

Introduction

Since John Rawls, and probably earlier, egalitarianism of some kind or another has been the dominant view of academic political philosophy. By egalitarianism, I mean just the idea that equality is itself an important and laudable political goal. This has led to two basic assumptions about political philosophy. First, equality is taken as the base point and any move away from it requires a justification. Second, inequalities are typically criticized just on the fact that they are inequalities.

These two assumptions have led to a stalemate of sorts between egalitarianism and libertarianism, between equality and liberty. Libertarianism does not accept the egalitarian assumptions. For libertarians, the basic political assumptions are: first, liberty is the base point and any move away from it requires a justification; and second, denial of liberty is typically criticized just on the fact that liberty has been denied.

By libertarianism, I mean the constellation of views that advocate the negative rights of life, liberty, and property; government limited to the protection of these rights; and a free market economic system. Libertarianism is within the liberal tradition, emanating from the classical liberals of the 18th and 19th centuries.

This difference between the basic assumptions leaves almost no room to resolve conflicts between a libertarian and an egalitarian. Take for instance, affirmative action. The egalitarian typically supports this because it supposedly leads to more equal opportunities for all people. The libertarian opposes it because it is an unwarranted interference by the government into the employment contracts of individuals. The egalitarian will not deny it is an interference, he just claims that it is warranted by equality while the libertarian argues that it is unwarranted because it limits liberty. The two sides speak past each other, one side saying "equality!" and the other, "liberty!"

Thomas Scanlon, a philosopher at Harvard University, presents a way to analyze, evaluate and resolve this disagreement in his Lindley Lecture, "The Diversity of Objections to Inequality." Scanlon is not arguing for equality as an important goal in itself. He says, "[t]he idea that equality is, in itself, a fundamental moral value turns out to play a surprisingly limited role in my reasons for thinking that many forms of inequality ... should be eliminated" ("Diversity" 1). Unlike typical egalitarians, Scanlon is not appealing to equality as the reason for objecting to inequality. What he is doing is trying to get a deeper understanding of the many more fundamental reasons why we might

object to inequality. He thinks that this will give claims about equality a better and clearer defense (1).

Scanlon wants to show that we have certain moral concerns, that do not, themselves, rely on the notion or the importance of substantive equality, and these lead us to object to certain kinds of inequality. Our concerns about equality and inequality reduce to these concerns. However, given these concerns, Scanlon argues in the lecture that we should move towards more substantive egalitarian ideals (“Diversity” 1).

Though Scanlon does not criticize or even mention libertarianism in this lecture, the objections he raises to inequality are potentially fatal to it. If libertarianism fails to properly and adequately address these objections, the theory should be rejected on those grounds. Still, it is important to keep in mind that these concerns would not require the rejection of libertarianism just because it does not encourage greater substantive equality or because it merely allows great inequalities. These concerns would also require the rejection of egalitarian systems that failed to address these concerns appropriately as well.

In his Lindley Lecture, Scanlon identifies five moral goals that he argues will lead us to object to certain levels and types of inequality. Inequalities might need to be eliminated: (1) to alleviate human suffering, (2) to prevent stigmatizing differences in status, (3) to avoid unacceptable

forms of power and control, (4) to preserve equal starting points as required by procedural justice, and (5) to assure individuals with equal claims receive equal benefits.

If Scanlon is correct, and these moral concerns are valid and lead us to object to inequality, then libertarianism would seem to be in trouble. On one hand, libertarians argue that inviolable rights are necessary for a free society, but, on other hand, they seem to have to violate rights to deal with these moral concerns.

Libertarians have two options open to them. First, they could deny that the concerns are valid at all. Since most of the concerns raised by Scanlon are plausible to most reasonable people, this option requires substantial explanation why the concern is not actually valid and why it appeared to be so. Second, they can show that libertarianism can adequately address these concerns without compromising its defense of liberty. This second option is what will be pursued in this thesis.

This thesis is not intended to defend libertarianism in a substantial way or present arguments for its assumptions. The point here is not to present a sound and valid argument for libertarianism and against any alternative. Moreover, this thesis does not attack egalitarianism. The validity or soundness of the positions that egalitarians hold is not in question. The point is to address the concerns

that most non-libertarians have about libertarianism. It is an attempt to show those who are not committed to libertarian principles that their concerns are adequately respected and handled within the libertarian system.

Furthermore, Scanlon's project provides a way out of the traditional disagreement between egalitarians and libertarians. His method points to a separate foundation for our concerns about inequality and equality. His idea is that we object to inequality because of the concerns that he raises and that these objections are what move us to value more equality. This thesis will show that because these concerns do not provide decisive objections to libertarianism, we might have good reasons to believe that liberty could trump claims about equality. Since a fully libertarian society, it will be argued, will not lead to suffering, domination, unfairness, or injustice, Scanlon's concerns are adequately met and a move towards substantive equality would not be required.

The thesis is divided into five chapters, each one focusing on one of the concerns that Scanlon raises. It begins by explaining what the concern is in each case and providing some examples to illustrate the concern. Then, reasons are presented for thinking that libertarianism can deal with the concern in a satisfactory way or how the alternative to

the libertarian position has costs that make such an alternative undesirable.

Chapter One: Alleviate Human Suffering

The first reason for objecting to inequality raised by Scanlon is the concern for the alleviation of human suffering. This is the concern that people should not be lacking in essential or basic needs, such as food or shelter. It rests on the reasonable assumption that it is morally desirable to prevent and alleviate human suffering. Simply put, human suffering is a bad thing; and if we can prevent or alleviate that suffering, then this is a good thing.

The concern for the alleviation of human suffering is not premised on a desire to reduce the resource gap between rich and poor. Nor is it based on the egalitarian principle that all people should have access to the same level of resources. The concern only has to do with the simple, benevolent wish that other people not unnecessarily suffer. This desire is all that Scanlon is appealing to here. He thinks that if one has this desire then one will be moved towards the belief that the redistribution of wealth and resources is needed to alleviate the worst kinds of suffering and severe privation.

According to Scanlon, the transferring of resources is the most desirable way of alleviating severe human suffering, but only if it can be done without causing new or worse detrimental consequences (“Diversity” 2). This means we should not take too much from the well off, only enough to help alleviate the terrible conditions. For example, it

Do not duplicate, cite, or distribute without permission of author

is not necessary or desirable to take all of Bill Gates' wealth. Just a portion of it can be taken and redistributed to those in severe need. This is acceptable, it is often thought, because Gates' way of life would hardly be affected, while much would be done to alleviate the suffering of those unable to afford food or basic shelter. We should also want to be careful about how the transfer is done; if done poorly it could cause other harmful and undesirable effects. If the local militia shows up at the door of Bill Gates' mansion demanding a portion of his wealth so that it can be distributed to the poor, then serious damage would be done to our sense of security, order, and democracy. It should be noted that the above examples are inconsistent with libertarianism.

It seems true that there are important moral reasons for desiring the alleviation of human suffering; and moreover, libertarians argue that severe privation could be alleviated and handled within a libertarian system without forced redistribution. This might be done through voluntary redistribution such as charity or mutual aid, but more likely through an increase in overall production and wealth.

History has demonstrated that free, or rather freer, markets have increased the number of available opportunities and goods. Goods and services increase in overall number, but also in terms of variety and

quality. Most importantly, this increase allows goods to be available at lower prices.

In their article “Buying Time,” economist W. Michael Cox and journalist Richard Alm argue that “most goods and services go through a cycle of falling prices and improving quality as companies ratchet up to large-scale production, as markets expand, as competition arrives in the marketplace, and as goods and services move from luxuries to everyday conveniences” (42). We can see this by just comparing the kinds of goods and services that were available only a few decades ago in the U.S. to the kinds of goods and services available today. Computers and VCRs were luxury items 20 years ago, while today they are commonplace. They are much more affordable while at the same time their quality and features have dramatically increased. Cellular phones were not even on the market 20 years ago, and today they are ubiquitous in wide variety. Part of the reason these things are so widespread today is because the productive and competitive nature of freer markets have driven down the prices to a point where they are widely affordable for most people.

Cox and Alm report, in their Myths of Rich and Poor, that in 1994 almost 60% of poor households, defined as a family of four earning less than \$13,220, owned a VCR (15). More than 90% owned a color television set, and more than 70% owned at least one car (15).

Comparing these figures to what poor households owned ten years earlier in 1984 shows how individuals' access to material resources has increased. In 1984, little more than 3% of poor households owned a VCR, compared with 60% ownership ten years later. The figure for car ownership for poor households in 1984 was about 60%(70% in 1994) and for color televisions the figure was about 70% (90% in 1994) (15).

