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**ECONOMIC INEQUALITY AND PROPORTIONALITY.
HOW RICH SHOULD THE 1% BE?**

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Esta tese foi julgada adequada para obtenção do Título de “Doutor em Filosofia”, e aprovada em sua forma final pelo Programa de Pós-Graduação em Filosofia.

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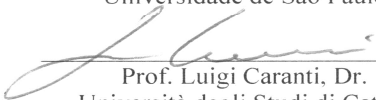
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We have to invent new wisdom for a new age. And in the meantime we must, if we are to do any good, appear unorthodox, troublesome, dangerous, disobedient to them that begat us.

KEYNES, John Maynard. *Essays in Persuasion*. Palgrave Macmillan, 2010, p. 306, (First publication: 1931).

Resumo

A tese tem como argumento central a proposição segundo a qual levar em consideração a distância entre os mais e os menos privilegiados, em termos de renda e riqueza, importa para a justiça distributiva. Nesse sentido, ela se afasta das teorias da justiça distributivas usuais as quais consideram a desigualdade material injusta apenas na medida em que a sociedade como um todo não é capaz de, assegurar um sistema equitativo de oportunidades sociais para todos, de estabelecer um patamar suficiente de recursos, ou ainda, a maximização das posições sociais piores situadas. De acordo com esses critérios distributivos, uma distribuição justa é medida em termos absolutos, e a discrepância (gap) entre beneficiados e penalizados pela distribuição de riqueza não é dotada, em si mesma, de um significado normativo. Alternativamente, a tese apresenta e defende um critério de justiça social cujo foco central são as discrepâncias irrazoáveis entre os mais privilegiados (o 1% mais rico da sociedade) e os menos privilegiados (os 50% mais pobres) da cooperação social, com base em um critério geral de proporcionalidade. Tendo como base esse critério, argumenta-se que a teoria é capaz de lidar adequadamente com o modo como as pessoas constituem relações intersubjetivas de justiça nas sociedades democráticas. A pergunta central da justiça social, dessa perspectiva, torna-se a pergunta sobre se pessoas iguais possuem o poder material adequado para serem co-autores e autoras das normas legais, políticas e socioeconômicas que governam as relações nas quais eles e elas estão envolvidos. Uma vez que a desigualdade econômica excessiva permite a conversão de recursos econômicos em poder, temos as bases para a dominação econômica e política dos membros piores situados na distribuição. Por esse motivo, a tese procura demonstrar que ninguém deveria ganhar (pós-taxação) mais do que dezoito vezes a renda média dos 50% mais pobres, e que ninguém deveria possuir mais do que cem vezes a riqueza média (por adulto) dos 50% mais pobres da sociedade. Defende-se que essa é uma resposta convincente para a pergunta: o quão rico deveria ser o 1%?

Palavras-chave: Desigualdade econômica; Justiça social; Proporcionalidade; Dominação; o 1%; John Rawls.

Resumo Expandido

Introdução

A tese tem como argumento central a proposição segundo a qual levar em consideração a distância entre os mais e os menos privilegiados, em termos de renda e riqueza, importa para a justiça distributiva. Nesse sentido, ela se afasta das teorias da justiça distributivas usuais que consideram a desigualdade material injusta apenas na medida em que a sociedade como um todo não é capaz de assegurar um sistema equitativo de oportunidades sociais para todos, de estabelecer um patamar suficiente de recursos, ou ainda, a maximização das posições sociais piores situadas. De acordo com esses critérios distributivos, uma distribuição justa é medida em termos absolutos, e a discrepância (gap) entre beneficiados e penalizados pela distribuição de riqueza não é dotada, em si mesma, de um significado normativo. Alternativamente, a tese apresenta e defende um critério de justiça social cujo foco central são as discrepâncias irrazoáveis entre os mais privilegiados (o 1% mais rico da sociedade) e os menos privilegiados (os 50% mais pobres) da cooperação social, com base em um critério geral de proporcionalidade. Tendo como base esse critério, argumenta-se que a teoria é capaz de lidar adequadamente com o modo como as pessoas constituem relações intersubjetivas de justiça nas sociedades democráticas. A pergunta central da justiça social, dessa perspectiva, torna-se a pergunta sobre se pessoas iguais possuem o poder material adequado para serem co-autores e autoras das normas legais, políticas e socioeconômicas que governam as relações nas quais eles e elas estão envolvidos.

Objetivos

A tese procura demonstrar como, uma vez que a desigualdade econômica excessiva permite a conversão de recursos econômicos em poder, temos as bases para a dominação econômica e política dos membros piores situados na distribuição econômica. Por dominação entende-se obedecer a vontade alheia de outros, em oposição a 'obedecer a si mesmo' ou ser o 'mestre de si mesmo'. Em outras palavras, a dominação acontece quando alguns indivíduos ou grupos não são capazes de se considerarem co-autores das regras primárias (jurídicas, políticas e socioeconômicas) por falta de poder (econômico, político e social) adequado. Nesse sentido, a dominação está ligada a dimensão da injustiça social como uma lesão à nossa autonomia 'deliberativa'. A pergunta que temos de responder é aquela de apontar quem tem o poder de estabelecer e reformular as regras primárias que

governam as relações nas quais os indivíduos e cidadãos estão envolvidos. A tese pretende mostrar que num sistema social que faz uso do livre mercado, o poder de estabelecer e reformular os arranjos socioeconômicos é compartilhado, assimetricamente, entre o governo político que estabelece a estrutura legal/jurídica do mercado e os atores econômicos dentro essa estrutura. Isso significa que temos de levar em conta, tanto a desigualdade política quanto a desigualdade econômica. Por essa razão, a tese considera como insuficiente a estratégia isolacionista do sistema político (manter o dinheiro fora da política) para evitar a injustiça social como dominação. Ao contrário, na tese afirma-se que a desigualdade econômica deve ser avaliada segundo o critério distributivo de proporcionalidade. Isso significa que nós devemos decidir a discrepância (gap) entre o ápice (1%) e a parte inferior (50%) da distribuição de renda e riqueza de maneira a evitar um incremento sem limites da desigualdade. Apenas desse modo a desigualdade econômica e a concentração econômica não alcançaram uma magnitude excessiva, prevenindo assim que o poder econômico seja dominante na sua própria esfera de relevância e, sobretudo, não se converta facilmente em poder político de uma forma também dominante. O resultado, então, é evitar o fenômeno da oligarquia 'civil'.

Metodologia

O argumento apresentado na tese pode emergir com toda a sua força e clareza apenas por meio de uma teoria crítica da justificação que empregue uma abordagem teórica não-ideal em conjunto com uma perspectiva metodológica que não negligencie o ponto de vista das vítimas das injustiças. A aposta é que uma concepção crítica da justiça social consiga explicitar plenamente a sua real importância e, sobretudo, quando ela entra em jogo. Assim, não é fortuito que a tese se inicia com a própria investigação político-filosófica que expõe a demanda social e política contra a atual desigualdade econômica levantada pelo movimento do Occupy Wall Street. O movimento de Occupy desmascara a existência de uma elite, o 1% mais rico (ou até o 0,1%), que está constantemente concentrando mais renda e riqueza nas suas mãos, em contraposição ao 99% restante da população. Isso leva o Occupy a denunciar como uma enorme desigualdade econômica contribui para impor relações políticas e socioeconômicas arbitrarias e opressivas. A tese sustenta, propriamente, que a ideia de proporcionalidade alcança a demanda contra a desigualdade econômica levantada pelo movimento de Occupy Wall Street.

Resultados e Discussão

Como resultado a tese mostrou a possibilidade e a exigência normativas de determinar a discrepância (gap) de renda e riqueza entre os mais privilegiados (o 1% mais rico da sociedade) e os menos privilegiados (os 50% mais pobres) da distribuição econômica. O critério distributivo de proporcionalidade foca exatamente e diretamente nessa distância (gap) entre o topo (1%) e a base (50%) da distribuição, que, por sua vez, não deveria exceder uma determinada proporcionalidade razoável. Por esse motivo, a tese afirma que ninguém deveria ganhar (pós-taxação) mais do que dezoito vezes a renda média dos 50% mais pobres, e que ninguém deveria possuir mais do que cem vezes a riqueza média (por adulto) dos 50% mais pobres da sociedade. Defende-se que essa é uma resposta convincente para a pergunta: o quão rico deveria ser o 1%?

Considerações finais

A tese sustenta que uma sociedade que é capaz de manter regularmente uma proporção de 1/18 da renda e de 1/100 da riqueza pode ser definida como uma utopia realista, apesar de que essa sociedade não possa ser considerada uma sociedade ideal, nem a sociedade mais igualitária que nós poderíamos concretamente realizar. A razoabilidade da proposta torna-se evidente no momento em que são avaliados os eventuais efeitos distributivos dos critérios de proporcionalidades de renda e riqueza aplicados à distribuição econômica concreta e real dos casos da Itália, Estados Unidos e Brasil. A proporção de 1/18 de renda e de 1/100 de riqueza não permitiria uma desigualdade econômica excessiva a favor do grupo do 1% mais rico. Contudo, apesar de que a proporção efetiva de renda e riqueza proposta poderia ser legitimamente questionada, uma vez aceitado como válido o critério distributivo de proporcionalidade em si, essa ideia normativa tem fortes implicações no modo como a sociedade deveria arranjar a sua estrutura de base (legal, política, socioeconômica e cultural). Assim, seria necessário discutir as implicações e os cumprimentos do critério distributivo de proporcionalidade a respeito de um conjunto de propostas distributivas em quatro áreas amplas: 1) distribuição de riqueza e repartição de capital; 2) segurança social; 3) taxaço progressiva; 4) contrabalanceamento do poder de tomada de decisão econômica.

Palavras-chave: Desigualdade econômica; Justiça social; Proporcionalidade; Dominação; o 1%; John Rawls.

Abstract

This thesis argues that the gap between the most and the least advantaged in terms of income and wealth matters. From this point of view, it does not share the same conclusion of the most common distributive theories of justice, which usually take economic inequality to be unjust when a society does not secure a fair system of equal opportunity for all, a sufficient socioeconomic threshold, or the maximization of the position of the worst off. However, according to all these distributive criteria, the just distribution is assessed in absolute terms of what people have and the gap between the most and the least advantaged, whatever it would be, is no longer normative significant. By contrast, this thesis proposes a distributive criterion of social justice that focuses directly on the gap between the best off (the top 1%) and the worst off (the bottom 50%), which should not exceed a certain reasonable proportionality. Therefore, this thesis advocates the distributive criterion of proportionality. In this way, we are able to adequately take into account how people are treated in terms of intersubjective relations. From this point of view, a just distribution is assessed taking into account the fundamental question whether people have the material power to be co-authors of the legal, political and socioeconomic rules that govern the 'social' relations in which they are involved. Given that an excessive economic inequality gives a great economic power that can also be easily converted into political power, it entails a condition of economic and political domination for those who are situated at the bottom of distribution. For this reason, this thesis argues that *nobody* should earn more than 18 times of the average income (post-tax) of the bottom 50%, and *nobody* should own more than 100 times of the average wealth (per adult) of the bottom 50%. It could be a compelling answer to the question: how rich should the 1% be?

Keywords: Economic Inequality; Social Justice; Proportionality; Domination; The 1%; John Rawls.

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Introduction

The issue of economic inequality has gained centrality in the public debate since the 2008 financial and economic crisis, whose effects are still evident. The public opinion seems to share the impression that the gap between the super-rich and the lower-class (and even the middle class) has grown enormously in the last 20-30 years, reaching a shameful level of inequality. In particular, the richest 1% are able to concentrate an enormous and disproportionate percentage of the total national income and wealth.

Even limited data makes evident the magnitude of the current phenomenon of economic inequality. According to the *World Inequality Report 2018*¹, in countries with the highest level of income inequality, we find out that the share going to the top 1% is on the order of 20% to 28% of the total national income; precisely, South Africa (19.2%), Russia and the U.S.A. (20.2%), India (21.7%), Turkey (23.4%), and Brazil (27.8%). The magnitude of the current economic inequality appears in all its evidence when we realize that the richest 1% get a percentage of the total national income that is double or more than the percentage gotten by all the population at the bottom 50%. In these countries, it means that a person who belongs to the top 1% earns, on average, 30 or even 40 times more than a person who belong to the bottom 50%. The phenomenon is even more pronounced regarding wealth inequality. To mention but a few cases, in the United States, the richest 1% own 38.6% of total national wealth, in Russia the percentage is 42.6%, and only in the context of Europe the percentage of total national wealth gotten by the top 1% is around 20% to 24%. By contrast, in most developed countries, the bottom 50% own around 5% of total national wealth. The current economic inequality reaches a very extreme level when we take into account the individual wealth of the richest people in the world.² The latest report by *Oxfam*³ estimates that “82 percent of the wealth created last year went to the richest one percent of the global population, while the 3.7 billion people who make up the poorest half of humanity got nothing”.

It is doubtless that the current issue of economic inequality is central to both the informal public and political institutional debate, as

¹ *World Inequality Report 2018*: [link](#).

² *Bloomberg*: [link](#).

³ *Oxfam*: [link](#).

well as different sectors of the academic world, and is also the topic of many empirical researches. In these empirical studies of economic inequality, we can identify two main points of view: the economic dysfunction and the political/democratic dysfunction. Consequently, the economic and political scientists have adopted a similar methodology, namely a functionalist perspective⁴. On the one hand, many economical empirical researches have proved, first of all, the existence of a consolidating (in the last 30 years) trend toward a sharp increase of economic inequality and economic concentration in all liberal societies. Secondly, these empirical researches, contrary to the dominating neoliberalist economic doctrine, have shown that this extraordinary level of economic inequality is detrimental to the economy. On the other hand, political scientists have also focused on the negative effects that this new level of economic inequality and economic concentration has on the stability, efficiency, and, above all, legitimacy of our liberal democracies, insofar we may use the term 'civil' oligarchy (Winters, 2011).

Although these works in many cases adopt indirectly some normative point of views (for example, the value of political liberty, the value of equality or the value of democracy), they are taken for granted. This leaves room for a specific normative work which is the main terrain of political philosophy. Indeed, we can ask ourselves the following questions: even if it would be true that the current level of economic inequality is inefficient for economy or that it causes political and democratic distortions, do we have normative reasons to condemn this level of economic inequality as unjust? Do we have moral/political reasons to reduce the economic inequality, for example, using the coercive power of the state? And furthermore, what extent and according to which principle or criterion is the current economic inequality unjust? One of the central tasks of political philosophy is to try to offer an answer to these kinds of questions.

Inequality is a central issue in the history of political philosophy, and not only since the nineteenth century, when the idea of social justice emerged, but was also one of the most important topics already in the classical idea of distributive justice in Greek philosophy. The ancient principle, to each (or from each) his own, is the most classical manner

⁴ Beyond the merely economic and political science approach, the current economic inequality was criticized also by an ethical/functionalist perspective. See: Wilkinson - Pickett, 2010.

to assign the way in which the benefits and burdens of society are distributed, and consequently what types of inequality are legitimate or not, and therefore how they should be eliminated or mitigated. Now, given that the main question of this thesis is: When and why is economic inequality unjust? It seems that we should know beforehand what (social) justice is. Thus, it seems that the primary, and most fundamental, question should be: What is (social) justice? Effectively, both questions are the issue of this thesis, but I will not follow the most classical and common way to proceed in political philosophical investigation: what Bufacchi (2012) defines as the classic top-down approach or, according to Shklar's definition (1990), the normal model's construction of justice.

Political philosophers have a tendency to refer to social injustice merely as the lack of social justice; therefore by focusing (directly) on issues of social justice, they also (indirectly) shed light on the idea of social injustice. (Bufacchi, 2012, p. 1)

In a few words, it means that “where there is no justice to quell it, injustice prevails” (Shklar, 1990, p. 18). I agree with Bufacchi and Shklar (and others⁵) that we should reverse the relationship between justice and injustice, and therefore resist the temptation to conceive injustice simply as the absence of justice. I am not arguing that the classical model is wrong, but simply that the opposite way to proceed is more effective. Indeed, beginning with a clear definition of justice entails, at least, two main problems. First, we risk overlooking the perspective of the victims of injustice. This problem is concerned with the difficult task of deciding the kind of attitude and position that political theorists should maintain with social actors or participates (Pinzani, 2012/a). Second, if injustice is the shadow of justice, then our understanding of injustice depends entirely on one's preferred conception of justice (Bufacchi, 2012). In this way, we might have the problem of neglecting some serious forms of social injustice that simply do not count as such in our theory. Moreover, in conceiving social justice simply as the absence of social injustice, it means that our conception of justice concerns, more or less, ideal conditions. Therefore, we have the problem of the transition from this ideal scenario to a non-ideal one. One might seriously doubt whether the principles of justice for the design of institutions and/or the conduct of persons that would be appropriate to a morally and politically ideal order are, in the same way,

⁵ Just to mention some: Pogge (2002); Frazer (1997); and Forst (2014).

also appropriate to the imperfect circumstances within which we live out our lives. And if they are not, they leave us without a method for bridging this gap (Phillips, 1985). However, one might believe that we have no alternatives, since that in prioritizing injustice above justice we may have neither a valid starting point in our investigation nor normative references, but it is not true. I think that the best way to deal with the question of justice is a critical understanding. Indeed, the most fundamental question of justice does not regard what justice is rather than what justice is not.⁶ So then, our starting point should be all those social conflicts in which individuals, groups and, above all, social movements hold to be unjust certain actions and certain ‘social norms’⁷. As Shklar (1990, p. 90) notes:

One must, at least initially, credit the voice of the victim rather than of society’s official agents, of the accused injurer or of the evasive citizens. [...] The claim may be unfounded on the available evidence and might be rejected, but the putative victim must be heard.

Thus, a critical conception of justice is twofold: it does not take our social world for granted or as ‘natural’, and it does not take any social/political demands and claims themselves as moral/political legitimate and acceptable. This way of proceeding has a deep impact in our methodological and theoretical framework. Indeed, it means that we do not proceed step by step to realize or reach social justice, but rather, more modestly and realistically, to eliminate or mitigate social injustices. Coherently with this critical approach, it is not a coincidence that I will begin the first chapter of this thesis by exploring the Occupy Wall Street movement and its social and political demand against excessive economic inequality. This critical approach has a great advantage: it is able to show why social justice really matters and, above all, when it comes into play.

Occupy is the starting point of my investigation, not only for its public and political significance, but also because the argument that *Occupy* moves against the current level of economic inequality might

⁶ Dworkin (1986, chapter 10, p. 214-220) adopts this formulation to critique Walzer (1983) and the famous communitarian dilemma. I am even more radical, and I think that the same critique could be moved to Dworkin and the way to conceive his egalitarianism (Dworkin, 2000).

⁷ Here, ‘social norms’ are broadly understood as legal, political, and socioeconomic.

valuably offer us a perspective usually overlooked by the main distributive theories of justice. In doing so, this perspective might explain why these theories do not seem to represent a satisfactory reflection on the normative assumptions about economic inequality. Indeed, they take distribution to be just simply according to an impartial and non-arbitrary point of view, so that economic inequality is considered unjust simply for being the result of a ‘maldistribution’. For example, economic inequality is usually contested when a society does not secure a fair system of equal opportunity for all, a decent socioeconomic minimum, or the maximization of the position of the worst off. However, all these socioeconomic criteria might be ensured without taking into account the gap between the most and the least advantaged. By contrast, *Occupy*’s concern for economic inequality focuses directly on the magnitude of this gap. Noteworthy, *Occupy* contests the current level of economic inequality in our liberal societies without appealing to an intrinsic idea of equality; rather *Occupy* mobilizes the question of power. *Occupy* points out the existence of an elite, the richest 1%, or even the 0.1%, which is increasingly amassing the wealth and income in contraposition with 99% of the population (as its famous slogan exemplifies: “We are the 99%”). From this point of view, *Occupy* affirms that the huge current economic inequality imposes arbitrary and oppressive political and socioeconomic relations. For this reason, I sustain that *Occupy*’s demand against the current economic inequality can meet the most valid argument in the dimension of social injustice as domination. The notion of domination means that some people fall under the arbitrary power of others; i.e. they live at the mercy of the arbitrary will of those people. For example, *Occupy* seems to properly mobilize this fundamental political philosophy notion when arguing that the current economic inequality is able to generate a drift towards oligarchy. The large concentration of wealth in ‘private’ hands (both individuals and corporations) represents an enormous economic power that, moreover, exerts undue influence over the competitive space of the political process. *Occupy* denounces how the current level of economic inequality represents a disproportional material power in terms of wealth and income.

Liberal societies are more careful in the ‘distribution’ of formal power, and in doing so they usually do not take the risk of formal domination. Instead, in our liberal societies, the possibility of a material domination is often overlooked. Thus, *Occupy*’s argument forces me to better scrutiny of the notion of power. It is important to keep in mind that the ability of an actor to influence or affect the behavior or action of

other actors is based on the capacity to control resources. Therefore, I introduce a distinction based on different power resources: formal and material. Formal power includes power based on formal political rights and the power of official positions, public and private; while for material power, I refer to a certain amount of accumulation and concentration of income and wealth respect to others. These two broad categories of individual resource power, formal and material, cut through the most common conceptions of power such as political or economic. In this sense, each of these kinds of power can come from different resources: formal and material. Thus, we can identify formal political power and material political power as well as formal economic power and material economic power. According to these analytical distinctions of power, we can conceive different forms of domination: formal and/or material. Given that I adopt a 'neutral' conception of power (neither good nor bad); in conceiving domination I appeal the 'negative' effect of power. In other words, I speak about domination when a form of injury or harm is in play. This form of injury linked with the notion of domination is not grasped by the classical understanding of coercion as the absence of external interference or obstacle by others. Rather, domination implies to obey the foreign wills of others as opposed to "obeying only oneself" or "being his own master". The relationship between employers and employees in the free market regulated by the rule of law and free labor contract is an exemplary case. This kind of relationship usually does not imply coercion by means of physical force or threatened penalties, but nonetheless it might count as domination.

My working hypothesis is that if it is true (as I will try to show along the thesis) that what I call the primary rules (legal, political, and socioeconomic) are responsible for assigning what people are legitimate to claim according to their contribution and participation in the social cooperation, and are also responsible for limiting or restricting people's participation and contribution, it means that we cannot take them for granted. Therefore, the point is that whoever has the power (and how much) to establish and shape the primary rules must be accountable for their actions. For example, in a social system that makes use of the (not pure) free market, the power of establishing and shaping the socioeconomic arrangements is shared, asymmetrically, between a political government that establishes the legal framework of market and the economic free actors within this framework. Therefore, we should take into account both political and economic inequality; and indeed, material power is a resource that concern both political and economic

dimensions. For this reason, I argue that the insulation strategy ('keeping money out of politics') alone is insufficient to avoid material domination. Indeed, even if the strong barriers in protection of the political dimension by external influences would work effectively (something highly unlikely), the economic inequality and its corresponding economic power still continues to be normative relevant in the socioeconomic sphere. Moreover, the great convertibility of money gives power over other (non-political) domains of social life translating itself into an asymmetrical social status. Thus, domination counts when some individuals or groups are not able to consider themselves as co-authors of these primary rules for lack of adequate formal or material (or both) powers (or as an effect of a certain structural power). In this thesis, I will focus on the risk of material domination. It follows that since power is always a relational concept, those people who are less advantaged or the worst off could reasonably reject primary rules that permit (potentially) unlimited economic inequality in terms of income and wealth because such rules might allow a disproportionate material power in favor of the best off. In other words, we cannot disregard the gap between the most and the least advantaged. For this reason, I suggest the distributive criterion of proportionality; i.e., we should establish the limit range of inequality between the best off and the worst off. In the following chapters (from the second to the sixth), I will try to show the validity of the distributive criterion of proportionality.

In the second chapter, I will clarify the normative grounds of the criterion of proportionality. Primarily I will try to delineate and delimit the scope of this thesis to be as compelling as possible. From a normative point of view, I am interested in clarifying the normative requirements of social justice. In doing so, I will pursue what I call a methodological and theoretical reformulation in order to adequately take into account the methodological primacy of conflicts and disagreements, and the theoretical relevance of the nature of social relations in their different degrees of interaction and intensity. I will refer to them – conflicts/disagreements and the nature of social relations – respectively as the subjective and the objective circumstances of justice. I think that a critical theory of justification permits me to compellingly achieve my methodological and theoretical purpose. So, I will present the main features of a critical theory of justification as well as my own account inspired in Scanlon's 'reasonable rejection' account. For this reason, I will introduce the idea of reasonableness and its 'justificatory' function. The idea of reasonableness appeals to our deepest sense of

‘practical/political’ morality, namely taking seriously the effects or consequences of our actions on others. It means that we must take into consideration both whether our actions, directly and indirectly by imposition of a social scheme, cause injury to others; and whether we are able to alleviate the suffering condition of others, even if this condition does not depend on our direct and indirect actions. I believe that this formulation expresses more clearly our intuitive understandings of ‘political morality’ in our social relations. This idea concerns the domain of practical morality that Scanlon calls ‘what we owe to each other’. Then, in this domain, I will distinguish between the paradigm of justice and the paradigm of social virtues such as benevolence, solidarity, care, etc. In doing so, I will be able to clarify the normative requirements of social justice in which I explicitly include the rejection of domination as an injury to our ‘deliberative’ autonomy. On the one hand, I will take into account the idea of autonomy only in reference of our intersubjective capacity to act according to norms and principles that we are able to justify to each other. For this reason, I argue about individuals and citizens who are *co-authors* of norms and principles that regulate and shape the ‘social’ relations in which they are involved. On the other hand, this conception of autonomy is ‘political’ as opposed to metaphysical and comprehensive or ethical. In other words, it is neither a component of a comprehensive doctrine of good life, nor it is an ethical value that we must promote in the whole of social life.

In trying to answer the fundamental question of this thesis – when and why is economic inequality unjust? – I am properly interested in testing the hypothesis whether the gap between the most and the least advantaged in terms of income and wealth matters. Along the thesis, I will try to show and prove that, yes, it matters. But, in doing so, I do not advocate an intrinsic concern for inequality, one that sustains a diminution of inequality, even if it would be worse for some people and better for no one, simply for the sake of equality as a moral value. This assumption is able to reject the Leveling Down Objection if, and only if, it abandons any normative pretensions. By contrast, if we want to maintain the normative force, we must provide a compelling argument to avoid the Leveling Down Objection. The solution is to adopt a non-intrinsic concern for inequality. It means that we have a reason to reduce or eliminate inequality only when, and only because, our way of doing so benefits in a certain form those who are less advantaged. In the current debate, we can observe two different ways to proceed that correspond to what Forst (2014) calls the two pictures of justice: the allocative-distributive conception of justice and the relational

conception of justice. The former adopts a distribution-centered and a recipient-oriented point of view, and thus the basic question is what 'goods' you have. Although there can be different interpretations of what goods (welfare, resources, capabilities) should be distributed, and according to which criterion or principle (for example, prioritarian or sufficientarian), once we adopt a purely goods-focused view the just distribution is assessed in absolute terms of what people have. Then, from this point of view, the gap between the most and the least advantaged, whatever it would be, is no longer normative significant. In this way, the allocative-distributive conception of justice neglects the relational dimension that is concerned with how people are treated in terms of intersubjective relations. From the latter point of view, by contrast, a just distribution is assessed taking into account the social goods in its positional nature (namely, the absolute value of a positional good depends precisely on how much of it one has compared to others) and, above all, the fundamental question of power. Therefore, in the third chapter, my attempt will be of showing that the allocative-distributive conception of justice is not able to conceive an adequate distributive criterion of material (or substantive) justice by reason of neglecting the economic inequality gap between the best off and the worst off. It is true for the most common interpretation of Rawls' difference principle as a prioritarian principle (and for prioritarianism itself), for luck-egalitarianism, for sufficientarianism, and, of course, for libertarianism.

If the allocative/distributive conception of justice overlooks or misunderstands the relevance of power, on the contrary, what Forst calls the second picture of justice, the relational conception of justice, makes the notion of power central in its own perspective. Indeed, the relational conception of justice focuses on how people are treated in terms of intersubjective relations rather than in terms of what people have. In this case, therefore, the first question of justice is the question of power. I believe that the relational conception is the most adequate way to lead because it uses the idea of social justice. Nonetheless, I will try to demonstrate, in the fourth chapter, that the pure relational conception of justice can also be inadequate if it overlooks the relevance of the economic inequality in terms of material power. The relational conception of justice is grounded on the basic assumption that the gap between the most and the least advantaged in material or substantive inequality (such as economic inequality) is not normative significant, whatever this gap would be, if the intersubjective relations and structures are free from coercion and domination. I agree with this

fundamental assumption, but what I want to make clear in this thesis is that the gap between the most and the least advantaged in terms of income and wealth determines the magnitude of material power and therefore it might represent a material domination. For this reason, the relational conception of justice should prescribe a distributive criterion of material or substantive justice (coherently with a procedural view), one that does not permit an (potentially) unlimited economic inequality. I sustain that the distributive criterion of proportionality is appropriate for this scope. In this sense, I suggest a middle position between a 'substantive' conception of justice and a purely relational one. Therefore, the dialogue between Rawls' political conception of justice and Habermas' discourse theory of deliberative democracy will be essential for the development of this position. In this respect, I will try to move a step further in emphasizing how the relation between Rawls' and Habermas' theories is something more than a simple 'familial dispute', rather both projects should be seen as complementary in such a way that only together would they have the effect of properly defining what both authors believe to be the legitimate boundaries of political philosophy without being too modest in one or the other theoretical and methodological direction. On the one hand, I suggest to understand Rawls' theory of justice as a relational conception of justice. In doing so, I will propose a procedural interpretation of the difference principle as a criterion of proportionality. I sustain that it is able to reconcile more adequately (a) Rawls' first and second principle of justice, and (b) the procedural and substantive conception of justice; moreover, (c) it exemplifies the normative justification according to which economic inequality is just if, and only if, it remains within a reasonable range. On the other hand, I disagree with Habermas that political philosophy should be less modest than Rawls' theory, and thus leaving the substantive questions open. From this point of view, I believe that Habermas' discourse theory of deliberative democracy also prescribes, even implicitly, some substantive requirements of social justice, similar to those that Habermas condemns in Rawls' difference principle. Otherwise, Habermas' account would be considered a pure formalistic theory. I think that my distributive criterion of proportionality that reformulates, in relational and procedural terms, Rawls' difference principle might be consistent also with Habermas' discourse theory.

