to "best achieve or approximate our ideal of democracy in a particular society" (David Miller 2008, 30). In cases where the starship-philosopher's ideals stand in a trade-off relationship (for example, liberty vs. equality), the empirical evidence tells him about the "optimal mix of values" for that specific society (David Miller 2008, 30).

This clear distinction between *universally valid principles* and their *implementation by approximation* determined (and limited) by the facts of a certain society is precisely what political philosophy for Earthlings challenges. It advocates that "even the basic concepts and principles of political theory are fact-dependent: their validity depends on the truth of some general empirical propositions about human beings and human societies, such that if these propositions were shown to be false, the concepts and principles would have to be modified or abandoned" (David Miller 2008, 31). Such philosophy for Earthlings must be sensitive to 'general facts', *and* more specific facts about "particular societies, or types of societies" (David Miller 2008, 31). The idea that such general and specific facts should be taking into consideration must *not* be confused with (moral) relativism. The political philosopher certainly is *not* compelled to see the existence of slavery as something morally acceptable simply because his voyage happened to bring him to the U.S. in the 17th or 18th century when this 'practice' was quite prevalent. The 'facts' we are concerned with in this methodological foundation instead refer to the slightly more fundamental facts about human natures such as the wish to have some minimum degree of liberty – although the degree might vary based on the cultural context, say. The idea behind this approach is easily explained: It simply does not make sense to reason about certain principles – fairness in distribution, economic equality, or sufficiency are good examples – if we were to navigate in a world where no scarcity of resources exists (David Miller 2008, 37). Philosophizing about the principles of a fair

allocation of goods would be redundant in "circumstances of abundance like Hume's golden age" or unlimited human benevolence (David Miller 2008, 37–38). Similarly, "it is pointless to apply principles of liberty to creatures who lack the capacity for self-conscious choice" (David Miller 2008, 38). Correspondingly, empirical facts (of a society) do not merely determine to which degree our philosophical principles can be implemented. Instead, they are grounding the principle "by indicating that circumstances are such as to make principles of a particular kind relevant" (David Miller 2008, 38).

This approach is, in a sense, both Rawlsian and non-Rawlsian in character. It is certainly a type of analytical philosophy different from Rawls's idea of the well-known veil of ignorance (and its subsequent application in society after the veil is lifted) – a hypothetical state that might just correspond to a philosopher's starship vision (David Miller 2008, 31). At the same time, Rawls agrees that our principles ought to depend on the natural facts of people in society such as a fundamental commitment to "family life in some form" in virtually all liberal democracies (David Miller 2008, 32–43). Furthermore, he assumes it to be reasonable to rest our fundamental principles on "'general facts of economics and psychology'" (David Miller 2008, 32). We can then conclude that Rawls's approach shares the characteristics of a political philosophy for Earthlings given that the principles he proposes "only make sense at all if we take for granted many of the features of a modern, technologically advanced, liberal society" (David Miller 2008, 40). Finally, as the reader may notice, there are further similarities to be found, for example, between the methodological settings of 'analytical political philosophy for earthlings' and Rawls's 'reflective equilibrium' (Daniels [2003] 2020). We agree that it is not necessary to address far-reaching questions of metaphysics to engage in meaningful political philosophy, and we both emphasize the importance of a reflective back-and-forth between moral principles and intuitions to test their coherency (although Rawls avoids the term 'intuition') (Daniels [2003] 2020). However, it is worth emphasizing that Rawls is concerned with an *ideal* type of theory whereas my ambition takes the shape of a *non-ideal* theory (Daniels [2003] 2020). This simple yet highly important distinction is

worth being briefly linked to the debate of meritocracy and equality of opportunity which serves as the core theme of argument advanced in part II of this thesis.

As we will see, a substantial part of the defense of and the advocacy for meritocracy is in the vein of the position of Adrian Wooldridge who argues the point that meritocracy is indeed a revolutionary and valuable system that only attracts major criticism precisely because the revolution is *incomplete* and Western liberal democracies are *not truly meritocratic* yet. And while I, to a large extent, agree with his enthusiasm for meritocracy and share his view that modern meritocracies would be far more appealing if they were *actually meritocratic* (rather than, increasingly, a smokescreen for a plutocracy), there are yet *inherent* challenges to meritocracy and equality of opportunity. The problem, relating to the ideal vs. non-ideal theory distinction, is simple: *Perfect* equality of opportunity as a foundation for a *perfect* meritocracy certainly cannot be achieved in the real world. However, the issue is even deeper than that: I argue that – even *if it was* possible – it would be *undesirable* to promote the ultimate version of a meritocracy, given that the resulting ideological atrocity would potentially apply the logic of eugenics, engage in genetic engineering, and abolish the family eventually. Furthermore, the fact that we are destined to engage in a quest for merely the best possible system we can create out of the 'crooked timber of humanity' that certainly escapes perfection, is an idea shared by none other than Immanuel Kant and Isaiah Berlin. Even though we might imagine a "perfect world in which all good things can be harmonised in principle", this is simply not the world we live in (Berlin [1947] 2013, 14). We must acknowledge that "principles which are harmonised in this other [perfect] world are not the principles with which, in our daily lives, we are acquainted; if they are transformed, it is into conceptions not known to us on earth. But it is *on earth that we live*, and *it is here that we must believe and act*" [emphasis added] (Berlin [1947] 2013, 15).

The previous discussion of Miller's political philosophy for Earthlings now allows for two crucial features of the methodological basis of this thesis to be

emphasized: (1) The arguments to be found in the following chapters are indeed *not* an attempt to engage in what critics may label ivory-tower or starship philosophy. It is neither the goal to articulate a universal doctrine of justice nor to (finally!) answer the question what constitutes 'the good life'. Instead, this thesis follows the ambition to provide normative arguments and corresponding justifications that (a) respect the feasibility conditions of the relevant societies and (b) seek guidance, not in a cosmic blueprint of the best hypothetical society mankind can imagine, but, perhaps, in what Rawls would call a "realistic utopia" (David Miller 2008, 46). 'Feasibility', obviously, also entails that we can indeed "imagine a lot more than we can realize", given that we are "constrained by the world's physical laws" (LaVague-Manty 2009, 1). As earthlings, we have to align "our values with an eye toward the constraints that keep us from levitating and exercising telekinesis" (LaVague-Manty 2009, 1). In accordance with the aforementioned context-dependency, feature (2) defines the scope and limitations of this thesis. It claims political feasibility only for Western societies shaped by a fundamental commitment to a set of liberal values – the very same democracies addressed in the previous description of the Rawlsian presuppositions. Correspondingly, the term 'liberal democracy' ought to refer to a technologically advanced, liberal, and modern society – including an adherence to neutrality: A state is to be assumed in which heteronomous individuals "whose conceptions of the good life are radically different" live together in a "single political community" (David Miller 2008, 41). Accordingly, it is perfectly clear that the political suggestions defended in this work cannot be applied one-to-one in communities build on substantially different commitments – in deeply collectivist societies in East Asia, for example. In conclusion, this thesis's journey in political philosophy would be misguided if it would eventually propose a "range of outcomes that we – people in modern liberal societies – would regard as fundamentally unacceptable" (David Miller 2008, 43). And here lies the crux of the whole enterprise: As Miller (2008, 47) argues, "political philosophy *should* be in the business of changing political attitudes, of showing people what their convictions mean when applied consistently to political questions". Keeping in mind the goal of the thesis, the importance of this quote cannot be overstated. And

yet, it must be stressed that the scope of the argumentation is limited by a crucial threshold: One must *not* "contravene the deeply held commitments of present-day citizens" (David Miller 2008, 44).

Taking all aforementioned descriptions into consideration, what we end up with is a methodological basis and a type of philosophical engagement that is also shaped by a certain academic humility. As Miller (2008, 45) concludes, in this "we will no longer be tempted to dismiss political thinkers living in societies where the presuppositions don't hold as simply blinkered or benighted". Additionally, and "more importantly, we will not be tempted to apply the principles in question outside of their proper context" (David Miller 2008, 45–46). What we are concerned with is indeed a modest project based on *analytical political philosophy for Earthlings* – a clear and systematic enterprise in a subfield of moral philosophy that is aware of its own context-dependency and limitations. This conception is by no means intended to undermine the importance of the topic at hand. Instead, it is an explicit approval of McDermott's (2008, 28) conviction who believes "that political philosophers should approve their tasks with the same sense of humility as scientists, and that they should be happy to make a successful contribution, however small and unsexy it may seem, to the overall project of increasing human knowledge".

PART I

3 Liberalism: An Unfulfilled Promise?

As already briefly illustrated in the introduction, there is a case to be made that liberalism as a hegemonic political system is in a crisis (Wedekind 2020b, 60–72).[1] Liberal doctrines need to prove their significance again. In order to remain attractive, advocates of liberalism must demonstrate their ability to guarantee and to utilize their fundamental principles in modern political systems around the globe. However, a remarkable variety of political pathologies to be observed on both sides of the Atlantic impose the suspicion that contemporary liberal democracies are struggling to meet such aspiration: The inequalities between the rich and the poor are a gaping wound, the endorsement of free markets allowed economic and monetary spheres to crowd into and usurp the realms of virtue and community, and the neoliberal hegemony is increasingly understood to be a deceptive attempt to restore (economic) class power (Harvey 2006, 145–51). Simultaneously, the ideal of autonomous and rational individuals free in their pursuit of happiness has gradually been superseded by a characterization of human beings as immature agents whose judgment is faulty and impaired (Conly 2013, 1–7; 16-24).

The repercussions are multifarious: Such an anthropological assessment leads anti-liberal advocates to postulate high levels of coercive state interference and paternalism in several policy areas – from environmental preservation to social justice. At the same time, dissatisfaction with liberal democracy arguably encouraged right-wing populism, providing the impetus for political resentment, utilized in a frighteningly masterful way by Donald J. Trump, as well as like-minded European politicians, such as Geert Wilders, Viktor Orbán, or Jaroslaw Kaczynski in recent years (Fukuyama 2018, preface; Galson 2018, 8–13; Wike, Silver, and Castillo 2019, 13). ‘Genuine’ equality of opportunity and a ‘fair’ meritocracy seem to be fictional ideals and an unfulfilled promise, access to

[1] This argument advances the same claims that have previously been explored in my (2020b) reevaluation of the merits of liberal democracies in contemporary global political philosophy.

higher education is slowly turning from a public good to a hereditary privilege in some European and American countries, the population strata are segregated along ideological and socio-economic lines, and the general preference for liberalism is increasingly questioned. The fact that liberal democracies find themselves confronted by a wide array of criticism and allegations seems to indicate that not *history* has come to its end, as Fukuyama initially assumed, but that perhaps *liberalism* did.[2] Such sentiment meets the predictions of Patrick J. Deneen's latest influential monography: "the end of liberalism is in sight" (Deneen 2018, 180).

In light of this briefly introduced debate, this chapter serves as a basis for the subsequent discussions advanced in this thesis. As such, it plays a foundational role given that it (a) explains the essential terms relevant to the topic and (b) answers a set of questions that define the work's 'arena' and lay down the argumentative approach. Whereas the importance of (a) is self-explanatory, the role of (b) is to be illustrated in slightly more detail. The subsections of this chapter are intertwined with chapter 4 since they form an argumentative back and forth as follows: First, the relevant features of (classical) liberalism are briefly introduced. Second, liberal democracy (and especially its neoliberal manifestation) is staged as a political framework that, today, is judged to be a very imperfect system that has attracted a myriad of criticisms from different disciplines within the humanities and social sciences. With regards to this criticism, wider attention is given to some of the negative (neo-)liberal

[2] Fukuyama no longer holds his initial claim from 1989. In his 2018 work on identity, he acknowledges that the liberal world order did not benefit everyone equally (Fukuyama 2018, chap. 1). Coinciding with the financial crises, its hegemony started faltering in the mid-2000s and its 'inevitable fall' no longer embodies an exaggerated notion (Fukuyama 2018, chap. 1). Such a trend has implications along the lines of identity: A group believes "that it has an identity that is not being given adequate recognition—either by the outside world, in the case of a nation, or by other members of the same society" (Fukuyama 2018, chap. 1). This problem led to the rise of what Fukuyama calls the 'politics of resentment' on both sides of the political spectrum, rooted in a common phenomenon: Identity politics (Fukuyama 2018, chap. 1). Such politics mobilize powerful forces, both in the political left, and the political right, and can include ethnonationalists and religious fundamentalists – groups, whose compatibility with fundamental principles in liberal democracies is questionable at best (Fukuyama 2018, chap. 1). In this thesis, however, Fukuyama's initial claim on the end of history is of greater interest since his vision of finality is mirrored in the prediction of contemporary critics that predict the inevitable end of the liberal world order (e.g., Deneen 2018, 180; Gray 1993, 240).

repercussions to be found especially at the intersection between politics, economics, and social justice such as inequality of opportunity and marketization. However, these two particular phenomena are discussed separately in chapter 5 and 6 since they serve as the primary examples for the subsequent debate. In chapter 3, instead, a rather comprehensive critique of the 'autonomous individual' as an ideal in the liberal tradition is unfolded in order to provide an exemplary case indicating that some of liberalism's core convictions can be problematic – not exclusively in the realms of real-world application but already on a far more fundamental, theoretical, and methodological level. This subchapter contains a Foucauldian angle on 'the individual' as well as its repercussions on what is frequently called 'Advance Euthanasia Directives' (AEDs) – a type of voluntary suicide permitted by law, for example in the Netherlands. Third, a set of arguments is introduced in chapter 4 that briefly goes along the lines of 'there is yet something useful and valuable about liberal doctrines that we should not surrender inconsiderately'. As such, this third step highlights especially *individualism* as a liberal antidote to pathologies originating from collectivist ideologies, and it makes an exemplary case, illustrating that an emphasis on principles such as autonomy, self-ownership, and individual liberty can oppose *paternalistic policies* which, in turn, could otherwise become a slippery slope to far more extensive intrusions via a state (subchapter 24.2). The paternalism debate is also captured in greater detail in order to provide a second more extensive exemplary case which mirrors the previous discussion of AEDs (subchapter 13.4) in scope and ensures a balanced debate between political and philosophical positions that either promote liberalism or call into question its principles.

In conclusion and as claimed before, this chapter together with the subsequent one is concerned with answering a set of questions that can be phrased like this: How are the key features to be defined that underlie the version of liberalism scrutinized in this thesis? What are some of the most prominent pathologies in the 'liberal world order' that lead a growing number of scholars to claim that Western democracies are a severely flawed political framework – perhaps even beyond repair? And, most importantly – given the overwhelming

number of daunting prophecies voiced by leading scholars in the field: Why would we even be concerned with 'saving' an allegedly dying system, if we could, instead, 'simply' abandon it in favor of a quest for a better alternative? Put differently: The chapters 3 and 4 are an attempt to take the criticism aimed at Western liberal democracies seriously while also to arguing that there are features in liberal doctrines to be found that are too valuable as to 'simply give up on liberalism altogether'. They form a starting point for the thesis, a justification for its research focus, and portray at least a representative fraction of the magnitude of potential discussion to be found in liberal discourse. The subsequent chapters are to be understood as a contribution to the shifting terrain of liberal discourse that proposes a strategy for addressing a set of prominent flaws in Western democracies as laid out in the introduction.

3.1 The Classical Foundation of Liberalism

Every critique of liberal democracies or the 'liberal world order', broadly speaking, begs the questions what exactly we mean when we are referring to the term 'liberalism'. This is not a question that permits an easy answer. As Duncan Bell (2014, 683) points out, liberalism is a controversial term – "a spectre that haunts Western political thought and practice. For some it is a site of the modern, an object of desire, even the telos of history. For others it represents an unfolding nightmare, signifying either the vicious logic of capitalism or a squalid descent into moral relativism". An attempt to summarize the full debate about the 'true' meaning of 'liberalism' as well as the ambition to provide an unambiguous definition of the term in the space of merely an introductory chapter is destined to disappoint (Wedekind 2020b, 62–64).[3] There are too many competing definitions to be found as to provide a satisfying idea of the nature and features of liberalism that every scholar in the field is willing to accept. Furthermore, in recent decades

[3] The following distinctions and core features of classical liberal thought correspond to the definitions previously provided in my (2020b) reevaluation of the merits of liberal democracies in contemporary global political philosophy.

the quest for a definition has led to substantial confusion given that the term's meaning has shifted substantially during the second half of the 20th century (Haar 2009, 18). As Gaus et al. ([2003] 2020) argue, we must come to realize that "liberalism is more than one thing. On any close examination, it seems to fracture into a range of related but sometimes competing visions". In contemporary public policy debates, 'liberalism' typically refers to a new or revised brand of liberal doctrines (Gaus, Courtland, and Schmidtz [2003] 2020). Such liberalism is usually associated with greater social justice as well as welfare state policies, and it tends to call into question the intimate relationship between individual liberty and private property based on the mechanism of the market order (Gaus, Courtland, and Schmidtz [2003] 2020). Such reinterpretation of the term embodies an alternative vision of liberalism in opposition to John Locke's, Adam Smith's, and John Stuart Mill's 'old' classical liberal framework as well as its revised neoliberal versions of Ludwig von Mises, Friedrich August von Hayek, and others (Wintrop 1985, 91). In this thesis, 'liberalism' predominantly refers to *classical liberalism*. And yet, it must be added that even classical liberals disagree about the concrete features of the term and their definitions differ correspondingly. Fortunately, there is at least a set of basic principles to be found that most scholars of classical liberalism would agree upon: Individualism, freedom, natural law, spontaneous order, rule of law, and limited state.[4]

Unlike versions of collectivist or communitarian doctrines that are predominantly concerned with the wellbeing of the community, individualism emphasizes the rights and the value of the *individual* (Haar 2009, 20–23). In opposition to some critics' claims, individualism does not inherently *deny* the social nature of human beings as well as the crucial importance of cooperation for ensuring survival (Haar 2009, 20). Instead, it is a reflection of the conviction that

[4] The definitions primarily follow Edwin van de Haar's terminology (Haar 2009, 19–35). As pointed out before, the features of the principles can be contested, and they can be defined differently. However, it is not the ambition of this subchapter to provide an exhaustive discussion of the term but rather to lay out a basic foundation for the liberal framework that is the subject of discussion in this thesis. Van der Haar's definitions are a conglomerate of liberal elements consistently mentioned by authors such as John Gray, Norman Barry, Robert Higgs, Carl P. Close, and David Conway.

the individual entity must be the "ultimate unit" political decision-making is based on (Haar 2009, 20).

Unsurprisingly, liberty[5] as liberalism's eponymous core value is typically understood as the most significant condition for individuals to "deal with the challenges in life and for society to prosper" (Haar 2009, 23–24). And yet, it is worth noticing that (classical) liberals are not the only ones that claim to promote the freedom of citizens under their aegis. The quest for the maximization of liberty can be interpreted very differently and can correspondingly give rise to competing imperatives. Isaiah Berlin, the probably most quoted author when it comes to definitions of 'freedom', illustrated its meaning in both the 'negative', and the 'positive' sense. The ideas hidden behind the two terms can be differentiated based on two questions. Negative liberty asks: What is "the area within which the subject … is or should be left to do or be what he is able to do or be, without interference by other persons?" (Berlin [1969] 2002, 169). Such freedom refers to the absence of external obstacles, interferences, and constraints (Carter [2003] 2019).[6]

To illustrate what positive liberty is concerned with, Berlin ([1969] 2002, 169) asks: "What, or who, is the source of control or interference that can determine someone to do, or be, this rather than that?". In its positive connotation, the opportunity to live a free life does *not* predominantly refer to the absence of external barriers. Instead, it has a Kantian taste: Positive liberty refers to an individual's wish to be "his own master" (Berlin [1969] 2002, 178). It is a reflection of the inherent desire to be an end in oneself, rather than an instrument to other people's wills (Berlin [1969] 2002, 178). A free life ought to depend on an individual's own decisions led by its own reasons, wishes, goals, and purposes (Berlin [1969] 2002, 178). This, however, is one of the crucial points in the liberal framework where definitions truly matter. Proponents of liberty in the positive

[5] 'Liberty' and 'Freedom' are used interchangeably.

[6] The definitions of positive and negative liberty used in this subchapter refer to a common mainstream reading of Berlin's work. And yet, it must be noted that these terms are heavily debated. One example for an alternative notion is Matthew H. Kramer's definition. He describes socio-political liberty as a physical unforeclosedness and critically scrutinizes Hobbes's modern idea of negative liberty as well as Skinner's reading (Kramer 2003, 3–4, 2003, 46–53).

sense may voice the argument that people must be *enabled* to prosper in life and that, correspondingly, it can be necessary to (re-)distribute recourses to promote this ambition. This type of interpretation can be found in the 'new' or 'welfare state' liberalism (Gaus, Courtland, and Schmidtz [2003] 2020). In opposition, *classical* liberals are typically concerned with the protection of individual liberty from external interferences, such as other people or a state entity (Haar 2009, 23–25). Correspondingly, they most commonly emphasize *negative* liberty (Haar 2009, 23).

Interestingly, an advocacy for individual liberty can arise from utilitarian and consequentialist calculations by constructing "a theory of a free society with reference to the positive outcomes for individuals of free markets and limited government" (Haar 2009, 25). However, liberalism's fundamental doctrines and its emphasis on individual freedom is predominantly based on theories of natural laws and natural rights instead (Haar 2009, 25–26). Historically speaking, such rights and laws were frequently of religious origin (Haar 2009, 25–26). Since classical liberals (and agnostic people) struggle with the existence of metaphysical commandments, they typically promote modest and nonreligious versions of natural law doctrines (Haar 2009, 25–26).

A dividing feature in liberal thought that separates social welfare liberals and classical liberals is the level of state interventionism. 'New' liberals are more enthusiastic about utilizing governmental measures, for example to achieve a desirable allocation of goods, however, classical liberals – in opposition – define 'spontaneous order' as an outstanding characteristic of liberalism (Haar 2009, 28–29). As the term suggests, such order is not a result of an explicit design based on a strict set of rules or a divine architecture (Haar 2009, 28–29). Instead, it is the product of spontaneous developments and competing strategies for handling certain affairs that exceed every individual's control (Haar 2009, 28–29). Such spontaneous evolutions are a result of trial and error as well as social practices. (Haar 2009, 28–29) The free market, the use of monetary currency, and the development of complex conventions (such as languages) are the best known examples (Haar 2009, 28–29).

Although the term ‘law’ typically refers to a defined set of rules that every member of a society is bound to obey, there is a higher principle – the rule of law – that all legislation must follow (Ashford [2001] 2003, 76). It follows that “legislation and government orders can be measured against a set of moral principles known as natural law” (Ashford [2001] 2003, 76). Even classical liberals must admit that not all social order and security can arise in a purely spontaneous way and the existence of laws are a necessary fact (Haar 2009, 30). Correspondingly, legislation governed by the rule of law is an attempt to meet the demand for the protection of especially individual lives and property under its aegis (Haar 2009, 30). The importance of the rule of laws builds upon one simple observation: People are flawed and imperfect creatures (Haar 2009, 30). It mirrors James Madison’s prominent remark in the Federalist Paper No. 51: “But what is government itself, but the greatest of all reflections on human nature? If men were angels, no government would be necessary” (Genovese 2009, 120). Classical liberals advocate that such laws must be equally binding to everyone, but their scope should be limited. John Locke’s fundamental vision of liberal doctrines stresses particularly the protection and preservation of inalienable rights to liberty, life, and private property (Locke [1689] 2003, 136–37).

Although classical liberals *do* have an explicit preference for a slim state and a government with clear limitations, it is challenging to define a precise threshold between the areas in which the state is allowed to get involved and the areas in which the individual’s private sovereignty is to be paramount. Locke ([1689] 2003, 136), for example, indeed stresses a set of inalienable rights which make him a prominent reference point for modern libertarians. Yet, as we will find in 6.2.1, his proviso also demands that upon appropriating land and property via my labor “I must leave ‘enough and as good’ for others” – an imperative that we may well interpret as a justification for interventionism once we find that this condition is no longer met (Schwartz 1992, 262). John Stuart Mill’s thought follows a somewhat related reasoning: As we will explore in detail in 24.2, he is highly skeptical towards governmental interventionism that runs the risk of undermining autonomy and self-ownership. In Mill’s ([1859] 2009, 163–64)

philosophy, the ‘harm principle’ plays an important role, implying that individual liberty ought to be paramount as long as no harm to third parties (or, unknowingly and unwillingly, to oneself) occurs. But at the same time, he is also a utilitarian, making him clearly aware of, for example, (declining) marginal utility in the amassment of wealth, and of the advantages of an educated population on a social level (Teixeira and Dill 2011, ix). Finally, even the ‘father of capitalism’, Adam Smith ([1759] 1853, 26–27), is only *wrongly* described as an advocate of laissez-faire market societies. Whereas he indeed emphasizes self-interest, what is frequently overlooked is his significant concern for self-constraint and an adequate institutional framework (Wight 2007, 352–53; Smith [1759] 1984, 26–27). After all, to Smith, self-interest is merely *one of three* instincts; only while also paying attention to the ‘social passion’ and the ‘unsocial passion’ (= a sense for justice) do we adequately capture his whole framework (Wight 2007, 343–45). Correspondingly, the classical liberal tradition is rich, it should not be misinterpreted as a philosophy that necessarily gives rise to neoliberalism, libertarianism, and laissez-faire markets, and we can indeed find grounds for interventionist government policies and a departure from a radical night-watchman state – either to satisfy the Lockean proviso, to meet the consequentialist facet of Mill’s utilitarianism, or to transcend Smith’s self-interest in order to honor the social passions and the instinct for justice.

However, it is worth emphasizing – especially due to certain reoccurring misinterpretations – that even some *(neo-)liberals*, such as Friedrich August von Hayek ([1944] 1999, 35-44; 66-67), whose neoliberal convictions were a prominent subject of major criticism in recent decades, allow for a minimum level of social security. Although Hayek’s ([1944] 1999, 35-44; 66-67) liberal vision is shaped by great skepticism for planned economy and for infringements upon individual rights, he yet promotes a slim version of social security, including the provision of educational opportunities and urban planning. As it was pointed out before, the range and role of the state is subject to controversial debates within the liberal tradition, and the dominant positions have drastically shifted during the last decades (Gaus, Courtland, and Schmidtz [2003] 2020). Proponents of classical

liberalism typically claim that only limited government can be justified, whereas newer versions of liberalism with the rise of social justice theories allow for a broader state (Gaus, Courtland, and Schmidtz [2003] 2020). A major driving force behind the shift from classical liberalism to social welfare liberalism is the decline of trust in free markets, which is also one of most relevant contemporary critiques aimed at the liberal world order as will become evident in subsequent discussions (Gaus, Courtland, and Schmidtz [2003] 2020).

This list of typical liberal features is not at all exhaustive. As Nigel Ashford ([2001] 2003, 4–95) illustrates in his eponymous work, the *Principles for a Free Society* also include civil society, democracy, equality, free enterprise, justice, peace, and tolerance. All above-mentioned principles deserve a more extensive treatment. In fact, especially the ideals of 'justice' and 'equality' *will* be subject to critical scrutiny in the arguments on marketization and equality of opportunity later on. However, this short introductory depiction of liberalism's most essential pillars suffices to provide a basic idea of the philosophical doctrine that manifests itself in liberal societies and allows for a certain understanding of the criticism aimed against Western democracies in recent decades.

3.2 Autonomy, Liberty, and Coercion

To lay the groundwork for the subsequent chapters, there is another set of concepts to be found that are of crucial importance within the liberal arena and must be briefly explained, too. Three terms that tend to make an appearance in any discussion on individual freedom (and its limitation) are autonomy, liberty, and coercion (Wedekind 2020a, 6–8; Kayßer and Wedekind 2021, 3–4).[7]

In modern political thought, substantial moral value is granted to the individual, and crucial importance has been attributed to the preservation of its

[7] The following ideas on the terms 'autonomy', 'coercion', and 'liberty' have previously been illustrated in a similar form in my (2020a) article proposing a critical stance towards paternalistic legislation and in my co-authored (2021) discussion of 'the individual' within advance euthanasia directives based on a liberal and a Foucauldian perspective.

liberty (Wertheimer 2002, 38; Feinberg 1986, 27–28; Kant [1793] 1964, 145–46). Correspondingly, ideals such as autonomy, self-government, and self-determination have become crucial terms within the debates of political philosophy and public policy alike (Wertheimer 2002, 38; Feinberg 1986, 27–28; Kant [1793] 1964, 145–46). 'Liberty', 'autonomy', as well as a lack thereof (= 'coercion') are concepts that can be debated in great detail. However, such in-depth discussion would, again, exceed the scope of this thesis and therefore, a mainstream definition of the relevant terms must suffice.

'Autonomy' – linguistically originating from the Ancient Greek 'autonomia' for 'law by the self' – most commonly refers to a state of self-rule in which an individual follows its own laws (Feinberg 1986, 27–28). Building upon the thought of Joseph Raz, Michael Blake (2001, 267) concludes that autonomous agents are characterized by the capacity to develop their own relationships as well as their individual goals, and they ought to be the (predominant) authors of their own lives. However, autonomy – and these are crucial conditions – depends on the agents' cognitive faculties, and they must be enabled to *choose* from a set of options. (Blake 2001, 267). Correspondingly, for an action to be the result of self-government, freedom is a necessary requirement (in opposition to coercion, which undermines an individual's autonomy): "Coercion and manipulation … reduces the will of one person to the will of another; they are marked as violations of autonomy not simply in virtue of that fact, but because of the symbolic gesture this fact represents" (Blake 2001, 268).

Joel Feinberg (1986, 28) brought forth a similar idea: For an autonomous agent to have a *claim* to self-government, such individual must also have the *capacity* to lead a self-governed life. This capacity, however, is, in turn, determined by the ability to act in accordance with rationality and, as a result, may exclude people with impaired or (not yet) fully developed mental faculties (children, mentally ill people, etc.) (Feinberg 1986, 28). Autonomy is frequently linked to a self-determined life, happiness, flourishing, and dignity. Immanuel Kant ([1793] 1964, 145) goes as far as to insist that no autonomous individual must be coerced to seek happiness in a way that was forced upon him by any

external agent. Correspondingly, autonomy is an antagonistic position to what may be called 'heteronomy' – if we translate directly from the Ancient Greek – a 'law being given by someone other than the self': "If the will seeks the law that is to determine it anywhere but in the fitness of its maxims for its own legislation of universal laws, and if it thus goes outside of itself and seeks this law in the character of any of its objects, then heteronomy always results. The will in that case does not give itself the law, but the object dos so because of its relation to the will" (Kant 1993, 45). In opposition to the undesirable idea of a heteronomous life, every *autonomous* person should engage in an distinct quest for fulfillment guided by his own goals and purposes, and such an individual's freedom should be limited *only* to ensure that all other autonomous agents have the same liberties. (Kant [1793] 1964, 145–46). However, similarly to Feinberg's reasoning, Kant's vision of autonomy is linked to certain conditions, suggesting that autonomy is "a property of the *will* of rational beings" (T. E. Hill 1991, 29). As Thomas E. Hill Jr. (1991, 29) explains, to "have a will is to be able to cause events in accord with principles. That is, a rational being has a will insofar as he can 'make things happen' … To have autonomy it is also necessary to one's will to be *free in a negative sense*".

As illustrated before, negative freedom refers to the absence of external constraints, broadly speaking (Berlin [1969] 2002, 169). Accordingly, in the area of civic rights and duties, Berlin ([1969] 2002, 169) suggests that *political liberty* describes the extent to which an individual is able to act unimpeded by obstructions through other parties in a society. However, not every single type of inability to act falls under the umbrella of political *liberty-limitations*: The loss of eyesight depriving a person of his ability to read a book, for example, does *not* constitute a coercive liberty-constraint via an external agent (Berlin [1969] 2002, 169–70). Interestingly, Berlin ([1969] 2002, 178) also illustrates the important link between freedom, autonomy, and rationality: "This is at least part of what I mean when I say that I am rational, and that it is my reason that distinguishes me as a human being from the rest of the world. I wish, above all, to be conscious of myself as a thinking, willing, active being, bearing responsibility for my choices

and able to explain them by reference to my own ideas and purposes. I feel free to the degree that I believe this to be true, and enslaved to the degree that I am made to realize that it is not".

When it comes to the term 'coercion', one is destined to encounter a controversial and challenging terrain due to a wide variety of competing definitions (Stevens 2005, 207). Advocates of negative freedom seeking to maximize its range are tempted to demonize any type of policy that may infringe upon individual liberty. At the same time, there are proponents of benevolent versions of liberty-limitations (such as paternalism) to be found arguing that coercion can in fact be "expanding opportunities and assistance for all to lead healthy and productive lives" (Stevens 2005, 208). Since coercion addresses both moral judgments and empirical questions alike, it lacks an unambiguous definition (Macleod 2008, 63–64). Coercion as a liberty-limiting mechanism is prima facie at odds with fundamental liberal principles such as autonomy and, correspondingly, both the coercive act, and the (moral) justifications deserve attention (Blake 2001, 272). Karl de Schweinitz (1957, 167) provides an approximation of the term that mirrors a simple and intuitive definition: "Coercion may be defined as the act by which one individual (or group) compels another individual (or group) to behave in a way that conflicts with his (or its) preferences or conscience. It is, in other words, a means by which A controls the behavior of B".

Coercion can be exerted explicitly and implicitly: "Coercion is explicit where specific and easily identifiable organs of society compel people to behave in some particular way" (Schweinitz 1957, 168). As an example, a state's police power frequently makes use of *explicit* coercion (Schweinitz 1957, 168). An instance of *implicit* coercion is given when "the structure of, and the values symbolized by, social institutions restrain the behavior of individuals" (Schweinitz 1957, 168). An example of implicit coercion is the price system that compels the behavior of people under its rule (Schweinitz 1957, 168). The question how coercion ought to be defined can be the subject of a comprehensive debate. However, for this thesis a rather simple definition of the term suffices.

Based on Alistair Macleod's (2008, 65) *Coercion, Justice, and Democracy*, coercion can be summarized as a liberty-limiting type of binding legislation exerted by rule-enforcing institutional arrangements that are, in turn, backed by sanctions for non-compliance.

3.3 A Subject of Relentless Criticism

Liberal principles have attracted a great number of critics voicing a wide variety of accusations against Western political systems ever since Fukuyama made his initial declaration in 1989. Some critics are concerned with individualism's corrosive effects on the public community: "A degraded form of citizenship arises from liberalism's relentless emphasis upon private over public things, self-interest over civic spirit, and aggregation of individual opinion over common good" (Deneen 2018, 165). Related accusations originate from thinkers in the communitarian tradition, as it will be illustrated based on Michael Sandel's (2012) critique later on. But especially the repercussions of liberalism's emphasis on individual liberty, and by extension economic liberty, have frequently been described as symptoms of the fundamental inadequacy of neoliberalism's hegemonic power (e.g. W. Brown 2015, 218–20; Lastra and Brener 2017, 49–51).

This is an adequate place to briefly specify how we may define 'neoliberalism' – a step that also implicitly shows why it has attracted substantial criticism ever since it came to power, especially in the U.S. and Britain, in the 1970s: What we can describe as both the core feature, and the core problem, of neoliberal ideology which predominantly arose from Hayek's political thought, is the observation that it takes a specific set of classical liberal principles and, essentially, declares them to be paramount (Harvey 2011, 64; Moody 2008, 53–54). While, as David Harvey (2011, 64–65) observes, neoliberalism *does* pay attention to the rule of law, the neoliberal state yet adopts "strong individual property rights" as well as "institutions of freely functioning markets and free trade" as supreme principles, and it is easy to figure out that such emphasis has

the capacity to undermine the importance of other fundamental principles to be found in the inventory of classical liberal convictions. As has been briefly shown in 3.1 and as will be further illustrated in part II of this thesis, cherry-picking through the repertoire of classical liberalism in order to create the foundation for a modern libertarianism or neoliberalism hardly exhausts the richness of the liberal tradition. Negative liberty and economic freedom are merely one side of classical liberal doctrines. Genuine concern for sufficient equality and justice within a liberal meritocracy, for example, can well allow us to feature a very different stance on state interventionism and an unfettered economic hegemony. Individualism, competition, and merit, the debate in chapter 6 will lead us to conclude, can be bordered by an institutional framework that honors other principles of classical liberalism, such as equality of opportunity, justice, and civil society.

While maneuvering in this liberal terrain, we frequently encounter a tension, or trade-off, for example, between the liberal principles of 'freedom' on the one hand, and 'equality' on the other (LaVague-Manty 2009, 5). This brief excursion is truly worth keeping in mind for the criticism discussed in this subchapter, but also for the larger debates of marketization, neoliberalization, meritocracy, and (in)equality of opportunity in part II of this thesis. And while a more comprehensive illustration on the clash of equality and liberty will follow in multiple places later, it is yet worth briefly mentioning that this tension manifests itself in typical common-sense distinctions, but also in different systems of personal status. The common trade-off can be described like this: An emphasis on *liberty*, on the one hand, can imply that people should simply be allowed to do whatever they want. On the other hand, *equality* can entail that opportunities, outcomes, or political rights, for example, must be equalized, in turn, *limiting* unfettered freedom. But – and this contrast will become important especially in the subsequent debates on meritocracy – the two terms also operate based on different dimensions: Meritocratic excellence as an extension of liberty "is comparative and hierarchical" whereas "equality is, well, egalitarian" (although we will later explore the claim that excellence is only meaningful if a certain level

of equality is met) (LaVague-Manty 2009, 4). All of this is perfectly summarized by Berlin ([1947] 2013) in a crucial paragraph in his *The Crooked Timber of Humanity*: "Equality may demand the restraint of the liberty of those who wish to dominate; liberty – without some modicum of which there is no choice and therefore no possibility of remaining human as we understand the word – may have to be curtailed in order to make room for social welfare, to feed the hungry, to clothe the naked, to shelter the homeless, to leave room for the liberty of others, to allow justice or fairness to be exercised" (Berlin [1947] 2013, 13).

In recourse to these brief remarks on the classical liberalism versus neoliberalism debate, the supreme principles of neoliberalism now enable us to better understand the nature of neoliberalism in comparison to classical liberalism and allow us to return to the critique of contemporary neoliberalism. Furthermore, we can locate the prominent claim that neoliberalism is a corrupting force with regards to civil society as well as communal cohesion, and a powerful rhetorical tool of plutocratic elites (Littler 2013, 53). Some authors in the footsteps of Marx and Foucault even go as far as to claim that unfettered markets and capitalism have led to a socioeconomic trend that deceitfully restores a class society (Harvey 2006, 152).

And yet, there is something tragic about such distortion of liberal thought. In the second half of the 20th century, neoliberalism had one simple task: To stimulate worldwide growth, broadly speaking (Harvey 2006, 151). Unfortunately, critics, including Harvey (2006, 151), are convinced that this ambition has most widely failed. Although even the most confident opponent of neoliberal doctrines must admit that neoliberalism indeed *did have* remarkable economic effects, it certainly *did not* live up to its own promises (Harvey 2006, 151). Neoliberalism was far from equally beneficial to the whole population strata (Harvey 2006, 152). Instead, there is a case to made that it has tremendously favored those parts of the population that were already wealthy, restoring power to the ruling classes and giving rise to a capitalist elite (Harvey 2006, 152). Neoliberalism became a manifestation of an anti-Marxist development: Marketization and privatization equipped massive corporations with the tools to

consolidate and expand their positions of power and deregulations "allowed the financial system to become one of the main centers of redistributive activity through speculation, predation, fraud and thievery" (Harvey 2006, 153–54). Furthermore, the manipulation and exploitation of crises as well as the rollbacks in financial redistributions lead Harvey (2006, 149–54) to conclude that neoliberalism's true quest was the devious restoration of class power, rather than the enablement of all-encompassing economic growth that benefits society in its entirety. Natural resources and common goods have been depleted by large companies as a result of privatization, and social benefits, welfare state mechanisms, and common property rights have been revoked (Harvey 2006, 153). Harvey (2006, 157) has clear words for such pathological development: "The first lesson we must learn, therefore, is that if it looks like class struggle and acts like class struggle, then we have to name it for what it is". Correspondingly, the first step to push back against neoliberalism's hegemonic power is the imperative to tear "aside the neoliberal mask and exposing its seductive rhetoric, used so effectively to justify and legitimate the restoration of that power" (Harvey 2006, 158). Thomas Lemke (2002, 54) adds that neoliberalism is filled with inherent contradictions and it is better characterized as an ideology[8], rather than a genuine theory. Its principles tend to be manipulative and faulty, unable to stand "the light of 'true' laws of society and the 'real' mechanisms of politics" (Lemke 2002, 54). Although defenders of neoliberalism have attempted to "'civilize' a 'barbaric' capitalism that has nowadays gone beyond control", critics yet point to the pathological extension of economic forces into the domains of politics with capitalism standing victorious over the state itself (Lemke 2002, 54). Lemke (2002, 54) describes neoliberalism "as 'practical antihumanism'". Such judgment, which is clearly based on Foucauldian and Marxian roots, certainly ranks among the more dramatic phrasings of neoliberalism's questionable repercussions. And yet, it indeed *does* touch upon a sentiment that is, in part, mirrored by an

[8] Although 'ideology' has received a charged notion through "Napoleon's influential use as a pejorative term" as well as the Marxist attempts to "understand how social relationships work to legitimise capitalism", 'ideology' will also be used as a more neutral term referring to the "science of ideas" which can yet, especially in this this thesis's critiques, consider its "ritual and material functions, psychological effects and role in cultural power struggles" (Littler 2018, 9).

increasing number of political thinkers and bears responsibility for the growth of resentment and declining trust in liberalism.

Even though his arguments are motivated by a 'communitarian' vision of society, Sandel addresses multiple socioeconomic and political problems that are stunningly similar. Following Michael Walzer's (1983, 3–50) terminology, Sandel bases his reasoning on the separation (and lack thereof) between the spheres of our common life and the different sociopolitical dimensions in society. He analyses the hegemony of the financial and monetary sphere that began to dominate not only the economic sector but also the social life especially under the reign of Margaret Thatcher and Ronald Reagan in the 1980s (Sandel 2012, 2–3). One of the most alarming consequences we witness, so Sandel (2012, 4) suggests, is that the vocabulary and logic of markets have increasingly crowded into the domains of communal life that were traditionally governed by non-market norms. Due to an increasing number of goods and services being 'up for sale', economic wealth has acquired a previously unknown power making it necessary "to ask whether there are some things money should not buy" and to have a debate about the role (and the limitations!) of a free markets (Sandel 2012, 1–9). When it comes to liberalism's role as a foundational doctrine in Western democracies, such an advocacy is essential for at least two reasons.

First, Lemke (2002, 54) claims that (neo-)liberal principles are *inherently contradictory*, and they can clash with each other – although the relationship between the principles may be better (or more moderately) described as a *tension*, rather than a contradiction. Liberalism preaches both freedom, and equality. An emphasis on individual liberty and, by extension, private property, free exchange, and unfettered markets allow for, at least in theory, every good and service to be traded if all parties involved voluntarily consent and the bargain is not a result of coercion. Such vision clearly falls under the umbrella of a libertarian and market-liberal perspective (Gaus, Courtland, and Schmidtz [2003] 2020). However, other liberal ideals such as democracy, justice, and equality demand for equal political rights, for example the right to vote. This conclusion is predominantly stressed by 'new' liberals advocating a revised version of liberalism with greater social justice

elements (Gaus, Courtland, and Schmidtz [2003] 2020). The clash between those principles (and its proponents) can easily be explained based on countless questions or scenarios. Should, for example, an individual have the liberty to sell his vote, organs, or even freedom to the highest bidder? An advocate of unfettered markets and free trade may at first glance be tempted to answer 'yes', whereas a defender of equal political representation, unimpeachable dignity, and civic rights would certainly object. Despite both groups claiming to champion for liberal principles, giving economic liberty preference over social and political equality (and vice versa) sorts liberals into highly dissimilar camps of liberalism, and the policy prescriptions they potentially favor can be deeply at odds with each other (Gaus, Courtland, and Schmidtz [2003] 2020). Furthermore, in a Sandelian manner the 'economic liberty versus political equality' controversy provokes the question whether there are civic goods (such as the right to vote) that ought to be untainted by market interactions. And yet, the general tension is clear: An insistence on one liberal principle can push back another liberal principle.

A second reason to feel uneasy about the current hegemonic power of the economic sector in liberal democracies and beyond is embodied by a phenomenon Sandel names 'Skyboxification' – a term that will again show up in the more extensive discussion of marketization in chapter 5 (Sandel 2012, 135–36). Skyboxification can be characterized as an alarming trend where the corrosive effects of free enterprise, unfettered markets, and economic liberty increasingly lead to the disintegration of communal cohesion and social fabric. Sandel (2012, 136) eloquently concludes in his *What Money Can't Buy: The Moral Limits of Markets* as follows: "At a time of rising inequality, the marketization of everything means that people of affluence and people of modest means lead increasingly separate lives. We live and work and shop and play in different places. Our children go to different schools. You might call it the skyboxification of American life. It's not good for democracy, nor is it a satisfying way to live".

Sandel's prominent voice is by no means the only powerful moral criticism of markets. Even among economists, there is a growing sentiment that economics alone is insufficient to fathom the moral basis of its discipline and that

zealous defenders of the market hegemony play a dangerous game: “By fostering the steady disintegration of these communities [families, neighborhoods, religious fellowships, local political associations, and other voluntary groups], market transactions may tend over time to undermine the moral foundation upon which they rest” (Heyne 1995, 7–8). Correspondingly, Heyne (1995, 8) concludes that this “in itself is sufficient reason for those who place high value on the maintenance of market systems to remain in dialogue with the moral critics, who constantly remind us that a moral consensus is essential to every society and that its nurture and preservation is not a task that can safely be left to the market alone”.

Liberalism has repeatedly been described by its critics as a cold, atomistic, and corrosive ideology, and this short conglomerate of Harvey’s, Lemke’s, Sandel’s, and Heyne’s evaluations allows for the origin of such critiques to be located. Fascinatingly, there are also political authors to be found that share such assessment of the inadequacy of liberalism’s repercussions in modern society but yet reject the notion that *liberalism has failed to deliver* (Deneen 2018, 3). Instead, Patrick Deneen (2018, 3) argues that liberalism did exactly what it promised to do: “Liberalism has failed – not because it fell short, but because it was true to itself. It has failed because it has succeeded. As liberalism has ‘become more fully itself,’ as its inner logic has become more evident and its self-contradictions manifest, it has generated pathologies that are at once deformations of its claims yet realizations of liberal ideology”. Deneen claims that the widely discussed problems to be found in Western liberal democracies are not symptoms of a *flawed* implementation of liberal doctrines or of liberalism’s inability to fulfill its promises. Instead, it is a *testimony of its success*. However, as Deneen (2018, 4–5) continues, unfortunately it is the success of an ideology whose emphasis on neutrality is nothing but an insidious pretense.

Such overwhelming critiques are not an entirely new phenomenon. It would be a mistake to think that only in recent years we have come to realize that Fukuyama’s initial claim on liberalism’s status was overly optimistic. Much of what has been said is mirrored in John Gray’s judgment from 1993. Only four

years after the USSR collapsed, he already argued that there are other types of human government to be imagined under which people could flourish (Gray 1993, 245–47). Such political frameworks could include, for example, authoritarian civil societies in East Asia, and Gray (1993, 245–48) clearly denied liberalism's claim to exceptionality that Fukuyama had previously been convinced of. As Gray (1993, 247) illustrates, "authoritarian civil societies of East Asia – South Korea, Taiwan, and Singapore – have combined an extraordinary record of economic success with the protection of most individual liberties under the rule of law without adopting all the elements of liberal democracy". This is an element of the discussion that will come to the fore again once we discuss the *meritocratic* character of liberal democracies on a global stage in chapter 5, 6, and in the conclusion. Achievements that were assumed to be unique to Western democracies can be replicated and, similarly to Deneen (2018, 4–5), Gray (1993, 249) argues that the widespread preference for liberal democracy at that time, including Fukuyama's statement, are merely symptoms of liberalism's hegemonic power in American thought. He concludes that "liberal ideology guarantees blindness to the dangers that liberalism has itself brought about" and "that the days of liberalism are numbered" (Gray 1993, 250).

As this section demonstrates, prominent critiques are aimed both at the socioeconomic repercussions of the neoliberal order, and liberalism's allegedly fundamental inadequacy as a political framework. In the footsteps of Marx and Foucault, Harvey and Lemke argue that especially economic maldevelopment, privatization, deregulation, and unequal growth risk restoring power to privileged capitalist classes and giving rise to an inhumane society. The repercussions of such a socioeconomic separation are reinforced by the corrosive effects on social fabric and communal cohesion described by Sandel. It is worth pointing out that these voices are not raised merely for the sake of criticizing modern neoliberalism, but they are crucially relevant to the debate on meritocracy and equality of opportunity in part II of this thesis and, therefore, serve as essential building blocks for the overall argument.