Comparing these figures to the percentages for all households, not just poor households, in 1971 is even more revealing. Cellular phones, VCRs, and personal computers were not in the marketplace at the time. Only about 43% of **all** households owned a color television set in 1971 compared to the 90% of the poor households in 1994. Little more than 30% of **all** households had air conditioning in 1971, while in 1994 more than 70% of just the poor households had air conditioning.

Not only has the cost of these goods come down, but variety and quality has dramatically increased. The kind of goods and services the average person in America owns and has access to today were not even available to the richest of the rich just 50 years ago. Consider the variety in TVs, automobiles, telephones, computers, stereos, shoes, foodstuffs, and other personal items. When it first came on the market, the personal computer was cumbersome, expensive, and without much computing power. Today, they have more power than most consumers

know what to do with. There is also a wider variety of computers fitting all different kinds of consumer needs and desires. Along with this increase in variety and quality, the prices of personal computers in this largely unregulated industry have dramatically dropped. As noted by Cox and Alm in their work, there are some exceptions to items becoming more and more affordable, like health care and college education, but the general rule seems to be lower costs and higher quality over time.

What these figures show is that life for the poor in the US has been getting better, at least from the point of view of access to and ownership of material goods and resources. Of course, there are some poor who are not doing better, and maybe even doing worse. This is the 10% who still cannot afford a color television or the 30% unable to own car. Even if we can shrink those numbers a bit by claiming that these poor have chosen not to own such goods, there is still a certain percentage that will desire these goods but not have access to them. More importantly, some may be in the dire need and privation of basic goods that Scanlon and others are concerned about. That is, not only do they not have access to TVs and cars, but also they do not have access to shelter, basic health care, or other basic needs.

Clearly there are such dire and desperate cases, but they would be relatively rare and easily taken care of by charity and mutual aid under

the libertarian system. Any individual in a libertarian society would be free to redistribute his or her wealth or to set up a charitable organization to help those in dire need. Individuals can also set up mutual aid societies and fraternal organizations that can aid in such cases. There is nothing in the libertarian system that prevents or discourages such undertakings. In fact, by leaving people free to deal with problems of poverty, it encourages all different kinds of ways to deal with aiding those in need. Even in our mixed economy, there is a high level of charitable giving. Almost 70% of contributions to charities come from individual households who give, on average, more than \$1,000 a year (Kelley 115). This figure does not even include the billions of hours given each year to private charities. Is it much of a leap to think that if people had even more wealth they would be willing to freely give even more to charities and other voluntary organizations for aiding the poor and those in need?

Something that should be recognized is that it is not poverty and privation that are created, but wealth. Poverty is the “natural” condition of humans. If humans do not produce goods and resources (wealth) then they remain poor. Wealth, basically the goods and resources produced by people, needs to be created and is the only solution to poverty. Libertarianism aims to allow people to be free to create and produce the

goods and resources they need and a surplus to trade with. This is why it is argued that severe poverty would be limited in the libertarian society.

Scanlon might, rightly, remind the libertarian that it is not inevitable nor guaranteed that a society organized around libertarian principles would in fact have these increases in the standard of living or ability to alleviate severe poverty through charity. Either there won't be enough wealth or there won't be enough charity. But if there were not enough wealth to give to charity, then even a forced system of redistribution would be ineffective at alleviating severe privation. And though true that since charity is voluntary it might not be done or done at a high enough level to help enough people, people do seem to give to charities, and to give more to charities, as the economy grows. Boston Globe columnist Jeff Jacoby reports that the Trust for Philanthropy tracks the level of charitable giving and according to their tracking charitable giving has increased every year since they started tracking giving in 1959. According to the American Association of Fundraising Counsel, since 1997, charity has increased \$15 billion dollars every year, surpassing a total of more than \$190 billion dollars given in 1999. Additionally the council reports that as the economy has grown, charity as a percentage of the GDP has grown. This means that philanthropic giving is being done at a higher rate, and this in the longest and widest

economic expansion in the history of our country. While this is not a guarantee, it does seem to indicate the high likelihood that as a society gets wealthier, it tends to give more to charity.

One of Scanlon's conditions for desiring redistribution of wealth is that it should not cause new or worse negative consequences. The main tool of redistribution and transfer of wealth has typically been the graduated income tax. The more wealth you have created and earned, the higher percentage of that wealth you owe in taxes. Much of these funds are then used by agencies aiding and providing for the least well off. Libertarians object to a graduated income tax, and many times to any kind of income tax or general tax, on the basis of strict property rights. But even granting that there has to be some taxation in any feasible system, redistribution based on the income tax leads to many more problems than it purportedly solves. Economists have long recognized that companies and individuals produce more wealth when they are allowed to keep a larger portion of what they produce (Hazlitt 38). The income tax then leads to less overall production of goods and services, which in turn decreases the opportunities for the less well off to get jobs and purchase needed goods.

The income tax also seems to encourage dishonesty and waste. The higher the tax rates, the more likely people will be dishonest in their

tax reporting (Heilbroner 304). Additionally, there is a huge waste in time, effort, and productivity, considering the amount of time and effort used up by preparing tax returns and keeping track of records on the part of the taxpayers.

By instituting a government-based redistribution system to alleviate suffering, one causes more problems; but primarily one decreases the overall ability of the system to alleviate the suffering. By reducing the overall production of wealth, goods, and services, the system would have less to redistribute. Additionally with less production, the costs for production increase, thereby increasing the costs of the goods and services. This increase in costs would leave many people unable to buy things they need and want, possibly creating even more privation and suffering.

Libertarians would object, on the basis of a strict right to property, to any kind of forced redistribution or wealth transfer system. But the concern for alleviation of severe needs privation does not require such a system. In fact, if economics and history are any indication, such a system would fail to alleviate privation as much as the laissez-faire system advocated by libertarians. And for the limited level of privation that a free economic system leaves unaided, the libertarian system does not prevent or discourage anyone from voluntarily transferring his or her

wealth and resources to alleviate the privation; and history has shown that people are willing to do such things. It should also be noted that no realistic system can catch everyone. Some people will always fall through the proverbial cracks. But the libertarian system seems to be more capable of making more peoples' circumstances better than other systems.

So Scanlon is right, in part, in claiming that in order to alleviate suffering there will be some transfer of resources from the well-off to the less well-off. The libertarian will agree to this, so long as the transfer is voluntarily and not forced. Additionally, this concern does not lead us to object to inequality, only to severe privation and suffering. A libertarian also will object to severe privation and suffering but argues that the most effective and just way to alleviate such need is through a system of strict private property rights and free markets. This would create the most wealth and opportunities, which in turn limits the level and severity of need and privation.

Chapter Two: Prevent Stigmatizing Differences in Status

Scanlon is next concerned that the least well off in a society may be stigmatized because of the level at which they are living or because of their status in society. This is different from the first concern because these individuals need not be lacking in any basic material goods or needs and in that sense they are not suffering. In the concern for stigmatizing differences in status, what is objectionable is the loss of a sense of self-worth, self-respect, and/or self-esteem due to one's particular status within society.

Self-worth, self-respect, and self-esteem can have many sources, and the loss of these can have many causes. Some may be deserved, and so are not objectionable. It is doubtful if one would object to the loss of self-respect that a criminal might have because of his life of crime. Additionally, the loss, according to Scanlon, may be caused by things "that have nothing to do with the actual facts of one's society" and so society cannot be held accountable ("Diversity" 11). For example, one may have some kind of disorder or syndrome that causes him to lack a sense of self-worth.

Since there are many sources of this type of feeling, Scanlon limits the validity of this concern to "only when institutions cause people to have these undesirable feelings" ("Diversity" 11). We can reasonably object to the feelings of inferiority and loss of self-esteem only if the

institution is the reason for these feelings. If the person's sense of inferiority and low self-esteem are not there in the same respect under different institutions, then the institution could be to blame for these feelings. Of course, the fact that someone meets these two conditions: (1) their sense of inferiority is caused by the institution, and (2) this sense would not be there under a different institution; is not sufficient to object to the institution. The criminal's loss of self-respect is due to the institutional arrangement and would not be there in an institutional arrangement that did not criminalize his particular behavior. Still, we do not object to the institution in this instance because the criminal, we think, should feel inferior and not have self-worth in this respect precisely because of his criminal actions.