At this point, in the fifth chapter, I will focus on the normative implications of the distributive criterion of justice. First of all, I will need to clarify that although the distributive criterion of proportionality entails a radical restatement of our (in a liberal democracy) fundamental

considerations about a just and fair economic distribution, it does not endorse a counterintuitive assumption about the idea of efficiency and the notion of poverty. Second, and most important, I will face that question about the exact acceptable range of economic inequality (in income and wealth) between the most and the least advantaged. I believe that it is possible to determine this range, normatively binding, between the top 1% and the bottom (50%) of the distribution, but I will suggest a range that it does not prescribe an ideal society nor the most egalitarian society that we could concretely expect to achieve, or even that we have already observed. Inspired by Piketty's historical analysis of economic inequality (2014), I agree that the best way to measure economic inequality is through the distribution tables, indicating the shares of various deciles and centiles in total income and wealth (separately). Therefore, I sustain that *nobody* should earn more than 18 times of the average income (post-tax) of the bottom 50%, and *nobody* should own more than 100 times of the average wealth (per adult) of the bottom 50%. I think that a society which is able to maintain, regularly, the ratio of 1 to 18 in income and the ratio of 1 to 100 in wealth could be described as a realistic utopia. In order to prove the reasonableness of my proposal, I will show the possible effect on some real income and wealth distribution. For example, in Italy (in 2015), with an average income (post-tax) of 20,690 euros a year (so 1,725 euros a month), the bottom 50% earn around 13,200 euros on average a year. It means that a ratio of 1 to 18 prescribes that *nobody* should earn more than 238,000 euros a year post-tax. In Italy, actually, only around the top 0.2% earn more than 238,000 euros a year post-tax. But, in this top 0.2% there are some CEOs who earn some millions of euros a year post-tax. In the case of a more affluent country, such as the United States, the ratio 1 to 18 seems also to be reasonable and effective. Indeed, with an average income (post-tax) in US (in 2014) of 64,600 dollars a year, the bottom 50% earn on average 25,000 dollars a year (19.4% of total income), which means that, according to the ratio of 1 to 18, *nobody* should earn more than 450,000 dollars a year. Now, we can observe that the top 1% earn, on average, around 1,000,000 dollars a year (15.6% of total income). But the point is that, in the USA, the level of earnings that the top 0.1% can reach is astronomical. Therefore, in the case of US income distribution, the ratio of 1 to 18 would also constrain the level of income at the very top of distribution. Indeed, into the top 1%, only a part would earn effectively more than 450,000 dollars a year (likely those who belong to the top 0.3%) given that just the top 0.1% earn on average 4,400,000 dollars (6.8% of total income). In both cases, Italian and US

income distribution, the 1 to 18 ratio limits income at the very top of distribution. It is also true for the 1 to 100 ratio in wealth. It is sufficient to observe the effects that it would have in the case of Italian wealth distribution. With an average wealth of 190,000 euros per adult (in 2017), the bottom 50% own, on average, around 23,000 euros per adult, which means that, according to the ratio of 1 to 100, *nobody* should own more than 2.3 million euros per adult. Instead, actually the top 1% in Italy own, on average, almost 4 million euros per adult. However, we should be aware that within the top 1% there are some people who own wealth to the level of billions of euros, as confirmed by the famous *Forbes* list of the World's Billionaires. In all these cases, my proposal seems to be able to avoid extreme income and wealth inequality of the top 1%. For this reason, the range of economic proportionality (income and wealth) that I will propose in this thesis, if respected, would be able to avoid the risk of 'civil' oligarchy: a narrow class of individuals who have an enormous economic and political power.

However, my proposal should be understood as just a starting point of the discussion. Indeed, it is possible that the range I will propose might be too narrow or, instead, too wide. But, even if we might disagree about the optimal and just range, once we have accepted that economic inequality between the most and the least advantaged should not exceed a certain proportionality, this normative idea has some strong implications in the way in which a society should shape its own basic structure (legal, political, socioeconomic, and cultural). Therefore, in the last chapter (6), I will argue about the implications and accomplishments of the distributive criterion of proportionality concerning a set of distributive proposals in four broad areas: 1) wealth distribution and capital shared; 2) social security; 3) progressive taxation; 4) countervailing power of economic decision making. Each concrete distributive proposal surely has strong consequences for the ways in which we conceive social cooperation and job participation, individual responsibility and meritocracy, individual liberty, freedom of private initiative, and property right. In this respect, I will argue that the distributive criterion of proportionality might offer a productive way to deal with our complex social and political commitments in relation to the requirements of social justice. In this way I will also offer a short-to-medium run strategy of how to stop, and reverse, the increasing trend of economic inequality in the long run to reach a reasonable proportionality of economic inequality; for example, a 1 to 18 ratio of income and a 1 to 100 ratio of wealth.

1 Occupy Wall Street and economic inequality

Following the critical theory approach, this will not make a naïve assumption about the possibility that empirical reality can directly and autonomously reveal the normative/critical standards that we are searching for. The social reality is chaotic and highly controversial. As Habermas (1996) rightly asserts, theory and praxis are indissolubly and mutually linked. Therefore, the Occupy Wall Street movement (and its social and political demand⁸) was chosen as a starting point for my investigation, not only for its public and political significance, but also because the argument that *Occupy* moves against the current level of economic inequality might valuably offer us a perspective usually overlooked by the main distributive theories of justice. In doing so, this perspective might explain why these theories do not seem to represent a satisfactory reflection on the normative assumptions about economic inequality. Moreover, the immanent frame of reference as a starting point has two important advantages: The first is quite pragmatic; it helps the exposition of the work. Instead, the second advantage is theoretical and methodological, i.e. it is able to show why social justice really matters and, above all, when it comes into play.

Coherently with an immanent methodology, the starting point relies on some social empirical analyses. First of all, we can observe empirically the existence of a certain amount of socioeconomic inequality in the western liberal countries, and how it has increased enormously in the last decades, particularly for reasons of extreme financial deregulation. This phenomenon is called “New Inequality” or “New gilded age”.⁹ Secondly, the recent resurgence of inequality has prompted analysts to speculate about its political consequences and effects and its implications for democracy. Extreme income and wealth inequality typically corresponds to extreme political inequality because the richest can translate their economic power into political power.¹⁰ Recently, many researchers argue that the current income and wealth

⁸ Afterwards: Occupy’s demand

⁹ See: Keister, 2000; Kelly, 2009; Hacker - Pierson, 2010; Bowles, 2012; Stiglitz, 2012; Volscho - Kelly, 2009; Rosanvallon, 2013; Piketty, 2014; Galbraith, 2012 and 2014; Atkinson, 2015; Drennan, 2015; Reich, 2016;

¹⁰ See: Phillips, 2002; Krugman, 2002; Bartels, 2008; Winters – Page, 2009; Winters, 2011; Gilens, 2005 and 2012; Gilens - Page, 2014. Dorling, 2014; Miguel (et al.), 2015; Mccarty – Poole – Rosenthal, 2016.

concentration in the hands of a very small minority authorizes us to speak about ‘civil’ oligarchy.¹¹ One of the most immediate effects is the so-called ‘wealth defense’: economic inequality is converted into unequal political power and consequently to non-egalitarian policy defending or even increasing economic inequality. Hence, these social studies assume that economic inequality is both a cause and consequence of politics. However, wealth defense is not the only result of the conversion of economic power into political power. Indeed, as Winters (2011, p. 8) observes:

It is not uncommon for oligarchs to engage their material resources across a range of political issues and battles about which they care deeply and yet have nothing to do with wealth defense and oligarchy.

Unequal power that engages in this different direction is also relevant. Additionally, some social researches have shown through several survey datasets¹² that the current economic inequality seems to disturb our ‘sense of justice’, what Rawls calls reflective equilibrium. There is an increasing condemnation of the current level of economic inequality from a major part of public opinion. In particular, this discontent was expressed also in the form of social/political movements among which Occupy Wall Street is surely the most significant.¹³

¹¹ According to Winters (2011, p. 38), “civil oligarchies are by definition systems with an impersonal government under a legal regime”. It makes the main difference with other forms of oligarchy such as warring, ruling and sultanistic. In other words, a civil oligarchy is a phenomenon that can be present in a modern state based on the rule of law. This means that wealth defense assumes a particular form. “With property defense well provided by the state, wealth defense in a civil oligarchy is focused on income defense – the effort to deflect the potentially redistributive predations of an anonymous state” (*ibidem*, p. 36). Moreover, it is important to recognize that not all civil oligarchies are electorally democratic. For example, we might detect a civil oligarchy in the United States and India that are procedurally democratic as well as in Singapore and Malaysia that are soft-authoritarian.

¹² Toynebe - Walker, 2008; Kiatpongsan – Norton, 2014.

¹³ Similar social movements have also spread in Europe, for example Movimiento 15-M (Indignados). Moreover, this increasing discontent against the current socioeconomic inequality is proved, even with a certain ambiguity, by the results of the democratic national election, in which the radical political parties (left and right) were particularly rewarded for their agendas that harshly condemned current socioeconomic inequalities..

The *Occupy* movement began with the occupation of Zuccotti Park on September 17, 2011¹⁴ (located in New York City's Wall Street financial district) pointing out the phenomenon of enormous socioeconomic inequality as the cause that explains, more than any other, the most important dysfunction in our Western countries that has clearly emerged since the financial crisis. *Occupy* moves different claims against the current level of inequality, which focuses not only on social and economic effects such as high levels of unemployment, jobs precariousness, and the increase of the absolute and relative poverty, but also and above all on the violation of political liberties. According to *Occupy*, the current economic disparity and concentration of wealth is converted into political power, and consequently into legislations that increase and accelerate the cycle. The phenomenon is also called by Stiglitz (2012) as “rent seeking”. *Occupy* claims that this vicious cycle makes, *de facto*, the principle ‘one person, one vote’ no longer valid, rather the political system is more akin to ‘one dollar, one vote’. The slogan for which *Occupy* is known: “We are the 99%. We are occupying Wall Street”¹⁵ exemplifies, even if roughly and with an excessive dichotomy, the core of this political protest. *Occupy* points out the existence of an elite, the richest 1% or even the 0.1%, who increasingly amassed the wealth and income in contraposition with the 99% of the population; and moreover *Occupy* also physically locates the power center of this elite: Wall Street. *Occupy* focuses mainly on economic inequality in terms of wealth and income; the point is that the 1% has economic power not only to distort the electoral campaign with its donation, but also to daily influence the public political agenda. The movement addresses its critique against the dangerous relationship between money and politics, suggesting not only election reforms but also, and above all, political and socioeconomic structural transformations in order to cut down the level of socioeconomic inequality as the only effective way to break out of this perverse relationship. In this sense, *Occupy*’s demand is very radical, and it does not stand its proposal on formal aspects. The suggestion is that any ‘formal’ instruments (restrictions on private campaign contributions, rules on disclosure of financial interests and so on) to avoid that economic power is converted into political power is insufficient.

¹⁴ *Occupy*: [link no. 1](#). Chomsky, 2012; 2013; Flank, 2011; Writers for the 99% (et al.), 2012; Van Gelder, 2011.

¹⁵ *Occupy*: [link no. 2](#). Also in Flank, 2011, p. 23.

Money, it has been said, has taken over politics. In truth, we say, money has always been part of the capitalist political system. A system based on the existence of have and have nots, where inequality is inherent to the system, will inevitably lead to a situation where the haves find a way to rule, whether by the sword or by the dollar. We agree that we need to see election reform. However, the election reform proposed ignores the causes which allowed such a system to happen. Some will readily blame the Federal Reserve, but the political system has been beholden to political machinations of the wealthy well before its founding.¹⁶

Since political and economic powers are strictly interconnected, *Occupy* stresses the point that our political liberties cannot be only formally evaluated. By contrast, *Occupy* appeals to a certain idea of ‘social’ freedom in which a ‘positive’ and material dimension is essential. In particular, the emphasis on being free from the imposition of power by others, reflects the idea of freedom of non-domination.

1. If you agree that freedom is the right to communicate, to live, to be, to go, to love, to do what you will without the impositions of others, then you might be one of us.
2. If you agree that a person is entitled to the sweat of their brows, that being talented at management should not entitle others to act like overseers and overlords, that all workers should have the right to engage in decisions, democratically, then you might be one of us.
3. If you agree that freedom for some is not the same as freedom for all, and that freedom for all is the only true freedom, then you might be one of us.¹⁷

What is particular interesting in *Occupy* is that the demand against a huge level of inequality is addressed from a structural (and systemic) point of view. This structural dimension is difficult to be captured if we only observe the fact that a few social actors have a massive concentration of economic resources. For this reason, *Occupy*

¹⁶ *Occupy*: [Link no. 3](#). Also in Flank, 2011, p. 21-22.

¹⁷ *Ibidem*.

also focuses and denounces the extreme power that corporations can employ.

As one people, united, we acknowledge the reality: [...] that a democratic government derives its just power from the people, but corporations do not seek consent to extract wealth from the people and the Earth; and that no true democracy is attainable when the process is determined by economic power. We come to you at a time when corporations, which place profit over people, self-interest over justice, and oppression over equality, run our governments.¹⁸

Occupy identifies in the concentration of capital one of the most prominent powers in our capitalist society. According to the movement, the current disparity of economic power and wealth represents a manifest social injustice that cannot be denied and neglected by the state and its social institutions. In this sense, *Occupy's* demand against extreme economic inequality neither represents a simple political conflict between legitimate but divergent individual's or group's interests, nor does it embody an ethical conception in favor of a society with more solidarity and less egoistic and individualistic beliefs. Rather, it is an eminent demand of justice, or more precisely a demand against a certain social injustice. To be sure, *Occupy* emphasizes different dimensions of social injustice, and it advances different social and political demands¹⁹, but the demand against economic inequality is the main and the most important. In the fifth communiqué, we can observe in a list of (still not) official²⁰ demands, at least four main points that are related to economic inequality.

¹⁸ Declaration of the Occupation of New York City, September 29, 2011 (*Occupy*: [link no. 4](#)). Also in Flank, p. 55. From this point of view, *Occupy's* demand is not restricted only to individual power as in the most relevant theories of oligarchy. For example, Winters (2011, p. 6) asserts that “it is important that the command and control of the resources be for personal rather than institutional gain or operation. Oligarchs are always individuals, never corporations or other collectivities.” A theory of oligarchy conceived in this way is not able to detect the structural and systemic dimension of economic inequality.

¹⁹ For example, against capital punishment, war, American imperialism, and political corruption.

²⁰ They opened a democratic process of choosing the official demands of the movement.

On September 21st, 2011, the richest 400 Americans owned more wealth than half of the country's population.

Ending wealth inequality is our one demand.

On September 21st, 2011, roughly one sixth of Americans did not have work.

Ending joblessness is our one demand.

On September 21st, 2011, roughly one sixth of America lived in poverty.

Ending poverty is our one demand.

On September 21st, 2011, roughly fifty million Americans were without health insurance.

Ending health-profiteering is our one demand.²¹

To better grasp the nature of *Occupy's* demand and the dimension of social injustice that it intends to denounce, we can take into account what Bufacchi (2012) defines as the three main dimensions of social injustice: injustice as maldistribution, as exclusion, and as disempowerment.²² In the case of injustice as maldistribution:

An injustice occurs when the benefits and burdens are distributed according to criteria that not everyone (especially those who stand to receive less than others) could reasonably accept. (*ibidem*, p. 9-10)

In the second case, social injustice as exclusion:

Involves actions or policies undertaken to exclude others as legitimate recipients of the distribution of benefits and burdens. This dimension of injustice may be experienced by either individuals or groups by virtue of being denied the recognition that is due to them. (*ibidem*, p. 10)

Lastly, the third dimension of social injustice as disempowerment:

It exposes and exploits a person's vulnerabilities; victims of injustice are disempowered by injustice, and therefore excluded from the

²¹ *Occupy*: [link no 5](#). Also in Flank, 2011, p. 32.

²² A similar classification is also proposed by Frazer (2004, 2010) who includes three dimensions in her idea of social justice: distribution, recognition, and representation (respectively linked with economic, cultural, and political dimensions). Forst (2014, p. 122) also accepts this analytical classification but he, like Bufacchi, identifies the third dimension of social injustice with the dimension of power (and not simply with political power).

distribution of the benefits and burdens of social cooperation. (*ibidem*)

This third dimension deals with the distribution of a key resource: power itself (*ibidem*, p. 15).

Occupy's demand takes only partially into account the second dimension of justice, for example when it condemns “inequality and discrimination in the workplace based on age, the color of one’s skin, sex, gender identity and sexual orientation”²³. Indeed, it concerns mainly the first and the third dimension of social injustice. Regarding this first dimension, we can observe how *Occupy* charges directly the rules of the financial market that permit an arbitrary uneven distribution of wealth and income. Effects of maldistribution are also revealed in demands against unemployment, poverty, and health-profiteering. However, I believe that we have strong reasons to think that at the core of the *Occupy* movement there is a demand against arbitrary and oppressive political and socioeconomic relations. Therefore, the demand against the current economic inequality can meet the most valid argument in the dimension of social injustice as disempowerment. I prefer to call this third dimension of social injustice ‘domination’. The notion of domination means that some people fall under the arbitrary power of others; i.e. they live at the mercy of the arbitrary will of those people. For example, *Occupy* seems to properly mobilize this fundamental political philosophy notion when arguing that the current economic inequality is able to generate a drift towards oligarchy. The large concentration of wealth in ‘private’ hands (both individuals and corporations) represents an enormous economic power that, moreover, exerts undue influence over the competitive space of the political process. *Occupy's* most famous slogan is unequivocal: we are the 99%, they are the 1%. And the richest, the 1%, hold the entire economic, social, and political system in their grip. However, it is important to be aware that the slogan of ‘99%’ might generate an oversimplification. Indeed, our liberal societies are more socioeconomically stratified; for example, Piketty (2014, p. 250-252) suggests to distinguish between the top 10% (the upper class) including the top 1% (dominant class) and the next 9% (well-to-do class), the middle class 40%, and the bottom 50% (lower class). However, in order to appropriately detect the risk of the ‘civil’ oligarchy, we should primarily take into account the excessive economic inequality between the top 1% and the bottom 50% of

²³ *Occupy*: [link no. 6](#). Also in Flank, 2011, p. 32.

distribution. Therefore, I will address this spectrum of economic inequality.

Occupy's argument forces me to better scrutinize the notion of power. Thus, in the next section (1.1), I will distinguish different forms of power, different power resources and so different forms of domination. In this thesis I will mainly focus on the concept of material power and, therefore, material domination. Then I will show (section 1.2) that what I call the primary rules (legal, political, and socioeconomic) are responsible for assigning what goods people are legitimate to claim according to their contribution and participation in the social cooperation (and also for limiting or restricting people's participation and contribution); therefore, the first question of justice is to know who has the power to establish and shape these rules. Moreover, in the section 1.3, I will argue that the insulation strategy ('keeping money out of politics') is insufficient to avoid material domination; and for this reason it is necessary to follow the background strategy. Finally, in the last section (1.4), I will present the distributive criterion of proportionality. I think that the idea of proportionality better grasps *Occupy's* demand against excessive economic inequality.

1.1 Power resources and the different forms of domination

In order to adequately explore this third dimension of social injustice as domination (or disempowerment), we need to clarify the meaning of the key notion of power, and in doing so distinguish different forms of power, different power resources and so different forms of domination. I distinguish between two main forms of power: relational and structural. Moreover, I introduce a further distinction based on different power resources. Thus, relational power can be characterized by two categories of individual power resources: formal and material, meanwhile structural power is defined mainly by a specific resource, namely cultural hegemony. This last resource power is not held by individuals as such, rather it is systemic because it concerns social institutions or social subsystems. According to these analytical distinctions of power, we can conceive different forms of domination: relational domination, formal and/or material, and structural domination.

Power is a very complex and heavily contested notion, and here I will not have the time and space to clarify the very detailed aspects of this notion. Thus, I will focus my attention on those aspects that are relevant for my purpose. As Barry (2002, p. 160) stresses in his terminological reconstruction of the term:

The word ‘power’ is derived from *potere*, the late vulgar Latin infinitive corresponding to our ‘to be able’, the infinitive form of ‘can’, and the connection is retained in French and Italian, where the nouns *pouvoir* and *potere* are the same as the infinitive form of ‘can’.

At the first insight, the term refers to the notion of ‘power to’. However, I am more interested in the notion of ‘power over’, as the capacity of influencing or determining the action or behavior of other actors. For example, Dahl (1957, p. 202-203) defines power over in the following way: “A has power over B to the extent that he can get B to do something that B would not otherwise do.” In this sense, power is always a relational concept. Indeed, as a popular proverb remind us: ‘in the land of the blind, the one-eyed man is king’. It is not surprising that the most evident form of power is commonly defined as relational. For the moment, I take into consideration relational power and its individual power resources.

Since I share the fundamental premise that human relationships are almost always power relationships²⁴, and in the majority of cases power relation is asymmetrical, it means that we need to conceive power as a ‘neutral’ concept, neither good nor bad in itself. Otherwise, we would be forced to choose between two undesirable alternatives: on the one hand, consider power only in its emancipatory or liberating dimension as in social and political revolutions;²⁵ on the other hand, understand power in its ‘negative’ effects of disciplining, governing, and restricting free subjects, but in this way we are not able to conceive a legitimate form of exercising power, and the only possibility is a simple counter-reaction, as in Foucault’s conception of power (1979; 1980). Indeed, the most appropriate way to regard the fundamental question of power seems to be the way in which we justify power relations, and whether they are considered as legitimate or arbitrary and abusive. As Pinzani (2005, p. 181) observes:

Sometimes we may consider such power relations as the expression of an unacceptable, illegitimate discrimination, and therefore as forms of power abuse. For example, this might be the case of an

²⁴ This perspective might be considered a minority in the tradition of political thought. See: Pinzani, 2005, p. 180.

²⁵ For example, Arendt (1972) emphasized particularly this emancipatory dimension of power.

educational system hindering individuals belonging to certain groups (be they racial, national, social or gender groups).

But, in other circumstances:

We accept as legitimate the existence of other forms of power: the one that the loved one exercises over her lover; the one a religious chief has over his (very seldom of her) followers; the power of parents over small children (*ibidem*).

Forst's definition of power (2015, p. 115) grasps properly this 'neutral' underpinning:

Power exists as the capacity ('power to') to be socially effective in this way, that is, to 'have' power, which leads to power as being exercised over others ('power over'), where it is open whether this is done for (and by using) good or bad reasons, and whether it is done for the sake of or contrary to B's interests—and by what means.

And Barry's definition of social power (2002, p. 161) also captures this twofold picture of power.

Social power has as its instrument the ability to change another party's incentives. This takes two forms: making the action one wishes the other to perform more attractive and making the alternatives to it less attractive.

It is important to keep in mind that the ability of an actor to influence the behavior or action of other actors is based on the capacity to control resources (Azmanova, 2011, p. 155, note n. 3). It is difficult to conceive a comprehensive list of power resources; however, Winters (2011, p. 12) identifies five of the main individual resources of power: "power based on political rights, the power of official positions in government or at the helm of organizations, coercive power, mobilizational power, and finally material power." Here, for reason of simplification I take into consideration only two broad categories of resource power: formal and material. In doing so, I include in the same category some of the distinct individual power resources identified by Winters; for example, formal power includes power based on formal political rights and the power of official positions, public and private. These two broad categories of individual resource power, formal and material, cut through the most common conceptions of power such as political, economic, and social power. In this sense, each of these kinds of power can come from different resources: formal and material. Thus,

we can identify formal political power and material political power as well as formal economic power and material economic power. To understand this important distinction we should provide some examples.

We can consider formal political rights as well as the power of the individual holding the office of President of the United States as formal political power. In liberal democracy, “under conditions of universal suffrage and few obstacles to political participation, formal political rights are the least scarce and most diluted power resource at the individual level” (*ibidem*, p. 13). Nonetheless, throughout history, formal political rights (one person, one vote) has been a fundamental and highly contested form of power. For example, individuals and groups have been excluded from formal political right on the basis of slave-citizen status, race, gender, religion and so on. Nowadays, the struggle for formal political rights is still one of the most powerful political claims in many authoritarian countries. It is true that only a few countries officially reject formal political rights, but many impose serious obstacles to their fulfillment. An official political position can also be considered from the point of view of formal political power, albeit this formal resource of power is enormously bigger than universal formal political rights, because holding a high-ranking office position in government, parliament, public corporation or other political institutions allows certain actors to an extent a highly concentrated form of power. Nonetheless, two aspects make ‘formal’ the power of official positions. First, a high official position is held but not owed. Indeed, it is wholly contingent on holding the position: “loss of office entails a loss of power” (*ibidem*, p. 14). Second, holding this power resource does not depend, at least intrinsically and in principle, on having other power resources, particularly regarding personal wealth.²⁶ Both of these aspects are also valid regarding economic power, for this reason we can argue about ‘formal’ economic power. An exemplary case is represented by a CEO official position. A CEO may be a personally wealthy actor (and often is) but his ability to deploy corporate money and capital is not due to his personal wealth, rather to the power resource intrinsic to his official position. If the official position is taken away, his individual power to manage capital and control the corporation soon evaporates (*ibidem*, p. 15). However, we should maintain awareness of social

²⁶ Indeed, according to Winters (2011, p. 14), this aspect marks the main distinction between elites and oligarchs, the latter are characterized to have material power resources in term of wealth.

reality, in which political and economic official positions are more or less directly attached to disposition of material power resources, mainly in terms of income and wealth. Indeed, the possibility of gaining a certain high position depends on the possibility to pay for higher education, social/political powerful relationships, money that can be afforded in an electoral campaign, personal or family wealth and capital, and so on. Nonetheless, it is very important to maintain analytically separated formal and material power resources, otherwise we would not gather the difference between a very wealthy political dynasty such as Kennedy, Bush or Clinton and Barack Obama. At the same time, it would be impossible to understand the peculiarity of some new entrepreneur and capitalist figures as those of new economy 2.0.²⁷ Moreover, in economic analysis of cause of inequality, analyzing separately formal and material sources of power permits us to keep distinct the beneficial ownership of wealth and the control conveyed by capital over economic decisions (Atkinson, 2015, p. 155).

For material power, I refer to a certain amount of accumulation and concentration of income and wealth respect to others. Clearly, this level depends on different social contexts, and even a consistent income or wealth is not automatically sufficient to make someone an oligarch. For instance, according to Winters (2011, p. 214):

Even at more than thirty times the average income of the bottom 90 percent of Americans, an average annual income of \$1 million for those in the top one half of 1 percent is still too modest to qualify as oligarchic. These citizens are certainly rich. However, their material power resources are still insufficient to engage anything beyond the cheap foot-soldier services of the Income Defense Industry.

Instead, Winters and Page (2009, p. 737) argue about oligarchy in the case of those citizens that belong to the top hundredth of the 1% of the population who have, each member, 463 times the material power resources of the average individual in the bottom 90%.²⁸

²⁷ See: Boltanski - Chiapello, *The New Spirit of Capitalism*, 2007.

²⁸ Using the same wealth data, Winters and Page (2009, p. 737) calculate that “each of the top 400 or so richest Americans had on average about 22,000 times the political power of the average member of the bottom 90 percent, and each of the top 100 or so had nearly 60,000 times as much.”

