Prerogatives to Depart from Equality[1]

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I.

Should egalitarian justice be qualified by an agent-relative prerogative to act on a preference for—and thereby in a manner that gives rise to or preserves a greater than equal share of the goods of life for—oneself, one's family, loved ones, or friends as compared with strangers?[2] Although many would reply that the answer to this question must be 'yes', I shall argue here that the case for such a prerogative to depart from equality is much less far-reaching than one might think.[3] I have in mind a prerogative to depart from a specific form of equality: namely, equality of opportunity for such advantages as resources or welfare. I mean to refer to the strong form of equal opportunity elaborated and defended by Richard

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[2] For the purposes of this discussion, I set to one side prerogatives to advance projects or follow through on commitments which one regards as of fundamental importance but whose importance is unrelated to one's own welfare or the welfare of those close to oneself. These cases give rise to an interesting and interestingly different set of problems for egalitarians.

[3] In speaking of a prerogative to depart from equality, I invoke a concept that bears obvious affinities to the now-familiar notion of an agent-relative prerogative to refrain from maximizing an impartial good such as utility. On the latter, see Samuel Scheffler, *The Rejection of Consequentialism* (Oxford: Oxford University Press, 1982), and Thomas Nagel, *The View from Nowhere* (New York: Oxford University Press, 1986), ch. 9.

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Arneson[4] and G. A. Cohen[5] whereby, roughly speaking, two people have equal opportunity for advantage if they face the same choices and will end up at the same level of advantage if they make the same choices.[6]

In order to maintain clear focus on the question I have just posed, I shall assume in the remarks that follow that equality is fully compatible with the leading of a decent life. Prerogatives to raise oneself or one's loved ones beyond equality might seem compelling when equality is inconsistent with having enough in absolute terms to lead a decent life. But this is to say that one might have a prerogative to escape from or protect oneself against insufficiency—and also, I should add, a prerogative to escape the full demands of act-utilitarianism when one would have to sacrifice a decent life in order to maximize utility.[7] It is not to establish a prerogative to depart from equality when equality is compatible with sufficiency.

Even when one restricts oneself to cases in which a departure from equality is not also an escape from or protection against insufficiency, one must guard against being misled by the

[4] See Richard Arneson, 'Equality and Equal Opportunity for Welfare', *Philosophical Studies* **56**, No. 1 (May 1989), 77–93.

[5] See G. A. Cohen, 'On the Currency of Egalitarian Justice', *Ethics* **99**, No. 4 (July 1989), 906–944.

[6] Here I state a sufficient condition rather than a necessary and sufficient condition of equality of opportunity for advantage. It is not a necessary condition for at least two reasons, one of which is that people who do not face the same choices might nevertheless face choice sets which are equally valuable in terms of their opportunity for advantage. A second reason is that people who face the same choices and end up with different levels of advantage will nevertheless enjoy equality of opportunity for advantage if these choices involve gambles of a certain type. It would take some effort to spell out a set of necessary and sufficient conditions of equality of opportunity for advantage, but it is not necessary to expend this effort for present purposes.

[7] In cases of extreme scarcity where survival is at stake, might one have an agent-relative prerogative simply to grab those resources which are necessary for one's own survival or that of one's loved ones rather than to draw lots with one's competitors? I believe that such grabbing might be excusable, given the high cost of not grabbing, but that it would not be justifiable. In other words, one ought to draw lots, though we might understand if someone could not bring himself to do the right thing in such extreme circumstances. See Michael Otsuka, *Libertarianism without Inequality* (Oxford: Oxford University Press, 2003), ch. 4, for a relevant discussion of the morality of the killing of innocents in self-defence.

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competing pulls of different 'metrics' of equality. Some cases which at first glance appear to involve a justifiable prerogative to depart altogether from equality might instead be explained by the fact that the assumed metric of equality is inadequate insofar as it does not fully capture our implicit even if not explicitly acknowledged egalitarian convictions—and hence departure from this metric might be justified, not by virtue of a prerogative to depart from equality, but in the name of a wider or different metric of equality which better captures our egalitarian intuitions.