Institutions can create a lack of self-worth, according to Scanlon, in three main ways. The first one he discusses is when an institution deprives someone of his or her basic rights. Take for example the denial of voting rights to Blacks in the American South. Not only was this a violation of their basic rights living under a democracy, it also branded Blacks as inferior to Whites. The denial of voting rights said to Blacks, in effect, "you are not worthy of this right and responsibility." This stigmatization of Blacks was certainly objectionable; however, it seems more objectionable that their basic rights were being systematically denied. Libertarians object to every case of deprivation of one's valid

Do not duplicate, cite, or distribute without permission of author

rights and desire to set up institutions that will protect people's rights. The fact that this could also alleviate a stigma of inferiority is an added bonus.

Secondly, an institution can also create a lack of self-worth when it intentionally treats people in a way that expresses the view that they are inferior and not worthy, but this institution is not in other ways unjust. Take for example a private school system that systematically refused to admit members of Jewish origin. Under the libertarian view of rights, this private school system has the right to admit and not admit anyone for whatever reason. But by refusing to admit Jews, the school system is expressing the view that Jews are not worthy to attend its schools. It is understandable, then, that Jewish people would object to this private school system that excludes them.

Lastly, institutions, Scanlon argues, can create a lack of self-worth even when they are not intending to denigrate individuals. If an institution's procedures and outcomes lead to feelings of inferiority in these individuals, then even though not intending to cause these feelings, the institution could be objectionable. Scanlon gives the example of the marketplace, which can lead to such a great disparity of wealth and material well-being that those at the bottom might feel as though they are not as good or worthy as those who are materially better situated. These individuals at the lower end of the economic scale may

Do not duplicate, cite, or distribute without permission of author

not even be poor by our common standards, but are just so below the average or normal level set by that society that they feel as though they are viewed and treated as less worthy. The market, itself, is not intending to express the view that members on the lower end of the economic scale are not good people or are not worthy people. As Scanlon says in his lecture this “is merely the side effect of the recognition of what is seen as valuable accomplishments and good fortune” (12). The marketplace rewards, both in material gain and status, those who accomplish the things the market is seeking; it does not seek to punish or brand those who were not as successful. Nonetheless, it is not surprising that the people on the lower end could feel that they are not worthy because they do not receive the rewards and benefits of the market.

Scanlon's argument is that any system, whether it be libertarianism, socialism, egalitarianism, etc., that is incapable of dealing with these concerns should be reformed or rejected. The question to examine now is whether or not libertarianism can in fact adequately deal with this concern about stigmas.

The libertarian might be tempted to dismiss this concern as invalid from the start. He or she might argue that the feelings of inferiority are illegitimate or unreasonable; a psychologically healthy person would not feel these feelings of inferiority facing the situations given in the

Do not duplicate, cite, or distribute without permission of author

examples above. People who feel inferior because they are not as well off as most people are basing their feelings, it might be argued, on envy; and such a basis is not a reasonable one for objecting to institutions. This may in fact be the case; however, in some ways it is rhetorically irrelevant. Many people, including Scanlon, do think that there are enough cases of reasonable feelings of inferiority to make a system that does not deal with these feelings in an appropriate way objectionable. It seems hard to argue that the feelings of the Jewish people who are denied admission to schools because they are Jewish are based on envy. It seems understandable that they feel that the system is saying to them they are not worthy and they are inferior. It is a much more fruitful and stronger response to show that even if the feelings of inferiority are valid, the libertarian system can adequately cope with them.

We can take a cue from Scanlon on some ways in which a stigma might be reduced or removed. Scanlon thinks that in a society where what is primarily important to self-esteem and self-worth are things like: “good moral character, conscientiousness as a citizen, and devotion to the well-being of one’s family and friends,” the status problems arising from the rewarding of accomplishments would not come about (“Diversity” 14). When accomplishments and rewards are not the main basis for self-worth and self-esteem, people are much less likely to feel stigmatized by the institution. For instance, some individuals might feel

Do not duplicate, cite, or distribute without permission of author

inferior because they are unable to make enough money to afford the nicer cars, homes, and other items that the society has deemed important. They feel inferior because of this; they feel as though they are not as worthy as those who have such things. Scanlon argues that if these things are not as valued and that things like moral character and behavior are properly valued, then the level of inferiority that some people might feel could be reduced. This seems a reasonable way to proceed. Take the average American teenage boy. It might be extremely important for him to be able to play sports well. But, if he is unable to exercise his athletic ability in a successful and effective manner, then he could experience a loss of self-worth and self-respect. On the other hand, if the ability is not important, say the ability to play the card game Bridge, then the lack of ability will have a negligible affect on the boy.

If this change in the perception of the level of importance of certain kinds of things is due to persuasion and education about the importance of certain values and goals, the libertarian would not object. If people freely come to believe that the differences in wealth or certain abilities are not important to one's measure of self-worth and self-respect, then all the better for them. Nothing in the libertarian system would prevent or inhibit such attitudes. Furthermore, it seems quite possible to create voluntary social movements that spread such changes of attitudes and perceptions.

Do not duplicate, cite, or distribute without permission of author

The second solution to the stigmatization that Scanlon offers is the diversification of important measures of self-worth and self-esteem. With many different kinds of things used to measure one's self-worth and self-esteem, then no one thing or group of things will come to dominate people's perceptions of their self-worth. There will be many avenues by which a person could measure his self-worth, and no one avenue would become the most important measure. Everyone, or most people, will be able to measure their self-worth on some scale, and not to feel inferior for not meeting some other scale. This solution does not seem to pose a threat to the principles of libertarian society so long as no coercion is involved. If there is a way to create the social institutions that can foster different measures of self-worth without coercion or violation of property and liberty rights, then there is no contradiction with libertarianism. As in the first proposal by Scanlon above, such a diversification could take place by voluntary associations of individuals working to create such a change in attitudes and perceptions.

One of the fundamental questions within this concern is whose role is it to change these attitudes and perceptions. Should the government be involved in affecting these changes, or should it be accomplished through individuals and private groups? The libertarian clearly will come down on the side of latter primarily because if the government is involved there is most likely going to be coercion and with

Do not duplicate, cite, or distribute without permission of author

it violations of individual rights. Furthermore, it seems unlikely that the government can effectively change people's attitudes.

The changing of people's attitudes, especially beliefs about how they view themselves, is a long psychological process. It is not like changing a light bulb where you just pull the old one out and put the new one in. It is a process of persuasion in which individuals give good, convincing reasons for a new attitude and against an old one. It requires a person first accepting the new attitude and then integrating that attitude and belief into his or her way of thinking and acting. It takes time and effort, even when they have accepted the new attitude as superior and rejected the old attitude, to adjust to this change and promulgate it through their thoughts and actions.

This is a long, sometimes arduous, process for an individual. It becomes even more complicated if we are trying to affect a change throughout a society. A society is not an individual mind that can accept attitudes and beliefs and then act upon them. The social norms and attitudes of a society do not come about through a process of persuasion and reasoning with the society as a whole. These norms and attitudes evolve through the interaction, decisions, and actions of all the individuals in the given society. In order to change the attitudes of society as a whole, one must change the attitudes of a sufficient number of the individuals within that society. These changes need to be done

Do not duplicate, cite, or distribute without permission of author

individual by individual through the process of persuasion and integration described above. Furthermore, how one is convinced and persuaded to change their attitudes will be very different for different people. One style and method may work well for some individuals, but not for others. It seems difficult for a government, which strives to treat its citizens equally, impartially, and in a standard way, to deal with individuals as differently as this process would seem to require.

This kind of individualized, local process is not something that the government seems capable of accomplishing well. The government certainly can affect the way people behave by modifying laws, taxes, and regulations. For instance, the government can decrease tobacco use by increasing the taxes charged on tobacco. This will decrease the use of tobacco because many people will be unwilling or unable to pay the higher cost. But have their attitudes changed? Has their belief about what they desire changed? In some ways, their beliefs have changed. They no longer believe that smoking is the action to take because of the new costs. These people's actions have changed given their personal cost-benefit analysis, but their beliefs and attitudes about the dangers or health risk of smoking may not have changed. If the taxes were removed, it is likely they would continue their use of tobacco. Furthermore, there are unintended consequences and costs of this raise in taxes. For instance, those who continue to use tobacco now have less of their

Do not duplicate, cite, or distribute without permission of author

income to save, to use for medical and education costs, or to have for other important uses. The tax must also remain high in order to control the actions of the tobacco users, and be continuously raised to attempt to push the costs higher for those individuals who are resistant to previous increases. The higher taxes would also adversely affect the tobacco industry and its employees.