Surely, the material power in hand of this part of the population is more versatile and powerful than formal power resources such as universal voting rights. The members of a dominant class (roughly those who belong the 1%) have enough material power to acquire high official position, public and private, and above all they also might have ability to seriously influence politics. It is evident that material power in term of wealth and income above a certain amount is economic power, but it is sheer versatility that makes it so significant politically. Generally, a certain level of wealth that is able to be converted into political power is identified as political influence. For instance, Dworkin (2011, p. 38) defines political influence as “person’s influence includes his power to persuade or induce others to his side”. He separates it from political impact which “is limited to what he can achieve through his own opinion without regard to what others believe” (*ibidem*). Voting is the most intuitive form of political impact. However, I do not adopt the term political influence because I want to be sure to distinguish between two different sources of political influence. The first source of political influence is material power and it depends on the level of wealth and income; instead, the second source of political influence depends on another kind of power resource “the ability to lead people, persuade followers, create networks, invigorate movements, provoke responses, and inspire people to action.” (Winters, 2011, p. 15) Winters calls this resource mobilizational power.²⁹ Some manifest examples of actors with mobilizational power include Mohandas Gandhi, Martin Luther King, Nelson Mandela and Vladimir Lenin. Winters marks the main difference between these two sources of political influence: mobilizational and material power resources.³⁰

Mobilizational power, by contrast, relies on the personal and coordinated activity of large numbers of people whose direct involvement is difficult to sustain because intensive political

²⁹ In a system of rule of law this kind of power resource is not particularly problematic (it is different in the case of an authoritarian or populist institutional system). However, Machin (2013, p. 124, note n. 5) notes that even in a liberal democracy, “there may be something troubling if this ability is affected by socio-economic background, e.g. it may correlate with parental socio-economic status.”

³⁰ Dworkin (2000, p. 199) in being insensitive of this important distinction rejects as illiberal ‘equality’ of political influence, and by contrast he maintains as legitimate only a equality of impact.

activity demands a high level of political engagement that is uncommon for most citizens, and it takes time and energy away from other important activities, not least of which is working for a living. Material power is unique in that it allows oligarchs to purchase the sustained engagement of others who require no personal commitment to the goals of the oligarchs they serve. Their only requirement is material compensation for their services (*ibidem*, p. 18).

The point is that since income and wealth can be exchanged for goods and services, the super-rich can also purchase these other goods.

Once explored the concept of relational power in its main resources, formal and material power, I also have to take into account the concept of structural power. At first sight, the difference is that the notion of power over in its relational form is agent-centered; meanwhile structural power refers to social and organization structure within institutions or subsystems. Strange (1989) provides a clear distinction between the relational and the structural power.

The concept of relational power is clear and consists in the ability of A to get B by coercion or persuasion to do what B would not otherwise do. The concept of structural power is less clear and requires some definition. It consists in the ability of A to determine the way in which certain basic social needs are provided. One is a lever; the other is a framework. The target of relational power, B, if it should decide not to do what is required of it by A, has to suffer the consequences determined by the other. For the target or object of structural power, the price of resistance is determined more by the system than by any other political authority (*ibidem*, p. 30).³¹

Relational power implies that there is an identifiable agent, whether individual or collective, that can intentionally exert his power on another agent; by contrast, structural power does not need to be intentional or refer to the will of an identifiable agent. So, it can be defined as a relationship based on a structural imbalance of power. Modern societies, for being highly differentiated and complex, consist

³¹ Many authors focus mainly or exclusively on structural power; for example, Marx (*Capital*, 2013), Bourdieu (2002), Iris Marion Young (1990), Habermas (1984).

of various structures and subsystems. The point is that, “such structures causally determine the actions of those who ‘function’ within them and are subject to the ‘structural forces’ of institutionalized social systems” (Forst, 2015, p. 109). Surely, Habermas’ theory of communicative action is one of the most sophisticated theories in taking structural power into account. He shows how the subsystem of the modern economic and the administrative state through the ‘non-discursive’ mean of money and power have increased their objective and functionalist nature insofar as they represent an objectification of lifeworld. Habermas conceives these subsystems (market economy and administrative state) as norm-free sociality, in this way they function independently of intentional actor actions (Habermas, 1987, Volume 2, chapter VI, p. 133-197). There is a particular and very important power resource that characterizes structural power; that is the ideological power. As Winters (2011, p. 12-13, note, 17) recognizes ideological power is not something that can be held or wielded as a power resource by individuals as such; instead, the character of cultural hegemony is systemic.³² I agree that, if we want to understand the effective operation of some important political and socioeconomic mechanisms, we should take in due consideration the structural power. For instance, only in this way we can fully understand the deepest causes of 2007/08 economic crisis, or of the reasons why the current expansion and deregulation of the financial market has so many long-term extensive effects. However, the 2007/08 crisis properly shows that we need both the relational power and structural power in our investigation of this phenomenon, otherwise we would overlook some important elements in our analysis and, above all, take the risk of releasing social actors from their responsibility.³³

On the one hand, it is true that economic and political agents are responsible for the 2007/08 crisis by specific political and economic acts

³² For this reason, Winters does not include it in the list of individual power resources. Winters argues about oligarchy only from the point of view of relational power.

³³ In *the theory of communicative action*, Habermas risks to ignore the relevance of relational power within social subsystems. See: Honneth, *The Critique of Power*, 1991. However, it is true that with *Between Facts and Norms* (1996) this critique loses part of its force, because Habermas reserves to political actions, by means of rule of law, the capacity to interfere and reshape these subsystems in order to limit the domination of lifeworld. For this scope, he (1996) introduces the central concept of ‘communicative power’. I will address this aspect in the fourth chapter.

and choices that they were able to take via their formal and material power. It is clear that bankers, insurers, and financial investors at high official positions in their corporations authorized the diffusion of innovative and highly risky financial instruments (for example, ‘credit default swaps’ and ‘derivatives’). However, if a policy of deregulation didn’t begin some years ago, these new financial instruments would not have had such devastating effects on the economy.

The most notable casualty was the Glass-Steagall Act of 1933. Part of that landmark legislation had created a firewall between commercial banks (which took deposits and made loans) and investment banks (which underwrote, bought, and sold securities). [...]Late in 1999, after intense lobbying, Congress repealed the remnants of Glass-Steagall via the Financial Services Modernization Act, paving the way for additional mergers between investment banks, commercial banks, and insurers (Roubini – Mihm, 2010, p. 39).

The new legislation was signed into law by President Bill Clinton, after a bipartisan passage in Congress. Moreover, it is evident that the push for deregulation would not have been possible without effective lobbying, canvassing and funding by those who had the material power to do so. From the point of view of relational power, political and economic agents were directly responsible for the 2007/08 crisis because of their formal power (above all due to their high official positions)³⁴ and material power. The problem is that in so many cases formal and material power coincides within the same agent.

On the other hand, the relational power cannot explain everything in 2007/08 crisis, therefore we should also consider the structural power. For example, as Roubini and Mihm (2010, p. 40) observe:

Among the instruments thus removed from regulation were credit default swaps, which permitted a purchaser to buy “insurance” to protect against defaults on bonds both very simple (such as those issued by an automaker) and

³⁴ From a point of view of relational formal power, we could also hold all United States citizens responsible for their electoral and political choices. However, we have already seen how formal universal political rights are very diluted forms of power. Nonetheless, we cannot totally neglect the responsibility of citizens in their political and electoral choices.

extremely complex (collateralized debt obligations backed by pools of mortgage-backed securities). Credit default swaps, which mushroomed to reach a national value of over \$60 trillion by 2008, became one of the most important sources of “systemic risk”—perils that threaten the entire financial system.

Of course, we might assume that the most trivial and obvious explanation of the crisis was greed. But, Roubini - Mihm’s analysis show that greed alone would not have triggered the financial equivalent of a nuclear meltdown if the bonus system of payments had not become the dominant kind of compensation in the financial sector. In fact, what made a difference was a new structure of incentives and compensations that channeled greed in new and dangerous directions. “Over the previous two decades, bankers and traders had increasingly been rewarded with bonuses tied to short-term profits, giving them an incentive to take excessive risks, leverage up their investments, and bet the entire bank on astonishingly reckless investment strategies”³⁵ (*ibidem*, p. 18). For all these reasons, we should take in due consideration both relational power – formal and material – and structural power.

Given that I have articulated a ‘neutral’ conception of power (neither good nor bad); in conceiving domination I appeal the ‘negative’ effect of power. In other words, I speak about domination when a form of injury or harm is in play. This form of injury linked with the notion of domination is not grasped by the classical understanding of coercion as the absence of external interference or obstacle by others. Rather, domination implies to obey the foreign wills of others as opposed to “obeying only oneself” (Rousseau, *Social Contract*, I.6. iv.) or “being his own master” (Kant, *The Metaphysics of Morals*, [238]). In other words, it means that some people fall under the arbitrary power of others.

Hence, there are two main differences between domination and coercion. First of all, whereas coercion can consist of a single act of obedience, domination is an enduring condition, a consistent obedience

³⁵ Another proof of the structural and systemic character of 2007/08 crisis is that almost nobody among economists foresaw the crisis. A very rare exception was Roubini himself in audience at the International Monetary Fund in Washington, D.C. on September 7, 2006 (Roubini – Mihm, 2010, introduction, p. 3).

to a foreign will. Secondly, what usually counts as obedience in the dynamic of domination does not merely connote physical force or threatened penalties, but the need for ‘cooperation’³⁶ of someone who is in a more advantaged position (Neuhausser, 2013, p. 203). Following the analytic distinctions that I have drawn previously, this ‘advantaged position’ can depend on a certain relational power, formal and material, and structural power. Therefore, domination can assume different forms: relational domination, that is formal and material domination, and structural domination. In this thesis, focusing on the issue of economic inequality, I will argue about material domination. Material domination permits us to “detect and criticize forms of domination that are not encoded in legal statuses such as ‘slave’ or ‘serf’ but that arise instead out of conditions of dependence and inequality among individuals who are legally recognized as free and equal persons” (*ibidem*). The relationship between employers and employees in the free market regulated by the rule of law and free labor contract is an exemplary case. This kind of relationship usually does not imply coercion by means of physical force or threatened penalties, but nonetheless it might count as domination. It is true that we might assign a labor contract in absence of coercion and in the presence of actual ‘consent’, even in a case in which there is no other way to satisfy our needs or realize our conception of good.³⁷ However, the question of domination arises when we reflect about the social norms that permit the existence of such labor contract, that establish the terms of the contract, and that shape all political and

³⁶ Note that here I agree with Forst (2014, p. 26, note. 30) who conceives cooperation in a wider sense of sharing a social and political order.

³⁷ Hayek (1978; 2012) sustains that in this exact case coercion is not in place. My interpretation allows us to agree with Hayek and, at the same time, to sustain that in the same relationship domination might be in place. The deep difference between Hayek and me is that he conceives justice only as constraints of external actions by merely physical force or threatened penalties (so, violation of negative liberty). By contrast, I understand justice as rejection of injury to others in which coercion is just a form of injury among others. Hayek (like other libertarians, for example Nozick, 1974) neglects the relevance of the objective circumstances of justice (the degree of interaction and intensity of social relations). However, in some cases Hayek seems to adopt a comprehensive conception of justice grounded on a particular idea of (negative) liberty which is considered the most valuable ‘good’ of human life. Not all right-libertarians agree with this second interpretation, surely not Nozick. Instead, left-libertarians sometimes share this comprehensive idea of (negative) liberty.

socioeconomic arrangements which make the contract effective. I call these social norms primary rules³⁸ (legal, political and socioeconomic). Therefore, the point is: who has the power (and how much) to establish and shape the primary rules? Thus, domination counts when some individuals or groups are not able to consider themselves as co-authors³⁹ of these rules for lack of adequate formal or material (or both) powers, or as an effect of a certain structural power. It is in this sense that domination concerns with the dimensions of social injustice as disempowerment.⁴⁰

To sum up, since power is intrinsically a relational concept, the condition of disempowerment cannot be evaluated in absolute terms but always in relational/comparative terms. It means that the primary rules

³⁸ I borrow this term from Shklar (1990, p. 18).

³⁹ In this way it is clear that I conceive the ‘right’ of obeying only oneself or being his own master in an intersubjective and, also, substantive way. I will underline this important aspect in the second chapter.

⁴⁰ There is an important political philosophical tradition in which the notion of domination is central: Roman Republicanism or neo republicanism (See: Skinner, 1978 and 1998; Pettit, 1997; 2012; Lovett, 2010; Viroli, 2002.) I have two main reservations about Roman Republicanism or Neo republicanism. First, this account usually takes under consideration only relational power and neglects structural power (Garrau - Laborde, 2015, p. 58-61). It seems likely that, without also taking into account the structural domination, the only instrument to mitigate or decrease economic inequality is one of redistribution (ex post). In this way, neo republicanism runs the risk to give very little space in its reflection on more radical transformations that addresses asymmetries in the economic structure of society; for example, neglecting the importance of pre-distributive policies and opting for merely redistributive measures (Neuhouser, p. 217, note 3). The second reservation is concerned with its teleological or consequentialist approach. I have serious doubts that in this way republicanism would be able to respect the idea of reasonable pluralism. But, above all, the teleological or consequentialist approach is inevitably reductionist about justice because it is committed to the truth of one comprehensive ethical theory (Thomas, 2017, p. 15). From this point of view, it is important to mention a hybrid position that is represented by liberal-republicanism (Thomas, 2006; 2017). It defends a deontological point of view in which the independent political standard that guarantees the priority of right over the good places in the political idea of free and equal citizens; but at the same time, “this political doctrine places at its core a certain model of citizenship that incorporates a demanding ideal of civic duty” (Thomas, 2017, p. 17). In this sense it shares with neo republicanism the necessity to promote certain civil virtues.

(legal, political and socioeconomic) that permit a (potentially) unlimited accumulation of power, formal or/and material, in favor of some individuals or groups must be reasonably rejected.⁴¹ As I will explain along this thesis, this (deontological) formulation has important consequences in the way in which we might conceive the criterion of distributive (material) justice because we cannot disregard the gap between the most and the least advantaged. For this reason, I suggest the (material) distributive criterion of proportionality.

1.2 Who has the power to establish and shape the socioeconomic arrangements?

The reasons which *Occupy* criticizes the current economic inequality, stressing the significance of material power, hit at the heart of two dominant assumptions in the Western liberal societies: first, the idea that formal inequalities (in terms of rights and liberties) are more fundamental and urgent than substantive inequalities,⁴² and second, the specific way in which we justify economic inequality.

Occupy seems to reject the first assumption, but in a way that it rejects also the opposite and alternative assumption that substantive inequalities would have absolutely priority.⁴³ An example might make this aspect more clear. There are two societies: A and B⁴⁴. A is a pure capitalist society in which is guaranteed a system of individual rights and political formal rights, but no kind of socioeconomic rights (it is

⁴¹ Focusing on the primary rules I already take into account structural power, and therefore also structural domination.

⁴² Rawls priority of the first principle over the second one could be interpreted as compatible with this assumption, but I think that it is an oversimplification. Afterwards, I will show how the two principles of justice are justified more simultaneously than what it is usually thought.

⁴³ This opposite assumption is based on the idea that very poor societies must give absolute priority to material needs and only once they are rich societies they could concede political and civil rights. This argument is very common, and it is based often on a certain cultural diversity; for example the so called “Asiatic values”, based on different values than individual freedom and human rights. Sen (Development as Freedom, 2001) offered some very compelling reasons to reject this assumption.

⁴⁴ For the moment, and for simplification, I consider these two societies separately. Or, simply, A and B can be considered as two different social designs.

possible that someone lives in absolute poverty). In this society (A) also the rules and norms of the economic system permit an unlimited inequality, therefore the most advantaged people hold material resources that allow them to dominate others, and therefore the latter are subjected to the arbitrary foreign will. By contrast, B is an egalitarian paternalistic society where people enjoy socioeconomic rights, none live in absolute or relative poverty, and the level of socioeconomic inequality is quite low. However, B does not guarantee political individual rights, so also in this case, but for different reasons, someone (in B official agents rather than private agents as in A) dominate others in a way that the latter are subjected to the arbitrary foreign will. Now, we cannot assert that the ‘material’ social injustice that occurs in society A is less fundamental and urgent than the ‘formal’ social injustice that occurs in society B, and *vice versa*.⁴⁵ The moral/political source of both social injustices is the same: some people in society A and B live a condition of domination; it means that they are subject to the imposition of the primary rules (even if these rules are arbitrary in different respects).⁴⁶ It means that we cannot conceive of the primary rule as attaching priority to formal over material inequalities; instead our conception of justice should take them into account in a co-original manner. However, it does not mean that we are wrong to think, intuitively, that the demand of justice advanced by *Occupy* against the current economic inequality in liberal democracies is not comparable to the demand of justice advanced by other political movements – for example, the Arab spring movement or the Iranian Green Movement - against dictatorship (military or religious). For instance, nobody thinks that social injustices that occur in Egypt or Iran are the same as that in the U.S.A. But what might not be comparable is the intensity and extension of social injustice that could

⁴⁵ In this case, I do not consider the difference in intensity and extinction of social injustice that might occur in society A respecting society B, and *vice versa*.

⁴⁶ This assertion should not be misunderstood. What I want to prove with my example is not in contradiction with the lexicographical order adopted by Rawls between the two principles of justice. For example, in none of Rawls’ writings can we deduce that a social design that respects only the first principle is less unjust than an alternative social design that respects only the second. Indeed, both social designs would be unjust and arbitrary. The function of lexicographical order is to establish a non-arbitrary distribution of basic social goods; but both principles must be implemented if a society does not want to impose arbitrary rules to their citizens.

occur in a society rather than another, and not that a material injustice is less fundamental or urgent than a formal injustice. However, considering that no society is immune from some forms of social injustice, much depends on if a society provides institutional channels for the expression of what people believe to be a social injustice. This is the most fundamental difference between a liberal/democratic society and an authoritarian state. But, it is not sufficient to formally provide these institutional channels, what matters is that people should perceive the concrete possibility of social change when they offer valid arguments against a certain social injustice. In a case in which the possibility of a social change is no longer real and concrete, the difference between a liberal/democratic society and an authoritarian state is reduced considerably. This situation may happen, for example, when the amount of economic inequality reaches enormous proportions; a serious risk that the majority of western liberal societies are running.

The second dominant assumption that *Occupy* seems to reject regards the specific way in which we justify economic inequality. Indeed, taking for granted that liberal democratic societies cannot incur in the case B, the point is how to also avoid the case A. In the current debate, almost everyone⁴⁷ agrees that socioeconomic and political rules are arbitrary if they do not secure a fair system of equality of opportunity and/or a decent socioeconomic minimum. But, in this respect, *Occupy's* demand seems to be more radical. Clearly, a reason that makes the current economic inequality shameful, also in the western liberal societies, is the presence of poor people (absolute and relative poverty) or a very high rate of unemployment or people without decent health coverage; and *Occupy's* argument might be that such inequality is unjust or bad until these people rest in this objective precarious condition, and/or until unfair inequalities of opportunity are solved. Nonetheless, the *Occupy* movement is moved by another strong argument: *Occupy* argues against the perverse effects of economic inequality when it reaches a certain gap or range. In other words, *Occupy* is worried about inequality of outcome in a way that it is very different in respect to those who advocate for the fair equality of opportunity, or for a decent social minimum. Although, there are some

⁴⁷ There is the rare case of right-libertarians, or generally of those who defend the system of natural liberty.

important differences⁴⁸ between the fair equality of opportunity and decent social minimum accounts, we can consider both of them from the same perspective. Indeed, according to these accounts, once the fair equality of opportunity and/or the social minimum is guaranteed, economic inequality of outcome is normatively irrelevant. However, in this section I will focus mainly on the notion of fair equality of opportunity. First of all, it is the most common way to justify socioeconomic inequality, and, secondly, it might be more ambitious in reducing economic inequality than the account of decent social minimum.

The fair system of equality of opportunity requires that people who are similarly talented and effortful have similar prospects for attaining their positions regardless of their social class background. It is an essential *ex ante* concept (everyone should have an equal starting point). Atkinson perfectly explains its presuppositions.⁴⁹

To pursue the athletic analogy, [...] competitive equality of opportunity means only that we all have an equal chance to take part in a race—a swimming competition—where there are unequal prizes. In this, more typical case, there are *ex post* unequal rewards, and this is where inequality of outcome enters the picture. It is the existence of a highly unequal distribution of prizes that leads us to attach so much weight to ensuring that the race is a fair one. And the prize structure is largely socially constructed. Our economic and social

⁴⁸ For example, those who defend a decent social minimum as a requirement of justice also defend the fair equality of opportunity, but the main difference is that according to the former this social minimum should be ensured for all, even for people that for different reasons, bad luck, lack of talents or psychological attitude, fall into poverty (or fall under this decent social minimum) despite a fair system of equality of opportunity effectively is ensured to them. By contrast, although the authors who advocate exclusively for the fair system of equality of opportunity do not deny that the state should provide some forms of assistance to those people, they usually sustain that this goal is not a requirement of justice.

⁴⁹ He first distinguishes between competitive and noncompetitive equality opportunity. The noncompetitive equality of opportunity ensures that all people have an equal chance to fulfill their independent life project. According to the athletic analogy, “all can have the opportunity to acquire swimming certificates” (Atkinson, 2015, p. 11). However, in our liberal/democratic societies we are mainly concerning with the competitive one.

arrangements determine whether the winner gets a garland or \$3 million (Atkinson, 2015, p. 11).

Occupy denounces exactly this phenomenon. In the recent decades, one of the most primary reasons for increased income inequality is the explosion of the high salaries of the supermanagers in both the financial and nonfinancial sectors. The most common economic explanation (classical and neo-classical) of these high rates of remuneration is that this income is a result of the additional marginal productivity that the individual brings to the enterprise concerned. But, the idea that there exists a pure and perfect law of marginal productivity is an illusion. What the data shows is that the theory of marginal productivity fails to explain the diversity of the wage distributions we observe in different countries at different times.

The most convincing proof of the failure of corporate governance and of the absence of a rational productivity justification for extremely high executive pay is that when we collect data about individual firms (which we can do for publicly owned corporations in all the rich countries), it is very difficult to explain the observed variations in terms of firm performance. (Piketty, 2014, p. 334)

The lesson that we learn about this data is that:

Since it is impossible to give a precise estimate of each manager's contribution to the firm's output, it is inevitable that this process yields decisions that are largely arbitrary and dependent on hierarchical relationships and on the relative bargaining power of the individuals involved (*ibidem*, p. 332).

Moreover, what shows a total absence of rational productivity justification is that the extremely high executive pay is confirmed also in the case in which the performance of managers leads the company to a great loss of growth or profit. For this reason the labor market is a social construct based on specific rules and compromises (Piketty, 2014, p. 308, and Stiglitz, 2012, p. 35-64). However, it would be inadequate to take into account only income inequality⁵⁰ from the labor market,

⁵⁰ In the past decades, the limitation of income inequality for a compelling measurement of economic inequality was put in question by different authors and from different points of view. See: Sen, 1973, 1992, and 1997; Atkinson,

indeed, we should take in due consideration also inequality of wealth, or more precisely, the inequality of capital ownership. Indeed, as Piketty (2014, p. 336) notes, “the distribution of wealth—and therefore of income from capital—is always much more concentrated than the distribution of income from labor.”

Now, the succinct point that *Occupy* presents is: who has the power (and how much) to establish and shape the socioeconomic arrangements. In our free (and not purely capitalistic) market economy this power is shared, asymmetrically, between political government that establishes simply the legal framework of free market (rules of free trade, rules of free contracts, and taxation to maintain the security of legal/social system and reducing the inequality of competitive opportunity, etc.) and agents in their free socioeconomic activities (workers and employers, sellers and consumers, etc.) within this framework. It is evident that the free agents’ power to shape the socioeconomic arrangements increases if the legal framework prescribes less restrictions and constraints. Now, we can observe as *Occupy*’s objection against the current economic inequality is twofold. On one side, the concentration of wealth (which is also caused by income inequality in the labor market) is converted directly into more power in the hands of those private actors that are most privileged in the socioeconomic system. On the other side, this economic power is converted into political power, influencing and conditioning the public debate and the public deliberation on the extent of regulations and constraints that the legal framework should legitimately impose. Another example might help me to show the radical implications that this argument has on our common understanding of justifiable economic inequality.

In two different liberal/democratic social designs (both of them guarantee a fair system of equality of opportunity), one (C) shapes its social and economic arrangements in a way that the economic position of the worst off is quite better than in the second social design D; nonetheless in C the range of economic inequality (the gap between the most and the least advantaged) is considerably higher than in D. Now, contrary to what might be our common intuition, we cannot argue that C is preferable (or just) over D, before asking ourselves whether the range of economic inequality in C represents (or might represent) a condition of material domination. It means that in C some citizens might be in a

1970. For the moment, it is not important to enter into these kind of specifications.

disempowered condition, in the sense that they are not able to consider themselves as co-authors of socioeconomic arrangements. By contrast, the material domination might not be present in D, despite the fact that those who are the worst off would enjoy an (apparently) economic ‘absolute’ condition less generous than in C.

This kind of argument shows that a condition of ‘disempowerment’ in economic power (but it is also true for other kinds of social dimensions) is not quantifiable in terms of subjective and putatively objective provisions of wealth and income; rather, the notion of power entails essentially a relational dimension. Indeed, Pettit (1997, p. 113) observes how “the point is that a person’s absolute score in relation to the intensity of non-domination is a function of their relative score in regard to powers: it is a function of their power-ratio in the society as a whole.” What matters is how income and wealth that one disposes of is compared with the income and the wealth at the disposal of others (Pettit, 2012, p. 90-91). It means that those who want to really ensure a fair system of equality of opportunity should realize that the most important social goods that are relevant for the competitive equality of opportunity are manifest or latent ‘positional’ in nature.⁵¹ Philosophers usually neglect the importance of positional goods, whose importance is instead taken into account by economists.⁵² According to Brighouse - Swift (2006, p. 474) “positional goods are goods the absolute value of which, to their possessors, depends on those possessors’ place in the distribution of the good—on their relative standing with respect to the good in question.” It means that, “the absolute value of a positional good depends precisely on how much of it one has compared to others” (*ibidem*). Education is regarded as the paradigm on positional goods (manifest) because the competitive value of my education, for me, depends on how well educated other people are. In this sense, “the labor market value of an individual’s having a master’s degree, rather than some lower level of educational qualification, depends on the distribution of educational qualifications among others in the market” (*ibidem*, p. 475). The fact that some social goods are manifestly positional, leads us to reflect that “in competitive

⁵¹ A similar relational argument is also true for those who want to guarantee a decent social minimum as a requirement of social justice (and not merely as a remedy to poverty). They should also necessarily take into account the economic resources available to others.

⁵² See for example, Hirsch, 1976.

contexts, it seems plausible both that only a fair chance is enough of a chance and that only an equal chance is a fair chance.” (*ibidem*. p. 476) Moreover, we should also consider the fact that some social goods, although they are not manifestly positional, they are latent positional. For instance, health is a social latent positional good insofar as it affects labor market opportunities (*ibidem*. p. 481). Another latent positional good is housing. The phenomenon of centrifugation in some famous metropolitan areas (for example, San Francisco Bay Area) is a clear example. What makes the condition problematic for the less advantaged homeowners in those areas is not their absolute level of income and wealth, rather the income and wealth of the most advantaged who can afford to pay much more for housing and cause the prices to increase, consequently increasing the gap in economic inequality between them.

However, although if we would really take into account these aspects, then we might simply realize that an effective equality of opportunity is impossible in practice, and it is probably undesirable, all things considered. If it is true that talented and laborious people must have the same opportunities to attain the best socioeconomic positions regardless of social class background, it means, for example, that elitist private education should be allowed to exist. The point is not only to avoid that affluent parents can afford for their children this kind of good opportunity, but also, and above all, that we should guarantee the same level and quality of training and ‘intellectual’ environment for all: students who can train their talent in Harvard and students who do the same in any other college in the United States. This phenomenon is more decisive in the education of children⁵³, and does not affect a minority of students that have access to Ivy League universities, it is instead a widespread phenomenon due to socio-economic differences that impacts our urban areas. If we really care about a fair system of equality of opportunity, we cannot understand it only as an *ex ante* concept, rather we have strong reasons to also be concerned about inequality of outcome. As Atkinson (2015, p. 11) rightly argues: “the beneficiaries of inequality of outcome today can transmit an unfair advantage to their children tomorrow.” This process is one of the most empirical/theoretical results of Piketty’s monumental work (2014).

⁵³ Barry (1989, p. 220-221) underlines this aspect. For example, the only solution, but quite impracticable, might be to randomly spread children throughout the metropolitan area. See also de Vita (2007, p. 244). Rawls (1971, p. 74) is more pessimistic: “the principle of fair opportunity can only be imperfectly carried out, at least as long as the institution of the family exists”.

Indeed, Piketty shows that the most important source of economic inequality is inheritance. In this sense the point is not merely whether Chamberlain is entitled to all his economic gains because he deserves them by reason of his talent but, rather, whether his children and grandchildren are entitled to the entire heredity. In particular, those who believe in the idea of meritocracy should reflect seriously on this question.⁵⁴

The central point is that, in any way we want to justify economic inequality in terms of justice, we should take into account the range of economic inequality within our criterion of justification; otherwise, it means that we neglect a dimension of economic power and in most general terms a dimension of material power.