Let me explain what I mean by showing how one of David Estlund's alleged examples of a prerogative-justified departure from equality may suffer this defect. Here is his example:

> *Paul and Pauline* are married with two children. He earns $30,000 per year happily running a restaurant. Pauline earns about the same working as an accountant. She does not hate her work, but she wants very much to go to design school and to produce her own line of fashionable children's clothing. She is very talented at both business and design, and would likely succeed. Paul, who is already very happy in his work, dreams of becoming a doctor in a poor area, something he is well capable of. He does not care to make more money than now, except for the fact it would take quite a bit more money to allow him to become a doctor *and* to allow Pauline to become a clothing maker. With this in mind he is not willing (or, better, he and Pauline are not willing for him) to become a doctor for less than $100,000 per year. This amount is much more than is required to maintain the present quality of life of him and his family when he is a doctor (which would have its burdens), but nothing less would allow Pauline to pursue her project too.[8]

This example is set in a just society as measured by the egalitarian standard of John Rawls' difference principle, which condemns all inequalities in wealth and income that do not maximally benefit the

[8] David Estlund, 'Liberalism, Equality, and Fraternity in Cohen's Critique of Rawls', *Journal of Political Philosophy* **6**, No. 1 (March 1998), 99–112, at 104. In this article, Estlund does not himself affirm that Paul has a justified prerogative to benefit Pauline in this case. Rather, he merely endorses the conditional claim that if one shares G. A. Cohen's commitment to a prerogative to pursue one's self-interest to some reasonable extent, then one ought also to affirm Paul's prerogative to benefit Pauline in this case. See ibid., 101.

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least well off.[9] Since the example is meant to provide an illustration of a prerogative to depart from the impartial demands of egalitarian justice, let us suppose that $30,000 is an average income in this society and that granting people such as Paul the opportunity to earn far in excess of the average in order to benefit their loved ones would give rise to inequalities in income that do not maximally benefit the least well off. Given the Rawlsian context, Estlund assumes the primary goods of wealth and income, and not welfare, to be the relevant measure of equality. But, as I shall demonstrate below, we must nevertheless pay close attention to how Paul and Pauline fare in the space of welfare. For simplicity, let us suppose that, in his current job running a restaurant for average pay, Paul's opportunity for welfare is at the average level for a member of his society. Moreover, let us suppose that Paul would reap no increase in his own opportunity for welfare were he to become a high-earning doctor. All such benefits from his change of profession would accrue to Pauline. Insofar as her prospects are concerned, we need to draw a distinction between two possible elaborations of Estlund's example: in the first, Pauline's becoming a clothing maker would move her from below-average to average opportunity for welfare; in the second, Pauline's becoming a clothing maker would move her from average to above-average opportunity for welfare.[10]

Does Paul have an equality-departing prerogative to earn $100,000 in order to benefit Pauline?

In the first of the two elaborations of Estlund's example which I have just distinguished,[11] we might be sympathetic to Paul's case for earning $100,000. But here Paul's increase in income would entirely serve to redress Pauline's less-than-equal share of the goods of life as measured by her opportunity for welfare. So here an implicit commitment to welfare egalitarianism might fully explain

[9] See John Rawls, *A Theory of Justice* (Cambridge, Massachusetts: Harvard University Press, 1971), 75–83 and *passim*.

[10] Here I draw a distinction which is inspired by a distinction which G. A. Cohen has drawn in a different context between the 'special burden' and 'standard' cases of talented individuals who are motivated to work in a matter which benefits the least well off only if they are paid an above-average income for this work. See Cohen, 'Incentives, Inequality, and Community', *The Tanner Lectures on Human Values*, XIII, Grethe B. Peterson (ed.) (Salt Lake City: University of Utah Press, 1992), 263–329, at 296–299.

[11] Where Pauline's becoming a clothing maker would move her from below-average to average opportunity for welfare.