When we dive into the critique of meritocracy in 5.2.1 and 5.2.2, and before we, subsequently, follow the question what can be done to improve the situation, we will find that meritocracy runs risk of embracing atrocities such as the logic of eugenics, genetic engineering, and the abolishment of the family if we *push it to its extreme*. However, fully in accordance with the criticism summarized above, we will *also* come to realize that we are currently witnessing problems of highly imperfect *implementation* given that we are facing a type of *neoliberal* meritocracy with *plutocratic features* that produces winners but also losers in an individualistic system of permanent competition which degrades and demoralizes people at 'the bottom' together with their class and professions. While this thesis indeed argues the point that a *genuine* meritocracy is a sensible justice principle and a valuable tool for efficiency, the debate yet begins with the assessment of the problem that neoliberal plutocratic meritocracies currently contribute to the separation of the population strata which, in turn, then drift further apart and produce severe injustices due a lack of the very equality of opportunity meritocracy rests on. Correspondingly, the critique covers distinct categories, such as the repercussions on communal relationships and social fabric, the psychological harm and alienation of those who end up at the bottom of the meritocratic hierarchy, and the practical obstacles for social mobility. With this brief blueprint of the essential concerns of chapter 5 and 6 in mind, it should be evident how this subchapter as well as the subsequent one provide the bricks and the mortar for the overall narrative of this thesis, culminating in the comprehensive debate on meritocracy, equality of opportunity, and the corresponding advocacy for better access to higher education in part II.

Before advancing the perspective that liberal democracy, and, by extension, a well-functioning meritocracy, is a political and ideological framework worth keeping, in chapter 4, an entirely different type of critical claim is now scrutinized in detail: It is not only the aforementioned real-world manifestation of liberal thought that can lead to undesirable consequences, but the liberal doctrine runs into problems already on a fundamental definitional level.

The subsequent discussion of 'the autonomous individual' that was also subject to scrutiny in an earlier writing is but one example (Kayßer and Wedekind 2021).[9]

3.4 Liberal Incoherence – The 'Individual'

Based on a controversial case of assisted suicide offered to and eventually enforced on a demented woman vainly resisting the procedure, this section discusses the problems that arise when the human entity is conceptualized as an individual primarily defined by his ability for rational self-expression and autonomous self-rule. Therefore, this subchapter serves the purpose to provide an exemplary case that illustrates how liberal doctrines, as previously claimed, can indeed give rise to tensions, controversies, and challenging definitions on a fundamental level. To highlight these difficulties, a liberal view on 'autonomy' – a term which serves as an *ideal* but is yet subject to *conditions* – is scrutinized. Given that liberal political theory alone is insufficient to fully reflect the changes of personality by which an individual's fight for autonomy bears the potential to turn into unalterable heteronomy, it is complemented by the thought of Michel Foucault. With his attention to societal mechanisms which bring individuals about – a process termed 'individuation' in the following – cases like the aforementioned scenario wherein individuals are forced to *divide* themselves *from* themselves can be critically analyzed. Such an approach illustrates that the established notion of the 'individual' can be led ad absurdum, and its validity as both an analytical idea and a normative vision should be challenged. As a result, there is a need for a more clairvoyant concept of the human person to be articulated, capable of conciliating the discontinuous nature of existence. Correspondingly, this section serves as a tool that allows for an example of paradoxical or incoherent connotation within liberal doctrines to be illustrated. The chief aim, therefore, again, is to point out that not only are pathological real-

[9] Following a similar structure, the case of the 'autonomous individual' as an incoherent liberal ideal was previously discussed in my co-authored (2021) writing.

world manifestations of liberalism a problem in Western democracies, but the fundamental elements immanent to liberal thought themselves can be challenging.

3.4.1 Deadly 'Heteronomy': A Case from the Netherlands

In 2016 a 74-year-old woman was put to death in the Netherlands while showing signs of resistance. The scenery of this loss of life was no classical crime like a robbery gone wrong or a vile murder (David G. Miller, Dresser, and Kim 2019, 84). Instead, this woman tried to resist a lethal injection by a medical doctor. In 2002 voluntary euthanasia was legalized in the Netherlands allowing patients whose suffering is judged to be unbearable to undergo assisted suicide (David G. Miller, Dresser, and Kim 2019, 84). The abovementioned woman was eligible for such a procedure given she had been diagnosed with Alzheimer's disease – an irreversible brain disorder she was previously forced to witness in a family member deteriorating from dementia. Upon facing the same destiny, she wrote an 'advance euthanasia directive' (AED), wherein she stated: "I want to make use of the legal right to undergo voluntary euthanasia when I am still at all mentally competent and am no longer able to live at home with my husband. I absolutely do not want to be placed in an institution for elderly dementia patients. I want to take a dignified farewell from my precious loved ones… Trusting that at the time when the quality of my life has ended up in the above-described situation, I would like to undergo voluntary euthanasia" (David G. Miller, Dresser, and Kim 2019, 84).

Her condition worsened quickly, and her husband eventually admitted her to a nursing home where the geriatrician in charge was asked to honor her AED. After observing the patient's condition for one month, the geriatrician judged her suffering to be unbearable and decided to execute the euthanasia procedure (David G. Miller, Dresser, and Kim 2019, 85). She placed a sedative in the woman's coffee without informing her "because she 'would have asked questions about (the sedative) and refused to take it'" and also "because 'the physician

wanted to prevent a struggle during the euthanasia'" (David G. Miller, Dresser, and Kim 2019, 85). Yet, during the lethal injection procedure the woman suddenly "tried to get up" in panic and the geriatrician asked the woman's family to "hold the patient in place" enabling her to administer the final dose (David G. Miller, Dresser, and Kim 2019, 85).

It is not clear whether she suffocated consciously, and it is not even known if the patient truly understood that she was about to die. Yet, this woman clearly demonstrated a will of her own resisting the procedure under duress. This incident calls into question both if this *eu thanatos*, Ancient Greek for 'good death', indeed offered her the possibility of taking 'a dignified farewell' from her precious loved ones in a 'voluntary' manner, and whether the ethical guidelines were honored (David G. Miller, Dresser, and Kim 2019, 84). The case was taken up by the Dutch euthanasia review committee which concluded "that the euthanasia was not performed in a medically careful manner", but the geriatrician was yet acquitted of all charges before the criminal court (David G. Miller, Dresser, and Kim 2019, 87). Even the Dutch High Court followed the previous ruling, arguing that a physician may respond to a written request for euthanasia made before someone develops advanced dementia "even if the patient's condition means they become unable to confirm that request" (Krever and Woodyatt 2020). Correspondingly, the law fully approved of the patient's life to be ended based on the AED even though she repeatedly stated "'But not just now, it's not so bad yet!'" during the one month of surveillance in the nursing home (David G. Miller, Dresser, and Kim 2019, 86). According to the geriatrician, the patient's "conflicting statements about euthanasia were 'not relevant' because they reflected her lack of awareness and insight" (David G. Miller, Dresser, and Kim 2019, 87). The geriatrician concluded that even "if the patient had said at that moment: 'I don't want to die', the physician would have continued with the termination of life" (David G. Miller, Dresser, and Kim 2019, 86).

This controversial case provokes obvious but pressing questions: Is it morally acceptable to terminate a person's life who has laid down his will to die in an AED, but who at the time of executing the euthanasia is either unable to

confirm his previous will or even attempts to resist the procedure? More abstractly speaking, is a *present* self allowed to lawfully bind its *future* self's will if that future self is judged to be not 'sane' any longer? Such questions have been subject to abstract philosophical as well as practical medicinal-ethical debates within the arena of the 'then-self versus now-self' problem before (Blackhall et al. 1995; Cantor 1992, 1993; Beaufort and van de Vathorst 2016; R. Dworkin 1986, R. Dworkin 1993; Herskovits 1995; Menzel and Steinbock 2013; Post 1995; Rohde, Peskind, and Raskind 1995; Thomasma 1991). Underlying the different positions on the matter are assumptions on the psychological continuity of the human being's identity in question. Some scholars advocate a fundamental psychological *discontinuity* in case of severe dementia effectively dividing the selves into two distinct persons (Behuniak 2011; Dresser 1995; Perkins 2007). The present autonomous self, so the argument goes, has the authority to override the potentially divergent judgment of its impaired future self. Ronald Dworkin (1993) and others imply that psychological identity is *continuous* even in case of severe dementia (Cooley 2007; Demarco and Lipuma 2016; Quante 1999). He sees no new person arising but rather the capacity for rational judgment fading which, in turn, deprives an individual of his autonomy (R. Dworkin 1993, 226–32). In light of this threat, he views AEDs as a preventive mechanism that contracepts the danger of being trapped in a deteriorating mind and body with no hope of alleviation besides natural death (R. Dworkin 1993, 226–32). Following this view, AEDs are *means for self-determination* when the self has lost its ability to truly decide for itself. Dworkin (1993, 226–29) proposes the term "precedent autonomy" – a law given *to* oneself *by* oneself at a *previous* point in time.

Both arguments are deeply problematic when it comes to the common liberal conceptualization of the term 'individual'. In the first argument, the in*dividual* is *divided* by the Alzheimer's disease into two radically different entities, making it nonsensical to adhere to the notion of the same 'individual' characterizing these two persons. The now-self would have been an individual only until it is eventually divided, but then it has never truly been an individual in the first place but rather a 'to-be-divided'. Similarly, it seems misleading to

describe the then-self as an individual if it came into effect by an operation that has divided it from the former now-self. In the second argument, psychological continuity is admittedly preserved but an inner division takes place via a temporal barrier between the now-self and the then-self nevertheless: The full capacity to decide in a rational manner is assigned to the now-self, while denying the same capacity to the then-self. So, while a first division seems to occur at some point in future time – rendering the individual effectively a *dividual* – a second division takes place when a hierarchy is established between the rule of the now-self and the powerlessness of the then-self. The latter must abide, resistance notwithstanding, while the former rules supreme without an actual presence.

And yet the term 'individual' is ubiquitous, considering the official and institutional narratives not only about the 'smallest political unit' in society but also the substantial value liberal democracies attribute to individualism (Haar 2009, 20). Providing citizens with the greatest individual liberty and self-governance ranks among the most prominent goals in Western societies, as we have seen before. Within this contrast, various challenging questions come to the surface: How can 'one' conceive of oneself as an individual considering the powerful societal mechanisms that urge to divide oneself? How is one to be considered an indivisible 'one' when coherent unity can only be achieved by the expulsion or suppression of incoherent parts? Is it truly feasible to cling to the term 'individual' when it comes to conceptualizing the human being within society and throughout time? Such adjacent questions set the stage for the philosophical focus of this subchapter.

First, one must ask in what manner the 'individual' has been conceptualized in the canonical corpus of liberal political theory both analytically and normatively. Analytically, the 'individual' is embedded in the specified array of related concepts (individualism, liberty, coercion, autonomy) as an entity whose *right* to self-government is tied to his *capacity* for self-government. Normatively, the individual is depicted as the ideal which liberalism formulates as one of the crucial political ends to be realized within Western society.

Second, a perspective on the ‘individual’ is introduced which is usually thought starkly at odds with liberalism, namely that of the French philosopher Michel Foucault. What is regularly conceived as his critical genealogy of the modern ‘subject’, so the argument advances in this section, can easily be reformulated into a likewise critical assessment of the process which generates individuals in the first place: The process of ‘individuation’. This shift in perspective on the ‘individual’ and his ontogenesis allows us to return liberalism’s conventional account of the individual and shed light on its tacit inconsistencies and the problematic contradictions which ultimately threaten at times to flip the aspiration for autonomy into the realization of an inescapable heteronomy.

Thus, it is the hypothesis that if the liberal appreciation for the singular human being shall remain a lasting principle of Western politics, we need to stop taking the ‘individual’ as an ever-existing fact and turn our attention to the often unseen and sometimes questionable practices of ‘individuation’. It is the way by which we generate individuals, and not the existence of individuals per se whose evaluation must decide the merits of a liberal project that were to persist.

3.4.2 A Critical Interpretation of the ‘Individual’ in Foucault’s Work

The position the ‘individual’ commonly occupies between the opposing concepts of ‘autonomy’ and ‘coercion’ within classical liberal thought has already been discussed in chapter 3.1 and 3.2. Subsequent attention is now given to a thinker who is usually framed in stark contrast to the liberal tradition.

The issue of the ‘individual’ as the outcome of a foregoing ‘individuation’ is usually none associated closely with the thinking of Foucault. Rather, scholars tend to take him by his own word according to which the goal of his work has been “to create a history of the different modes by which, in our culture, human beings are made subjects” (Foucault 1982, 208). Henceforth his legacy has been received by many as a way to critically analyze the processes of ‘subjectification’

in a genealogy of the modern 'subject' (Amy Allen 2009; Flynn 1985; Heller 1996).

This well-established tradition of reading Foucault notwithstanding, it is the following section's purpose to ask whether his work bears the still dormant and promising potential to vigorously dissect the genesis of the modern 'individual' instead. After all, had he not marked in the very same essay as one of the "most original points" in the analysis of contemporary power relations those struggles "which question the status of the individual" and that are "struggles against the 'government by individualization' revolving around the question 'who are we?'" (Foucault 1982, 211). In that spirit, the thought of the individual is tenaciously apparent when Foucault continues to describe the power against which those struggles were directed: "*This form of power* applies itself to immediate everyday life which *categorizes the individual, marks him by his own individuality, attaches him to his own identity*, imposes a law of truth on him which he must recognize, and which others have to recognize in him. *It is a form of power which makes individuals subjects*" [emphasis added] (Foucault 1982, 212). We may feel urged to rephrase: It is a form of power by which human beings are subjected to an existence as individuals.

Designating this operation 'subjectification' is not wrong, yet it would be more precise and more in line with the outcome this operation generates to call it 'individuation'. Such a reformulation does not contradict the argumentative core of said essay, namely Foucault's (1982, 212) much cited definition of the subject: "There are two meanings of the word *subject*: subject to someone else by control and dependence and tied to his own identity or self-knowledge". In the discussed case, those two meanings operate in an intertwined manner: The *rational* past-self of the woman had proleptically 'tied' her assumed *irrational* future-self to a certain definition of her own identity (second meaning) by authorizing a third party – that is, the medical staff – to effect 'control and dependence' with lethal consequences (first meaning) once her future-self had lost its sanity due to a deteriorating progression of her dementia.

In the years preceding Foucault's ascendance to the prestigious Collège de France in 1970, he repeatedly concerned himself with the question on the relation between an 'author' and his 'work', most notably maybe in his (1984a) piece *What is an Author?*. Therein he asked: "What is a work? What is this curious unity which we designate as a work? Of what elements is it composed? Is it not what the author has written?" (Foucault 1984a, 103). Noted, Foucault does not speak of a singular work an author may write, but of the over-arching oeuvre comprised of a plurality of singular works which an author may or may not produce in the service of his profession. But still, the answer feels intuitively easy since we are tempted to utter a 'yes' – of course the work consists of what the author has written. One can ask in an analogous manner: What is an individual? What is this curious unity which we designate as an individual? Of what elements is he composed? Is it not the composition of all instances said individual has acted out as hypostases of his existence? Yet things are not so self-evident as should become clear by invoking one of Foucault's favorite examples: The case of Friedrich Nietzsche.

For Foucault ([1969] 2002, 27), it is not the same relation of 'authorship' that exists between, on the one hand, the name 'Nietzsche' and, on the other, the "youthful biographies, the philological articles, *Zarathustra*, *Ecce Homo*, the letters, the scholastic dissertations, the last postcards signed 'Dionysos' or 'Kaiser Nietzsche', and the innumerable notebooks with their jumble of laundry bills and sketches for aphorisms". If we were to publish a complete edition of the work of Nietzsche, we would have to decide where to draw the line that would declare the territory of authorship to have ended and beyond which only scriptural remnants linger, not deemed worthy of being included in a complete edition of Nietzsche's *opus*. The current undertaking of translating the *Kritische Studienausgabe* into English is indicative here: Its editors expand the original scope by adding three additional volumes which cover his early unpublished writings, his notebooks for his published works, and the "complete notebooks from his final years". The coverage of those 'final years' ends in the winter of 1888/89 – although Nietzsche did not die until 1900.

We must conclude that what ended in the winter of 1888/89 obviously was not the *life* of Friedrich Nietzsche. What ended, was his *authorship*. But writing he did not stop, no. He continued to send out postcards to his close friends, those which Foucault ([1969] 2002, 27) cites of being signed with 'Dionysos' or 'Kaiser Nietzsche', yet the editors of the translation of the *Kritische Studienausgabe* do not extend authorship to these scriptural remnants despite the professed will of expanding it. As to the question why they did not, the answer appears to be undoubtedly clear: In January 1889 Nietzsche had his well-known mental breakdown in Turin. He never recovered from it and spent the last decade of his life in aberration. Nietzsche's authorship ended because he had lost his sanity. The decision of the editors *not* to include those postcards in the *Kritische Studienausgabe* confirms a thesis which Foucault ([1969] 2002, 27) ventured forth in the context of those initial questions concerning the 'unity' of an author's work: Namely that it is "at once apparent that such a unity, far from being given immediately, is the result of an operation". Further, "the operation that determines the *opus* in its unity" is "interpretative" (Foucault [1969] 2002, 27). Thus "the *oeuvre* can be regarded neither as an immediate unity, nor as a certain unity, nor as a homogeneous unity" (Foucault [1969] 2002, 27).

Unity of Nietzsche's work did not offer itself to the world as the expression of an already pre-existing bond. *This unity is the effect of an operation*, which the editors undertook by summoning the corpus of Nietzsche's writings before a threshold. To pass beyond this threshold meant to pass from a realm of insignificant scribbling to a realm of significant writing. It is the latter where authorship rules. Passage would be granted to the greatest part of scripture after the yardstick of reason had been applied by the editors. Those who were unable to exhibit their sanity had to return to the limbus of madness.

3.4.3 From Autonomy to Heteronomy and the Rupture of Continuity

It is time to fully establish the analogy that shall be explored in this section: There was the 74-year-old woman whose utterance of "But not just now, it's not so bad yet!" was not admitted to the order of rational discourse and who consequently had to die. And there was Nietzsche whose writings after his mental breakdown did not warrant inclusion in the complete edition of his works. Though a comparison might seem daring at first sight – after all, the first refusal had ushered in death, whereas the other one only shortened the *Kritische Studienausgabe* by maybe a sixteenth volume – it is coherent to argue that the logic at play is the very same in both cases: What is to be observed is "the operation that determines the *opus* in its unity" and that operation determines the opus of *personhood* in case of the 74-year-old woman as it does determine the opus of *authorship* in case of Friedrich Nietzsche (Foucault [1969] 2002, 27). Thus, we may conclude that arguably any *opus*, *oeuvre,* or *work* is the effect of a foregoing *individuation*.

The *opus* of *authorship* would be a 'work' that consists of parts considered indivisible of this individuated 'work'. The *opus* of *personhood* would be a 'life' that consists of parts considered indivisible of this individuated 'life'. Further, it is to be noted that both individuations come about only for the price of a certain amputation, an expulsion of those parts threatening coherence, by professing a trait incompatible to the trait assumed to exist for those parts that shall not be parted. This trait guiding both operations of individuation is the trait of rational sanity being contrasted by the trait of *ir*rational *in*sanity. In consequence, one can subsume that "this curious unity" which we saw Foucault (1984a, 103) marveling about is held together by the assumed capacity to hold a rational discourse.

Throwing another glance at the liberal tradition of defining the individual upon whose high esteem the Western jurisprudence claims to be founded, it soon becomes eminently clear that such a capacity to express one's will in a rational manner is tied to the foregoing and necessary self-mastery. And this is where we run into deep and paradoxical problems in the case of AEDs since the willful autonomy which is argued to be self-mastery's operating principle threatens to

turn itself into a coercive heteronomy. As illustrated before, both liberty and autonomy rank among the most prominent ideals commonly defended by advocates of a liberal tradition. Feinberg (1986, 31) suggests that "whatever else we mean by autonomy …, it must be a good and admirable thing to have, not only in itself but for its fruits – responsibility, self-esteem, and personal dignity. Autonomy so conceived is not merely a 'condition,' but a condition to which we aspire as an ideal". Autonomy as well as its fruits include a multitude of capabilities which people like to claim for themselves: Self-possession, individuality, self-determination, self-legislation, moral authenticity, moral independence, integrity, self-control, self-reliance, initiative, and responsibility for oneself (Feinberg 1986, 31–44). The assumption that autonomy is a fundamental precondition for employing one's full faculties and should therefore be valued as an ideal is a persistent sentiment in moral philosophy (Glod 2013, 417; Le Grand and New 2015, 31). However, autonomy as an ideal is deeply intertwined with liberty, as we illustrated before.

The mere existence of liberty-limitations is neither evitable, nor is it harmful to the principle of autonomy in general. The variety of options for an individual to choose from can be narrowed by all sorts of factors, including poverty or starvation (Blake 2001, 272). And yet, the true moral quarrel a liberal may have with AEDs lies within the 'artificial' deprivations of options and choices via an external agent or institutional arrangement euthanizing a person that previously agreed to the procedure but now resists its execution. Such a person or institution is doubting the ability of an individual to choose for himself, and his individual capacity to create value for himself is undermined (Blake 2001, 270): "The idea of autonomy reflects an image of individual human agents as creating value by their creative engagement with the world; their allegiances, choices, and relationships constitute sources of value. This creation of value can be destroyed or respected by institutions in the world. The principle of autonomy, that is, relies upon a normative conception of human agents as entities who can take part not simply in practical reasoning about what actions to undertake, but in

reflective deliberation about what values and ideals to endorse and pursue" (Blake 2001, 269).

The debate on justifications for liberty-limitations – even in self-imposed scenarios – has problematic ethical implications for AEDs due to the tainted character of coercion which may be necessary to execute 'voluntary' euthanasia. Coercion expresses "a relationship of domination, violating the autonomy of the individual by replacing that individual's chosen plans and pursuits with those of another" (Blake 2001, 272). Such domination is deeply at odds with the liberal principle of autonomy but yet an important feature of voluntary euthanasia laws – even though the idea of giving ourselves laws for the future is not entirely new (Blake 2001, 272).

The ability to anticipate a state in which one's own judgment may be impaired belongs to the fundamental convictions that have shaped certain interpretations of John Stuart Mill's harm principle. It is based on the claim that an *impaired self* must not harm an *unimpaired self* (Mill [1859] 2009, 163–64). We find it easy to imagine scenarios in which we would be willing to infringe upon a person's free action – for example a suicidal person about to jump off a bridge (Mill [1859] 2009, 163–64). Presumably, we would argue that such individual's judgment is currently clouded by duress or despair, concluding that his decision-making is radically altered in comparison to his calm and rational self. A related dichotomy is to be found in Thomas Schelling's idea of the "two selves" and its repercussions for political philosophy (Wertheimer 2002, 53). Of similar characteristics is the self-imposed liberty-limitation of Odysseus, motivated by his attempt to listen to the sirens' song without falling prey to their call – an anticipation of his own lack of voluntariness (Wertheimer 2002, 53).

The idea that an individual – an entity that is supposed to be *undividable by definition* – can be separated into different selves with the ability to impose restrictions upon each other is no genuine innovation. Every time we set an alarm clock, we are imposing restrictions on our future self that, the next morning, wants nothing more than to enjoy another hour of sleep. And yet, in the particular case of AEDs it is worth contrasting an individual's autonomy with the heteronomy an

'individual' may potentially find himself trapped in due to a division of the selves based on his capacity for rationality (and a lack thereof). There is a paradoxical contradiction to be found between 'autonomy' and the 'individual' defined as inalienable or undividable *ideals* on the one hand, and the substantial number of *deviations* from such wishful archetypes on the other. Even Mill himself faced the challenge of reconciling unimpeachable autonomy with a pinch of humaneness in a paternalistic attempt to avoid at least the most severe instances of self-harming behavior when an agent's judgment is just too impaired (Le Grand and New 2015, 26). We will learn more about this mechanism in 24.2. Correspondingly, it is not necessary to leave the tradition of liberal thought to illustrate how AEDs are a uniquely fascinating case, given that they allow people to deprive themselves of their self-governance with quite literally deadly consequences. They brilliantly highlight the problems we are facing when we understand autonomy as an *ideal* and yet require it to meet a set of *conditions* in the shape of rationality or reason. But the discussion receives another important perspective once we complement it with a Foucauldian point of view in the subsequent paragraphs.

AEDs seem to be at odds with individual liberty both in the positive and in the negative sense, and Berlin ([1969] 2002, 178) reminds us of the important link between freedom, autonomy, and rationality in a truly rich elaboration: "This is at least part of what I mean when I say that I am rational, and that it is my reason that distinguishes me as a human being from the rest of the world. I wish, above all, to be conscious of myself as a thinking, willing, active being, bearing responsibility for my choices and able to explain them by reference to my own ideas and purposes. I feel free to the degree that I believe this to be true, and enslaved to the degree that I am made to realize that it is not".

This portrayal of rationality and freedom's conjunction is fascinating if we further scrutinize the ability ascribed to rationality by Berlin ([1969] 2002, 178) to distinguish "me as a human being from the rest of the world". With a focus on the process of individuation, the case of AEDs highlights a disturbing potential. What if reason was to possess the ability not only to distinguish ourselves as human beings from the world, but also from future emanations of our self that are

deemed incompatible with our present reasonable self because they are judged *un*reasonable? The decisive 'cut' that would have allowed, analytically and normatively, to assert the prevalence of an independent individual against the collective would find itself mirrored and relayed into the human being itself, effectively dividing it into two. Thus, sparking the question if to still speak of the 'individual' does not occult a procedure that turns the autonomy of the 'individual' into the heteronomy of and by another person.

In the introduction to his early monograph *History of Madness* Foucault (2006, XXXI) had defined madness in a curious manner as "nothing other than *the absence of an œuvre*". In turn, individuation can be conceptualized as that 'work' by which parts considered indivisible from one another are molded into the 'individual' which the liberal tradition ex-post-facto has spent considerable effort to define and to defend in its normative esteem. In this view, could we not term AEDs as the attempt to proactively declare the inability of a future self's *unreasonable* version to contribute to the 'work' (œuvre) of being the assumed *reasonable* individual? Then, should we not regard AEDs as a declaration of will guided by reason which would have to be executed in that very moment when the 'work' representing reason could only be regarded as 'absent' for good and therefore madness being 'present' without hope of remedy?

Further along the *History of Madness* we find Foucault (2006, 360) giving an account of the establishment of the psychiatric asylum in the 19th century: Those people riveted by madness are usually assumed to have fared better and been treated more humane compared to their respective state in "the fortresses of confinement" of the 17th and 18th century in which those judged to be gone beyond recovery were often simply chained to the wall and left to their natural demise. The psychiatric asylum mostly refrained from exerting physical force on its inhabitants and offered a very specific contract to its patients: Instead of being declared mad and treated accordingly by the outside world, the mad were to conduct a thorough and on-going effort of introspection to become judges on themselves (Foucault 2006, 500–502). They were to assume the self-responsibility to control and discipline their potentially mad affects in an increasing manner to

slowly turn this ‘territory’ of their self that is only sparsely populated by outposts of reason once again into their fully controlled and therefore autonomous dominion (Foucault 2006, 500–502). To summarize this short historical excursion, Foucault (2006, 500–502) claims that whereas before the institution of the psychiatric asylum the mad found themselves in front of an external court, now this trial to determine the state of their digression from reason has shifted its location into the accused person itself. This trial was to be held everlastingly and without recess (Foucault 2006, 500–502). Following this argument, it can be said that the external punishments or the threat thereof could only have come to an end once the outward court had been convinced that the inward court had taken over the task of rigid observance, firm judgment, and relentless punishment, once “they were sure that it would continue indefinitely inside the patient’s conscience” (Foucault 2006, 502).

Based on this line of reasoning the tentative hypothesis that AEDs operate in a further refined version of this logic can be put forward. As it stands now, a self is not asked to judge on its present state but to do so in advance confronted with the potential prospect of severe corporeal and psychic detriments such as a progressing dementia would qualify to be. If we now take up again the cue of transposing Berlin’s distinction between human being and world (by virtue of rationality) into the human being itself – thus effectively splitting the individual ‘one’ into a divided ‘two’ – we could do the very same with other concepts that were originally brought to the fore to substantiate this outward directed distinction.

Let us reconsider Blake’s (2001, 268) argument on autonomy as to which the latter would be marked violated if “the will of one person” was reduced “to the will of another”. Or Kant’s ([1793] 1964, 145) insistence that no autonomous individual must be coerced to seek happiness in a way that was forced upon him by any external agent. And, finally, Hill’s (1991, 29) note that autonomy can only be assumed to be present if the will of the individual in question is regarded to “be *free in a negative sense*”. The logic of an *external* source of potential coercion an individual must be guarded against is now likewise transposed into the human

being *itself*. In his own internal arena, the agent at jeopardy of being coerced is a future version of the current self that is obsessed by a mental illness which prevents that human being to live and die in a self-induced and autonomous manner. To prevent such mental imprisonment an AED is laid out which, paradoxically, authorizes the lawful coercion by external agents (that is, the medical staff) to counter the future self's coercive power – even if the price for the achievement this goal is death.

The aforementioned 'then-self vs. now-self' problem can now be taken up to move along the line of assuming (at least) two distinct persons in consequence of the personality-altering potential of conditions such as dementia, brain-tumors, schizophrenia, or multiple personality disorders. Then one would have to ask in earnest, whether it is not this 'new' person who should assume the right to define for himself *autonomously* new criteria for a *bearable* life. Otherwise said person would be the victim of utmost heteronomy, namely being sentenced to death according to the unmet criteria of a bearable life instituted by another person.

Even reference to the above-mentioned harm principle by Mill cannot necessarily ease a liberal's conscience. Surely, the claim that an impaired self must not harm an unimpaired self has its validity for certain situations in life – suicide or drunkenness being typical examples thereof. Yet, their logic does not fully apply to the case of AEDs. What Mill implicitly thought of and what references to his argument most often have in mind are indeed *temporary* situations of duress during which judgment is *currently* clouded. In these cases, there is hope for alleviation and a return to that 'unimpaired' self, if the suicide is prevented or the inebriety slept off – just as Odysseus had hoped to return home by evading the lure of Scylla and Charybdis. However, if dementia was the cliffs our Odysseus should not crush into, their presence would appear to be no single narrow bottleneck to stir the ship through but an unending canyon in the face of whose disheartening infinity Odysseus's crew decides to end his and their misery by eventually swerving the steering wheel. If, in that situation, Odysseus would have wanted to enjoy that sight somewhat longer or maybe saw that following this channel would have led to another island than his former home and therefore

screamed "'But not just now, it's not so bad yet!'", his crew would not have heard him and wrecked the ship, nonetheless.

The question then ensues which additional manners of professing the (un-)bearability of life should be acknowledged if such a 'new' person has lost the ability to express himself by taking part in *rational* discourse but – this impairment notwithstanding – still features dimensions in life where this person enjoys apparent happiness. It is further to be asked if the canonical concept of 'rationality' is not in need of a substantial revision to enable a wider concept of 'individuality' which in fact manages to cope with the potentially drastic changes in personality to withstand the temptation to divide itself from what at first sight might appear as foreign and the threat of external coercion. It is not the aim to do away with the 'individual' and the high moral value the liberal tradition attributes to it. Instead, as part of a genuine debate about some of the most fundamental liberal principles, honesty compels to call attention to the flipside of the bright understanding of individuality as the ground from which to promote our autonomous self-determination. Because, if undetected, the case of AEDs demonstrates aptly how the intent to preserve autonomy by projecting it into the future effectively turns into the lethal order of a heteronomy without any chance to appeal. As we will see in 24.2, the 'dark side' of an idealization of autonomy is precisely one of the crucial forces that motivate the case of scholars arguing in favor of coercive paternalism – an argument that we will then try to resist.

3.4.4 Concluding Thoughts about an Incoherent Liberal Feature

In the beginning of this subchapter, the question was posed whether AEDs are a morally acceptable tool for a person's life to be ended. And even though the scenario of the 74-year-old woman in the Netherlands mainly serves as an extreme case that allows the reader to dive into a debate on the shortcomings of a purely liberal conception of 'the individual', the question yet deserves a brief note. An attempt to provide an answer can be phrased like this: It may depend on

the patient's type of disease. One may have relatively little quarrel with AEDs to be executed in cases where the patient's personality is not (substantially) altered by the sickness. Examples can be neuromuscular diseases that gradually lead to the decline of the patients' control over their musculoskeletal system while leaving their 'minds' intact. Here, one could indeed argue that an AED may prevent an individual from being trapped in his own degenerating body. However, as the previous discussions indicate, the real problem arises when we find an individual suffering from a disease that affects his rationality, personality, preferences, and, broadly speaking, his idea of what constitutes a life worth living. If one accepts the previous arguments, it seems natural to conclude that such a patient is no longer truly an 'individual' – an entity that, by definition, cannot be divided. Instead, we find ourselves in a situation where a new self has come into existence and where honoring the AED laid down by its former self would correspond to a death sentence being imposed on a new, potentially radically different, helpless, and heteronomous person.

This short concluding remark on AEDs allows for a further question to be answered that the observant reader may have stumbled upon: Why is heteronomy implicitly judged be a morally unfavorable condition? Such a position is grounded both in the philosophical tradition Western political thought is typically maneuvering in, and in the practical implications heteronomy can impose. Despite the willingness to incorporate Foucauldian reasoning into the abovementioned arguments, the overarching debate did not *defect* from the liberal tradition fully. Heteronomy, so advocates of classical liberal principles and Kantianism would probably agree, is morally unacceptable simply because it is, unsurprisingly, at odds with autonomy. As a result, it wields the power to undermine liberal ideals such as self-government, self-ownership, and individual freedom. The problems such heteronomous act can impose when applied to concrete (and admittedly: extreme) real-world cases are obvious, as illustrated before: In an anti-Kantian manner, one self is governed by the laws and values of the other self – with potentially appalling and literally deadly consequences. Let us now return to our broader discussion on 'the individual' and to our concluding remarks.

In maybe his best-known work *Discipline and Punish,* Foucault ([1975] 1995, 192) had remarked that the scientific self-measurement of men from the 19th-century onwards clearly indicated "the appearance of a new modality of power in which each individual receives as his own status his own individuality, and in which he is linked by his status to the features, the measurements, the gaps, the 'marks' that characterize him and make him a 'case'". Seen in this light, 'individuality' is less the secure ground of an unalterable essence from which the singular human being freely encounters the world, but much more a self-imposed norm from which one is henceforth regarded 'indivisible'. If alterations in personality occur that seriously question the validity of the amassed self-knowledge, the norm of 'being oneself' is considered transgressed and sanctions are put in place to either correct the 'straying from oneself' or to cut off the incoherent part when a reversion to the status quo ante appears unattainable.

In this section, a case was contemplated where said operation to 'cut off the incoherent part' for the sake of preserving an autonomous individuality meant death. A demented woman, who had authored an 'advanced euthanasia directive' in case of Alzheimer's disease, attempted a futile resistance when the agreed-upon euthanasia procedure was enacted and thus died against the then professed will to live. This case highlighted the difficulty which the canonical political theory of liberalism finds itself in when it conceives of the 'individual' primarily to be shielded from the threat of coercion by external agents in order to preserve its autonomy. Once this normative logic is transposed from the inter-individual to the intra-individual level, liberal theory finds itself unable to receive of the altered personality other than such an external agent against whose coercion the antecedent rational individual must be defended – even if death is demanded for such an operation to succeed. Therefore, after having presented the analytical as well as normative framework within which liberal theory usually conceptualizes the individual, its apparent myopia was amended with a theory of individuation derived by the thinking of Foucault. This turn to a postmodern philosopher has allowed for the danger to be seen which liberal theory runs the risk to succumb to when its aspired autonomy turns into lethal heteronomy. Viewed in this light,

liberal political theory and an account of individuation inspired by Foucault, are less at odds to the degree of utmost incompatibility but rather are able to complement each other decisively.

'Individuality' as seen by Foucault is foremost the effect of a subjecting power operation from which one should free oneself. 'Individuality' as seen by liberal political theory is the foundational unit of democratic societies whose autonomy must be defended at any cost. If we were to go solely with Foucault, little good and little of the worth to be sustained could be found in contemporary times. For its greatest part, Foucault's analyses are thorough critiques of Western society which is declared to be infested by undetected power structures. Without insinuating too much affinity with his at times intellectual rival Jacques Derrida, one could say his thought offers a forceful and so very useful *de*construction but yet merely fragments for a *re*constructive alternative, if one thinks of shorter pieces such as *What is Critique?* or *What is Enlightenment?* (Foucault 1996, 1984b). Therein Foucault (1984b, 47–50, 1996, 386–87) had declared the "desubjectification" and a "critical ontology of ourselves" to be the normative aspiration of his thought that would allow to go beyond the "limits that are imposed on us" – yet without mentioning where such Kantian *Ausgang* would lead us to. If instead we were to wholeheartedly accept liberalism's account of the 'individual' we would be blind to its own unconscious and the therein slumbering danger to purify the 'individual' of seemingly incommensurate parts. Yet, if we synergize these two perspectives, we gain the ability to see clearly both the potential as well as the detrimental threat of an emancipatory project which puts the freedom of the singular human being at its center.

In times like these, when the identitarian right and the identitarian left make the concept of the autonomous individual come under fire, perspectives which are skeptical of the collectivist absorption of the individual are well-advised to seek untypical alliances. This subchapter's interim conclusion is an argumentative precursor. Highlighting the potential in this extreme case of a forced-through euthanasia, it should be asked whether comparable instances of problematic operations of individuation could not be found elsewhere in more

quotidian spheres of an individual's life. Western societies will be better positioned to defend themselves against their enemies when endowed with the insight to comprehend where and when they fail to meet the normative goals, they have set for themselves. A critical account of individuation as it has been laid out here could contribute to such a necessary introspection. Correspondingly, this section concludes by admitting that the liberal foundation in Western democracies can run into problems – already on a *fundamental* level. But it also aligns with the overarching narrative of this thesis that liberalism's weaknesses can be identified and a corresponding quest for amendments can be equipped with clear goals. And yet, the discussion of the problematic term of 'the individual' allows us to have a recourse to the *methodology* section of this thesis as well. As claimed earlier, my ambition *cannot* be described as the pursuit of an *ideal theory* for *the* 'genuine meritocracy' or *the* 'rightly interpreted' version of liberalism. I adhere to analytical political philosophy for earthlings which seeks to come up with modest suggestions for *improvement* for a certain status quo, rather than the blueprint for the *cosmic goal* of such an endeavor. It is not about fixing all possible errors. Instead, it is a non-ideal type of theory that desists from engaging in an all-encompassing discussion of a metaphysical foundation, and it must take certain concepts and principles for granted – although being aware (and acknowledging) that some building blocks are porous and controversial. But which theory in the arena of *practical* philosophy is truly beyond such assumptions and limitations? The key ingredients seem to be appropriate awareness of our theory's limitations, and a corresponding sense of academic humility.

4 An Unfulfilled Promise Worth Keeping?

The previous sections have demonstrated that a myriad of considerable critiques is easily found, calling into question liberalism desirability as a set of fundamental principle for modern societies in the 21st century. One might conclude that the accusations are too severe and the roots of the problems too deep as for defenders of liberalism to argue that it is simply an issue of imperfect implementation. We are invited to believe that there is something truly deficient in liberal democracies as a social, economic, and political framework.

This chapter's goal is to serve as a counterpart to chapter 3. Whereas the previous sections provided an overview of potential critiques a skeptic of liberalism could put forward against Western political frameworks, this part's ambition is to point out that there are yet valuable principles to be found within liberal doctrines. One line of argument has a historical taste in that it attempts to make the case that liberal thought has the power to secure the pillars of 'free societies'. A second line of argument is more concrete in that it illustrates how liberal ideals, including autonomy and self-ownership, can oppose coercive legislation, such as paternalistic policies, that infringes upon individual liberty rights which *could* eventually turn into slippery slopes leading to excessive illiberal encroachments. This brief introductory remark lends itself to a short explanation of this chapter's relevance for the subsequent debate.

As has been illustrated before and will be explored in substantially more detail in part II of this thesis, the overall narrative follows a certain set of intertwined arguments and claims. Firstly, (and this is the subject of chapter 3 and 4) despite the currently observable flaws in liberal democracies, we have reasonable grounds to conclude that classical liberalism is yet a valuable ideology. Correspondingly, it is a prudential approach to amend the system, rather than to discard it altogether. Secondly, classical liberalism entails meritocracy, as will be shown in 36.2. Thirdly, however, and this brings us back to chapter 3 *and* is further reinforced in 35.2, Western democracies do not live up to their

meritocratic promise. In order to bring about a genuine meritocracy, the current lack of equal opportunities must be addressed and this assumption, in turn, justifies the enhancement of, among other things, access to publicly funded higher education.

As we will see in the overall conclusion at the very end of this thesis, the advocacy *for* classical liberalism and the insistence on its fundamental principles, including individualism, self-government, autonomy, neutrality, and liberty, serve one crucial purpose: Not only are they merely features of a political ideology that we happen to perceive as more desirable compared to other competing systems we find in nations around the globe, but these principles clearly relate to the *limitations* of the argument advanced in this thesis. This is precisely the crucial conviction that led us to begin this journey in the first place. It would be easy to justify egalitarian policies in pursuit of equality of opportunity and, relatedly, access to higher education from within a socialist or communitarian framework. However, the strength of *this* approach is exactly that it is dedicated to *preserving the liberal foundation*. And, as will be shown in the subsequent chapter as well as in the concluding remarks at the end of the thesis, this is what sets this project apart from the frameworks of 'generic' social welfarists, say. Classical liberalism brings with it clear limitations. It, at least when implemented adequately, inherently opposes discrimination, grand visions for society based on a collectivist value judgement (which can then be hijacked by totalitarian ideologues, as the 20th century has clearly demonstrated), and what Adam Smith ([1759] 1984, 342) calls "men of system".

Critics may rightly point out that our strategy to promote 'progressive' policies from within 'conservative' classical liberalism looks like an attempt to force such egalitarian and welfarist goals into a bodice of liberal doctrine. And this, I reply, is precisely the point. As has been argued before, this thesis is not an exercise in perfectionism. It is not about 'solving it all' and allowing each desirable principle to blossom in unfettered purity. Instead, it is about making meaningful improvements while yet avoiding the pitfalls other ideologies and political frameworks would potentially bring about. Introducing new

interpretations of political theories in order to derive new justifications for changes of the status quo would be a reckless endeavor if we are not sufficiently concerned with the *limitations* of our project, too. In this vein, the merits of liberal principles are now to be discussed.

4.1 History as a Proponent for Liberal Principles

Even Deneen (2018, 5) admits that liberalism embodies the only remaining political vision present during the 20th century that, unlike its competitors – fascism and communism – still has *some* claim to viability. Echoing Fukuyama's victorious declaration, Heyne (1995, 7) relatedly adds that if "history ever pronounces 'final verdicts,' it pronounced one in 1989 on these experiments". Heyne (1995, 7) is by no means a dogmatic laissez-faire markets enthusiast; in fact, he is well aware of the limitations of the economic sphere and requires markets to adopt "moral foundations which cannot be created by market transactions themselves". And yet, within the clash of ideologies and market systems that culminated in the end of the cold war with the fall of Soviet communism, there is yet a point to be made in favor of the liberal framework. This point does not imply that Western capitalist societies are perfect, however, they may be the lesser evil among all imperfect systems: "Market systems do not produce heaven on earth. But attempts by governments to repress them have produced in the twentieth century something very close to hell on earth" (Heyne 1995, 7).

To further explore this argument, there are at least two possible lines of thought to be found that can be derived from this assessment (Wedekind 2020b, 68–72).[10] First, this historical fact invites us to speculate if – in opposition to what some critics may claim – there actually *are* profound reasons that led to liberal democracy becoming the victorious system in the last century. Furthermore, it

[10] This subchapter's arguments correspond to the approach which has been advanced in my (2020b) reevaluation of the merits of liberal democracies in contemporary global political philosophy.

begs the question whether those exact reasons have sustained their importance in the 21st century and in a time where forces in both political extremes are gaining power again. Second, a reasonable and prudent discussion demands for the strengths of a political system, its weaknesses, and the corresponding predictions for its future status to be put into perspective. To arrive at the conclusion that the *preference* for a certain framework or ideology is no longer self-evident differs quite drastically from the far more radical claim that *the political system is destined to perish* and 'its days are numbered'. This subchapter is motivated by the conviction that there indeed *are* important principles to be found in classical liberal thought that are worth preserving in increasingly globalized 21st century societies. One principle that will be discussed, both in a historical setting, and with regards to its role for the future, is individualism.

Despite all criticism he has attracted, Hayek provides a set of helpful fundamental distinctions to be aware of between liberalism on the one hand, and fascism and communism on the other. The latter two, so he argues, have a certain similarity given that they seek to organize society and its resources for the good of one unitary end (Hayek [1944] 2006, 60). An advocacy for individualism and, by extension, for liberalism correspondingly finds itself at the core of the traditional dichotomy with collectivism as its antagonist. The colossal debate between individualism and collectivism is too complex to be discussed in detail in this section. Furthermore, for this modest defense of liberal democracy to make sense, such fundamental multilayered discussion simply is not necessary. My argument at this stage is merely to follow the claim that there are certain merits and principles to be found within the liberal doctrines in Western democracies worth preserving.

In today's global political landscape, the collectivist systems liberalism is competing with no longer take the shape of Soviet communism or German fascism. And yet, with the revitalization of nationalistic sentiments in both Europe, and the U.S., the rise of authoritarian regimes, identitarian movements, and the growing impact of what may be called 'identity politics', we have reason to conclude that collectivist tendencies have by no means vanished from the

political landscape.[11] Correspondingly, in opposition to such developments, the argument of 20th century liberals, such as Ludwig von Mises ([1949] 1963, 152), may be reutilized to serve as an antidote to controversial phenomena at both extremes of the political spectrum.

A defense of individualism and liberalism can take very different shapes: We may challenge the negative connotation (and misinterpretation) of the term 'individualism', we may highlight its value for contemporary political systems, and we may strengthen individualism's status *indirectly* by scrutinizing collectivism's feasibility as an alternative. Following the first approach, it is possible to make the point that individualism is not necessarily as corrosive to the civic community and its social fabric as prominent critics lead us to assume. As Mises argues, the term is frequently misunderstood. Individualism does *not* express contempt for the community and it is *not* an inherently anti-communal position: "The philosophy commonly called individualism is a philosophy of social cooperation and the progressive intensification of the social nexus" (Mises [1949] 1963, 152). The liberal emphasis on individualism may embody a *preference* or *hierarchy* of the individual over the group, however, it does not automatically degrade cooperation or the political community as a result. Furthermore, according to Mises (1962, 79), such hierarchy is nothing arbitrary: A group or collective is necessarily only a conglomerate consisting of the ideas and actions of the individual members. And if the members adopt new views or act in a different manner, the collective vanishes or changes, too. (Mises 1962, 79). Mises stresses the importance of this individual-over-group hierarchy and points to the atrocities that can be provoked if this relationship gets reversed: He judges the potential subjection of the individual to the ideology of the collective entity to be a road to totalitarianism (Mises [1957] 2001, 251). This argument is reinforced by the Kantian ideal of autonomy and self-mastery illustrated earlier. Such subjection is particularly problematic if we sympathize with Kant's ([1793] 1964, 145–46) claim that every person has an inherent value as an end in himself and

[11] This point is based on Fukuyama's (2018, preface & chap. 1) evaluation of contemporary political trends and roughly aligns with his own observations of what he calls "the politics of resentment and dignity" and the rise of identity politics in his 2018 monography.

must have the right to pursue an individual life that depends on his own choices. With regards to the second beforementioned strategy that allows us to come to liberalism's aid, it is possible to claim that individualism has something to offer: It brings to the table the capacity to serve as a guardian of self-ownership and self-rule – two conditions that are emphasized by both Mises, and Kant.

When it comes to the value of individualism in historical terms as well as the role collectivism can truly play as an alternative, Mises paints an alarming picture. He argues that historically collectives had a tendency to claim superiority over other groups, overshadowing individual ideals and bringing into subjection the "whole personality of all right-thinking men" (Mises [1957] 2001, 59). The reign of a collective, however, gives rise to an inherently anti-Kantian setting: It promotes a separation between the group's members into omnipotent rulers and mere "chessmen in the plans of the dictator" (Mises [1957] 2001, 152–53). All claims that have been stated so far rank among the most traditional arguments against collectivist doctrine and, correspondingly, provide a certain basis favoring individualism as its alternative. And yet, there is one additional point of unique interest especially in an increasingly globalized political landscape and with regards to the multitude of conflicts that accompany global political decision making: A substantial quantity of groups we are members of (or we claim membership to) are arbitrary and merely a result of coincidence. This falls under the umbrella of the repercussions of the 'accident of birth' that will be discussed in further detail in 6.2.2.