1.3 The insulation strategy and the background institutions strategy

Once we observed that economic inequality in income and wealth gives a particular power (material) to establish and shape socioeconomic arrangements, we would still have some doubts about which strategy to follow. Indeed, in the current debate there are two alternative strategies that I call the insulation strategy⁵⁵ and the background institutions strategy.⁵⁶ Both strategies share the same premise: inequalities in income and wealth have relevant effect in undermining political liberties and political equality and that universal suffrage is an insufficient counterpoise. So, both strategies are addressed to break out the risk of ‘civil’ oligarchy in which economic inequality gives a great economic power that is translated into political power. As I have already said, the simplest effect is that this unequal political power in the hands of the economically most advantaged groups self-reinforces economic inequality by means of non-egalitarian or neoliberal policies. For example, Piketty offers a twofold explanation of the phenomenon of the rise of a new class of super-rich:

⁵⁴ Indeed, it is not surprising that right-libertarians do not appeal to the idea of meritocracy; rather they conceive property rights as ‘absolute’.

⁵⁵ I borrowed this term from Thomas (2017, p. xix).

⁵⁶ I borrowed this term from Rawls. Rawls adopts the terms to point out the kind of background institutions that satisfy the two principles of justice and the idea that society is a fair system of cooperation between free and equal citizens from one generation to the next. See: Rawls, 1971, section 43; and Rawls, 2005, lecture VII; and Rawls, 2001/a, Part IV.

The decrease in the top marginal income tax rate led to an explosion of very high incomes, which then increased the political influence of the beneficiaries of the change in the tax laws, who had an interest in keeping top tax rates low or even decreasing them further and who could use their windfall to finance political parties, pressure groups, and think tanks. (Piketty, 2014, p. 335)

However, this process only describes an effect, even though extremely important, of the unequal political power and unequal value of political liberties generated by excessive economic inequalities. Indeed, the self-reinforcing mechanism to income and wealth accumulation, and the defense against eventual policies that might threaten this accumulation, is only one aspect⁵⁷, but we should also keep in mind that those groups favored by political inequality in virtue of their economic power can have interests beyond the defense of their wealth; indeed, they might impose some particular comprehensive doctrines (Rawls, 2005) or some particular “life-forms” (Habermas, 1987, Vol. 2, p. 392) or forms of life (Jaeggi, 2013).

Although the two different strategies share the same premises, they diverge quite radically in the solution. The insulation strategy can be summarized with an efficacy slogan: “keeping money out of politics” (Thomas, 2017, p. 95) It means to protect the political process, and therefore the fair value of political liberties, from the material inequalities generated by the market through stringent rules about campaign private contributions, rules on disclosure of financial interests, assuring the availability of public information on matters of policy, public financing of elections, pluralistic regulations of mass-media, and so on. The point is to protect the autonomy of the public sphere by influence and interference of economic power. These public/political devices are less extended if we limit political liberties to the right to vote and run for political office. The insulation strategy is prevalent in liberal egalitarian tradition⁵⁸, and also in egalitarian communitarianism such as in Walzer (1983). By contrast, what I call background institutions strategy is based mainly on shaping the political, economic, and social institutions (the basic structure of society) in a way of preventing excessive material inequalities and favored economic power dispersion.

⁵⁷ For example, Winters (2011) focuses exclusively in the political process of civil oligarchy, i.e. the politics of defending wealth.

⁵⁸ For example, see: Dworkin, 2000, chapter 10; and, G.A. Cohen, 2008.

In other words, this strategy pursues the normative idea that economic inequality in income and wealth should not reach a certain amount between the most and the least advantaged. I believe that *Occupy's* demand can be satisfied only by the background institutions strategy, because the insulation strategy is not able, at least alone, to avoid the social injustice as domination since it focuses only in political power or political equality and it takes into account the social and economic power only in relation with the political one.⁵⁹ The insulation strategy could be effective only if it is grounded on the strong premise that political power controls totally all social integration and regulates strictly all social spheres; or if it considers socioeconomic power and socioeconomic asymmetrical positions as irrelevant to the domain of justice.

In order to illustrate the problem, we can draw briefly some theoretical considerations. First of all, we ask ourselves what institutional devices we need to have so we can leave money out of politics, and if these devices might be realistically available and effective. It is easy to perceive that a severe legislation would not be sufficient to limit the private contributions of political parties and electoral campaigns. Indeed, economic power is translated into political influence and political power through a number of other means, such as lobbying, canvassing, standing for a strategy office, or working for someone who stands for, and above all imposing a certain 'political' agenda and socioeconomic issues in the public debate by means of media.⁶⁰

⁵⁹ Note that background institutions strategy is not incompatible with insulation strategy; indeed, even the latter is seen as an insufficient strategy, it may be considered a complementary instrument. By contrast, those authors who prefer primarily insulation strategy usually believe that it is sufficient to guarantee political equality and the fair value of liberty.

⁶⁰ Likely, the only way to avoid that economic power would be converted into political power by means of all these tools is to withdraw those political rights linked with this direct or indirect mechanism. Machin (2013) defends this radical proposal. He suggests imposing the choice to the super-rich (those who have more than \$1 million in the USA) between "(A) forfeit, i.e., pay a 100 % tax on, all income above \$1 million per annum or (B) Forfeit some political rights." (*ibidem*. p. 128) He draws up a comprehensive, even if not definitive, list of political rights that must be subject of this radical measurement (the right of vote is preserved). Here, I leave apart whether this option violates fundamental individual liberties or not. Machin argues that, given the possibility

However, even supposing that these institutional barriers are possible and effective (hypothesis that rises many doubts), we soon realize that those who have great economic power regarding enormous wealth inequalities and concentration can heavily influence governments and states in their public decisions without participating directly and indirectly in the political activities or shaping the public opinion, as they could threaten governments to stop their economic investments or moving them in foreign countries and, above all, not renew the quote of public debt in their hand.⁶¹ But what is extremely important for our argument is that this economic power is exercised not only in the direction of political government but also within the economic sphere itself, determining the nature of working relationships, the different level of income, the inclusion or exclusion in economic system, and so on. As we have already said, in a social system that makes use of the free market⁶² the power of establishing and shaping the socioeconomic arrangements is shared, asymmetrically, between political government, that establishes the legal framework of market and the economic free actors within this framework. It means that even if the strong barriers in

of choice, individual liberties and rights are not violated. Peacefully taking this trade off as morally acceptable, we can observe that the point of weakness of Machin's proposal regards his supposition that economic power is political/moral problematic only because it influences politics. Machin's proposal, like the insulation strategy, disregards the kind of domination that economic power might entail in its own domain, beyond its capability to be translated into political power.

⁶¹This power is increasing enormously with the process of internationalization of the finance sector in the past decades. For this reason, we cannot underestimate the relevance of a global justice, even if I do not have the time and space to deal with it in this thesis.

⁶²Note that I do not take into account the hypothesis of a command economy guided by a general economic plan making a very relative little use of markets. The main problem is not likely lack of efficiency, even if it is a problem, of course. As Piketty (2014, p. 531-532) observes, the point is that the private property and the free market economy does not have the sole effect of imposing the domination of capital but they also play a useful role in coordinating the actions of millions of individuals. On this aspect, Hayek (2012) was right. Given the complexity of our society and the need for high levels of coordination, it is impossible for everyone, even for a central political authority, to collect and manage all information in the system in term of preferences and needs; therefore in trying to do so without the mean of the prices and the free market it is quite inevitable to disrespect the basic individual liberties.

protection of political dimension by external influences would work effectively, the economic inequality and its corresponding economic power continues to be absolutely relevant in the socioeconomic sphere. Moreover, the great convertibility of money gives power over other (non-political) domains of social life translating itself into an asymmetrical social status. The insulation strategy works only in the implausible hypothesis that the political power has total control, formally and informally, over the socioeconomic sphere (and other social spheres). Or that the asymmetrical relations of power within the socioeconomic sphere (and other social spheres) are morally irrelevant in terms of social justice because economic relations do not represent a kind of coercion or domination. Only in this way we might suppose that it is sufficient to leave money out of politics. In this sense, the political dimension is seen as the sphere that guarantees only the traditional political and civil liberties (and decent social conditions), but that neglects the fact that power within the socioeconomic domain would represent an unjustifiable form of domination.

It is not surprising that the problem is present in the most sophisticated theoretical account that adopts the insulation strategy, i.e. Walzer's complex equality (1983). Walzer advocates the complex equality in order to avoid domination rather than the simple monopoly which is instead, according to Walzer, the aim of simple equality. Indeed, simple equality focuses on distribution of a certain social good or a certain basic list of social goods according to a single criterion, or a single set of interconnected criteria. By contrast, he argues for a plurality of social goods, each one distributed on the basis of its appropriate criterion. The point is that inequalities in these social goods, such as wealth, political power, fame, is acceptable insofar as no goods are permitted to dominate others; for example, when wealth is used to acquire political power or medical care or other goods. Therefore, Walzer draws a society in which the different 'spheres of justice' are rigorously separated in order to avoid what Walzer called the risk of domination of one sphere to others. According to Walzer (*ibidem*, chapter 4, p. 95-128), with this separation in place, economic inequality is not more problematic, but at least we can guarantee a sufficientarian threshold of income and wealth in the sphere of money and commodities. However, the main question concerns knowing according to which criterion we should 'distribute' each of these social goods. Initially, Walzer adopted a relativistic thesis according to which the list of relevant social goods and their respective criteria of distributions is grounded on what he defines as "our shared understandings of social

goods”. But, once we realize that the primary question of justice properly concerns the kinds of conflict around which meaning and which interpretation is given to ‘our understandings of social goods’, we can no longer neglect the ‘distribution’ of power and the relations of domination within each sphere. In more recent work, Walzer (1995) seems to recognize the relevance of this objection, and it leads him to reformulate his theory in a way that the principle of democratic citizenship plays the leading role in all spheres of justice. Of course, this reformulation should also lead to abandon his sufficientarianism, because in the sphere of “money and commodities” economic inequality represents economic power, and it gives the possibility to the most advantaged to impose their particular interpretation of distributive criterion in that sphere.

Another important account that shares a similar insulation strategy is that proposed by Kaus (1995). Kaus calls his strategy as ‘civic liberalism’ to oppose ‘money liberalism’. The latter is the more traditional strategy which aims to promote social equality by manipulating the distribution of income and reducing income differences. By the civic liberalism, he insists, instead, that public policy should not seek to undo the effects of the market, which inevitably promotes inequality of income and wealth, but to limit its scope; in other words, restrict the sphere of life in which money matters. However, it is not clear how this kind of restriction might be realized. Kaus seems to propose an ethical solution in developing a more egalitarian culture in which (I presume) people renounce use of money as the medium in the spheres of life that are not intrinsically economic. Moreover, his proposals for developing this egalitarian culture presuppose a great amount of resources that governments should spend in different kinds of public services such as national service, public schools, universal day-care facilities, and a national health plan. It is not clear in which way they might obtain these economic resources, but likely the only way is a direct and indirect economic redistribution that inevitably demands a manipulation of income and wealth distribution.

The point is that in order to avoid material domination in all dimensions of social life that are relevant for the domain of social justice (at least as I define it in this thesis), we cannot disregard the gap of economic inequality (in terms of income and wealth) between the best off and the worst off; and for this reason we should pursue background institutions strategy. Of course, one can think that taking money out of politics breaks out of the system of ‘civil’ oligarchy and therefore it rids the political power to legislate, for example, in favor for

a severe financial regulation, a strong top taxation, and a high tax on inheritance, and so on so for. But in this form, the insulation strategy should be considered only as an instrumental and practical solution to reduce economic inequality and economic concentration. However, this consideration shows that all those devices that characterize the insulation strategy can be complementary to the background strategy, but that the insulation strategy is insufficient alone to avoid domination.

1.4 The distributive criterion of proportionality

What is particularly interesting in *Occupy*'s rejection of the current economic inequality is that its argument is not based on a certain idea of equality. First of all, *Occupy* does not sustain that inequality is intrinsic bad or unjust, rather that economic inequality only beyond a certain range could be unjust due to reasons of its political and socioeconomic effects. This argument can be considered a classical non-intrinsic (or instrumental) argument against inequality. Indeed, according to *Occupy*, economic inequality should be reduced in order to avoid unacceptable forms of power and domination, not in order to achieve equality. As Scanlon (2000, p. 46) recognizes, the reason against inequality that appeals to the notion of domination is based on a powerful moral idea that is not fundamentally egalitarian, because it does not make any reference to the value of equality, neither as moral ideal nor social/political ideal. In this way, *Occupy* offers an argument that might escape from an impasse that the current egalitarian debate on economic inequality seems to face. In the current egalitarian debate, on the one hand, it seems that the gap between the best off and worst off matters (morally) only if we adopt an intrinsic concern for inequality. It means that a reduction of the gap between the most and the less advantaged would be itself an improvement. However, this assumption seems implausible because it sustains a decrease in inequality simply for the sake of equality as moral value. Thus, an intrinsic concern for inequality is exposed to the Leveling Down Objection. On the other hand, once we reject an intrinsic egalitarianism, the gap in inequality between the two extremes seems to lose any normative relevance. I argue that focusing on the dimension of power, formal and material, might offer an alternative.

At the first insight, by considering the economic inequality unjust only when it overcomes a certain range between the most and the least disadvantaged seems to be problematic because we might lose the possibility to provide a valid criterion to establish the arbitrariness of

economic inequality (in our example, between C and D). It is an important preoccupation, but it is not the case. Indeed, we can observe that if economic inequality is morally and politically problematic only in the case in which it reaches a certain range, it means that socioeconomic and political rules (the primary rule) are arbitrary if they permit an unlimited economic inequality. In other words, we should prescribe a distributive criterion of material justice that does not permit an (potentially) unlimited economic inequality. Therefore, the criterion that we are looking for, perhaps, is one of proportionality.

According to a deontological formulation, we can say that a condition of material domination is represented in the case in which the primary rules that permit a potentially unlimited economic inequality must be reasonably rejected. In terms of a distributive theory of justice, either procedural or substantive, it means that, first, whatever is the objective metric that we adopt (resources or capabilities)⁶³, the economic dimension in terms of income and wealth⁶⁴ cannot be neglected (it is a major source of injustice in our liberal societies); and second, the criterion of distribution of income and wealth should be that of proportionality; i.e., we should establish the limit range of inequality between the best off and the worst off.

The idea of proportionality as a criterion of material (or substantive) justice is not new. Indeed, its origin can be traced from the ancient political philosophy with Plato and Aristotle to the modern time with Rousseau. For example, Plato (*The Laws* V.744e; 1960, p. 127) sustains that no one should be more than four times richer than the poorest member of the society.⁶⁵ Instead, Aristotle argues about “proportional equality” (*Politics*, book V, I - 1307'26 -27; 1998, p. 134). Aristotle condemns extreme material inequalities because they produce a situation in which the poor and the rich are not able to establish a just constitution and government (*Politics*, book IV, xi 1296a28–32; 1998, p. 121). Rousseau in *The Social Contract* (SC, II.11.ii) sustains that “no

⁶³ Another common metric of distributive justice is welfare, but it is a subjective metric, and I think it is not adequate to accommodate a demand of justice.

⁶⁴ It is clear that economic dimension in terms of income and wealth is not the only primary good, resource, or function that can be satisfied the demand of justice.

⁶⁵ Fair (2016, p. 27 and 31) seems to test the plausibility of this ratio in term of the Gini coefficient.

citizen should be so rich that he can buy another, and none so poor that he is compelled to sell himself". Although Rousseau rejects absolute wealth and power equality because it is too severe and demanding, he argues that the distance between rich and poor should be as close as possible (*ibidem*).

However, these glorious references can only prove the great intuitive appeal of the idea of proportionality as a requirement of justice; but surely the validity of this idea that I am looking for is not grounded on the arguments endorsed by these classical authors⁶⁶. Nonetheless, I can climb on the shoulders of those giants in hoping to see farther.⁶⁷

Although in the contemporary debate, the idea of proportionality as a requirement of justice has been almost abandoned, at least it is not endorsed explicitly, some authors still advocate this idea. For example, Temkin (2000) defends a conception of proportional justice, but his account is grounded on a teleological conception of good, and for this reason it cannot be adequate for my scope. Instead, more promising is Scanlon's (2000) proposal, even if he simply sketches the argument in showing how one of the most fundamental moral reasons against substantive inequality figures in Rawls' view about distributive justice. Scanlon (*ibidem*, p. 46) identifies five non-intrinsic fundamental reasons for pursuing greater equality.

- (1) Relieve suffering or severe deprivation
- (2) Prevent stigmatizing differences in status
- (3) Avoid unacceptable forms of power or domination
- (4) Preserve the equality of starting places which is required by procedural fairness.

⁶⁶ One might note a great affinity with Rousseau's starting point in *A discourse on the original of inequality* (1997/a) and the reason for which Rousseau condemns an excessive economic inequality in *The Social Contract* (1997/b). For example, according to Neuhouser (2013, p. 209) "Rousseau's criterion for the legitimacy of economic inequality can be formulated as follows: economic inequality is permissible only to the extent that it is compatible with the absence of relations of domination among social members". However, I want to make clear that, by contrast to Rousseau, my understanding, firstly, does not adopt an 'ethical' conception of justice for being inadequate for a pluralistic society. Secondly, I reject a collectivistic interpretation of the notion of power, and I do not assume that domination is the only way to violate individual freedom. In this second respect, Rousseau is ambiguous.

⁶⁷ Famous phrase attributed to Bernardo di Chartres by his pupil Giovanni di Salisbury, *Metalogicon*, III, 4.

In addition,

(5) Procedural fairness sometimes supports a case for equality of outcomes.

The idea of proportionality is just mentioned as a possible interpretation of the fifth reason. In elaborating his argument, Scanlon also tries to overcome the common contrast between ‘equality of opportunity’ and ‘equality of result’. Indeed, as I have already said, and Scanlon agrees too, if we believe that equality of opportunity supports only the fourth reason against inequality, then this idea “can be compatible with large inequalities provided that they result from a fair process and do not disrupt the fairness of ongoing competition” (*ibidem*, p. 44). For this reason, he opts for a combination between (4) and (5), and suggests that this combination is the best interpretation of the Difference Principle. Scanlon’s argument is grounded on the strong premise that “as participants in a cooperative scheme, the individuals in question have equal claim to the fruits of their cooperation” (*ibidem*, p. 4). Despite that this is effectively a very appealing moral idea, Scanlon himself admits that the equal claim to the benefits individuals produce collectively is not indisputable. Indeed, “It might be maintained, for example, that insofar as social institutions are seen as cooperative undertakings for mutual benefit the claims of participants to its products are not equal but *proportional* to their contributions”⁶⁸ (*ibidem*, p. 46).

Now, I think that the fifth reason against inequality formulated by Scanlon represents a good attempt to overcome the unproductive contraposition between procedural and substantive conception of justice; but it does not seem to solve the mains possible controversies. First of all, a libertarian could also agree with the premise that individuals can claim the wealth produced by their combined efforts, but, at the same time, it should legitimately sustain that the free market (or most generally the free bargaining and exchange) is the best way to establish the proportional share of resources to which individuals are entitled. In this way, Scanlon’s formulation is not able to deal with the main *Occupy’s* demand: who (and how much) has the power to shape and establish the economic and social arrangements. The individual proportional contribution depends properly on the type of the political and socioeconomic rules that regulate the social cooperation.

This aspect leads directly to the second reason for which the Scanlon formulation about proportionality as a requirement of justice

⁶⁸ Italic added by me

does not seem to be satisfactory. The question is in which way do we understand the idea of social cooperation. Indeed, if social cooperation is conceived merely as a community of mutual benefit, in which people produce and distribute goods, we are not able to denounce social injustice as exclusion. Social exclusion can come from different sources, such as cultural or racial, but it can also be strictly socioeconomic. For example a certain socioeconomic arrangement might produce exclusion and marginalization of a great number of individuals who are literally prevented from participating in social cooperation. The phenomenon of mass unemployment as well as the rude forms of job precariousness, also in the most developed Western economies, is a clear example. For this reason, Forst (2012, p. 191) argues rightly that we should take in due consideration also the context of “negative cooperation”. It means that we should understand the idea of social cooperation in a wider sense as a context of interconnection among people who share a political, legal and socioeconomic order.⁶⁹ Surely Rawls (and even Scanlon) conceives his idea of social cooperation in this wider sense, but then we realize that the strongest reason to reduce substantive inequality is not grounded simply on Scanlon’s premise that individuals have equal claim to the fruits and benefit they collectively produce, rather it is based on the premise that socioeconomic inequality, beyond a certain range, might represent one of the ‘unacceptable forms of power or domination’ (3)⁷⁰.

Therefore, I attach the criterion of proportionality properly to point 3. However, in doing so, I am sympathetic with the Scanlon principle of justification: principles or norms that could not be reasonably rejected. The starting point is that if it is true that the primary rules (legal, political, and socioeconomic) are responsible for assigning what people are legitimate to claim according to their contribution and participation in the social cooperation, and are also responsible in limiting or restricting people’s participation and contribution, it means that we cannot take them for granted. Rather what matters is *who* has the power, and according to which arguments, to shape and establish the primary rules that regulate our social relations in the subjective

⁶⁹ See: Nussbaum (2006), Forst (2012; 2014), Bietz (1999) and Pogge (1989).

⁷⁰ Regarding the other reasons against inequality that Scanlon identifies, he argues that the first reason is essentially a humanitarian ideal, meanwhile the second reason is the clearest expression of egalitarianism as well as the fifth reason. However, in my case, I can say that people who suffer a condition of domination, likely also suffer a stigmatization in status.

circumstances of justice – those conflicts and disagreements about norms and principles that govern our social relations and that cannot be reconciled appealing to our social virtues – and the objective circumstances of justice – all social relations that cannot be considered ‘voluntary’ and in which, by contrast, domination is potentially at stake. For this reason, I agree with Forst (2014, p. 34) who argues that “the first question of justice is the question of power”. Since power is always a relational concept, those people who are less advantaged or the worst off could reasonably reject primary rules that permit (potentially) unlimited economic inequality in terms of income and wealth because such rules might endorse material domination. For this reason, the criterion of proportionality applied to economic inequality cannot be reasonably rejected.⁷¹

In this theoretical framework, the idea of proportionality should be considered as a specific requirement or criterion of justice concerned with material inequality, precisely with economic inequality.⁷² I believe that rejection of material domination is one of the most compelling reasons against economic inequality. This argument is strong enough to reject the possibility that unlimited socioeconomic inequality should be justified in terms of distributive justice, and consequently to defend the criterion of proportionality as a ‘distributive’ criterion of material justice. It is true that this reason is not essentially an egalitarian argument because it does not employ in it any forms of the idea of equality. However, this characteristic could be an advantage in the current debate because it might provide a compelling argument against inequality that cannot be rejected either by non-egalitarian theories. Most important, I think that the idea of proportionality better grasps *Occupy*’s demand against excessive economic inequality.

⁷¹ The reason for which Scanlon curiously does not follow this argumentation is that the criterion of proportionality cannot be reasonably rejected only as requirement of justice. Scanlon’s contractualism does not make an important moral distinction between requirements of justice and social virtues, and without this distinction it is impossible to justify the criterion of proportionality that, by contrast, can reasonably be rejected if it is applied to other moral requirements than those of justice. I will argue about this fundamental distinction in the second chapter.

⁷² In this thesis I leave the question open whether the criterion of proportionality might also be adequate for other scopes.

2 Looking for the normative requirements of social justice

In the first chapter, I investigated *Occupy's* demand from the point of view of social justice, one that clearly involves a normative point of view. Now, in this second chapter, I will properly argue about the normative basis to evaluate the validity of *Occupy's* demand as a claim of social justice. In doing so, I will face some of the most classical political philosophical contrapositions. They concern the controversy between transcendental and particularistic perspectives, deontological and teleological approaches as well as between procedural and substantive, and lastly between ideal and non-ideal theories.⁷³ All these different philosophical interpretations are linked in some way with the fundamental relation between, on the one hand, morality and politics, and on the other hand, justice and democracy. In many respects, these oppositions are very unproductive and they risk leading political philosophy to an impasse. For this reason, many authors propose their accounts in a way to avoid these deadlocks.⁷⁴ Moreover, authors who are usually collocated on one side or the other have tried to reshape their theories in order to mitigate the dichotomy.⁷⁵ However, these oppositions regard essential aspects that cannot be neglected because they have strong consequences for the way in which we deal with many social and political problems. Indeed, when we look for the normative grounds of social justice, we seem to face some methodological and theoretical impasses. Due to this, to make a more exhaustive description, we should take into account both a 'methodological' and a 'theoretical' point of view.

From a methodological point of view, it seems that we should choose between an ideal theory – “employing the method of rational construction, and then to ask how the resulting abstract moral principles can be ‘implemented’ in practice” – or a non-ideal theory – starting from “the reality of concrete political contexts, reject normative cloud cuckoo conceptions and confine oneself to what is possible and

⁷³ Some of these controversies regard the core of moral and political philosophy since the ages of the Greek philosophy. However, most recently they have been nourished in the well-known debate of universalism versus communitarianism.

⁷⁴ In a certain sense, the entire project of the Critical Theory goes in this direction since the benchmark represented by Horkheimer in *Traditional and Critical Theory* (1937; reprinted in Horkheimer, 2002).

⁷⁵ Rawls' philosophical project could be an exemplary case.

acceptable here and now in view of deep-seated interest conflicts” (Forst, 2014, p. 1). Adopting the former methodology, the problem is that we risk endorsing a fundamentalist and transcendental approach and so subordinate politics to morality as well as praxis to theory. A normative basis of this kind might be too formal for offering a useful critical understanding or, in the worst case, it might disregard the idea of democratic self-determination. Thus, as a result, it might be insensible to the numerous differences among particular social and political practices. It would likely be a manner to produce an irreconcilable conflict between (social) justice and democracy. By contrast, in following the so called ‘non-ideal’ alternative methodology, we might embrace a relativistic and particularistic perspective. So, the risks are opposite to the ideal methodology. Indeed, ‘non-ideal’ methodology might merely describe the social and political practices and therefore lose any critical appeal or, in the worst scenario, it might be a tool in defense to the *status quo*. In this case there is also a conflict between justice and democracy, because although those who advocate this kind of methodology would pragmatically defend the democratic practice of each particular community, nothing might guarantee that democracy would promote justice. As Shapiro (1999, p. 19-20) notes:

Even in countries where the basic democratic institutions of popularly elected governments based on universal franchise prevail, wealth may or may not be redistributed in justice-promoting ways, minorities may or may not be respected, opportunities may or may not be open to all, and religious dissent may or may not be tolerated.

Thus, both two opposite methodologies present an important underestimation of the domain of politics, which is likely the result of a methodological neglect of the relevance of conflicts and disagreements. In the recent years, many authors have been more cautious to avoid a conflict between social justice and democracy. Unfortunately, the way in which these authors usually try to avoid the conflict between social justice and democracy reproduces another opposition: between procedural and substantive conceptions. The procedural conception evaluates a social system on the basis of the fairness and legitimate character of its procedures or practices. So, a fair result does not depend on a separate criterion of what the outcome ought to be. However, it means that a procedural theory, at least in its pure form, leaves untouched the substantive and material issues which are supposed to be

those issues where people most disagree, so that substantive issues are left to the citizens' decisions. Instead, the substantive conception offers an independent criterion to evaluate a just social system. Thus, this conception focuses on the effective achievement of a certain social goal or a set of them. The main problem is that many authors adopt the same conception, procedural or substantive, to conceive both the idea of social justice and democracy. In this way, they avoid any potential conflict, but at the price of overlapping social justice and democracy. By contrast, they should be mutually related and yet, at the same time, separated in order to maintain a reciprocal productive and indispensable tension to each other.⁷⁶

Beyond a strict 'methodology' point of view, we might face another critical controversy concerning the object and the scope of justice; it is what I called a 'theoretical' point of view. In this case, the controversy does not regard the grounds of the principles of justice, but the subject of application of these principles. In other words, the point is whether social institutions are the primary (and perhaps the only) subject of justice, or if the latter instead regards the realm of personal conduct or both of them with the same priority.⁷⁷ This divergence goes through the opposition between institutional conception and interactional conception. This controversy usually has a direct correspondence to another contraposition between deontological view and consequentialist view. First of all, a deontological view expresses morality in term of constraints on how an agent can pursue his actions or goals. Secondly, a deontological view draws a sharp distinction between questions of right or just and questions of good or bad, and it gives priority to the former over the latter. In this sense, norms of justice are 'universally' binding in respect to an agent's own specific values. It represents a distinction between the domain of 'morality' and the domain of 'ethics'. These two central elements, the grammar of constraint and the priority of right over good, usually lead the deontological view to adopt an institutional conception rather than an interactional one.⁷⁸ It means that the principles or norms of justice apply to social institutions and not to people's conduct or choices. Therefore,

⁷⁶ See Shapiro (1999) and de Vita (2008).

⁷⁷ This controversy gains relevance more recently in political philosophy due to some important innovations introduced by Rawls in *A Theory of Justice* (1971).

⁷⁸ However, not all deontological conceptions accept institutionalism. The most prominent case is Nozick's libertarianism (1974).

justice prescribes normative constraints in order to guarantee a legal/political background in which all individuals or citizens can enjoy their rights and pursue their specific interest, goods, and values in respect of others. For this reason, the deontological view is usually expressed as a rights-based view⁷⁹.