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our sympathy. If it does, the example does not lend support to the claim that we have a prerogative to depart from equality. Even if we maintain that Paul is permitted to benefit Pauline rather than donate his extra income to a stranger whose opportunity for welfare is even lower than Pauline's, we do not thereby embrace a prerogative to *depart* from a welfarist version of equality. This is because the permission in question is not a prerogative to raise Pauline above her welfare-egalitarian entitlement, since she will not end up with a greater-than-equal share of opportunity for welfare. Moreover, Paul's benefit to Pauline is a move in the direction of greater equality of opportunity for welfare even if not as significant a move in that direction as his giving to a worse off stranger would be.

Let us turn now to my second elaboration of Estlund's example.[12] If we are justified in believing that Paul is permitted to earn $100,000 in these circumstances, that would provide confirmation of the proposition that we have a prerogative to depart from equality. But Paul's case for earning such a high income is not, I think, very strong here. What's so compelling about the thought that people are allowed to confer advantages on their loved ones that move them beyond equality of opportunity for welfare? Egalitarians would be unsympathetic to Paul's case for earning a high income in a different scenario in which this would finance *his own* move from equal to greater-than-equal opportunity for welfare. The fact that the motive in Estlund's example is other-directed rather than self-directed might make us more sympathetic to Paul's case for earning $100,000, but does it radically distinguish it from the self-directed case?

One might try to distinguish the self-directed from the other-directed case by arguing that the latter involves a natural manifestation of Paul's love for another— and why should we stand in the way of people's expression of their love for others in a manner which benefits the beloved, even if the benefit moves the beloved beyond the level of equal opportunity for welfare? When we suppose that Pauline's opportunity for welfare is already at the average level, does it absurdly follow from egalitarianism that Paul is not permitted under any such circumstances to manifest his love for Pauline in a manner which benefits her? Well, one might be willing to grant Paul a prerogative if, rather than reaping a high income in order to confer this premium for his talent on

[12] Where Pauline's becoming a clothing maker would move her from average to above-average opportunity for welfare.

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Pauline, he remained at a more modest, egalitarian income, a sizable chunk of which he transferred to Pauline, thereby sacrificing his average level of opportunity for welfare so that she could reap a benefit which moves her above the average level of opportunity for welfare.[13] This would be a moving and admirable sacrifice in the name of love which some egalitarians might be tempted to permit even though it disrupts equality, and I shall discuss another example of this sort below.[14] But one's sympathy for Paul should be much fainter if he's prepared to raise Pauline's level of opportunity for welfare above the average only on condition that his remains at the average level.

II.

In this section, I shall argue that egalitarians should not endorse an agent-relative prerogative in a just society to own a greater-than-equal share of material resources that gives rise to greater-than-equal opportunity for advantage. In order to guard against the problem of competing egalitarian metrics which I have flagged in the previous section, I shall confine myself in this section to cases in which welfarist and resourcist metrics do not diverge in the distributions they recommend.

I shall begin by noting some contexts in which it would be incoherent for a government that is distributing resources to distribute them unequally out of respect for an agent-relative prerogative. Suppose that all land and other natural resources are unowned and that the government is trying to bring about a just distribution of land between two individuals named Alpha and Beta who take no interest in one another's welfare. Their capacities, including their productive talents, are equal, and they derive equal

[13] Given the stipulations of Estlund's example, this would not be enough to allow Pauline to quit her job as an accountant and become a full-time clothing maker, but perhaps it would benefit Pauline in somewhat less dramatic fashion by enabling her to take time off from work to enrol in a few design school classes and engage in a bit of freelance but poorly remunerated clothing design.

[14] See my discussion of the second of two examples in Section II below involving Alpha, Beta, and Gamma.

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welfare per unit of resource consumed.[15] Suppose also that, if the government divides the land into two equal-sized plots, each could grow more than enough food to live comfortably. The government could, however, divide the land unequally so that, for example, one of the two is able to grow enough in order to feast luxuriously, whereas the other is left just above the threshold of sufficiency. Now it would make no sense for the government to give the one person more land than the other on the grounds that this is licensed by the one person's agent-relative prerogative to favour his own interests over those of strangers.