Every person is assigned various group memberships via birth – an act we can rightly describe as a lottery. Everyone is arbitrarily born into a nation, a race, a religious community, or a family (Mises [1957] 2001, 158). Naturally, group memberships result from deliberate individual choices, too (friends, clubs, jobs, interest groups etc.). But although it is technically possible to join a different religious, migrate to a different country, or even become part of a different family, such (initial) memberships are predominantly determined by the time and place of our births and are merely a result of luck (or lack thereof). This fact is problematic in the framework of an increasingly globalized world where wealth and

opportunities are distributed highly unevenly and constantly provoke controversial discussions on migration, nationality, universal human rights, and (in)tolerance. Blake (2001, 257–60) illustrates that individualism and liberalism, strictly speaking, are struggling with the concept of state borders. He points out that "liberal principles … are traditionally applied only within the context of the territorial state" (Blake 2001, 257). At the same time, liberal doctrines provoke a commitment to equality as well as "demand for equal concern and respect" that should not be arbitrarily limited to a certain geographical territory (Blake 2001, 257). Correspondingly, there is an argument in favor of liberalism to be found: Even though 'equal concern and respect' certainly are currently *not* given on a global scale and there is a long way to go until this goal is truly implemented, liberal individualism and egalitarianism may at least provide a noble vision.

There is a case to be made that a doctrine that seems to be at odds with collectives as the relevant unit for political decision making and does not appreciate territorial borders is a surprisingly suitable choice for an age of globalization.[12] We stand witness that, unfortunately, the arbitrary membership in collectives leads to arbitrary inclusion and exclusion of people. As a result, it has the capacity to provoke all too familiar political problems such as isolationism, the rejection of foreigners (or people external to the relevant group/collective/nation), and a lack of altruism or willingness to help during the so-called 'migration crisis' that came to the fore in Europe during the last decade. Perhaps liberalism's individualist doctrine can be reinterpreted and utilized as a sociopolitical position that rejects arbitrary separation. In an era of globalization,

[12] There is a variety of articles worth mentioning that follow a related line of arguments. Jarrod Wiener (2001, 461–79) argues that within the context of neoliberal regimes and globalization as a process of "de-bordering" economic and social relationships, domestic laws are evolving beyond their traditional scope limited by territorial bounds and become essential pillars of a transnational governance. Philip G. Cerny, Georg Menz, and Susanne Soederberg (2005, 1–30) suggest that domestic and international politics are not two separated realms but instead part of a web that entangles both the nations of the world and ordinary people. The very process of globalization is internalized by the individual actions of people and the collective efforts of ethnic groups, classes, and interest groups alike (Cerny, Menz, and Soederberg 2005, 1–30). In a comparable way, they, therefore, assume that "growing interdependence and the transgressing of boundaries between local, domestic, transnational, and international playing fields increasingly enmesh individuals, classes, interest groups, ethnicities, nations, and institutions of all kinds in social, political, and economic processes" (Cerny, Menz, and Soederberg 2005, 2).

political and economic actors increasingly seek to promote international cooperation and partnerships over an outdated insistence on nation-states. The dissolution of exclusive collective ties in favor of an allegedly 'atomistic' individualism could eventually become a strategy for a more liberal and less hereditary type of cooperation and amalgamation.

Finally, we may add the historically motivated argument that in the aftermath of the horrors of the 20th century, liberal principles became an important safeguard against severe infringements upon inalienable rights and individual liberty. If we accept all abovementioned arguments, we do not end up with an advocacy for liberal democracies as the perfect form of human government with the ability to simply discard all criticism that was previously discussed. Instead, it leaves us with the modest but justified assumption that liberalism still may have something to offer, and it could persuade us into believing that liberal democracy is a political system worth *revising*, rather than *abandoning*.

Both Gray (1993, 249), and Deneen (2018, 4–5) suggest that classical liberal thought so deeply entrenched in the U.S. and beyond is a predetermining "encompassing political ecosystem in which we have swum, unaware of its existence". The hegemonic status of liberal doctrine in Western societies led us to conclude that liberal democracy is the final form of human government at the end of history and the aftermath of the cold war. It has indeed blinded us for potential alternatives. And yet, there is also a case to be made that the substantial progress we enjoyed under liberalism's aegis has seduced us into taking such wealth and prosperity for granted, blinding us to the *achievements* of liberal societies. The last three decades clearly show that in opposition to Fukuyama's declaration, history did not come to its end, but perhaps neither did liberalism – at least not yet.

4.2 Liberal Principles as an Antidote to the Deprivation of Individual Autonomy

One important benefit of liberal principles is their ability to oppose, for example, *paternalistic* policies which may eventually serve as a precursor for more intrusive illiberal state interventions (Wedekind 2020a, 2021).[13] Such debates have great resemblance to many contemporary political topics that shaped the daily news in recent years. In a sadly ironic way, there seems to be something biblical about the 2020s so far – notwithstanding the fact that the decade has just started: In less than a few dozen months, the world witnessed devastating forest fires in Australia, peoples fighting for their freedom in Hong Kong and Belarus, a violent insurrection at the alleged heart of the 'free world', the first cross-national war of aggression on European soil since Nazi Germany's invasion of Poland in 1939, and a pandemic with global impacts raging for more than two years. But despite the daunting events, recent years have provided a multitude of fascinating phenomena to be observed and to be evaluated to a wide variety of scientific disciplines.

The Covid-19 situation is a challenging scenario, not only to virologists, but to social scientists and philosophers alike. The policy-prescriptions that followed the pandemic revived some of the most fundamental debates about legislation, (collective) responsibility, and the role of the state. The obligation to wear masks in public areas and private businesses to reduce the infection rate in many countries has sparked great controversies, resistance, and anger. Although face masks have widely been recognized as an effective strategy for mitigating the spread of the pandemic and are among the most vital recommendations of the World Health Organization (WHO), there is yet a huge number of people to be found that refuse to follow the regulations (e.g., World Health Organization 2020). From a political and philosophical perspective, the probably most persistent justification for such resistance is the argument based on individual

[13] The following subsections of chapter 24.2 correspond to the content of the slightly more extensive treatments of the topic advanced in my (2020a) and (2021) articles opposing coercive paternalism.

liberty (Tomasky 2020). Every daily news report seemed to feature opponents of Covid-19 policies that judge the obligation to wear a mask as an insult to their personal freedom (Tomasky 2020). Such infringement on individual rights to self-ownership embodies an instance of governmental coercion that people ought to resist, or so the argument frequently evolves. Although there indeed *is* a fundamental question on the authority of the state to be debated, there seems to be confusion on what 'freedom' means (or on what it should mean) (Tomasky 2020).

The outrage about mask-deniers tends to be rooted in the violation of an already briefly mentioned prominent principle that most people, explicitly or implicitly, agree with: The harm principle which can be traced back to John Stuart Mill ([1859] 2009, 18). Even with liberalism's roots and the emphasis on its eponymous individual liberty in mind, it was never feasible to advocate for *absolute* freedom in modern societies. In Mill's ([1859] 2009, 18) notion, the idea that we should be free to act as we please is soon followed by the limitation "as long as we do not harm others" (Tomasky 2020). Given that mask-deniers clearly *do* put the health and life of other people at jeopardy, the origin of the corresponding outrage is easy to locate. However, in political philosophy there are other discussions on the authority of the state and the sovereignty of the individual to be found that are less unambiguous. This subchapter explores a different justification for governmental interference in individual affairs that has gained attraction in recent decades: Paternalism.

As it will become evident, paternalism is prima facie at odds with autonomy. But autonomy as an *ideal*, and as the *assumption* that individuals are perfectly capable of pursuing their goals in the best possible way has increasingly been subject to major criticism. An influential example for such rejection of autonomy and an advocacy *for* paternalism worth mentioning is Sarah Conly's (2013) *Against Autonomy. Justifying Coercive Paternalism*. Although her work is not the only one to be found in the pro-paternalism camp, it yet serves as a well-crafted treatise that could persuade us into believing that benevolent liberty-limitations under the aegis of a paternalistic entity is indeed a prudent ground for state coercion. Correspondingly, her arguments serve as a starting point for the

objections against paternalism discussed in this section. In this, we can rightly frame the ability to resist 'benevolent coercion' as something that liberalism *is*: If the reader accepts the arguments that will be made in the subsequent sections and comes to agree with the sentiment that patronizing coercive legislation is deeply problematic if we appreciate ideals such as self-ownership and self-determination, we indeed have a powerful argument at our disposal that allows us to underline the considerable value of the fundamental the principles that shape classical liberalism.

The argument *for* paternalism, broadly speaking, begins with the overwhelming evidence that human beings tend to be irrational agents, and the corresponding conclusion that the prominent idea of a *homo oeconomicus* is flawed, provide strong arguments against all-encompassing autonomy (Conly 2013, 2–5). If it is possible to avoid great harm at small costs, so the argument continues, the insistence on self-determination appears to be an act of indifference and in-humanness rather than genuine respect for autonomy (Conly 2013, 104–5). Assessing our lack of rationality in many daily situations could justify liberty-limiting hard paternalism, such as Conly's coercive paternalism, as well as the corresponding illegalization of certain products for the good but potentially against the will of those who are patronized (G. Dworkin [2002] 2020). This concept challenges the ideal of autonomous and rational individuals free in their personal pursuit of happiness (Conly 2013, 16–24). In its coercive form (which is scrutinized in this subchapter), paternalism embodies a justification for benevolent but restrictive policies that are potentially at odds with Mill's harm principle (Mill [1859] 2009, 18). Paternalistic concepts usually address our inability to adequately promote our own goals in life and is, at least in theory, motivated by genuine concern for our well-being. And yet, one may well have a hunch that advocates of coercive paternalism risk more than a debate only about seat-belt laws or a ban on dangerous food additives. A rejection of rationality and autonomy in favor of benevolent coercion questions the very foundation of typical liberal traits such as self-mastery and self-determination.

There are at least two feasible strategies for rejecting coercive paternalism: One may scrutinize flaws in the internal structure of arguments *for* coercive paternalism (for example in Conly's treatise). Such approach can include challenging coercive paternalism's underlying preference for long-term goals over short-term goals, questioning the justification for punishment in harm-to-self scenarios, and arguing that coercive paternalism may eventually impose alien values on the patronized individuals. The second strategy is broader, and it is less concerned with the particularities of the pro-paternalist's argument. Instead, it suggests that liberal ideals such as autonomy, self-mastery, and individual liberty are too valuable as to be rejected inconsiderately, given the dangers of infantilization and excessive state interference. One may argue that, although the intentions are noble, proponents of paternalism put liberal principles at jeopardy which serves as an important antidote to authoritarian encroachment in Western democracies, as we have already briefly discussed in 4.1.

In this discussion, both strategies are briefly illustrated and scrutinized. After an introductory explanation of the case *for* coercive paternalism, Mill's harm principle as well as its implications for the debate are laid out. This section therefore serves as a complementary basis for the terms 'autonomy', 'liberty', and 'coercion' as well as the liberal features already explained in 3.1 and 3.2. Subsequently, 4.2.3 is concerned with the first of the aforementioned strategies, questioning the internal coherence of the paternalist's argument whereas 4.2.4 discusses the second one, namely paternalism's broader repercussions on liberal principles such as autonomy, individual liberty, and self-ownership. The subchapter concludes by advocating that when it comes to benevolent coercion, we would be wise not to push the justification for state interventionism any further than Mill's version of 'soft paternalism' permits. Given the flaws to be found in the paternalist's argument, Mill's potential alternative based on the harm principle, rather than on a substantial rejection of autonomy, could instead serve as a more suitable justification for policies that can address at least some of Conly's concerns.

4.2.1 Paternalism: A Doctrine of Benevolent Coercion

Within the jurisprudential debates on justifications and limits of state legislation, paternalism occupies a unique position that is at odds with Mill's ([1859] 2009, 18) 'simple principle'. It is not concerned with harm that *one* person imposes on *another* person, and the justifications for interference seem to be weaker than in harm-to-others scenarios. And yet, there is something sympathetic about paternalism since – putting aside the potential for misuse – it embodies a *doctrine of benevolence* (G. Dworkin 1972, 64–65). According to Gerald Dworkin (1972, 65), paternalism is the "interference with a person's liberty of action justified by reasons referring exclusively to the welfare, good, happiness, needs, interests or values of the person being coerced".

One of the most prominent recent attempts to mold the paternalistic rationale into a set of concrete arguments for coercive policies is Conly's above-mentioned work. Her rejection of autonomy and the subsequent advocacy for coercive paternalism is straightforward. Unlike Mill suggests, *all* mature and competent adults may be patronized by a paternalist for one simple reason: As Amos Tversky and Daniel Kahneman prominently observed, a lack of rationality is not a phenomenon which *some* people *occasionally* find themselves confronted with (Conly 2013, 20–23). Instead, all of us constantly fall prey to cognitive biases, framing effects, and erroneous judgments (Conly 2013, 20–23). Correspondingly, it only makes sense to *universally* question human rationality, and by extension human autonomy, *per se*. Given this descriptive finding, Conly (2013, 1–3) claims that the adherence to autonomy is wishful thinking and an act of inhumaneness rather than genuine respect for self-government. Therefore, we should substitute it with a democratic type of benevolent coercive paternalism that enables people to achieve their *own* goals (Conly 2013, 1–3).

Autonomy, as previously illustrated in 3.2, commonly refers to features such as self-rule and self-government and is relentlessly defended by those who have subscribed to the vision that people ought to be the authors of their own lives acting in accordance with their own individual laws (Feinberg 1986, 27–28; Blake 2001, 267). And yet, again: If we come to realize our own flawed decision making

as well as the perpetually occurring inability to truly promote our long-term goals, there is something intuitively persuasive about paternalistic policies. Even though paternalism has a negative connotation since, as Feinberg (1986, 4) points out, it tends to be something we *accuse* people of, there *are* decisions which we happily delegate to a benevolent third party. We hardly miss the freedom to buy carcinogenic groceries as a consequence of health agencies limiting access to particularly dangerous food. Similarly, we specifically request the assistance of professional agencies and authorize them to arrange insurance contracts in our name. Furthermore – and this is probably the most prominent example of paternalistic policies – in most western countries we are obliged to wear a safety belt (Conly 2013, 4–5). Being patronized in one way or another is nothing entirely unfamiliar. However, when it comes to a healthy lifestyle or the accumulation of debt, the allegedly 'good', 'reasonable', or 'responsible' choice can be at odds with what we want to do – at least in the short run.

According to Dworkin ([2002] 2020), paternalism may be further described as follows: "Paternalism is the interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm". Interferences can certainly be motivated by *different* considerations. However, if the justification *exclusively* (or at least *primarily*) relies on the claim, that the *affected* person will be better off, the intervention can be labeled 'paternalistic' (G. Dworkin [2002] 2020). The underlying fundamental idea is simple: If it is possible to prevent people from harming themselves, there is no prima facie reason to desist from interfering (Arneson 1998, 250). Coercive laws may both *mandate*, and *forbid* certain actions (Feinberg 1986, 8). Paternalistic policies can therefore be 'active' or 'passive' in character and they can aim both at the avoidance of harm, and the promotion of benefits (Feinberg 1986, 8). Correspondingly, Feinberg (1986, 8) introduces the distinction between 'harm prevention' and 'benefit promotion'.

Although the origin of the term 'paternalism' is rather self-explanatory, its characteristics nevertheless deserve attention: "One behaves paternalistically if

one treats an adult as though one were a parent dealing with a child. One's behavior shows concern for the welfare of the person and a presumption that one's judgment about what will promote it is superior" (Feinberg 1986, 8). As pointed out before, harm-preventing policies are already established in most countries: Certain drugs are banned, people are forced to spend a part of their income on their retirement plans, gambling and dueling are forbidden, interest rates on loans are capped, it is illegal to swim at beaches in the absence of lifeguards, employment may be illegal for children, and motorcyclists are obliged to wear a helmet (G. Dworkin 1972, 65–66). Although paternalistic policies can operate based on incentives or nudges, they typically apply coercive measures such as *bans* or *obligations* (Feinberg 1986, 16). Such interventions can override the will and the consent of the patronized individual. In overriding his consent, "the paternalistic law overrules his judgment and restricts his liberty 'for his own good'" (Feinberg 1986, 16). Dworkin ([2002] 2020) suggests the following formula:

"*X acts paternalistically towards Y by doing (omitting) Z*:

1. Z (or its omission) interferes with the liberty or autonomy of Y.

2. X does so without the consent of Y.

3. X does so only because X believes Z will improve the welfare of Y (where this includes his welfare from diminishing), or in some way promote the interests, values, or good of Y."

It is worth noticing that many policies tend to be motivated by different justifications, for example, both by paternalism, and the harm principle. There is a distinction to be made between 'pure' and 'impure' paternalism: "In 'pure' paternalism the class of persons whose freedom is restricted is identical with the class of persons whose benefit is intended to be promoted by such restrictions. … In the case of 'impure' paternalism in trying to protect the welfare of a class of persons we find that the only way to do so will involve restricting the freedom of other persons besides those who are benefitted" (G. Dworkin 1972, 68). Typical examples for pure paternalism are seat belt laws, whereas a ban on cigarette

production falls under the umbrella of impure paternalism (G. Dworkin 1972, 68).[14] For the sake of the argument, it is reasonable to assume that instances of paternalism should at least be *primarily* motivated by the claim that *the person interfered with* will be better off. Furthermore, the distinction between pure and impure paternalism has a certain dependency on the political and economic context in which paternalistic policies are discussed.

The debate on paternalism is predominantly grounded in the U.S. American context which has a deeply individualistic culture (e.g., Hofstede 2011, 16–17). In European societies, many of which have adopted higher levels of welfare stare policies than the U.S. (for example, mandatory publicly funded insurances and health care services), the areas in which potentially self-harming behavior is a *truly private* matter are significantly slimmer. In such welfare states, health-related self-harm, for example, tends to burden the collectively funded institutions and, correspondingly, is not a fully isolated individual affair. But even in the U.S. American environment, there is a case to be made that instances of truly *pure* paternalism are rare, given that multiple negative repercussions on third parties can be imagined in most typical examples (grieving family members of an obese person dying due to an avoidable cardiac arrest; traumatized paramedics at the scene of a motorcycle accident that ended lethally only because the driver did not wear a safety-helmet etc.). But even if most restrictive policies are, at least in part, motivated by concern for third parties (= impure paternalism), too, the argument for paternalism as a justification for benevolent coercion is nevertheless worth discussing in societies that emphasize ideals such as autonomy, self-mastery, and self-government to a certain degree.

A further important comparison must be made between what Dworkin calls ‘strong’ and ‘weak’ paternalism. ‘Strong’ paternalism is the idea that the

[14] It should be noted that impure paternalism must not be confused with a restrictive policy based on the harm principle. As Dworkin (1972, 68) points out, impure paternalism demands for a certain *cooperation* on the side of the ‘victim’ (for example, in the case of the production/sale of cigarettes). A company releasing pollutants, however, is a different scenario. In such case, the affected person cannot avoid being exposed to the harmful substances, whereas the harmful products of a cigarette manufacturer *can* be avoided by ‘simply’ not consuming them (G. Dworkin 1972, 68).

ends of an agent can be misguided or ill-informed (G. Dworkin [2002] 2020). Correspondingly, a paternalist can override the *ends* of a person if there is reason to believe that the ends are irrational or confused (for example, a motorcyclist preferring wind rustling through his hair over the increased safety a helmet provides) (G. Dworkin [2002] 2020). 'Weak' paternalism, however, suggests that only the *means* of an agent may be tampered with (for example, a motorcyclist that actually *does* prefer safety over comfort, and yet 'mistakenly' chooses not to wear a helmet) (G. Dworkin [2002] 2020). It respects the ends and values of a person and only permits interventions if such person, left on his own, would choose means that obstruct or defeat the pursuit of its own goals (G. Dworkin [2002] 2020). These competing concepts are similarly captured by the terms 'means paternalism' and 'ends paternalism' (Le Grand and New 2015, 27–30).

A final important distinction is challenging since the definitions vary substantially: 'Hard paternalism' versus 'soft paternalism'. Feinberg's (1986, 12) idea of *hard* paternalism embodies the assumption that even competent adults whose choices are informed and voluntary may be patronized against their will. Correspondingly, the paternalist is permitted to impose actions that the affected person – *aware of all facts* – would *not* choose (for example, forcing a mature and competent adult to quit smoking even though he is fully aware of the harmful repercussions of his actions, and freely and willingly trades a long life expectancy for the daily joy of cigarette consumption). Feinberg's account of *soft* paternalism can be traced back to Mill's definition: It allows paternalistic interferences only when an agent's decision is impaired by a lack of information or genuine freedom of choice (Feinberg 1986, 12). This position resembles Mill's ([1859] 2009, 163–64) prominent bridge-scenario[15]: If we see a person heading towards a damaged bridge and if we have reason to assume that the person is not aware of the immediate hazard, an intervention is justified. Correspondingly, soft paternalism serves as an *exception* from the idea that self-government must not be infringed

[15] The whole scenario is phrased by Mill ([1859] 2009, 163–64) himself as follows: "If either a public officer or any one else saw a person attempting to cross a bridge which had been ascertained to be unsafe, and there were no time to warn him of his danger, they might seize him and turn him back without any real infringement of his liberty; for liberty consists in doing what one desires, and he does not desire to fall into the river".

upon for paternalistic reason, whereas hard paternalism permits interferences even when the agent is competent and informed.

An alternative definition of hard paternalism and soft paternalism, however, addresses the *methods* of interference. Hard paternalism "advocates making some actions impossible, and soft paternalism merely recommends incentivizing certain preferable options" (Conly 2013, 5). A hard paternalist might, for example, outright ban the sale of fried food, whereas a soft paternalist would merely decrease the prices of healthy alternatives. Hard paternalism engages in liberty-limiting intervention, soft paternalism confines itself to methods which do not *remove* any options. Conly's coercive paternalism is hard paternalism in both senses of the term.

As it was stated before, based on the most widespread definitions paternalism is a doctrine of benevolence. But in improving the behavior of individuals for their own good, manipulation or coercion may be exercised. Conly's advocacy for coercive paternalism both illuminates why paternalistic policies could be considered, and it clarifies who can be subject to it. The aforementioned inconsistent behavior in the pursuit of our own ambitions prominently observed by Tversky and Kahneman underly many of Conly's (2013, 20–23) arguments. Unlike Mill's bridge-scenario, she implies that autonomy of human beings *per se* must be doubted and contested.

People simply fail to meet their own ends. Even though most of us wish to live a healthy and happy life without financial insufficiencies when we grow old, many struggle to follow a corresponding pension planning. Similarly, we continue to smoke, and we eat too great quantities of too unhealthy food (Conly 2013, 1–4). Such actions are not *isolated* instances of a failure to conquer one's weaker self but symptoms of an *underlying lack of rationality*. People fall victim to framing effects and cognitive bias. We are irrationally optimistic regarding the chances of getting lung cancer and of being involved in an accident without wearing a helmet (Conly 2013, 20–23). People are tempted to assume that simply because the first year of tobacco consumption did not lead to disastrous results, the next twenty years will not, either (Conly 2013, 20–23). Consumer choices are drastically

influenced by the arrangement of goods in a store and pension plans may be favored simply because they are the default option in a contract (Conly 2013, 20–23).

Very much to Conly's credit, her examples are indeed grounded on empirical findings in the disciplines of psychology and behavioral economics. The pioneering work of Kahneman and Tversky on various cognitive fallacies, illusions, and biases supports Conly's claim that human rational decision-making is questionable at best. Such biases typically include various subjective, irrational, and distorted estimations that can significantly differ from objective probabilities (Kahneman and Tversky 1972, 430–33). These inaccurate judgments can be linked to, for example, unreasonable overconfidence, and may, broadly speaking, be assigned to a group of fallacies where "people fail to apply a logical rule that is obviously relevant" (Kahneman and Tversky 1996, 585–88; Kahneman [2011] 2012, 156–60). Similarly, the repercussions of framing effects are widely discussed in the scientific literature. Empirical research indeed shows that opinions on a topic or on a set of data can depend on the framing. A person's stance on a radical group's rally may differ if such assembly is reported as a free speech issue, rather than a public safety concern (Druckman 2001, 225).[16] Similarly, preferences can be altered by simply changing the phrasing of a factual statement (for example, '95% employment' versus '5% unemployment') (Druckman 2001, 228). Such findings lead some authors to discuss the characteristics of *Citizen Incompetence* which, for example, suggests that citizens base their preferences on arbitrary information (although the Framing Effect = Citizen Incompetence equation is controversial) (Druckman 2001, 234–40).

There are solid reasons for us to cast doubt on all-encompassing human rationality. As pointed out before, Conly (2013, 1–2) implicitly links rationality to autonomy, she rightly concludes that the "ground for respecting autonomy is shaky", and therefore it only makes sense to describe the insistence on individual

[16] Similar phenomena certainly manifested themselves in, for example, the news reports on the January 6th, 2021, events at the U.S. capitol building and substantially influenced the perception by the audience: The left-leaning media typically described the act as a violent insurrection whereas right-leaning news channels seemed to prefer describing the participating individuals as something along the lines of 'protesters concerned with election-integrity'.

autonomy as wishful thinking, rather than an empirical fact. Correspondingly, autonomy is simply not valuable enough for allowing harm to occur or opportunities to be wasted because important decisions are left to individuals who are ill-equipped to make the right choices. Based on this assessment, Conly (2013, 2–3) argues in favor of a democratic type of coercive paternalism that forces people to behave in a way which promotes their own good: "What we need is a democratically elected government, but one in which the government is allowed to pass legislation that protect citizens from themselves, just as we now allow legislation to protect us from others. I argue for the justifiability of coercive paternalism, for laws that force people to do what is good for them".

Coercion is prima facie at odds with negative liberty (e.g., Berlin [1969] 2002, 31). Through the threat of punishment for non-compliance, coercion deliberately imposes constraints on the accessibility of, for example, cigarettes or hard drugs. Positive liberty is affected by coercive paternalism, too: Paternalistic prohibitions or commandments oppose the idea of individuals that are their own masters and the arbiters of their own lives. As already noted, Conly's paternalism is 'hard' in the sense of both definitions previously provided. It may be applied to *all* people (versus exclusively infants and ill-informed/impaired individuals in Mill's soft paternalism), and it permits the use of coercive measures (Conly 2013, 52–53). Another crucial distinction to be made to accurately describe Conly's coercive paternalism is between *means* paternalism and *ends* paternalism. She boldly assumes that "we do have some determinate ends – ends that are not variable with the biases that may influence our choices about means to our ends" (Conly 2013, 12). And yet, she stresses that her vision of paternalism is concerned only with the *means* of an individual, rather than with its values and personal ends (Conly 2013, 61).

Conly, however, is not the only author who recognizes the occasionally utterly self-destructive behavior in many people when it comes to a decent diet, a healthy body mass index, or a prudent saving plan for retirement (Sunstein and Thaler 2003, 1167–68). Furthermore, the lack of all-encompassing rationality diagnosed by behavioral economists, psychologists, and philosophers alike is not

a self-evident or sufficient justification for benevolent *coercion*. Conly (2013, 25–32) herself mentions liberal approaches as well as 'Libertarian Paternalism'. Given that the debate on coercive paternalism does not take place in an empty void without any alternatives at our disposal, those strategies must be briefly illustrated.

Common liberal responses emphasize education and experience (Conly 2013, 25–26). People can be taught about the repercussions of risky goods, and since 'bad' choices frequently are a consequence of framing effects and cognitive bias (as illustrated before), it may be helpful to reveal the existence of such phenomena via education. This strategy implies that people can adjust their behavior based on knowledge (Conly 2013, 25–26). The emphasis on experience follows the assumption that people *do* learn from both their achievements, and their failures – no matter how foolish their choices were in the first place. Valuable lessons could also be derived from the actions of third parties (Conly 2013, 27). A liberal strategy neither engages in manipulation, nor coercion.

The second alternative is the so-called 'libertarian paternalism' prominently advocated by the 'nudgers' Richard H. Thaler and Cass R. Sunstein. Libertarian paternalism is 'libertarian' in the sense that it does not promote liberty-limiting policies, and it is 'paternalistic' because it nevertheless *does* seek to modify people's behavior for their own good (Thaler and Sunstein 2008, 4–6). Thaler and Sunstein (2008, 5) understand their concept to be a "relatively weak, soft, and nonintrusive type of paternalism because choices are not blocked, fenced off, or significantly burdened". Libertarian paternalists 'nudge' the reasoning of the patronized individuals. They utilize cognitive biases for their good and modify the 'choice architecture' to achieve more desirable results (Thaler and Sunstein 2008, 2; Conly 2013, 30). A prominent example is the design of a cafeteria that invites the consumers to choose a healthier meal without depriving them of the option to buy the unhealthy meal anyway (Thaler and Sunstein 2008, 1–4). However, libertarian paternalism is, obviously, manipulative (Conly 2013, 30). Although it respects *negative liberty* by not deliberately eliminating choices, we have yet to ask whether it respects *autonomy*. Manipulation can certainly be at

odds with the idea of an autonomous and free agent in the positive sense as portrayed by Berlin – a conscious, thinking, willing, active, and responsible person following his own ideas and purposes (Berlin [1969] 2002, 178). Gideon Yafee (2003, 338–41), for example, suggests that manipulation could, in fact, be even more reprehensible than coercion: Although coercion reduces the liberty of an agent, manipulation and indoctrination can distort his very identity. Manipulation may therefore be more alienating than the coercive reduction of free choice.

And yet, there are words in defense of libertarian paternalism to be found: If the options promoted by the paternalist differ too far from the agent's own preferences, he can ignore the nudges. Libertarian paternalism therefore safeguards itself from excessive interventions (Conly 2013, 113). The danger of misuse seems to be smaller than in the case of coercively compelled behavior. Thaler and Sunstein (2003, 1182–83) furthermore suggest that libertarian paternalism is inevitable: There is no choice to be made between *influencing* decision-making processes and *not influencing* them. Meals in a cafeteria *must* be arranged in one way or another. The consumer choices will always be influenced – even if the positioning of the meals is random (Sunstein and Thaler 2003, 1183). The arrangement might as well be beneficial. Libertarian paternalism is worth discussing in detail, but in this section, it simply serves as an example for alternative behavioral modifications that operate without coercion.

Coercive paternalism is further motivated by the observation that *liberal strategies* are simply insufficient to successfully address the consequences of framing effects and other psychological phenomena. And yet, we must assume that no matter how much we care about proper diet, physical exercise, and financial security, there will always be something we could do better. The danger of promoting a spartan-like society with mandatory exercise routines, prescribed diet plans, and strict bans of all goods and hobbies that are potentially detrimental to perfect physical health has been addressed by multiple critics (e.g., Feinberg 1986, 24). Therefore, it is important to point out that Conly lays out strict criteria for the application of coercive paternalism. Furthermore, the scenarios she

discusses are relatively moderate in character – with a ban on smoking probably being the most controversial one.[17]

Conly (2013, 157–72) introduces four cases for coercive paternalistic legislation: A ban on trans-fats, a food stamp soda ban, portion size regulations, and a ban on cigarettes.[18] For coercive paternalism to be acceptable, four conditions must be met:

(1) "The activity to be prevented on paternalistic grounds really is one that is opposed to our long-term ends" (Conly 2013, 150). Conly stresses that to prevent an action through coercion, it is insufficient that it may be immoral, silly, or aesthetically unpleasing. Furthermore, interventions must reflect the individual's *own* value in opposition to values imposed by the paternalist (means paternalism) (Conly 2013, 150).

(2) "Coercive measures actually have to be effective" (Conly 2013, 150). A ban on certain unhealthy foods, for example, is ineffective if they can easily be substituted by other unhealthy products (Conly 2013, 150–51).

(3) "The benefits have to be greater than the costs" (Conly 2013, 151). The benefits of a proposed coercive intervention must outweigh the cost – including both material, and psychological effects (Conly 2013, 151).

(4) "The measure in question needs to be the most efficient way to prevent the activity" (Conly 2013, 151). This condition combines the effectivity and efficiency of condition (2) and (3) and adds that a certain policy must be the *most* efficient feasible solution (Conly 2013, 151).

[17] Unfortunately, the fact that *Conly* has relatively modest regulations in mind does not guarantee that *others* will not apply the logic at hand to justify far greater interventionism by articulating far larger visions. History, and even current political events in Eastern Europe, show that there is no shortage of political leader who gladly adopt a narrative which stages them as 'benevolent father of the nation', pursuing certain ambitions allegedly for the good of the citizens under their sway – if 'necessary', by force, against their will, and while bypassing democratic decision-making.
[18] Conly does not advocate the food stamp soda ban.

4.2.2 The Harm Principle and its Implications in the Liberal Arena

The idea that liberty should not be infringed upon is not only mirrored in Thomas Jefferson's famous phrasing of the U.S. American declaration of independence, but it is widely shared within the thought of some of the major political theorists and philosophers of the last centuries (Genovese 2009, 3). John Locke's ([1689] 2003, 136–37) almost identical emphasis on inalienable rights to liberty, life, and property is as prominent as Mill's ([1859] 2009, 93–94) insistence on individualism and free self-determination. The claim that individuals are equipped with a set of individual liberties, correspondingly, is a prominent conviction in liberal traditions, starting from which justifications for potential liberty-limitations can be explored (Wertheimer 2002, 43). While this thesis indeed takes such liberal ecosystem for granted, one should acknowledge that competing influential doctrines were advocated by, for example, Sir Robert Filmer just shortly before the publication of Locke's treatises. In Filmer's defense of the divine rights of kings, the relevant grounds for legitimate government and state authority were to be found in the bible and the revelation of God's will (Laslett 1949, 11–12). Especially with regards to paternalism, it is worth noticing that his *Patriarcha; or the Natural Power of Kings* gave far greater room to the power to commandments, patriarchs, and fatherly monarchs, claiming that it is unnatural for the people to govern themselves (Filmer 1680).

In the modern *liberal* framework, however, Feinberg identifies four principles which could justify the limitation of individual freedom through a state entity: The harm principle, the offense principle, legal paternalism, as well as legal moralism (Wertheimer 2002, 43). The harm principle and the offense principle suggest that liberty-limitations are justified to prevent one person from harming (or offending, respectively) another person (Wertheimer 2002, 44–50). Legal paternalism assumes the prevention of self-harming behavior to be justified, and legal moralism seeks to prohibit acts that are deemed to be immoral (Wertheimer 2002, 50–55). Although Feinberg (1986, 3) identifies these four common justifications for liberty-limitations, he adds that not all of them are *good* justifications. He eventually concludes that only the harm principle and the

offense principle provide sufficient grounds to truly withstand theoretical scrutiny (Feinberg 1986, 3).

Controversially, Mill ([1859] 2009, 166–67) suggests that offenses in public spaces, such as violations of good manners, *should* be prohibited. However, it is the *harm* principle that arguably provides the strongest justification for liberty-limitations and has risen to popularity as his so-called 'very simple principle'. Since it is neither 'very simple', nor can paternalism genuinely be discussed without it, the harm principle is worth examining in a little more detail (Feinberg 1986, 21–23; Wertheimer 2002, 44). Furthermore, Mill's principle is of crucial importance for 'soft paternalism' – a potential alternative to coercive paternalism that will be discussed in end of this chapter. Soft paternalism may include coercion, however, it is an internal application of the harm principle seeking to protect an individual from the choices of its own impaired or uninformed self (Feinberg 1986, 12).

Mill ([1859] 2009, 18) frames his conception of the harm principle as follows: "The sole end for which mankind are warranted, individually or collectively in interfering with the liberty of action of any of their number, is self-protection. That the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others". Mill's principle is subject to interpretation. An attempt to justify prohibitions of murder, abortion, cockfights, voyeurism, cocaine consumption, dwarf tossing, lewdness, or being a bad Samaritan on the basis of the harm principle will lead to different conclusions depending on both the definition of 'harm', and the target group that harm must not be inflicted upon (Wertheimer 2002, 38–41). The culpability of abortion may depend on whether a fetus is granted personhood (Wertheimer 2002, 44–45). To penalize cockfighting, animals must be included in the group of entities under the aegis of the principle, and to prohibit lewdness on the basis of the harm principle, distress presumably must be defined as a type of harm (Wertheimer 2002, 45). Harm may also be the result of collective actions (as it can be the case with environmental pollution) which adds further challenges to the definition (Wertheimer 2002, 47–48). Finally, even the

omission of an action can lead to harm (= being a bad Samaritan). Mill ([1859] 2009, 21) suggests that *inaction* should only be judged as an act of irresponsibility if it was "obviously a man's duty" to intervene.

As indicated, the debate on the harm principle is complicated and multilayered. For the sake of the arguments in this section, it is sufficient to apply Feinberg's (1986, 11) interpretation of the harm principle which "says in effect to A, 'You may not do anything that will probably harm B,' and then adds, 'except (of course) with B's consent'". This definition suggests that at least two parties must be involved in a harmful action. It furthermore illustrates the importance of consent as a typical liberal principle of self-government – as already briefly mentioned in the introductory methodology chapter. In that short example, though, we learned that tacit consent theory is *not* a flawless tool for justifying the transfer of individual rights to a state entity (McDermott 2008, 19). Within this discussion of the harm principle, we find another argument to be made that free, voluntary, and informed consent is not always an adequate ground for an action to be 'right'. Dwarf tossing or voluntary euthanasia might still be prohibited for moral reasons (Wertheimer 2002, 46–47).

Putting aside different interpretations and definitions of harm, Mill's ([1859] 2009, 18–19) notion of his principle proceeds as follows: "His own good, either physical or moral, is *not* a sufficient warrant. He *cannot* rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise, or even right. These are good reasons for *remonstrating* with him, or *reasoning* with him, or *persuading* him, or *entreating* him, but not for *compelling* him, or visiting him with any evil, in case he do otherwise" [emphasis added]. Correspondingly, it is evident that Mill predominantly opposes liberty-limitations motivated by paternalistic considerations. Although benevolent attempts to modify a person's course of actions for his own good can be guided by noble motivations, coercion must not be applied.

4.2.3 Against Punishment and a Perfectionist Aegis for 'Irrational' Individuals

This section covers three types of argument that can be set against the internal coherence of coercive paternalism. Correspondingly, it embodies the first of the two strategies briefly mentioned in 4.2.

The first counterargument suggests that the supremacy of long-term interests over short-term interest implicitly underlying Conly's reasoning is not self-evident. The relationship between the 'present self' and the 'future self' can instead be characterized as *reciprocal*. Correspondingly, we further explore a related manifestation of the terrain that lies at the heart of the debate on 'the individual' and AEDs in the previous chapter. The second argument seeks to illustrate that even *benevolent* coercion can be regarded as a morally questionable tool and an improper type of interpersonal relationship. It furthermore suggests that (the threat of) punishment for non-compliance with paternalistic laws lacks a genuine justification. Dworkin (2013), for example, implies that punishment should be reserved exclusively for cases of non-compliance in which harm was inflicted upon *others*. The third argument addresses a set of slippery slope problems with coercive policies as well as a potential misconception about the aforementioned cognitive biases and lack of rationality. It stresses that not every form of imprudent behavior must be a symptom of cognitive failures and it suggests that coercive paternalism cannot sufficiently be safeguarded against 'perfectionism'.

As already claimed, coercion is typically regarded as being at odds with freedom. Conly (2013, 32–33), however, argues that her version of coercive paternalism in fact seeks to *promote* an individual's liberty. And there *is* something intuitively convincing about the idea that people suffer the greatest possible loss of freedom if they become extremely sick or die because they were not prevented from smoking – if necessary, by force (Conly 2013, 32–33). Conly's reasoning is motivated both implicitly, and explicitly by the idea that we ought to follow our long-term interests. A ban on trans-fats, a reduction of portion sizes, and mandatory saving plans promote long-term well-being in opposition to

reckless short-term hedonism (Conly 2013, 152–72). However, such hierarchy is not self-evident. The economist Glen Whitman (2006), for example, argues that long-term ambitions and short-term interests in fact determine each other reciprocally.

When it comes to the distinction between short-term and long-term interests, an individual may be treated as if it consists of multiple selves, such as the *present self* and the *future self* (Whitman 2006, 2). This dichotomy is interesting for two reasons: It enables an evaluation of the (negative) effects (or 'externalities' in Whitman's economic terminology) one self imposes on the other. Furthermore, such division allows for additional justifications *for* coercive interventions to be derived from the harm principle, for example, when the present self would impose significant constraints on the future self.

Whitman's argument originates from economics and mirrors the transition from Pigouvian approaches to Coasean ideas of externalities and spillover effects.[19] The Pigouvian argument assumes that decision-makers (the present self) do not suffer all the costs of their choices. They therefore engage in too high levels of externality-imposing (on the future self) activities and such inefficiency may be corrected through interference (as it can be the case with taxes) (Whitman 2006, 3). Whitman (2006, 3–4), however, argues that *Coase's* position is more accurate and better fitting for the paternalist's framework: The present self and the future self exist in a reciprocal relationship. Indeed, harm can be imposed by the present self on the future self, but the same is true vice versa (Whitman 2006, 3–5). This potentially counterintuitive claim *does* makes sense: Smokers tend to sacrifice their future health for pleasures in the present, but the opposite can be the case for workaholics (Whitman 2006, 3–5). Excessive concern for future (financial) well-being can disenable people to take pleasure in the moment. As Conly rightly implies, inconsiderate enjoyment of all liberties in the present can lead to limited options in the future. And yet, the quest to preserve or to enhance as many options as possible in the future equally imposes liberty-limiting

[19] "Externalities are costs or benefits of an activity that spill over onto people not involved in the activity (typical examples include people who breathe polluted air or neighbors disturbed by loud music)" (Whitman 2006, 2).

commandments on the present self. Whitman (2006, 4) concludes that it is true, "allowing the present self to smoke or overeat means harming the future self. But by the same token, preventing smoking or overeating on behalf of the future self means harming the present self".

This argument is challenging to theories of coercive paternalism rooted in a concern for *long-term* interests and well-being – especially if, as Conly (2013, 11–12) claims, an individual's *own* ends and values ought to be promoted and must be respected. Since it is not self-evident that an agent's behavior should be corrected in favor of his long-term self (or corrected at all), Coasean arguments instead favor a *least-cost avoider principle* (Whitman 2006, 6). Suffering certain consequences in the future may induce less harm than giving up on actions today that lead to those externalities. This is a matter of intrapersonal bargains (Whitman 2006, 6–7). As Whitman (2006, 13–14) argues, such bargains can be *distorted* by coercive interventions, and, furthermore, the paternalist lacks the exact knowledge of the person's individual preferences, values, goals, and trade-offs.

Although Whitman's argument together with the objections articulated in the following two sections may persuade us into being skeptical about paternalistic coercion, it certainly is not a knock-out argument on its own. A proponent of coercive paternalism could, for example, reply that although a paternalist lacks perfect knowledge about the goals and trade-offs of every single person under his aegis, there certainly must be some *idealized individual* that at least broadly represents a minimum set of universally shared preferences. Furthermore, given that we established that people constantly fall prey to cognitive errors, such as biased judgments and framing effects, would it not be prudent to delegate the intrapersonal bargains away from the irrational individuals and implement a more scientific administration instead?

We do, unfortunately, encounter the 'one size doesn't fit all' problem in a population including billions of heterogeneous people (Rizzo and Whitman 2008, 68–69; Whitman 2006, 10–11). Although exceptions could technically be implemented, most policies are *universally* applied, and they do not target *specific*

individuals (Rizzo and Whitman 2008, 68–69). Rizzo and Whitman (2008, 68) correspondingly emphasize that paternalism gives rise to over-inclusion and under-inclusion, "meaning that some people whose behavior needs correction will not be affected enough, while other people whose behavior requires less change (or no change at all) will be affected too much". Conly's proposed ban on cigarette production certainly falls under the umbrella of policy prescriptions that are implemented universally, making no exception for people who responsibly enjoy small quantities of tobacco every once in while without truly putting their health at jeopardy (or do not smoke at all). Even if this well-known argument does not fully convince an advocate of coercive paternalism – given the potentially devastating effects of cognitive biases – we have yet to ask whether the *paternalist* is truly beyond those exact errors. As Whitman (2010) concludes, "no one is immune to bias. Not social scientists, and certainly not policymakers. In translating behavioral science into policy, we may be led astray by the very same cognitive defects we wish to correct".

With regards to the second type of counterargument, we find that as most other forms of binding legislation, paternalistic policies must be backed by the threat of punishment for non-compliance. Punishment, however, is stigmatized and condemned (G. Dworkin 2013). The motivation for punishment typically includes concepts such as deterrence, desert, retaliation, education, or rehabilitation (Altman [1996] 2000, 135–47). In the most common cases, the punishment of a 'criminal' is justified because he, for example, gained an unfair advantage, inflicted wrongful harm on someone, or simply broke a widely accepted law that is a reflection of a just and fair society (Altman [1996] 2000, 141–44). But as Dworkin (2013) stresses, for punishment to be justified, a certain conduct must be wrongful and harmful to *others*. When applying punishment for violations of *paternalistic* policies, the condition must be altered to include harm to *self* (G. Dworkin 2013). He argues that such modification might take its toll. Conly (2013, 127) herself recognizes that punishment might seem unjustified since paternalistic policies are aimed at 'wrongdoings' that are a result of cognitive bias, not malevolence. Correspondingly, Dworkin and Feinberg (1986,

15) agree that punishment ought to be reserved for harm to others since self-harm lacks blameworthiness: “It is never a morally valid reason for statutes threatening the nonvoluntary self-endangerer himself with criminal punishment”.

A second concern broadly addresses the human (un-)willingness to *use* coercive measures, and it begs the question whether coercion is an appropriate tool – especially in exclusively self-affecting matters. Conly (2013, 128) acknowledges that the costs of coercion must include psychological effects and that they must be compared to the benefits. Even though she takes various negative effects into consideration a patronized person may suffer (infantilization, resentment, etc.), there is a further argument to be made that coercion embodies an improper type of interpersonal relationship – especially when it aims at someone’s most private affairs.

Just as it was enlightening to discuss the case of AEDs in the Netherlands (subchapter 3.4) in order to put our fundamental conception of ‘the autonomous individual’ to a test, it is now helpful to, again, look for guidance in the field of medical ethics: In interviews with California psychiatric nurses, for example, Paula Vuckovich and Barbara Artinian (2005, 370–71) found a challenging dilemma between *beneficence* as a nursing value and *autonomy* as the patients’ principle of self-ownership. With a certain resemblance to Conly’s argument, patients in the psychiatric institution were found to be in need of medication to preserve their health or sanity – if necessary by force and against their will (Vuckovich and Artinian 2005, 371). Coercion, even beneficial coercion, is at odds with the nurses’ ethical judgment: “The use of coercive power overtly violates nurses’ understanding of the *proper nurse-patient relationship*. Nursing is based on the premise that nurses provide care at patients’ instigation, not that nurses force care on unwilling recipients. … The participants, like other nurses previously studied, wished to see themselves as ‘good nurses’ and ‘doing the right thing’” [emphasis added] (Vuckovich and Artinian 2005, 371). The nurses substantially preferred negotiation over coercion as it respects the patients’ dignity and autonomy and achieved greater voluntary long-time compliance with the medication (Vuckovich and Artinian 2005, 374–78). Coercion was justified only

as a last resort and the nurses "are proud of their successes at avoiding coercion and feel a sense of failure when such avoidance is impossible. When coercion must be used, they do everything they can to mitigate the coercive actions" (Vuckovich and Artinian 2005, 378).

The study furthermore found that nurses who rarely or never succeeded in non-coercive interactions in accordance with their standards either became 'bad' nurses increasingly coercing patients without proper justification, or became disillusioned and changed their profession (Vuckovich and Artinian 2005, 379). In criterion (3), Conly (2013, 151) illustrates that the costs of paternalism may be both material, and psychological and that "a measure that greatly improves health, for example could in fact be so psychological painful, over the long run, as not to be worth it". The nurses in the study did not prefer negotiation because it is the fastest, the most effective, or the most convenient way to achieve results, but because there is something fundamentally appalling about applying coercion – at least before every other autonomy-preserving strategy has been exhausted (Vuckovich and Artinian 2005, 376–79).

Naturally, the individual experiences of professionals in the medical field must not be confused with the mechanism of coercive paternalistic policies on the level of state legislation. And yet, such examples invite us to speculate about the potentially tainted character of coercion as an interpersonal relationship.[20] Regardless of whether we assume coercion to have a corrosive or corrupting effect on a paternalist embodied by an impersonal state entity that must be taken into consideration when we evaluate the costs and benefits of a liberty-limiting policy, coercion yet seems to be a tool that we prefer to make *less frequent* use of in other areas, broadly speaking. Furthermore, keeping in mind that punishment is stigmatized, condemned, and a tool commonly reserved for conducts that are

[20] There is a variety of similar fascinating examples to be found that illustrate the corrosive effects of force, coercion, and subjugation. Surprisingly, such reprehensible types of interpersonal relationship can have negative impacts on both parties, even if the roles between victim and perpetrator are clearly defined. As Frederick Douglass ([1845] 2009, 48), a former slave himself, wrote in his famous narrative, slavery "proved as injurious to her [Douglass' mistress] as it did to me". Once a tender-hearted and well-meaning person, slavery "soon proved its ability to divest her of these heavenly qualities" (Douglass [1845] 2009, 48).

blameworthy and harmful to *others*, the application of coercive paternalism in the most private and self-affecting affairs seems questionable. Perhaps we run the risk of turning something that is supposed to be genuinely benevolent into something degrading.