Thus, according to the interactional and consequentialist view, the deontological view endorses an excessive and implausible restriction on the subject of justice. There are three main aspects of this general objection. First, the institutional conception might be an ineffective, and also implausible, idea of justice because of a moral discontinuity between principles and norms that govern institutions and those that also govern individual personal conducts. Indeed, if morality is expressed in terms of goals or aims (as consequentialist and teleological views do), we do not have any reasons to exclude individuals personal conduct from the subject of justice once it is proved that they can directly increase the chance of achieving this goal or aim (for example, in realization or maximization of a certain value or good).⁸⁰ Second, a deontological view which is based on constraints and rights is not able to protect people from all forms of vulnerabilities. The point is that it might make a sharp distinction between public and private spheres; therefore it does not take into account certain social institutions as that of intimacy (not only family, but also marriage and friendship, or other spheres of social life).⁸¹ This argument is captured by the famous feminist slogan: ‘personal is political’. Third, the priority of the right over the good and its supposed neutrality of ethical values and cultural identities, as a deontological view is inclined to affirm, runs the risk of drawing an unstable society of individuals somewhat isolated and disinterested in others. This ‘theoretical’ controversy raises the question

⁷⁹ However, there are some important cases in which a deontological view is expressed on duties rather than rights, for example, Pogge (1989, 2002-2008) and O’Neill (1996). Forward, I will explain the main advantages of adopting a deontological view based on the grammar of duties; and for this reason, I will proceed on the same trail.

⁸⁰ This argument clearly shows how the ‘methodological’ controversy is separated by the ‘theoretical’ one, because it can be advocated in the same way by authors who adopt an ‘ideal’ or ‘non-ideal’ methodological perspective. For example, G.A. Cohen (2008) who defends a fact-insensitive theory of justice and Murphy (2000) who elaborated a non-ideal theory of beneficence.

⁸¹ See for example Honneth (2014) and Walzer (1983) who include all these social spheres and social relations in the domain of justice.

if both these alternative theoretical perspectives disregard, for opposite reasons, the nature of social relations. In this thesis, I defend the idea that the subject of justice regards all social relations that cannot be considered ‘voluntary’ and in which, by contrast, coercion or/and domination are potentially at stake.

For sure, it is impossible, and also undesirable, to eliminate the deep controversies that concern the ‘methodological’ and ‘theoretical’ point of view and that pass through the most classical opposition in political philosophy, but it is absolutely necessary to avoid that they become irreconcilable dilemmas and impasses. Despite it not being the main purpose of my thesis, I suggest that these controversies might be less irreducible if we realize that in many cases they simply focus on different philosophical and moral questions. Indeed, some of the most unproductive controversies occur in conflating such different questions and, for instance, we should distinguish between the questions of ‘what should we think or believe?’ from ‘what should we do?’ as well as ‘what are the principles and norms that could regulate our most deep social conflicts?’ to ‘what are the principles and norms that could represent our communitarian and ethical understandings?’

In many cases, these different philosophical and moral questions are likely linked to each other, and it is normal, and even sometimes indispensable, that the most complex and sophisticated theories embrace some of them⁸², but I believe that it is very useful to explicitly separate

⁸² In this regard, a very ambitious project is drawn by Parfit, *On What Matters. Volume I and II* (2011), in trying to give unity to morality through a unifying and supreme principle. His main aim is to demonstrate the existence of a convergence among three traditional moral and political theories that we are accustomed of viewing as rivalries: Kantian deontology, consequentialism, and contractarianism. He synthesizes these three approaches in the ‘Triple Theory’, by saying that “an act is wrong just when such acts are disallowed by some principle that is (1) one of the principles whose being universal laws would make things go best, (2) one of the only principles whose being universal laws everyone could rationally will, and (3) a principle that no one could reasonably reject” (Parfit, 2011, Vol. I, p. 413). I do not have time here and the authority to argue in details about Parfit’s project, however I doubt that Parfit’s ‘Triple Theory’ is able to satisfy the specificities that compel the different moral demands, for example between demands of justice and demands of social virtue (I will clarify this aspect in the next sections). Although in this thesis I suggest some convergences between apparently rival traditional approaches such as substantive and relational conceptions, I limit this convergence only to a certain

them as much as possible. However, my scope will be less ambitious, and I will investigate a specific and restrictive political philosophical question. First of all, I will try to answer the following question: what is social injustice? Second, and more precisely, I will address my investigation in answering the question: when and why is economic inequality unjust? In doing so, I will try to delineate and delimit them as compelling as possible, and for this reason I will pursue what I call a methodological and theoretical reformulation in order to adequately take into account the methodological primacy of conflicts and disagreements, and the theoretical relevance of the nature of social relations in their different degree of interaction and intensity. I will refer to them – conflicts/disagreements and the nature of social relations – respectively as the subjective and the objective circumstances of justice.⁸³ Only in this way we can adequately grasp the dimension of social injustice as domination, which is often disregarded in the current debate of distributive justice.

I think that a critical theory of justification permits me to compellingly achieve my methodological and theoretical purposes. On the one hand, as an alternative to the classic top-down approach or the normal model's construction of justice, a critical theory of justification avoids the ideal theory and its two main problems: 1) the risk to overlook the perspective of the victims of injustice and 2) to neglect some serious forms of social injustice that simply do not count as such in the ideal theory. But, at the same time, it does not renounce its normative grounds and its emancipatory pretensions. On the other hand, a critical theory of justification is able to overcome, at least partially, the contraposition between the institutional and the interactional conception defining in a more flexible way the subject of justice and, therefore, the

sphere of political morality, in the specific case only concerning a conception of social justice.

⁸³ Rawls (1971, p. 126-130) defined them as “circumstances of justice”. He borrowed this definition from Hume (*Treatise of Human Nature* bk. III, pt. II, sec. ii, and *An Enquiry Concerning the Principles of Morals*, sec III, pt. I). These ‘circumstances of justice’ are similar to those social and material conditions reconstituted hypothetically by Rousseau in the *Second Discourse* that make the natural inequality becomes a moral and political inequality. It is in reason of the strict political and social interdependence and the institution of a historical (but not justified) social pact among human beings that economic inequality can be considered unjust (Pinzani, 2006, p. 201).

‘basic structure’⁸⁴ of society in a way to avoid *a priori* to leave out of its conception of justice some important sphere of social life. In this way, I hope to adequately clarify the grammar of justice and the normative requirements of social justice in which one of the most fundamental is the rejection of domination. So, in the next section (2.1), I will underline the specific methodology and theoretical framework that characterizes the contemporary critical theory and, within this ‘family’, I will present the main features of a critical theory of justification as well as my own account inspired in Scanlon’s ‘reasonable rejection’ account. In the section 2.2, I will introduce the idea of reasonableness and its ‘justificatory’ function. This idea concerns the domain of practical morality that Scanlon calls ‘what we owe to each other’. Then, in the following section (2.3), I will distinguish, still into Scanlon’s domain, between the paradigm of justice and the paradigm of social virtues. In doing so, I will be able to clarify precisely the requirements of social justice in which I explicitly include the rejection of domination as an injury to our ‘deliberative’ autonomy. In the last section (2.4), I will first clarify my own narrow understanding of the conception of domination, and afterwards I will explain the meaning of the idea of ‘deliberative’ autonomy and its intersubjective, non-metaphysical, and ‘political’ nature.

2.1 A critical theory of justification

Surely, Critical Theory is a political philosophical tradition that embodies this theoretical and methodological critical approach. I am aware that the critical theory tradition is concerned with a huge number of issues. It focuses on highly differentiated social phenomena, addressing its criticism to capitalism, ideologies, unjust socio-economic distribution, a certain idea of individual freedom, ways of conceiving identity, and many others. Nonetheless, it is possible to stress the fundamental features of investigation shared by the authors who claim to belong to the critical theory tradition. I think that the specific

⁸⁴ Rawls (2005, p. 258) understands the basic structure “as the way in which the major social institutions fit together into one system, and how they assign fundamental rights and duties and shape the division of advantages that arises through social cooperation”. However, I have already clarified that I understand the idea of social cooperation in a wider sense as a context of interconnection among people who share a political, legal and socioeconomic order (see: the first chapter, section 1.4).

methodology and theoretical framework that characterizes contemporary critical theory is grounded on two main elements: the immanent/reconstructive critique and the active role of the actors.⁸⁵

Although it is true that the immanent critique or reconstructive critique is its own methodology of critical theory, this methodology can assume different specifications that focus more on some aspects than others. For instance, in the first generation of the Frankfurt School the points of view of the actors were generally underestimated and instead they embraced the concept of alienation; contrarily, the last generation of critical theorists pay particular attention to the actors' points of view but in some cases have appeared to lose their emancipatory intention – a central element in the critical theory tradition – for example in terms of eradicating social suffering.⁸⁶ However, what is clear enough in recent developments in critical theory is its efforts to avoid paternalism in any form. This means not only avoiding the adoption of 'external' normative principles, but also taking into serious consideration the point of view of the victims of injustice. Nowadays, many critical theorists share the same opinion about the active role that actors or participants play in social critique, in particular since the introduction of Habermas' paradigm (Habermas, 1984).

The way in which a critical theorist faces the roles of agents or participants in the social practice that is the object of her investigation has to do with an important dispute about the position that the theorist must assume: that of an observer or of a participant. In the former case, the observer position allows the critical theorist not to become trapped in the same ideological mechanisms that she intends to reveal and denounce; however, she may be at risk of disregarding the subjective motivations and convictions of the social actors, and at the same time she might distance herself from them, losing the concrete possibility to convince them through her critical investigation. On the other hand, the participant position makes it possible to avoid these kinds of problems; however, the critical theorist might not be able to maintain the necessary distance from the social praxis and its implicit normative criteria to provide a compelling critique (Pinzani, 2012/a).

Celikates sustains that it is possible to avoid this fruitless contraposition because even if the agents are not professional

⁸⁵ I defend this argument in more detail in Ali (2017/a).

⁸⁶ See the interesting reconstruction and actualization of the concept of social suffering by Renault (2010).

sociologists or philosophers they “do not only do and think what they are doing and thinking, but they are able to relate to what they and others are doing and thinking either critically or affirmatively.” Celikates (2006, p. 30). This does not mean that they always reflect on such matters and justify what they are doing; however, “they are in principle capable of doing so and actually do so quite regularly in everyday situations of crisis and conflict” (*ibidem*). In this way, one can sustain that agents are able to do this without believing in the agents’ capacity to be fully autonomous and self-transparent.⁸⁷

But what principally characterizes the Critical Theory is its immanent/reconstructive critique methodology. According to Stahl (2013, p. 2):

(...) traditionally, an immanent critique is a form of social critique which derives the standards it employs from the object criticized, that is, the society in question, rather than approaching the society with independently justified standards.

But this can only be a starting point in precisely defining an immanent critique in the sense understood by critical theory. What immediately appears evident is that we can realize different forms of social critique depending on the way we assume the relevant standard. Cooke (2006) for instance, identifies four broad positions which can be characterized as critical social theory: conventionalist, radically contextualist, context-transcending, and authoritarian. We can define the first and the last respectively as internal and external social critique; both of them, however, present some important shortcomings. Precisely, an external critique (authoritarian) seems problematic in terms of justificatory power because it claims too much regarding the force of objective moral truths, while a strong internal critique (conventionalist) seems problematic in terms of transformative potential because a mere demand for consistency and accord concerning to the self-understanding of the members and their concrete behaviors seems only to permit a very weak form of critique. For this reason, Ferrara (2015, p. 148) sustains that only the two remaining versions of social critique are compatible

⁸⁷ In order to understand these everyday practices and fairly common capacities of justification and critique, Celikates suggests adopting some elements of theory from Boltanski - Thévenot’s work (2006). They hold that the competencies and capacities of knowledgeable agents are not conceived as obscure mental faculties but instead as realized in the actual performances of the agents.

with an immanent critique, that is, the radically contextualist and the context-transcending. The former:

Appeals to normative ideas implicit but not fully realized within a given sociocultural context. The changes in question are deemed changes for the better because they bring us closer to how things would be, if only we were able to realize our own deepest hopes and aspirations (Cooke, 2006, p.14).

While the latter:

Appeals to normative ideas that are at once immanent to the sociocultural context in question and transcend it. As in the case of the second position, the ideas appealed to are context immanent in the sense that they are implicit within a particular sociocultural context, although, [...] in contrast to the second position, they are not merely expressions of our deepest hopes and aspirations (although they are that too); they represent hopes and aspirations that everyone, everywhere should have if they are to be able to fulfill their potentials as human beings (*ibidem*, p.15).

Now, we can observe that both versions of social critique adopt a position that is consistent with the origins of immanent critique, which we can track down to the Hegelian, Marxist, and Frankfurt School traditions. In fact, according to them, an immanent critique is supposed to be a strategy that not only proceeds from the actual social practice of a society, but that also attempts to go beyond a mere reproduction of the normative commitments of its members on the level of theory; in other words, it intends to stimulate a transformation.

I locate the methodological and theoretical framework that I intend to follow in this thesis on the side of the context-transcending.⁸⁸ There are two main reasons for this choice. First, the context-transcending version of critical theory permits me to dialogue with another important political philosophical tradition, the analytical political philosophy, from which I share some elements. From this point of view, the dialogue between Rawls and Habermas will be essential for

⁸⁸ Ferrara (2015, p. 149) considers authors of the critical theory orientation such as Habermas and Honneth within the version of context-transcending. Among them we can also include authors such as Forst and Fraser.

the development of this thesis. I think that the Rawls - Habermas dialogue allows me to underline those elements that are necessary to realize a productive interplay between substantive (or material) and procedural justice. Moreover, given that the issue of this thesis is economic inequality and the idea of material justice, I need to scrutinize the topic of distributive theory of justice which mainly flourished within analytic tradition. Second, the context-transcending provides an immanent version of social critique that is at the same time both transformative and emancipatory. In this way, the context-transcending is able to reject the two main objections usually presented against critical theorists' methodology. The first objection concerns a presupposed lack of autonomy where the normative status of critical theory necessarily depends on the normative standards it aims to criticize but that it is not able to generate autonomously.⁸⁹ The second objection regards the intention of critical theory to offer not only a simple critique of the state of things, but, above all, a critique which is able to stimulate changes and transformations. This objection holds that even if critical theory effectively offers a transformative critique it is not able to guarantee it, or even point out or suggest that these transformations and changes would be emancipatory and that they would really represent an improvement.⁹⁰

I think that we might more appropriately and vigorously affirm the emancipatory intention of critical theory if we ground its normative status on a certain critical conception of justification. The concept of justification is primarily a social and political, and even every-day, praxis. In this sense, focusing on the praxis and practice of justification is coherent with critical theory methodology. For example, according to Forst's understanding, the concept of justification is at once a descriptive and a normative concept:

⁸⁹ This first objection concerns with what Habermas (1990/b) identified as a normative deficit (in particular concerning the first generation of critical theory).

⁹⁰ It does not mean that all critical theory accounts should share my scope. Indeed, there are some critical theorists (for example, Jaeggi, 2008 and 2013; Stall, 2013, Ferrara, 1999 and 2015) that provide a methodological approach which is able to compellingly reject the first objection, but, in my opinion, they maintain a less ambitious position regarding its emancipatory intentions (see: Ali, 2017/a). However, this way to proceed is also valid, and in some cases it even might have some advantages.

(...) it refers to the justifications of social relations actually offered in a given society and it refers to the relations that could be accepted as justified in the light of appropriate reasons. The sphere of critique intervenes as a third domain between them, as it were (Forst, 2014, p. 7).

As I have already mentioned previously about the necessity to dialogue also with analytic tradition, a critical theory of justification gives me the possibility to establish this dialogue with those theories that ground their normative standards on our fairly common capacities of justification and critique, even if they cannot be immediately put on the side of critical theory tradition. Thus, if we imagine drawing a the line between more generic theories of justification and critical theory of justification properly, we could set on the side of latter authors such as Habermas (1990/a) and Forst (2012; 2014) and on former authors such as Onora O’Neill (1996), Scanlon (1998), and even a certain interpretation of Rawls’ theory of justice as that advocated by Baynes (1991).

The critical conception of justification that I advocate is grounded on the idea that the “human being is an animal who can give reasons” (Pinzani, 2012/b, p. 151) or, as Forst says, human beings are ‘justificatory beings’. In this sense:

they not only have the ability to justify or take responsibility for their beliefs and actions by giving reasons to others, but in certain contexts they see this as a duty and expect that others will do the same (Forst, 2012, p. 1).

It means that a practice of justification is surely a social, political, and everyday praxis and practice but it is also a ‘moral’ one. At this point, I need to clarify in which sense I understand the term ‘moral’. For example, in which sense we could sustain a certain action as morally wrong. I am not interested in answer to this kind of question from a metaphysical point of view; rather I appeal to the idea of ‘morality’ from a ‘practical/political’ point of view. I think this point of view is the primary issue of political philosophy. In this regard, it is necessary to draw some analytical distinctions among different philosophical questions in order to try to avoid some of the most classical political philosophical contrapositions. So, I introduce a distinction between two different philosophical questions: What should we think or believe? And what should we do?

The first question (1) is evaluative. In this sense, we look for an impartial and universal (valid at all times and in all places) moral point

of view in order to achieve moral judgments. This kind of question involves a metaphysical view (or fact-insensitive view). From this point of view, justice (or other moral values as equality) is one value to be promoted among many, and it does not have any priority of implementation. This kind of question does not offer any normative prescription about what you should do when conflicts arise among moral values, or about the moral justification for the legitimate use of force. Indeed, the question of judgment is very different from the question of execution.⁹¹ Although from an independent and timeless moral ‘truth’ we can conceive certain principles of justice, moral rights or duties, but it does not give by itself a moral permission to compel others to execute them. Only the second question (2) concerns the moral justification for the legitimate use of force and the normative prescriptions about what moral rights are enforceable by means of political power or juridical.⁹² For this reason, it is necessary to distinguish the different questions (1) and (2). In this way, we could better evaluate some controversies in the distributive justice debate; for example, the famous Leveling Down Objection against an intrinsic commitment with equality even when it does not benefit anybody, or the dispute between relational or non-relational concern for justice.⁹³

Once this distinction is made, I need to clarify that by appealing to the idea of morality we face another philosophical question: Why be moral? This question is one of the most fundamental and controversial matters in moral philosophy, because it looks for the ground of moral obligations and the source of moral motivations. Generally, we can identify two broad alternatives between what Parfit (2011) defines as, “subjective theories” based on desires or interests and “object theories” based on (non-desire) ‘reason’.⁹⁴ However, it is possible to offer a

⁹¹ The distinction between these two questions is addressed by Kant in *Metaphysics of Morals*. For an extensive discussion, see: Baynes (1991) and O’Neill (2013).

⁹² It does not mean that political and legal domains are subordinated to morality, but only that there are certain moral requirements that can also claim a political or legal implementation. Indeed, political and legal spheres satisfy functions that do not concern morality.

⁹³ I will argue on this point in the chapter 3, section 3.1.

⁹⁴ Clearly, these two paradigms are very general, and there are many different versions belonging to each paradigm. For example, although Parfit adopts an object theory, he employs a method originated by Sidgwick which sets itself the

‘foundation’ for the ground of moral obligations without entering into the matter of the source of moral motivations which is usually committed to a psychological scrutiny.⁹⁵ This is the strategy that I will follow in this thesis. Moreover, I will adopt a ‘practical’ and non-foundationalism account based on the idea of reasonableness in a way to avoid any metaphysical assumptions. The idea of reasonableness appeals to our deepest sense of ‘practical/political’ morality, namely taking the effects or consequences of our actions on others seriously. These effects or consequences can be the result of our direct or indirect, as well as active or passive, actions. It means that we must take in serious consideration both whether our actions, directly and indirectly by imposition of a social scheme, cause injury to others; and whether we are able to alleviate the suffering condition of others, even if this condition does not depend on our direct and indirect actions. I believe that this formulation expresses more clearly our intuitive understandings of ‘political morality’ in our social relations.

Therefore, in this thesis I appeal to the idea of ‘morality’ only from a ‘practical/political’ point of view concerning the domain of “what we owe to each other” (Scanlon, 1998). According to Scanlon’s understanding, it is not an account of morality in its broader sense, rather it is “a narrower domain of morality having to do with our duties to other people, including such things as requirements to aid them, and prohibitions against harming, killing, coercion, and deception” (*ibidem*, p. 6). It means that the core of this domain is how we treat each other.⁹⁶ In this sense, ‘morality’ is intrinsically intersubjective and relational (by contrary to a *monological* version of morality), and it focuses on what reasons we ought to give each other in justifying our actions and social relations. I think that the best way to deal with ‘practical/political’ morality is a critical theory of justification. For this reason, I prefer a ‘negative’ formulation of justification, for example that as proposed by

goal of providing a ‘scientific’ ethics; a method which is very different from that of Kant. See: Wood, 2011.

⁹⁵ For example, this is the perspective followed by O’Neill (1996, p. 7), or Rawls in *Political Liberalism* (2005) where he avoids getting into some controversial (psychological) questions faced in the third part of *A Theory of Justice* (1971).

⁹⁶ Scanlon (1998, p. 6) labels this specific domain as “the morality of right and wrong”, and he observes that while it is an important part of morality, as generally understood, it is only a part, not the whole.

Scanlon (*ibidem*, p. 4): “an act is wrong if and only if it could not be justified to others on grounds that they could not reasonably reject.”⁹⁷

However, what is essential from a critical theory perspective is that the social and political praxis and practice of justification are results of historical reconstruction or reflection, and above all they are the results of historical social conflicts.⁹⁸ In this regard we can perfectly agree with Honneth (2009, p. 28) in sustaining that critical theory should be conceived as a “form of reflection belonging to a historically effective reason which represents an emancipatory force.” Therefore, my primary subject of investigation is the concrete and ‘historical’ grammar of social conflicts.

For the political question of justification is not posed in an abstract but always in a concrete way, namely, by historical agents who are no longer satisfied with the justifications for the normative order to which they are subjected. The question of political philosophy is their question. (Forst, 2014, p. 2)

For this reason, it is not a coincidence that I began my thesis with the social and political question against the current economic inequality raised by the Occupy Wall Street movement.

2.2 The idea of reasonableness

In my account, the normative validity of moral and political justification is grounded on the idea of reasonableness. Now, I need to clarify this concept. The reasonable is often defined as an alternative to the rational. Sibley (1953) was one of the first authors to discuss in a

⁹⁷ Scanlon proposed a similar formulation for the first time in “Contractualism and Utilitarianism” (1982, p. 110): “an act is wrong if its performance under the circumstances would be disallowed by any system of rules for the general regulation of behavior which no one could reasonably reject as a basis for informed, unforced general agreement.” The main difference with the most recent formulation regards only the moral motivations that they are no longer based on desires rather on reasons (See Scanlon, 1998, p. 6-7). Following Scanlon’s intuition, there are many other theories of justification that adopt a ‘negative’ understanding of justification, for example, O’Neill (1996), Forst (2012).

⁹⁸ See: Forst, 2013; Nobre - Repa, 2012; and Nobre, 2013.

general way the distinction between the reasonable and the rational.⁹⁹ However, the concept of reasonable gained centrality in the elaboration of Scanlon's (1982; 1998) and Rawls' (1980; 2005) contractualist theories. As Scanlon (1998, p. 191-192) observes, the rational (or rationality) can be understood in a number of different ways, but recently the notion has most commonly been taken to mean "what most conduces to the fulfillment of the agent's aims." In this sense, the rational is a distinct idea from the reasonable and applies to a single, unified agent with the powers of judgment and deliberation in seeking ends and interests, peculiarly its own (Rawls, 2005, p. 50). So a rational agent lacks "the particular form of moral sensibility that underlies the desire to engage in fair cooperation as such, and to do so on terms that others as equals might reasonably be expected to endorse" (*ibidem*, p. 51). By contrast, this sensibility is characteristic of a reasonable person who is able to take other people's interests into account, given the supposed aim of reaching agreement or finding a course of action that everyone could agree or accept.¹⁰⁰ Therefore, given this aim, a person is unreasonable to give no weight to the interests of others in deciding which principle or norms to accept. However, as Rawls (2005, p. 54) clarifies, "the reasonable (with its idea of reciprocity) is not the altruistic (the impartial acting solely for the interests of others) nor is it the concern for self (and moved by its ends and affections alone)".

Although the idea of reasonableness is similar in Scanlon's and Rawls' theories, there are some important differences in the way they employ it. The most important aspect is that Scanlon, unlike Rawls, adopts a 'theory' of justification rather than a 'genuine' contractualism theory. Indeed, Scanlon himself (1998, p. 5) doubts if he would continue referring to his view as 'contractualism'. The problem is that the term 'contract' and its cognates seem to suggest to many people a process of self-interested bargaining¹⁰¹ that, instead, is absent in Scanlon view.

⁹⁹ Albeit according to Rawls (2005, p. 48), the distinction between the reasonable and the rational goes back to Kant: "it is expressed in his distinction between the categorical and the hypothetical imperative".

¹⁰⁰ In this regard the idea of reasonableness might be traced also in the formulation of Habermas' discourse principle (D): "just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses" (Habermas, 1996, p. 107).

¹⁰¹ For example, in Gauthier's (1986) contractualism; and for this reason, Gauthier appeals to the notion of rationality rather than reasonable, or better, he tries to derive the reasonable from the rational. However, in this regard, Rawls

What distinguishes his ‘contractualism’ from other accounts is that “the parties whose agreement is in question are assumed not merely to be seeking some kind of advantage but also to be moved by the aim of finding principles that others, similarly motivated, could not reasonably reject” (*ibidem*, p. 5). However, Scanlon prefers to call his view ‘contractualist’ in order to emphasize its connection with the social contract tradition going back to Rousseau, in which the contract is a central element of “the idea of a shared willingness to modify our private demands in order to find a basis of justification that others also have reason to accept” (*ibidem*, p. 5).

The case of Rawls’ contractualism is more complex and it had an important evolution from *A Theory* and *Political Liberalism*. Indeed, it is no coincidence that the term reasonable appears only a few times in *A Theory*, but it has gained even greater centrality since Rawls begins the process of reformulation of his theory with the essay “Kantian Constructivism in Moral Theory” (Rawls, 1980). Here, I cannot enter into the controversial debate about the relation between *A Theory* and *Political Liberalism*; however, I want to underline an important aspect for my own discussion. It is true that in *A Theory* Rawls seems to give more weight to the notion of rationality, because to him, it “maintains, as one part of his theory, that the principles of justice are those that it would be rational for parties to accept if they were to choose with the aim of doing as well as they can for those they represent” (Scanlon, 1998, p. 190); but what makes reasonable the choice of these principles is the particular conditions (the original position and the veil of ignorance) in which the parties choose them. As Maffettone (2004, p. 552) underlines, after *A Theory*, Rawls becomes more aware of the problem of achieving a proper separation between the realm of goodness from the realm of justice.¹⁰² So, the idea of reasonableness also gains centrality for this fundamental purpose.¹⁰³ For example, Rawls (2005, p.

(2005, p. 52-53) rejects this possibility, and he sustains, instead, that the attempt to “derive the reasonable from the rational do not succeed, and so far as they appear to succeed, they rely at some point on conditions expressing the reasonable itself”.

¹⁰² This separation seems to be particularly problematic when not only material interests are at stake but also ideals come into play (Maffettone, 2004, p. 552). For this reason, Rawls introduces the concept of ‘reasonable pluralism’ and the idea of a (non-comprehensive) political conception of justice.

¹⁰³ However, many authors (see: Mouffe, 1994; Gauss, 1999; Friedman, 2000) argue that Rawls’ notion of reasonableness is obscure and unclear, and it risks

52 and 72-81) clarifies that within the idea of fair cooperation the reasonable and the rational are connected with its distinctive moral power, respectively, with the capacity for a sense of justice and for a conception of the good; as well as with its distinctive autonomy, respectively, with full autonomy and rational autonomy. Thus, the relevance that the idea of reasonableness assumes in *Political Liberalism* has important consequences in the conception of persons as free and equal.

Persons are reasonable in one basic aspect when, among equals say, they are ready to propose principles and standards as fair terms of cooperation and to abide by them willingly, given the assurance that others will likewise do so. Those norms they view as reasonable for everyone to accept and therefore as justifiable to them; and they are ready to discuss the fair terms that others propose (*ibidem*, p. 49).

As Maffettone (2004, p. 559-560) notes, “this provides a reciprocal justification for the norms of conduct, based on an exchange of reasons that no one could a priori refuse to take seriously”. It is evident the connection with Scanlon’s account. From this perspective, the idea of reasonableness offers an important clarification (or transformation, according to the interpretation of discontinuity) on the nature of Rawls’ contractualism which might be understood in terms of a proper ‘theory of justification’, in particular public and political justification.¹⁰⁴ However, there still remains a great difference between Scanlon and Rawls accounts, which makes me prefer Scanlon’s one, at least concerning the normative grounds of moral and political justification. The point is that Scanlon applies the idea of reasonableness

to be arbitrary and ultimately indefensible. However, there are other authors, who instead tried to clarify and defend Rawls’ notion of reasonableness and the function that plays in his entire theory, and in particular in “the three major new ideas of *Political Liberalism*: overlapping consensus; the reconception of the priority of the right over the good; and the idea of public reason” (Rasmussen, 2004, p. 531); see also Maffettone, 2004; Boettcher, 2004; Freeman, 2007. Here, I do not have the space and time to enter in this debate, but I believe that the main ambiguity with Rawls’ notion of reasonableness and its function in *Political Liberalism*, as well as its relation with *A Theory*, depends on the lack of adequate separation of the two stages of theoretical exposition in *Political Liberalism* (Rawls, 2005, p. 64). See Ali, 2017.