Even if we consider a case which is identical to the above except for the fact that there is no government, but rather simply two mutually disinterested individuals who confront unowned land in a state of nature, there is still no case for agent-relative prerogatives in the matter of the distribution of land. The one person does not have an agent-relative prerogative to acquire more than half of the available land for himself even if he leaves enough for the other to maintain a living just above the threshold of sufficiency. Rather it is clear that the one person ought to leave, not just enough land for the other, but also as good, where 'as good' consists here of a plot of land which is as large as the one that he has acquired.

Should we reach a different conclusion regarding the justifiability of prerogatives to acquire a greater-than-equal share of resources when we introduce the non-market giving of resources by those who are not mutually disinterested but rather moved by a concern for others? I think not. Let us modify the case of Alpha and Beta by introducing a third person into this state of nature: Alpha's brother Gamma, whose capacities and ability to derive welfare from resources are equal to Alpha's and Beta's. Suppose that Gamma acquires one-third of the land available but that Alpha acquires more than one-third, thus leaving Beta with less than one-third to acquire. It should be clear that Alpha would not have an agent-relative prerogative to acquire more than one-third of the available land even if he did so, not for his own gain, but in order to transfer all of this extra benefit to his beloved brother

[15] For the sake of simplicity, I shall assume in this example and the ones that immediately follow that the individuals in question live on an isolated island and that farmable land of uniform quality and its fruits are the only resources available to them. But my points generalize to cases involving a fuller range of resources.

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Gamma. The fact that Alpha's motivation to engage in inegalitarian acquisition is other-directed rather than self-directed does not serve to justify an agent-relative prerogative to depart from equality.

The appeal of equality-disrupting prerogatives may seem stronger in cases involving the non-market giving of a portion of one's own equal initial share of resources to others for whom one has a special concern. Suppose that Alpha, Beta, and Gamma each initially acquire equal-sized plots of land in a state of nature. Yet Alpha subsequently makes the sacrifice of giving his brother Gamma the majority of his initially equal share. As the result of such giving, Gamma's share of resources would end up greater than Beta's. This case differs from the previous one insofar as inequality arises in spite of an initial equal distribution of land, whereas in the previous case inequalities arise through an initial acquisition of unequal parcels of land.

Though egalitarians might be sympathetic to a prerogative to give in this last case, it should be noted that this case is not so different from Nozick's famous Wilt Chamberlain example involving inequality-generating exchanges among the unequally talented which arise from a baseline of an equal division of resources.[16] In both cases, some are willing to transfer a portion of their equal share to somebody else, thereby giving rise to inequality. Egalitarians are not inclined to affirm a prerogative to depart from equality in the Wilt Chamberlain case. Egalitarians would endorse the taxing away of Wilt's earnings which are surplus to equality when his greater talent is unchosen by him because purely the result of his greater genetic endowment. They would also endorse Wilt's taxation when his greater talent is unchosen by him because purely the result of the choices of his parents to lavish their money on him to send him to an especially good private training camp in his youth.[17] If we assume that Wilt's parents' wealth was cleanly generated against a background of equality of opportunity for advantage, this case is relevantly similar to the case of Alpha, Beta, and Gamma which I presented in the previous paragraph. In both cases, inequality is the consequence of the choices of others to

[16] Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 160–164.

[17] Egalitarians would endorse such taxation even when we ignore any inegalitarian advantage apart from higher earning power which greater talent confers. For simplicity, I shall assume that Wilt's greater talent confers no advantage apart from greater earning power.

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transfer some of their equal share to another. The difference between the two cases is that Wilt's unequal wealth is the result of the combination of familial gift (i.e., paying for his training) and subsequent market transactions, whereas Gamma's unequal wealth is the result of familial gift alone. This difference, however, is insufficient to justify a prerogative to depart from equality in the latter case, given that it is unjustified in the former case involving Wilt.

III.

In the last section, I argued that egalitarians should not endorse any prerogative in a just society to own a greater-than-equal share of material resources that gives rise to greater-than-equal opportunity for advantage. In this section, I shall consider cases in which inequalities in opportunity for advantage arise solely through the welfare-affecting choices of individuals to associate with one another and not through any inequality in the distribution of resources. I shall suppose that it is possible, in these cases, to counteract these inequalities through a compensatory unequal distribution of resources. Although some of these cases—namely those involving inequalities arising from highly personal forms of association—may appear to provide compelling examples of cases in which we have a prerogative to depart from equality, I shall argue that even here the case for prerogatives to depart from equality is illusory.