Conly is not without a response to such objection. Not every form of coercion is on par with shoving medications down the throat of a miserable and unwilling patient. Not every liberty-limitation is of such dignity undermining character and not always is a face-to-face confrontation between the patronized individual and the paternalist involved. An impersonal legislative framework of paternalistic coercion can be imagined, and the problems of applying punishment in a paternalistic setting can be mitigated, too: It is, for example, possible to shift sanctions for non-compliance away from the *consumer* to the *producer* of unhealthy products. Such shift would remove (or at least reduce) the problem of applying punishment to individuals in the absence of a 'wrongful' act and genuine blameworthiness. In fact, this is Conly's (2013, 152–72) strategy in the cases she discusses: A trans-fat ban, a reduction on portion sizes in restaurants, and a ban on cigarette production. However, ironically this strategy may sound convincing precisely because the resulting legislative setting no longer necessarily depends on a *paternalistic* justification: If the *manufacturer* is targeted by coercive policies rather than the *individual*, the question manifests itself whether the reasoning behind it must be *paternalistic* at all.[21] It can make perfect sense to ban the production of cigarettes based on the harm principle instead. The same holds true for abnormally huge portion sizes in restaurant, or the use of trans-fats. Putting these arguments aside, there is third objection to paternalistic legislation to be discussed which is commonly called 'perfectionism'.

Around 480.000 deaths a year (in 2016) can be attributed to cigarette smoking and second-hand smoke exposure in the U.S. alone (Jamal et al. 2018). Arguably every single preventable death is 'too much', and it is evident that

[21] As illustrated earlier, such arrangement may still be classified as 'paternalistic' according to Dworkin's definition (although it would be 'impure' paternalism), given that for harm to occur, there must be 'cooperation' on the side of the victim. And yet, there is a case to be made that the harm principle would be suitable as well (and perhaps better justified) when it comes to a ban on cigarette production.

liberal approaches and established disincentives are simply not effective enough. But a common fear easily manifests itself: If we agree that coercive measures are a necessity – where do we stop? Perfectionism is one of the major worries voiced against paternalistic policymaking. It may justify a government's judgmental stance on human traits and activities that are allegedly worth encouraging (Le Grand and New 2015, 29). Perfectionists disregard the views and perspectives of individuals: "We may imagine a government imposing entirely foreign values, forcing us to live in ways that have nothing to do with what we want. Even a government quite sincerely attempting to do what is good for us may be wrong-headed about what our welfare consists in, and can impose actions that lead us entirely in the wrong direction" (Conly 2013, 100).

Conly objects that paternalism must *not* be confused with perfectionism. Perfectionist theories are based on *objective* values (Conly 2013, 103). In such a setting, individuals correspondingly ought to live lives that realize objective goals regardless of their own subjective desires (Pugh 2015, 350). Conly distinguishes moral perfectionism and welfare perfectionism: The first aims to improve individuals morally by, for example, prohibiting them to become a drunkard or to act in any other morally reprehensible way (Conly 2013, 103–5). The latter one promotes constitutive elements for the well-being of an individual (Conly 2013, 103–4). The idea of a potentially all-encompassing paternalistic legislator is frightening – especially if nothing is prima facie off limits (Conly 2013, 102). Even a truly benevolent paternalist might exceed coercive polices beyond an acceptable threshold, but an ill-intended legislator may lend wings to totalitarian conquests (Conly 2013, 102). Conly (2013, 102–3) argues that this is clearly *not* what her idea of paternalism is about: "The goal of the paternalism recommended here is the advancement of individual welfare, and that is individual welfare construed as the maximization of the fulfillment of subjective ends. The standard of welfare is, then, what is typically termed as subjective one – based on the desires of the subject. Paternalism is not perfectionism, and it is perfectionism that is far more likely to permit of abuses".

Furthermore, one may object that 'perfectionism' does not necessarily refer to an illiberal nightmare in which people are subjected to massive paternalistic intrusion deprived of all free choice and subjective values. Some major theories of perfectionism, represented by, for example, Joseph Raz and Steven Wall, in fact *do* emphasize the importance of autonomy within their frameworks of *liberal* perfectionism. Raz stresses that we ought to "advance autonomy by protecting morally valuable options for choice" (George 1995, 163). Although he denies that autonomy requires "governmental neutrality as between competing conceptions of the good", given that it is an intrinsic human good, autonomy yet *does* demand for a limitation of a government's "use of coercion in the pursuit of perfectionist aims" (George 1995, 163). Similarly, Wall (1998, 127) clearly emphasizes that "a liberal perfectionist theory is a perfectionist theory that holds that personal autonomy is a central component of human flourishing". Correspondingly, liberal perfectionism does not categorically reject subjective desires, individual values, the ability to act imprudent occasionally, and – generally speaking – autonomy. The dangers of perfectionism might not be that great after all.

Unfortunately, Raz's and Wall's mainstream characterization of the term simply does not align with the illiberal version of perfectionism we must be concerned with when discussing Conly's coercive paternalism. Both the title of her book, and the very first page of its introduction clearly show that she is arguing against autonomy, claiming that "autonomy is not all that valuable" (Conly 2013, 1). Accordingly, the debate on the separation between coercive paternalism and perfectionism must be pursued with the *illiberal* version of perfectionism, implicitly characterized by Conly's own account, in mind. Therefore, we must note that if her coercive paternalism explicitly rejects autonomy, *and* indeed risks promoting perfectionism, we cannot come to Conly's aid by simply arguing 'it's not that bad' with reference to Raz's and Wall's *liberal* interpretation of perfectionism. The following paragraphs include two arguments suggesting that coercive paternalism *cannot* avoid perfectionism (1) because

means and ends can be entangled, and (2) a paternalistic state could eventually impose a hierarchy of ends via 'back-door paternalism'.

Argument (1) starts by suggesting that we find ourselves confronted with the suspicion that the separation between perfectionism and paternalism does not entirely succeed: Even if the paternalist exclusively enforces the appropriate *means* for the achievement of subjective ends, there is still a case to be made that some means are *objectively* beneficial to those ends, whereas others simply are not. If an individual wants to live a long and healthy life, it is certainly objectively prudent for a means-paternalist to keep such person from drinking bleach. Conly's proposal has great resemblance to this argument since the factually unhealthy effects of cigarettes, trans-fats, and too great portion sizes are well-documented. However, many people will still fail to overcome their weaker self, overeat within the sovereignty of their own homes, and find a way to poison themselves with other luxury goods besides cigarettes. A perfectionistic form of paternalism can therefore promote a slippery slope, leading to massive intrusion, coercion, and monitoring. This line of argument as well as the fear of introducing a 'Big Brother' is, at least to some degree, successfully addressed by Conly (2013, 132–42). However, the dangers of perfectionism are drastically reinforced if we would find that means and ends are in fact genuinely *entangled*.

Julian Le Grand and Bill New (2015, 29) agree that means-paternalism "is concerned only with assisting in the *achievement* of ends that are considered to be fundamentally the individual's own – including the balance between these ends". But they proceed by pointing out that means "and ends can easily become entangled" (Le Grand and New 2015, 30). Le Grand and New (2015, 30) introduce a simple example: "We suggest that the end was one of achieving a high quality education for his child. But perhaps there is another end lying behind this one – that the children get well-paid jobs, or secure jobs, or that they develop some aptitude to its full extent. Or perhaps the true end is yet more fundamental – that the children become simply happy or satisfied adults. Obtaining high-quality education is just a means to these ends".

An obvious problem manifests itself: Even certain goals that we would judge to be an *end* can, in fact, serve as a *means* to another end. A good school serves as a means for high education, high education is perhaps merely a means to secure a decent job, and a decent job can be understood a constitutive means for a prosperous and fulfilling life. Why should we ban smoking? To enable people to live a healthier and longer life. But why do we value a long and healthy life anyway? Most likely to enjoy a higher quantity of all the things life has to offer, to fulfill our presumed obligations towards our families, or to chase something along the lines of 'happiness' or 'fulfillment' (or 'eudaimonia' if we fancy a more appealing *philosophical* term). The idea that means and ends can be entangled challenges types of paternalism that claim to be concerned with *means* only. Virtually everything except for the 'ultimate end' can be characterized as a means and therefore falls within the dominion of the paternalist.

This problem is complicated even further by (2) – what Jonathan Pugh calls 'back-door paternalism': The idea, that certain values and ends eventually must be prioritized over other. *Multiple* ends may be in our subjective interest, but they can be mutually exclusive (Pugh 2015, 350). The wish to prepare the *best tasting* food may frequently be at odds with the ambition to prepare the *most health-promoting* meal. Such confrontation demands a hierarchy of ends (Pugh 2015, 350). A paternalist may introduce policies that favor good health over the enjoyment of tasty food. This circumstance alone does not impose alien values on the patronized person since most people regard health as a subjective end (Pugh 2015, 350). However, even though the competing ends may both originate from the individual's subjective preferences, a paternalist might presume that certain values ought to be preferred over others. Such priority does not necessarily correspond to the hierarchy of ends the *individual itself* would endorse (Pugh 2015, 350). Good health is desirable, but it is not the only thing we value in life. It is tempting to declare health to be paramount but the "trick is stopping short once we undertake this path, unless we wish to ban whiskey, cigarettes, and fried food" (Feinberg 1986, 24). This is where the dangers of coercive paternalism become evident: "The paternalist might respond that health is a more fundamental value

than our enjoyment of these other things, and that CP is thus justified in forcing us to prioritise this end over others. This though seems to smack of exactly what we seem to find troubling about perfectionism" (Pugh 2015, 350).

Besides the claim that Conly's paternalism does not successfully detach itself from perfectionism in every regard, there is a third objection in this section to be mentioned that addresses her references to flawed rationality and brings us back to the very beginning of this discussion. Her analysis of Kahneman's and Tversky's findings in psychology and behavioral economics illustrates the existence of cognitive bias and framing effects, suggesting that individuals are unable to choose the appropriate means for their ends (Conly 2013, 16–24). Whitman's argument already indicated that it is not self-evident that long-term interests ought to be preferred over short-term interests. Pugh (2015, 350) adds that we should not exaggerate the attribution of allegedly imprudent behavior to cognitive biases and a lack of rationality: "We must take great care about what we presume that people are consuming only on the basis of cognitive error. More specifically, it is crucial that we avoid defining our terms in such a manner that it becomes impossible for agents to choose some action that poses a risk to their health without them being accused of making a cognitive error in weighing their values in that way. Health is a central value, but it is also one of many, and we should safeguard the theoretical and practical possibility of agents autonomously prioritising the pursuit of other values over the pursuit of their health".

A final objection against coercive paternalism's underlying assumption worth illustrating follows a similar line of argument. Gary Becker and Kevin Murphy (1988, 694) point out that even something as destructive as *addictions* can be a result of a rational choice structure. Studying 'rational addictions' they find that "other things the same, individuals who discount the future heavily are more likely to be addicted" (Becker and Murphy 1988, 694). The implications of such an idea are obvious: Even though harmful actions as severe as drug consumption certainly jeopardize options in the future, they are not necessarily a symptom of cognitive bias or irrationality. At least in theory, discounting long-term interests in favor of pleasures in the present can be perfectly compatible with

rationality. Naturally, this is not to say that we should allow people to poison themselves with drugs. It merely suggests that it is too simplistic to assume that every failure to pursue long-term-interests, such as health, can be traced back to cognitive errors or flawed reasoning (Pugh 2015, 350). The case for subjecting individuals to coercive paternalistic interventions demands for stronger justifications.

4.2.4 Gambling with High Stakes: Liberty and Autonomy

Coercion is a necessity. As illustrated before, multiple justifications for liberty-limitations are to be found, and some of the most prominent social contractarians suggest that life in society would be impossible under conditions of absolute freedom. Jean-Jacques Rousseau and Thomas Hobbes, for example, provide well-known ideas on how people overcome a state of nature to live together in a society. Such process both restricts the all-encompassing freedom of individuals, and simultaneously provides them with a set of social liberties (Lloyd and Sreedhar [2008] 2020). Macleod (2008, 64) correspondingly emphasizes that not every kind of legislation and demand for law-obedience is a wicked and malicious type of autonomy-undermining coercion: “While the arrangements and the rules may be characterized as 'coercive' … it seems not to be the case that, whenever an individual member of society does what is required by these rules (or refrains from doing what these rules proscribe), he or she is normally either said or thought to be acting under 'coercion'. Acts of law-observance are not morally seen as coerced acts”. He furthermore agrees that liberty-limitations can even be a necessity to *provide* genuine freedom (Macleod 2008, 64–66). The culpability of murder and theft certainly deprives citizens of their liberty to kill or rob other people without consequences, however, it also enables them to live relatively fear-free lives (Macleod 2008, 66). Correspondingly, not all limitations on freedom of action are prima facie reprehensible. The answer to the question *why* liberty is

restricted matters substantially, and it demands a convincing justification. And yet, coercive paternalism is a unique case.

The emphasis on autonomy and individual freedom in the ecosystem of liberal thought already discussed in 3.1, 3.2, and 3.4.3 certainly includes the liberty to engage in risky behavior and the freedom to fail dramatically. As William Glod (2013, 413) points out, a necessary condition for a person's life "to go best according to her own lights is she be left free as a matter of principle to live her life, even though a risk of such independence is that she ends up actually making some foolish and self-damaging (albeit voluntary) choices". Self-determination does not avoid failures, as Conly convincingly points out. However, based on autonomy as an ideal, an individual may demand self-determination as a *moral capacity* (Glod 2013, 413). It may be the case that a person would live a more prosperous life because of paternalistic intervention in comparison to a life without the paternalist's aegis (Glod 2013, 414). And yet, people may prefer the freedom to act and to choose based on their very own consideration. Such life may be less successful on consequentialist terms compared to a life which is determined by the leadership of a paternalist (Glod 2013, 414). Even though an individual might not appreciate the failure caused by its own free choices, it may nevertheless prefer the *freedom to fail* over patronization (Glod 2013, 414). Such agent, as Glod (2013, 414) concludes, prefers liberty "as a *precondition* of having the ability to succeed without reliance on paternalism as a failsafe. Choosing well in the face of being able to have chosen unwell comprises, for some, a hallmark condition of moral agency *and* the good life". The value of an achievement is significantly constituted by the process by which it came into being. Even though Conly addresses psychological costs, such as infantilization or resentment which occur due to patronization, paternalistic reasoning appears to be predominantly consequentialist (Conly 2013, 25–33).

The importance of achievements that are the result of free and deliberate choice tend to be neglected in considerations that are overly concerned with results only. Exercising one's own free choice and running risk of failing in the absence of paternalistic interventions is a challenge, however, it is a challenge

which can generate value: “Claiming non-interference would result in harm assumes the agent lacks sufficient freedom to decide what to do in this instance, but this very freedom is what enhances the value of choosing to perform the right or prudent actions. Self-determination is not one more item in the list of benefits to be weighed against costs, since … having the freedom to choose avoidance of these costs is preferable to living under a scheme of coercion. Calling for untrammeled free choice within a framework these agents can endorse is one way they *take their moral agency seriously*” [emphasis added] (Glod 2013, 418).

As we have already seen, the staggering importance of self-determination and independence is mirrored in multiple Kantian arguments, too. Kant ([1793] 1964, 145) indicates, for example, that autonomy must be regarded as an individual and personal affair which should only be restricted to secure equal liberties to fellow citizens in a society. Apart from this exception, every individual can pursue his very own idea of happiness. No other person is permitted to interfere and to override such an individual's personal choices (Kant [1793] 1964, 145). As indicated before, liberty and autonomy are no guarantee for *individual* choices to be *prudent* choices. A Kantian proponent is well aware of this circumstance but he believes that “paternalistic interference is wrong because he sees as one condition of moral obligation the need to overcome his avoidable flaws by his own choice rather than defer to paternalists in a heteronomous fashion” (Glod 2013, 417). Kant ([1793] 1964, 146–50) suggests that happiness is (among other things) constituted by the ability to attribute success and failure to *one's own actions*. Conly (2013, 2), in opposition, emphasizes the negative side of such liberty early in her introduction: “The common rationale for letting people choose poorly is that autonomy requires that people suffer the results of their own actions, for good or ill, but here respect becomes a justification for inhumanity: the principle that those who fail deserve to fail isn’t one that is geared to support equality and mutual respect“.

Autonomy certainly *is* a two-edged sword. And yet, its constitutive liberty is not exclusively about being free to succeed and being free to fail. Instead, to a Kantian, the role of freedom is more fundamental than that: In his deontological

tradition, overcoming our own deficiencies can be regarded as a moral obligation that must be pursued via individual free choices (Glod 2013, 417). Following this view, paternalistic laws are deeply problematic: Allowing beneficence to outweigh autonomy is by no means only an isolated minor interference (Glod 2013, 417). "Rather, we undermine *the very condition* these Kantians see as *necessary for acting morally* on the basis of their normative considerations. Here coercive beneficence does not *outweigh* autonomy – it *compromises* autonomy" [emphasis added] (Glod 2013, 417). Apart from its 'anti-Kantian' characteristics, coercive paternalism seems problematic for several subsequent reasons: Infantilization, for example, is a common and widespread objection.

The term 'paternalism' already indicates that one "behaves paternalistically if one treats an adult as though one were a parent dealing with a child" (Arneson 1998, 250). But if we think of ourselves as mature and autonomous agents, being patronized by the paternalist's aegis seems appalling. Conly (2013, 67) *does* reply to this allegation, rejecting the claim that people *can* sufficiently learn from their failures within the framework of what we may call a liberal approach to behavioral modification. She emphasizes that laissez-faire doctrines allow a person to maneuver himself into a situation which is simply too severe as to have a chance to learn from the experience (and to recover from it) (Conly 2013, 67). Conly (2013, 68–69) furthermore points out that coercive paternalism's infantilization is based on a relationship of dependency, but such relationship is no entirely new phenomenon to us. For example, we already *are* depending on a well-functioning public education system since we lack enough private institutions that could serve as an alternative if state-funded schools would fail (Conly 2013, 68–69). Another one of her counterarguments is Aristotelean in character. It can be beneficial to lead people to make the right choices, and to cultivate virtue and habits through a proper framework (Conly 2013, 69–71). "In order to do virtuous things before one has actually become virtuous, then, you need help from others – you need good teachers, teachers who will train you to do the right sorts of thing by having you do the right sorts of thing" (Conly 2013, 71).

Yet, critical different perspective suggests that it is not a prudent decision to treat adults as if they were infants. Not only can such coercive paternalistic legislation be associated with arrogance and pretentiousness, but it can also be downright degenerating for the individuals that are kept from employing their full faculties: "Paternalism seems a preposterous doctrine. If adults are treated (*in this fashion*) 'as children', they will in time come to be like children. Deprived of the right to choose for themselves, they will soon lose the power of rational judgment and decision. Even children, after a certain point, had better not be 'treated as children', else they will never acquire the outlook and capability of responsible adults" (Feinberg 1986, 24). Furthermore, the paternalist's aegis may affect individuals who are not in need of any interference – as already briefly discussed in the previous subchapter. Proponents of coercive paternalism typically do not promote *isolated* instances of paternalistic interventions assisting *specific* individuals who are in striking need of support – they promote legislative measures. As Macleod (2008, 67–68) indicates, such measures demand just and equal treatment as a quality criterion, and what "justice crucially requires of the coercive rules that give content and structure to institutional arrangements is that they be applied and enforced impartially. … The hallmark of just institutional order is its 'equal treatment' of all who are subject to its rules". However, treating an unequal group of heterogeneous people equally has the capacity to impose a new set of injustices, as already shown.

4.2.5 Against the Universal Rejection of Autonomy: Soft Paternalism

Both paternalistic legislation *and* the lack of paternalistic legislation can produce grievances. Many classical liberals, neoliberals, and libertarians, such as Hayek ([1944] 1999, 35–44), stress that a broad state as well as its attempts to plan and to regulate the economy (or even individual affairs) should be treated with caution to avoid totalitarian tendencies. Theories of paternalism, including Conly's (2013, 1) coercive paternalism, typically advocate relatively *modest*

policies (with a ban on cigarettes probably being the most controversial one). Unfortunately, this does not guarantee that the framework is sufficiently safeguarded against excesses. The rationale behind coercive paternalism may eventually justify a greater level of interference than its proponents initially intended.

But what is the alternative? A rejection of coercive paternalism may create the impression that we are simply willing to allow people to eat or to smoke themselves into an early grave, or to accept a preventable level of harm by allowing everyone to drive without a seat belt or safety helmet. However, as already stated in the discussion of pure vs. impure paternalism, corresponding harm-preventing and liberty-limiting policies can be implemented (or defended) based on Mill's harm principle in many European welfare states where health is not an entirely private matter. The burden which a 'reckless' person would impose on publicly funded hospitals or the social security net in general could serve as a sufficient justification for banning at least the most devastating types of self-harming behavior. There may only be limited examples to be found that are truly forcing us to subscribe to paternalism because an individual must be protected *exclusively* for his own good. And yet, the legitimacy of benevolent coercion and the range of intrusions into individual lives a state entity is permitted to exert motivated by genuine concern for its citizens' well-being are fundamentally important areas of political thought worth discussing in Europe, too.

The real-world implication of the paternalism-debate may be very different on U.S. American soil. In a culture in which, generally speaking, people are more strongly assumed to be independent and self-relying individuals that enjoy the benefits or suffer the consequences of their actions, the endorsement or rejection of paternalism may play a greater role. If, for example, health is regarded as a truly private matter, there are three options to choose from: (1) We accept coercive paternalism and avoid preventable harm. However, as Conly points out, we are opposing (or even rejecting) autonomy. This strategy can be deeply at odds with classical liberal principles. (2) We reject coercive paternalism and accept avoidable harm to occur as a price we are willing to pay to preserve autonomy. Or

(3), we attempt to justify a certain middle-ground that allows us to avoid at least some instances of severely self-harming behavior without rejecting autonomy altogether. Mill's version of soft 'paternalism' is an example that falls into this category – although it is certainly not a perfect one.

Abandoning paternalism altogether can indeed be act of in-humanness since not even the most devastating types of self-harm can be restricted due to a dogmatic insistence on autonomy. And yet, we should familiarize ourselves with two further objections against *coercive* paternalism worth discussing: The first one concerns the role of the state and the question, whether it is the state's obligation to maximize the welfare of its citizens in their individual affairs. It is a question about its *purpose*. Classical liberal and libertarian positions typically stress individual responsibility, independence, as well as self-reliance, and suggest that the state should only provide the necessary framework which guarantees liberty and autonomy. It is simply not self-evident that it is the government's business to tinker with the most personal and self-affecting concerns of its citizens. Second, we might be able to find a better alternative: Mill's soft paternalism could be enough for us to avoid at least the most disastrous and unintended kinds of self-harming behavior *without surrendering autonomy altogether*.

Conly (2013, 45) argues that there "is, though, a strong prima facie argument in its [coercive paternalism's] favor, since it would help us to avoid destructive tendencies to which we are all prey, and would help us to end up in situations that we want". As indicated, this provokes the question whether the raison d'être of a state includes paternalistic legislation in the sense of an *imperium paternale* – especially since it is at odds with autonomy (Kant [1793] 1964, 145). Well-being is certainly desirable and it seems nothing but honorable to promote welfare. However, as Blake (2001, 293) indicates in a global perspective, we "are under no obligation to maximize the world's welfare – or the welfare of any part of it, for that matter – but we are under an obligation to avoid denying the conditions of autonomy to all human beings". Autonomy does not demand for a maximization of available options as long as their number is above a

certain baseline of adequacy (Blake 2001, 269). In a political framework based on liberal and democratic principles, arguably everybody should have the *chance* to live a healthy and fulfilling life. And yet, it is a very different claim to suggest that the 'right' way of life should be enforced backed by the power of the state. It is challenging to define what we can expect individuals to do for themselves in a modern society (Macleod 2008, 70).

Similarly, a controversial debate would be needed to decide on the degree to which the state is obligated to support the pursuit of the individual goals of its citizens (Macleod 2008, 70). The problem of excessive interference, however, may serve as an argument in favor of the ideal of self-reliance: "The ideal is sometimes thought to require individuals to assume personal responsibility, in all matters that affect their own well-being, for doing absolutely everything it is possible for them, as individuals, to do, not matter how stringent and taxing these requirements" (Macleod 2008, 70). As Kant ([1793] 1964, 145–46) points out, an all-encompassing imperium paternale risks abolishing virtually every reliance on self-mastery and self-government. In a worst-case scenario, it could delegate every individual judgment to the state, but such state would be the 'greatest possible despotism' (Kant [1793] 1964, 145–46).

Mill's idea of paternalism has the capacity to avoid such pitfalls. Unlike Conly's hard paternalism, his soft paternalism allows interference only if the autonomy of an individual is *severely compromised* (Le Grand and New 2015, 26). Soft paternalism, therefore, starts from the premise that individuals generally *do* have an inviolate right to act in accordance with their own choices in self-affecting matters (Arneson 1998, 251). However, it allows for interferences if the choice of an individual cannot be said to be truly his own (Feinberg 1986, 12; Le Grand and New 2015, 27). A choice may be impaired if a person is acting unknowingly or unwillingly. In such cases, an intervention can be justified which protects a person, not "from himself (that is, his own will or purpose) but from some factor external to his will" (Feinberg 1986, 13). Soft paternalism rejects the liberty-limiting principle which Feinberg calls 'legal paternalism' – an implementation of the idea that voluntary and self-affecting choices of *competent*

adults may be overridden by a paternalist (Feinberg 1986, 15). This is the core difference to Conly's *universal* doubt of human rationality and autonomy. Soft paternalism constrains itself to interfering *only* when an individual's impaired choice significantly differs from its unimpaired choice and therefore may be genuinely harmful (Feinberg 1986, 13). A diminished soundness of mind due to intoxication or a lack of information can provide valid grounds for intervention. Such considerations are based on the claim that the impaired self must not harm the unimpaired self. Soft paternalism treats one individual, in an impaired state and in an unimpaired state, as if it were two separated persons – an argument that certainly reminds us of the debate on AEDs (Le Grand and New 2015, 27).[22] Correspondingly, soft paternalism can serve as a favorable alternative to coercive paternalism if we want to preserve autonomy and self-mastery as valuable fundamental principles in liberal democracies. And, elegantly, it merely depends on the harm principle as a justification: "The situation is, according to the soft paternalist, closer to that governed by the harm principle – akin to one individual being harmed by another – and really *no kind of paternalism at all*" [emphasis added] (Le Grand and New 2015, 27).

In accordance with the methodological frame laid out in chapter 2, this conclusion certainly depends on the cultural and historical background of modern liberal democracies and might not be shared in other types of society. And yet, it may be prudent not to surrender the emphasis on liberty and self-government too inconsiderately. Given the horrors of the 20th century, embodied both by communism in the USSR, and national socialism in Nazi-Germany, there is a case to be made against excessive state power. If we risk sacrificing autonomy and self-mastery even in the most personal and self-affecting affairs via paternalistic policies, a significant safeguard vanishes. One may respond that paternalism is still secured against misuse via the democratic process of policy-making and that therefore, as Conly (2013, 101) claims, the "point is not to avoid paternalistic

[22] As extensively discussed in 13.4, there is admittedly a fundamental challenge on a definitional level when it comes to dividing an individual – an entity that cannot be divided. And yet, there is a case to be made that such division based on the harm principle can lead to desirable practical results if we do not cross a certain threshold after which we would corrode autonomy in favor of heteronomy, as described in the case of AEDs.

legislation, but to legislate *properly*" [emphasis added]. Unfortunately, there is something ironic about this reply: If we understand human decision making to be too severely impaired as to trust individuals with governing their most personal affairs properly, it is paradoxical to allow the same individuals to *even participate* in the democratic policymaking process in society and the design of something as complex as coercive paternalism.

Conly's motivation is sincere and coercive paternalism is far from being a malicious concept. Instead, it is motivated by the benevolent ambition to keep people from imposing avoidable harm on themselves (or allowing truly valuable opportunities go to waste). This seems to be an impulse many people would intuitively approve of. And yet, our debate on the value of autonomy, self-mastery, and self-government indicates that a coercive implementation of the paternalistic doctrine risks undermining fundamental principles in liberal democracies that, perhaps, should not be surrendered inconsiderately.

PART II

5 ‘Genuine Meritocracy’ in an Age of Market Triumphalism?

In its core relevancy, the previous subchapter 4.2 can be summarized as follows: Based on the work of especially John Stuart Mill, Joel Feinberg, Alistair Mcleod, William Glod, Immanuel Kant, Michael Blake, Julien Le Grand, and Bill New, we explored a variety of arguments against the rejection of autonomy in favor of coercive paternalism. The section suggests that autonomy should be valued as an ideal, rather than merely an empirical fact, and that the corresponding self-determination embodies a crucial moral capacity that should not be abandoned inconsiderately. Although *free* choice is by no means a guarantee for *prudent* choice, it serves as a precondition for moral agency. Correspondingly, the argument accepts autonomy as well as the freedom to fail in opposition to benevolent coercion which may eventually condemn every type of risk-seeking behavior. Especially in the Kantian tradition, the individual act of overcoming challenges should be appreciated over a bodice of binding state rules that ensures the success of individuals on consequentialist terms. Furthermore, a more comprehensive debate is needed regarding the question, whether a state taking care of its citizens in the shape of an imperium paternale is desirable and justified. Finally, as Feinberg suggest, paternalism may be rejected due to the problem of infantilization. Paradoxically, treating mature and competent adults as if they were children via paternalistic legislation can exacerbate their very inability to make rational judgments that motivated the implementation of paternalism in the first place. The discussion culminates in the argument that Mill’s soft paternalism based on the harm principle could serve as a reasonable middle-ground, allowing for the *most severe* types of self-harming behavior to be avoided without surrendering autonomy altogether.

In this, the subchapter on paternalism implicitly answers one of the crucial questions in this thesis the reader may stumble upon from a different angle: Given that, as we will see, the subsequent discussion can lead us to conclude that the

flawed implementation of liberalism, the problems of marketization, and the quest for a 'genuine' meritocracy can entail greater interventionism – why not simply become a welfarist, communitarian, social justice liberal, or socialist? Aren't they promoting the very same policies, for example, when it comes to publicly funded higher education? To these questions I reply: The 'how' matters. Put differently, I argue that liberal principles can better safeguard themselves against excessive interventions than socialist doctrines or a communitarian vision for society, say. As the subchapter has shown, we can reduce self-harming behavior by adopting *paternalistic policies*, indeed, but we can also limit at least the most severe self-harming actions by appealing to *Mill's harm principle* instead. However, whereas the paternalistic approach risks turning into a slippery slope potentially leading to a spartan-like society, as some critics argue, the liberal response (that is, Mill's soft paternalism) is clearly better limited. With regards to the overall narrative of this thesis, we have reason to believe that the *type of justification* for state coercion matters tremendously in other spheres of legislation, too, given that the underlying justification precisely defines how such interventions can, in turn, be *limited*. Therefore, seeing how principles such as individual liberty, autonomy, and self-ownership 'in action' can keep paternalism at bay is a crucial part of the explanation why liberalism is worth defending.

With this short summary in mind, the previous subchapters also serve as the last part of the argumentative back-and-forth that made up the chapters 3 and 4 of this thesis following the quest to provide a nuanced assessment of liberalism's core principles, flaws, achievements, and potentials. In order to reiterate the overall narrative, the following points embody the most important takeaways: Liberal democracy is a political framework that can rightly be described as anything between 'imperfect' and 'severely pathological'. As we found in 3.3 and 3.4, the 'real-world manifestation' of liberal ideology is subject to substantial criticism, but liberalism as a dominant doctrine in Western political thought runs into paradoxes and inconsistency already on a far more fundamental level. Despite liberalism's emphasis on principles such as liberty, equality, independence, entitlement, and tolerance, its philosophy has been bent (or some would say:

corrupted) into an overly *neo*liberal interpretation. Unfettered markets, the rise of new capitalist economic classes, hereditary access to the best universities, and structural discrimination have promoted a society – more in the U.S. and Britain than in Europe – in which freedom (for example, from crushing financial hardship for the lower classes), equal access to education, and genuine equality before the law *and* in terms of opportunities appear to be only woeful remnants of their own ideals. Correspondingly, a simple question emerges: Why not search for a better political doctrine? To this, chapter 4 gives an answer – although it is certainly not a response that will convince every reader.

In a nutshell, the argument is easy: There *is* something good about liberalism. There *are* reasons why liberalism, unlike fascism and communism, has not given rise to an all-encompassing totalitarian dictatorship (yet). This is *not* to say that certain manifestations and interpretations of liberal doctrines do not at all have the capacity to generate a political impetus which, ironically, leads to an illiberal sentiment. There is certainly a case to be made that precisely the disappointment in (neo-)liberalism has led to the reemergence of autocratic tendencies in Europe and the U.S. in the past two decades. Russia in the 1990s may be an example of a nation and an era in which free markets together with the collapse of the USSR's social safety net indeed led to a situation in which people became increasingly attracted to 'strong' political leaders promising order and stability, rather than unfettered liberties. However, if the reader finds the debate about paternalism in chapter 4.2 convincing, we have an example that shows how autonomy and the insistence on individual liberty 'in action' can indeed serve as an antidote to coercive policies that we may find to be intrusive and alarming – at least once they cross a certain threshold of interference. What we are left with is a critical evaluation of the current liberal hegemony that sets the frame for the justifications and limits of state 'coercion' discussed in this thesis: Yes, liberal democracy is certainly not a perfect political system. But it is built on principles that can be judged to be valuable enough as to justify an attempt to improve the system rather than abandoning it in favor of a potential alternative. This chapter follows the ambition to provide a corresponding contribution for its reform.

In chapter 35.1 and its subsections ‘marketization’ is discussed in more detail than already done in subchapter 3.3 since it is one of the most important neoliberal trends that are scrutinized in this thesis in an attempt to mitigate its repercussions. In the subsequent section 35.2, attention is given to the very origins of what we might call ‘meritocratic thought’, its flaws and potentials, as well as the role meritocracy could play in the 21st century and its contemporary discussion. To come up with a type of meritocracy that indeed deserves to be called ‘genuinely meritocratic’ (rather than ‘plutocratic aristocracy in disguise’), equality of opportunity is defined as a crucial determinant to be explored in some detail in the subsequent chapter 6. Taking everything together, the chapters of part II of this thesis are, therefore, dedicated to an elaboration of the claim that liberal principles ‘rightly interpreted’ can promote a type of, let’s call it, social democratic meritocracy with a more even ‘playing field’ that counters some of the shortcomings and injustices the neoliberal marketization trend has given rise to. Publicly funded access to higher education is among those policies, so I argue, that can be justified following this strategy. This is a policy area of particular interest due to the ‘great equalizer’ hypothesis which will be explained comprehensively in 36.1. Furthermore – and this point will be explained in more detail in this thesis’s concluding remarks – it is worth noting that the discussion’s focus on marketization and higher education in the *U.S. American and British context* should not imply that the argument is only relevant to those specific societies. Britain and the U.S. simply happen to be the Western democracies in which the neoliberalization during the past three to four decades has most visibly become a leading political paradigm, subsequently giving rise to the necessity for a debate on the status of higher education most clearly. As will be shown especially in the conclusion, the argument at hand is relevant to European welfare states and more egalitarian Scandinavian countries, too.

5.1 Marketization: A Means for Greater Efficiency Gone Rogue

This section defines marketization's crucial problems as a combination of three aspects: First, there is the question to be answered whether the focus on the allegedly more efficient distribution of goods and organization of services that shaped the marketization-trend leaves the character of the allocated goods untainted. This argument evolves around the claim that certain public values can be distorted by subjecting them to the logic of markets. Second, the challenges of unequal opportunities, for example in education, manifest themselves when welfare states retreat from their traditional tasks and allow for access to essential goods and services to be distributed by a marketized agenda. Third, the question arises how the negative repercussions of a rampant economic dominion at the heart of Western societies are reinforced in a time in which money can buy an increasing number of goods, services, prestige, power, and privileges – a trend roughly aligning with Sandel's aforementioned description of skyboxification. The subchapter concludes by supporting the claims of other critics of neoliberalism originating from, for example, a communitarian tradition: Unfettered marketization indeed has the capacity to undermine the foundation of civil society and, as a result, wields the power to jeopardize the social cohesion that is crucial in well-functioning democracies. However, there might be reasonable hope that marketization can be dealt with without simply adding it to the list of neoliberalism's failures that should lead us to conclude that the Western political order must be abolished for good eventually. Instead, the trend may be confined by articulating clear boundaries to the realms of economic allocations via a re-emphasis on equality as a liberal principle that must be on par with the neoliberal advocacy for a limited state, individualism, and (economic) freedom. Only with a certain level of equality (of opportunity), so the argument continues, does the merit-based distribution make sense that is interwoven with classical liberal doctrines.

At a time where the repercussions of the neoliberalization of Western democracies are critically discussed in virtually every domain of political theory, sociology, and international relations, it is tempting to simply demonize

marketization as well as the increasingly privatized contemporary capitalism as a whole. And indeed, there are convincing cases to be made that neoliberalism has manifested itself as a wicked and inhumane ideology that has restored a class society and deepened socio-economic rifts between the population strata (Lemke 2002, 54; Harvey 2006, 152). Yet, marketization came into existence as a reaction to a real and substantial crisis in the fiscal sector (Birch and Siemiatycki 2016, 177). As part of the renunciation of Keynesian economics taking place, for example, in Britain in the mid-1970s, the idea that marketization could improve the provision of public services gained traction (Crouch 2010, 2; Birch and Siemiatycki 2016, 177). The restructuring of the state in the image of markets and the push back against bureaucratic and political allocations of resources were driven by the promise of greater efficiency in several areas (Crouch 2010, 2; Teixeira and Dill 2011, vii; Birch and Siemiatycki 2016, 177–79). And although marketization is a strategy that can also be adopted by *public* institutions, the *public* education sector, and the *state* entity, broadly speaking, it was yet a trend commonly accompanied by waves of *privatization* (Crouch 2010, 2). It is a trend that rose to substantial popularity at a time of growing anti-interventionist sentiments when political agendas imposed by governmental agencies were considered to be unresponsive to the actual interests of the citizens under their aegis (Crouch 2010, 3–4). The neoliberal response was clear: Market forces would be better equipped to satisfy the 'customers' due to the utilization of more effective economic tools such as profit-maximization and incentives (Crouch 2010, 4). As a result, the role of the state was altered substantially. Welfare states have retreated from some of their historical tasks, including the protection of citizens from the dominion of economic calculations, and, instead, compelled people to participate in the neoliberal labor market (Greer et al. 2017, 1). Wight's (2015, 133) discussion implies that the spirit of such overwhelming market alignment of human resources is potentially at odds with the moral philosophy of Kant who claims that one "should never use another solely as a means to one's own ends". But as we see in "neoclassical theory, by contrast, workers are often modeled as depersonalized and dehumanized bundles of labor – commodities bought and sold to maximize profits and preferences" (Wight 2015, 133). We are

led to conclude that human dignity does not rank among the chief concerns of the neoliberal labor market.

Several scholars in the field have observed similar alarming trends in the areas of both high school education, and university education. As Teixeira and Dill (2011, vii) point out, with the substantial increase of higher education enrollments steadily beginning in the end of the 20th century, a 'massification' of many national systems was needed (Alon and Tienda 2007, 487). As a result, the educational sector was increasingly governed by cost containment policies, the aim for greater internal and external efficiency, as well as market rationales promoting competition (Teixeira and Dill 2011, vii). In some countries, this development was accompanied by ideological conflicts. Under Margaret Thatcher's government, for example, conservatives, who regarded local education authorities to be an "educational establishment" with a left-favoring agenda and an allegedly "levelling down of standards", acted to increase the power of the 'consumer' during an era of aggressive neoliberalization (Whitty 2010, 406). The educational sector soon became part of an overall marketization process in which "state bureaucracies fragment and mass systems of public welfare disintegrate" (Whitty 2010, 405).

Taking all aforementioned characteristics into consideration, marketization can be summed up as follows based on Araujo and Pels's (2015, 451) definition: "We understand marketization as the use of market exchange as the principal mode of the coordination of socio-economic life based on the belief that markets are an inherently superior way of organizing the conception, production and exchange of goods. … This includes rules and conventions, methods and instruments of valuation of goods …". As Djelic (2009, 53) adds, in its most extreme form, marketization "is associated with the commodification of *nearly all spheres of human life*. Market-oriented reforms are those policies fostering the emergence and development of markets and weakening, in parallel, alternative institutional arrangements" [emphasis added].

As becomes evident upon casting a glance on its various definitions, the negative repercussions of marketization's ascendency seem to be hardcoded into

its very concept. Following the work of Noel Castree, Birch and Siemiatycki (2016, 180) describe marketization "as 'the assignment of prices to phenomena that were previously shielded from market exchange or for various reasons unpriced'. Hence, marketization necessarily entails previously non-market phenomena, whether protected or simply unpriced, which are then transformed by the insertion or creation of markets". Keeping in mind the dissatisfaction with the inefficient public sector during neoliberalism's rise in the 1980s, one can conclude that marketization "became a dominant objective for ideological reasons and at the expense of equity and cost containment" – even in areas such as education or health services (Hsiao 1994, 351). Such definitions urge us to ask whether the value of certain goods which "were previously shielded from market exchange or for various reasons unpriced" are altered, degraded, or even corrupted by the marketization process (Birch and Siemiatycki 2016, 180). Furthermore, we are invited to speculate whether marketization has become a liberal project which (over-)emphasizes the entrepreneurial and economic side of its eponymous 'liberty' while, at the same time, undermining another liberal principle: Equality. Finally, there is a pressing debate to be engaged in on the repercussions of the marketization trend at a time where the pool of goods money can purchase is no longer limited to commodities and luxuries only.

5.1.1 Pathologies of Market Societies

It is alarmingly evident that, today, a clear separation of the economic sphere and the political sphere has virtually vanished in contemporary capitalist societies (Pierre 1995, 55). Instead, different "mixes" of the two areas define the landscape of Western democracies with "market-driven theories … penetrating the public sector" (Pierre 1995, 55). This was not always the case; and a pressing question arises: How did we get here? As Jon Pierre (1995, 55–59) implies, there were three phases to the rise to what we may now call a 'market society'.

During the first period, starting immediately after the end of World War II, the political sphere increased its influence over economics allowing for control over the private sector's growth and for the sustainment of "politics of redistribution and public services" (Pierre 1995, 55–56). The second phase consisted in the trend that has already been briefly described: During the 1970s and 1980s, control over the economic sphere was abolished or at least reduced both for reasons of efficiency and ideology: "This was partly because the growth in private markets was decreasing and partly because of a shift in the political regimes in most of these countries" (Pierre 1995, 56). This is arguably the period in which the marketization trend picked up pace. However, in the "third and current phase" we find that "politics and markets seem to be converging" again but this time working in the *opposite* direction of what was the case in phase 1 (Pierre 1995, 56). We witness "economic theory and a general market-based philosophy" penetrating areas in society that "used to be reserved for political control" leading precisely to the allocation of public resources based on market criteria and the measuring of "public service producers and suppliers according to market criteria" that lie at the core of the marketization trend (Pierre 1995, 56). Pierre (1995, 57–58) concludes that "the public sectors in most countries in Western Europe and North America appear to be gradually transforming from Weberian organizational structures into private sector-modelled organizations", giving rise to the problem that citizens are perceived as *customers*, distorting a "delicate and sensitive system of mutual entitlements and obligations between the state and the individual". In the absence of civic entitlements, we find pathologies of privatization and marketization emerging in most crucial areas of society, including social systems, non-profit organizations, and healthcare.

As already briefly mentioned in 5.1, introducing the logic of markets into spheres of society that were previously governed by different paradigms is not *self-evidently* bad and should not be demonized *per se*. The crisis in the fiscal sector that neoliberalization was partly a response to was indeed a pressing phenomenon, and even in the "social marketplace" there are "doubtless advantages to be gained from a greater degree of competition" (Birch and

Siemiatycki 2016, 177; Salamon 1993, 37). Just like government agencies, social service providers and NGOs can "become insulated from their target populations and insensitive to their needs" (Salamon 1993, 37). And yet, the introduction of market norms and for-profit firms in the social sector, unsurprisingly, also risks introducing the very same market failures that frequently occur in the economic arena. A lack of sufficient information can undermine the effective functioning of such market-oriented firms in the welfare field (Wight 2015, 11; Salamon 1993, 37). Furthermore, with for-profit organizations increasingly substituting nonprofit organizations and government-led agencies, the economic paradigm dictates doctrines of *profit maximization*. As a result, such firms "will inevitably siphon off the more affluent 'customers', leaving non-profit firms with the most difficult, and least profitable cases" (Salamon 1993, 37). Even the remaining NGOs, "squeezed by government cuts and unable to make up for the shortfall", can be forced to turn to the "only alternative available to them: the market" (Salamon 1993, 35). The marketization of social welfare services, therefore, potentially gives rise to a two-class society, shifting the attention of service providers "increasingly toward those able to pay, leaving the disadvantaged with few places to turn", precisely spurring the separation of social classes that led to widespread resentment with the neoliberal hegemony (Salamon 1993, 37).

Sandel's prominent communitarian angle on the market-liberal hegemony addresses a myriad of socio-economic and political problems that are stunningly similar to the general scope of the neoliberal critique voiced by, for example, Harvey and Lemke. Following Walzer's (1983, 3–50) terminology, Sandel bases his narrative on the separation (and lack thereof) between the spheres of our common life and the different socio-political dimensions in society that has certainly become one of marketization's core features. He analyses the hegemony of the financial and monetary sphere that began to dominate not only the economic sector but also the social life under Thatcher and Reagan in the Anglo-American framework (Sandel 2012, 2–3). One of the most alarming consequences we witness, so Sandel (2012, 4) reiterates, is that the vocabulary and logic of markets have indeed increasingly crowded into the domains of communal life that

were traditionally governed by non-market norms. Due to an increasing number of goods and services being 'up for sale', economic wealth has acquired a previously unknown power making it necessary "to ask whether there are some things money should not buy" and to have a debate about the role (and the limitations) of a free markets (Wight 2015, 123; Sandel 2012, 1–9). His reasoning is of utmost importance when it comes to the question, whether the marketization trend not only deepens the purely economic inequalities in Western societies but also gives rise to a slow and steady socio-economic separation. This trend was already briefly using Sandel's term 'skyboxification' in 3.3 – a manifestation of marketization that leads to "people of affluence and people of modest means" to live "increasingly separate lives" which is "not good for democracy, nor is it a satisfying way to live" (Sandel 2012, 136).

As both Deneen and Gray would probably agree, such development is part of the neoliberalization we have tacitly come to accept without being all too sensible to potential alternatives. They suggest that liberal thought, including its neoliberal interpretation, so deeply entrenched in the U.S. and beyond is a predetermining "encompassing political ecosystem in which we have swum, unaware of its existence", blinding us for potential alternatives (Deneen 2018, 4–5; Gray 1993, 249). Correspondingly, it is vital to emphasize the importance of a sophisticated debate on the repercussions and mechanisms (neo-)liberalism has brought about, such as marketization. Accordingly, a further evaluation of the marketization trend may provide a modest but useful contribution to the assessment of a phenomenon that lies at the heart of the neoliberalization that took place during the last approximately four to five decades.

As Sandel (2012, 43–203) further illustrates as a chief claims in his discussion on the moral limits of markets, certain goods, broadly speaking, indeed have the capacity to be tainted by market transactions and economic incentives. Children may end up readings books for the wrong reasons, getting deprived of an inherent appreciation for the beauty of good literature once they are *bribed* into reading via a financial reward scheme (Sandel 2012, 51–55). Making excessive use of market-logic in an increasing number of spheres may result in fines being

confused with fees and the value of a human life to be increasingly measured on financial scales only (Sandel 2012, 117–49). Framed in economic terms, we can diagnose that "in contexts in which supply stems from *intrinsic* motivation, money can offend and 'crowd out' desirable sources" (Wight 2015, 126). There are countless examples of such nature to be found, although the question whether the repercussions of economic intrusions are as appalling as some critics suggest may be up for debate. However, it is yet a clearly observable trend that not only does an increasing number of aspects of human life that used to be governed by non-market norms now fall within the dominion of financial evaluations. Additionally, more and more goods and services are up for sale, allowing for economic inequalities to manifest themselves as *social* inequalities in virtually all domains of communal life, too (Sandel 2012, 136; Mau 2015, viii). Such a *market society*, one can conclude, has the capacity to jeopardize social cohesion, civil society, and the foundation of a healthy democracy (Sandel 2012, 136; Araujo and Pels 2015, 453). With marketization, we find ourselves in an anti-Aristotelian trend where communal spaces for association and the establishment of relational networks are increasingly undermined (Eikenberry and Kluver 2004, 132–33). Profit-maximization, entrepreneurial spirit, and short-term interests are incompatible with democratic citizenship, communal long-term goals, and the creation of a strong civil society (Eikenberry and Kluver 2004, 132). Such a trend demands for a debate on the purpose and value of certain goods that previously used to be beyond the reach of a predominantly economic distribution. Access to quality higher education serves as just one of many examples.