This might be acceptable for something like tobacco use. It might be okay that we do not change people's attitudes about the dangers of tobacco use, but get them to stop using it. If we can get them to stop by controlling their behavior in this way, then we have accomplished our goal even if we have not really affected their attitudes about the dangers. It seems different, though, when we are talking about how people perceive their status and level in society. What is important here is not an individual's behavior but their attitude and belief about how they see themselves. We need to be able to change the attitude, not just the possible behavior resulting from it.

There is also what might be called the problem of freedom of conscience. Who is to decide what attitudes to change and what to change them to? One of Scanlon's proposals was the diversification of axes to measure one's self on. What axes will be included and excluded and how will the government make such a decision without prejudicing

and disadvantaging some members of a culturally diverse and morally pluralistic society?

One of the central values of American society is the idea that we have a fundamental freedom of conscience, that while we cannot always act on our beliefs, we are always free to believe what ever it is we believe in. If we have a government program designed to change our beliefs and attitudes about ourselves and what we value, this seems like an intrusion on this fundamental freedom even if it is done with little coercion. Furthermore, this process of top-down decisions about what attitudes to change and what to promote will exclude various beliefs and attitudes that are important to those who believe them and will include various attitudes and beliefs that are abhorrent to others.

The virtue of letting such a process evolve and develop in the private sector with little government involvement is that attitudes and beliefs can change overtime without the costs that occur when government tries. Also, it does so without the exclusion of values and the sense of intrusion into one's freedom of conscience. No one person or group is able to control or direct the process; no one individual or one group makes these kinds of decisions for others. In this way, everyone is involved in the process by promoting their own beliefs and attitudes, and having to convince and persuade others. The decisions of what attitudes to promote and what ones to jettison are made each day by individual

Do not duplicate, cite, or distribute without permission of author

people weighing their values and beliefs. Overtime, the overall social norms and attitudes that develop from this private process will reflect these individual changes. This seems more inclusive and preserving of one's freedom of conscience than if the government was attempting to change the social norms and attitudes.

Returning to the specific examples given above, the private schools not admitting Jews and the market stigmatizing the lower end of the economic scale, how would a libertarian deal with these situations?

While it is understandable for the Jewish person who is denied admission on the basis of his ethnic origin to object to the denial and feel that it is intended to make him feel less worthy, this does not necessarily imply the need to force this private school system to open its doors to Jews. Since the libertarian system does not permit this private school system to force other private school systems to not admit Jews, the people being denied admission have the opportunity to attend other schools that do not discriminate against Jews. Additionally, in the rare case that all the private school systems do discriminate against Jews, the libertarian system makes it more feasible for the establishment of a new system of schools that does not discriminate against Jews.

Rather than interfere with the private property and liberty rights of the school owners by forcing them to admit those who they would rather not admit, it seems better to make sure that the system allows new

Do not duplicate, cite, or distribute without permission of author

schools to be established and that schools are free to set their own admission policies. This would promote much more diversity within the overall education system and allow everyone the opportunity for the kind of education he or she desires.

An objection to this is the following. How feasible is it to start such a new enterprise? One needs capital, one needs a location, one needs teachers and administrators, one needs a sufficient number of students, and one needs sufficient time. There may not be enough time or resources to set up such an institution. There could be an interim of time before the new schools open when some Jewish children are unable to attend a school regularly. Or take the following example. A Black family is traveling across the country. It is late at night, and they must stop to rest for the night. The only motels in the area do not serve Blacks. This family is now left without a place to stay for the night. It is certainly not possible for this family to start their own motel for one night.

There are three main libertarian responses to this objection. First, it seems rare that such things like this would occur in a libertarian society. How typical is it that no motel or school in the surrounding area would be more interested in racial and ethnic politics and prejudice than in making a profit? It seems more typical that profit-motive and rational self-interest would override bigoted attitudes.

Do not duplicate, cite, or distribute without permission of author

Second, there is the question of whether or not the liberty rights of the owners outweigh the loss of opportunity by the Black family and Jewish schoolchildren. This is not a question that can be resolved in this thesis because it would require a more complete explication and defense of libertarianism. It will have to suffice to say that the libertarian regards the liberty rights of the owner as much more weighty. Clearly this alone is not sufficient to convince someone who is more inclined to think the weight tilts toward the loss of opportunity. Nonetheless, the weight given to the liberty of the owners by the libertarian viewpoint is one reason why the libertarian would not find this situation objectionable, though certainly unfortunate.

The last response to this objection by the libertarian is what might be called the “Boy Scout Response.” That is, be prepared. A Black family traveling through the American South in the 1950’s should be prepared to meet up with this kind of racial prejudice and to take the appropriate precautions. This is no doubt regrettable and unfortunate, but it is the reality of the situation.

In many ways these responses are inadequate. They do not solve the core of the problem: people are being treated in an objectionable manner. The responses seem more like excuses by the libertarian, rather than solutions to harmful stigmas. These situations have occurred, and have occurred quite often in certain parts of this country

Do not duplicate, cite, or distribute without permission of author

in certain parts of our history. And they are occurring today as well. This is regrettable and unfortunate, but it is not a counter argument to the libertarian viewpoint, since these situations have not occurred under a libertarian or a libertarian-minded system. The libertarian is basically being asked to take responsibility for and have a drawn out answer for problems that are not a result of society operating on libertarian principles.

The basic problem is this. While these problems are not the result of a society under libertarian principles, the injuries and stigmas could be perpetuated under a libertarian society. For example, after slavery, a clear case of a non-libertarian institution, many former slaves were left with the stigma of formerly being a slave. Once slavery was abolished and the system became more libertarian oriented, it was hard for such individuals to find work and this perpetuated their stigmas.

There have been massive rights violations and unjust transfers of wealth and property in the past under non-libertarian regimes, and it is not fair to require the libertarian to be able to rectify these situations in a way that is consistent with her pure principles. For instance, such violations of individual rights in the past under non-libertarian regimes, such as slavery, might be able to justify a kind of income tax in a libertarian regime in order to make reparations to those harmed or to their rightful heirs. Such an income tax is no doubt in violation of pure

Do not duplicate, cite, or distribute without permission of author

libertarian principles, but it might be the only feasible way to correct a past wrong that would be perpetuated under the libertarian system.

The libertarian, then, may be willing to allow certain kinds of limited anti-discrimination laws and the like in order to stop the perpetuation of harmful stigmas. These laws would have to be much more limited in scope and time than the current laws of today, and they would have to be closely watched in order to minimize the unintended consequences and harms that might result from these laws.

Moving on to the case of the people on the low end of the economic scale, it seems less understandable than the discrimination cases for them to feel inferior because it looks more like envy. However, many do believe the market makes these people feel less worthy in non-envious ways. The libertarian system, however, is the best alternative because it provides them with the best opportunity to change their situation by allowing greater upward mobility. They may be on the low end today, but tomorrow they could be in the middle or at the top. Cox and Alm report a University of Michigan study that examined income distribution over a sixteen-year period, from 1975 to 1991. They found that of those in the bottom fifth of the income earners in the US in 1975 only 5% were still there in 1991 (Myths of the Rich and Poor 73). Most ended up, according to this study, as middle class or better; and actually almost 3 out of 10 of the low income earners had risen to the top fifth of income

Do not duplicate, cite, or distribute without permission of author

earners by 1991 (73). The study also found that once households moved up in their income level, they rarely got pushed back down (75). Lastly, the study also indicated that most households do not remain in the bottom fifth for long periods of time. They report that less than 1% of the households in the study remained in the bottom fifth every year from 1975 to 1991 (74). Cox and Alm also report a Treasury department study that found similar upward mobility trends. These data show that a person has a very real opportunity and chance to better her income situation within a freer market.

Additionally, the libertarian system of free markets creates a bigger pie for everyone, not just the rich (though they still might get a much bigger piece). So while they may feel less worthy, under other systems they may not be able to acquire the basic needs of life. If the distribution of wealth and benefits from the market were based on giving everyone a roughly equal amount, there would be much less to distribute. At least under a libertarian system they can acquire these basic needs, get a bigger portion of the pie, and have the opportunity to change their situation.