These cases all presuppose the following background of an island whose resources are of uniform quality and unowned at the outset. In the absence of any association with one another, any two people with the same resource holdings will also enjoy the same opportunity for welfare. Moreover, the mental and physical capacities of individuals are equal and people derive the same amount of welfare per unit of resource consumed. But if any of them form an association, they thereby make it the case that, for any given level of resources per capita, they will be better off in terms of opportunity for welfare than they would have been in the absence of this association.

Here are the first two cases. They involve a three-person island inhabited by Alpha, Beta, and Gamma:

(1) Economic Partnership: Beta and Gamma form an economic partnership from which they exclude Alpha. The partnership itself and the rewards which they receive do not involve

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resources, since the partnership consists of nothing more than the trading of services. For example, they provide one another with physiotherapy and acupressure in order to alleviate various ailments, or they offer one another tutorials on their differing areas of expertise.

(2) **Mutual Protection:** Beta and Gamma form a two-person mutual protective association from which they exclude Alpha. They protect one another against injury from outside invaders or natural disaster. This protection is provided without the use of resources. (This is a special case of (1).)

Each of these two cases involves the formation of an organization in order to provide a good, where the good itself is not a material resource. It is not a material resource because the good consists solely of services rendered. I shall refer to the goods created in these two cases as the goods of economic association, bearing in mind that the economy in question is entirely service-based.

If equality is to be realized, then Beta and Gamma would, on account of their exclusion of Alpha from their association, be required to leave Alpha with a greater share of resources in order to compensate him for the fact that, for any given equal level of resources per capita, they will be better off in terms of opportunity for welfare than Alpha. I do not believe that any legitimate prerogative stands in the way of realizing equality here.

It follows from what I have argued elsewhere that it would not violate anyone's self-ownership if Alpha were entitled to a greater share of resources as compensation for his lack of opportunity to acquire the goods of economic association.[18] Nor for the same reason would such entitlement violate people's rights to associate with mutually consenting others on terms of their own choosing, which is an implication of their several rights of self-ownership. Rights to associate would be violated if Beta and Gamma were required to associate equally with Alpha as a condition of their associating with one another. But they would not be violated by a transfer of resources to Alpha to compensate him for losing out on the benefits of the goods of economic association.

I would reach the same conclusions with respect to a third example which presupposes the same background as the first two except for the fact that now there are a number of other people in addition to Alpha, Beta, and Gamma. In this case:

[18] I shall say more about the relation between self-ownership and prerogatives in the next section.

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(3) Political Society: Beta, Gamma, and these numerous others form a political society from which they exclude Alpha.

This example adds to (2) whatever else it takes, in addition to the collectivization of one's natural right to punish, to form a political society.

But now consider the following fourth and fifth forms of highly personal association:

(4) Friendship: Beta and Gamma form a friendship, but they do not befriend Alpha.

(5) Love: Beta and Gamma fall blissfully in love with one another, and neither falls in love with Alpha.

In these fourth and fifth cases, as in the previous three, Beta and Gamma (along with the others in the third case) would frustrate equality by virtue of their exclusion of Alpha if they did not allow Alpha a greater share of resources in order to counteract the inequalities in opportunity for welfare which arise from Alpha's exclusion. I acknowledge that even previously highly sympathetic readers might be reluctant to follow their egalitarian impulses this far. Many would maintain that it is absurd to suppose that resources should be allocated to compensate people for welfare deficiencies that arise on account of their being friendless or unloved even when we stipulate that their loneliness is not their fault. (Recall Nozick's account of the unlucky suitor who, despite his best efforts and through no fault of his, is unloved because of the non-unjust choices of others.[19] Or Nozick's case of universally unappealing Z who, as the result of the choices of A through Y and A' through Y', is stuck with nobody else to marry but universally unappealing Z'.[20]) One might be willing to acknowledge that people are entitled to treatment or other forms of compensation for mental or physical illnesses such as depression or hypertension which arise from such loneliness. But it is much harder to accept the claim that resources should be allocated simply in order to eliminate inequalities in opportunity for welfare that arise from others' choices of friends or lovers. Perhaps a prerogative to depart from equality gains a firm foothold here.