5.1.2 Marketization as a Corrupting Force in Higher Education

In the previous two subchapters, we lashed out in virtually all directions to come up with a critical assessment of the marketization trend that briefly covers the rationales behind its rise as well as the most prominent objections. As we learned, this extension of the neoliberal paradigm produces a powerful economic

dominion, cherishes unfettered markets, establishes new capitalist classes and hereditary privileges, solidifies structural disadvantages, and potentially undermines equality before the law. Undoubtably, marketization is a comprehensive topic with numerous dimensions worth discussing in much more detail. Correspondingly, it is necessary to pick a focus. The previous paragraphs were already limited in a sense that predominantly marketization's potentially corrupting force on the goods and services it allocates, its repercussions on civil society, the problems of the skyboxification trend, as well as the substantial social inequalities originating from declining welfare states have been introduced. To make a meaningful contribution to this debate, however, our focus must be further narrowed down. Given that this debate on marketization will eventually transfer into a discussion of contemporary meritocracies which, in turn, largely depend on equality of opportunity – especially with regards to access to universities and colleges which can have a substantial equalizing force – it is reasonable to choose *higher education* as our primary area of concern for a further scrutiny of marketization as a neoliberal feature.

The marketization of higher education is an extraordinarily interesting phenomenon given that it certainly ranks among the best example we can find to observe the mutating (or some would say: corrupting) forces of market principles in an area that used to be governed by very different paradigms. The corresponding change of thinking about higher education indeed poses pressing questions about the role of students as 'customers', society's relationship with knowledge, and the proper 'telos' of universities.

Recently, universities found themselves in a challenging situation of declining federal funding and a shift in "consumer culture" which, in turn, changes society's expectations of a proper curriculum (Natale and Doran 2012, 187–88). The demands for university reforms became overwhelming and, as a result and according to Wedlin (2008, 143), with the "meeting of science and the market" we find a marketization trend entailing at least two crucial components: "first, an increasing presence and acceptance of a market ideology, and secondly, market-oriented reforms with the expressed aim of developing markets as the

prime institutional arrangement" (Wedlin 2008, 143–44). Accompanied by political prescriptions and regulatory changes, universities increasingly have to follow the market demand (Natale and Doran 2012, 187–88; Wedlin 2008, 150). As a result of market-logic becoming the guiding principle, the marketization process entails the "social rationalization of university aims and missions", new approaches in terms of regulations and assessments of higher educations and research, and a growing commercialization of science and universities (Wedlin 2008, 143–44). One of the core problems of this trend is the shifting relationship between society and knowledge. Put differently: Whereas universities were previously regarded as institutions that ought to pursue what is 'true', 'good', or 'right' for such knowledge's inherent value, the "new model of higher education" has far greater concern for the production of 'useful' or 'marketable' knowledge (Natale and Doran 2012, 188; Wedlin 2008, 143). The repercussions are discouraging: Universities following the marketization trend increasingly stray away from their traditional ambition to provoke reflection and critical thinking and, instead, offer a coursework shaped by the demand for workplace preparation and the production of 'practical' knowledge to be subsequently applied in the labor market (Natale and Doran 2012, 188; Wedlin 2008, 143). As Natale and Doran (2012, 187) argue, we find an "increased focus on narrowly defined degrees targeted to specific job requirements" and a context that "reduces students to a revenue stream and colleges to business" – an alarming "contemporary face of education". Furthermore, we are compelled to ask whether such static and 'narrowly defined degrees' *actually* cater to the demands of the workplace in the long run in opposition to a humanistic education emphasizing critical thinking and an ongoing process of reflection.

The marketization of higher education manifests itself as a rabbit hole of questionable repercussions. As already shown, the role or telos of universities is drastically shifting: Whereas they were traditionally seen as "a community that nurtured ideas and innovations, built the morals of its students, and contributed to democracy through producing political and social leaders", such earlier commitment "is being eroded as they become training centers for industry"

(Natale and Doran 2012, 189). However, there are two subsequent phenomena that entail further problems: The commodification of research and the redefined role of students.

Universities as well as their research output are funded by various sources, including federal funds, sponsoring, private donations, non-government funds, and tuition fees (Wedlin 2008, 146). With higher education institutions being increasingly forced to rely on non-public funding, it is self-explanatory that they are now competing for private funds, and such endeavors are typically more or less successful based on the research's 'market value' a university produces (Wedlin 2008, 146). *Practical* knowledge and research results attract higher rewards if they can be commercialized and applied to "industrial and commercial settings" (Wedlin 2008, 146). With growing market-orientation, the introduction of managerial practices, the ambition to make money, and the necessity to attract external funding, the marketization of universities puts research integrity at jeopardy (Natale and Doran 2012, 189–90; Wedlin 2008, 144–45; Wight 2015, 167–68). Simply put: Research increasingly follows the money – not necessarily the intrinsic long-term value (for society). With a growing number of alarming "tales of corporate funding by the tobacco, energy, and pharmaceutical industries" already exposed, it is easy to understand the integrity-undermining logic that compels researchers "not to deviate in their findings from the interests of those who fund them" (Natale and Doran 2012, 189–90). Sadly, there is a case to be made that independent, curiosity-driven, and sincere research led by what is right, good, and true appears to be a slowly perishing ideal under the marketized paradigm of higher education.

The second above-mentioned challenge to contemporary universities is not the commodification of research results, but the commodification of education itself. Put differently, we are confronted by the question how we think about the role of students and about the nature of the education they receive. As Natale and Doran (2012, 188) phrase it, a "question central to the education debate, with the growing proportion of education being provided by non-traditional sources, is whether education is still a public good or whether it contributes to the

development of society as opposed to the development of individuals". With the emphasis on useful, practical, and commercializable education discussed before, higher education increasingly loses its status as a public good that benefits society as a whole. Instead, the viewpoint becomes more individualistic, "making higher education a product in which one invests for the purpose of one's future employment opportunities" (Natale and Doran 2012, 188).

As Mau (2015, preface) points out, neoliberalism's victory and the corresponding rise of marketization is not exclusively an American phenomenon. European nations have adopted numerous policies based on a belief in the superiority of free markets, too, and even welfare states have tacitly subscribed to the neoliberal agenda (Mau 2015, preface). However, with its skyrocketing tuition fees and costs for higher education, the U.S. certainly provides a suitable context for the 'proper role of education' to be discussed (Teixeira and Dill 2011, viii). The marketization of the higher education sector was not exclusively a result of the aforementioned 'massification' but also a change in the way we think about the benefits of higher education. Under the neoliberal agenda, it "is argued that *the student* is the main beneficiary of the degree (e.g., increased lifetime income), and therefore he/she should bear a larger part of the costs of providing it" [emphasis added] (Teixeira and Dill 2011, xiv). As a result, education has become a "merit good rather than a public one" (Teixeira and Dill 2011, xiii). Ironically, such view is only partially compatible with the thought of scholars in the classical liberal tradition themselves.

This claim allows us to reinforce an assumption that was already briefly introduced in 3.1: The *neoliberal* manifestation as well as its detrimental effects do not seem to be the *necessary outcome* of *classical* liberalism. None other than John Stuart Mill indeed emphasized the advantages of an educated population on a social level, including "moral, political, and economic impacts" (Teixeira and Dill 2011, ix). And even Adam Smith was aware of the *social* benefits education can provide (Teixeira and Dill 2011, viii). Especially the latter one lends himself to a short exploration of how advocates of neoliberalism seemingly have a habit of considering only one particular side of classical liberalism, namely the one

associated with features such as self-interest, negative liberty, economic freedom, non-interference, individualism, and competition, and then declaring it to be paramount while, consciously or out of ignorance, brushing under the carpet the rest of the story.

One common example of how a one-sided interpretation of (economic) classical liberalism forces a rich pluralistic philosophical treatment into a mere advocacy for marketization, privatization, unfettered markets, and anti-interventionism is indeed Smith's ([1759] 1984, 184–85, [1776] 2007, 593) invisible hand argument. A neoliberal reading of his thought (which has even reached mainstream status) was frequently used to justify laissez-faire markets, and it implies that unregulated market transactions executed by greed-driven individuals are efficient, self-regulating, and sufficiently safe (Wight 2007, 349–52). This is, as critics claim, an inaccurate understanding of Smith's invisible hand (Wight 2015, 161). The laissez-faire model is historically associated with an (over-)emphasis on *spontaneous order* (also a prominent term in Hayek's writings): "The first thinker to articulate this modern concept of spontaneous order was Bernard de Mandeville, in a book called *The Fable of the Bees*. This work discussed the paradox that 'private vices' such as individual self-interest could lead to 'public benefits' from which the whole community benefited. He observed that the sum of individuals acting from separate motives produced a commercial society that was no part of any one person's intention" [emphasis added] (Ashford [2001] 2003, 82). Smith, however, rejected Mandeville's 'greed is good' doctrine (Wight 2015, 166). Let us avoid confusion: Smith *does* grant self-interest a crucial role in "motivating behavior and creating a good society" (Wight 2015, 170). But it soon follows that a prudential concern for oneself should not be mistaken with *greed*. Smith was convinced that adequate economic growth substantially depends on the *institutional framework of society* – "social and legal norms, regulations, and competitive market" (Wight 2015, 171). Smith's view, that this kind of interventionism is precisely what keeps "greed in check", and the claim that he was *not* an advocate of strict neoliberal laissez-faire doctrine, is further reinforced by his clear emphasis on "conversation, civility, and

character" as well as his "paramount concern for trust" (Wight 2015, 171). Although Smith's philosophy *does* entail a limited government, his idea of self-interest pays substantial attention to "own interests" *yet* also to "*the wider context of one's duties to others*" [emphasis added] (Wight 2015, 171–74). There is more to classical liberalism than just neoliberalism.

This reading of Adam Smith certainly is not uncontroversial, and it would be a fascinating prospect to further debate his position. This, however, is not the purpose of this chapter and, instead, we shall shift our discussion back to higher education. Disregarding the question whether this a *good* or *accurate* reinterpretation for a moment, with education increasingly being seen as a commodity or investment, rather than a public good, the decline in public funding and the substantial increase in tuition fees to be paid by the individual student seems logical. However, higher education – again – clearly illustrates how marketization has the capacity to undermine the integrity of universities and to give rise to (moral) problems. As Pierre (1995, 64) points out in the framework of the marketization of the state, 'citizens' and 'costumers' are very dissimilar entities in that they have different sources of entitlements. He claims that "citizenship in its traditional form can be described as an immaterial relationship between the individual and the state" whereas customers, "on the other hand, drive their entitlements from purchasing power" (Pierre 1995, 64). A customer-based model drawing on market behavior is, by definition, "anonymous, unequal, and individualistic" (Pierre 1995, 64). The logic at play is precisely similar in the arena of 'self-funded' higher education.

By paying tuition fees, the student becomes a consumer or customer, he funds a substantial fraction of the costs of higher education himself (or arranges the funding with the help of parents or banks), and creates a relationship of dependency with the university (Natale and Doran 2012, 191). The academic field becomes increasingly competitive, universities are fighting for reputation, status, and prestige to attract 'customers', and students, in turn, must be satisfied by the education they pay for to secure the student-derived revenue (Natale and Doran 2012, 191; Wedlin 2008, 148). Unfortunately, students are not necessary most

satisfied with a university that offers an intrinsically rewarding and thought provoking albeit challenging and time-consuming coursework. Instead, an easy degree and an output oriented 'I am paying therefore I should succeed' attitude may gain the upper hand with professors often feeling "compelled to focus on what will allow students to pass as opposed to focusing on critical thinking and reflection" (Natale and Doran 2012, 193–94). The introduction of a managerialist ideology, firm-like public relations offices, ratings, and performance-measuring schemes further reinforces such problems, and students – now being paying customers – can be given a voice in the evaluation of their lecturers, spelling "demise on a personal and societal level" (Natale and Doran 2012, 191–93; Wedlin 2008, 145–48).

Marketization brings about a conjunction of money, status, commodification of education, competition, and, correspondingly, ratings (Natale and Doran 2012, 192; Wedlin 2008, 149). In Western democracies where diligence, achievement, and merit are virtues deeply entrenched in the contemporary liberal work ethics, the existence of (high) tuition fees alone already puts a dent into the de facto equality of opportunity a genuine meritocracy arguably would entail. And yet, a competitive marketplace for education accompanied by 'quality'-measuring mechanisms gives rise to the ethical concern that rankings put emphasis "on seeking highly qualified students, deflecting attention from the tradition of wanting to make access to higher education equitable" (Natale and Doran 2012, 192). The introduction of *merit-based* aid and tuition waivers may, in theory, be a policy that aligns perfectly well with the principles of meritocracy. However, it comes at the expense of the financial budget left for *need-based* aid, once again distorting the traditional societal vision of universities that includes a certain commitment to social justice, now pushing aside "access to quality education for low income students" in favor of the "pursuit of a corporate vision" (Natale and Doran 2012, 191).

In conclusion, we find that the marketization of universities poses a serious problem. "Higher education, which was once viewed as contributing to the social and moral well-being of society, is now viewed through the lens of neoliberalism"

(Natale and Doran 2012, 195). The trend has the capacity to put the legitimacy or even the survival of the university at jeopardy, it certainly distorts its traditional role, and it potentially undermines values such as the creative spirit of researchers, academic freedom, and the integrity of scientific knowledge (Wedlin 2008, 152). As Wedlin (2008, 151) suggests, the core issue "is perhaps the striking of a balance between market orientation, on the one hand, and the protection of basic academic culture and values, on the other". After all, marketization is no "automatic and autonomous process", no "passive adaption to market principles and ideals" but it is an active process that requires the involvement of policy-makers, universities, and researchers themselves (Wedlin 2008, 150). As Natale and Doran (2012, 193–95) add, a degree should not be a commodity for sale but obtaining it "should be hard work, it should require personal sacrifice, it should require personal accountability, and students who are not capable should be allowed to fail". Universities ought to address the ethical risks posed by, for example, privately funded research, reducing the temptation of selling away academic integrity to secure funding. The students' development of "a moral understanding of humanity" ought to be emphasized over economic considerations again, and social outcomes must no longer be sacrificed for market policies and deregulation (Natale and Doran 2012, 195).

Eventually, we may be willing to conclude that far greater public funding for universities would be a first step to push back against the marketization of higher education potentially reducing numerous alarming effects the trend has brought about. We might even go as far as to claim that this is a necessary condition for ensuring that a university's student body is constituted in a way as to allow adequate public leaders to arise. After all, the social sciences and humanities are of undeniable importance for grappling with the large questions of society, however, they do not have a reputation for generating outstanding salaries. If, let's say, financial necessity forces students of modest means to opt for fields of study with a better promise of guaranteed, rapidly attainable, and sufficient income, we can well imagine that engagement with fields such as philosophy, international relations, jurisprudence, public policy, or political theory

becomes a privilege of the rich. And there is certainly something to lose: If a substantial number of perspectives disappear from the view of the social sciences and humanities, the extent to which these disciplines reflect the reality of life of the *whole* population body is diminished. Unfortunately, this problem is most likely not merely an unfounded thought experiment: After all, during the U.S. American 2016 presidential election, for example, mainstream media attributed Donald Trump's victory, among other things, to the widespread sentiment that the arrogant and entitled intellectual elites have lost touch with the lower classes and the concerns of ordinary people.

With education regaining its status as a common good, capable of producing positive spillovers on society, rather than a commodity to be bought by those who can afford it, a better provision of resources could also reduce social exclusion and promote meritocracy as something that is more than just a wishful ideal (Whitty 2010, 408). Interestingly, the extension of publicly funded quality (higher) education is not only an imperative dictated by our sense of *fairness*, but it is indeed supported by some economists based on the aim for overall *efficiency*. And yet, as Stefan Zink (2005, 111–13), for example, points out, the field of education is frequently characterized by market failure: Support for policies that provide better educational opportunities for a wider range of people and, as a result, are assumed to produce greater overall efficiency tends to be undermined by the "politically decisive *middle class*" [emphasis added] (Zink 2005, 111). Zink (2005, 111) argues that the design of the education system is a product of "self-centered people, who, instead of caring about the overall efficiency, opt for those policies that benefit *them* the most" [emphasis added]. This includes the strategy to preserve the – from their perspective – *useful* "scarcity of skilled labor" by resisting subsidization of education for a larger percentage of the population (Zink 2005, 113–25). Even though one could potentially image a trade-off between *quality* education and *accessibility*, perhaps it might be prudent to align with the sentiment of the British Labour Party's slogan after the 1997 election: "High quality education for the many rather than excellence for the few" (Whitty 2010, 408).

Now, this subchapter as well as the previous two do not serve the purpose to blatantly *demonize* marketization. Writing a vigorous critique of marketization should not amount to ignorance of its *advantages*. And there certainly *are* numerous implications of this debate that we should not blindly take for granted. We can, for example, scrutinize marketization based on the grounds of *efficiency* as a relevant dimension and we may well find that the previous critique cannot fully reject the possibility of *marketized* universities indeed being *more* efficient in purely economic terms. Perhaps having a large number of graduates with a *practical* skillset that can immediately be used in the labor force gives the economy an edge over a competing society equipped with a bunch of unworldly 'critical thinkers'. (Although we could object that this can, in fact, be interpreted as a fantastic case for the establishment of excellent higher *vocational school* as an alternative to universities, rather than a convincing call for the traditional role of universities to be altered.) Perhaps we are overstating the importance of enabling as many sufficiently talented people as possible to enroll for higher education. Maybe society advances just a good on holistic terms if we have a very small group of extremely well-educated scientists whereas the rest of the population should perform, say, executing roles.

We cannot fully pursue this debate here. Instead, we may simply point out that *efficiency* is not necessarily our primary dimension of concern in *this* argument. As will become evident in the next subchapters, an advocacy for meritocracy leads us to recognize *equality of opportunity* as a crucial precondition and criterion. Correspondingly, we define better access to higher education as an imperative precisely because, otherwise, the meritocratic system entailed by classical liberalism would not make sense. Such justification is not exclusively concerned with *efficiency* – even though we may rightly try to push back against the previous paragraph's criticism by arguing that a well-functioning meritocracy actually *does* meet the goal of efficiency, too: After all, a talent and effort-based distribution of occupations would ensure that the most *competent* people end up in the rare positions of excellence, 'advancing society' with the best possible efficiency. But *precisely* the goal of efficiency could lead us to embrace broader

and more equalized access to universities because the "simple fact is that there is far more intelligence, talent, ability, and hard work in the population as a whole than there are people who are lucky enough to find themselves in a position to take advantage of these qualities" (McNamee and R. K. Miller 2014, 149). We take quite a gamble if we were to assume that the next Einstein is among the affluent elites that can afford the access to the educational institutions of greatest excellence.

The broader argument in favor of something we would be willing to call a 'genuine meritocracy' shall be our subject of concern in the next three subchapters. It has already implicitly started in the past few pages and continues as follows: Even if the, say, positive spillovers higher education can produce for society were to be neglected one would yet encounter the question whether the marketization and commodification of virtually all goods and services is reconcilable with the political and economic framework a classical (or neo-) liberal agenda would 'actually' imagine. With universities being sealed behind a wall of tuition fees, credit-constraints impose a serious challenge that limits access to higher education to those who would be perfectly qualified but lack the financial means (Teixeira and Dill 2011, x). Such constraints indeed have impacts on a 'genuine meritocracy' (Teixeira and Dill 2011, ix). A meritocratic allocation of goods, honors, and offices seems to be deeply entrenched in classical liberal thought starting with Locke. One may be inclined to conclude that with his emphasis on life, liberty, and private property a societal vision promoting a meritocracy is inevitable (Locke [1689] 2003, e.g., 136). Lockean principles of classical liberalism are clearly reflected in the American foundational documents, too (Genovese 2009, e.g., 3). However, in the 21st century a genuine meritocracy can no longer take the shape of a young nation with a massive frontier in which every free man has the chance to find a uninhabited piece of land to make a living on the fruits of his own labor, as libertarians so vividly picture it. Instead, for the liberal meritocratic agenda to continue to make sense, it may paradoxically be necessary to limit the very freedom classical liberalism (or its neoliberal interpretation) promotes – for example in the realms of economic liberty,

including the privatization and deregulation of institutions that are crucial to a well-functioning democracy.

5.2 Merit and Opportunity: The Aristocracy of Talent

Let us now further explore the advocacy for a push-back against the neoliberal marketization (of education) based on an argument that slightly exceeds the communitarian reasoning and its focus on the negative repercussions civil society and democracy may suffer. Granted, it is perfectly feasible to utilize arguments that highlight the holistic benefits of an educated population for societies. There is a multitude of approaches to be imagined that could lead us to conclude that, for example, tuition fees ought to be abolished based on arguments in favor of, say, solidarity and communal outcomes. Advocates of such doctrine may agree that economic rationales ought to be seen as a useful tool, rather than an all-encompassing paradigm. We could argue, based on consequentialist or welfare-maximizing terms, that in a society where not every gifted and capable person is able to attain an adequate education, we simply waste talent. Similarly, in terms of a holistic picture of society, we may be wise to provide everyone with the means to figure out what he or she is good at – a process that demands for an investment and might well include a period of trying out different apprenticeships and majors at a university. We may rightly oppose neoliberalism and promote a roll-back of marketization for, say, 'moral reasons'. I argue, however, that to oppose the marketization trend and to advocate greater equality of opportunity (by, for example, funding university education via taxation), the aforementioned positions are most *welcome allies*. Concern for higher levels of egalitarianism based on solidarity, equity, or overall welfare maximization provides powerful arguments. And yet, we may imply that such a leap into the pool of philosophical positions deriving their justifications for policy-prescriptions from a collectivist, socialist, or holistic vision of society, broadly speaking, is *not necessary* to come up with the same conclusions (see paternalism vs. harm principle debate). We

may well stay in the tradition of classical liberal principles – including individualism – and yet conclude that greater interventionism in order to provide better equality of opportunity and a more even 'playing field' is justified.

This argument contains at least four conditions (or convictions): (1) Liberalism entails a meritocracy or, to frame the claim more modestly, *can* give rise to a meritocracy. (2) Merit and competence are sensible criteria to allocate goods and offices, and, correspondingly, meritocracy can be regarded as a desirable ideology. (3) A 'genuine' meritocracy, however, demands for a certain level of equality of opportunity. Correspondingly, (2) and (3) are somewhat intertwined given that the moral desirability of meritocracy is determined by the extent to which equality of opportunity is achieved. The combination of (1), (2), and (3) furthermore entails that even opponents of interventionism, large welfare states, taxation, and limitations of individual liberty may well be inclined to endorse such policies for the meritocratic principle to actually make sense. Finally, (4) implies that *neo*liberalism is not flat-out 'wrong', 'corrupted', 'derailed', or 'inconsistent' with classical liberal principles. There *is* a convincing logic behind an emphasis on individualism, economic liberty, spontaneous order, and self-ownership leading to the type of market liberalism we currently experience. *But* 'liberalism' can be interpreted differently while yet sticking to its own principles. In that, the position advocated in this thesis has a *pluralist* view on liberalism, not a *monist* one. The overarching narrative can be summarized like this: There is no necessity for us to adopt tools external to the 'pond of liberalism' in order to derive justifications for policy-prescriptions that can mitigate some of the flaws liberal principles themselves have brought about (see 3.1 and 5.1). Instead, we can stick to the fundamental liberal convictions, that indeed gave rise to *neo*liberalism, and yet 'do liberalism differently'. The cure to liberalism may just be 'better liberalism'.

The next three subchapter will, again, engage in an argumentative back-and-forth: 5.2.1 covers a general introduction of meritocracy as mode of distribution that typically enjoys a positive connotation in contemporary political discourse. However, as we will see in the subsequent examination, the status of

meritocracy is yet certainly contested and even Michael Young, the 'inventor' of the term, saw his version of meritocracy as a fictional dystopian future intended as a warning, not an ideal to aspire to. In accordance with this sentiment, 5.2.2 introduces a summary of the most widespread critiques voiced against meritocracies covering multiple dimensions: A meritocracy runs risk of embracing atrocities such as the logic of eugenics, genetic engineering, and the abolishment of the family if we push it to its extreme, it – by definition – produces winners but also losers in an individualistic system of permanent competition, it degrades and demoralizes people at 'the bottom' as well as their class and professions, it separates the population strata which, in turn, drift further apart, and, finally, meritocracies, as we currently find them manifested in Western societies, lack the very equality of opportunity that would provide them with at least the appearance of an adequate justice principle. Correspondingly, the critique covers distinct categories, such as the repercussions on communal relationships and social fabric, the psychological harm and alienation of those who end up at the bottom of the meritocratic hierarchy, and the practical obstacles for social mobility.

Subchapter 5.2.3, in turn, pushes back against the potential conclusion that meritocracy should be rejected. On the one hand, it indicates that Young's prediction simply was not accurate. The meritocratic nightmare he envisioned did not arise, 'real' meritocracies operate on different principles, and therefore we should not overestimate the relevance of Young's warning when discussing meritocracy's value for modern societies. On the other hand, however, lies the significantly more important *normative* strategy. In a nutshell, this approach implies that contemporary meritocracies are not what meritocracy *should* be. This claim is substantiated by three underlying arguments: First, there is no need for meritocracy to stand alone. We can well mitigate its excesses and flaws by complementing it with other principles, such as Frankfurt's sufficiency approach. Second, current meritocracies are subject to significant critiques precisely because they are not *truly* meritocratic. Especially the lack of genuine equality of opportunity undermines the meritocratic project. A switch from a *neoliberal*

meritocracy corrupted by plutocratic elites to a *social democratic* meritocracy can be part of the solution. After all, as Milanovic (2020, 12) adds, "this system faces an enormous challenge: the emergence of a self-perpetuating upper class coupled with growing inequality". Mitigating the level of inequality can well strengthen a meritocracy's sustainability. Third, we follow Adrian Wooldridge's (2021) comprehensive defense of meritocracy that stresses, among other things, the *revolutionary* but yet *incomplete* nature of meritocracy's rise, the corresponding imperative to address its flaws by implementing 'more and wiser' meritocracy, and the importance of a remoralization of merit by relearning humility and a renewed sense of public duty.

5.2.1 Meritocracy: From Dystopian Satire to Acclaimed Ideology

What is meritocracy? Meritocracy is a neologism which, following the mainstream definitions, can broadly be regarded as a system of distribution or a justice principle (Scully 2014, 1; Son Hing et al. 2011, 433). As will be further illustrated in subchapter 5.2.3, it is frequently described as an ideological product of liberal and egalitarian thought connected to the "historical moment" in the "European modern period" in which "society started to question the hereditary privileges of noblemen and the aristocracy" (Mazza and Mari 2021, 4–5). For millennia, power, wealth, and prestigious positions were determined by birth (that is, family or class) whereas, in opposition, *meritocracy* dictates that competence – the product of raw individual ability combined with effort – ought to define societal occupation and rewards (Littler 2013, 57; Mazza and Mari 2021, 4–5; Scully 2014, 1; Alon and Tienda 2007, 489). Meritocracy is an ideological conviction that enjoys, despite its substantial flaws that will be discussed in the next section, massive support in Western liberal democracies and is, quintessentially, most commonly described as the ideal that entails that "cream rises to the top" and everyone has the opportunity 'to make it' – a doctrine deeply ingrained in the 'American Dream', for example (Bork and Tushnet 1996, 81;

Scully 2014, 1; Son Hing et al. 2011, 433). In its core, a meritocracy implies that one's achievements or rewards ought to be the product of the formula 'Intelligence + Effort = Merit'[23] (Littler 2013, 57; Son Hing et al. 2011, 433). This is precisely the origin of the widely shared conviction that meritocracy is (or can be) the "ideal justice principle" and an antidote to racial or sexual discrimination since "only relevant inputs (e.g., abilities) should be considered and irrelevant factors (e.g., ethnicity, gender) should be ignored when distributing outcomes" (Son Hing et al. 2011, 433). In theory, it is "bias free and can be seen as creating social mobility" (Son Hing et al. 2011, 433).

According to Scully (2014, 1), meritocracy relies on three principles: (1) "merit is a well-defined and measurable basis for selecting individuals for positions", (2) "individuals have equal opportunity to develop and display their merits and to advance", and (3) "the positions into which individuals are sorted are mapped to stratified levels of reward (such as income or status)". Correspondingly, we find that merit is to be distinguished from alternative potentially 'fair' bases for reward, such as need or equality of outcome (Scully 2014, 1). In opposition to the latter two principles, one of the potential perks of a meritocracy is that it "motivates people", given that incentives direct the most talented people into the "most functionally important positions" in society, enhancing its efficiency and chance of survival (Scully 2014, 1). Self-evidently, this is a vision endorsed by economic theory: "For economists, rewards are typically justified on incentive grounds, and an appropriate system for rewarding those whose actions have 'merit' depends on 'the preferred view of a good society'" (C. Brown 2001, 93).

After this short introduction, we may be inclined to agree that meritocracy is indeed a "revolutionary idea", as, for example, Adrian Wooldridge (2021, 11) claims in his most recent work; it is a denial of hereditary privilege, it is neutral in the sense that it theoretically operates free of biases since it rejects arbitrary discrimination, it pushes back against nepotism and corruption, and it makes

[23] We should note that 'intelligence', 'excellence', 'endowment', 'talent', 'ability', and the notion to be 'gifted' are frequently used interchangeably in meritocratic discourse.

meritocratic societies "open and fair" whereas non-meritocratic ones are destined to be "obscure and underhand" (Mazza and Mari 2021, 5; Ansgar Allen 2011, 368). "Justice, social cohesion, progress, fairness, and transparency, these are the timeless ideals upon which meritocracy is presumed to rest" (Ansgar Allen 2011, 368). As we will soon see, contemporary meritocracy is subject to substantial criticism. One may be led to assume that meritocracy can be described as a theory that has a perfect, non-controversial, theoretical core and arose as a well-intended principle for greater justice but has *then* been implemented imperfectly (or corrupted). However, upon tracing the origin of the term 'meritocracy' *itself*, we find that it is (a) a truly *young* neologism (especially within the tradition of political philosophy) and it was (b) far from an encouraging blueprint for a fair society. Instead, it was a *warning*.

The term 'meritocracy' is most frequently regarded as the satirical invention of the British sociologist Michael Young who, in his ([1958] 1994) monography *The Rise of the Meritocracy*, sketched a dystopian future dominated by a new form of elitism (Ansgar Allen 2011, 367; Mazza and Mari 2021, 2; Scully 2014, 1; Son Hing et al. 2011, 433). Although it must be noted that the term was already used by Alan Fox[24] two years before *The Rise of the Meritocracy* was published, it is yet *Young's* daunting fictional prophecy for the year 2034 that is predominantly responsible for introducing the pejorative word to the global stage (where it, ironically, was redefined into a positive ideology soon after) (Littler 2013, 56; Young [1958] 1994, 11). Ever since, meritocracy and meritocratic ideals have become a crucial element of the political narratives of a wide variety of important leaders, ranging from the political left to the political right, including prominent figures such as Margaret Thatcher, Tony Blair, Theresa May, Barack Obama, and Donald Trump (Littler 2013, 52–53, 2018, 1–2; Ansgar Allen 2011, 367; Mazza and Mari 2021, 3). One of the clearest testimonies of meritocracy's ideological power can be found in David Cameron's speech at the

[24] Notably, Fox's view aligns quite well with the criticism that will be introduced in the next subchapter: For him, 'meritocracy' is a pejorative term of abuse, too: "It denotes a society in which 'the gifted, the smart, the energetic, the ambitious and ruthless' not only reap the rewards for their (dubious or admirable) skills but receive too much: these 'fat bonus'[es], the rewards piled on them, are excessive and mean that others suffer" (Littler 2013, 57).

2013 spring conference of the conservative party where he declared his goal to build Britain into an "Aspiration Nation. A country where it's not who you know, or where you're from; but who you are and where you're determined to go. My dream for Britain is that opportunity is not an accident of birth, but a birthright" (Littler 2013, 52).

As critics of meritocracy are quick to point out, Young's own notion of the term was far less enthusiastic than its redefined positive version adopted by contemporary politicians. Young tells a science-fiction tale of a dystopian near-future twentieth-century Britain that has indeed adopted the final form of a meritocracy – which is precisely the problem. Through the eyes of a fictional narrator, he illustrates how the old system of classes and nepotistic order is under attack by a movement for greater social equality (Littler 2013, 57). After the victory of the *meritocrats*, a new system is established in which kinship finally no longer triumphs over skill, the rich no longer bequeath their social positions to their children, and, instead, IQ now determines social station (Littler 2013, 57). An eternal battle between two great principles of selection, namely family and merit, had finally been decided in favor of the latter one (Mazza and Mari 2021, 3). The government in fictional Britain is now getting better and better at establishing different schooling tracks and, most importantly, intelligence tests become a widespread and accurate tool for assessing a person's potential within the "primary administrative machinery" (Ansgar Allen 2011, 369). The tests gradually allow for extremely accurate predictions of ability and potential at an increasingly low age, making re-testing through life redundant and antedating a segregation of the population based on intelligence to early infancy (Ansgar Allen 2011, 369; Mazza and Mari 2021, 4).

Interestingly, this development in Young's tale gives rise to a final meritocratic arrangement that is very different from the political setting and the defining elements that are typically deemed to be core features of meritocracy in real-world discourse: Freedom and competition, so Young claims, are only to be encouraged in *incomplete* meritocracies (Ansgar Allen 2011, 369–70). Once the necessary testing tools are available and the "effective brain power planning" is

absolute (allowing people to be assessed during infancy and subsequently assigned a corresponding educational track and position in society), further competition and ambition become acts of inefficiency and must be prohibited (Ansgar Allen 2011, 370). “Indeed, excessive ambition could lead members of the population to interfere with the finely tuned allocations of advanced meritocracy” (Ansgar Allen 2011, 375). Depending on the definition, the meritocratic system certainly is perfectly ‘fair’: Nepotism and hereditary wealth have disappeared and the ability + effort formula is the hegemonic (and only) factor that determines the social position of an individual (Ansgar Allen 2011, 370). But this arrangement, according to Young’s narrator, is precisely what leads to another revolution which brings down the meritocratic state eventually: People of low IQ – the losers in the meritocratic order, so to speak – “had to accommodate themselves to the fact that their social status was *a direct expression of their intellectual worth*” [emphasis added] (Ansgar Allen 2011, 370). Correspondingly, this ‘perfect’ meritocratic justice gives rise to a crucial problem: The individuals at the lower end of the new hierarchy have nothing and no one else to blame for their poor position in society apart from their own intellectual inferiority. But as the narrator leads us to observe, it seems that “the ascent of man was destined to falter, for apparent justice is at times harder to bear than injustice, and this is a situation that, if left unchecked, will lead the less intelligent classes to revolt” (Ansgar Allen 2011, 370). We later learn that Young’s narrator dies in the uprising against the meritocratic regime of 2034 (Ansgar Allen 2011, 370; Mazza and Mari 2021, 4). Meritocracy is self-defeating.

5.2.2 Of Broken Ladders, Snakes, and the Tyranny of Merit

What is meritocracy? According to a growing number of critics, we might rightly describe it as a system of distribution that is nothing more than an empty promise with tyrannical features. Young’s dystopian tale explains (and justifies!) a state that disenfranchises all individuals that, via the accident of birth, were

pushed into the low-IQ-caste and assigned a corresponding position in the social hierarchy they may no longer contest via competition. As Littler (2013, 54, 2018, 5) points out, this scenario is utterly appalling because it refers to a hermetic conception of intelligence that shares the logic of eugenics. But even if the reality may not be as daunting as Young's dystopia of competence, there are many flaws worth discussing to be found in contemporary meritocracies.

As illustrated earlier, meritocracy as a "conception of social mobility" that is "pitted against 'older' forms of inherited privilege" has become "integral to contemporary structures of feeling" all across the landscape of substantially different political positions (Littler 2013, 53). And yet, following the narrative of Wooldridge's most recent (2021) monography, McMahon (2021) points out that meritocracy "has come in for some hard knocks of late. Critical race theorists, egalitarians and others on the left deride meritocracy as ideology, a mechanism for perpetuating and legitimising hierarchy, elite privilege and structural inequities". Some go as far as to conclude that a belief in meritocracy goes hand in hand with the detrimental belief that prejudice and discrimination (for example, sexual and racial) "is no longer a problem" (Son Hing et al. 2011, 434). However, as he continues, at the same time populists on the right "are no less contemptuous, dismissing elites who claim to owe their positions in society to superior ability and effort as the shills of a system that is 'rigged'" (McMahon 2021). But even in the academic arena, the emergence of most recent theoretical and philosophical works on the "Tyranny of Merit" (2020) or the "Meritocratic Trap" (2019) impose the suspicion that the acceptance for meritocratic ideology is crumbling. In an attempt to evaluate the origin and nature of the criticism, we may well follow the suggestion of Scully (2014, 1) who implies that there are two ways in which we can scrutinize meritocracy and put its alleged value to a test: "First, a social system can be evaluated for *the extent to which it lives up to meritocratic promises*. Second, the *moral basis* of meritocracy as a distributive system can be assessed" [emphasis added]. Put differently: We can discuss if meritocracy actually achieves what it is supposed to do. However, on top of that we can scrutinize whether there are fundamental flaws in the meritocratic conceptions

that – *even if we were to construct the perfect meritocracy* – would not vanish from our social, political, and economic landscape. Both dimensions, that are, *inherent* flaws and problems of *implementation*, will jointly be explored in the next few pages, but the nature of the criticism will yet be clearly illustrated.

We may well begin our scrutiny of meritocracy within a historical setting that gave rise to the ideology that is, allegedly, above everything else concerned with *talent* and *effort* in the Western political tradition. As Wooldridge (2021, 180) points out, Thomas Jefferson certainly ranks among the most vigorous advocates of a "natural aristocracy". In a letter to John Adams in 1813, he indeed argued that "there is a natural aristocracy among men. The ground of this are virtue and talents" (Wooldridge 2021, 180). In opposition to the natural aristocracy which he considered "as the most precious gift of nature, for the instruction, the trusts, and government of society" there is an "artificial aristocracy" founded on "wealth and birth" – precisely the nepotistic order of hereditary classes meritocrats, in theory, try to eradicate (Wooldridge 2021, 180). But despite the persuasive power of this original idea in favor of an aristocracy of talent, a substantial quantity of the current criticism aimed at modern meritocracies can be traced back to one crucial problem accurately summarized by Lenkowsky (2021): "Jefferson's 'natural' aristocracy has begun to look like his 'artificial' one: By attending selective schools, marrying one another and residing in separate communities, among much else, society's most successful members have distanced themselves from everyone else – in a literal sense and in their outlook on work, politics and culture". What Aristotle and Wooldridge call an 'aristocracy', others call an 'oligarchy', however, their critique similarly implies that even an 'oligarchy of merit' is "no different in kind from oligarchy of any other sort" (Segers 1978, 370). This conclusion captures, again, Sandel's critique of the 'skyboxification'-trend – the argument within the dimension of communal relationships which implies that important societal ties are increasingly corroded – and it also aligns very well with the direction of Littler's (2013, 53) critical narrative: "Meritocratic discourse … is currently being actively mobilised by members of a plutocracy to extend their own interests and power", and we further

observe that meritocracy is being used "as a plank of neoliberal political rhetoric and public discourse". She illustrates a wide variety of subsequent problems worth exploring that meritocracy gives rise to.

Following the idea of Young's dystopian tale, one may argue that the assessment of talent or intelligence can eventually turn into a eugenic nightmare (Littler 2018, 4–5). Such meritocracy builds on the idea of an innate, singular, and linear conception of intelligence and aptitude, leading to the conclusion that the chance to succeed (or not) is inborn – it is decided via the accident of birth (Littler 2013, 54). The critique that the alleged 'system of opportunity' is, in fact, subject to substantial determinism can also be extended to the hierarchical system meritocracy inevitably gives rise to. This point certainly falls under the umbrella of problems that are ingrained into the very nature (or definition, say) of meritocracy – they are not merely a symptom of an imperfect implementation. The very idea that people can capitalize on their talent and effort in order to 'rise' in occupation, wealth, status, and income is necessarily *relative*: Meritocratic upwards and downwards mobility "endorses a competitive, linear, hierarchical system" and for 'the cream to rise', others – qua design– "must be left behind" (Littler 2013, 54). The whole concept of 'rising' is tied to the existence of a 'top' and a 'bottom' (Littler 2018, 3). This is, arguably, the most persistent critique of meritocracy which many other problems, in a sense, are consequences of. What meritocracy provides is a 'ladder' – a wonderful metaphor used both by proponents, and critics. As it is well established, meritocrats typically see the ladder as a 'ladder of opportunity' – a type of promise or work ethics: 'Make use of what God has given you, put in the work, make an effort, be willing to invest, to sacrifice, and to burn the midnight oil every once in a while and you will certainly climb!' Regardless of whether this common sentiment is actually accurate in reality (spoiler: it is probably not), the idea of a ladder can also paint a very different picture.

In a British newspaper article from 1958, Raymond Williams (October 30, 1958) observed that the way meritocracy treats natural endowments, such as intelligence, in a 'Youngean' spirit as a determinant for class membership may

well imply that the "ladder is a perfect symbol of the bourgeois idea of society" (Littler 2018, 3). Indeed, the ladder technically *does* offer opportunity, but it is yet an instrument that can only be used individually, everyone is destined to climb alone, it forces people into a constant state of competition, it correspondingly undermines solidarity, weakens the community and common goals, and it only "'sweetens the poison of hierarchy' by offering advancement through merit rather than money or birth, whilst retaining a commitment to the very notion of hierarchy itself" (Littler 2018, 3, 2013, 54; R. Williams, October 30, 1958, 10). As a result, critics conclude that the ladder "promises opportunity whilst producing social division" – a symptom of the meritocratic machinery that indeed has the power to produce 'winners', but 'losers' just as much (Littler 2018, 3; Scully 2014, 2).

This dichotomy between those who are rising and those who are falling behind can be critically evaluated for a large number of reasons, but it also gives rise to the question how the 'desirable' features and occupations of the winning class are defined, ranked, and valued. As Littler (2018, 6) points out, one crucial problem of meritocracy's ideological hegemony is "its uncritical valorisation of particular forms of status, in the hierarchical ranking of professions and status it endorses". A lawyer certainly enjoys greater income and social status than a bricklayer. Some occupations are positioned at the top of the meritocratic ladder, others are not. But we have a habit of overlooking the questions "*why* they are there – and whether they *should* be there" (Littler 2013, 54). This phenomenon may potentially be explained by economic theory and the occasionally paradoxical relationship between the welfare a good or service can produce, and the corresponding price or salary. But even if we were to disregard this problem; even if we were to say 'Well, the hierarchy of professions and status is what it is – just make the climb!', we would run into at least two further problems. One problem is, say, about the *practicality* of climbing the ladder, the other one is about the ladder's *implications* with regards to the class structure.

The second point leads us to an interpretation of the ladder that opposes the bright side of its ideology, that is, the uplifting idea that talent and a little bit

of effort can allow us to rise and achieve the goals we want to reach in life. While the positive notion is indeed concerned with 'reaching the goal', the negative notion of the ladder necessarily implies that there is place we want to *escape from*. Here, we are, in a sense, concerned with the psychological harm the meritocratic conception potentially imposes on the people at the bottom. The meritocratic language of 'moving up' – both in financial terms, and with regards to social class – typically paints upper-middle class norms and values as a goal to aspire to (Littler 2013, 55). This aspiration alone should be a subject of debate – given that it is far from self-evident that such social class indeed makes for a happier culture to live in and a superior place for socialization (Littler 2013, 55). But the real damage occurs at the lower end of the ladder, as Littler (2018, 3) accurately summarizes: "Contemporary neoliberal discourses of meritocracy … assume that all progressive movement must happen upwards and, in the process, contribute to the positioning of working-class cultures as the 'underclass', as abject zones and as lives to flee from".

The problematic implications of this sentiment are easy to locate: The existence of a prestigious class of victorious meritocrats entails that there is another inglorious class of those who just didn't quite cut it. And on top of that, it places the blame in the hands of the people in the 'underclass'. As in Young's tale, such poison has become even bitterer since the 'losers' – under meritocratic ideology – do not owe their undesirable position to, say, birth into a lower class in a static feudal system, but to their own lack of talent and effort. After all, meritocracy preaches that the "most talented and hard-working people get ahead; those who are poor must try harder, and, when they do, the inequality gap will be closed" (Scully 2002, 399). This idea can best be described as a "cruel optimism": The perhaps most important key ingredient for socio-economic rise, for example in former prime minister Cameron's "Aspiration Nation", is the *will to win* (Littler 2013, 66). Correspondingly, a factual challenge, such as social disadvantage, is judged to be "only 'real' in that it is an obstacle over which pure mental will and aspiration – if they are expressed correctly by being combined with hard work – can triumph" (Littler 2013, 66). The wicked outcome is a situation in which the

poor are blamed for their allegedly *own failure* with "almost missionary zeal", it deems those at the bottom of the "social pile" unworthy and leaves them demoralized, and it shows undoubtably why "meritocracy tends to be believed in more by the privileged" (Littler 2013, 58–67). "Smug success and embarrassing failure charge the tenor of social life" (Scully 2014, 2). Correspondingly, this line of argument clearly illustrates a dimension of psychological harm: Individuals at 'the bottom' as well as their class and occupations are demoralized and degraded. Needless to say, in our present real-world framework, the meritocratic 'work hard and you'll get ahead'-maxim is, at least to a significant extent, illusional. As Scully (2002, 399) adds, the "idea of meritocracy is invoked … as a way to explain and legitimate inequality" by a plutocratic elite, abusing the doctrine of merit for consolidating their positions of power within a highly unequal playing field that can hardly be assumed to be an adequate foundation for a 'genuine' meritocracy (Littler 2013, 55; Scully 2014, 1–2; Son Hing et al. 2011, 434; Milanovic 2020, 14). The critics' position certainly has an argumentative power: There are indeed good reasons for describing meritocracy as a symptom of neoliberalism, as an "alibi for plutocracy", and as an ideology conveniently adopted by "those sections of the super-rich" who experienced the luxury of a financially opulent heritage "unlike vast swathes of the population" (Littler 2018, 2–11). Meritocracy links a competitive individualism to the belief in social upward mobility in yet highly unequal societies (Littler 2013, 68). Here, we also find the connection between the *inherent* problems of the meritocratic hierarchy represented by the ladder, and the *practical* challenges mentioned earlier.

This issue certainly ranks among the most discussed and easiest to grasp flaws in the meritocratic order: We live in societies in which genuine equality of opportunity is, at least to a substantial extent, fictional and, correspondingly, it is a fact that "climbing the ladder is simply much harder for some people than other" (Littler 2018, 5). In this objection, we are essentially concerned with the significant differences in starting conditions and the practical obstacles for social mobility. This problem lies at the heart of virtually all discussions about social inequality, fairness and justice, merit and entitlement, and (in-)equality of

opportunity, conditions, distribution, resources, and outcomes (e.g., Sørensen 2006, 367–69). Access to genuine chances can enable 'the rise', lack thereof can imposes substantial obstacles. As Mark Tushnet (1996, 81) points out, cream just "doesn't rise to the top when there's something in the way". Such unequal opportunities manifest themselves in a wide variety of domains – for example in the dimension of financial means: "But in terms of economic competition, the race is rigged. If we think of money as a measure of who gets how much of what there is to get, the race to get ahead does not start anew with each generation. Instead, it is more like a relay race in which we inherit a starting point from our parents" (McNamee and R. K. Miller 2014, 49). This is precisely the unequal access to resources based on birth that leads critics to conclude that the aristocratic order of blood and nepotism has been superseded by a *meritocratic* aristocracy that is yet corrupted by hereditary starting points in 'the race'.

Another prominent ladder that people 'ought to climb' is education. This is, according to Daniel Bell ([1976] 2008, 578), "the focal point of opportunity" and especially *higher* education is frequently a subject of debate, given that the 'great equalizer'-hypothesis implies that a college degree can interrupt the intergenerational reproduction of social inequality, as we will see in 36.1 (Torche 2018, 214–22). Insufficient opportunity in this area, correspondingly, means "for a sizable number of others who have been excluded – because of lack of education – an existence as members of a permanent underclass" (Daniel Bell [1976] 2008, 578). Unsurprisingly, there are countless examples and domains of human life to be found in which inequality of opportunity takes its toll. It is an empirical fact that "some people are positioned at the bottom of a number of different ladders and within a multiple series of disadvantages, in terms of, for example, ethnicity, single parenthood or technology" (Littler 2018, 5). In conclusion of this subchapter, we may be well inclined to agree that the types of meritocracy we are experiencing today show characteristics of an "ideological myth" with the ability to "obscure economic and social inequalities" as well as the role they play "in curtailing social inequality" (Littler 2013, 55). If real-world meritocracy is to be described as a game, it manifests itself as a *rigged* game with an uneven "social

playing field", corrupted by "profound dis/advantages of parental wealth and social location", giving rise to a meritocratic myth that is "both inaccurate and harmful" and "legitimizes inequalities of power and privilege through 'claims that are demonstrably false'" (Littler 2013, 55, 2018, 7; Scully 2014, 1–2; Son Hing et al. 2011, 434). We find a paradoxical situation: Intended as an antidote to hereditary privilege, merit has become "a new criterion of discrimination in modern society" (Mazza and Mari 2021, 5). Framed in terms of opportunity, we should remind ourselves of the statement by McNamee and Miller (2014, 149) already quoted in 5.1.2 which provides an accurate closing remark on how we might be led to think about people's chances to actually climb the ladder – a situation we can well describe as nothing short of a tragedy: "The simple fact is that there is far more intelligence, talent, ability, and hard work in the population as a whole than there are people who are lucky enough to find themselves in a position to take advantage of these qualities".