¹⁰⁴ This is the interpretation advocated by Baynes (1991) and Freeman (2007).

to a ‘negative’ understanding of his account of justifiability to others. “It holds that thinking about right and wrong is, at the most basic level, thinking about what could be justified to others on grounds that they, if appropriately motivated, could not reasonably reject” (Scanlon, 1998, p. 5). This perspective gives us some fundamental advantages: first of all, “it is the reasonableness of rejecting a principle, rather than the reasonableness of accepting it, on which moral argument turns” (Scanlon, 1982, p. 112). Secondly, the reasonable rejection formulation is sensitive to the social context and more adequate from a ‘non-ideal’ perspective. “What a person can reasonably reject will depend on the aims and condition that are important in his life, and these will also depend on the society in which he lives” (*ibidem*). The wrongness of an action depends on the circumstances in which it is performed, and for this reason “an action that would be wrong in one context might be morally unobjectionable in another” (Scanlon, 1998, p. 338). However, although this account introduces a certain degree of ‘relativism’ into our moral and political judgments, the only reason in doing so is that this account

(...) has the advantage of explaining how, in different societies, different conclusions about what is right can be justified as moral conclusions in the narrowest sense of that term. It does this without presenting these judgments as deriving from any substantive universal principle (*ibidem*, p. 342).

In this sense, it is not a relativistic view. The point is simply that it makes no sense to ask whether a certain social norm or action in ancient Athens was morally wrong according to a moral law valid in every time and place. On the contrary, what matters is to know, first, whether a person among the ancient Athens had valid reasons for reasonably rejecting such action or norm (something that even now for us is almost impossible to know) and, secondarily and above all, whether she had the real possibility of advancing this reasonable rejection. I am exclusively interested in this second fundamental condition, which is the only one to whom I assign a high degree of universality.¹⁰⁵ Another important advantage of this ‘negative’

¹⁰⁵

I think that this is the same intuition beyond “the right to justification” advocated by Forst (2012) which in turn is the best possible way, according to him (*ibidem*, p. 2), to philosophically reconstruct the Kantian categorical imperative to respect other persons as ‘ends in themselves’.

formulation of justification is that it avoids many idealizations that instead might characterize the traditional form of contractualism. Contractualism is usually charged that it (a) takes contracting parties as given, (b) requires a unanimous consensus for the validity of norms and principles, (c) employs a hypothetical situation or thought experiment (for example, Rawls' original position, or Dworkin's caution). Scanlon's formulation avoids these objections. For instance, it does not ground the validity of moral and political principles on a unanimous consensus; in doing so, conflicts and disagreements (even those irreconcilable) are not extinct. For this reason, it is a more adequate account to justify the legitimate exercise of political power. Most important, the 'reasonable rejection' formulation does not need appealing to the theory of rational choice to justify a principle. As Scanlon (1982, p. 124-125) rightly argues, what matters is to ask whether an individual is held to accept a principle because he judges that it is one he could not reasonably reject whatever position he turns out to occupy. In this way, it is evident the intersubjective dimension of moral and political justification; on the contrary of supposing that a principle is acceptable to a person in any social position because it would be the rational choice for a single self-interested person collocated in an impartial hypothetical situation. I agree with Scanlon that the plausibility of Rawls' reasons favoring his two principles of justice is preserved and enhanced when they are interpreted as instances of the former argument. In particular, regarding the difference principle, Scanlon's account gives centrality to the argument of comparison of losses and gains between the best off and the worst off, between those who benefit from an alternative social scheme and those who lose from it, or those who burden the sacrifice for a possible improvement in that social scheme.¹⁰⁶ For this reason, I adopt Scanlon's account of justification to reasonably reject the primary rules that would permit a potentially unlimited economic inequality between

¹⁰⁶ For all these reasons, *pace* Scanlon, I believe that his account is a genuine theory of justification rather than a form of contractualism. Moreover, afterwards, Rawls (2005, p. 306) downgrades the relevance of the theory of rational choice that it seemed to have in the first version of *A Theory* (1971, p. 16), and he clarifies the nature of the original position simply as a 'device of representation'. In *Political Liberalism*, he surely makes some important steps in reformulating his theory toward a theory of justification. I follow this interpretation in the Chapter 4, section 4.1, in which I will argue in detail about Rawls' political conception of justice and its egalitarian requirements.

the most and the least advantaged, from which I conceive the distributive criterion of proportionality.

However, my debt with Scanlon's account of justification ends here because it is a very broad and abstract account. Indeed, his account "is intended to cover, if not all of 'morality', then that large part of it that has to do with what we owe to each other" (Scanlon, 1998, p. 218); and, as Scanlon himself clarifies, it is surely "broader than justice, which has to do particularly with social institutions" (*ibidem*, p. 6). This comprehensive account does not allow him to create a specific criteria or requirements to evaluate a reasonable rejection to a principle or a norm. Indeed, he leaves open the reasonable rejection simply to the balance of the burdens and benefits that each one have to uphold in respecting a certain principle or norm. But this is too little for my purposes. Thus, I need to specify more explicitly the grounds of the reasonable rejection. Fortunately, as Scanlon himself admits (*ibidem*, p. 218), this is a feasible aim, "with respect to some specific areas of morality". Therefore, I introduce a fundamental distinction within the domain of 'what we owe to each other' which refers to two different paradigms: the paradigm of justice and the paradigm of social virtues (or humanity), such as benevolence, solidarity, care, fraternity, etc. In this distinction, I mainly follow Onora O'Neill's account (1986; 1996), but also other important authors¹⁰⁷ and, above all, Rawls' intuition (1971, section 30, p. 183-192) that justice covers only a part of morality. It is clear, since my definition at the beginning, that the idea of reasonableness covers both these two paradigms, but I think that it is opportune to maintain this distinction because they mobilize different moral/political demands and so different moral/political requirements.

2.3 The paradigm of justice and the paradigm of social virtues

In order to grasp the distinction between the paradigm of justice and the paradigm of social virtues, Shklar (1990) and Forst (2014) employ a similar example that marks the difference between two broad cases. It makes difference if, on the one hand, someone is subject of physiological or material suffering and deprivation as a result of some, more or less, intentional human acts by the direct action of an individual

¹⁰⁷ See: Barry (1982); Pogge (2000; 2002 and 2008); Shklar (1990); Forst (2014). Moreover, this distinction also seems coherent with Scanlon's domain of morality inasmuch as he asserts explicitly that the part of morality that he has in mind is broader than justice (Scanlon, 1998, p. 6).

or groups, or indirectly by means of a ‘social’ scheme imposition; and, on the other hand, if someone is in the same condition but in the aftermath of natural disaster (for example an earthquake¹⁰⁸) or in reason of a personal own deficiency. I believe that the first case involves ‘genuine’ demands of justice, meanwhile the second involves moral demands of solidarity, benevolence, care, and so on. Notwithstanding, we have obligations (or duties) in both cases. O’Neill (1996, p. 152.), inspired by a certain Kantian interpretation,¹⁰⁹ identifies in the first case our perfect obligations which are generated when the condition of a person or a group is directly and indirectly determined by our actions. Meanwhile, in the second case, we have imperfect obligations which are generated by reasons of the vulnerability and needy condition of others, regardless of our direct and indirect actions. According to her, the former are obligations of justice and the latter are obligations of social virtues.¹¹⁰

I need to provide some important clarifications about the relations between the paradigm of justice and social virtues in order to avoid some common misunderstandings that might explain why these two paradigms are usually seen as competing rather than as complementary. According to O’Neill (*ibidem*) the most relevant problem relies on the adoption of the right-based account to conceive justice. For this reason, O’Neill conceives both paradigms (justice and social virtues) in the language of duties or obligations, in order to avoid any apparent contradictions. In particular, the identification of based-rights account with the question of justice usually leads to declass the imperfect obligations as those of second order, and thus to underestimate the importance of the paradigm of social virtues.¹¹¹ On the contrary, by

¹⁰⁸ In this case, we should exclude a previous neglected human behavior, such as that many buildings do collapse because contractors have violated construction norms or bribed inspectors.

¹⁰⁹ See O’Neill, 1989. See: Kant (*The Metaphysics of Morals* [239] - [242], 1996, p. 64-67).

¹¹⁰ Shklar (1990, p. 6) calls these kind of obligations “passive justice”. However, she identifies ‘passive justice’ for a more limited and specific scope; namely, only as an aspect of the obligations of citizens of a constitutional democracy. In my case, I identify a broader scope, for example it can also include cosmopolitan obligations of benevolence, solidarity, and so on.

¹¹¹ It is simply implausible and undesirable (and even dystopian) a society that only cares about justice or only cares about social virtues. For example, Pinzani (2010) confronts two different mental experiments that correspond these two

taking both perfect and imperfect obligations seriously, we can realize that neither of the two paradigms is more urgent and more demanding than the other. First of all, I deny that our moral obligations in case of injustice are stronger and more powerful than our moral obligations of solidarity, benevolence or care.¹¹² They simply arise from different circumstances, and for this reason they assign different requirements. The case of urgency depends on the ‘intensity’ of a certain injustice or a certain condition of need or suffering. For example, the moral demand of solidarity for thousands of people who risk dying of starvation in a natural disaster could be as strong as much as a moral demand for a certain injustice. Moreover, it is not also true that the requirements of justice are always more demanding than those of social virtues. For example, a universal basic income (leaving open if conditioned or unconditioned) as a tool for avoiding economic exclusion (for example, mass unemployment) might be considered a requirement of social justice, but its cost for a single individual could amount less than the cost for providing the special health needs of an ill person. This second case is absolutely legitimate, because obligations of justice and obligations of social virtues assign us different requirements and therefore different burdens and benefits.¹¹³ For example, Sen (1980) forcefully argued for a conception of distributive justice that should be able to precisely make these kinds of distinctions in order to fairly guarantee material equality for all. I totally agree with Sen that we should treat the two cases mentioned above differently, but *pace* Sen, it is only possible because we recognize that they appeal to moral obligations different in nature. Unfortunately, treating all cases with the metric of solidarity, care or recognition might be promissory only at the first insight, but at a more accurate scrutiny we perceive that we would

opposite societies provided by Feinberg (1970) and Callan (1997), in order to show that both societies are not only undesirable but also, likely to be highly unstable.

¹¹² Pogge (1989, p. 32; and 2000, p. 169) seems to properly suppose that our perfect obligations are much stronger than imperfect ones. This supposed ‘hierarchy’ is criticized by Murphy (1998, p. 271-272), and generally it is a controvert topic between interactional and institutional conceptions.

¹¹³ Of course, how much of it depends on the level of prosperity of a certain society and the practical availability of the treatments for this specific case.

lose a specific grammar to deal with some cases of ‘genuine’ injustices that mobilize instead our perfect obligations.¹¹⁴

Secondly, one of the most important differences between the two paradigms is that the perfect obligations of justice ought to be enforced, and therefore, for this reason, we can define them as obligations with rights; meanwhile imperfect obligations that characterizes the paradigm of social virtues cannot be enforced, and for this particular nature they can be defined as obligations without rights (O’Neill, 1996, p. 147). I think that this conception is correct because it maintains the priority of right over goods, but on the contrary of what could appear at the first sight it does not mean that we cannot use also state resources and social institutions to satisfy our imperfect obligations of social virtues. Indeed, we do, and we do it legitimately. For instance, state allocates resources to assist people affected by natural disasters, to provide special health care, or material and physical social assistance. Surely, more widespread is our consensus about the urgency to eliminate or mitigate individual and social suffering that call into question our social virtues, more extensive could likely be the political and social intervention of the

¹¹⁴ From this point of view, the distinction between justice and social virtues cuts through two other domination paradigms: redistribution and recognition. Indeed, we have moral demands of justice and social virtues that are both (re)distributive and recognition in nature. This perspective offers a productive interpretation of the debate on redistribution versus recognition, and it is able to clarify the main point of contentious between the two most famous authors – Fraser and Honneth (Fraser – Honneth, 2003) – who engage themselves in this debate. The point is not to choose between a deontological grammar of justice as proposed by Fraser (*ibidem* p. 28) or a teleological grammar of recognition as a personal-identity formation as proposed by Honneth (*ibidem* p. 177), rather what is fundamental is a normative grammar of justification that is sensible to our different moral demands and the subjective and objective circumstances in which they are expressed. I think that the main critique that Fraser moves to Honneth does not simply concern with the inability of his account to perceive the perspectival-dualism of redistribution and recognition, and, instead, also conceiving questions of redistribution as a specific kind of ‘cultural’ struggle for recognition. By contrast, the real dispute is that Honneth’s monistic principle of recognition (Honneth, 1991) is not able to take into account the specificity of those social conflicts that mobilize the grammar of justice, separated by that of social virtues, and it is both true for the dimension of redistribution and recognition (I think that this deficit is also present in Honneth’s most recent works; see: Honneth, 2014, 2017).

state.¹¹⁵ I agree that justice constrains, roughly, the way in which we implement our obligations of social virtues, but it does not mean that a political community cannot satisfy their imperfect obligations also collectively by means of social institutions.¹¹⁶ The idea that the state resources cannot be used for cases of solidarity, beneficence, care, and so on, is ‘valid’ if, and only if, we accept a certain libertarian conception of justice that conceives the individual property rights as *absolute* and the free market outcomes (or ‘free transactions’) as presumptively just; and forward, I will explain why we should reject these libertarian assumptions. Instead, the point is in which way we can justify the use of state resources, and this justification to be reasonable depends again on the benefits and burdens that the specific case involves. In this thesis, I focus only on the domain of justice, so I cannot explain in detail the main features of the paradigm of social virtue. However, to develop my argument, I need to stress a fundamental aspect: the two paradigms (justice and social virtues) arise from different circumstances and, for this reason, assign different requirements. Therefore, the benefits and burdens of people involved can be evaluated only in light of these different requirements. For instance, on the one hand, in the case of an earthquake, a person can suffer or have urgent needs caused by this natural disaster, and her suffering or needs can be eliminated, mitigated or provided for if someone has the power to do it direct or indirectly. On the other hand, a person can suffer harm or injury by reason of some direct and indirect actions, and in absence of these actions she would not suffer any harm or injury. In the first case, I detect the requirements of social virtues such as: sympathy, beneficence, love, care, recognition, solidarity, etc., while in the second case the requirements of justice. In this sense, I follow O’Neill (1996, p. 205), who conceives obligations of virtues as rejection of direct and indirect indifference to others, and

¹¹⁵ For example, the generosity of Scandinavian welfare state system which covers a spectrum of social and political obligations beyond the simple domain of justice, likely also depends on a certain ethos of solidarity that is shared in those countries.

¹¹⁶ In particular, as I will subsequently explain, we have direct obligations and also indirect (perfect and imperfect) obligations which depend on the existence of our social institutions. Moreover, the analytical distinction between the domain of justice and social virtues cannot be conceived sharply, and what is always in question is where exactly the borders and the limits of one domain or another can be collocated. This last fundamental ‘political’ question cannot decide in theory, but only through a democratic process and a public debate.

obligations of justice as rejection of direct and indirect injury to others. By specifying more in details the latter, O'Neill distinguishes between "rejection of direct injury to others: no systematic or gratuitous violence, coercion etc."; and "rejection of indirect injury: (a) rejection of damage to the social fabric and (b) rejection of damage to the material basis of life" (Ibid).¹¹⁷

However, the example of natural disaster is a simplistic case to appropriately distinguish a case of injustice from a case of misfortune. Instead, it is not easy to distinguish genuine victims of injustice from non-legitimate claimants. For example, famines, unemployment, and poverty are misfortunes for which we cannot blame anyone, or are they injustices? In our complex and interconnected contemporary society only in some rare cases we could respond to this question by pointing out our direct injury. By contrast, the most common forms of injustice are indirect results of our actions and behaviors; namely, they are indirect injury. These forms of justice are usually linked with the social institutions such as states, markets, firms, and families. In other words, we usually indirectly injure others through an imposition of social institutions or social schemes (Pogge, 1989, 2008). But, this assumption seems to be valid only from an institutional conception of justice, at least according to those who advocate the interactional conception. Instead, I think that the controversy between those who sustain that justice is only concerned with personal conduct (for example, Nozick, 1974) and those who sustain, since Rawls' famous sentence (1971, p. 3), that "justice is the first virtue of social institutions" is misleading. I do not need to deny that a single person (or a single private citizen) cannot commit an injustice, or to deny that this unjust action or conduct is such according to the same requirements (or principles) that are valid for social institutions (monism). Indeed, in my view, in the case that person has committed some form of injury to another *directly*, I assign no 'special' moral principles or requirements to the features of the 'basic structure' rather than those of "microcases"¹¹⁸. Indeed, a closed and self-

¹¹⁷ Rejection of direct and indirect injuries covers both the relational and structural dimensions. Indeed, together with the perfect obligations, O'Neil (1996, p. 147-153) conceives also the special perfect obligations which precisely correspond to the structural dimension. Symmetrically, we also have special imperfect obligations.

¹¹⁸ This is the exact objection that Nozick (1974, p. 204-205) rises to Rawls.

contained group of persons sharing a small isolated island¹¹⁹ have perfect obligations to not injure others (commit deception, use of violence, coercion, etc.) as well as any people who live under a state regime. At the same time, those people in the small island, if they are involved in social relations with a certain degree of interaction and intensity that constitute even primitive forms of social institutions (for instance, those of an agrarian social economy) also have the same obligations to not injure others indirectly by means of these elementary social institutions, as well as people in the state regime. By conceiving the term ‘social institutions’ we should not commit the same common misunderstanding of Rawls’ conception of justice in which “his term ‘institution’ is associated with a special kind of actor, such as a government or other authority” (Pogge, 1989, p. 26). Indeed, I agree with Pogge (*ibidem*, p. 26) that “the case of our simple island economy may help to show how Rawls’ question can arise even in very small-scale social systems whose relevant practices could quite conceivably work without any authorities or officials”. In this sense, as Pogge (*ibidem*, p. 22) says, the basic structure of society is concerned with “the ground rules that shape a society, or of the terms social interaction that significantly involve or at least affect all its participants”.¹²⁰

I suggest a flexible manner to conceive what Rawls calls the ‘basic structure’ that, in my case, determines the circumstances in which we might indirectly cause injury to others. In the ‘basic structure’ people are involved in social relations and social institutions in particular circumstances. Namely, they have some separate interests (material or ideal) which may conflict, and they are situated physically or by the law and social rules in a relationship that is (at least, for one or more of them) objectively highly burdensome to break or undo; in other words, what I called (following Rawls, 1971, p. 126-130, and p. 189), respectively as the subjective and the objective circumstances of justice. Therefore, from my perspective (inspired, in part, in Pogge’s account¹²¹), on the one hand, the ‘basic structure’ might include social

¹¹⁹ This example is used by Pogge (1989) and also van Parijs (1995).

¹²⁰ I preferred to call Pogge’s ‘ground rules’ with the term ‘primary rules’.

¹²¹ What distinguishes my conception of justice from Pogge’s one is that I do not limit the domain of justice only to social institutions. According to me, unlike Pogge, a single private citizen that, for example, uses violence or coercion to others commits an injustice in the sense that he directly disrespects his perfect obligations. Recently, Pogge (2011 and 2014) seems to abandon a

institutions at global level, thus avoiding two unsatisfactory alternatives: the strong ‘statism’ and the strong cosmopolitan ‘globalism’.¹²² According to the strong ‘statism’ our duties of distributive justice (or socioeconomic rights) emerge only with the state; meanwhile, the strong cosmopolitan globalism claims that the demands of distributive justice should be wholly insensitive to facts about existing social and political institutions such as a national state, or about human relations and practices. A middle position between them might be the right way to proceed (Martin O’Neill, 2008). For example, economic inequality is morally and politically relevant for the global level as well as it is for the domestic level, but it does not mean that they are similar. Indeed, at the domestic level we might be more demanding in our criteria of distributive justice for the presence of more interconnected and pervasive social relations; again what matters is the degree of interaction and intensity of social relations.¹²³ On the other hand, my view is able to avoid the famous feminist objection against a rigid separation between private and public sphere that risks ruling out fundamental social relations from the subject of justice. Therefore, the ‘basic structure’ includes, of course, family¹²⁴ (relationships between parents and children) and also marriage in its legal ratification and its social rules. For example, taking in consideration gender injustice associated with marriage, it is not sufficient that marriage law does not allow formal inequality and that the legal system provides some particular juridical protection for women, as in the case of Brazilian legislation (*Lei Maria da Penha*¹²⁵).

strict institutionalism, or better he accepts the idea that interactional and institutional are two different ways to violate our perfect obligations. However, I think that the term ‘social justice’ should be used exclusively in the realm of affecting others by means of social institutions.

¹²² For the debate see: Nagel, 2005; Cohen - Sabel, 2006; O’Neill 2008.

¹²³ However, for reasons of time and space, in this thesis I will argue exclusively about domestic concerns for economic inequality. So, I suggest the application of the distributive criterion of proportionality at domestic level. I leave open the question whether the same criterion, or some own reformulations, might be justified as criterion of global distributive justice.

¹²⁴ Rawls (2005, p. 258) also includes family into the basic structure. “Thus the political constitution, the legally recognized forms of property, and the organization of the economy, and the nature of the family, all belong to the basic structure”.

¹²⁵ *Law number 11.340 – 07/08/2006.*

Taking seriously the circumstances of justice means to evaluate whether marriage in a certain society can be seen effectively as a ‘free’, ‘voluntary’, and ‘parity’ relationship between partners or, on the contrary, women are socially and publically stigmatized. For example, it means to evaluate if women have a fair possibility to enter in the labor market and receive a fair payment; in other words, if women have the same chances as much as men to get out of marriage or other kinds of relationships. Moreover, my domain of justice also applies to firms, at least firms with certain features and sizes. In this sense, unlike Rawls, I do not consider a firm a simple private ‘association’ for which the criteria of justice cannot be applied in its internal rules, for example how firms should remunerate their employees. By contrast, the distributive criterion of proportionality also prescribes that the inequality of remuneration between the top and bottom job positions within a firm should not exceed a certain proportional range. Of course, Rawls’ difference principle concerns with those who are placed at the bottom job positions if they are the worst off, but I think that it is not sufficient. Otherwise, we cannot protect people from the specific types of coercion and domination that they as workers might suffer within a firm. Recently, Anderson (2017) argued on this topic. I will return to this aspect in the last chapter.

However, my domain of justice is not applicable to all kinds of social relations (although it is broader than Rawls’ one). For example, it is inapplicable to how teachers should grade their pupils, how parents should educate their children or allocate resources towards the education of their children¹²⁶, how partners treat each other in a private and intimacy relationship, how members of a private association should distribute their own resources, etc.¹²⁷ However, we also have moral

¹²⁶ Albeit parents cannot allocate their resources disproportionately among their children, at least without a valid reason that might make the interests of all family members. I think that it would be inappropriate and undesirable to enforce by law the distributive criterion of proportionality within family. However, given that I include family into the ‘basic structure’, children might claim their ‘distributive’ rights offering valid reasons against an arbitrary allocation of resources within family. I know that when children would be able to make this claim by judicial action, they likely would have already suffered the effects of that arbitrary treatment; nonetheless, justice can also be compensatory.

¹²⁷ In this sense, I think that I offer a more adequate interpretation of Rawls’ idea of society “neither as community nor association” (Rawls, 2005, p. 40-43).

obligations in these spheres of social life that concern our personal conduct or character, but all these kinds of social relations belong to the domain of social virtues and its specific requirements: “rejection of direct indifference to others: sympathy, beneficence, love, care and concern, solidarity, etc.; and rejection of indirect indifference to the social fabric and to the material basic of life” (O’Neill, 1996, p. 205). In this thesis, I focus exclusively on the domain of justice, and specifically that of social justice.

At this point, someone could continue to argue that justice only applies to personal conduct and character, as Nozick and other libertarians do, and all that morality and justice can impose is that people should constrain their actions and behaviors in a way to not violate their perfect direct obligations (a pure interactional deontological conception).¹²⁸ Therefore, people should simply manage their ‘social’ relationships voluntarily and non-coercively, for instance, through free contracts. It means that the only thing that, according to justice, we can and must ensure is our individual basic rights. But, this perspective is flawed in its foundation.

A libertarian conception of justice (or others that share similar assumptions) is an ideal and unrealistic utopian theory, and for this reason, it is quite useless. It cannot ‘guide’ people’s actions in our societies characterized by a high level of social interdependence and social interaction. Indeed, this conception can only be rigorously anarchic; people should not maintain social relations mediated by institutions or social praxis, even very primitive ones as we saw. For example, it is one of the objections to Nozick’s theory that advocates a minimal state. In a certain sense, a libertarian conception of justice merely extinguishes at the beginning the question of social justice and its subjective and/or objective circumstances (conflicts/disagreements and the nature of social relations). Otherwise, in taking “men as they

¹²⁸ However, not all interactional conceptions are libertarian. For example, there are also interactional egalitarians authors such as Jerry Cohen (1997) and Murphy (1998). In their cases, the main controversy relies on the choice of a teleological or consequentialist view. Indeed, they conceive justice as a “mastergoal” or “supergoal” to be achieved or realized (Pogge, 2000). In this case, the point of weakness is that they cannot explain what we should do when we conflict and disagree about what kind of values should embody the ‘superior’ goal. In other words, what I define as a conflict of ideas on the side of the subjective circumstance of justice. This is a problem that affects all ethical conceptions of justice.

are”¹²⁹, in our realistic and concrete circumstances of justice that characterize our contemporary societies¹³⁰ a libertarian conception neglects the most fundamental dimension of social justice, and the most pervasive arbitrariness and injury, i.e. domination. Indeed, according to libertarians, the only legitimate moral constraint is coercion as the absence of external interference and obstacle by others. Therefore, freedom is the absence of external coercion. Again, the example of the small island might be very useful, at this time provided by van Parijs.

Just think of an island which happens to be owned, for whatever reason fully consistent with the libertarian characterization of a free society given above, by one of its inhabitants. Providing it is difficult or expensive enough to leave the island, the owner can impose on the other inhabitants any condition she fancies. If they are to be allowed to earn their livelihood, they may have to work abysmally long hours, for example, or give up their religion, or wear scarlet underwear. On a libertarian account, as presented above, such a society would not cease to be free (van Parijs, 1995, p. 14).

In this case, the inhabitants are dominated, formally and materially, by the owner of the island. This means that they live under the conditions and the will of others. The inhabitants of the island do not have voice to establish and shape the primary rule (or ground rules), i.e. the terms of social interactions that significantly involve them with the owner of the island. As I already explained in the first chapter (section 1.1), domination means to obey the foreign will of others as opposed to “obeying only oneself” (Rousseau, *Social Contract*, I.6.iv) or “being his own master” (Kant, *The Metaphysics of Morals*, [238]). For this reason, domination is an injury to our ‘deliberative’ autonomy. So, in the theoretical framework that I presented, I explicitly include domination as a specific form of injury to our ‘deliberative’ autonomy. But, before

¹²⁹ It is a Rousseau’s phrase (*The social Contract*, 1997/b) quoted by Rawls in *The Law of Peoples* (2001/b, p. 7 and 13). Rawls assumes that this phrase “refers to persons’ moral and psychological natures and how that nature works within a framework of political and social institutions”. In this way, Rawls wants to emphasize the idea of a realistic utopia. See also Joshua Cohen (2001).

¹³⁰ Especially in our state regimes where these circumstances are very stringent, and where there is no territory in the world map outside state entities.

moving to explain the concept of ‘deliberative’ autonomy, I still have to mention a possible libertarian answer to my objection.

There is a version of libertarianism (not the one from Nozick) that takes the idea of free market as an essential device which (apparently) permits the existence of a complex society with a high degree of social interdependence and interaction avoiding at the same time, domination. For example, if the socioeconomic system of our island was based on a pure free market system, not one of the inhabitants would suffer a condition of domination. But note that it would happen, not because in a pure free market it the situation does not arise in which the island is owned by one, or a few, of its inhabitants,¹³¹ but because a pure free market is not a social design at all. The idea is quite simple and it is proposed in the most famous formulation by Hayek (2012). According to Hayek, the market does not reward who deserves what, instead its outcomes are entirely morally random. The market is regarded as a natural and spontaneous order, in which individual participants and firms must merely respond to competitive pressures. The point is that individuals make their economic decisions in total ignorance of their outcomes because the latter depend on the countless actions and behaviors of others. In this sense, the market is a device for setting prices on a vast variety of goods and services, according to the individual preferences of people, that it has no will and no designs. It means that the best off and the worst off socioeconomic positions are assigned by the market at random and unpredictably without being the possibility for those who occupy those positions to manage, influence, and shape the market in a way to properly achieve this outcome. We cannot blame the poor but, of course, neither the rich. For the poor, the outcome of the market might be like the result of a natural disaster: merely a misfortune. For this reason, Hayek (2012) argues about ‘the mirage of social justice’. We can define the action and conduct of someone as unjust because she is responsible for it, but we cannot call the outcome of the market unjust given that it does not completely depend on the will and responsibility of anyone. Therefore, it is not surprising that some libertarians seem to find the perfect solution in the pure free market. We should just ensure that people are

¹³¹ Indeed, a pure free market tends to become a monopoly or an oligopoly, even if some extreme defenders of a pure free market system sustain that monopoly and oligarchy is only temporary and unstable. This optimistic prophecy depends on a number of ideal conditions that characterize a pure free market model. I will argue this aspect in the fifth chapter.

free from external interferences and obstacle by others, and this leaves the free market to ‘distribute’ or assign the social product among participants.¹³² However, I have bad news for those who regard the market as a natural and spontaneous order with no will and no designs. This idea, beyond its undeniable attractiveness, is an illusion and a fiction.¹³³ The market is a social institution and a social construction as well as all other social institutions that characterize the history of human society. The market system is a complex set of institutions that are dependent on the laws of society, and it is a social construction also based on the relational power of socioeconomic actors.