Some egalitarians would be inclined to draw the different conclusion that the above cases involving love or friendship simply show that equality of opportunity for welfare is an untenable

[19] *Anarchy, State, and Utopia*, op. cit. note 16, 237.
[20] Ibid., 263.

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doctrine which should be abandoned as a component of advantage in favour of a form of equality which encompasses only resources and capacities. These egalitarians would maintain that prerogatives to befriend or fall in love with others without having to compensate the friendless or lovelorn for their lesser opportunity for welfare are not prerogatives *to depart from equality* for the following reason: equality, when properly understood, is not concerned with differences in opportunity for welfare but only with differences in resources or physical or mental capacities.

I do not think, however, that it is credible for an egalitarian to ignore welfare completely, as a consideration of cases involving discomfort or pain reveals. Suppose, for example, that the only material resource available for use by each of two individuals who are stranded on a desert island is an unowned blanket that can be divided into portions of any size.[21] If the blanket did not exist, both would freeze to death. One of these individuals is, through no fault of his, twice as large as the other. If the blanket is divided into equally large portions, then the smaller of the two will have enough to enjoy the luxury of being able to wrap the blanket around himself twice, whereas the larger of the two will suffer the (non-life-or-limb-threatening) discomfort of partial exposure to the cold because he will be able to cover only a portion of his body. The blanket could, however, be divided into unequal portions that enable each to cover his entire body once, thereby leaving them equally comfortable. (But neither is as comfortable as he would have been if he had a greater share of the blanket.) Intuitively, it would be unfair for the smaller person to acquire half of the blanket rather than that lesser portion which would leave him as comfortable as the other. One needs to admit welfare into the scope of one's egalitarian metric in order to capture this intuition.

Might an egalitarian who admits opportunity for welfare into his metric draw a legitimate moral distinction between different sources of lesser opportunity for welfare? Suppose he proposes to exclude from the scope of egalitarianism those lesser opportunities for welfare which are purely a matter of one's lesser opportunities for human association and have nothing to do with inequalities in one's resource holdings or one's efficiency in converting resources into welfare. This would serve to distinguish the blanket case from the cases of the friendless and lovelorn. Such a distinction, however, seems *ad hoc*. In any event, drawing the line here would

[21] This example is borrowed from *Libertarianism without Inequality*, op. cit. note 7, 26.

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leave too much outside of the scope of equality, since one doesn't want to immunize all non-material benefits of economic and political associations (such as those in cases (1)–(3)) from the scope of equality.

Some egalitarians might try to distinguish inequalities arising from lack of love or friendship from other sources of inequality by pointing to the special practical difficulties which would arise in remedying the plight of the friendless and lovelorn. Compensation by means of extra resources for the lonely and unloved might be especially insulting, humiliating, or otherwise ineffective or counterproductive. It would also be intrusive or impossible to determine how well or badly people fare as the direct result of their social and love lives.[22]

These practical difficulties are very real, but they do not fully, and therefore do not adequately, explain the egalitarian's reluctance to address inequalities which are the direct result of differential access to the love or friendship of others. For let us suppose that we somehow know, by non-intrusive means, how well off Beta and Gamma are as the direct result of their relationships of love or friendship. Perhaps Beta and Gamma are, to the annoyance of onlookers, happy to broadcast this fact through veridical and highly informative public displays of affection. Suppose furthermore that friendless and unloved Alpha's level of unhappiness is fully transparent and that he is perfectly happy to submit a claim for cash compensation which will allow him to purchase expensive holidays and luxury goods which would provide him with an opportunity for welfare equivalent to Beta's and Gamma's. Even after practical difficulties have been stipulated away in this fashion, many egalitarians will nevertheless remain reluctant to embrace the claim that egalitarian justice demands the compensation just described.