An individual who is on the lower end of the scale might understandably ask, "why should I bear the burden of this system?" or "why should I accept this system if it makes me feel bad?" Another system might make this individual feel better and have less of a stigma,

Do not duplicate, cite, or distribute without permission of author

and this could be his reason for objecting to libertarianism. A number of things could be said here. First, the material gain and the wider opportunities for economic and social advancement would, for many, outweigh the feeling of stigma. We have seen this through out our history with immigrants who risk everything to make their way to the U.S. for the material and opportunity gain. These immigrants were stigmatized and treated poorly but they came, and continue to come, in spite of these stigmas for the greater opportunity of wealth and advancement. This individual on the lower end of the scale might be willing to accept the same trade off, at least for a time, of better living conditions and opportunities for the stigmas. As the individual takes advantage of these opportunities, the stigmas and poor treatment wither away. Jews, Irish, and Italians, for example, are rarely stigmatized in a negative way by society today but as poor immigrants they were heavily stigmatized. A free system allows the immigrants, and those at the lower ends of the economic scale, to take advantage of the opportunities available and thereby increase their standard of living. And with this increase in standard of living, the negative stigmas typically have disappeared or been greatly lessened.

Second, because of the limitation on what a government can do while still respecting and protecting the freedom of conscience, this individual might see that it is more feasible for him to change his values

Do not duplicate, cite, or distribute without permission of author

and ways of behaving, than the government can change the way society as whole values certain kinds of behaviors and achievements. Furthermore, because the libertarian system, with its vast freedoms, encourages many different values systems and ways of behaving, the individual will have much to choose from and many examples to follow if he chooses to change his values.

Lastly, while the individual may understandably see his feeling bad as a reason for the government to get involved, he should also recognize the effects and risks that such an involvement will have. In this chapter, we have looked at the many negative effects and risks that government involvement would have. The damage to individual freedom and advancement opportunities are important things to consider and since it will effect the individual on the lower end as much as anyone else, he should be considering not only the effect of a system on his feelings but also its effect on his freedom.

In conclusion, while the libertarian system does allow that institutions might make people feel stigmatized, it provides much greater opportunities and benefits that can limit, mitigate, and even remove the stigmas. And it does so in ways that allows everyone more freedom and greater ability to live his or her life according to his or her own projects and purposes. A move towards more egalitarian principles does not seem required. Even when the libertarian is willing to compromise her

Do not duplicate, cite, or distribute without permission of author

position in cases like discrimination, the goal is not for more substantive equality, but for more just and fair treatment of individuals. It is for a full expression of one's individual rights, and not for substantive equality.

Chapter Three: Avoid Unacceptable Forms of Power and Control

Scanlon's third concern is about the unacceptable control or power over another individual's life that some individuals might have. This concern is unique among the five Scanlon discusses in that it is a concern the libertarian explicitly shares. One of the major motivating forces behind libertarianism is the desire for the curtailment of control or power over others, and in particular, the power the government exercises over its citizens.

An important distinction between the way the libertarian thinks of this concern and the way that Scanlon does is that Scanlon extends this concern to the kind of control and power that economic power and economic markets give certain people. Scanlon believes that “those who have vastly greater resources than anyone else ... can often determine what gets produced, what kinds of employment are offered, what the environment of a town or state is like, and what kind of life one can live there” (“Diversity” 3). At the heart of this concern is the idea that individuals who are able to amass vast amounts of control over resources will be able to control the destiny and life-choice options of others.

The libertarian, with his advocacy of the free market, would seem to be in peculiar quandary if Scanlon were correct about the harmful effects of concentrated economic power. On one hand, libertarianism is immensely concerned about the exercise of control over another's life;

Do not duplicate, cite, or distribute without permission of author

but on the other hand, it advocates and requires an economic system that, if Scanlon is right, creates unacceptable levels of control over other's lives. Additionally, in order to rectify these unacceptable levels of control, the libertarian would be forced to abandon his core principles and formulations. It would mean legal limitations on the amount of resources one could acquire and restrictions on the actions and decisions one could take in regards to resources.

This problem is avoided mainly by protecting the negative rights that libertarianism advocates. The protection of these rights creates a sphere of self-control and self-power that is far more vast than any comparable system and a sphere that no one is permitted to encroach or invade. This protection prevents much of the exercise of unacceptable control or domination over others.

As part of the classical liberal tradition, libertarianism seeks to protect from interference the exercise of one's right to life, liberty and property. This traditional set of rights is not three distinct and separate rights; they are interrelated and dependent upon each other. One cannot be preserved while the other is trammled upon. These rights stand or fall together. The right to life is the principle that one's life is one's own and that one needs to take certain kinds of actions if one is to maintain and support her life. The right to liberty is the recognition that in order to be able to take the actions to maintain and support one's life, one has

to be free to make the decisions and take the actions that she sees fit to take. The flipside of this right to liberty is that one cannot be forced to behave in any way or manner one does not judge that one should. Permission from others to behave or act (or to not act) in certain ways cannot be required if the right to take actions to maintain and support one's life is taken seriously. And lastly, without material products and resources one cannot exercise one's rights to life and liberty and therefore needs the right to property. This right is the principle that one is free to use, as they see fit, the property one has created or consensually acquired. These negative classical liberal rights are equal among all people; that is, no one has more of a right to life, liberty or property than another. Even though some will have more property, they have no more of a right to that property than another to her property. They just have more property. As the right to make free use of the property one has produced and consensually acquired, one can have various unequal distributions of property without one person having more of a right to property.

An important aspect of this classical liberal, negative theory of rights is that it imposes only the obligation not to interfere with the exercise of these rights. For instance, there is a right to property, but this right does not require that one provide another with property. It requires only that one not hinder or interfere in another's production,

consensual acquisition, or use of that person's property. The protection of these rights means that everyone is prevented from taking the actions that interfere with anyone else's exercise of his or her right to life, liberty, and property (or punished for such an interference).

The individual in the libertarian society, then, has largely a free reign over the way she chooses to live her life. For example, no one can prevent me from entering any profession I choose. I may choose to be a rabbi, a chiropractor, or a dishwasher. My neighbors, friends, parents, or politicians have no authority or right to interfere or prevent me from making and following through with my choices. Nor does anyone have the responsibility to provide me the things I seek. I may choose to be a rabbi, but not find a congregation that will hire me to lead them. I may choose to be a chiropractor, but not get accepted to any of the chiropractic schools or get any patients to treat. The libertarian system protects an individual's right to take actions, not the success of actions. There is no guarantee of success of one's goals or fulfillment of one's desires. To guarantee such success and fulfillment is largely impossible, but even if possible it would require the violation of another's rights. To force a school to accept me as a chiropractic student, when it does not want me as one, would violate the school owner's property and liberty rights. To force a Jewish congregation to have me as their rabbi would violate their rights.

From the libertarian perspective, her system prevents unacceptable levels of control and power over others through its protection of the rights to life, liberty, and property. Such a system does allow for, and typically would end up with, vast inequalities of economic power. The question of this chapter is will this inequality of economic power lead to morally objectionable situations of the kind Scanlon is concerned about?

The following is an example of what Scanlon might consider unacceptable, but that is permissible under libertarianism. A business owner, Susan, is making a decision regarding whether to close her furniture factory or not. This decision, no doubt, will have a big effect on her employees. They are potentially made worse off by a decision to close the business. It is the largest employer in town, and if it closes, a large proportion of the town would be, at least temporarily, out of work. The businesswoman certainly has a kind of control over the lives of the individuals in this town, particularly the workers at her factory. The workers ability to earn a wage to support themselves and their families is temporarily weakened. It would have an effect on what gets produced in the town, it would have an effect on the kinds of employment offered, it would have an effect on the environment and way of life, and it would certainly effect the kind of life one could live in this town. This would meet many of the concerns that Scanlon has.

The libertarian might be tempted to respond by simply saying that no one's rights were violated. The businesswoman was completely within her rights to close the business, and the workers' rights were not violated by her action. She was merely exercising her rights to liberty and property; and the workers had no corresponding right to prevent her from doing so. This is all true, however, this is the reason many find libertarianism unacceptable. Many reject libertarianism precisely because its protection of these rights seems to give Susan, or any employer, this power over her workers' lives. The libertarian, therefore, does not get very far by insisting that Susan is entitled to close her business and fire her workers. The libertarian has to be able to persuade those with this concern that the kind of power exercised by Susan, irrespective of her right to it, in closing her business is not objectionable.

As a side note, it is important to retain the idea that this is a non-rights violating exercise of control. In situations where control was exercised in a rights-violating manner, libertarianism requires the interference of the government to prevent or rectify the violation.

I am not claiming that the workers in Susan's factory do not have good reasons to want the factory to remain open. They certainly seem to have many good reasons. One major reason is that they want to keep their jobs and the income and life-style it affords them. The case to be

made here is that they have better reasons for accepting Susan's exercise of her liberty than for limiting it.