Even within the realm of ‘laissez-faire,’ there can be no trading system for the government to leave alone unless resources are privatized first, but the privatization of resources is dependent on a system of laws, which could be structured in many – if not an infinite number – of different ways (Widerquist, 2015, p. 87).

In the market, it is true that individuals generally cannot forecast with certainty the outcome of their economic decisions (but it is not true in all cases), but the point is that the market’s outcomes are the product of a set of political, legal, socioeconomic institutions and the relational power of different actors according to their ‘social’ positions.¹³⁴ For this

¹³² To be clear, it is not the strategy advocated by Nozick. Indeed, Nozick assigns no special function to the market. According to Nozick, justice exclusively consists in the distribution that has actually, as a matter of historical contingency, been reached by a process that might include any market transactions at all. For example, Nozick’s account allows and regards as valid a consensual (non-coercive) enslavement contract between adults, which seems evidently contrary to any idea of free market system.

¹³³ See: McGilvray, 2011.

¹³⁴ Even if a social system would be possible (a really pure free market) that works like a completely autonomous machine producing unpredictable and casual outcomes, and surely there are some that want to live and work in this kind of system, a kind of ‘winner-takes-all’ market game, the question is to know why others should be obliged to play this ‘game’. In the subjective and objective circumstances of justice, domination means not having the power (formal and material) to choose and decide the game, and the rules of the game, that we are obliged to play (about the metaphor of the game, see also Pogge, 1989, p. 26). From my point of view, the random outcome of the pure free market is not arbitrary because this outcome depends entirely on luck (or natural and social lottery) but because this outcome places the worst off, and likely their

reason, the most fundamental question of social justice is, *pace* Hayek, to know who has the power to establish and shape what I called the primary rules (legal, political and socioeconomic). Therefore, the most pervasive form of social injustice is that of finding oneself in the condition of ‘disempowerment’ that does not allow the co-authorship of these rules; namely the dimension of social injustice as domination.

2.4 Domination as an injury to our ‘deliberative’ autonomy

At this point in my discussion, I hope that it is clear enough the meaning of the concept of domination. However, I need to make the last clarification about the concept of domination in order to explain what kind of injury it represents according to my own understanding. Now, it is already clear that I adopt a critical theory of justification, and I draw the distributive criterion of proportionality according to this methodological and theoretical approach. But, I advocate the concept of domination in a ‘narrow’ sense than the most common theories of justification do.

According to a critical theory of justification, the concept of domination concerns all kinds of processes that “strive to contain and limit critique, silence it, expel it” (Boltanski, 2011, p. 117). According to Boltanski, “an effect of domination can therefore be characterized by its capacity to restrict, in more or less significant proportions, the field of critique”, and further, “in a situation of domination, the loops of reflexivity whereby circulation between confirmation and critique is established are broken” (*ibidem*). In this way, relations of domination are concerned specifically with a way of justifying the current social praxis, and above all the manner in which the justifications of this social praxis are realized and upheld. Forst takes a similar position. According to him, “we speak of *domination* (*Beherrschung*) when the relations in question are asymmetrical, when they rest on a closure of the space of justification in favor of particular, non-justified legitimations which portray such an order as just or unalterable” (Forst, 2014, p. 10). According to Forst, in this case the space of justifications may be ideologically sealed off or occupied by effective threats. In other words, “domination is rule without justification” (*ibidem*, p. 34), which corresponds to a violation of the fundamental ‘right to justification’.

children, in a condition in which they no longer have the material power to decide over the primary rules that regulate the social relations and social institutions in which they are involved.

According to Forst (2012, p. 2) the right to justification “expresses the demand that there can be no political or social relations of governance that cannot be adequately justified to those affected by them”. It means that “any action or norm that claims to be morally justified, as well as any social order or institution that claims to be legitimate, has to be justifiable in an adequate way” (Forst, 2014, p. 63). Of course, what counts as “an adequate” (we could say, reasonable) justification is not any one. Forst is aware that a valid justification of a norm or a social order is that can be accepted by all those affected. However, he also wants to avoid a pure consensual theory and, by contrast, make possible in cases of dissent (connatural to a pluralist society) to better distinguish from those claims and reasons that are reasonable and those that can be reasonably rejected. For this normative purpose, Forst draws the criteria of reciprocal and general justification.

Reciprocity means that no one may refuse the particular demands of others that one raises for oneself (reciprocity of content), and that no one may simply assume that others have the same values and interests as oneself or make recourse to “higher truths” that are not shared (reciprocity of reasons). Generality means that reasons for generally valid basic norms must be sharable by all those affected (Forst, 2012, p. 6).

Although Forst believes that these criteria are able to guarantee a substantive implication of his ‘justificatory’ theory, I think that his theory remains excessively abstract. It is important to keep in mind that Forst (2014, p. 35) proposes a “compressive theory of political and social justice”, covered by all main “contexts of justice” – ethical, legal, political, and moral (Forst, 2002) – in which each member, in each context, is the holder of the right of justification according to the same criteria of reciprocity and generality. Then, it inevitably entails a certain level of abstraction of Forst’s criteria in order to be adequate in each context of justice. I think that, of course, Forst’s theory can produce substantial requirements, but only up to a certain point. Forst seems to be aware of this point of weakness in his broad conception of justice and, for this reason, he suggests that a conceptual distinction between fundamental (minimal) justice and full (maximal) justice in which the former is necessary in order to pursue the latter. The task of fundamental justice is to produce a basic structure of justification, that is, one in which all members have sufficient status and power to decide about the institutions they are to live under. What is needed for specific rights and

institutions and a variety of means from particular capabilities and information up to real possibilities for intervention and control within the basic structure. On this basis, it is possible to aim at a differentiated justified basic structure with maximal justice. Which goods are distributed for what reasons, to whom, by whom, and to what degree must be decided by democratic procedures. It means that fundamental (or minimal) justice is a substantive starting point of procedural justice. (Forst, 2012, p. 119-120; and p. 196-197; 2014, p. 35-36, and p. 115-116). Unfortunately, according to Forst (2012, p. 197), again, “what counts as this minimum must be legitimated and evaluated according to the criteria of reciprocity and generality”. My concern is that the Forst’s comprehensive normative criteria of justification might not adequately capture all forms of domination, in particular material domination. For example, both relational prioritarianism and my criterion of proportionality are compatible with the criteria of reciprocity and generality, but they might prescribe very different distributive requirements in terms of economic inequality between the best off and the worst off; and I will try to show within this thesis that only the distributive criterion of proportionality cannot be reasonably rejected.¹³⁵ So, I employ the concept of domination for a more narrow purpose only to establish and shape the primary rules (or in Forst’s term, ‘fundamental’ justice). In this way, I hope to take a step forward in a more substantive direction that Forst does not want, or cannot, do. So, following Forst in spirit, I agree the first question of social justice is the question of power and, therefore, what Forst calls ‘justificatory power’ should ‘distribute’ as equally as possible among citizens. But, what I want to make clear is that this ‘justificatory power’ should not only be understood in the form of a theory of discourse but also, and primarily, as a concrete power in all its main forms – relational and structural – and in all its main power resources: formal and material. Then, in my view, domination does not only regard “rule without justification” (albeit it does, of course), but it regards as primary the condition of ‘disempowerment’. From this perspective, citizens could reasonably rejected the primary rules (legal, political and socioeconomic) for the simple fact that they could not consider themselves as co-authors of these rules for lacking of adequate formal or material (or both) power, or

¹³⁵ I think that a certain degree of abstraction and lack of substantive implications is a constant feature of almost all pure relational conception of justice. I will get back to this point in the chapter 4, section 4.2.

because this condition is the result of a certain structural power. To make the difference clear with an example, in the broad notion of domination employed by Forst, a sexual or racial discrimination is considered a form of domination, because it disrespects the criteria of reciprocal and general justification. By contrast, my narrow notion of domination is not fully adequate to detect the grammar of these kinds of discrimination because it does not regard as *primary* the question of power (formal or material). A sexual or racial discrimination represents a violation of our autonomy, but not as necessary and primary a violation of our ‘deliberative’ autonomy; indeed, it is possible that a person is discriminated as LGBT or Afro-American and she is rich and fully enjoy her formal political rights.¹³⁶ In my account, a gender or racial discrimination counts as the second dimension of injustice as exclusion (see chapter 1, section 1.1).

Now, I think that it is also clear enough the kind of conception of autonomy to which I am appealing; namely, an idea of autonomy that can easily be considered within the so-called Kantian family, which surely includes authors such as Rawls, Habermas, Forst, and others. Here, I cannot explain from scratch all elements of this idea of autonomy, it would be necessary to take much of this thesis and it would also run away from the central theme. So, I will focus only on some fundamental aspects that make clear my own understanding and, above all, to distinguish it from Kant’s idea of autonomy. In doing so, I borrow some essential elements of Rawls’ and Habermas’ idea of autonomy: intersubjective, non-metaphysical (or post-metaphysical), and non-ethical or non-comprehensive.

I conceive domination as a specific form of injury to our ‘deliberative’ autonomy. I refer to the term ‘deliberative’ not only in the political sphere but also all kinds of social relations mediated by social institutions, for example, socioeconomic relations or family. On the one hand, I take into account the idea of autonomy only in reference of our intersubjective capacity to act according to norms and principles that we are able to justify to each other, as expressed in Habermas’ conception of a moral discursive autonomy (Habermas, 1984; 1990/a). For this reason, I argue about individuals and citizens who are *co-authors* of norms and principles that regulate and shape the ‘social’ relations in

¹³⁶ However, in our concrete social reality these serious forms of discrimination almost always coexist with forms of material and/or formal domination.

which they are involved.¹³⁷ On the other hand, this conception of autonomy is ‘political’ as opposed to metaphysical and comprehensive or ethical (Rawls, 2005, p. 77-81). In other words, it is neither a component of a comprehensive doctrine of good life, nor it is an ethical value that we must promote in the whole of social life.

The first characteristic of what I call ‘deliberative’ autonomy is that it is eminently intersubjective and non-metaphysical. Habermas developed this feature in order to distinguish his conception of autonomy from Kant’s *monological* one. Kant described autonomy in different ways. For example, in discussion of the Formula of Autonomy, Kant says: “the idea of the will of every rational being as a will giving universal law” (*Groundwork for the Metaphysics of Morals*, 4:431; 2002, p. 49); or “not to choose otherwise than so that the maxims of one’s choice are at the same time comprehended with it in the same volition as universal law” (*ibidem*, 4:440; 2002, p. 58). But in this way, Kant conceived autonomy “as freedom under self-given laws, which involves an element of coercive subordination of subjective nature” (Habermas, 1990, p. 207). By contrast, Habermas’ idea of autonomy is intersubjective in the sense that “it takes into account that the free actualization of the personality of one individual depends on the actualization of freedom for all” (*ibidem*). In Habermas’ conception, autonomy is viewed as a dialogical process in which needs and interests are subject to communicative interpretation and discursive argumentation. In this way, his conception of autonomy is post-conventional (or post-metaphysic) because “the autonomous self is not someone who has emancipated him or herself from the effects of socialization, but rather someone who has acquired various competences through a process of socialization and who thus stands in a certain relation to that process” (Baynes, 1991, p. 143).¹³⁸ The result of this

¹³⁷ In this sense, I am not interested in knowing if and how I have autonomy in accordance with my own self-reflection, or in accordance with some communitarian sharing understanding. This is a question that regards the notion of personality, authenticity or collective identity. For example, Sandel (1982) and Taylor (1985/a), in their conception of autonomy and person, focus specifically in this kind of question rather than on the “capacity to take sufficiently into account the viewpoint of others when assessing a norm or maxim of action” (Baynes, 1991, p. 130).

¹³⁸ Moreover, by anchoring his conception of autonomy to the notion of communicative reason and action, Habermas is able to avoid a classical

post-conventional underpinning is properly the intersubjective dimension of autonomy:

It is not simply a question of whether an individual can consistently will that his maxim become a universal law, but a question of whether an individual has sufficiently considered how acting on that maxim or norm would affect others (*ibidem*, p. 144.)

I want to stress another feature of the ‘deliberative’ autonomy; namely, it is ‘political’ as opposite to comprehensive and ethical. Rawls makes this feature clear by distinguishing his idea of autonomy in two main respects from Kant’s version.

The first difference is that Kant’s doctrine is a comprehensive moral view in which the ideal of autonomy has a regulative role for all of life. This makes it incompatible with the political liberalism of justice as fairness (Rawls, 2005, p. 99)

It leads Rawls to introduce a second meaning of autonomy that clarifies a second difference. Indeed, Rawls (*ibidem*, p. 77) conceives ‘full autonomy’¹³⁹ as political and not ethical. In other words:

This full autonomy of political life must be distinguished from the ethical values of autonomy and individuality, which may apply to the whole life, both social and individual, as expressed by the comprehensive liberalism of Kant and Mill. Justice as fairness emphasizes this contrast: it affirms political autonomy for all but leaves the

objection to Kant’s ‘transcendental’ version of autonomy which is charged to entail a rigid separation between the noumenal and phenomenal self and, therefore, conceive reasons in opposition to empirical needs and desires. However, beyond the mainstream interpretation, there are some attempts to formulate a non-transcendental (and also non foundationalist) of Kant’s version of autonomy; for example O’Neill, 1989, p. 51-65.

¹³⁹ We should distinguish the full autonomy (political not ethical) from rational autonomy (artificial not political). According to Rawls (2005, p. 77), “citizens’ rational autonomy is modeled in the original position by the way the parties deliberate as their representatives. By contrast, citizens’ full autonomy is modeled by the structural aspects of the original position, that is, by how the parties are situated with respect to one another and by limits on information to which their deliberations are subjects”. This means that “not the parties but citizens of a well-ordered society in their public life who are fully autonomous” (*ibidem*).

weight of ethical autonomy to be decided by citizens severally in light of their comprehensive doctrines (*ibidem*, p. 78).

To be sure, Rawls (*ibidem*, p. 100) also rejects Kant's transcendental and metaphysical foundation. Now, I think my understanding of the 'deliberative' autonomy is clear. In a few words, the core meaning of the 'deliberative' autonomy embodies the concrete and effective possibility (power) to "respond with 'yes' or 'no' to criticizable validity claims" (Habermas, 1990, p. 2002).

I want to briefly mention another approach that adopts a similar idea of autonomy which could endorse the distributive criterion of proportionality. I am referring to Fraser's three-dimensional theory of justice: redistribution, recognition, and representation, each one not reducible to the others.¹⁴⁰ The core meaning of Fraser's theory of justice is the parity of participation. According to the principle of 'participatory parity':

(...) justice requires social arrangements that permit all to participate as peers in social life. Overcoming injustice means dismantling institutionalized obstacles that prevent some people from participating on a par with others, as full partners in social interaction (Fraser, 2010, p. 16).

The affinity with my own account is evident. Fraser also adopts a deontological approach in which the idea of parity of participation aims at establishing equal chances of leading an autonomous life, without proposing an ethical conception of autonomy or any notion of a good life. Precisely, she refers to her account as "think deontological liberalism" (Fraser – Honneth, 2003) in order to stress its non-foundationalist grounds. I am quite convinced that Fraser's theory of justice also could, and should, justify the distributive criterion of proportionality. However, although the distributive requirements prescribed by Fraser's theory of justice are surely ambitious and egalitarian, she does not develop them in detail and she does not argue about any kind of criterion of distribution.

Lastly, I recall that the idea of 'freedom as non-domination' (Pettit, 1997; 2012), which is central in the neo-republicanism approach,

¹⁴⁰ Previously, Fraser (1997, and Fraser - Honneth, 2003) had advocated a bi-dimensional justice – redistribution and recognition –, and only more recently she introduced the third dimension of 'representation' (Fraser, 2003). In Fraser's account, 'representation' concerns mainly with the political dimension.

seems also to share a similar conception of autonomy and domination. Indeed, I believe that the distributive criterion of proportionality could, and should, be shared by those who advocated for the idea of freedom as non-domination. However, if my account could be justified by also appealing to the idea of ‘freedom as non-domination’, I want to make clear that I do not conceive it as a value or an ethical or comprehensive conception, as does the neo-republicanism. Rather, from my point of view, ‘freedom as non-domination’ is a ‘justificatory’ idea. As I have already said (Chapter 1, section 1.1), neo-republicanism adopts a consequentialist view so that the goal of the state is to promote the freedom as non-domination in all spheres of life (for this reason, neo-republicanism has the necessity to also promote certain civil virtues). Therefore, the teleological or consequentialist view is inevitably reductionist about justice because it is committed to the truth of one comprehensive ethical theory (it does not maintain the priority of right over the good). But, in this way, neo-republicanism lacks theoretical instruments to face the fundamental conflict and disagreement that properly concerns the meaning of our ethical conceptions, or our ‘shared social meanings’. It is true that some neo-republicanism accounts conceive a model of government that is primarily ‘contestatory’ rather than consensual (Pettit, 1997, p. 186), but it is precisely for this reason that we cannot be reductionist about justice. Indeed, what matters primarily is not to realize a moral or political value superior over others, but to ensure for all citizens the ‘contestatory’ power. This is the aim of the distributive criterion of proportionality that does not allow any citizen to be placed in a condition of material disempowerment (domination) in respect to others.

In this chapter, I have clarified the idea of social justice and its own requirements in which the rejection to domination – as an injury to our ‘deliberative’ autonomy – is one of the most fundamental. This account has strong implications in terms of distributive justice. For this reason, I suggest the (material) distributive criterion of proportionality. In this way, I do not consider economic inequality unjust simply for being result of a ‘maldistribution’, as the allocative-distributive conception of justice does. For example, economic inequality is usually contested when a society does not secure a fair system of equal opportunity, a decent socioeconomic minimum, or the maximization of the position of the worst off. However, all these socioeconomic standards or criteria might be ensured without taking into account the gap between the most and the least advantaged. By contrast, my distributive criterion of proportionality focuses directly on the

magnitude of this gap. In this sense, I adopt a relational conception of justice which focuses on how people are treated in terms of intersubjective relations rather than in terms of what people have. In this thesis, the working hypothesis is that the relational conception of justice, once it is adequately formulated (namely, taking into account formal and also substantive or material dimensions) is the most adequate way to deal with the idea of justice because it is able to specify the moral/political requirements that the notion entails, avoiding to conflate the paradigm of justice with the paradigm of social virtue. Therefore, it allows me to properly take into account what Forst (2014) calls the two pictures of justice: allocative-distributive conception of justice and relational conception of justice.¹⁴¹ The former takes human beings “as beings who should not lack certain goods that are necessary for a ‘good’ life or one “befitting human beings”; meanwhile the latter “as being whose dignity consists in not being subject to domination” (*ibidem*, p. 37).

¹⁴¹ The first distinction between these two pictures of justice was provided by Young (1990, first chapter).

3 The allocative-distributive conception of justice

As I have already said, inequality is a central issue in the history of political philosophy, and not only since the nineteenth century, when the idea of social justice emerged, but it was one of the most important topics already in the classical idea of distributive justice in the Greek philosophy. The ancient principle, to each (or from each) his own, is the most classical manner to assign the way in which the benefits and burdens of society are distributed, and consequently what types of inequality are legitimate or not, and therefore whether they should be eliminated or mitigated. Of course, much depends on the kind of criterion of distributive justice we adopt. For example, if we argue for a distribution according to desert, utility, or the market, then we are not worried with economic inequality. Clearly, these views may also favor egalitarian outcomes, but only in a contingent sense. In other words, they do not care about the gap in term of 'goods' between people. By contrast, in trying to answer the fundamental question of this thesis – when and why is economic inequality unjust? – I am interested in testing the hypothesis whether the gap between the most and the least advantaged in terms of income and wealth matters. In the current debate this question seems to be attached to a certain idea of equality, and for this reason it has generated an egalitarian debate. It seems that the gap between the best off and worst off matters (morally) only if we adopt an intrinsic concern for inequality. It means that a reduction of the gap between the most and the less advantaged would be itself an improvement. However, this assumption seems implausible because it sustains a diminution of inequality simply for the sake of equality as moral value. Thus, an intrinsic concern for inequality is exposed to the Leveling Down Objection; namely, “the objection appeals to cases where, if some inequality were removed, that would be worse for some people and better for no one” (Parfit, 2000, p. 110). However, I sustain that those who advocate the intrinsic egalitarianism concern only with the evaluative question: what should we think or believe? From this perspective the Leveling Down Objection is no longer significant. Instead, when we are concerned with the 'normative' question: what should we do? We must provide a compelling argument to avoid the Leveling Down Objection. The solution is to adopt a non-intrinsic (or instrumental) argument against inequality. It means that we have a reason to reduce or eliminate inequality only when, and only because, our way of doing so benefits in a certain form those who are less advantaged. But, in pursuing a non-intrinsic argument against inequality

what happens is that the gap in inequality between the most and the least advantaged seems to lose any moral relevance. From the point of view of a non-intrinsic argument against inequality the point is how to individuate legitimate benefits for the worst off in order to avoid the Leveling Down Objection.

In the current debate, we can observe two different ways to do it that correspond to what Forst (2014) calls two pictures of justice: the allocative-distributive conception of justice and the relational conception of justice. The former adopts a distribution-centered and a recipient-oriented point of view, and thus the basic question is what 'goods' you have. It means that the allocative-distributive theories of justice identify benefits for the less favored only in terms of "subjective and putatively objective states of the provision of goods or well-being" (*ibidem*, p. 20). Although there can be different interpretations of what goods (welfare, resources, capabilities) should be distributed, and according to which criterion or principle (for example, prioritarian or sufficientarian), for all these distributive accounts the problem is not the gap of inequality between the best off and worst off, but the point in which inequality is no longer normative significant, whatever this gap would be. On the one hand, the allocative-distributive view has the advantage to focus on substantive or material dimension of inequality and provide a distributive criterion of justice. On the other hand, what will appear evident in this chapter is that the main allocative/distributive theories provide a distributive criterion of justice that might permit an unlimited economic inequality. In this way, they cannot detect the dimension of social injustice as material domination. The main shortcoming here is that the allocative/distributive conception of justice tends to overlook the relevance and influence of power. For this reason, it is not able to capture another reason to reduce economic inequality for the benefit of the worst off, i.e. when they are subjected to material domination in reason of an excessive economic concentration and inequality. By contrast, the relational conception of justice (the second picture of justice) makes the notion of power central in its perspective. It focuses on intersubjective relations and structures and its basic question of justice is not "what you have but how you are treated" (*ibidem*, p. 20). In this case, therefore, the first question of justice is the question of power. For this reason, I believe that an allocative/distributive view is not able to compellingly grasp the grammar of justice, and on the contrary, the relational view is a more adequate conception of justice. Nonetheless, even the relational conception of justice (at least, in its pure form) runs the risk to neglect or overlook the relevance of the

economic inequality in term of material power. The relational conception of justice is grounded on the basic assumption that the gap between the most and the least advantaged in material or substantive inequality (such as economic inequality) is not moral and political significant, whatever this range would be, if the intersubjective relations and structures are free from coercion and domination. I agree with this fundamental assumption, but what I want to make clear in this thesis is that the gap between the most and the least advantaged in terms of income and wealth determines the magnitude of material power and therefore it might represent a material domination. For this reason, the relational conception of justice should prescribe a distributive criterion of material justice (coherently with a procedural view), one that does not permit an (potentially) unlimited economic inequality. I think that the distributive criterion of proportionality is appropriate for this scope. In this sense, I suggest a middle position between a 'substantive' conception of justice and a pure relational one. Therefore, the dialogue between Rawls' political conception of justice and Habermas' discourse theory of deliberative democracy will be essential for the development of this position. I will focus on the relation conception of justice in the next chapter.

In this chapter, I will analyze the most relevant allocative-distributive theories of justice because I acknowledge that they focus on the issue of material justice and they provide a certain criterion of distributive justice. So, in the next section (3.1), I will focus on the difference between the intrinsic and non-intrinsic concerns for inequality. I will show that the intrinsic concern for inequality is able to reject the Leveling Down Objections if, and only if, it abandons any normative pretentions. Given that I am interested in assessing the economic inequality taking into account the fundamental normative question of 'what we should do', or better 'what we owe to each other', I will focus only on those allocative-distributive theories that endorse a non-intrinsic view. I think that Rawls' theory of justice is the best starting point for my inquiry because the other alternative distributive theories of justice were drawn by beginning from some kinds of objection to Rawls' theory and his difference principle. Thus, in section 3.2, I will argue about Rawls' theory understood mainly as an allocative-distributive conception (an understanding that I will reject in the next chapter), and I will present the most common interpretation of his difference principle as a prioritarian principle. Then, in the following sections, I will argue respectively about libertarianism (3.3), egalitarianism (3.4), and sufficientarianism (3.5). In this chapter, my

attempt will be of showing that the allocative-distributive conception of justice is not able to conceive an adequate distributive criterion of material justice by way of neglecting the economic inequality gap between the best off and the worst off.

3.1 Intrinsic and non-intrinsic concerns for inequality

In the current debate the moral concern about the gap in term of ‘goods’ between people might be at the heart of the idea, and the criterion, of equality. The basic assumption might be that if we must assign and distribute benefits and burdens, rights and duties, or simply goods in a non-arbitrary way, our starting point should be that “equality needs no reasons, only inequality does” (Berlin, 1969, p. 132).¹⁴² In this sense, we can believe that the right way to (morally) evaluate inequality is attached in some way to the moral ideal of equality. It is easy to remember that nowadays it is not being discussed that the idea of moral formal inequality is arbitrary, for example “the principle that the comparable claims of each person deserve equal respect and should be given equal weight” (Scanlon, 2000, p. 41). However, we first need to make an important distinction. *Occupy* advances a question about socioeconomic inequality, so we are speaking about substantive inequality. But, the principle of formal equality, or equal respect, is accepted even by those authors who are not concerned with the substantive egalitarianism.¹⁴³ Kant himself advocated the principle of innate equality, but nonetheless this principle did not hamper him to assert that “the equal treatment to which all persons are entitled under the laws of a state is entirely consistent with great inequality in possessions” (Johnson, 2011, p. 162). However, the current debate about substantive inequality seems to rest on the concept of equality (intrinsic or non-intrinsic), either for egalitarians who believe in some kind of equality as moral criterion for distribution or anti-egalitarians who contest this assumption. In this section, I will present two opposite concerns for inequality: intrinsic and non-intrinsic (or instrumental). I think that the controversy around these two different egalitarian views is misleading. I believe that these views are advocated to answer two

¹⁴² However, the same idea can lead us to assume that what matters is not more equality rather than impartiality. It is not surprising that, for many, impartiality is considered the most fundamental principle, or starting point, of all morality.

¹⁴³ For example see: Nozick (1974).

different philosophical questions. Those who advocate an intrinsic egalitarianism are interested in answering only to the evaluative question: what should we think or believe? By contrast, those who endorse a non-intrinsic concern for inequality try to provide a normative answer to the question: what should we do?

According to Parfit (1997, p. 204) a strong egalitarian interpretation is grounded on the principle of equality: "It is in itself bad if some people are worse off than others". An important part of egalitarian debate is about the plausibility of this principle. According to him, if we believe in the principle of equality, we are intrinsic egalitarians, or Telic egalitarians. This means that equality has intrinsic value, or is in itself good or just. In other words, we believe that inequality is bad independently from its effects. From this point of view, "a diminution of the gap between the advantaged and disadvantaged would be an improvement" (Parfit, 2000, p. 3). However, according to Parfit, to sustain the Telic or intrinsic view we are exposed to a strong objection, the Leveling Down Objection. "The objection appeals to cases where if some inequality were removed that would be worse for some people and better for no one" (Parfit, 2000, p. 110). According to this objection, intrinsic view might endorse some absurd implications, if we sustain that inequality is bad without taking in account any instrumental considerations, we are led to believe that its disappearance must be a change for the better independently of how this change occurs. For example, we might believe that a world where only some are blind is worse than one where all are. Therefore, "it would be in one way an improvement if we destroyed the eyes of the sighted, not to benefit the blind, but only to make the sighted blind" (Parfit, 1997, p. 211). Now, if we are convinced by this objection, according to Parfit, we have two alternatives. According to the first alternative, we can reject the principle of equality, and therefore, the idea that inequality is itself bad. So, we can sustain a non-intrinsic egalitarianism. From this point of view, "When we ought to aim for equality, that is always for some other moral reason" (*ibidem* p. 207). In this case, we believe that inequality is not bad, but unjust. Parfit calls this view as Deontic egalitarianism. The main difference is that in a deontic view, injustice is a special kind of badness. It necessarily involves, at least, two fundamental conditions: inequality is unjust only in a case in which it results from wrongdoing, and it is feasibly avoidable. In a Deontic view we have reasons to appeal to some kind of distribution, but only in a

case of injustice. So, the Deontic view is able to reject the Leveling Down Objection.¹⁴⁴

If we are Deontic Egalitarians, we do not believe that inequality is bad, so we are not forced to admit that, on our view, it would be in one way better if inequality were removed by leveling down. We can believe that we have a reason to remove inequality only when, and only because, our way of doing so benefits the people who are worse off (*ibidem* p. 211).