Is the best explanation of this reluctance that they embrace a prerogative to depart from equality in matters concerning love and friendship? I think not. A better explanation is that they are moved by a belief in the inappropriateness of addressing one form of disadvantage (lack of love or friendship) by means of a very

[22] See Jonathan Wolff, 'Fairness, Respect, and the Egalitarian Ethos', *Philosophy and Public Affairs* **27**, No. 2 (Spring 1998), 97–122, and Elizabeth Anderson, 'What Is the Point of Equality?', *Ethics* **109**, No. 2 (January 1999), 287–337.

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different form of compensating advantage (holidays and luxuries).[23] So on reflection these 'separate spheres' egalitarians would not say that inequalities in love and friendship fall beyond the scope of, because they involve a prerogative to depart from, egalitarianism. Rather, they would say that they fall within the scope of egalitarianism but need to be addressed in an appropriate manner through the provision of goods of roughly the same kind.[24] Though providing the friendless and lovelorn with meaningful companionship would be the provision of a benefit in kind, it would of course either be impossible or an injustice insofar as it is possible to frogmarch others into being their friends and lovers. But let us suppose, no doubt counterfactually, that it is possible for the state fully to redress the lesser opportunities for welfare of the lonely and unloved by subsidizing such things as singles clubs and professional matchmakers.[25] In this case neither 'separate spheres' egalitarians nor other egalitarians would have reason to endorse prerogatives on the part of those lucky in love and friendship that stand in the way of their being taxed as a matter of egalitarian justice to fund these clubs and matchmakers.

IV.

It has been a recurring theme of the previous sections that various putative examples of prerogatives to depart from equality turn out on closer inspection to be illusory. Many people are nevertheless convinced of the existence of such prerogatives. In this concluding section, I shall briefly identify two of the sources of this conviction, both of which trace to rights of ownership. I shall explain why neither grounds the sorts of prerogatives that people commonly affirm to depart from equality in a just society.

Some might press the claim that equality-departing prerogatives follow from a right of self-ownership, by which I mean a 'very stringent right of control over and use of one's mind and body that

[23] See Jonathan Wolff, 'Addressing Disadvantage and the Human Good', *Journal of Applied Philosophy* **19**, No. 3 (2002), 207–218.

[24] As the term ' "separate spheres" egalitarians' suggests, this approach bears affinities to the account of 'complex equality' that Michael Walzer provides in *Spheres of Justice* (New York: Basic Books, 1983). I should note, however, that Walzer does not claim that a norm of equality applies to each of his spheres of justice.

[25] For this supposition to hold, we will need to stipulate away practical difficulties akin to those mentioned two paragraphs ago.

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bars others from intentionally using one as a means by forcing one to sacrifice life, limb, or labour, where such force operates by means of incursions or threats of incursions upon one's mind and body (including assault and battery and forcible arrest, detention, and imprisonment)'.[26] This is a right that just about everyone affirms, even those Rawls-influenced liberal egalitarians who disapprove of the word 'self-ownership'. When we consider cases that involve nothing other than sacrifices of limb or labour, the thought that one has an agent-relative prerogative not to make sacrifices to the point of equality seems fairly compelling. Well-off individuals might be morally required to render relatively non-burdensome services to those in dire need. The legal coercion of some such services via threat of imprisonment, as in the case of easy rescue laws, might also be unobjectionable. But it would typically be unjustifiable to use such means to force a well-off individual—and such an individual would typically have no moral duty—to devote his time and effort (i.e., his labour) to the enhancement of the opportunity for welfare of someone very badly off to the point at which it is no less great than his.[27] Similarly, one might be morally required to give a pint of blood in order to save a stranger's life (though legal coercion might be inappropriate here). But one would typically not be morally required to make such sacrifices to the point of equality. Nor, to take Nozick's example, would one be morally required to give one of one's two good eyes to a blind stranger in order partially to restore his sight.