The argument will proceed in two main parts. The first is in a consequentialist fashion where it will be shown that by allowing Susan's exercise of her liberty, and liberty like it, everyone is better off in the long run because of increased wealth, opportunities, and a higher standard of living. The second part is intended to show that since the opportunities are much greater and easier to exploit, people actually have more control and self-directedness over their own lives than in a non-libertarian system.

The market system is a dynamic, open-ended, evolutionary system. It is unplanned and unplannable. It results from the decisions, actions, and interactions of millions of individuals who are spread through space and time and who have vastly different goals, values, and intentions. The market has no end-state or goal, it is in constant flux, evolving and adapting to ever-changing circumstances and environments.

Each person has to be able to decide and act on the basis of her local, tacit knowledge of her best interests in order for this dynamic system to work. At the base of the system are each individual's actions. These are uncoordinated and unordered, with each individual pursuing their own ends. Preventing the free exercise of one's liberties as a matter of common practice undermines the individual's confidence in being able

to exercise her liberties. This loss of confidence prevents her from taking many of the actions that she determines to be in her best interests. Thus, she will be less well off because she will not be pursuing or fulfilling her interests, and others will be less well off for the same reason.

An objection to this is that maybe these people are actually objectively better off because their subjective perception of their interest was mistaken. This paternalistic style argument weakens this approach somewhat. But it runs into the problem of who determines what “better off” means and what people’s “true” interests are. These are complex and important questions that unfortunately cannot be answered within the scope of this thesis. The approach used here, to rely on the individual’s subjective understanding of their own interests and their standard of whether or not they are better off, seems much more functional. Most people actually do think they are in the best position to know their own interests and to judge whether they are better off or not. Moreover, in some ways, what counts more is the person’s subjective perception of these things because while they may in fact be better off in some objective sense, if they actually feel worse off, even after being shown how they are objectively better, how much better off could they really be? An important part of well-being has to be one’s perception of one’s well-being.

Allowing people free exercise of their liberty makes everyone better off because of the increase in benefits that arises out of the free operation of the market. These benefits arise out of the greatly increased productivity, efficiency, and innovation of the market system. The open-ended evolutionary process of the market allows for and requires many experiments and trials to take place. The market is a learning system where different ways of dealing with different problems are constantly being tested and evaluated. The experiments and trials, and the feedback that are a part of these experiments and trials, leads to greater innovations and inventions. With people free to constantly try out new and different ways, better ways of doing things are discovered, and these are imitated and modified to still better ways by others. Additionally, these ways are adapted to the local circumstances to best fit these particular and unique situations. This constant process leads to greater efficiency and productivity, which in turn leads to great quality and quantity of goods and services at lower prices, as was discussed in Chapter One. This makes everyone better off because they can afford more quality goods and services. And this means more opportunities and choices.

The practice of preventing the exercise of liberties means that fewer experiments and trials would take place. The individuals in the system would be less likely to learn and discover better ways of doing things.

This leads to fewer innovations and a decrease in productivity and efficiency. This translates to fewer goods and services of greater quality and quantity, and to higher prices. Also, it means fewer opportunities and choices.

These higher prices along with the decrease in quality and quantity negatively affects people's standard of living. They have to buy less of basic goods as well as desired luxuries; they do not have the same level of access to various resources and goods that they could have. It limits the options that are open to individuals and prevents them from more fully pursuing their interests, values, and goals. Moreover, the ripple effect of these drops in innovation, efficiency, and productivity run through the whole society. Almost everyone is left with less to buy, less access, fewer choices, and fewer options. There are fewer opportunities and the opportunities remaining become more costly to exploit.

We can see such an effect at times when the system does fall apart, like in times of war or chaos. Economist George Reisman tells us "the standard of living of the average American family during World War II was reduced to a point far below its level in the worst years of the depression" (Capitalism 592). With almost everyone working longer and harder hours due to the war, and almost everyone focused on producing goods and services for the war effort, normal productive activity was drastically reduced leading to shortages, higher prices (resulting in price

controls), and deteriorated quality (262). This negatively affected almost everyone's standard of living. Even so, most people did not think of themselves as worse off during the war because they saw themselves as working to protect their freedom. However, when a drop in standard of living like this occurs in peacetime, such as the Great Depression, it is perceived as making people much worse off.

A worker in Susan's factory can see this ripple effect of limiting Susan's liberties. The worker can see that in making it a common practice to limit these liberties, the system of liberties and benefits he enjoys would be undermined. There would be less innovation and decreased productivity and efficiency that would lead to fewer job opportunities and businesses. His standard of living would drop and there would be fewer chances for him to get a new job or to improve his standard of living. At least if Susan closes the factory, he has better chances of finding a new job and maintaining or increasing his standard of living because the system would be more productive and efficient, thus providing many more opportunities. So, while recognizing that in being fired because of the factory closing he is in some way made worse off, he can also accept that by making it a common practice to prevent exercises of liberty he would be made much more worse off. Thus, he has better reasons to not want the exercise prevented than to prevent it.

This argument does, however, leave open the possibility that a particular prevention of the exercise of liberty like Susan's exercise could be acceptable because its immediate consequences are perceived as too harmful and that the effect of the prevention on the system would be minimal. What the argument here shows is that making such a prevention a common or institutionalized practice is deleterious to the individuals in the system, and therefore is not acceptable. It does not make the case that any prevention for any reason is unacceptable. There might be unique circumstances that require such a prevention given the balance of benefits and harms.

What this first part of the argument shows is that the market system advocated by the libertarian increases the kinds of opportunities available to everyone. Because of the increased efficiency and productivity of a free and unfettered marketplace, there are greater opportunities and greater demand for workers of all kinds. These greater opportunities make it possible for people's self-control and self-directedness to expand.

The workers' control over their particular job is clearly lessened by Susan's closing of the factory. They have no say, or a very limited say, in how their job comes to an end, and this is one of the reasons they think they have good reasons for not wanting to have Susan exercise her liberty in this way. However, the workers have more overall control over

their lives in a system that allows Susan this exercise. First, such a system protects the workers' own exercise of similar types of liberties and this could be important for them to take advantage of opportunities that might come their way. For instance, maybe a worker owns a home where he rents out extra rooms. In order to take advantage of a new and better job opportunity, he needs to sell his home and move. The people renting the rooms now have to find new lodgings and so might have good reasons, similar to the workers' reasons regarding Susan, for wanting to prevent this worker from exercising his liberty. But this would prevent him from taking advantage of an opportunity that would increase his well-being and standard of living.

Second, the different and new opportunities open to the workers are greatly expanded in such a system. As Chapter One showed, there are more goods and services, indeed more variety and quality of these, under freer markets. With more goods and services, come more choices and opportunities. Choices and opportunities also have costs, for example, opportunity and transaction costs. And just as goods and services decrease in price with competition, efficiency, and productivity, so do the costs of opportunities. So in the same way that the market makes more goods and services available to more people at lower costs, it makes opportunities more available to more people at lower costs. With lower costs and more of them, more people have more access to and can

more easily exploit opportunities. Furthermore, because of lower costs it becomes easier to create new opportunities to take advantage of. There are various types of opportunities created and expanded, but in particular for Susan's workers, there are more job opportunities. Because of the increases in choice, efficiency and productivity, more is being produced, and hence more people are needed to produce these things. More people are also then needed to manage this increased workforce, thus creating advancement opportunities. More people are also further needed to distribute and sell these new goods, thereby creating even more opportunities.

With more choice and opportunity, combined with the protection of rights, individuals have vast self-directedness and more of a say over their own lives. With more job opportunities and increased demand for people to fill jobs, an individual has more choice in what kind of work or career she will pursue. With the increase in wealth and access to resources, individuals have more control over where they will live and what that place will be like. They have more educational opportunities for themselves and their children. They have more access to health care opportunities and so on. This is why the libertarian thinks that under her system, an individual will have more than an adequate amount of control over her own life and will be protected from domination by others.

A further concern, related to this general concern about domination over others, is a concern for environmental protection. People are concerned, for many good reasons, with the health of the environment and its continued ability to provide a habitable living space for us. Furthermore, the beauty of the environment is itself valuable to many. The concern in this case is that an individual with vast economic control over natural resources could do irrevocable damage to the environment. The libertarian view is that all property, except the minimal amount needed for the duties of the government, should be private. So, most of the environment would be in private hands under a libertarian system. Further, libertarian property rights grant the rights-holder ultimate discretion over her property. What this means is that a property owner could pollute her own property, destroying its value or its beauty.