5.2.3 A Genuine Meritocracy Worth Wanting?

What is meritocracy? After posing this question for the third time, we may, in contrast, be bold enough as to claim that it can be an *ideology worth wanting*. To vindicate the point that meritocracy has the capacity to be an adequate system of distribution or justice principle, we must yet start with one simple acknowledgement: A substantial quantity of the criticism introduced in the previous subchapter *is* indeed accurate. There *are* substantial flaws in contemporary meritocracies: The opportunities to participate in the meritocratic race *are* extremely unequally distributed, people who are left behind *can* wrongly be judged to be responsible for their own fate in a system that allegedly rewards talent and effort, and the idea of a genuine meritocracy certainly *has* been corrupted by a plutocratic elite that all too willingly adopts the narrative that their success is a testimony of their superior abilities and deservingness, rather than an arbitrary hereditary privilege (Khan 2018, 99–102). The goal of this subchapter is

not to deny every single description of meritocracy's imperfect real-world manifestation as well as its inherent flaws. It is not about defending what meritocracy *is*, but, instead, about endorsing what meritocracy *can be*.

As Son Hing et al. (2011, 448) point out in a study examining people's attitudes towards meritocracy, "beliefs that meritocracy *ought to* exist are independent of beliefs that meritocracy *does* exist" [emphasis added]. These two 'independent beliefs' serve very different roles in our debate about meritocracy: "The latter – beliefs that meritocracy *does exist* – can serve as a hierarchy-legitimizing ideology that justifies current societal inequality. In contrast, the former beliefs – that meritocracy *ought to exist* – reflect a preference for a particular norm of distributive justice and can in fact drive support for policies that *challenge the status quo*" [emphasis added] (Son Hing et al. 2011, 448). This section's 'defense' of meritocracy predominantly belongs into the category of 'ought-to-exist-beliefs' and Son Hing et al.'s (2011, 448) phrasing of this approach could not be any more accurate: This subchapter's advocacy for meritocracy (or, as we will see, not necessarily meritocracy as whole but at least meritocratic elements) indeed reflects "a preference for a particular norm of distributive justice", and precisely for this norm to make sense, the status quo must be challenged.

Ansgar Allen (2011, 368) similarly points out that research on meritocracy indeed addresses the distinct questions "Does meritocracy exist?", "Is it desirable?", and, additionally, the question of implementation: "Can it be achieved?". The brief debate on meritocracy in this thesis is concerned with all three questions, however, we must be aware of its limitations. Especially the third question would first demand for a huge discussion about the nature of a, let's call it, 'ultimate meritocracy' for us to be able to judge if the policies necessary to achieve it would indeed be feasible. This is a substantial quest that cannot be pursued in this thesis. Instead, we can rightly come up with sensible *improvements* of the current system that would make our meritocracies, say, *more* (not perfectly) factual, sincere, or – well – *meritocratic* without having a cosmic blueprint for the ultimate meritocracy. Having an idea about the *'right direction'* is a sufficient tool

for us to challenge the status quo: We can certainly make a convincing case that a society becomes more meritocratic if better equality of opportunity is achieved. And we can advocate such a point without getting lost in a debate about our willingness to eventually endorse genetic engineering and the abolishment of the family – radical policies that could rightly be described as features of an *'ultimate'* meritocracy (Feeney 2007, 366–67). However, before we return to the debate on how meritocracy is not what it should be, how it can be amended, and how it, perhaps, tends to be demonized more than it deserves, let us take another look at Young's dystopian tale that continues to cast a shadow on every evaluation of meritocracy's features.

The Rise of the Meritocracy indeed paints a dystopian picture of the meritocratic society that our missionary emphasis on talent and effort could lead to. And critics of meritocracy certainly find a handy argument in the fact that even the 'inventor' of the term intended it to be a warning with pejorative features, rather than a draft for the acclaimed ideology it, ironically, became in the decades after his tale was published. But, as Allen (2011, 367) reminds us, we may rightly scrutinize Young's prophecy, leading us to conclude that he made the error "to assume that meritocracy is a timeless and unalterable ideal" and that, by contrast, "the basic principles of meritocracy have since changed and that the system Young warned us against no longer exists". Put differently: Young's alarming vision of a dystopian meritocracy that critics frequently make reference to is outdated.

In 1958, Young proclaimed that meritocracy would eventually "bring about a rigidly stratified society, divided according to intelligence alone", but, "of course, this kind of highly administered society has not been achieved" (Ansgar Allen 2011, 368). As Allen (2011, 371) continues, "Young's inevitable future was not borne out in reality" and, correspondingly, we can suggest that "meritocratic logics underwent transformation and took another path". Young's vision of meritocracy arguable relied on four historically contingent principles that can be summarized as follows: "(i) Meritocracy requires administrative overview and the careful redistribution of human ability; (ii) for administrative purposes, human

ability is a relatively fixed trait; (iii) competition is irrational and is to be avoided; (iv) a perfected meritocracy is one where inequalities are precisely matched to abilities – it is a society where inequalities are *justly unequal*" (Ansgar Allen 2011, 371). We can make the case that Young's principles have not proven to be accurate. Instead, they have actually been inverted, leading to a very different meritocratic arrangement (Ansgar Allen 2011, 377).

In opposition to Young's prediction (i), we find that the actions of governments have changed in a different direction after his book was published. Direct state interventions declined in favor of a mode of "steering from a distance" and encouraging citizens to adopt greater responsibility for their fates "as the state withdraws" (Ansgar Allen 2011, 377). Politicians are rather "keen to avoid the accusation of 'social engineer'" and, instead, it is for *individuals* to "take up the task of repositioning themselves", promoting personal ambition as an essential feature (Ansgar Allen 2011, 377).

With regards to (ii), we can make the point that there is hardly any unambiguous consensus implying that human ability is indeed rightly described as determined, innate, unitary, linear, and fixed (Ansgar Allen 2011, 377). Instead, intelligence could better be defined as "malleable, if not multiple", casting doubt on the feasibility of a state that can reasonably easy get into the "business of meritocratic repositioning" as assumed in Young's tale (Ansgar Allen 2011, 377).

In opposition to Young's prediction (iii), modern meritocracies certainly did not become *static* systems in which competition is regarded as an inefficient relict of the past that ought to be discouraged. Such initial sentiment, Allen (2011, 377–78) argues, is grounded in the spirit of Young's time in which "competition between schools, for example, was to be deplored" since "variations in school esteem were considered to be a limiting factor that would interfere with administrative efforts to distribute children amongst schools according to their ability". And indeed, even on the micro-level of school curriculums, recent developments are clear indicators of an effort to push back against cold and atomistic types of aptitude assessments that run the risk of turning schools into competitive battlegrounds in a meritocratic machinery of pathological rankings. In

opposition to that, we are told that "what 'is needed is a culture of success, backed by the belief that *all* can achieve'" [emphasis added], however, as Allen (2011, 378) emphasizes, this does not "remove competition from the classroom". Students *are* trained to become "industrious self-improvers" even though they do so in a 'humanized' environment where they learn "the techniques of benevolent and cooperative rivalry, where they peer-assess and self-assess in order to develop their powers of self-analysis and self-enhancement" (Ansgar Allen 2011, 378). This finding shows two interesting points: (a) Unlike in Young's prophecy, modern meritocracies *do* encourage competition – and it may be a 'humanized competition', for example, in schools. (b) The idea of 'benevolent and cooperative rivalry', which we certainly do find manifested in the area of education as well as in some corporate landscapes stressing teamwork, can be judged as a counterargument to, for example, Littler's (2013, 2018) claim that 'the ladder' can only be climbed alone, necessarily undermining solidarity, consideration, and cooperation.

Finally, in opposition to Young's version of (iv), modern real-world meritocracies do not require a perfect distribution of abilities. In accordance with Allen's (2011, 378–79) principle (iii), "human ability is now seen as too malleable and complex in its formation to be administered by the social engineer" and, instead, individuals now bear the responsibility for their (re-)positioning in the meritocratic order. Aspiration is *encouraged*, "there is no longer any desire to manufacture a social machinery" that *perfectly* aligns intelligence with the distribution of jobs and education, and, correspondingly, a "perfect distribution of abilities is no longer seen as feasible nor is it required" (Ansgar Allen 2011, 379). In conclusion, we may come to agree that Young's ([1958] 1994) *The Rise of the Meritocracy* is a reflection of "the meritocratic philosophy of his time" and that "the meaning and practice of meritocracy has since changed" (Ansgar Allen 2011, 379). Perhaps we should not overemphasize the importance of the *pejorative* sense in which Young used the term 'meritocracy' based on his prediction for a political system that looked very different than the meritocratic societies that actually came into existence. In fact, whereas in his vision the social unrest which

eventually brought about the fall of the meritocrats originated from the lack of room given to ambition, in today's 'real' meritocracies, the problem may well be the opposite, that is, "a symbolic order that works to stoke up *unrealistic* aspiration" [emphasis added] (Ansgar Allen 2011, 380). Correspondingly, what Allen (2011, 380) sees as a vital governmental task is to "develop practices of self-absorption which will ensure that aspiration drives effort *within acceptable channels of restraint* preventing self-loss and subsequent dissatisfaction with the global order" [emphasis added].

Let us now return to the strategy introduced at the beginning of this subchapter which can be summarized in the shape of a claim: We may rightly acknowledge that contemporary meritocracies are flawed but we can yet argue that *what meritocracy ought to be* (or *could be*) is a very different question. We could well defend meritocracy by pointing out that not all criticism is accurate. To a certain extent, the previous reevaluation of Young's work falls into this category. However, given that – granted – the critique of current meritocracies predominantly *is* accurate and persuasive, the more promising approach is the normative 'ought-belief': It follows the claim that meritocracy *can be* a good system of distribution built on an adequate justice principle if we can sufficiently improve it. To follow this line of argument, in turn, two strategies can be introduced: We can (a) show that there is no compelling reason entailing that we necessarily must define meritocracy as an all-encompassing paradigm governing *every single* policy. We may well adopt a pluralistic stance, introducing complementary policies that mitigate the downsides of meritocratic principles, for example. And we can (b) argue that contemporary meritocracies are flawed precisely because they aren't truly meritocratic. Or, to borrow Wooldridge's (2021, 374–76) narrative: The real problem is that the 'meritocratic revolution' is incomplete, and rather than rejecting meritocratic ideology because of the imperfect systems it has brought about, we should double our efforts to make a case for *more* and *wiser* meritocracy. In a subsequent step, we can ponder how meritocracies can be made more meritocratic – for example by improving equality of opportunity. This approach will lead us back into the arena of higher education.

As we will see later in the debate on (b) – the idea, that contemporary meritocracies, ironically and paradoxically, aren't truly meritocratic – the aforementioned critiques are typically aimed at a *neoliberal* version of meritocracy (Littler 2018, 10). This observation also serves as an underlying link between multiple claims advocated in this thesis and allows for the corrupting nature of neoliberalism as an important element in the overall narrative to be reemphasized: As pointed out in the previous subchapter based on Littler's (2013, 53) argument, meritocratic ideology attracts criticism precisely because meritocracy has been corrupted by a plutocratic elite "as a plank of *neoliberal* political rhetoric and public discourse" [emphasis added]. Similarly, the neoliberalization and market-triumphalism bear substantial responsibility for the 'skyboxification' introduced in 3.3 and 5.1, as well as for the distortion of the traditional role of universities in favor of 'utility-producing' marketized higher education discussed in 5.1.2. In conclusion, these real-world manifestations can be regarded as symptoms of the comprehensive *neoliberalization* of Western democracies in the past five decades, reinforcing the claim mentioned in 5.2 that neoliberalism is indeed *one* version of liberalism that *classical* liberalism can mutate into, but it is most likely neither the *only*, nor the *best* possible variant. Before we further explore this line of argument in accordance with approach (b), let us briefly discuss the pluralistic approach (a), that is, the claim that meritocratic principles do not have to stand alone. Noted, this is an adjacent type of argument that slightly transcends our quest to promote meritocracy's constitutive equality of opportunity exclusively from within classical liberalism.

Again: An advocacy for meritocracy should not be confused with the demand that merit ought to be the only relevant all-encompassing paradigm governing every single process in its dominion. Different ideas of equality and justice can be well intertwined in a sensible way – the workplace is a suitable example: Depending on the definition, we can be inclined to argue that it is *fair* to give bonuses to, for example, a very eloquent and successful salesperson that generates substantially greater profits for the company than his or her colleagues (= merit/achievement-based reward) (Son Hing et al. 2011, 433–34). The

company can yet provide all employees with the same resources, such as office space (= equality of 'condition', say) (Son Hing et al. 2011, 434). Finally, it can, at the same time, allocate certain arrangements, such as parental leave, not only to those who perform best or to everyone equally, but to those who actually *require* them most (= need based distribution or equity) (Son Hing et al. 2011, 434). This example reinforces the argument that meritocracy is not inherently destined to abolish every other ideal of distribution and fairness. We can well imagine *complementary relationships*, rather than solely *conflict* between the principles.

A related argument allows us to grapple with one of the core critiques of meritocracy, that is, the claim that meritocracy is *inherently* problematic because it, by definition, produces *losers* just as much as winners. The idea that people should be enabled to *rise* necessarily entails that there must be people who *fall* or who are *left behind*. This is not an issue of flawed *implementation*, but it is a *fundamental* 'imperfection' of meritocratic theory. Interestingly, we may be inclined to argue that this is a theoretical problem that can be 'solved' via the practical implementation. We may well ask how 'winning' and 'losing' should look like.

Such line of reasoning is worth being briefly explored; however, we must add a certain, say, 'disclaimer': This is a *complementary* argument, not a claim that the underlying narrative applied in this thesis *entails*. This argument's type of questioning clearly belongs to an Aristotelean tradition concerned with debates about how we want to live together in our polis, how such society ought to look like, and which social virtues and principles of justice we should cultivate and adopt. This is an approach modern virtue ethicists concerned with institutional arrangements[25], such as Kwame Anthony Appiah (2008), or communitarians concerned with a public debate about the value of our common goods, such as Michael Sandel (2020, 2012), would most likely endorse. If we were to stick *exclusively* to classical liberal doctrines (which is indeed the primary objective of

[25] The strategy to promote the exercise of liberty, broadly speaking, while yet giving it an adequate frame is certainly not a new idea: Complementing a free capitalist market with "regulatory frameworks" is, for example, a widely accepted imperative that arose from the tremendous impacts of the financial crisis of 2007-8 (D'Arista and Griffith-Jones 2010, 126–49; Stiglitz 2010b, 19–49, 2010a, 76–98; M. Williams 2010, 200–216).

this thesis), we may well discover that our liberal and meritocratic framework allows people to fail miserably and to suffer the consequences. This is simply the flipside of an ideology that offers opportunity but also stresses self-government and individual responsibility. Classical liberals may well be inclined to accept this outcome – *as long as we indeed have a genuine level of equality of opportunity!* (More on this in the next subchapters.) As cold as it may sound: It can be a result of logical and argumentative consistency to arrive at the conclusion that we need to have only little moral quarrel with the existence of 'losers' as longs as everyone had a fair shot. However, if such an outcome seems unsatisfactory to us, we can indeed adopt a certain humility and search for fixes in other disciplines.

With this 'disclaimer' in mind, let us explore at least one potential solution. Meritocracy as a system of distribution and justice principle indeed brings into existence both winners, and losers. But we may well ask how especially losing *should look like*. If we were to agree that a system that allocates rewards based on talent and effort is an adequate fairness principle (or at least a better principle than the potential alternatives), we could yet argue that 'winning' should not manifest itself in the shape of unfettered excess and 'losing' should not amount to life-threatening hardship and indignity. As Walzer (1983, 319) reminds us, a "community's culture is the story its members tell so as to make sense of all the different pieces of their social life – and justice is the doctrine that distinguishes the pieces". A society – and this is a leap ahead to the arguments in (b) – that rewards achievements based on meritocratic principles can well be a system that yet also adopts a culture of complementary welfare state principles, such as a social security net. This approach slips into the equation a pinch of 'Frankfurtism'.

Harry Frankfurt falls under the umbrella of scholars who reject the idea that the pursuit of equality, specifically, equality in the economic sphere, is an independent moral imperative. In opposition to radical egalitarians (or those who are convinced that equality has an *inherent* value), he makes the case that we typically are not concerned with equality simply for the sake of having equality (Saunders 2011, 251–52). If that would be the case, we could well feel the need to

redistribute wealth from a billionaire to a millionaire (Saunders 2011, 251). Instead, what we are actually concerned with is not inequality per se, but *poverty* (Saunders 2011, 251; Frankfurt 2015, 4–5). Correspondingly, he implies, we are not egalitarians because we enjoy randomly equalizing things, but because we see it as unacceptable that not everyone has *enough* (Frankfurt 2015, 47–48). Asserting that a person "has enough" entails that a "certain requirement or standard has been met", and with this definition in mind, we clearly see that Frankfurt's (2015, 48) doctrine is rightly described as a 'sufficiency approach' (Saunders 2011, 252).

Obviously, 'having enough' and 'sufficiency' are vague terms, and we would be destined to dive into a rabbit hole if we were to pursue the quest of defining what precisely a person must be endowed with in order to have 'sufficiently' much. Such endeavor is clearly not the objective of these paragraphs. What, instead, *is* the objective of this short digression is to show that Frankfurt can help us thinking about how *losing* or *being at the bottom of the ladder* could look like: "There is no necessary connection between being at the bottom of society and being poor in the sense in which poverty is a serious and morally objectionable barrier to a good life" (Frankfurt 2015, 70). This quote is on point: Endorsing a system in which people can indeed end up at 'the bottom' of society does not necessarily entail that we also endorse a 'bottom' that must be a disastrous nightmare in which people's options to live a dignified life are severely impaired.[26] Correspondingly, we may well propose giving meritocracy an adequate frame that limits the excessive rewards of the winners in order to absorb

[26] Interestingly, this idea brings us back to the issue briefly discussed in the footnote in chapter 5 as well as to the broad debate on liberalism in chapter 3 and 4: The losers' dissatisfaction with meritocracy is certainly, by extension, a dissatisfaction with the individualistic framework liberalism has brought about. After the establishment of liberal principles in the developed world, it may well be individualism's rise that leads the 'losers' of the current global economic growth to feel left behind. Paradoxically, the (re-)emergence of far right-leaning sentiments in Poland, France, or Germany can therefore be a consequence of populists winning elections not through the lenses of growing *collectivism* but growing *individualism*. Disadvantaged portions of the population demand their 'piece of the pie' and adopt an, at best, *fragile* trust in the liberal system – a situation that populists and 'strongmen' can easily capitalize on.
This, however, only reinforces the importance of the discussion at hand: If we find a way to improve *meritocracy*, we will, in turn, improve *liberalism* and address a crucial problem that plays a significant role in the rise of populism.

the fall of the losers. Such an idea, again, aligns with Frankfurt's overall sentiment: He argues that "poverty is compellingly undesirable" and our "basic focus should be on reducing both poverty and excessive affluence" (Frankfurt 2015, 5 & 44).

This brief discussion is not intended to morph Frankfurt's moral philosophy into an advocacy for meritocracy. Instead, he may be a suitable source for guidance if we were to come to the conclusion that we indeed endorse meritocracy as a system of distribution and fairness principle but aren't quite happy with all outcomes such a society could produce. If we dislike the idea that people can end up in precarious situation at the bottom of society – *even if they had a genuine chance* to make it to the top – we could well give our meritocracy an adequate frame that limits the rewards and cushions the losses. Although, as explained earlier, this strategy of mitigating the negative repercussions a meritocracy can bring about falls into a different category of arguments, it yet has a certain resemblance to the (b)-approach, that is, the claim that contemporary meritocracies are not what they *could be* or *ought to be*.

This approach brings us back to a starting point that has already been briefly mentioned earlier in this subchapter: As Littler (2018, 10) acknowledges in her critique, "'social democratic meritocracy' is a very different formation from 'neoliberal meritocracy'". We can rightly argue that there is no solid reason forcing us to conclude that meritocracy must necessarily take the shape of a neoliberal anti-establishment Thatcherism or an "explicit Blairite adoption of the concept as means to legitimize a competitive and individualistic ethos" that is indeed rightly described as a cold and atomistic framework by its critics (Littler 2018, 13). We may well have a hunch that the problem about 'neoliberal meritocracy' lies not so much in the meritocratic ideology, but in *neoliberalism*. As it was pointed out over and over again through this thesis, neoliberalism has the capacity to corrupt a myriad of institutions, communal goods, power relationships, and paradigms. Neoliberalism's market logic can provide distorted incentives, it can corrode social cohesion, marketize goods that should not be up for sale, undermine civil society, crowd-out non-market values, usurp the

traditional role of universities, and – we may be willing to add to the list – give rise to a type of meritocracy that a growing number of critics would rather see abolished – rightly so.

This observation, in turn, allows us to dive even deeper into the discussions of the transformations that took place within the, say, liberal ecosystem for a moment. As pointed out earlier, neoliberalism certainly is *one way* in which liberal principles can manifest themselves, but it is not the *only possible variant*. Littler (2013, 61–62) agrees that Foucault's (2010) *The Birth of Biopolitics* can provide guidance when grappling with the development. There are clear distinctions to be found between neoliberalism and its classical liberal roots, and Foucault (2010, 130) emphasizes that "neo-liberalism is really something else". To him, this means precisely the trend discussed in earlier chapters: The relationships and exercises of power are increasingly shaped by the logic and principles of economics, and the dominance of the market gives rise to a society in which "it has begun to structure the way political power itself works" (Foucault 2010, 130–31; Littler 2013, 62). This type of argument is similarly captured by Walzer (1983, 119–20) in its most radical variant: If we were to increasingly "conceive the market as a sphere without boundaries, an unzoned city", such a radical "*laissez-faire* economy would be like a totalitarian state, invading every other sphere, dominating every other distributive process". He adds a prediction that, as previous notes on Sandel's critique of marketization have shown, has partially become reality: "It would transform every social good into a commodity" (Walzer 1983, 120). In order to create such a regime, "classical liberalism had to be subjected to a number of transformations", and neoliberalism, as the result of this transformation, is now governed by the doctrine that the "only 'true' aims of social policy" can be "economic growth and privatisation" (Littler 2013, 62). In a nutshell, one potential defense of meritocracy certainly lies within the justified claim that the flawed real-world implementation of meritocratic ideology is not a symptom of its inherent inadequacy as a system of distribution and justice principle, but of neoliberalism's corrupting influence.

If we agree that, in fact, *neoliberalism* fosters the rise of the dog-eat-dog societies that *meritocracy* is frequently made responsible for, our quest may well be to come up with a version of meritocracy that is not neoliberal. As Littler (2018, 10) points out, what "considering meritocracy as an ideological discourse also does is to enable us to analyse how ideas come to gain traction and to hold sway, and *how a social system can be built and endorsed around it*" [emphasis added]. Such discourse may well lead us to conclude that the *neoliberal* version of meritocracy is indeed a severely flawed concept, whereas a *social democratic* meritocracy is worth promoting. Following this conviction, we could embrace a meritocracy as envisioned by Bell. This version "emerged from a historical situation characterised by the presence of a strong welfare state which could offset the most extreme effects of market-produced social inequality. In this context, meritocracy could be imagined as a dynamic engine both of 'opportunity' for social mobility, shaking up an ossified class system, and for ambiguously imagined 'productive wealth'" (Littler 2018, 61). Such a *social democratic* meritocracy sounds precisely like the promise for wealth and social mobility that the *neoliberal* meritocracy fails to meet.

After implying that a substantial quantity of problems with meritocracy may well originate from the lack of 'social systems built and endorsed around it', let us now return to further words in defense of meritocracy *itself*, following the normative approach. One of the most suitable advocacies in favor of the 'aristocracy of talent' is Wooldridge's (2021) most recent work.

We may begin this journey with one simple but profound assumption: It was declared at the very beginning of this thesis that what we are concerned with is clearly not a *perfect* theory. The discussion of liberalism in previous chapters did *not* serve the purpose to illustrate that liberalism is a flawless system. Instead, the significantly more modest strategy was to argue that there is something valuable about liberal principles, that liberal democracies are, despite their imperfections, probably yet *better* than the alternatives, and that we, correspondingly, should not surrender the liberal project inconsiderately. Similarly, meritocracy must be judged from the angle of a non-ideal theoretical

approach: At no point should we be led to conclude that meritocracies are perfect, nor will they every be. But we may rightly argue that meritocracy is a better system of distribution and justice principle than its potential alternatives – many of which we have witnessed in the past.

This introductory remark for the subsequent advocacy for meritocracy is not intended to sound the bell for a comprehensive comparative analysis of all potential systems of distribution, principles of justice, and modes of competition. We may regard it as a simple but important nudge for reminding ourselves of the static and inherently illiberal orders the world was governed by in the millennia before meritocracy came along and, therefore, "at the very least, we should be cautious about consigning it to the dustbin of history too soon" (McMahon 2021). After all, for "most of human history, nepotism, along with patronage, clientelism and venality, has been the norm" (McMahon 2021). This is precisely the claim that frames Wooldridge's (2021, 9) monography: Is there "a better system for organizing the world? The relevant question is surely not whether meritocracy has faults. It is whether it has fewer faults than alternative systems". This short declaration is a crucial basis for all defenders of meritocracy since it substantially lowers the burden of proof: Given that debates about political systems do not take place in a void that allows us to reject all proposed blueprints until we find the perfect one we are truly happy with – after all we *do* need systems and principles of distribution, and we need them now – we may rightly claim to make a convincing case for meritocracy even if we were to be left with substantial flaws we cannot yet get rid of. To push this idea to its limits, we could well adopt Michael Mandelbaum's (2021) slogan in defense of meritocracy: "It's the worst system for deciding who gets society's most important positions – except for all the others".

This idea significantly shapes Wooldridge's approach. The value of meritocracy must be assessed within a historical narrative, and we may rightly draw on the lessons the contrast between meritocracy and its predecessors can provide us with. We can and we should take the critiques of meritocracy seriously but we would yet be wise to remind ourselves to be cautious about rejecting ideas

that are so “central to modernity” inconsiderately (Wooldridge 2021, 9). Critiques of liberalism and democracy – history has already taught us – can lead us “to some dark places” (Wooldridge 2021, 9). Wooldridge (2021, 9) reminds us that we should be similarly careful with critiques of meritocracy, “particularly in the wake of a Trump presidency” that, in the U.S., “has trashed meritocratic principles of government through the wanton use of nepotism, political favouritism and the systematic denigration of expertise”. After all, meritocracy seems to be a *fragile* ideal.

Not only can we draw on very recent political events that serve as an unpleasant reminder of what a lack of meritocracy can bring about, but we can also further explore the claim that meritocracy is indeed a *revolutionary idea* – “the intellectual dynamite which has blown up old worlds”, that “created the material for the construction of new ones”, and certainly deserves recognition (Wooldridge 2021, 11). This revolutionary idea has yet ancient roots: Plato envisioned a utopian state governed by an educated class of ‘philosopher kings’, imperial China developed extensive examination procedures to identify the most gifted citizens, and liberal thinking after the enlightenment favored individual rights over regimes of oppression (Alon and Tienda 2007, 489; Lenkowsky 2021). But nevertheless, for millennia, “most societies have been organized according to the very opposite principles of meritocracy”, with people inheriting “their positions in fixed social orders” in a world “ruled by royal dynasties” that adopted nepotism as “a way of life” (Wooldridge 2021, 11). “Upward mobility was discouraged and sometimes outlawed” (Wooldridge 2021, 11). Correspondingly and despite its flaws, there *is* something revolutionary about the meritocratic idea: In the traditional order of aristocracies, what truly mattered were family ties, connections, and the relationships with origin and land, whereas meritocracy stresses that “people are individuals before they are anything else” and therefore become “masters of their fates and captains of their souls” (Wooldridge 2021, 12).

Merit as a justice principle emphasizes the role of performance as a result of raw ability combined with great effort and it has become a “rallying cry of the oppressed and marginalized everywhere” (Wooldridge 2021, 11–14). This

'rallying cry' was heard by numerous groups that were left without genuine opportunities under the hereditary order of aristocracies: Feminists demanded that women ought to be endowed with the chance to compete, get educated, and take on employment by the same standards as men, working class people reached for the meritocratic principle in order to show that they were "just as good as their supposed social betters", and ethnically and racially marginalized groups used the standards of meritocracy "to confound ancient prejudices" (Wooldridge 2021, 14–15). The outcome of "all this intellectual effort was a revolution" – both in the arena of political arrangements, and in people's self-conceptions: "The powers that be were forced to concede that it was not only *inefficient* but also *immoral* to deny opportunity to talent wherever it appeared" [emphasis added] (Wooldridge 2021, 15).

It is crucial for the pro-meritocratic argument at hand to repeatedly emphasize the *revolutionary* character of the meritocratic *movement*. Because, again, the strength of this defense of meritocracy does *not* lie within the ability to persuasively reject the arguments of the critics. Instead, it lies within the claim that the meritocratic revolution is *incomplete* (and it has been hijacked by plutocrats). Put differently: The direction of our journey from aristocracy to meritocracy is a good one, however, we are not quite there yet, and, in some areas, we must readjust our steering wheel. Wooldridge is by no means the only scholar promoting this sort of interpretation, or narrative. In his examination of social inequality and its repercussions on elite education institutions, Shamus Khan (2018, 99) puts forward an interesting related phrasing of the current status, especially in the U.S.: The meritocratic order seems to be a reflection of "a world of democratic inequality" – it "embraces the democratic principle of *openness and access*, yet as that embrace has increased so too have our levels of *inequality*" [emphasis added]. Khan (2018, 99) would certainly endorse Wooldridge's encouraging claim that meritocracy operates as a paradigm empowering marginalized groups that previously were without any prospects for higher education and social mobility under aristocratic governance at all: "Without question our elite educational institutions have become far more open racially and

to women. This is a tremendous transformation, nothing short of a *revolution*" [emphasis added].

Fascinatingly, Khan (2018, 102) is very clear about the nature of the 'revolutionary transformation' and the area in which it has been victorious: "Throughout the twentieth century the battles against inequality were battles of *access*: could women, blacks, and other excluded groups be integrated into the highest institutions and positions in our society? These battles were largely won" [emphasis added].[27] His conclusion reemphasizes (a) the claim that with meritocracy, we are dealing with an *incomplete* revolution, and (b) the importance of this thesis' objective, that is, to promote and to justify greater equality of opportunity in Western societies shaped by liberal and meritocratic principles: If we recognize that meritocratic societies, including (but not limited to) the U.S., are "increasingly *open*" but yet "relentlessly *unequal*", the next great imperative is "to find a way out of this paradox" [emphasis added] (Khan 2018, 102). The fact that meritocracy's aspirations, such as the achievement of equality of opportunity and the "eradication of discrimination based on class, race, gender and other elements deemed irrelevant", have never "been perfectly realised is … a spur to work harder to bring them about" (McMahon 2021).

But what is it that our hard work would bring about? Certainly not an egalitarian society in terms of *outcome*: Equality of opportunity leads "to a highly unequal outcome as people sorted themselves out according to their abilities and energies" (Wooldridge 2021, 19). Again: Critics may object that even if our quest for a more meritocratic meritocracy would be successful, the results would not be desirable. One problem could be the questionable notion of *deservingness* ingrained in the meritocratic doctrine. This issue will be discussed in 6.2.2. However, another objection may well be that the shift from traditional aristocracy to meritocracy (which, after all, can be described as the *aristocracy* of talent) does not solve the problem of hierarchy. And even though, as we remember, Jefferson

[27] Self-evidently, this enthusiastic conclusion must be taken with a pinch of salt. The emphasis lies on 'access'. And even the 'battles of access' have only been won in a sense that women and minorities are now formally *allowed* (≠ enabled) to attend, say, universities and the same schools. The practical reality of 'equal access' – and Khan agrees – still paints a picture that is far less victorious.

advocated a ‘natural’ aristocracy built on talent and virtue in opposition to an ‘artificial’ aristocracy built on wealth and birth, it is yet a *hierarchical* construct. As Littler (2013, 54) pointed out earlier, it therefore only “‘sweetens the poison of hierarchy’ by offering advancement through merit rather than money or birth, whilst retaining a commitment to the very notion of hierarchy itself”. Although a comprehensive analysis of the value or pathological nature of hierarchies would be a fascinating topic for another discussion, we may yet reply that *every* society has some sort of hierarchy and that it is simply inevitable: “Society would always need leaders, they recognised, and hierarchy could never be completely abolished, just arranged on fairer terms. Better to cede the world to come to those most able than to leave it to the plunderers and parasites of old” (McMahon 2021).

Wooldridge advocates meritocracy. It is a system that, by definition, leads to unequal outcome, competition, and a hierarchical organization. Furthermore, it allows for winners as much as for losers, and, therefore, it is probably not a system of distribution and justice principle that convinces radical egalitarians or proponents of equality of outcome. And yet, his vision should not be confused with a cold and atomistic dog-eat-dog society. For Wooldridge (2021, 375–95), ‘more and wiser’ meritocracy, in fact, entails that we should, for example, further abolish formal privileges, such as legacy admission as well as “‘lucky breaks’ for people who apply early or play particular sports” at universities “that still cater disproportionately to the well connected, despite their rhetoric of inclusion”, identify children of ‘virtue and talent’ in lower classes via adequate testing procedures and fund their education with scholarship programs, design performance assessments and admission procedures as bias-free as possible, be yet sensitive to “false routes” that would “reduce the worth of a human being to an aptitude score”, call attention to the marginalized groups that have been overlooked or systematically excluded, and give “an honoured place to vocational education” (McMahon 2021). But the perhaps most important imperative is to ‘remoralize’ meritocracy; to cultivate a “noblesse oblige” (McMahon 2021; Wooldridge 2021, 390).

Indeed, the rise of meritocracy has brought with it both the triumph of cognitive elites who "see their success exclusively in terms of just rewards for their superior abilities and effort" *and* the humiliation of those who did *not* succeed in making 'the climb', in turn, "demoralizing … the meritocratic idea" (Wooldridge 2021, 390). However, in a historical perspective, we see that the revolution of meritocracy was "as much a moral revolution as a technocratic one" – "both a moral critique of the old order and a code of conduct for reformers who wanted to replace the old ruling class with something better" (Wooldridge 2021, 391). Wooldridge (2021, 192) concludes that a "similar moral revival" is precisely what we need today "if meritocracy is to flourish again". This includes the recognition that "the 'social justice' movement is sometimes on to something" as much as the demand that "the cognitive elite needs to relearn humility", a "renewed sense of public duty", and "responsibility to the social whole" (McMahon 2021; Wooldridge 2021, 390–92).

6 Equality of Opportunity: Merit on Even Playing Fields

As much as logical and analytical coherency is desirable, we can certainly put every useful idea ad absurdum if we push it too far and end up radicalizing it. We may rightly make the case that the implementation of meritocratic ideology can be a matter of degree. It is feasible to come up with justified ideas on what a *more* meritocratic society could look like in opposition to a nation that has adopted fewer meritocratic principles. And we may well insist on making a convincing case that *more* meritocracy is desirable without having our project undermined by the objection that an *ultimate* meritocracy – the kind of radical atrocity that would arise if we were to push the 'aristocracy of talent' too far – could include genetic engineering and the abolishment of the family. As pointed out before, we can (a) combine a meritocracy with other principles of justice, equity, need, sufficiency, and social security, (b) renew our sense of public duty and humility (after all, even the most competitive sports do not dispense with sportsmanship), and (c) push back against the neoliberal and plutocratic corruption of contemporary meritocracies by providing better equality of opportunity. Continuing the meritocratic revolution to achieve a wiser and 'more sincere' meritocracy seems to be a reasonable imperative.

Let us briefly remind ourselves of the argumentative steps we took so far: In the chapters 3 and 4, we learned that Western democracies built on principles of classical liberalism have attracted substantial criticism in recent decades – especially in an era of aggressive neoliberalization and market triumphalism. But we also saw that we can yet judge liberalism and, by extension, liberal democracy to be something valuable that we might want to preserve – not only because it may still be better than potential alternatives, but because it has the capacity to secure autonomy, individual liberty rights, and self-mastery. Liberal principles have furthermore the potential to limit state coercion, for example, in the shape paternalistic policies. If we accept this argument and come to agree that we want to 'stick' with doctrines of classical liberalism, we are likely to advocate a

meritocracy as a mode of distribution, too. This assumption will be further explored in 36.2. Given that meritocracy as a principle of justice is, in turn, a controversial concept with, as we saw, substantial flaws yet significant potentials itself, our logical imperative can be to propose improvements of meritocracy and, by extension, of contemporary liberal democracies. Since our answer to the question whether a meritocracy is indeed meritocratic is deeply determined by people's chances to 'participate in a fair race' or to 'climb the ladder', our crucial subject of concern may well be *equality of opportunity*. Finally, given that (a) education is, as, for example, Bell ([1976] 2008, 578) argues, the "focal point of opportunity", and (b) universities and colleges are an important area in which the neoliberalization in the shape of the marketization trend has shown its detrimental force on the provision of equal opportunity, it is reasonable to focus our discussion on higher education. In conclusion, the crux of the argument is this: Even as advocates of classical liberalism – a doctrine that has notabene given rise to neoliberalism and libertarianism – we may yet find ourselves becoming proponents of equality of opportunity and the necessary (re-)allocation of resources *for our own principle to make sense*. Such type of moderate egalitarianism is more frequently advocated by scholars stressing the importance of community, solidarity, social equity, or overall outcomes in welfare. However, with the demands of a genuine meritocracy as a link, we may claim that classical liberal thought has a similar capacity while yet retaining the positive perks of a 'doctrine of freedom'.

Our quest at hand is certainly not an easy one. Traditionally, liberty and equality are judged to exist in a relationship of tension. Relatedly, the demand for equality on the one hand and the results of free exercise of talent (or excellence) on the other, stand in contrast "because the two values reflect different systems of personal status" (LaVague-Manty 2009, 4). "Excellence is comparative and hierarchical; equality is, well, egalitarian" (LaVague-Manty 2009, 4). However, at the same time, these two concepts exist in a relationship of dependency: As we have seen in the discussion of meritocracy, "excellence has always required some understanding of equality to be meaningful", at least "since the introduction of

political value of equality" (LaVague-Manty 2009, 2). Correspondingly, we can accurately summarize the goal of the next two subchapters by borrowing Tushnet's (1996, 81) words: "The passion for equality may arise from a realistic appreciation that social obstacles to achievement are real. When such obstacles exist, we might be passionate about equality to make sure that merit really is rewarded". Let us begin by further explaining why equality of opportunity especially in the field of higher education deserves attention. This explanation is not supposed to be *comparative* in character: The claim that *it is sensible* to pursue the debate on equal opportunities along the lines of higher education must not be mistaken with the claim that universities and colleges are *more important* institutions for the provision of equal starting conditions than kindergartens or schools. However, we may assume that one possible way of measuring the success of the meritocratic machinery is by assessing whether its institutions can disrupt the intergenerational reproduction of advantages and, instead, allow for socio-economic mobility independent of family background, for example. With this idealized goal of equal opportunity in mind, higher education has the capacity to play a unique role, as the following subchapter will explain.

6.1 Higher Education: The Great Equalizer

Equality of opportunity is a complex concept and the quest to achieve it – even if there would ever be a consensus about what such equality ought to entail – certainly amounts to an enormous project. The number of socio-economic and individual elements that could be equalized is limited only by our imagination. We would certainly have reason to conclude that higher equality of opportunity could be achieved if we actively were to engage in 'better' city and neighborhood planning to promote social mingling between the population strata. This might be an approach Sandel would endorse, given his diagnosis of the 'skyboxification' trend and the problem that socio-economic classes are increasingly drifting apart. We could also imagine *economic* state interventions with an equalizing effect, for

example in the shape of a substantial inheritance tax promoting the 'even playing field' especially from a financial perspective. Needless to say, such policies would demand a comprehensive debate on the corresponding justifications. But there is one crucial element that both shapes the narrative of this thesis, and repeatedly receives dominant attention in the academic discourse and in contemporary political debates alike: Education.

As Leon Feinstein (2003, 213) reminds us, in a "simple version of meritocracy, merit would be genetic and so to be meritocratic the society would simply have to ensure that the most talented rose to the top". In reality, the genetic endowments of a person are, unsurprisingly, merely one of many aspects that determine a person's opportunities. Families, schools, and the "wider culture" directly influence a person's prospects, too, which is why "equality of opportunity is such a hard target" (Feinstein 2003, 213). Before we dive further into this debate, the subchapter at hand seeks to give an answer to one important question: Why is this thesis's, let's call it, classical liberal advocacy for greater equality of opportunity predominantly concerned with *higher education* rather than housing, community building, schooling on an elementary level, or inheritance tax? The answer *could* just be: To transcend merely a superficial overview of socio-economic items that can be equalized and, instead, provide the debate with a certain level of depth, a focus of discussion *must* be chosen. Solving the entirety of human inequality and social injustice within the scope of one moderate thesis can hardly be achieved. But, as already announced earlier, there is a non-arbitrary factor that makes the case of (higher) education uniquely compelling. Bell ([1976] 2008, 578) pointed out more than four decades ago in the U.S. American context, that the "focal point of opportunity … is being defined, increasingly, by education". In an era of 'post-industrial societies', education and knowledge become more important than ever before and in the context of (in-)equality as a societal force, the educational sector receives substantial importance: "Theoretical knowledge emerges as the new and central axis in the emerging epoch with the university and other research establishments as significant institutional devices of the social structure" (Kimball 1975, 366). The kindred hypothesis that will be

explored in this subchapter can be boiled down to the claim that higher education, in fact, serves as 'the great equalizer'.

As we have already seen through the lens of the critics of meritocracy discussed in 5.2.2, the probably most important fact leading us to doubt the existence of, say, 'genuine' equality of opportunity is the substantial correlation between a person's socio-economic position in society and his decent. As McNamee and Miller (2014, 71) accurately put it, "the most important factor in terms of where people will end up in the economic pecking order of society is where they started in the first place". Correspondingly, the critics' subsequent argument is not just an unsubstantiated claim: We may no longer have a hereditary hierarchy in which an individual's status is determined by family name, caste, or blood. However, there may indeed be a new plutocratic order in which privileges and opportunities are handed down from one generation to the next within one static powerful financial elite. This correlation between the 'starting point' and the subsequent position in the "economic pecking order" is a link that higher education arguably has the capacity to mitigate.

The general importance of education in the socio-economic framework is beyond any reasonable doubt. Research frequently finds that "returns to schooling are substantial, even after one controls for any relationship between family background and schooling" (C. Brown 2001, 97). The staggering relevancy of education is further reinforced by the finding that it has "substantial independent effects on earnings and occupation, controlling for family background and IQ scores" (C. Brown 2001, 99). As, for example, Scully (2002, 399) observes, university education undoubtedly has the ability to assess, sort, and distribute people within society. Indeed, "university education is a precious good" that affects "where people land in the stratified social order" (Scully 2002, 399). Correspondingly, substantial attention is to be paid to the question, how "universities govern their own distributive processes" (Scully 2002, 399). There is a lot to be said about the importance of early childhood education, elementary schools, or high schools, too. After all, socialization and education do not start at the age of 18 or 19 once a student stumbles onto a university campus. In fact,

there can certainly be a point to be made that if we are concerned with finding the 'one point in life' where the 'race starts' and where, correspondingly, the starting conditions ought to be equal, we may well choose the age at which children (or teenagers) reach adulthood (A. Brown 2006, 63–64). Correspondingly, it would be a well-justified approach to scrutinize the quality of the (un-)equalizing machinery that is at work long before youngsters turn into college students (or not), too. Or we could follow Alexander Brown (2006, 64-65; 82-83) in assuming that every stage of life's outcome constitutes a new set of (un-)equal opportunities for the next chapter, leading us to conclude that equality of opportunity is a concept that must be renewed on a lifelong basis. However, pursuing this debate in detail clearly exceeds the scope of this thesis. For the moment, we can be content with the idea that (a) the quest for better equality of opportunity in higher education is perfectly compatible with the quest for equality of opportunity in school education other scholars take up, (b) our concern with *higher* education does not undermine the importance of earlier education, and (c) we may well continue with our discussion on higher education since, as we will see, its crucial role as an equalizer for socio-economic mobility provides a strong justifications for our focus. Correspondingly, we will now further examine *higher* education (as well as its *potential* crucial function) as the 'great equalizer'.

As illustrated before, in societies that claim to distribute offices, prestige, and rewards on the basis of merit, (higher) education certainly occupies a position of extraordinary importance. However, a university's ability to fulfill the meritocratic promise depends, in turn, on a certain equality of opportunity among those who attend it or would be (cognitively) qualified to enroll. A common measure for evaluating if the meritocratic apparatus works is *intergenerational income mobilit*y (Chetty et al. 2015, 55). It broadly refers to "a child's chance of moving up in the income distribution relative to her parents" (Chetty et al. 2015, 55). Put differently, a high mobility rate typically implies that we find ourselves in a situation in which even children from families of, say, modest financial means and/or lower educational background have a genuine chance to 'rise'. As Chetty et al. (2015, 55) point out, such arrangement aligns with the idealized vision of the

U.S. as the "land of opportunity" – a "society in which a child's chances of success depend little on her family background". In reality and unsurprisingly, such mobility rates vary substantially based on factors that sound all too familiar: "Mobility rates are relatively low in areas with high income and racial segregation. Mobility rates are relatively high in areas with high school quality, local tax rates, social capital, and marriage rates" (Chetty et al. 2015, 55). The findings of Chetty et al. (2015, 56) confirm McNamee and Miller's (2014, 71) claim about the importance of the 'starting point': "The 'birth lottery'", referring to "the parents to whom a child is born", matters substantially and its consequences "are larger today than in the past" (Chetty et al. 2015, 56). Correspondingly, in our quest for greater equality of opportunity, we should be *very* interested in institutions that have (at least potentially) the capacity to interrupt the all too dominant link between a person's 'outcome' (that is, wealth, occupation, position in society, etc.) and his descent (parental resources). The work of especially Florencia Torche (2011, 2018) and Michael Hout (1984, 1988, 2018) implies that a college degree could serve precisely as the equalizing force we would gladly appreciate as a crucial element in a 'genuine meritocracy': "The finding … means that for those who receive a college degree, their socioeconomic attainment is *independent of their socioeconomic origin*. In other words, a college degree fulfills the promise of meritocracy: it offers equal opportunity for economic success regardless of the advantages of birth" [emphasis added] (Torche 2018, 215). This encouraging claim yet demands for more context and specification.

Unfortunately, the abovementioned quote about the equalizing nature of higher education degrees cannot (or no longer) be universalized. Hout's (1984, 1404) findings *do* imply that the meritocratic promises in opposition to hereditary aristocratic nepotism perhaps are not fictional after all: "The effect of status decreases as education increases. Origin status does not affect destination status among college graduates". "Therefore", he continues in another article on the American occupational structure, "the more college graduates in the work force, the weaker the association between origin status and destination status for the

population as a whole" (Hout 1988, 1358). But: Hout's statements are from the 1980s and even back then he diagnosed that the margin by which upward mobility exceeds downward mobility has been declining in comparison to the 1960s and 1970s (Hout 1988, 1358). And yet, the equalizing effects of higher education have not entirely vanished from the socio-economic landscape.

As Torche (2018, 216) illustrates in a recent article, Hout's claim about higher education as a great equalizer contains a fair level of truth but due to the change in the educational landscape, it demands for more nuances today. She points out that the intergenerational elasticity (that is, the association between social origin and the reproduction of advantages) is u-shaped (Torche 2018, 216–17). This means that the 'intergenerational link' is "substantial for those with less than a college degree", it "declines to a value not significantly different from zero for those who graduated from college" (= graduates with a bachelor's degree), however, the reproduction of advantage increases again for those who pursue an advanced degree (Torche 2018, 216–17). Put differently, in the, say, 'central field' of higher education, as "in the past, a college degree erases the impact of socioeconomic origins on economic success" and indeed confirms the claim that such education has an equalizing effect capable of eradicating hereditary outcomes that predominantly rely on a person's socio-economic origin (Torche 2018, 216–17). And yet, this step in the direction of a more 'genuine' meritocracy is incomplete, given that among college students there is yet a "horizontal stratification" that leads upper-class students to be more likely to major in a field which "increases their chances of pursuing an advanced degree" (Torche 2018, 216). The luxury of being able to afford a longer academic education leading to an advanced degree which, in turn, paves the way for better socio-economic outcomes continues to be a privilege of people of affluence, whereas poorer college graduates are statistically more likely to join the workforce after the attainment of their bachelor's degree (where their outcomes are indeed equalized compared with their richer peers having 'only' a BA, as shown before) (Torche 2018, 215–17). In summary, there is one positive and one negative finding: Intergenerational socioeconomic association "virtually disappears among those

with only a bachelor's degree. Intergenerational mobility among BA holders supports the hypothesis that labor markets for college graduates operate on the basis of meritocratic criteria" (Torche 2018, 219). But, unfortunately, we must add that "a strong intergenerational association reemerges among advanced degree holders, reaching levels comparable to those with low levels of schooling" (Torche 2018, 219).