We might describe these cases as ones in which one has an agent-relative prerogative not to realize equality. But any such prerogative here would simply be a consequence of one's stringent right of control over one's limbs (broadly speaking) and one's labour—i.e., one's right of self-ownership. Such a right does not, as I have argued elsewhere,[28] imply any right to earned income that would be disruptive of equality of opportunity for advantage.[29] Nor does it imply the right to give gifts in a manner which is disruptive of such equality.[30] Nor does it stand in the way of making one's access to material resources conditional on one's

[26] *Libertarianism without Inequality*, op. cit. note 7, 15.
[27] See ibid., ch. 1, sec. II.
[28] See ibid., ch. 1.
[29] Except in highly unusual cases such as those discussed in ibid., ch. 1, sec. II, in which there are no worldly resources and one's income consists solely of the products of one's body.
[30] See ibid., ch. 1, sec. V.

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agreeing not to do things which would violate equality of opportunity for advantage.[31] Hence the right of self-ownership cannot form the grounds of an agent-relative prerogative to depart from a distribution of material resources which compensates for inequalities in opportunities for advantage.

In addition to our belief in self-ownership, we also believe (or at least many of us do) that we have moral entitlements to that which we have legally earned and been given in the actual world even though the actual world falls far short of an ideally just world. We at least implicitly regard ourselves as having moral rights of ownership that are grounded in our legal rights of ownership in holdings, where these legal rights typically encompass the right to give away, share, or consume these holdings. We regard these moral rights as stringent even though less stringent than our rights of control or ownership over our limbs or labour. It is a consequence of our belief that we have a moral entitlement to these holdings that we believe that, so long as we respect others' rights of self-ownership and their legal rights of world-ownership, we are entitled to do as we please with our riches even when we are much better off than others. And it is a consequence of this latter belief that we think we have an agent-relative prerogative to favour ourselves or those whom we care about over strangers insofar as the disposition of these riches is concerned.

If, however, the better off in the actual world really have a moral entitlement to that which they legally own, this would most plausibly be explained by the hypothesis that present legal entitlements have moral force because of the disruption to people's lives which would occur if the status quo were overturned and transformed into a justly egalitarian society. There may be limits to what one can, in the name of equality, force a person to give up which he already possesses—his already inherited wealth, for example, which he has invested in expensive projects with which he strongly identifies and which have shaped his character over the years.[32] But here we confront a problem of limited duration. Future as yet unborn generations would have no comparable claim to have greater-than-equal wealth to spend on expensive projects. It does

[31] See ibid., ch. 1.

[32] Cf. Bernard Williams, 'A Critique of Utilitarianism', in J. J. C. Smart and Bernard Williams, *Utilitarianism: For and Against* (Cambridge: Cambridge University Press, 1973), and 'Persons, Character, and Morality', reprinted in his *Moral Luck* (Cambridge: Cambridge University Press, 1981), ch. 1.

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not follow from the explanation under review of prerogative-implying moral entitlements of people to hold onto their riches in the actual world today that there would be any analogous reason to think that people would have a prerogative to depart from equality in an ideally just society in the future.

Recall that we concluded above that it was nonsense for the government to give the one person more unowned land, and seemed unreasonable to allow one person to take more unowned land, out of deference to an agent-relative prerogative. In these thought experiments, we operated under the assumptions that the resources in question do not come with strings of ownership already attached and that any claims of ownership need to be justified against an initial presumption of non-ownership. These are surely the right sorts of assumptions to bring to our deliberations about the ideally just society, since they serve to cleanse our deliberations about ideal justice of irrelevant facts about our historically uncleanly generated and otherwise morally arbitrarily grounded actual legal rights of ownership in things. Elsewhere I have offered Lockean arguments on behalf of the claim that our theorizing about the property rights that would obtain in the ideally just society should be modelled on our theorizing about the just distribution of unowned resources.[33] One might regard the Rawlsian veil of ignorance as another means of cleansing our deliberations about justice of these irrelevancies. There are, no doubt, significant differences between the Rawlsian original position and the Lockean state of nature. The Rawlsian original position involves the selection of principles for a modern, constitutional democracy, whereas the Lockean state of nature involves our pre-political rights of ownership over a much more primitive state of the world. But I see no more reason to think that we need to add agent-relative prerogatives as an extra ingredient above and beyond our property rights over things in the more civilized Rawlsian context than in the natural Lockean context.

[33] See *Libertarianism without Inequality*, op. cit. note 7, ch. 1.

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