Regrettable though this is, if the damage does not violate others' rights, it is permissible according to libertarianism. However, because of the interrelationship and dependency of the many parts of the environment, one's polluting of her own property often constitutes damage to another's property. Furthermore, the polluting property owner cannot push the costs of her pollution on others without violating their rights. For example, XYZ Corporation might own the portion of the river it decides to dump its waste in, but others own the other portions of

the river. Once the pollution goes beyond the boundaries of XYZ's property, this dumping would be a violation of the property rights of the other owners that are affected. Their property is damaged and they have to pay the costs of XYZ's polluting. Anyone downriver who could show measured damage to her property or costs she incurs due to XYZ's polluting, has a tort claim against XYZ. In order to pollute a river with impunity, XYZ would need to own the river and the surrounding lands, as well as the tributaries and aquifers it flows into if its polluting would measurable damage those areas. Either option, paying off lawsuits or buying up the whole river system, makes taking precautions not to pollute the much cheaper alternative. This is not to argue that pollution would not occur under a libertarian system, but with the extensive property rights and highly developed tort system of the libertarian system, the costs and problems of pollution are pushed back on to the polluter. This makes polluting undesirable and creates an incentive not to pollute and to find ways around polluting. Such an incentive would dramatically decrease the overall level and intensity of pollution, thus protecting the environment.

The libertarian surely agrees with Scanlon that control over other's lives is an important concern. However, the libertarian claims that the market is an institution that increases self-control and self-directedness through the expansion of choices and opportunities. So, while in certain

areas one's control seems less, one's overall control over her own life is increased and she is protected from domination of others.

Libertarianism, by protecting the rights to life, liberty, and property, allows great freedom for the individual and great control and power over his or her direction and choices in life. It also prevents others from interfering in those choices in substantial and damaging ways. Because libertarianism provides adequate control over one's own life, it is not objectionable under this concern.

Chapter Four: Preserve Equal Starting Points as Required by Procedural Fairness.

Scanlon believes that certain kinds of inequalities will undermine the fairness of certain processes or institutions because some kinds of "equality are essential preconditions for fairness of certain processes" ("Diversity" 4). This is not a pure egalitarian position because it does not apply to all kinds of inequalities or processes. It only applies to those inequalities that will undermine the fairness of a particular system or process. And it only applies to processes where unequal starting points might make the system unfair because some systems are not made unfair by unequal starting points. Moreover, the inequality has to be great enough to actually make the process unfair. This concern, in other words, allows for much inequality. Furthermore, it is not premised on the idea that equality is important, but that fairness is. So, one is not objecting to inequality per se, but to the unfairness that might be caused by inequality.

The libertarian view of justice conforms to what is referred to as procedural justice. According to this view, a process is just when it is carried out according to a set of rules and procedures, themselves taken to be fair and just. The results and inputs are irrelevant from the standpoint of this view of justice. But, Scanlon claims, even if the procedures were carried out correctly, the process as a whole might still

Do not duplicate, cite, or distribute without permission of author

be unfair if two people entered the process from greatly different starting points. Some would be less equipped to succeed and others would be left out all together; and this seems unfair in some processes.

Take the following example as an illustration of what Scanlon means. Most colleges and universities, certainly larger ones, base a great deal of weight on applicants' SAT scores. Though the importance has decreased in recent years, a high score is still essential to gaining admittance to any one of the top schools. There are professional prep companies, such as Stanley Kaplan and The Princeton Review, which offer guarantees of score improvements on this key test. Those who take these prep courses are usually in better positions to gain admittance to the top universities. These prep courses, however, can be rather expensive, typically running up to one thousand dollars in some areas of the country. Some families wishing to send their children off to college may not be able to afford these courses. While these companies do offer reduced rates, scholarships, and payment plans, there will still be a group of students who will not have access to these courses, and hence not be in the better position that these courses can provide to gain admittance to the school of their choice. If we assume that these schools' admissions processes have fair procedures that are followed meticulously, it still strikes many as unfair because it allows the more

affluent students to be in better positions to go to better schools than their less well off classmates.

There are lots of students who will be in better positions to gain admittance to top schools for various reasons, so let's make this example even clearer by setting it up that the affluent student, Adam, is of the same relative academic skill level as his less well off counterpart, Lewis. In their high school, both received relatively the same grades in the same kinds of courses. Both have relatively similar scores on practice SATs. Adam, the affluent student, takes the Princeton Review and improves his SAT score to a level where his chances of going to an Ivy League school have greatly increased. Lewis, the less off student who is unable to afford Princeton Review, does not raise his score and his chances are much slimmer than Adam's chances. Additionally, let us assume, that had Lewis taken Princeton Review, his score too would have improved to relatively the same level as Adam's score and they would be in the same advantageous position.

The unequal starting points for each student could undermine, according to this objection, the fairness of this process. The unfairness would not primarily arise from the mere fact that the outcomes for Adam and Lewis are so different but from the fact that there is apparently no morally significant reason that one should be in a more advantageous position than the other. Therefore, the gains one is able to get because of

the advantageous position seems unjustified. It is not that Adam gets into Harvard and Lewis does not, it is because Adam was able to get into Harvard in large part because of his advantageous starting point given to him by the luck of having been born to a more affluent family. If Adam and Lewis started at relatively the same points, the different outcomes would seem more acceptable. The differences would then arise from within the fair process, and would not be a result of the unequal starting points.

The primary response typical for libertarians is that this concern is basically irrelevant. The fact that a person is able to benefit from certain opportunities that others will not be able to is just a fact of life, unpleasant and unfortunate though it may be sometimes. This fact alone does not seem to provide a good enough reason to violate or encroach on an individual's rights. If one is compelled by the libertarian argument for individual rights, then unfair situations not involving violations of rights are irrelevant from a political point of view. However, it is precisely this point that many non-libertarians find unpersuasive about the libertarian argument for individual rights. They find it wanting or objectionable in large part because libertarian system allows certain unfair processes to persist. More must be said in order to persuade these non-libertarians that these possibly unfair situations do not make libertarianism objectionable.

The weight of this objection comes from the idea that a fair process should have its outcomes determined by the appropriate and relevant factors. The process is then unfair if other factors that are irrelevant or inappropriate determine the results of the process. So, for example, in a foot race, the race is fair when it is determined by the speed and ability of the runner. This is what is appropriate and relevant to such a race. On the other hand, it would be unfair if non-relevant factors determined the winner. For instance, if one racer among relative equals were given a 10-foot head start, this would be unfair on the grounds that his ability and speed are not determining who wins the race, because the head start is. Clearly, the foot race is made unfair by these unequal starting points, and it is right to object to such a set up.

When this thinking is applied to the market, it is thought that one's success in the market, i.e. at her job, making money, getting promotions, etc., ought to be determined by one's ability, hard-work, and motivation. It should not be determined by so called accidents of birth, like the wealth or status of one's family. This is why the Adam, Lewis, and Princeton Review situation looks like an unfair one. Adam's wealth gives him a "head start" on Lewis, and this looks like it is unfair because the outcomes are being determined by something that is not taken as the appropriate determining factor.

The libertarian's response to this is that this accident of birth is no more inappropriate than other kinds of luck that do seem to appropriately determine one's success in the market. Ability and talent are things that are open to accidents of birth. We are born with propensities towards various abilities and talents, and we are often born with very different propensities. The clearest example of this is in athletic or artistic ability. While everyone can develop an ability to do either at some level, some children are born with greater talent in these areas and can excel far greater than others.

Motivation and work ethic are also accidental to some extent. One's parents and how they bring one up will, in part, determine one's motivational level and how hard one works for one's goals. This will affect how well she succeeds in the market and at reaching her goals. Children often can learn on their own that a good work ethic is fundamental to reaching one's goals. Nonetheless, when a child's parents do not, for whatever reason, teach her a good work ethic, she is going to be less likely to reach her goals and succeed than a child whose parents impart a strong work ethic. The latter child will have a jump on the former because the former will have to learn on her own about motivation and good work ethic, but the latter will already know and thus be better equipped to succeed.

Furthermore, things like serendipity and the luck of just being at the right place at the right time affect the outcomes of the market. A large part of succeeding in the marketplace is sheer luck and circumstance. If one is in the right place at the right time, she can make a deal that anyone else might have been also able to make. She makes it, however, because she is the one there.

None of these examples are normally thought of as inappropriate determinants of market success. And since they, along with the accidents of birth, are not inappropriate determinants and they often come in unequal proportions, the market is not a process that is made unfair by unequal starting points.