In our quest for a 'genuine meritocracy', there are two key takeaways to be found in this subsection. First, higher education can play a substantial role in interrupting the intergenerational reproduction of advantages, that is, the link between the socio-economic origin of a person and his outcome. Correspondingly, colleges and universities have the potential to serve as an equalizer – a threshold that, once taken, indeed allows for a socio-economic distribution of people to emerge that is no longer determined by hereditary privileges but gets substantially closer to the 'Intelligence + Effort = Merit'-formula. As a result, it would be prudent to remove barriers (= tuition fees and legacy admission) in order to allow as many people as possible (given that they are interested and cognitively capable) to participate in the equalizing machinery of higher education. Second, due to the yet *imperfect* qualities of colleges as the great equalizer, we should be interested in arranging the financial feasibility of *advanced* academic education in a way that it does not exclude students of modest means. As Torche (2018, 216–20) illustrated before, the ability to afford an advanced academic degree at a graduate school which, in turn, yields the highest economic returns frequently remains a privilege of upper-class students whereas their poorer peers are often compelled to join the labor market after achieving their bachelor's degree. This problem gives rise to the u-shaped intergenerational elasticity discussed before, but it could probably be removed via an adequate, for example, publicly financed funding structure. Combining strategy one and two could lead to a better realization of the meritocratic promise that is so deeply engrained in Western liberal ideological convictions.

As a final sidenote, there is a connection to be drawn between this policy-proposal and the problems of the marketization of higher education discussed in

5.1.2. It is worth reemphasizing that my argument in favor of greater equality of opportunity (for example, via better equalized access to higher education) based on the claim that this is the only way for meritocracy (entailed by the principles of classical liberalism) to make sense is individualistic. This means, it is concerned with, say, the conditions of fairness under which individuals can participate in the meritocratic machinery and not so much with the overall benefits of, for example, simply having a healthy and educated population equipped with an adequate set of desirable values. And yet, the latter type of benefit certainly pulls in the same direction and advocates the same policies. As Hout (2018, 200) reemphasizes in a far more recent article, individuals indeed "benefit from college", however, "communities gain, too". The data is clear: "College graduates are more likely to stay employed, buy houses, marry, pay taxes, avoid welfare, commit fewer crimes, volunteer for socially useful causes, vote, be happier and healthier, and live longer" (Hout 2018, 200). All of these outcomes, however, both the 'holistic' ones, and the benefits to individuals participating in the meritocratic arrangement, are partially undermined by the marketization trend and the corresponding cutbacks in public funding starting in the 1970s (Hout 2018, 200).

As Hout (2018, 200) finds, in some state systems in, for example, the U.S., "public funding now provides as little as 8 percent of costs". With the cuts to funding, universities typically resorted to one of two obvious types of adaptive strategies: Some universities downgraded their quality standards due to reduced spendings on instructions, others maintained "quality for those in attendance but that ended up leaving too many qualified and motivated students out" (Hout 2018, 200). This is a trend that must be reversed. And regardless of whether we are concerned with the overall benefits of education on our communities, or with individual people having a fair shot within the meritocratic apparatus, the importance for better access to higher education can best be summarized and concluded using Hout's passionate advocacy: "Improving individual lives is reason enough to expand college enrollments and college graduation rates. [But there is] … a broader benefit as well: For young people who graduate from

college, family background has no effect on adult occupations and earnings. A college education is the great equalizer."

6.2 Equalizing the Unequal: An Environment of Imperfect Solutions

With the subsequent debate of equality of opportunity, we tap into a sentiment that there is generally little disagreement on: "Independent of political leanings, type of welfare state, or level of inequality, the notion that everybody deserves a fair chance of competing for the good positions and rewards" tends to generate wide support (Sørensen 2006, 367). And as the previous subchapter shows, education is frequently a crucial subject of concern in debates about (social) equality, justice, and merit. Such focus is by no means a new phenomenon and, as Wooldridge (2021, 181) reminds us, pairing talent with the opportunity to develop it and to put it to good use in society has been an important quest throughout history: "For Jefferson, as for Plato, finding these aristoi and providing them with an education suitable to their abilities was, after defending itself, the state's most important duty. You could not have a natural aristocracy without some approximation of equality of opportunity, he believed; and you could not have equality of opportunity without energetic state action".

In this thesis, the question of equality of opportunity is, to a substantial extent, seen through the lens of education. The great importance traditionally attributed to education and the particular features of *higher* education in terms of intergenerational social mobility have been explained. However, the discussion would be incomplete without at least briefly laying out the underlying general discourse on equality of opportunity, examining the related 'meritocratic conception', and illustrating the link between talent, effort, merit, and desert in the tradition of liberal principles. In accordance with this ambition, 6.2.1 provides an overview of how equality of opportunity is typically defined in the literature, and it illuminates the connection between classical liberal thought, meritocracy, and,

in turn, equality of opportunity starting from Lockean principles of self-ownership and labor theory. 6.2.2 opens the debate to the problems arising from an attempt to justify merit and deservingness in a competitive setting largely determined by, as Rawls reminds us, luck and the accident of birth. Furthermore, it discusses the limitations of radical equality, and makes – in opposition to those who doubt the meritocratic premises – the case that there is enough room for individual decision-making to be found as to insist on the morally laden notion of desert. 6.2.3 is a short discussion of affirmative action – a modern and controversial type of egalitarian and (re-)distributive justice policy that frequently builds upon the elements discussed in 6.2.1 and 6.2.2 (and others). It closes with the outlook that this type of disputed strategy for equity may potentially become obsolete once the quest for genuine equality of opportunity is better achieved on a broad level.

6.2.1 Equality of Opportunity: A Doctrine of Intuitive Appeal

As we have seen before and in accordance with mainstream conceptions of liberal political thought, there is a tension between *equality* and *freedom* which, in the arena of our debate on meritocracy at hand, manifests itself as a clash between the egalitarian demand for equality of opportunity, and liberty as a precondition for the rise of meritocratic excellence which most certainly leads to unequal outcomes (LaVague-Manty 2009, 7). So far, we argued that a genuine meritocracy relies on a at least reasonable level of equal opportunities. However, one practical problem is that if we have a "commitment to freedom" which means "that people should do what they want" this gives rise to a situation where "some will be more intrepid and gain more resources than others" and "they will pass what they gain onto their children, who will start off better than the children of the lazy or the unlucky", undermining the conditions of equal opportunity for the next generation (LaVague-Manty 2009, 5). Correspondingly – to mention only one potential political intervention that tends to be acknowledged as a logical conclusion by some meritocrats – what might be necessary to ensure the conditions for equality

of opportunity which, in turn, makes our meritocracy sensible, is a substantial inheritance tax (Alstott 2007; West 1893; Wrede 2014).[28]

The relationship between meritocracy and equality of opportunity has been sufficiently established, but another connecting piece that needs to be addressed is the link between classical liberalism and meritocracy. Although this connection may be self-evident, we can make the case that clear traces of the meritocratic doctrine in terms of entitlement and desert can be found in Lockean natural rights and labor theory.

As Mazza and Mari (2021, 6) agree, John Locke's classical liberalism "defends the thesis of 'natural rights', mainly the right to property, bringing a version of merit that will influence modern current of thought". The 'Lockean proviso' assumes that, initially, land and goods are *common to all* and in an attempt to acquire a part of it, "I must leave 'enough and as good' for others" (Schwartz 1992, 262). Locke ([1689] 2003, 112) applies a version of equality that endows every person with a natural right to freedom and self-ownership over oneself, and equips people with the ability to expand their possessions beyond their own body, giving rise to a right to property (Hunt 2016, 547). In this process of acquisition, *labor* is the central element, and it is precisely the crucial act that generates a notion of entitlement and deservingness: "Though the water running in the fountain be every one's, yet who can doubt but that in the pitcher is his only who drew it out? His labour hath taken it out of the hands of nature, where it was common, and belonged equally to all her children, and hath thereby appropriated it to himself" (Locke [1689] 2003, 112). Correspondingly, labor is a mediation of the natural right which, in turn, "becomes a moral value and crowns the criteria of

[28] This brief note must not be a mistaken as an uncontroversial and widely accepted conclusion of the large debate about inheritance tax. Indeed, there are those who share the assumption that equality of opportunity is one of the "bedrock principles supporting the taxation of inheritance" to push back against the "unjustified head start for some individuals at the expense of other" (Alstott 2007, 470). But – to name just one counter argument – others point out that inheritance taxes interfere with the "family principle", that is, the "unity of the family, which could be considered as an entity that outlives the deceased", undermining "family solidarity" (Wrede 2014, 12). And yet, the taxation of inheritance is, for rather obvious reason, a policy frequently emerging in debates about the 'levelling' of our meritocratic playing field.

merit as one among those that confirm the right to property" (Mazza and Mari 2021, 6).

Now, postulating in a Lockean fashion that people have a labor-mediated entitlement and moral claim to the land and goods they acquire aligns with the underlying scheme of meritocratic convictions, however, modern theories of meritocracy also imply that merit is desirable because of the *efficient outcomes* it brings about. After all, one of the chief concerns of meritocracy is not only the moral justice in distribution, but also that occupations and offices should be held by those who are most competent (in a sense that they successfully combine their talent with the effort to cultivate the relevant abilities). In his advocacy for private property rights, Locke ([1689] 2003, 113–14) preaches that by annexing something via the exercise of labor, it was now "his property, which another had no title to, nor could without injury take from him". But this act also leads to an efficient outcome since "taking what was previously common, produces much more than what would naturally emerge" (Mazza and Mari 2021, 6).

As Mazza and Mari (2021, 6–7) adequately conclude in a summarizing paragraph, this Lockean logic gives rise to a version of meritocracy with precisely the features in terms of equality of opportunity, inequality of outcome, its slightly illusionary view on the link between effort and outcome, and even the demonizing effects on those who 'fail', previously discussed: "It is … certain that some men will stand out, as they will work more than others and legitimately accumulate the excess, that is, inequality would be natural, as some will make more effort than others. Inequality would be a consequence of the lack of individual effort, as everyone's origins would naturally be the same. The world is out there to be taken, those with more will enrich more because *they did more*, giving inequality a moral dimension. Poor people would also have all the capabilities to work and acquire goods, it is immoral not to make enough effort".

This is clearly a morally laden view. It is not the purpose of this chapter to discuss this quote's implications again, given that the questionable legitimacy of unequal outcomes on an extremely uneven playing field, the degrading effects on 'losers', and the naïve assumption on an adequate link between effort and success

have already been scrutinized in 5.2.2. These paragraphs' goal is merely to point out how Locke indeed leads advocates of classical liberalism to embrace meritocracy as a system of distribution and justice principle. However, this short discussion invites us to direct our attention to a Lockean problem that will briefly be picked up again in 6.3: The political and developmental environment of Locke's liberalism and meritocracy seems to be outdated.

The condition for the Lockean equality and entitlement based on self-ownership relies on a landscape (quite literally) that may indeed accurately reflect the early periods of the United States when Locke's fundamental rights for life, liberty, and private property were translated almost word for word into the American foundational documents. During that period, the Lockean proviso, arguably, made sense: In a young nation with a massive frontier, the idea of men equally endowed with the right to find and cultivate a piece of land, meriting the fruits of their labor *does* work to a certain extent. However, in the 21st century, this vision is ahistorical. Locke's insistence on *equal political rights* and *citizenship* may keep its validity (Hunt 2016, 550–54). After all, the importance of consent, rationality, and equal universal dignity have not gone out of fashion (Hunt 2016, 546–54). But as Schwartz (1992, 270) shows, Lockean labor theory implies that when "an original producer exercises her permission and appropriates such resources on which to labor, others simply lose their permission to use them". However, in a world in which virtually all land and all resources are already in someone's hands, we can hardly make the case that the Lockean proviso, that states that 'enough and as good' has been left for others, is met. The vision that an individual, thrown into this world equipped with nothing but his talents and ambitions, can simply go on a journey to find an adequate set of unowned resources to be cultivated by his labor, is a fictional tale soon halted by the existence of powerful land-owning classes and corporate property rights. Correspondingly, we can go all the way back to Locke to show what the title of this thesis suggests: For a meritocratic system built on liberal principles to make sense in 21st century societies, we need an updated view on classical liberalism that allows us to introduce, let's call them, welfare state policies which promote

an even playing field with sufficiently equal opportunities as to be an adequate substitute for Locke's outdated frontier in modern Western democracies. But what is it that we mean by 'equality of opportunity'?

We must accept that, as Alexander Brown (2006, 66) points out, equality of opportunity is a "protean notion" and we will not be able to come up with a definition that generates unanimous support. In their broadest notions, most ideas of equal opportunity start from the claim that "differences in agents' outcomes come from differences in characteristics they should be responsible for (e.g., because they control the value taken by those characteristics) and differences in characteristics they should not be responsible for. Equalizing opportunities consists of allocating external, transferable resources in such a way that differences in the latter characteristics, and *only those differences*, are eliminated" [emphasis added] (Maniquet 2004, 128). Others describe the concept in terms of decision trees: "Roughly, equality of opportunity for welfare with respect to two persons obtains when these two persons face effectively equivalent *decision trees*" (Lippert-Rasmussen 1999, 480). Both the *definitions* of equality of opportunity, and the advocacies for an *extension* of equal opportunity typically build on an picture of socio-economic success which is determined by a "combination of individual effort and a largely inherited set of circumstances beyond an individual's control" (C. Brown 2001, 94). Given the lack of genuine equality of opportunity that is well established at this point, an "equal opportunity policy would seek to equalize the circumstances an individual inherits, but not the differences due to individual effort" (C. Brown 2001, 94). If equal opportunity would be achieved, "people of similar ability" would have "equal chances of success" – a definition similarly shared in Rawls's (2003, 44) *Justice as Fairness* (Sørensen 2006, 368; Sachs 2012, 325; Feeney 2007, 360).

The discussion about equality of opportunity quintessentially revolves around the dichotomy of starting conditions that ought to be leveled on the one hand, and individual abilities and effort that are allowed to manifest themselves in unequal outcomes on the other. What makes this concept appealing for the meritocratic machinery is that it, implicitly or explicitly, acknowledges the

existence and importance of *responsibility* which constitutes merit through the channel of individual performance (Peragine 2004, 187–90). Broadly speaking, "equal-opportunity ethic" reflects the conviction that "there is, as well as a desire to equalize something, an insistence that individuals be held responsible for what happens to them" (Roemer 2002, 455). Again: The *playing field* ought to be *leveled* but the *outcome* of the game is to be decided by the *players*. This aligns with the Dworkinian distinction between "resources" and "preferences", implying that equality entails "equalizing resources across individuals, but allowing differences to emerge in final conditions due to the exercise of choice following from differential preferences" (Roemer 2002, 456). People can be held responsible for their choices, not for their initial endowments in terms of resources. The insistence on responsibility is precisely the element that distinguishes equality of opportunity from sheer equality in terms of outcomes. This is a judgment shared by Arneson and it aligns with a position that *intuitively* "seemed obvious: 'The argument for equal opportunity, rather than straight equality is simply that it is morally fitting to hold individuals responsible for the foreseeable consequences of their voluntary actions'" (A. Brown 2006, 63).

Equality of opportunity is by no means an uncontroversial subject. Even though we cannot engage in an exhaustive discussion of the enormous debate revolving around the concept of equality of opportunity here, we must yet briefly acknowledge a few critical remarks. As Arneson (1999a, 77) points out in his discussion of this concept in the Rawlsian framework, we should, among other things, regard equality of opportunity as an "extension of the ideal of nondiscrimination". This assumption certainly gives rise to a positive vision: In opposition to "a society cursed by bigotry, race hatred, misogyny, class division, and similar evils, we can appreciate the ideal of a world in which these evils are entirely overcome, at least within the public realm of civil society" (Arneson 1999a, 77–78). However, Arneson uses this introductory definition to point out that equality of opportunity, or its absence, to be more concrete, is also a *subtle* challenge. As we learned earlier, Khan (2018, 102) concluded that battles for *access* have been "largely won", given that radical bans on certain races and

genders to attend schools, universities, or public offices are a relic of the past (or at least that's what we like to believe). But Arneson (1999a, 78–79) objects that such barriers are very much still in place – not as obvious manifestations of legal prohibitions, but in the shape of, for example, what he calls "stunted ambition" and "selection by merit and bigotry": Society "discriminates against women by unfairly crimping their ambitions" and, on top of that, we find "bigotry among members of society" which influence what counts "as qualifications for positions of advantage", that is, merit (Arneson 1999a, 78–79). Despite equal 'meriting' skill sets, women and members of minorities are "less likely to be asked for an interview or offered a job" (in comparison to white men) in a framework of allegedly formal equality (Sørensen 2006, 368).

Another prominent problem of equality of opportunity is certainly embodied by the realization that it has no "obvious stopping place" (Mackinnon 1986, 69). Equal opportunity and equality of outcome are frequently (but perhaps wrongly) regarded as distinct approaches to distributive justice. In a generic debate about equalizing the *outcome*, we might, for example, simply find it "plausible that taxes and transfers are there partly because many citizens find pre-tax income distribution *unfair*" and seek to equalize the results of unequal occupation or standing (Krawczyk 2010, 131). And sometimes we would even accept a "smaller sum of benefits, for the sake of better distribution" (Parfit 1997, 203). But even if we start from the conviction, that equality of *opportunity* ought to be the justice principle we should be concerned with, some scholars argue that "removing obstacles to access for each individual irrespective of his social background" is yet merely a "minimal program" (Anderson 1975, 293). We simply "cannot claim that people's opportunities are completely equal so long as, first, there remains any inequality of outcome, and secondly, the causes of this inequality of outcome could themselves be altered so as to remove it" (Mackinnon 1986, 69). This is precisely the argument that leads some scholars to conclude that equality of opportunity, if we push it to a point where it can rightly be claimed that we achieved its 'perfect' manifestation, equals equality of *outcome* (Mackinnon 1986, 69). This is certainly an argument we find traces of in various

visions of egalitarianism. After all, Rawls, for example, famously endorses a theory that rejects self-ownership, calling into question the distinction between arbitrary external conditions that ought to be equalized, and innate talents and features that individuals may rightly capitalize on, meriting the rewards (Schwartz 1992, 265). His controversial idea implies that there are "no natural rights independent of social agreement and arrangements" (Schwartz 1992, 265).

It would indeed be an illuminating quest to explore the Rawlsian framework in more detail. After all, his *A Theory of Justice* includes important ideas about fair equality of opportunity, "careers open to talents", ideals of nondiscrimination, and "equal basic or constitutional liberties for all citizens" (Arneson 1999a, 77; Stanley 1977, 61; Sachs 2012, 323). And yet, we can follow Arneson (1999a, 85) in objecting that it would be "incorrect to characterize Rawls as a meritocrat of any sort". Although Rawls's prominent ideas about self-ownership and the moral arbitrariness of merit will be discussed in the next subchapter, it is not essential for this part of our argument at hand to explore Rawls's egalitarianism in further detail.

As a concluding remark about this subchapter, let us be precise about the fact that we are left with an imprecise idea about equality. There is an enormous body of literature to be found that dissects the perspectives, assumptions, flaws, tensions, and limitations of equality of opportunity in detail (Rosa Dias and Jones 2007; Feeney 2007; Peragine 2004; Petrović 2009; Richards 1997; Sachs 2012). It is neither a feasible prospect, nor a necessary task of this section to further grapple with this well-established debate in order to come up with an entirely new perspective. Our takeaway should simply be that as meritocrats demanding equality of opportunity, we are interested in policies that allow talent combined with effort to bring about a certain outcome relatively unimpeded by, say, socio-economic endowments. This ambition is not undermined by an imprecise idea about what an ultimate version of equality of opportunity could or should entail. As Burwood (1992, 258) points out, the success of our quest for (more) equal opportunities should not be framed as an attempt to reach for perfection, but as a vector – an improvement pointing at a goal that we perhaps merely have (and

need) a vague idea of: “One might make an analogy between perfect equality of opportunity and perfect competition in economic theory. Both are Weberian ideal types and to that extent make sense as concepts. But just as perfect competition is unattainable, so too is perfect equality of opportunity. Policies can be devised which make perfect competition *more or less* reality, and so too with equality of educational opportunity in a substantive sense” [emphasis added]. Promoting wider access to higher education is a reasonable step to *better* the currently highly unequal situation, not to bring about a utopia. Furthermore, it is important to acknowledge that we must “distinguish contexts” in which we can “reasonably demand equality, fair shares, and distributive justice from contexts in which these notions are inapplicable: between, for instance, the distribution of sweets on the one hand and personal relationships with the opposite sex on the other” (Wilson 1991, 27). Equality of opportunity potentially covers an unimaginably wide field of goods, features, and non-material elements and it is probably an uncontroversial claim to point out that our ‘chances for success’ can certainly be determined by financial endowments, but also by supportive partners, friends, nurtured virtues and convictions, and various other types of non-material values that cannot easily be ‘leveled’.

This enables us to reinforce the claim, that it is hardly possible to accurately depict the entirety of the debates revolving around equality of opportunity, allowing us to come up with an unambiguous and uncontroversial definition while considering all versions of the concept and addressing all criticism. After all, some authors go as far as to claim that the “elusiveness” and “cruel deception” of the term should lead us to drop equality of opportunity as whole (Richards 1997, 253–58). As Richards (1997, 255–60) points out, the core problem of the discourse on equal opportunities is that we rarely find “positive standards” of the concept that would allow us describe the “positive specifications” of a situation in which equality of opportunity is achieved. Instead, we typically maneuver in ‘negative notions’, implying that a certain arrangement is *not* equal yet and correspondingly demanding “the removal of arbitrary obstruction” (Richards 1997, 260). But this strategy is perfectly sufficient for the

task at hand and "the first step should be seen not as *achieving* any kind of equality of opportunity, but as a move in its direction" (Richards 1997, 260). We can try our best to work with imperfect concepts to come up with the best possible conclusions. More than that: Given that there is arguably no justice principle to be found that can rightly claim to be uncontroversial, unambiguous, and free of imperfections, we may well use the ideal that generates (probably) the widest intuitive support. In a broad and commonsensical definition, this ideal implies that "everybody in society is offered opportunities to compete and be judged according to the same rules and standards" (Sørensen 2006, 369). And as Rae (1981, 66) adds, "*equal* means" are precisely what is used "to demonstrate *unequal* speed, agility … so as to create, systematize, and *legitimate* unequal prospects of success" [emphasis added]. Such alleged 'legitimacy' of unequal outcomes in a meritocratic machinery that links rewards to talent, effort, merit, and desert certainly leads critics of meritocracy to raise an eyebrow.

6.2.2 The Meritocratic Conception: Deserving the Undeserved

But what precisely is it that leads critics of the meritocratic view built on equal opportunities, including two of the most influential political philosophers of the 20th and 21stcentury, John Rawls and Michael Sandel, to have a moral quarrel with the 'aristocracy of talent'? A key problem seems to be that despite the arbitrariness of natural talent, that is, the 'lottery of birth', a meritocracy entails clear notions of entitlement and deservingness. As illustrated earlier, meritocracy in a, let's call it, 'macro perspective' is cherished due to its professed goal of filling the ranks of important occupations and public offices with people who have successfully combined talent and effort and, as a result, are the best suitable candidates for the job. This is an intuitively convincing improvement in comparison to a nepotistic system that potentially allowed important positions to be occupied by incompetent individuals who simply happened to be a family member of a person in power. Meritocracy can be viewed as the result of an

argument in favor of *efficiency* since, as Wooldridge (2021, 367) implies, "a glance around the world" suggests that it is "golden ticket to prosperity". But meritocracy is not only concerned with the overall prosperity of a nation, but it dictates moral imperatives of distribution in a 'micro cosmos', too.

There are two intertwined issues to be found shaping the arguments in this subchapter: Firstly, and as shown before, meritocracy entails that people are entitled to the rewards of their performance which is, in turn, determined by talent and effort. However, secondly, so far, we have *not* discussed a theory of *entitlement* making use of the remarkable body of work provided by, for example, Robert Nozick ([1974] 2012). We have been scrutinizing *merit*. And merit is a notion that arguable *includes* the dictates of entitlement but is *more than that*. As we will see, merit has a moral dimension which is certainly one of the elements that give rise to the problems discussed in 5.2.2 ('losers *deserve* their misery!'). In this section, we shall see the second 'problem', that is, the morally laden definition of merit, as a challenge that further aggravates the imperative, that is, people are entitled to the rewards of talent and effort, of the first.

Starting with the second issue, we could argue that a theory of entitlement à la Nozick could well be enough to justify the 'rightfulness' of rewards based on individual achievement. We could simply slap the first principle of Nozick's ([1974] 2012, 150) entitlement theory on our aristocracy of talent, advocating that a "person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding". In opposition to merit, entitlement is a far more *neutral* notion, merely communicating the 'rules of the game', insisting that people have a right to something. There is indeed a substantial overlap between a theory of entitlement and a meritocracy since both, in a very simplified version, entail that people have a claim to the rewards they achieved while respecting the game. And the rules (after all, Nozick (e.g., [1974] 2012, 160–74) is concerned with the justice and rightfulness of processes and transfers, rather than outcomes) typically dictate that the entitlement to our outcomes is *just* as long as we did not actively undermine the negative liberty of other people and engaged in harmful actions, fraud, or thievery. But, when we talk about the justice of distribution in

contemporary Western liberal meritocracies, we seem to mean more than just entitlement. We are concerned with more than just the rules of a competitive game, as we intuitively come to see based on a simple example.

We can easily imagine scenarios in which we would subscribe to the notion of *entitlement* but not to the notion of *merit,* which also entails the moral element of *desert* (Arthur 2009, 2009). Let us assume a simple lottery: 100 people buy a ticket to participate, one number will randomly be drawn as to determine the winner while the other 99 lose. Now, given that everyone was aware of the rules and voluntarily took the gamble, we would certainly agree that the winner is entitled to keep his price. We would not doubt the fairness of this game, and we would (probably) not imply that we must now equally redistribute the price among all participants because, after all, we have just created an atrocity in the eyes of a radical egalitarian concerned with outcomes above anything else. It is simply a lottery – some win, some lose. Yet, we would also not argue that the winner morally *deserves* his price. He did not do anything uniquely clever, important, or, broadly speaking, *causally relevant* as to have a moral claim to the price the other 99 lack. He simply had greater *luck*.

This logic, we may assume, is precisely *not* the mechanism at play (at least not exclusively) in the wide examples of meritocratic outcomes we typically discuss in the arena of social standing, prestige, or monetary income. When someone receives a job with a high salary, fantastic benefits, a convenient work environment, and great social esteem, this is usually *not* regarded as merely an outcome of a lottery. That person is not simply *entitled* to the position. Instead, we indeed apply the notion of merit: Assuming that the meritocratic machinery works adequately, we can conclude that such a person combined talent and effort in a way that promises great performance in that occupation, correspondingly meriting the rewards it brings about. Yet, this leads us to the question how we can adequately capture the meaning of 'merit' in the first place. As is often the case, different competing answers exist, and we can merely try to choose the definition that seems to be best suitable for our case and is intuitively convincing. Arthur (2009, 235) shows that we could well frame merit as a "form of goodness",

however, not necessarily as a "form of *moral* goodness" since merit may instead be understood in a neutral sense as "simply the possession of necessary qualifications to perform a role". This idea rides piggyback on the assumptions that "different social roles exist" and that "some people have traits or skills that make them likely to perform those roles more effectively than others" (Arthur 2009, 235). This definition is easy to grasp, and it would be a convenient pick because it does not impose any notions of deservingness which, as we will soon see, lie at the heart of the debates on meritocratic thought as a principle of justice pursued in this subchapter. This definition would not pay much attention to the question, *how we acquired* the relevant skills that allow us to perform well in a position and *whether we deserve* those abilities as well as the rewards they allow us to produce. It merely asks whether someone has the tools to do well in a certain role. However, framing merit this way would not fully capture our common view on the nature of the interconnection between achievement on the one hand, and the entitlement and deservingness of the rewards such achievement brings about on the other.

As Arthur (2009, 229–30) reminds us, it is "not just that decisions about hiring and admission should be based on 'merit' but also that a person who merits a position also 'deserves' it". *This* definition seems to capture more adequately what we have in mind when we talk about merit. In a *morally relevant way*, this person has most likely worked hard to acquire the necessary qualifications to perform well and did far more than merely buy a ticket to a lottery, therefore *deserving* the fruits of his endeavor (Arthur 2009, 230). And yet, this is precisely where the objections of some of the most prominent scholars of recent decades begin. This is precisely where the meritocratic assumptions (and those of Nozick's entitlement theory, for this matter) are wrong, they argue. Their powerful claim which will now be scrutinized, implies that our natural endowment *must* be described using the lottery's logic of arbitrariness, too. After all, we did not do anything causally relevant as to truly deserve our lot resulting from the 'accident of birth', or, to use the even more accurate metaphor, the '*lottery* of birth' – it is an outcome of luck (or lack thereof).

This brings us to the probably most prominent challenge to the meritocratic framework: It is frequently argued that "people can only deserve rewards for what they *have done*" (Crufft 2005, 59–60). But as Scully (2014, 2) points out, "the links between merit and reward may be difficult to justify on the grounds of moral desert inasmuch as merit may be unearned or a weak basis for special treatment". This conviction is shaped by Rawls's ([1971] 2003, 89) fundamental assumption and one of the bedrocks of his egalitarianism: "We do not deserve our place in the distribution of native endowments, any more than we deserve our initial starting place in society". After all, people "are simply born into their *socioeconomic* class", but by the same logic they are randomly blessed or burdened with "whatever *natural* talents or handicaps they happen to have" merely as a "matter of luck who our parents are" [emphasis added] (Arthur 2009, 230). Correspondingly, the Rawlsian position, quintessentially, reject self-ownership since I cannot have a "right to anything that is the result of processes or conditions for which I am not responsible", and since I am not responsible for the outcome of the lottery of birth, "I therefore have no right to my talents or character" (Schwartz 1992, 265). In summary, this 'luck egalitarian view' assumes that innate abilities are merely a result of luck, and so are the native *differences* between people which shape the outcome of our meritocratic hierarchy (Petrović 2009, 99; Elford 2013, 139; Wooldridge 2021, 370).

This Rawlsian conviction wields substantial power and is hard to reject. The underlying idea that we simply had no doing in deciding where, when, with which skin color or sex, or into which socio-economic class we are born – factors that determine to a substantial degree our prospects for life – seems to be imbued with irrefutable truth. This fact, it appears to me, is difficult to contest. However, how we think about the repercussions and imperatives of this arrangement – that's up for debate. In the next paragraphs, we will briefly explore a (radical) equalization as a potential reply, attempts to separate *talent* as an arbitrary inborn element from *effort* as an act that constitutes desert, the potentially fundamentally problematic repercussions emerging when we fully reason through Rawls's assumption, and a short general critique.

Beginning with the first issue, let us briefly dive into the field of redistribution. If we are inclined to stick to our meritocratic conviction but are yet persuaded by Rawls's argument about the randomness of starting conditions, we might conclude that far more radical attempts to level the playing field are needed. If we are convinced that it is unfair that some people start on an inherited pile of gold whereas others lack the financial means to acquire even the most basic opportunity-granting education and tools, say, we may be willing to endorse a redistribution of capital. And if we find that some people are less cognitively gifted than others, we can propose that adequate complementary schooling, for example, would be a reasonable fix to compensate them for their disadvantage and to allow them to close up. At this point, it is probably obvious where the argument is going: If, in light of the substantial unfairness the accident of birth can bring about, our declared goal is to achieve 'truly' equal opportunity so as to make the race of life 'genuinely' fair because we have a moral quarrel with some people getting more than others as a result of unequal starting conditions, at some stage, *compensating* those who are worse off will not be enough.

Following Derek Parfit's (1997, 217–20) logic, the 'leveling down argument against egalitarianism' implies that in the absence of the relevant revolutionary technology, we simply cannot provide a blind man, for example, with a new set of eyes or regrow the limbs of an amputee with a magic potion (Saunders 2011, 252). As much as we may redistribute and compensate, such people will never be entirely equal to their healthy counterparts. If we would truly believe in the intrinsic value of perfect equality, we might endorse the option to achieve it by blinding and amputating everyone (Saunders 2011, 252). 'True' equality would demand for almost everyone to be 'leveled down' in one way or another. The absurd consequences of a pathological concern for equality was similarly captured in a satirical story by Kurt Vonnegut in 1961: "Americans would achieve perfect equality by forcing people of superior intelligence to wear mental handicap radios that emit unsettling noises every 20 seconds to keep them from taking advantage of their brains, people of superior strength or grace to be

burdened with weights, and those of uncommon beauty to wear masks" (Bork and Tushnet 1996, 80).

Noted, Rawls was unperturbed by Vonnegut's tale and concluded not that the talented should be leveled down, but that the 'winners' should be forced to share their rewards in accordance with the difference principle with those in society who were less fortunate in terms of natural endowments (Wooldridge 2021, 291; Feeney 2007, 363). Correspondingly, Rawls's fix is outcome-based. Rather than mental handicap radios, a progressive taxation would be an adequate reply to the unequal distribution of abilities among people (Wooldridge 2021, 291). We find that Rawls's rejection of self-ownership does not lead to an advocacy for a nightmarish radical equalization of starting conditions, but to a justification for the redistribution of the unequal rewards the inequality in natural endowments brings about. However, this position opens the door to a different critique.

As Wooldridge (2021, 371) argues, "Rawls ignores the importance of praise in motivating people to excel themselves". This is obviously an argument in the spirit of (behavioral) economics frequently advanced in opposition to equality of outcome: What Rawls, more generally, ignores is "the importance of market incentives in turning raw abilities into social goods. Market incentives perform two functions: they encourage people to devote their time to turning their gifts into marketable talents and they direct people to areas where their talents can produce social benefits" (Wooldridge 2021, 371). Correspondingly, we "need above-average rewards to induce people to engage in such a process of self-sacrifice and risk-taking" (Wooldridge 2021, 371). Wooldridge is not the only scholar who implies that it would be imprudent to abandon the maxim, which dictates that achievement must adequately merit rewards, in favor of a stricter egalitarian framework. As Rawls insists, even a truly diligent and zealous person's "lines of endeavor that enhance society's production of primary social goods is *not a moral merit in itself*, because possession of talent is randomly distributed across persons *through no fault or merit of their own*" [emphasis added] (Arneson 1999a, 94). However, as Arneson (1999a, 94) shows, we can yet

make the case that Rawls's *difference principle* can be interpreted in a way as to endorse the meritocratic spirit after all: "Talent is nonetheless *morally significant*, simply because rewarding the exercise of superior talent enhances productivity and thus makes possible a higher level of social benefit for the *worse off*" [emphasis added]. This interim conclusion also leads us to another strategy that allows space for substantially *unequal* reward, merit, and desert to be preserved.

Thomas Pogge (1991, 171) agrees with the Rawlsian view that there is no "plausible rationale" to be found for the idea that "inequalities in access to education … or jobs with associated rewards … are acceptable when related to *natural* contingencies, but unjust when related to *social* contingencies". As meritocrats, we are inclined to accept (and demand!) that *socio-economic conditions or contingencies* are to be better leveled as to achieve higher equality of opportunity. But we would insist that unequal outcomes as a result of unequal *natural endowments and character traits* should be allowed to manifest themselves – at least partially. This is not a self-evident conclusion, given that we just established that there are indeed good reasons to agree that arbitrary differences in socio-economic starting conditions are not necessarily morally different from the arbitrary differences in innate contingencies between people's individual attainments. The argument against, for example, Sandel's demand (advanced in a recent *Intelligence Squared* online debate with Wooldridge) to reject the "meritocratic pretense", follows an attempt to separate *talent* and *effort* (intelligence² 2021). Correspondingly, we will shed more light not on the imperfection of socio-economic equality of opportunity, but on the 'talent combined with effort equals merit' formula first introduced in 5.2.1.

Let us remind ourselves that "denial of personal sovereignty over the products of one's own labor is absolutely necessary for the egalitarian project" given that, as Nozick's ([1974] 2012, 160–64) Wilt Chamberlain scenario shows, "inequalities … surface again sooner or later" under conditions of free competition even if the initial starting resources had been equalized before (Petrović 2009, 98). Correspondingly, "egalitarians have to stick to the view that one's personal abilities should not be allowed to determine the size of one's

holdings, and that even if a person has not used any external resources to produce something, but exclusively his own powers, he is not entitled to the entire product thus achieved" (Petrović 2009, 98). The key ingredient that leads both Rawls and Sandel to question the deservingness of an outcome is the arbitrary force of luck. Building on the Wilt Chamberlain (and Michael Jordan) scenarios, Sandel (2010, epub) argues that despite the hard work and training they certainly had to put in to rank among the world's best basketball players and to receive corresponding salaries, their success was yet crucially determined by luck, too. Afterall, to make millions of dollars by playing basketball, they had to be born with an adequate body height, sufficient motoric skills, and be endowed with the opportunities to make use of their talent – which also includes simply being born into a time and into a society where people who, essentially, can throw a ball through a metal ring with great accuracy are glorified and well paid (Sandel 2010, epub). There are at least two arguments meritocrats can introduce to push back against the rejection of meritocratic deservingness. The first one is the 'meritocratic conception' that entails that luck in terms of *innate abilities* is indeed arbitrary and *does not* justify desert, but *effort* – the very element that turns raw ability into merit – *does*. The second position is a Dworkinian sidenote that implies that we must not blatantly condemn every outcome brought about by luck.

Beginning with the latter one, we should note that Ronald Dworkin distinguishes between *brute luck* and *option luck* (Arneson 1999b, 492–93). This dichotomy acknowledges that outcomes, broadly speaking, can indeed be decided by factors that exceed the locus of an individual's direct control. And yet, option luck and brute luck are defined "in opposition to one another" with only the latter one being at odds with equality of opportunity in the Dworkinian view (Elford 2013, 140). Option luck refers to the outcome of "deliberate and calculated gambles" – whether "someone gains or loses through accepting an isolated risk he or she should have anticipated and might have declined" (R. Dworkin 1981b, 293). Option luck, in a sense, leads us back to the deliberate and voluntary participation in a lottery. Brute luck, however, "is a matter of how risks fall out that are not in that sense deliberate gambles" (R. Dworkin 1981b, 293).

Correspondingly, we may well acknowledge the importance of luck which, by definition, refers to a randomness of outcomes that lies beyond our control. And yet, we would not seriously claim that we are constantly victims of a merit-undermining force of nature entitling us to receive compensation for our bad luck from other people whenever we willingly take risks aware of the uncertainty of outcomes. There are grounds for the conclusion that "some inequalities may be considered a problem without thinking *all* inequalities are" (Feeney 2007, 364).

The first-mentioned objection indicates that even if the results of luck are to be condemned as 'undeserved', merit should yet be praised and rewarded not because of the underlying arbitrary natural abilities but because of the *effort* a person had to exert to turn raw talent into performance and achievement. After all, "even young Mozart had to practice" (Wooldridge 2021, 370). This idea lies at the heart of what we could call the 'meritocratic conception' in opposition to radical egalitarianism (Elford 2016, 267–69).

As Elford (2016, 271) shows, in the meritocratic conception, there is an "internal tension" to be found we already discussed before, that is, the "requirement to *offset the influence of social class* and the permission to *allow the influence of talent and effort*" [emphasis added]. We may oppose socio-economic obstacles in the meritocratic machinery but we can cherish that, as human beings, we have remarkable potentials worthy of praise and reward – "that we possess talents and abilities that can be honed through hard work and commitment" (Wooldridge 2021, 372). But, and this is where the Rawlsian view comes in, we have to further subdivide the alleged deservingness of the fruits of *talent* and *effort*. After all, the traits and talents we are born with are not a result of our own doing and, therefore, cannot easily constitute desert. What we are left with is effort as the tool that we can indeed influence so as to turn innate ability into outcomes that we merit. We find an awkward dichotomy between what we, following Roemer's terminology, can call "*effort factors*, for which individuals must be held responsible" on the one hand, and "*circumstance factors*, which are the source of illegitimate variation in outcomes" (Rosa Dias and Jones 2007, 109). This argument serves both as an (imperfect) advocacy for meritocratic

deservingness, and, at the same time, as a discussion that acknowledges the problems of the meritocratic conception we are trying to defend.

If we claim that effort constitute desert, a subsequent critical question manifests itself: Where, then, does *effort* come from? We may come to realize that effort could well be described as an "advantage" transmitted "from parents to children" via education and socialization which, in a sense, leads us back *outside* the locus of an individual's control and back *into* the arena of the socio-economic contingencies which, as we established before, should *not* influence the outcomes a person can rightly claim to merit. Elford's (2016) discussion implies that we are probably facing a substantial challenge that does not allow us to easily define which attributes of a person's character, including *both* the dimension of talent, *and* effort, can rightly be described as merit-mediating. We may *assume* that enhancing effort or talent through the "transmission of advantage from parents to children" to be consistent with "the meritocratic equality of opportunity as long as it takes place through the transmission of *meritorious* attributes" [emphasis added] (Elford 2016, 275). And the emphasis in this interim conclusion to the argument indeed lies on *'assume'*. Critics could rightly object that instead of *opposing* Rawls's rejection of self-ownership, we have just *reinforced* his point by acknowledging that not even effort seems to be unencumbered by innate and arbitrary factors, such as talent and social class. But we can yet reply that this is a conclusion we cannot accept for a deeply philosophical reason: Accepting this conclusion is on par with endorsing determinism and rejecting free will.

In the methodology chapter of this work, we laid out that this thesis is not supposed to maneuver in 'cosmic' philosophy with the potential to get lost in metaphysical questions. However, in this argument, we must take a brief dive, nevertheless. Here is the problem: We established that natural talents are an outcome of the accident of birth and we acknowledged the significance of socio-economic conditions in contemporary meritocracies. Now we added that even *effort* runs risk of falling under the umbrella of human characteristics the individual has no control over. And indeed – how could we ever be responsible for either of these features? After all, our motivation, our zeal, our work ethics,

our ambitions, and our willingness to put in the effort to turn our innate talent into something remarkable can causally be traced back to the way we were socialized by parents, to the encouragement given by teachers, and the beneficial (or detrimental) influences of all sorts of peers we encountered during childhood, say. We did not *choose* the circumstances that shaped our ambition and effort (or lack thereof). This, what we could call *The Impossibility of Moral Responsibility*, is precisely the phenomenon Galen Strawson (1994) explored in the so-called "basic argument".

This argument is neither a new, nor an utterly complicated one and it can be summarized based on three central ideas: "(1) Nothing can be causa sui – nothing can be the cause of itself. (2) In order to be truly morally responsible for one's actions one would have to be causa sui, at least in certain crucial mental respects. (3) Therefore nothing can be truly morally responsible." This line of reasoning can easily be translated into our discussion of merit: If we are to be truly *responsible for* and *deserving of* the rewards we merit today, we must also be responsible for becoming the meriting person we *are* today. However, to be responsible for becoming the person we are today, we must also have been responsible for being the person we *were* yesterday. We easily see that this argument is an infinite regress: Responsibility at moment X requires previous responsibility at moment X-1, which requires previous responsibility at moment X-2 and so on (Strawson 1994, 5–7). Eventually, we arrive at an X-n which is nothing else than the arbitrary moment we were born as helpless, driveling babies, void of any genuine autonomy, self-mastery, and responsibility for our actions. Following the basic argument, we can be rightly inclined to reject moral responsibility since everything that distinguishes us as individual persons can eventually be traced back to forces far outside our control and responsibility.

What is our takeaway from this argument? There certainly is at least *some* logical truth to the idea that we indeed lack genuine responsibility for far more things than we like to imagine. Pushed to its extreme, this argument suggests that there is hardly anything to be found that is truly or ultimately the result of our (and only our) own actions. This assumption gets us awfully close to determinism

and a rejection of, not only deservingness of our talents and achievements in a Rawlsian spirit, but free will as a whole.

Rawls does not reject the existence of free will and is not an advocate of determinism (as far as I know). And yet, the logic of his argument *does* have a certain similarity in structure with Strawson's basic argument and it is the kind of logic that can lead us to problematic conclusions, such as the rejection of responsibility and self-ownership. This conclusion can indeed motivate us to endorse policies in support of far better equality of outcome that pays special attention to the worse off in society via the difference principle, given that we can rightly legitimize redistributions based on the fact that those who do very well did not themselves bring about the talents and socio-economic starting point that allow them to perform outstandingly and hence do not *deserve* the rewards. But by the same token, we risk giving up the grounds for punishing wrongdoers, for example. After all, when we argue that somebody 'does not deserve something', we usually imply that "what happened was not within her control" (Arthur 2009, 231). Indeed, when we say "people deserve praise, thanks, or reward, the reason is generally that the person has done something that justifies the praise, thank or reward" and, by the same logic, the legitimacy for "punishment is rooted in the ideas of control and responsibility", too (Arthur 2009, 231). As already briefly mentioned in 4.2.3, typical motivations for punishment and imprisonment are deterrence, desert, retaliation, education, or rehabilitation (Altman [1996] 2000, 135–47). If we follow the Rawlsian assumption that people are not responsible for and deserving of their socio-economic position and character traits, they are capitalizing on in order to get ahead in society, we can well be inclined to argue that wrongdoers are merely victims of their circumstances, too, undermining the legitimacy of punishment based on, at least, desert and retaliation – maybe all.

Let us repeat the question we posed two paragraphs ago and have not fully answered yet: What is our takeaway? Well, the logic of the abovementioned argument questioning the true guilt of wrongdoers is not an ivory-tower thought experiment. The idea that those who find themselves in front of a judge can indeed be victims of their circumstances, deprived of full control of their lives

which, in turn, undermined their chances to develop an adequate sense of virtue and consideration, eventually turning them into sometimes quite tragic figures, *is* frequently *taken into consideration* when deciding their verdict. And yet, wrongdoers typically are not *entirely acquitted* of their guilt when they have clearly done something wrong. This, in turn, is most likely based on the conviction that the accident of birth, the lack of *true* moral responsibility, and the absence of *ultimate* freedom of choice does *not* lead to total determinism, the full rejection of free will and, relatedly, guilt. This judgment is supported by Strawson's (1994, 7) own interpretation of the basic argument: "The claim, then, is not that people cannot change the way they are. They can, in certain respects". It merely suggests that "people cannot be supposed to change themselves in such a way as to be or become *truly* or *ultimately* morally responsible for the way they are, and hence for their actions" [emphasis added] (Strawson 1994, 7). The emphasis is on 'truly' and 'ultimately'. Perhaps it is prudent to adopt the same perspective on Rawls's accident of birth: It may be true that we are not *ultimately* responsible for and deserving of our traits and achievements. However, that does not mean that there is no room for desert and merit at all. Unless we are willing to endorse the idea that *everything* lies outside our locus of control after all, we must, broadly speaking, accept that there *are* elements in our hands we *can* influence, things we *can* do better or worse, tasks we *can* complete more successful or less successful, and challenges we *can* solve efficiently or inefficiently which eventually allow us to claim desert and merit for. And we can indeed adopt this conviction while, as Wooldridge suggested, at the same time relearning humility and a renewed sense of public duty to acknowledge the existence of the arbitrary elements in both our successes and failures, protecting ourselves against a meritocratic naiveté, say.

In conclusion of this subchapter, we may advocate the view that despite the power of the luck egalitarian argument, there are reasons, based on both logic and practical implications, that can (or should) lead us to adhere to the conviction that people *do* enjoy a sense of self-ownership and *can* be held responsible for

their actions. Those actions similarly justify punishment, and entitlement as well as desert, in turn, constituting merit.

It is worth emphasizing that the narratives advanced in this chapter and, by extension, in this thesis, do not stand alone and the corresponding conclusions and imperatives can be reinforced from within other schools of thought, too. There are far more arguments in favor of (and against) individual responsibility, merit, and equality, both in terms of opportunities, and human faculties, to be made. And some of them are more convincing than others. We could, for example, remind ourselves of the judgment of some of the greatest thinkers in philosophy who build their theories on the idea that despite our distinct features, human beings are generally more equal than different: "In the modern period emerges a process of social organization based on meritocratic values, based on the defense of liberalism and equality. From the Cartesian rationalism until Kantian apriorism, an anthropology of equality among all men, as they all have the same intellectual faculties, is built" (Mazza and Mari 2021, 5). After all, even contractarians like Thomas Hobbes (1998), who is not exactly known for his benevolent, compassionate, and overall optimistic definition of human nature, assumed people to be sufficiently equal as to come to terms with a social contract that allows for peaceful coexistence, leaving behind the cruel state of nature. What some people have in superior strength, others make up for in wit: "Nature hath made men so equal, in the faculties of the body, and mind; as that though there be found one man sometimes manifestly stronger in body, or of quicker mind than another; yet when all is reckoned together, the difference between man, and man, is not so considerable, as that one man can thereupon claim to himself any benefit, to which another may not pretend, as well as he. For as to the strength of body, the weakest has strength enough to kill the strongest, either by secret machination, or by confederacy with others, that are in the same danger with himself" (Hobbes 1998, 82).