One of the main reasons that the libertarian thinks it is okay to allow such things to determine the outcome is because she thinks that there are enough adequate opportunities to prosper, or at the very least to make do, under the libertarian system. Going back to Chapters One and Three, we see that by protecting the libertarian rights, we create a market of vast opportunities, resources, and wealth. These greater opportunities to prosper and make do make the objections to unfair processes less morally weighty primarily because under such a system people have the opportunity to make their lives better and to improve their standard of living. The libertarian system “does enough” (Scanlon, “The Significance of Choice” 75). One of the reasons why we object to

unfair processes is because it seems to prevent people from making their lives better and improving their lot. If the market creates greater opportunities for people to do just that, it seems unlikely that we would reasonably object to it on those grounds.

The libertarian no doubt agrees with Scanlon that certain processes are made unfair by unequal starting points. These processes ought to be made fairer and equalizing the starting points might do this in these cases. However, the libertarian does not think that market is such a process. First, the determinants of market success, including the luck of birth, are not inappropriate and in that way not unfair when they are unequal. Second, because of the vast expansion and creation of opportunities, wealth, and resources, there is adequate opportunity for an individual to make do and prosper. And this makes the claim that the system is unfair less weighty. So Scanlon is right in raising the concern about unequal starting points but since the market is not a process that is made unfair by unequal starting points, libertarianism is not objectionable on this ground.

Chapter Five: Assure Individuals With Equal Claims Receive Equal Benefits

The final concern raised by Scanlon is that it is objectionable that some people receive higher benefits in cases where everyone appears to have an equal claim to the benefits. Or, to put it in more positive terms, individuals with equal claims should receive equal benefits. Scanlon says, “if all the members of a certain group have *prima facie* equal claim to benefit in a certain way then a fair procedure for distributing such benefits must (in the absence of special justification) result in equal benefits” (“Diversity” 6).

Given the theoretical indifference to distribution patterns, the libertarian would not object to the equal distribution of a resource or benefit if indeed there was an equal (and valid) claim to equal benefits or resources. In fact, the libertarian would be forced to advocate equal distribution in this kind of case because the rights of the individuals with the equal claim would require such a distribution.

If this is all that Scanlon means by this objection, then we are done. However, there seems more to this objection. The general idea is that people living in society participate in a mutually benefiting venture and therefore might have an equal claim to the benefits of this venture. Scanlon raises the possibility that in many joint ventures people "do have *prima facie* equal claims to the benefits produced, and that this is so in

the case of the basic institutions of society" ("Diversity" 6). While Scanlon is somewhat skeptical about there being such an equal claim, it could be a problem for libertarians if people have this equal claim, but do not get equal benefits. If the libertarian system could not explain the unequal distributions in a satisfactory way or if it could not make the distribution equal without violating rights or limiting liberty in an objectionable manner, then the system is unjust.

This concern, however, rests on a "prior claim that as participants in a cooperative scheme the individuals in question have equal claim to the fruits of their cooperation" ("Diversity" 9). Do we really have such equal claims? If we do not, then the unequal benefits, at least in terms of this concern, would not be unjust.

Are there equal claims to the benefits of social institutions? It seems highly unlikely. Certainly, most people do not think there are equal claims. Marxists claim that the laborer has a larger claim to the products produced in the factory because they have done the physical work. Capitalists maintain that the entrepreneur is deserving of a larger claim to the outputs of production because she has put up the money and taken the risk for the venture. In the workplace, employees often feel that their input into the company is worth more than the managers and that they are deserving of greater benefits. On the other hand, managers often think that they deserve more benefits because of their

contributions. Regardless of the merits of any of these claims, no one appears to think that all sides have an equal claim to the benefits produced. So what? Maybe most people are wrong, though it does seem to go against a *prima facie* case for equal claims.

To more clearly see if we have equal claims let us look at a group of five individuals who are working in a group on a project. How obvious is it that each contributes equally in all relevant manners? Or that their different kinds of contributions have equal importance to the project at hand? It is rather common that when working in a group some individuals do more than others. Some take on a leadership role, some do more of the work, some do not do any work or anything close to a significant amount. Additionally, it seems the nature of groups that there will be different roles occupied by different individuals. Each of these roles has different responsibilities and duties associated with them, quite typically leading to different, and possibly incommensurate, contributions by different individuals. Some roles are just going to be more important to the completion of the project. This should quite rightly lead to unequal returns. Scanlon recognizes this and says that it “might be maintained ... that insofar as social institutions are seen as cooperative undertakings for mutual benefits the claims of the participants to its products are not equal but proportional to their contributions” (“Diversity” 6). This seems more likely the case. People

participating in cooperative efforts do have claims to the products of these efforts, but they are more likely to be proportional claims, not equal claims.

This seems even more likely in a large joint venture such as the basic social institutions. It seems far from *prima facie* that our contributions are equal on this level. The contributions of an Albert Einstein, Thomas Jefferson, or Bill Gates are much greater than those of an individual working in the patent office with Einstein, some other Virginia gentleman we have not heard of, or one of the office assistants at Microsoft who answers telephone calls. This is not to say that these latter individuals are unimportant or expendable in any way or that they have not contributed something, however, it seems clear to me that the Theory of Relativity, the Declaration of Independence, and computer products that make computers more accessible and usable by most, have a much greater and longer lasting impact on the world and the social institutions than the contributions of most people, certainly more than my own contributions.

The libertarian agrees wholeheartedly with Scanlon that equal claims deserve equal benefits. But since it seems unlikely that the claims to equal benefits are valid or justifiable in the general goods of society, an unequal distribution, as is likely in a libertarian society, would not be objectionable.

Conclusion

This thesis was not an attempt to provide a full defense of libertarianism, and I have surely not presented such a defense. Nor was it an attempt to debunk egalitarian theories of social systems, and I have surely not made an argument against such theories. This paper was intended to provide a response to the kinds of objections that many people have against libertarianism. The objections discussed here are certainly not exhaustive of the kinds of objections people have, nor are these objections exclusive against libertarianism. Still, these concerns are rather common and if the objections are sound, they do require the modification or rejection of libertarianism.

The scope of this thesis was very narrow, only to show that libertarianism is not susceptible to certain kinds of objections about inequality. Libertarianism may be open to other criticism and objections which were not dealt with here that might require its rejection.

This thesis has shown that even if these concerns are valid ones, they do not require the rejection of libertarian political principles. Though in some cases, a limited amount of modification could be required, such as Chapter Two and its concern about stigmas. It was argued there that it might sometimes be necessary to allow for certain kinds of limited laws that attempt to alleviate some kinds of damaging stigmas.

What is important about this thesis is that it shows the libertarianism is not immediately dismissible by egalitarians because of its allowance of vast inequality. This is important because it means that libertarianism, as a general theory, should then have more attention given to it. It is also important for libertarianism because it gives them some support in their fight for legitimacy as a theory. If libertarianism is not objectionable on the grounds laid out herein then it is a legitimate alternative within political philosophy.

As for the traditional and age-old disagreement between equality and liberty, we may have found a way to resolve it. If the arguments in this thesis succeed we may have shown that liberty can trump claims about substantive equality. Since equality, according to Scanlon, reduces to the five general concerns discussed here, and we have shown that these do not provide compelling reasons to reject libertarianism or to limit liberty beyond what libertarianism would limit it, then a case could be made that claims about liberty are more weighty than claims about equality.

At the very least, this thesis provides an answer to narrow and limited problems raised by Scanlon. It can also provide a deeper understanding of libertarianism, egalitarianism, liberty, and equality.

Works Cited

American Association of Fundraising Counsel (AAFRC). "Total Giving Reaches \$190.16 Billion." Online posting press release. 24, May 2000. <<http://www.aafrc.org/press.html>>.

Cox, W. Michael, and Richard G Alm. Myths of the Rich and Poor. New York: Basic Books, 1999.

---. "Buying Time." Reason. August/September 1998: 41-46.

Hazlitt, Henry. Economics in One Lesson. New York: Random House, 1979.

Heilbroner, Robert L., and James K. Galbraith. Understanding Microeconomics. New Jersey: Prentice Hall, 1990.

Jacoby, Jeff. "Scrooge Doesn't Live Here." Boston Globe. 29 March 1994: 19.

Kelly, David. A Life of One's Own. Washington, D.C.: Cato Institute, 1998.

Do not duplicate, cite, or distribute without permission of author

Reisman, George. Capitalism: A Treatise on Economics. Illinois:
Jameson Books, 1998.

Scanlon, Thomas. "The Diversity of Objections to Inequality." The
Lindley Lecture. The University of Kansas. 1996.

---. "The Significance of Choice." Equal Freedom. Ed. Stephen Darwall.
Ann Arbor: The University of Michigan Press, 1995.