This is not to say that Rawls is wrong. The accident of birth most certainly *does* partially determine the set of opportunities an individual enjoys in a meritocratic system – not only in terms of socio-economic starting conditions, but

also in terms of natural abilities and endowments. Yet, as the aforementioned claims of other important philosophers indicate, the *magnitude* of our innate differences, affecting our performance in 'the race', may well be up for further debates. In a related fashion, speculations can be made about the potential outcomes a (well-functioning) meritocracy will produce eventually. As we found, even on a leveled playing field, the aristocracy of talent – qua design – produces losers. And 5.2.2 sufficiently showed the potentially degrading effects the corresponding hierarchy can bring about, which is precisely one of the reasons that lead Wooldridge (2021, 390–92) to conclude that a 'wiser' meritocracy should also promote the renewal of social humility, a sense of public duty, and responsibility for the community. Critics could be quick to point out that such values are not exactly the virtues meritocracies are best known to endorse. After all, the idea of a meritocratic race seems, intuitively, to relate much better to the axioms of a competitive, merciless capitalism. Yet, we may reply that even Adam Smith, the 'father of capitalism', best known for his ([1776] 2007) magnum opus *The Wealth of Nations,* is frequently *wrongly* described as a missionary advocate of a free market society in which everybody fends exclusively for himself. In his earlier and occasionally overlooked ([1759] 1984) work, *The Theory of Moral Sentiments*, he paints a very different picture of the human nature we may build our hopes and expectations for a meritocracy endowed with a sense of humility and compassion on: "And hence it is, that to feel much for others and little for ourselves, that to restrain our selfish, and to indulge our benevolent affections, constitutes the perfection of human nature; and can alone produce among mankind that harmony of sentiments and passions in which consists their whole grace and propriety" (Smith [1759] 1984, 25).

A strong opponent of meritocracy, such as Sandel, will probably be unimpressed by the arguments made in this subchapter. After all, in their recent debate, he indeed managed to corner Wooldridge with the abovementioned argument which insists that we are truly struggling to locate the precise origin of the desert-mediating *effort* which serves as the allegedly merit-constituting element unencumbered by the outcome of the accident of birth (intelligence[2]

2021). And yet, we should remind ourselves that we are, after all, concerned with political philosophy for earthlings, and we cannot stop the planet from spinning until we found the perfect system. Despite the power of Sandel's reasoning, he chose, differently than Wooldridge, an approach that makes his quest substantially easier: Whereas "Wooldridge argues that meritocracy, despite its flaws, is *better* than any alternative arrangements *people have tried*", drawing on comparisons between *real* competing systems of allocation, "Sandel prefers to compare meritocracy to an *ideal system* rather than to actual historical alternatives" [emphasis added] (Greene 2022, 79). Pointing out the problems of meritocracy measured against an ideal system is one thing, proving that there are better (feasible) alternatives is a far different quest. This reproach should not imply that Sandel does not provide a suggestion. In fact, he argues that either a Hayekian liberal state that drops the 'meritocratic pretense' could be a way out of the meritocratic trap, or a version of a social democratic welfare state akin to the political framework in some European nations (Sandel prefers the latter one) (intelligence² 2021; Sandel 2020, epub). And interestingly, with regards to our shared conviction that a certain set of welfare state principles is necessary, and our ambition to make improvements to the current neoliberal framework in Western democracies, Sandel and I may have more similarities than differences. It is the *nature* of our approaches that differs.

For *this* thesis's approach, we may continue to insist on the existence (and importance) of individual responsibility, stick to the intertwined concepts of meritocracy and equality of opportunity, and we may reemphasize John Roemer's (2002, 470) culminating judgment on the evolution of egalitarian thought. He argues that "one, if not *the*, major accomplishment of egalitarian theory since Rawls's reinvention of the field … is the inclusion of *considerations of responsibility*" [emphasis added]. And we may also borrow his simple and yet profound description of equality of opportunity's substantial appeal that leads us to defend it as the type of distributive ideology we can sensibly adopt in Western democracies built on a foundation of liberal convictions: "I believe that the equal-opportunity approach is the *right* one – it corresponds to what most people

intuitively believe, that persons should be compensated for certain kinds of bad luck, but should be held responsible for much of what they do" (Roemer 2002, 470). From such a conviction, as we have sufficiently justified (or so I hope), we may continue "the dialogue about redressing inequality in society" where "it may be useful to look at our own institutions and how unquestioned assumptions – like 'the university is a meritocracy' – undergird and reproduce inequality. Once we can take this critical look at our own institutions – and perhaps even persuade some of the holders of the dominant view to look with us at the institutions we inhabit and know the best – perhaps we can more persuasively engage the project of addressing and correcting social inequalities" (Scully 2002, 401).

6.2.3 Affirmative Action: A Controversial Fix

Our concern with the merit of meritocracy and the underlying equality of opportunity entails that there is one important and highly controversial debate that must be briefly mentioned at least in a few paragraphs – although it is only an adjacent part to this thesis's core argument: Affirmative action. This type of policy, which is often referred to as 'positive discrimination', is certainly one area in which contemporary meritocratic discourse manifests itself as heated political debates about equity, for example, at universities or in the workplace (Arthur 2009, 228). As we will see, it also reinforces the importance of our quest for a genuine meritocracy built on more adequate equality of opportunity since, in such a 'better' world, this type of affirmative action would no longer be necessary because the socio-economic disadvantages and discriminations minorities disproportionally face would vanish or be reduced to a minimum.

We learned that merit – in its broadest description – "marks the difference between those who are or will be good in a position – who will perform a role well – and those who will not" (Arthur 2009, 245). And we should also remind ourselves of the unique role colleges and universities are frequently judged to play: "Higher education is expected to serve democratic societies and promote

social mobility" (Alon and Tienda 2007, 506). In a well-functioning meritocracy – precisely what we are trying to promote – the underlying equal opportunity would generate a "high degree of social mobility because talent, unconstrained by social origin, rises to the top" (Alon and Tienda 2007, 489). Unfortunately, reality shows that 'rises' certainly do *not* take place 'unconstrained by social origin', contemporary meritocracies are imperfect, and, correspondingly, we frequently find ourselves in debates revolving around the question how desirable public offices, jobs, and places at universities can be 'justly' distributed. We indeed have good reasons to evaluate strategies that promise to open "the gates of opportunity", allow "talent to rise, regardless of social background", or at least provide fixes that may reduce the degree by which certain groups or individuals are disadvantaged within the meritocratic machinery (Alon and Tienda 2007, 507). Affirmative action is a well-known reply.

'Affirmative action', today, is typically defined as "policies and individual decisions in which a person's race is used as a reason to justify employment in a position, an award of a contract, or admission to an institution" (Arthur 2009, 228). Critics are quick to point out that this sounds an awful lot like discrimination, given that it may correspond to a version of equality of opportunity that is wide enough as to include a demand for equality "between specified social groups to be created by the direct allocation of places", for example in higher education, "*without regard for the educational credentials ordinarily required*" [emphasis added] (Nash 2004, 362). However, affirmative action is different in a sense that "its goal is to help *minorities* or otherwise *disadvantaged* groups" [emphasis added] (Arthur 2009, 228). As Wooldridge (2021, 387) adds, sometimes "people start a long way behind others not because of their individual merits but because they happen to be born members of a certain group", which justifies that in some cases "collective wrongs require collective solutions". Ironically – just as it was the case with the meaning of the term 'meritocracy' – affirmative action's connotation has been inverted ever since it came to public use, too.

‘Affirmative action’ can predominantly be traced back to John F. Kennedy’s executive order that required “contractors working for the federal government” to “take ‘*affirmative action* to ensure that applicants are hired *without* regard to their race, creed, color, or national origin’” [emphasis added] (Arthur 2009, 228). Unsurprisingly, affirmative action as a set of policies following the doctrine of ‘positive discrimination’ finds both advocates, and passionate opponents in the meritocratic arena. Opponents claim that affirmative action “entails disregard for merit” and throws us back into a social ideology that, once again, *does* take into account traits that were so relentlessly proclaimed to be irrelevant before, such as race or gender (Arthur 2009, 228). At the same time, proponents insist that positive discrimination is a necessity because of the systematic disadvantage marginalized groups suffer from within a meritocratic “‘myth’ which serves only to exclude some classes of people from desirable positions” (Arthur 2009, 228–29). Unsurprisingly, the debate about affirmative action gives rise to numerous arguments and positions on the nature of merit, the conditions that undermine merit, and on the question if merit is supposed to be the only thing that matters to begin with. As pointed out before, it is not an integral goal of this thesis to dive deeply into this tremendous debate, however, we should yet briefly acknowledge the most common positions.

Opponents of affirmative action typically begin their case by pointing out that the very reason merit matters lies in “the fact that different social roles need to be filled” and they can be “performed relatively better or worse” (Arthur 2009, 240). Correspondingly, a meritocracy built on equal opportunities adequately allocates people to social roles based on their merit, that is, ability combined with effort. Tilting this arrangement by taking into consideration features such as race and gender keeps those crucial roles from being filled with those individuals who would perform best (Arthur 2009, 240; Alon and Tienda 2007, 491–92). Proponents of affirmative action, in opposition, point out that precisely the underlying assumption of equal opportunity is fictional and that we should rightly give “an edge” to, for example, minorities to compensate for the fact that they are statistically more likely to have worse starting conditions (Alon and Tienda 2007,

488). This position frequently promotes race sensitive assessments and rejects "colorblind" standardized tests because they, ironically, "were originally designed to allow selective institutions to identify talented students from disadvantaged backgrounds, yet today affirmative-action opponents use the tests as a grounds for excluding them" (Alon and Tienda 2007, 488–89). SATs simply advantage those with more resources. Opponents yet typically reply that "race or national origin" as a factor of assessment should not undermine "the fundamental tenets of meritocracy by creating unfair competition" (Alon and Tienda 2007, 491–92). However, we find two other common cases *for* affirmative action: The first one holds that it is simply not the *sole purpose* of a, for example, university to promote excellence, but that admission procedures must also pay attention to the institution's social goals. The second one follows the argument that a diverse student and faculty body is *beneficial*, that people with different backgrounds bring different valuable perspectives to the table and that, correspondingly, characteristics such as nationality, race, religion, or gender can well be regarded as *a type of merit*.

With regards to the first argument, we can follow Simpson and Wendlin's (2005, 398) claim that "colleges and universities serve social as well as purely academic purposes" and that, correspondingly, both merit, *and* "claims of justice" ought to be "relevant considerations in hiring and admission". Providing, for example, adequate role models to people of underrepresented groups is a frequently articulated goal of affirmative action (Arthur 2009, 249–50). This idea aligns with Ronald Dworkin's ([2000] 2002, 402–4) insistence that institutional purposes exceed educational goals in terms of academic excellence and that universities, instead, also have social or public responsibilities (Arthur 2009, 233–37). This position concludes that a "broader understanding of their purposes, then, makes the case for equity even stronger, without compromising the basic interest in academic merit" (Simpson and Wendling 2005, 398). This conclusion also relates to the second argument, that is, that the "special capacities" of the members of marginalized groups can constitute a type of merit that should rightly be taken into account (Simpson and Wendling 2005, 398).

As Arthur (2009, 251) points out in the area of *racial* affirmative action, the idea that it is "educationally important to have a racially diverse faculty and student body" ranks among the most popular arguments. This position aligns with Simpson and Wendling's (2005, 391) claim that people of different backgrounds bring to the table different unique abilities which, in turn, promote "new perspectives and criticism within disciplines". Correspondingly, an "academic pluralism advances knowledge better than academic homogeneity does" – an idea perfectly relating to Dworkin's ([2000] 2002, 402–4) conviction that a student body ought to be chosen that contributes best to the purpose of the institution (Simpson and Wendling 2005, 391; Arthur 2009, 237). This argument reinforces the claim that race and gender, for example, can "constitute a form of merit" that should be taken into consideration via affirmative action (Arthur 2009, 228).

As pointed out, positive discrimination is a controversial topic and opponents would push back against these claims. They might, for example, acknowledge that cultural or racial backgrounds *can* matter, however, certainly not in *every* field. The social sciences and humanities probably *do* benefit from a diverse faculty, but race, gender, or sexual orientation play a rather insignificant role in mathematics or when exploring the fundamental laws of physics (Arthur 2009, 251). From precisely the opposite angle, critics can also agree that race, for example, *is* an important part of a person's background that gives rise to a valuable unique perspective, but so are "early job experiences, religion, family, history, and many other factors" (Arthur 2009, 251). "If the aim is to level the playing field by compensating for collective disadvantages", we can object, "then there is no reason that affirmative action should be defined exclusively by race" (Wooldridge 2021, 388). Overshadowing other constitutive elements of a person's background by assessing an applicant only through the lens of race or gender, say, may potentially even produce adverse effects on the desired pluralistic student and faculty body that reflects and represents the full population (Arthur 2009, 251–52).

Some of the abovementioned arguments are more powerful than others. It is not the goal of this subchapter to debate affirmative action in detail but is yet an

important discourse that overlaps with our meritocracy discussion and it also provides us with a few important takeaways: (a) We can scrutinize which elements of a person's character constitute 'merit', (b) we may be inclined to further explore our institutions' purposes to design adequate meritocratic admission procedures, and (c) we can certainly dive into the debate if merit is everything that *should* matter when distributing social roles and offices. Vice versa, we can speculate what our advocacy for a 'genuine' meritocracy, that is, a meritocracy endowed with a more 'even playing field' that deserves to be described as sufficiently 'equal' in terms of opportunities, can do for the affirmative action debate.

Indeed, there are cases where origin, gender, or skin color are relevant features that constitute merit and cannot be described as arbitrary or irrelevant factors. A faculty body made up from a diverse conglomerate of academic and social backgrounds can lead to higher quality teaching, and a theater play "may just not work if Othello or Martin Luther King is not a black person" (Arthur 2009, 249). There are also cases to be imagined where multiple motivations fall together: It can, for example, "be reasonable for a medical school to take a candidate who is willing to practice in *poorer locations*, even if this is not the candidate who would be the *best medical practitioner*" [emphasis added] (Crufft 2005, 60). Here, we could argue that the willingness to practice in poorer areas reflects an important flexibility in term of occupational location which, in turn, constitutes *merit*. At the same time, such admission may take into consideration a medical school's public *purpose* to train medical practitioners for *all* regions and locations – not just the affluent ones.

However, another motivation for affirmative action, that is, the assumption that it is crucial to give minority applicants "an edge in admission", is not necessarily grounded in the conviction that they will bring something to the table that majority applicants cannot. Instead, it is an argument based on justice. It is an antidote to the lack of opportunities and the discrimination disproportionally suffered by, for example, ethnic minorities (Alon and Tienda 2007, 487–88; Chetty et al. 2015, 55–56). Correspondingly, in this sense, affirmative action and

positive discrimination (for example, based on race or gender) may be described as a potential fix to a *more far-reaching underlying problem*. This is not an unimportant takeaway: In this short subsection, we tried to summarize some of the key arguments for and against affirmative action as neutrally as possible, however, in the political reality, the controversial debates on this topic can become very heated. Proponents of affirmative action occasionally go as far as to claim that resistance to equity policies is an ideological remnant in the spirit of a millennia-old male and white dominated sentiment that previously manifested itself in the rigorous legal oppression of women and the enslavement of people of color. Opponents, however, tend to object that no matter how many positive attributes we may slap in front of the word 'discrimination' and regardless of the claim that 'this time it hits the *right* people', in the end of the day we are yet talking about 'discrimination' – an act of inherent injustice deeply at odds with fairness, impartiality, merit, and deservingness. With this problematic debate on affirmative action in mind, it is easy to see how it reinforces the importance of our quest for better equality of opportunity: If we were able to eliminate the type of structural disadvantage and discrimination which undermines the access of certain groups to genuinely equal opportunities, the need for the controversial kind of equity-policy that seeks to mitigate the symptoms of the unleveled playing field discussed in this subchapter may vanish eventually. After all, unequal opportunities are the root of the problem.

6.3 Allied Visions for 'Libertarian Welfarism'

This thesis's attempt to make a case that classical liberal principles do not necessarily force us into advocating the *neoliberal* or *libertarian* interpretation of our Western political doctrine, is neither the first nor the only one. It is neither the ambition of our narrative to argue that neoliberals and libertarians are simply *wrong*, nor are we trying to *twist their positions* by foisting a set of convictions into their framework which the underlying fundamental principles could never

entail. Instead, the argument implies that it is not self-evident that we must end up with the *neoliberal* or *libertarian* conclusions if we build our vision on, say, Lockean principles of classical liberalism. We can rightly claim that the fundamental convictions of liberal thought can lead us in a substantially different direction and that neoliberalism and libertarianism are merely two of many legitimate and coherent outcomes. With this ambition in mind, it is only sensible to give credit to the thought of other theorists championing an amalgamation of liberal thought and greater egalitarianism. Scholars like Justin Schwartz (1992, 259–60), for example, imply that the principle of self-ownership underlying the labor theory of property entitlement advocated by Locke and Nozick urges us to embrace egalitarianism, rather than libertarianism. Another important philosopher following the quest to promote a conception of egalitarian welfarism rooted in *liberal principles* whose work indeed caused substantial stir in the libertarian camp for now more than four decades is James P. Sterba. In his debates with defenders of libertarianism such as Tibor Machan and Jan Narveson, Sterba (2000, 465) brings forth the argument that "the ideal of liberty endorsed by libertarians leads to a right to welfare" – a right that can even be extended to future generations, eventually justifying the type of equality socialists endorse. To capture his argument adequately, let us begin by briefly summarizing some of the core ideas and convictions that shape the libertarian mainstream narrative.

As Sterba (1978, 115) notes, libertarians have a habit of thinking of themselves "as defenders of liberty". Such conviction certainly ranks among the most prominent elements constituting the work of Friedrich August von Hayek, John Hospers, and Robert Nozick. The conglomerate of such scholars' thought clearly defines the libertarian assumption that a political philosophy based on personal liberty ought to be concerned with the conditions that minimize the "coercion of some by others" in society, allowing individuals to live "according to their choices", free of external interference, leading to a slim or night-watchman state (Hayek 2011, 57–59; Hospers 1971, 5–6; Nozick [1974] 2012, 26–35; Sterba 1978, 115). In accordance with Berlin's definition discussed earlier, libertarians define liberty *negatively* as the absence of external interferences and constraints

(Berlin [1969] 2002, 169; Carter [2003] 2019; Sterba 1978, 115). Correspondingly, they are led by an advocacy for the inalienable right of men to be free, rooted in a natural liberty (L. Hill 2020, 55; Wellbank 1972, 139–40). Sterba's (1978, 115) project is, quintessentially, a challenge to libertarians, such as Nozick, who hold "that while other social ideals, like equality and humanitarianism, if shown to be acceptable and of sufficient priority, may well justify a more extensive state, *liberty never does*" [emphasis added].

As, for example, Narveson (2015, 208) admits, there indeed is a *general* duty to help those in need *but* such duty is not *enforceable*. Libertarians frequently argue that the moral framework defined by negative liberty neither gives us the legal tools to take from some to help others, nor is it even necessary: "Humane people will see to it that others do not starve, if it is possible to help them; and most people are humane" (Narveson 2015, 208). Such libertarian doctrine does not deny that it is desirable to help the poor, however, it resists the implication that people can be *compelled* to do so because *omission* imposes *harm* on those in need. But according to Narveson (and others), we cannot rightly speak of *harm-infliction*: In a typical simplified conflict between a rich person living in abundance and a poor person at the brink of starvation, refusing to feed the hungry cannot be said to *impose* harm – assuming that the rich person's action did not actively bring about the misery of the poor person (Narveson 2015, 212). Instead, it "leaves them in whatever condition they were before the question of feeding them arose" (Narveson 2015, 212). And in a potential *conflict*, the right is on the side of the rich: A poor person's attempt to *take* from the rich person's surplus possessions against his will is at odds with the rich's right to life, liberty, and private property; however, *defending* oneself against such interference is not (Narveson 2015, 213). Furthermore, in a Hobbesian spirit, it is allegedly beneficial to come up with a contract in favor of non-interference since being forced to invest in the necessary measures to defend one's possessions against others' infringement is inefficient (Narveson 2015, 217). As a "contractarian observer" will agree, in a situation of "war" every party will lose in comparison to an "optimal peaceable agreement" (Narveson 2015, 219). Arguing against such

conviction would potentially throw us back into a state of nature in which no one can "hope to benefit from his labor, since everything he does to better his situation will quickly succumb to predation by others" (Narveson 2015, 219). Correspondingly, we need rules to enforce the preservation of liberty – rules defined by negative freedom. However, the idea that such negative liberty of non-interference gives clear preference to the right of a rich person to spend his surplus possession on whatever luxuries he pleases over the liberty of a poor person to take whatever is needed for him to meet his basic needs is precisely what Sterba challenges.

There are many particularities about rights, liberties, and harm to be debated. We can certainly observe that there are constantly conflicts between the preferences and liberties of different people in society and even if we would be able to give everyone what he wants, being completely free from the interference of other people would be impossible (Sterba 1978, 116). We can also discuss which kinds of inability to act should be regarded as 'unfreedom' or 'coercion' and whether it makes sense to claim liberty as a *social ideal* (Sterba 1978, 116). Finally, we could dive into the jurisprudential debates on the differences between *intended* and *unintended* consequences or the moral status of *omissions* versus *commissions* (Sterba 1978, 117–18). But what we merely need to dedicate our attention to in order to grasp the most relevant step of Sterba's argument is the negative liberty libertarians are concerned with. What we may find is that the tension between the rich and the poor can be framed as a conflict of negative liberties in a way that libertarians tend to overlook (Sterba 1994, 70).

As already pointed out in the methodology chapter, political theory and philosophy demand certain presuppositions and moral intuitions to be taken for granted, pre-defining the practical requirements of a certain, say, political system. Sterba (1994, 64) agrees that there is "no nonarbitrary way to determine what practical requirements to accept" when we discuss a political ideal that may well lead us to very *different* conclusions. As illustrated earlier, Rawls's conception of justice, for example, is "rooted in a prior acceptance of modern social democratic traditions" whereas to (Lockean) libertarians negative liberty is the ultimate goal

leading them to define such freedom as the "absence of constraints in the exercise of people's fundamental rights" (Sterba 1994, 64–66). According to libertarians, the realization of negative liberty demands for a slim night-watchman state with a conception of justice that may well allow unequal property distribution and unequal basic opportunities (Nozick [1974] 2012, 26–35; Sterba 1978, 115, 1994, 67). The key ingredient to Sterba's argument is the claim that from the libertarian definition of negative freedom it does *not* unequivocally follow what precisely such a negative liberty gives us the freedom (to get).

Libertarians claim that "liberty always has priority over other political ideals" (Sterba 2015b). And in the Lockean tradition, from the ambition to achieve the greatest possible amount of freedom "commensurate with the same liberty for all", more specific requirements can be derived, "in particular a right to life, a right to freedom of speech, press, and assembly, and a right to property" (Sterba 1994, 67). However, with this array of desirable secondary rights, liberty remains the most important element and as long as the rich cannot be said to actively limit the negative freedom of the poor, the case for redistribution is weak in the eyes of the libertarian – even if the poor are at the brink of starvation. As Sterba (2008, 59) sums up, libertarians think "that liberty always has priority over other political ideals, and since they assume that the liberty of the poor is not at stake in such conflict situations, it is easy for them to conclude that the rich should not be required to sacrifice their liberty to that the basic needs of the poor may be met". But this is precisely where, according to Sterba, the libertarian conception is mistaken: Such situation may well be described as conflict where liberty is at stake at both sides. Correspondingly, his argument creates a new symmetry between the rich and the poor and provides *both* sides with a position of strength. Sterba (1994, 70, 2015b) shows that the liberty of the poor actually *is* limited when they are prohibited from taking from the rich what they need for survival and their actions are protected by *negative* liberty just as much as the rich are: "In fact, however, *the liberty of the poor is at stake in such conflict situations*. What is at stake is the liberty of the poor not to be interfered with in taking from the surplus possessions of the rich what is necessary to satisfy their basic needs"

[emphasis added]. Framed like this, the situation takes the shape of a conflict of *negative* liberties, and giving preference to the negative freedom of one party would mean rejecting the liberty of the other (Sterba 1994, 70). Correspondingly, the situation is not as one-sided as libertarians would like to imply with the poor *unjustifiably* taking from the rich and therefore *violating their freedom* from interference. Instead, we enter a moral arena in which we must ask *whose* liberty we should rightly interfere with (Sterba 1994, 70). The debate is molded into the question whether the liberty of the poor or the liberty of the rich is "morally enforceable" (Sterba 2008, 59).

Sterba (2015b) argues that it is, in fact, a matter of *higher-ranking* liberties and *lower-ranking* liberties. He concludes that the liberty of the poor in having their most basic needs met (which is higher-ranking) trumps the rich person's liberty to spend his surplus possessions on luxuries (which is lower-ranking) (Sterba 2015b). In opposition to Narveson, Sterba (2015b) claims that such hierarchy *is* enforceable and it "will ground a right to welfare". He sees his approach as a completion of "the Kantian project in moral and political philosophy", showing how "morality so justified leads to a demand for substantial equality" (Sterba 2008, 48). Sterba implies that libertarians (and the rich) themselves will *see the need* for greater egalitarianism: In order to disincentivize the poor from exercising their negative liberty (that is, taking from the rich what is necessary to meet their basic needs), "it will be incumbent on them to institute adequate positive welfare rights for the poor" because only then "will they be able to legitimately use any remaining surplus possessions to meet their own nonbasic needs" (Sterba 1994, 82). Correspondingly, libertarians may eventually be inclined to endorse political goals shared by socialists and welfare liberals, that is, welfare state institutions and *positive* liberty rights (Sterba 1994, 82).

At this point the reader may ask two questions: Why is especially Sterba's argument introduced as an 'ally' to the argument proposed in this thesis? And why does Sterba go out of his way to promote welfare state policies and social institutions from within *libertarianism* rather than simply adopting a mainstream welfare liberal or socialist approach? To both questions the answer is the same: It

is a matter of strategic nature. Sterba is very clear about this aspect in his debate with Narveson himself: "It also bears noting that by appealing simply to the libertarian ideal of negative liberty, I lose virtually nothing by not appealing directly either to a welfare liberal ideal (involving the meeting of everyone's basic needs) or to a socialist ideal (that requires substantial equality). Since I claim that the same practical results that welfare liberals and socialists favor can be derived simply by appealing to a libertarian ideal negative liberty, argumentatively it is much better to *appeal to a libertarian ideal of negative liberty* to *get to those same results*" [emphasis added] (Sterba 2015a, 190).

Methodologically speaking, Sterba's approach is highly similar to the strategy employed in this thesis: Showing how *classical liberal principles* may entail a 'genuine meritocracy' that, in turn, must be amended with greater equality of opportunity (for example by pushing back against marketizations) has an argumentative force that a theory starting from, say, *solidarity* as a presupposition lacks. Put differently: Illustrating how individualism, liberty, autonomy, and merit could urge us to embrace the policies that are necessary for a more even 'playing field' has a better chance to convince neoliberals or libertarians than a doctrine that starts with, for example, a communitarian or socialist basis shaped by traits such as compassion, communal duty, virtue, or collectivism. Sterba's argument also aligns with the overall narrative of this thesis that questions the feasibility of libertarianism or hands-off market liberalism in modern democratic societies. It cannot be denied that it is easy for us to observe a constant conflict between the liberties of different groups, and that the rich (for example, land owning) classes – directly or indirectly, intended or unintended – systematically limit the freedom of the poorer classes. We also have reason to conclude that negative liberty as imagined by libertarians would only work under 'ideal conditions', that is, a world in which everyone (in a Lockean spirit) indeed has a chance to find a piece of land to make a living on his own, rather than being born encumbered with deeply unequal starting conditions into the race of life that is already predefined by resilient social arrangements and traditions. With a tremendous apparatus of

established classes and cemented provisions, Sterba's argument (and mine) follow the partly established critique that libertarianism is ahistorical.[29]

[29] To be even more critical (and a bit cynical) with regards to American libertarianism: There may be a case to be made that such idealized Lockean idea has *always* been ahistorical. After all, even the early European settlers certainly did not find an entirely empty new continent to call their own. Instead – and to force it into political terms – the previous socio-political order was abolished, and the property of the land-owning population was 'redistributed'. This, of course, is a very downplayed version of the forced displacement and the eradication of the indigenous peoples – certainly an act we may rightly describe as a substantial 'violation of negative liberty rights'. For further information on the treatment of indigenous ownership, American settler colonialism, and U.S. liberal imperialism, see, for example, Hixson (2013), Konkle (2008), Ivison (2020), and Ivison et al. (2000).

7 Summary and Conclusion

The preference for liberal democracies is no longer as self-evident in the 21st century as it was during Francis Fukuyama's famous claim in 1989. Despite the tremendous amount of criticism aimed at Western political frameworks, in this thesis I argue that there are nevertheless merits in liberal democracies which make them worth preserving. This conclusion does not deny significant problems and challenges in the liberal world order. It merely rejects the more radical statement that, due to its flaws, the days of liberalism are numbered.

Let us recap the cornerstones of the argument we pursued in this thesis: We started with the claim that liberal principles have the capacity to advance a meritocratic justification and limitation of egalitarian policies in pursuit of a better leveled playing field crucial for a genuine meritocracy. These policies partially resemble the welfare state goals frequently promoted by social welfarists, egalitarians, or communitarians and include, for example, free (higher) education. Given that 'free' translates into 'publicly funded' via taxation, we are therefore concerned with binding state interventionism which we can rightly define as 'coercive legislation' in alignment with this thesis's title. The necessary argumentative steps have been pursued as follows: After defining the fundamental terminology in 3.1 and 3.2, we engaged in the overarching debate of part I, that is, the claim that despite its imperfections, classical liberalism (and by extension: liberal democracy) should be viewed as a valuable ideology (or political system, respectively) that we must not discard inconsiderately. This conclusion is justified by contrasting the substantial imperfections both in Western nations, and in the fundamental principles of liberal thought themselves (see 3.4), with an emphasis on the 'doctrine of freedom' as a crucial *safeguard*: Chapter 4 shows both liberalism's ability to adopt the role of an antidote against coercive paternalism, a type of patronizing legislation that undermines autonomy, and its capacity as a bulwark against atrocious totalitarian ideologies that, historically, found their embodiments in Soviet communism and German fascism. Liberalism has a

moderating feature: Milanovic (2020, 12), for example, insists that "liberal capitalism has many well-known advantages, the most import being democracy and the rule of law". If we accept this argument and embrace classical liberalism, we are likely to also endorse meritocracy as (the most) relevant principle of just distribution. The meritocratic conception, in turn, entails concern for talent and effort as the relevant criteria that ought to decide 'the race'. And as this metaphorical frame intuitively implies, the meritocratic order would not make sense without an 'even playing field', that is, a legal, socio-economic, and political framework that is not 'rigged' in a sense that it favors the beneficiaries of a hereditary plutocratic elite. For merit to 'rise', a genuine meritocracy needs genuine equality of opportunity.

This narrative leads us back to the methodological nature of the argument explained at the very beginning: We are concerned with an 'imperfect' or 'non-ideal' approach. Correspondingly, our goal is to propose *relative improvements* rather than advertising an ideal state of *perfect equality of opportunity*. In fact, we explored the claim that an attempt to achieve the most radical version of equal opportunity would bring about atrocious result. Advocating a public funding scheme for crucial institutions, such as universities and colleges, is certainly a feasible improvement aligning with the '*more* equality of opportunity' approach, whereas eugenics, genetical engineering, or the abolishment of the family are abominations of an equality of opportunity put ad absurdum. This argumentative frame allows us to justify and limit egalitarian policies in pursuit of equality of opportunity. We can conclude that interventionism is justified if it serves the purpose of promoting a genuine meritocracy (in opposition to outcome-based egalitarianism, for example). This conclusion – to circle back to this thesis's beginning – then implies that classical liberalism is indeed endowed with the tools to address some of the most prominent flaws and subjects of criticism in Western liberal democracies.

This culminating judgment technically exhausts the scope of this thesis's *core* argument. The provision of an even playing field does not dictate that the meritocratic machinery then brings about an equal *outcome*. And our argument

would allow us to address the inequality of outcomes only if they would, in turn, significantly undermine the equality of opportunity of, for example, the next generation. We may rightly claim that this is already a substantial improvement and a, perhaps not *revolutionary* yet *meaningful*, conclusion. Even though we may have a *fundamental* quarrel with the existence of inequality and hierarchies per se, a genuine meritocracy yet allows for significant political changes to be justified, enabling us to push pack against a hereditary plutocracy of the rich and privileged. Correspondingly, while starting with the principles of classical liberalism, we yet end up with a conclusion that differs drastically from the vision of a minimal state modern libertarians would propose. But nevertheless, *equality of opportunity* can certainly lead to highly *unequal outcomes*.

A further elaboration of this 'problem' (if we define it as a problem, which is not self-evident) exceeds the scope of the debate employed in *this* thesis and every subsequent thought should be regarded as a, say, prospect for future discussions. And to be clear: We *could* well endorse this conclusion. It would be the result of a coherent application of our guiding principle of justice that substantially different rewards and living standards are deemed acceptable if they are the result of *morally relevant criteria* (including both individual deservingness, and the overall meritocratic efficiency), rather than a reflection of the arbitrary financial fortune of someone's parents. After all, as Roemer (2002, 457) points out, "equality of opportunity finds no moral bad in inequality of final condition across individuals ascribable to *differential effort*" [emphasis added]. We could argue that meritocratic justice implies that the outcome – as unequal as it may be – is morally acceptable if everyone was sufficiently endowed with the opportunity to participate in the race. We could be willing to accept that having winners living in excessive wealth and having losers living in crushing poverty does not undermine our principles of equality and justice if the outcome is a result of their *merit* (= talent combined with effort) rather than a consequence of an intergenerational reproduction of hereditary privileges in a preconcerted, uneven, and rigged race.

However, if we do *not* feel satisfied with such an outcome we could (a) further explore if classical liberalism might also have something to say about the outcome after the race has ended. Or we could (b) adopt an 'academic humility' and look for inspiration in other disciplines to find solutions for the remaining 'undesirable' features of our meritocracy. There is nothing contradictory in the following two simple claims: On the one hand, a certain justice principle may well be the best one we have, leading us to conclude that that it would be wise to adopt it as a leading paradigm. On the other hand, we can, at the same time, admit that our principle is *not beyond imperfections* and, correspondingly, it is a sign of prudence and academic humility to look for correctives in other doctrines. This is the type of strategy we adopted in the paragraphs on Frankfurt: We can indeed endorse the idea of a race that is to be won by those who do best, and, correspondingly, follow the conviction that redistribution is, generally, only justified to *bring about the underlining equality of starting conditions*. Yet, this focus does not categorically disenable us to have compassion with those who end up at the bottom of the aristocracy of talent. It can potentially lead us to conclude that we should consider further redistributions if we desire an outcome in which everyone at least has enough - even if the 'failure' of those who 'lose' on an even meritocratic playing field was truly their own fault. We can well remind ourselves of Wooldridge's conviction that 'more and wiser' meritocracy urges us to remoralize merit by relearning humility and a renewed sense of public duty. With this summary in mind, let us conclude by considering a few final thoughts.

As explained earlier, the concrete policies this thesis's core argument would promote are not substantially different from (a part of) the set of goals welfare egalitarians or communitarians frequently endorse. Advocating the position that people should be enabled to make use of their natural endowments by, for example, enjoying adequate access to education without being arbitrarily limited by the financial capacities (or lack thereof) the lottery of birth has equipped them with, is not a revolutionary ambition originally developed in this thesis. Improved access to (higher) education, which is only one exemplary policy-prescription our argument endorses in the name of better equality of

opportunity, better meritocracies, and, therefore, better liberal democracies, can be promoted for a myriad of considerations, all very different in character.

As Alexander Brown (2006, 78) points out, what is "right and just" in terms of educational opportunities can be justified from various angles. One potential justification takes the shape of a Kantian argument that "emphasises not the goodness of education as such but the dignity of rational persons, where that dignity may well depend for its expression on agents being educated to a standards that enables them to pursue valuable projects" (A. Brown 2006, 78). This idea aligns with Rawls's ([1971] 2003, 87) emphasis on the crucial "role of education in enabling a person to enjoy the culture of his society and to take part in its affairs, and in this way to provide for each individual a secure sense of his own worth". A third type of argument focusses on the overall effects an advocacy for better access to education on, say, 'political equality' can bring about: "The basic idea is that everyone should have access to a sufficient amount of education to enable him or her to function as a useful contributor to local debates about community affairs, as a meaningful participant in democratic decision-making about national issues and as someone with the wherewithal to stand for political offices should they so desire" (A. Brown 2006, 79). Finally, judging from a standpoint of aggregated beneficial outcomes, we may simply claim "that it is in the best interest of the community as a whole that all children should receive the best education that can be provided" (Nash 2004, 375). As we see, many of these arguments are implicit replies to the corrosive effects the neoliberal marketization of education, for example, can bring about, as discussed in especially 5.1.2.

This thesis's argument pulls in the same direction but does so based on a different consideration. The structure of the argument is not (dominantly) concerned with the dignity of rational persons, the ambition to provide people with a sense of communal worth, or the importance to equip all people with a minimum level of education so as to enable them to engage in the democratic discourse in a meaningful way. And let us avoid confusion: At least after the discussion of the pathological marketization trend in 5.1, it should be evident that the goals mentioned in the previous paragraph *do* motivate the issues addressed in

this thesis. But the professed goal is to 'get there' while making use of different (and perhaps unusual) assumptions and strategies. The idea is *not* to make a case for publicly funded access to higher education by assuming that – by virtue of being a human creature – everyone simply has certain entitlements, or by claiming that in the name of overall welfare efficiency alone, a highly educated population is desirable because it brings about the best outcome. Again: These are welcome (and, as far as I can tell, adequate) complementary arguments. But the *core claim* advanced in this thesis is, instead, that classical liberalism entails meritocracy and meritocracy, in turn, demands equality of opportunity. Correspondingly, we must endow people with a set of sincere chances so that the whole liberal project at the heart of our concern makes sense.

The previous paragraph, therefore, already gives a partial answer to the important question we have posed multiple in this thesis: Why make all this effort just to eventually arrive at conclusions that are, in some instance, very similar to those traditionally promoted by, for example, social democrats? Why not simply adopt a, say, Aristotelian position, implying that as social animals aware of the pressing communal issues to be democratically discussed at the town squares of our modern 21st century poleis, we come together fathoming that a more compassionate and virtuous egalitarianism better promoting the common good would be desirable in opposition to the neoliberal behemoth the past four decades have given rise to? This may well be an (exaggerated) vision of what modern communitarians might have in mind. The answer, put as shortly as possible, is that classical liberalism has a certain value of its own.

Every political ideology has strengths and weaknesses. One of liberalism's weaknesses is certainly that it can, as we have seen, be interpreted in (or corrupted into) a market oriented neoliberal way or doctrine that takes one aspect, that is, negative freedom, including *economic* liberty, and declares it to be the supreme principle, undermining the crucial importance of others, such as justice, peace, tolerance, civil society, and equality. Such manifestation of liberalism can lead to a society shaped by substantial inequalities that is increasingly perceived as a cold and atomistic framework, corroding social cohesion and communal ties. This

situation, as we have clearly witnessed in the past decade, can then give rise to resentment and a feeling of disenfranchisement, in turn, paradoxically (and yet logically) leading to a, for example, populist or identitarian public-spiritedness. However, in opposition, political theories built around a communal or collectivist vision of society have other problems: Such ideologies might indeed allow us more easily to advance desirable policies fostering the common good in our communities than liberal individualism. But they are certainly more prone to the opposite category of corruption and misuse: Here, the problem may not be that the whole framework becomes too isolationistic, deprived of dignity and compassion, but that a nightmarish governmental apparatus may arise as soon as the communal values and paradigms are no longer as virtuous, considerate, and prudent as Aristotelians would like them to be. Again: The 20th century, unfortunately, provided no shortage of examples that clearly show what can happen if a community adopts a 'vision' for its nation that exceeds the telos of a liberal state which, quintessentially, is concerned with providing an adequate framework of neutrality, allowing different virtues, values, purposes, or visions for a 'good life' to coexist.

In a nutshell: This thesis is, therefore, aiming to justify policies more frequently associated with welfarists, social democrats, or communitarians without adopting their, let's say, holistic *foundation*. Correspondingly, the applied strategy is an attempt to preserve classical liberal thought as well as its strengths while addressing the downsides of the liberal project. In this, the approach may also have a better chance of persuading those who share the fundamental convictions of a, let's call it, moderately right-leaning classical liberalism or libertarianism, to share the conclusion that a certain set of welfare state policies at the expense of increased interventionism (= taxation) is yet justified. After all, people with a competitive spirit, who are convinced that they deserve the fruits and trophies of their superior performance in the meritocratic game, may come to realize that despite all emphasis on liberty and self-ownership, their claim only makes sense as long as they weren't winning on a drastically tilted playing field.

In a concluding advocacy for a 'reformed' classical liberalism consistent with a set of opportunity-ensuring welfare state policies via meritocracy as a link, let us briefly reemphasize that we are not merely *twisting* liberal principles as for them to meet the goals we desire. Instead, they frequently exist in a relationship of tension but can well be interpreted in a way that they serve a common goal. We may come to agree that, for example, "modernity's cherished, yet often conflicting, ideals of equality and excellence can coexist. They are not zero sum but can be mutually reinforcing. Excellence … is necessarily positional, as competition and difference are part of its constitutive norm. But equality also furnishes one of the most compelling preconditions of excellence" (A. S. Markovits and Rensmann 2011, 165). We should also reemphasize that as political philosophers concerned with the problems of earthlings, we do not philosophize behind a hypothetical veil of ignorance, on a starship, or on a planet that won't start spinning until we are happy with the blueprint we reasoned into existence. Societies *do* exist and they must be arranged in one way or another *now*. Correspondingly, our goal is not perfection. What we propose is not, will not be, and does not have to be *flawless*. We may, instead, agree with Wooldridge (2021, 367) that the value of our system must be judged in comparison to other feasible systems: "Meritocracy succeeds because it does a *better* job than the alternatives of reconciling the two great tensions at the heart of modernity: between efficiency and fairness on the one hand, and between moral equality and social differentiation on the other" [emphasis added].

Let us also clarify that what we discussed is not only an exclusively American (or British) topic. Especially the U.S. simply happens to be the Western democracy where the classical liberal foundation, the recent neoliberalization, and the marketization, arguably, manifested themselves most visibly. We can well speculate about the reasons for this. One theory may imply that the U.S. and Britain, especially under Reagan and Thatcher, have most zealously adopted the *neo*liberal framework, whereas a nation like Germany turned less paradigmatically to the neoliberal doctrine due to its intrenchment in *ordo*liberalism which led to the construction of a *social* market economy in the

post-World War II era. Another explanation has to do with a particular American sentiment, that is, the dogmatic insistence on bootstrap liberalism, the notion of the 'land of opportunity', and the cherished vision of an 'American Dream': "It had been hypothesized that (belief in) equality of opportunity in a society diminishes support for the welfare state. This could potentially explain the low taxes and social benefits in the United States vis-a-vis Europe" (Krawczyk 2010, 131).

But again: The area of application of this thesis's arguments exceeds the U.S. American framework since equality of opportunity can certainly be described as a *spectrum*. Reforming the funding of universities is certainly an important first step – a goal that has already been achieved in some European welfare states. And yet, such nations are not free of economic obstacles with regards to the example of access to higher education. Making colleges and universities 'free' simply is not enough if financial necessity yet forces people to choose a different path that, perhaps, aligns less adequately with their talents and potentials, but promises a more immediate income. Our advocacy for better access to higher education can well include further policies already known from Denmark, for example (Noack 2015). Establishing a funding scheme that, quite literally, *pays* students to attend university, rather than burdening them with frequently lifelong debts, may be a consistent consecutive step, following the logic of the argument we pursued. While this may be regarded by some as an extreme type of distributionism in the name of equality of opportunity, we can yet imagine a broad range of feasible nuanced policies, and follow Nash (2004, 363) in arguing that the "inability of students from poor families to embark on a course of study may be met by a system of scholarships, bursaries, and loans; the barrier of distance may be compensated by special provisions, boarding hostels, grants, correspondence education, and so on".

Let us also remind ourselves that this thesis's argument is not exclusively concerned with higher education. This merely served as an example motivated both by the 'great equalizer' hypothesis, and by the fact, that universities certainly rank among the institutions in which we can observe the effects of the

marketization trend criticized in 5.1 most clearly. As pointed out before, the 'race of life' and the corresponding demand for equal opportunities begins much earlier. Chances for adequate educational engagement at the level of primary and secondary schools are just as important – maybe even more. Furthermore, we can partially follow the sentiment of Milanovic's (2020, 21) conclusion who implies that the future of Western capitalist meritocracies depends on our ability to "achieve greater equality" and to this end, "countries should develop tax incentives to encourage the middle class to hold more financial assets, implement higher inheritance taxes for the very rich, improve free public education, and establish publicly funded electoral campaigns".

In summary, higher education, including the brief debate on affirmative action, is a handy example, however, it is not an outlier. This thesis's argument can be applied to push back against legacy admission, to justify higher inheritance tax, and to promote policies which ensure equal quality standards of education in elementary, middle, and high schools (which can be especially important in countries with a large sector of private schools). But the argument is not limited to education and to students of different ages, either. We may make the case that the meritocratic machinery can only work sufficiently well if people have access to at least a reasonable minimum of universal health care. Furthermore, opportunities, presumably, must be reproduced: It would be prudent to utilize this argument to justify reemployment programs for adults, to facilitate the integration of migrants, to provide chances for rehabilitation to formerly incarcerated people, and to adequately accommodate the needs of people with disabilities, say.

Lastly, let us briefly take the chance to, again, take what has *implicitly* been answered throughout the argument and make it *explicit*: the limitations. Put differently: What is a genuine meritocracy *not* concerned with and what does it, correspondingly, *not* justify? Broadly speaking, the argument entails that binding liberty-limiting state interventionism is legitimate if it serves the goal to bring about better equality of opportunity and to ensure that the meritocratic system works adequately. This reasoning, as pointed out before, therefore, shows little concern for *outcomes* – unless those outcomes, in turn, undermine the equal

opportunities of a subsequent generation, for example. This means that the argument is not *essentially consequentialist* – it is not about making sure that everyone is equally well-off or equally happy at the end of the day, but a meritocracy is, arguably *by definition*, concerned with fair starting conditions and with procedural justice. To be more concrete, the argument has clear limitation when it comes to redistribution. Different people need different levels of resources to achieve the same level of welfare, utility, happiness, satisfaction, or whichever consequentialist expression we wish to choose. To borrow Dworkin's (1981a, 189) term, people can cultivate 'expensive tastes': Those people may need champagne to reach the same level of contentment others can achieve with an inexpensive beer (R. Dworkin 1981a, 189). Distributing resources following an *outcome-based logic* that, for example, seeks to equalize contentment between different individuals would *not* be justified by the argument we explored in this thesis.

Furthermore, one clear goal of this philosophical quest built on classical liberalism is to argue the point that liberal principles, such as *individual liberty* as well as *neutrality* on different competing visions of the 'good life', should be paramount unless interventions are justified in pursuit of equality of opportunity and a genuine meritocracy. This means that this thesis's argument would oppose – in the absence of a better term – policies based on 'value judgments': There would hardly be any reasonable grounds to ban, for example, same sex marriage or certain 'non-intrusive' religions in the name of equality of opportunity. Similarly, other areas, such as gender or skin-color, would be protected from discriminatory policies. This insistence on liberal individualism, personal freedom, and neutrality furthermore brings us back to a limitation that was introduced as one of the clear benefits of liberal doctrines in 4.1: This framework could never legitimize what Adam Smith ([1759] 1984, 342) calls 'men of system' – statesmen that Hitler, Stalin, and Mao are examples of. This thesis's argument is pragmatic: It seeks to justify improvements while preserving the fundamental safeguards in the liberal foundation. This foundation would not allow for 'grand visions' for society and leaders with a "love of system" and "regard to the beauty of order", "apt to mix

itself with that public spirit", eventually inflaming it "even to the madness of fanaticism" (Smith [1759] 1984, 341). Finally, this brief note on Smith's position brings us back to the methodological framework of this project: It is indeed not about becoming "enamoured with the supposed beauty of [our] own ideal plan of government, that [we] cannot suffer the smallest deviation from any part of it", but about making reasonable and prudent improvements within a political ecosystem that is destined to be imperfect.

We can expect the global economic *and* ideological competition between Western liberal, capitalist, and meritocratic democracies on the one hand and Chinese autocratic (but increasingly meritocratic) political capitalism on the other hand to culminate in the not-so-far future as China expands its influence on the international stage (Milanovic 2020, 16–21; Wooldridge 2021, 22). Correspondingly, it may be wise to position and reform the Western framework prudently so as to correct its internal flaws and inconsistencies while maintaining its adherence to liberalism's safeguards as well as its meritocratic features as a "golden ticket to prosperity" adequately equipped for the global clash of systems (Wooldridge 2021, 367). A reformed classical liberalism entailing a 'genuine' meritocracy which is, in turn, endowed with sufficient equality of opportunity, the wisdom to remoralize humility in meritocratic competition, and a renewed sense of public duty should be seen as a reasonable ideological framework worth considering in modern 21st century liberal societies.

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