By contrast, the Telic view implies that inequality is bad whether or not it is bad for people. It means that inequality is bad even if there are not any kinds of relation between two divided communities or societies.¹⁴⁵

However, Parfit offers an alternative which is able to avoid the Leveling Down Objection without exclusively endorsing a Deontic view, and therefore still maintain non-relational egalitarian belief. It is possible if we endorse a particular non-intrinsic egalitarian view that Parfit (*ibidem* p. 213) calls *The Priority View* (or prioritarian view): “benefiting people matters more the worst off these people are”. On the Priority View, “though we ought to give priority to the worse off, that is not because we shall be reducing inequality. We do not believe that inequality is, in itself, either bad or unjust” (Parfit, 2000, p. 106). In this case, prioritarians also reject the principle of equality. They do not think that it is in itself bad or unjust that some people are worse off than others.

This permits Parfit to make an important distinction between two forms of egalitarianism: Strong and Moderate. Strong egalitarians are unmoved by the Leveling Down Objection, so inequality can make an outcome worse, even when this outcome would be better for everyone. They are concerned with relativities: with how each person's level compares with the level of other people. Instead, moderate egalitarians, and also prioritarians, believe that if the outcome with greater inequality would be worse for no one, it would not be a worse outcome. Thus, they

¹⁴⁴ A Deontic view may have a narrower scope. “For example, it may apply only to goods of certain kinds, such as those that are co-operatively produced, and it may apply only to inequality between certain people, such as members of the same community” (Parfit, 2000, p. 116.)

¹⁴⁵ According to the Telic view, “thus it is bad if Inca peasants, or Stone Age hunter-gatherers, were worse off than we are now” (Parfit, 2000, p. 88).

are concerned only with people's absolute levels: the less well off a person is, the more morally urgent it is to improve that person's condition.

Now, it is interesting to understand why strong, or intrinsic, egalitarianism maintains the apparently implausible assumption that inequality is bad even when it is bad for no one. I think that the point is that they focus on a specific question: what we should believe or think. This question concerns only with an evaluative consideration. This is the real reason that leads some authors to reject the leveling down objection, without renouncing their intrinsic egalitarianism. For example, Temkin (2000) argues that this anti-egalitarian objection does not give us any reason to abandon intrinsic egalitarian view. He claims that at the heart of the leveling down objection there is a person-affecting view, and its great force deals only with a rhetorical appeal. Indeed, according to Temkin (*ibidem* p. 155), we can believe that inequality is intrinsically bad, and therefore think that there is some respect in which a world where only some are blind is worse than one where all are. However, it does not mean that it would be better if we blinded everyone. So, equality matters, but it is not all that matters. And according to him, the same is true for justice, utility, freedom, and others moral ideas. Then it is not surprising that this claim is also shared by those authors who advocate the intrinsic moral value of equality in their conceptions of justice, such as G.A. Cohen (1989) and Ake (1975). They merely believe that the claim of justice would be overridden, as well as other moral claims, by some empirical facts and considerations.¹⁴⁶

It means that when we put the question of what you should believe or think, we are not in need of compromising our beliefs with the balance of burdens and benefits. By contrast, these kind of moral

¹⁴⁶ In other words, their point of view is metaphysical. They try to answer the question of what is right or wrong providing a certain metaphysical account. Indeed, these conceptions of justice are defined fact-insensitive. For example, Cohen (2008 p. 302) argues that the 'fundamental' principles of justice cannot incorporate empirical facts. Instead, in making it we are generating only secondary "principles of regulation"; those principles that we should adopt in order to regulate our affairs (and therefore, sensitive to fact). Only in this second case, we are generating principles in order to know what we should do. Of course, according to these authors, the ultimate validity of 'regulations principles' rest in the fundamental principles insensitive to fact, and for this reason we should clarify or discover them. Clearly, this last assumption is highly contested.

considerations must be included when we are interested in knowing if we have moral reasons to do something, or in other words, when we ask: what should we do? For this second question, equality cannot plausibly be our only value. Indeed, the leveling down objection has a great force, not rhetorically, but properly in a case in which we want to provide some moral arguments to concretely reduce or eliminate a certain inequality; for example, by legitimate use of force.¹⁴⁷

In other words, the main distinction between intrinsic (Telic) and non-intrinsic egalitarianism is that the former focuses exclusively on the question of what we should believe or think, and the latter focuses primarily on what we should do. In this framework, Parfit's aim is to provide a complete and comprehensive moral view¹⁴⁸ if, in one way, we want to avoid the leveling down objection and, for the other way around, to maintain both non-relational and relational egalitarian beliefs. So, "the Priority View can take either Telic or Deontic forms. It can be a view about which outcomes would be better or a view that is only about what we ought to do" (Parfit, 1997, p. 213). Indeed, when we are interested in investigating what we have a reason to do, a non-relational egalitarianism in Parfit's understating (Telic prioritarianism) does not make any sense. Indeed, in cases in which any relations are humanly physically impossible, such as the divided world or past peoples (for example, Inca peasants or Stone Age), any kind of questions do not arise for my political philosophical investigation. What I define as practical/political morality is always relational in some kind.

At this point, it is clear why I am interested in pursuing deontic non-intrinsic concerns for inequality, and in doing so avoid the Leveling Down Objection. For example, Parfit (*ibidem*, p. 211) points out a way in which the deontic egalitarianism can avoid the leveling down objection: they can claim that, "when some people are worse off than others, through no fault or choice of theirs, they have a special claim to be raised up to the level of the others, but they have no claim that others be brought down to their level". Parfit defines this view as moderate

¹⁴⁷ Indeed, when Cohen (2008) focuses on Rawls' conception of justice, in trying to reformulate the Difference principle in more egalitarian terms, he needs to endorse a specific conception of justice that he rightly defines as an ethical conception of justice, in which people share a strong egalitarian ethos for which they voluntarily sustain any necessary burdens to accomplish equality.

¹⁴⁸ Parfit is interested in providing a comprehensive moral account that allows him to maintain 'the unity of morality' (Parfit, *On What Matters. Volume I and II*, 2011).

egalitarian. This is usually the strategy pursued by the egalitarian allocative-distributive conception of justice which concerns the goods that individuals can claim appropriately.

When the allocative/distributive theory is drawn around a non-intrinsic idea of equality the question is not being treated ‘equally’, but being treated ‘as equals’. In this sense, the idea of being treated as equals is not different from the idea of impartiality or the avoidance of arbitrariness. The common idea is that when people are entitled to a certain distribution (because they are simple human beings, or they live under a certain political/legal authority, or they cooperate in a certain way to the social product), such distribution should be accommodated by non-arbitrary distributive rule. The picture that usually represents the allocative-distributive conception of justice is the one of a cake that must be divided, in a certain way, among individuals. The way in which we should distribute the cake varies according to the criterion or procedure that it is applied to. Indeed, the same picture of the cake¹⁴⁹ is used by different approaches such as a pure procedural theory of justice and a substantive or consequentialist theory of justice. For example, according to Rawls (1971, p. 86), a pure procedural justice is obtained “when there is no independent criterion for the right result: instead there is a correct or fair procedure such that the outcome is likewise correct or fair, whatever it is, provided that the procedure has been properly followed.” By contrast, a consequentialist or a substantive conception “evaluates the justice of a society by looking to the effectiveness of its procedures in achieving a certain social goal: a certain degree of equality in society, a maximal promotional of weighted well-being, etc.” (Murphy, 1998, p. 284). In this last case, justice is concerned with the state of affairs, and even if justice may require a certain kind of procedure, we have an independent criterion to evaluate the substantive outcome.

Beyond the difference between the procedural and substantive conceptions, all egalitarian allocative/distributive theories adopt a goods-focused view. Thus, the axiomatic starting point is that equality is a basic moral value that requires that certain goods must be ‘fairly’ distributed or ensured among individuals. It means that the further steps are: What should people have fair share of? – concerning the currency of equality – and how should goods be distributed? – concerning the

¹⁴⁹ See: Berlin, 1969; Frankfurt, 1997, p. 10; Rawls, 1971, p. 85; Nussbaum, 2006, p. 82.

criterion or principle of distribution. It means that what really matter is not inequality, but rather the fair amounts of goods to which individuals can lay claim. Although there can be different interpretations of what good (welfare, resources, capabilities) should be distributed, and according to which criterion or principle (for example, prioritarian or sufficientarian¹⁵⁰), for all these distributive accounts the problem is not the gap of inequality between individuals (or groups), but the point which inequality is no longer normative significant, whatever this gap would be.

3.2 Rawls' difference principle and prioritarianism

In this chapter, I can map only the most relevant allocative/distributive theories of justice, and *A Theory of Justice* (Rawls, 1971) can be considered the best starting point. First of all, *A Theory* represented a new paradigm in alternative to utilitarianism that, at that time, was the most common theory of distributive justice. Utilitarianism is a teleological conception of justice which maintains that the just resource allocation is the one which maximizes the total sum of utility over person. By contrast, Rawls adopted a deontological view according to which “each person possesses an inviolability founded on justice that even the welfare of society as a whole cannot override” (*ibidem*, p. 3). In this sense, the main critic that Rawls rises against is utilitarianism in that it “does not take seriously the distinction between persons.” (*ibidem*, p. 27) The idea of justice proposed by Rawls recovers the tradition of the social contract as we found in Locke, Rousseau, and Kant. According to Rawls, justice is the first virtue of social institutions, and it needs a moral position that is not arbitrary, what he calls “original position”, to elaborate its principles of justice. Therefore, Rawls' understanding of justice differs from utilitarianism principally in two ways: justice does not focus on welfare as such, and it does not seek to maximize the sum of total utility, or whatever other indexes, across persons. The second reason why it is important to begin with Rawls' theory of justice is that Rawls introduced the contemporary view that the idea justice consists of some kind of egalitarianism. Rawls defines his egalitarianism as democratic equality, and it is the result of

¹⁵⁰ In this sense, the allocative-distributive approach and the recipient-oriented perspective are also adopted by those who are critical of equality as a moral ideal, as so-called sufficientarians.

the two principles of justice (ordered lexicographically) chosen by the parties placed in the original position and behind its veil of ignorance.¹⁵¹ The two principles of justice establish how the basic structure of society must distribute fairly (from this the name “justice as fairness”) an index of primary social goods which is composed by rights, liberties, powers and opportunities, income and wealth, and the social bases of self-respect. Precisely, the first principle concerns the just distribution of basic liberties:

a. Each person has the same inalienable claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value (Rawls, 2005, p. 5).

Instead, the second principle establishes the permissible social and economic inequalities.

b. Social and economic inequalities are to satisfy two conditions: first, they are to be attached to offices and positions open to all under conditions of fair equality of opportunity; and second, they are to be to the greatest benefit of the least-advantaged members of society¹⁵² (*ibidem*, p. 6).

Rawls calls the second part of the second principle of justice as “the difference principle”. Now, the point is how exactly we can identify the least favored, and how we can measure their improvement. Rawls says that:

In a well-ordered society where all citizens' equal basic rights and liberties and fair opportunities are secure, the least advantaged are those belonging to the income class with the lowest expectations. To say that inequalities in income and wealth are to be arranged for the greatest benefit of the least advantaged simply means that we are to compare

¹⁵¹ This theoretical construction allows the parts to choose principles, among many, that are not morally arbitrary.

¹⁵² I prefer to quote the two principles of justice as they are formulated in *Political Liberalism*, because this formulation is the most complete that Rawls provided. It is the same in *Justice as fairness: a restatement* except for lacking the last part of the first principle: “and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value” (Rawls, 2001/a, pp. 42).

schemes of cooperation by seeing how well off the least advantaged are under each scheme, and then to select the scheme under which the least advantaged are better off than they are under any other scheme (Rawls, 2001/a, p. 59-60).

The democratic equality adopted by Rawls insists not only to eliminate the arbitrariness of the influence of social contingencies (applying the idea of equality of fair opportunities), but also the arbitrariness of the natural distribution of abilities and talents (applying the Difference Principle). It means that Rawls denies meritocracy as a moral concept. Therefore, the only way that those who are more naturally endowed to vindicate in their favor an inequality in income and wealth is that such inequality permits to the least advantaged to be situated in a better economic condition respected by all other possible alternative social scheme.¹⁵³

For the moment, I will take into account only the significance of the Difference principle in terms of economic inequality (income and wealth), but we should note that this principle can only be correctly evaluated if we take it in conjunction with Rawls' other principles, which require equal liberty and equality of opportunity, and above all, the fair value of political liberty¹⁵⁴. This means that we should not take a part of Rawls' theory for the whole.¹⁵⁵ Moreover, for now, I do not tackle the question whether Rawls' theory is effectively a pure procedural theory as Rawls asserts, or instead it is a substantive (or even a semi-consequentialist) conception as others authors¹⁵⁶ sustain. I will argue about this important aspect in the fourth chapter taking into account the alternative idea of the relational conception of justice, and only then I will discuss whether Rawls' theory of justice should be

¹⁵³ It is important to keep in mind that the Difference principle, as well as all other principle of justices in Rawls' theory, is applied only to the basic structure of society, and only to the representative members of the worst-off group rather than to individuals.

¹⁵⁴ About the fair value of political liberty, see: Rawls, 1971, p. 201-205; 222-234; p. 278. And Rawls, 2005, p. 5-6; p. 324-331.

¹⁵⁵ This common mistake has conditioned the debate in some important respects. For more details, see: Alan Thomas, 2017; de vita, 2008; Scheffler, 2003; Cohen, 2001; Baynes, 1991.

¹⁵⁶ For example, see: Nozick, 1974, p. 149; Pogge, 1989, p. 36-47; Habermas, 1990, p. 94; and 1995; and Young, 1990, p. 28.

better considered as an allocative/distributive theory or instead, as I sustain, a relational one.

Focusing on the difference principle, we can observe that there is another important reason of beginning with Rawls' theory. Indeed, the difference principle is often understood as a particular version of the deontological priority view applied to the distribution of wealth and income in giving absolute priority to benefiting those who are worst off. The difference principle is usually considered a maximin criterion. It means that an economic inequality is justified if, and only if, it makes the position of the worst off better off than they would have been in the absence of this inequality. The idea is quite simple: on the difference principle, we should make the worst off group as well off as possible. Here, I am mainly interested in knowing whether, in so doing, if it is quite irrelevant in reducing or increasing economic inequality. In order to answer this question we should ask ourselves: what is the exact content of the maximin criterion? Van Parijs (2003, p. 232) exemplifies the two possible alternatives: "do just institutions rule out any inequality that does not improve the position of the worst off, or only any inequality that worsens it?" Rawls sometimes seems to endorse both views. At the first insight, Rawls' formulation can be understood in this way: "inequality is not unjust if it benefits the worst-off group" (Parfit, 2000, p. 117). But, we should remember that Rawls does not share intrinsic concerns for inequality.¹⁵⁷ In this sense, the difference principle in strict terms of deontological justice should be coherent also with this formulation: "inequality is unjust if it harms the worst-off group" (Ibid). This distinction does not arise if we take into consideration only the simplified form of the difference principle (Rawls, 1971, p. 83.) First of all, Rawls (*ibidem*, p. 78-79) says that the difference principle is compatible with the principle of efficiency; although he maintains that justice is prior to efficiency. It means that justice requires some changes that are not efficient in the sense that the only changes which improve everyone's prospects are allowed. Indeed, it is justified to improve or maximize the position of the worst off without that it entails to improve that of the better off. Only the worst off have a veto¹⁵⁸ on the

¹⁵⁷ Rawls (1971, p. 102) says that "the natural distribution is neither just nor unjust; nor is it unjust that persons are born into society at some particular position. These are simply natural facts. What is just and unjust is the way that institutions deal with these facts."

¹⁵⁸ See Rawls, *A Theory of Justice. Revised Edition*, 1999, p. 131.

socioeconomic distribution. This means that the case in which all feasible schemes are exemplified only by the following situations: (1) Half at 100 – Half at 220, and (2) Half at 120 – Half at 180, the worst off can impose their veto to (1) and prefer in alternative (2). But, if it is also feasible another scheme (3) Half at 130 – Half at 210, it is unreasonable to deny (3). Indeed, the difference principle only requires to maximize as well off as possible the position of the least advantaged, which means to prefer (3) to others. Now, the difference principle in the simplified form does not give rise to any complications and does not prescribe conflicting policies, only in the case in which close-knittedness occurs.¹⁵⁹ With this notion, Rawls refers to the situation in which “it is impossible to raise or lower the expectations of any representative man without raising or lowering the expectations of every other representative man, especially that of the least advantaged” (*ibidem*, p. 80). In other words, it cannot be feasible the scheme (4) Half at 130 – Half at 240. But the question rises if, by contrast, close-knittedness does not occur, and therefore the scheme (4) is feasible. In the scheme (4) an increase in inequality might be neither beneficial nor detrimental for the worst off. In this case, it is absolutely significant to know whether the difference principle prescribes that “inequality is unjust, unless it benefits the worst-off group”, or on the contrary, whether “inequality is unjust only if it harms the worst-off group” (Parfit, 2000, p. 118-119). According to the former definition we should consider unjust (4); otherwise, according to the latter, (4) is just, and therefore it cannot be rejected. This last variant of the difference principle is usually called the leximin (or Pareto efficient) difference principle. Those authors who advocate this interpretation sustain that only this less egalitarian version of the difference principle, firstly, it is compatible with the deontic non-intrinsic view; secondly, it can extend the same principle across generations and across nations (van Parijs, 2003, p. 232); and, thirdly, it can be defended without appealing to a particular egalitarian ethos.¹⁶⁰ Indeed, the leximin interpretation seems

¹⁵⁹ I do not take into consideration the case of chain-connectedness. It occurs “if an advantage has the effect of raising the expectations of the lowest position, it raises the expectations of all positions in between. For example, if the greater expectations for entrepreneurs benefit the unskilled worker, they also benefit the semiskilled” (Rawls, 1971, p. 80). It is not so relevant here.

¹⁶⁰ Moreover, according to Tomasi (2012), only the leximin interpretation of the difference principle does not risk to violate the individual economic

to better grasp the argument of the parties behind the veil of ignorance. For example, Rawls (1971, pp. 144–145; and 1999, p. 125) says that “they strive for as high an absolute score as possible. They do not wish a high or a low score for their opponents, nor do they seek to maximize or minimize the difference between their successes and those of others”. As van Parijs (2003, p. 208) notes, “when comparing two options which are equivalent on this score, the parties will unambiguously prefer the one that will give them more in case they turned out to be fortunate after all.” It seems possible to reject (4) only appealing to an egalitarian ethos¹⁶¹ or a certain intrinsic concern with equality. This aspect is particularly relevant if we take in due consideration a political conception of justice as drawn in *Political Liberalism* in which the veil of ignorance is “thick rather than thin” (Rawls, 2005, p. 3, note 27) in order to disallow knowing people’s comprehensive doctrine, for example, such as a particular egalitarian conception of justice.

From my point of view, what is important is that, surely, according to the leximin interpretation of difference principle, the gap of economic inequality between the best off and the worst off is clearly irrelevant. Indeed, the best off can continue to make themselves even better off just providing that a further increase in economic inequality does not necessarily worsen the position of worst off. But as Parfit (2000, p. 121) admits, this interpretation makes the difference principle a non-relational egalitarian prioritarian principle, and it would be implausible. Indeed, it is incompatible with the principle of reciprocity (Rawls, 1971, p. 103, and 2005, p. lvi). So then, we can presume that the difference principle is an extreme version of the priority view, so that the worst off have the veto even to deny (4).¹⁶² However, even adopting this stronger egalitarian version, we could have serious doubts if, according to the difference principle, the gap of economic inequality really matters. The problem is not merely that, “the difference principle

liberty. However, Tomasi assigns to the individual economic liberty an absolute priority that Rawls, instead, does not seem to share.

¹⁶¹ It is interesting how those authors that critique the difference principle for not being egalitarian enough also allege this motivation. See: Cohen, 1989, 2008; and Thomas (2017, p. 43) who define the difference principle as the “Solidaristic Difference Principle”.

¹⁶² For the moment, I leave open what is the ultimate argument that justifies this sort of power assigned to the worst off: whether it is grounded on a certain egalitarian ethos or on other reasons, such as to guarantee that liberties would not be only formal.

specifies no definite limits within which the ratio of the shares of the more and less advantaged is to fall” (Rawls, 2001/a, pp. 68); for example it does not establish a certain value of Gini coefficient or other indexes of measurement of economic inequality. (Rawls, 2005, p. 283) Indeed, according to Rawls (2001/a, pp. 68) we should “leave this ratio to fall where it may, as the outcome of pure background procedural justice. This is perfectly acceptable unless, on due reflection, the actual ratio strikes us as unjust.” Rather, the point is that, as Rawls admits, within his theory:

we do not have any further criterion to judge whether the ratio is unjust, for all our principles are met. It is simply that the actual ratio may disturb us and make us wonder. It is as if a state of reflective equilibrium is a bit upset (*ibidem*, note 36).

Rawls (*ibidem*, p. 68) says that “it seems impossible to specify plausible limits on this ratio that can gain wide assent”, but it is a mystery what kind of argument the worst off might offer to reasonably reject another feasible scheme¹⁶³ (5) Half at 150 – Half at 300 in which the gap between the most and the less advantaged is much greater than others feasible schemes. Moreover, a state of the reflective equilibrium cannot help us a lot, because it could upset for some and not for others. In other words, the difference principle (even in its stronger egalitarian version) seems to assume the view that if the prospects of the worst off are in any way made better off by permissible inequalities – whatever amount the ratio of inequality may reach – then that inequality is justified. It is the proper range of economic inequality that Rawls seems to overlook, or at least does not offer a criterion¹⁶⁴ to reveal his centrality.

¹⁶³ Note that this scheme is compatible with the simpler form of the difference principle because (5) represents the best absolute position of the worst off in all feasible schemes (1) to (5).

¹⁶⁴ However, many authors such as Forst (2012), Baynes (1991), de Vita (2007; 2008), Thomas (2017), Werle (2014) sustain that this criterion, within Rawls’ theory, can be found in the idea of the worth of liberty, and in particular in the fair value of political liberty. According to these authors, the difference principle is the very theoretical instrument to guarantee the worth of political liberty, and consequently the latter is the very justification for it. This interpretation is plausible only if we understand Rawls’ idea of justice as ‘relational’ rather than allocative/distributive. For this reason, I will take in due consideration this interpretation in the next chapter.

Rawls' theory, and his difference principle, is one of the most relevant distributive accounts, and one of the main reasons is that the other alternative distributive theories are drawn by beginning from some kinds of objection to Rawls' account. In particular, democratic equality was criticized from the opposite direction. Libertarians sustain that it is too egalitarian in proposing an unacceptable violation of liberty in name of equality (or fairness). For others, instead, democratic equality is not egalitarian enough or it is inadequately egalitarian. These opposite positions depend on the way in which the different theories of justice are drawn around the two more common building block abstract concepts: liberty and equality. In the contemporary political philosophy debate, the idea of justice is usually considered in need of being filled by some substantive values in order to specify concretely in which respecting social institutions are to be free of arbitrariness. Liberty and equality are the main values that are taken as basic for justice.¹⁶⁵ So then, the criterion by which we evaluate the economic inequality changes considerably if we assimilate the idea of justice with liberty or equality, or if we give more weight to one than the other concept¹⁶⁶. Let me begin with libertarianism.

3.3 Libertarianism

Anarchy, state, and Utopia (Nozick, 1974) is surely one of the most important libertarian theories in contemporary political philosophy. Nozick adopts a deontological perspective, in this sense he also shares the same critique that Rawls rises against utilitarianism, but he sustains that Rawls also does not respect the distinction between persons. Indeed, Nozick sustains that any resource transferences from one person to another by the state or other coercive social or legal institutions is a violation of individual liberty. Then, this kind of transference cannot be justified as a matter of justice. In this sense, Nozick denies the idea itself of social justice. He grounds his theoretical account on two moral concepts: a negative conception of freedom and a

¹⁶⁵ But there are other values that meet this aim such as basic needs, democracy and recognition. See: Forst, 2012, pp. 189.

¹⁶⁶ Rawls appeals to both liberty and equality in order to harmonize them in a unique theory. However, Rawls' idea of justice rests ultimately neither on the idea of liberty nor on that of equality; rather it is grounded on a certain Kantian (non-metaphysical) idea of moral/political autonomy as free and equal people (Forst, 2014, p. 31).

self-ownership conception of person. According to Nozick, freedom merely means to be free from external obstacles or interferences. Moreover, Nozick adopts a particular and strong interpretation of the second formulation of Kantian categorical imperative. According to him, we treat the humanity of a person as a means and not as an end also when we use his natural ability, talent and his own external recourse (de Vita, 2007). Therefore, according to Nozick, individuals are self-owners in the sense that they are entitled to use their labor as they see fit and appropriate to the product of their labor. Starting from these premises, Nozick argues that distributive justice should not concern itself with patterns of outcome or end-state, but instead with the procedure by which each person acts economically. His famous example of Wilt Chamberlain is used to prove how individual liberty always upset patterns, such as the difference principle proposed by Rawls. By contrast, Nozick proposes a historical theory of justice based on a particular interpretation of Locke's theory of acquisition¹⁶⁷ (Lockean proviso), according to which the property right of an unowned object is originated through someone mixing his labor with it, unless this appropriation entails that the condition of others is worsened. From this perspective, it does not make sense to question whether a right-libertarian such as Nozick is worried with economic inequality, or even more with the range that it should reach. According to Nozick, whatever level of socioeconomic inequality is justified as long as it is the result of historical process in which the three principles of legitimate property are respected (Nozick, 1974, p. 150-153).

However, not all libertarians agree with Nozick's conclusion, even if they accept, like him, a negative conception of liberty and the idea of individual as self-owner. This is the case of left-libertarian theories according to which not only agents are full self-owners but also natural resources are owned in some egalitarian manner (Vellentyne - Steiner, 2000; and Mack, 2009). Right and left libertarians share the same starting point about the just 'distribution' which must be determined only "by virtue of an uninterrupted chain of voluntary transactions starting from some initial unrestricted private appropriation

¹⁶⁷ Nozick's appropriation proviso is less severe than Locke's one. Nozick substitutes Locke's criterion for a just appropriation, "leaving enough and as good for others" with "leaving others at least as well off". It means that Locke would deny anyone the right to appropriate scarce natural resources; instead Nozick does. For this reason, Roemer (1996, p. 207) argues that Nozick's appropriation proviso is very similar to the maxim "first come, first served".

of objects previously unowned” (van Parijs, 1995, p. 12). But the main point of disagreement between them is concerned with the defensible criterion of legitimate appropriation of previously unowned external objects. In other words, they adopt different interpretations of Lockean proviso. The right-libertarians sustain that natural resources are entirely up for grabs (Kirzner, 2000), or also that natural resources are open to private appropriation subject to the proviso that no one should be made worse off as a result (Nozick 1974). Then, right-libertarianism makes private property rights absolute, for example immune by any tax scheme. By contrast, according to left-libertarians, natural resources are available for private appropriation subject to all non-appropriators getting a fair share in the benefits (Brody, 2000) or that they are equally owned by all (Steiner, 1981). The main consequence is that left-libertarians accept a number, more or less extensive, of redistributive implications. However, both right and left libertarians share a peculiar conception of freedom which is grounded ultimately on the notion of natural (and property) rights¹⁶⁸. As van Parijs (1995, p. 14) argues “according to such a conception, my freedom is only restricted when my rights are violated.” For this reason, libertarians run the risk of being called “rights-fetishists” (*ibidem*). In this respect, I have already mentioned¹⁶⁹ van Parijs’ example of an island owned only by one of its inhabitants, and the implausible assumption that a libertarian account risks to endorse.

However, not all libertarians’ accounts seem to suffer this fundamental defect. This is the case of van Parijs’ real-libertarianism (1995). Van Parijs not only defends a more generous redistributive requirement than left-libertarians usually do, but he advocates an alternative libertarian view in justifying it. Indeed, although right and left libertarians diverge on the existence of legitimate redistributive requirements, they share the same conception of formal freedom. By contrast, van Parijs defends the notion of real freedom as “to refer to a notion of freedom that incorporates all three components—security,

¹⁶⁸ Indeed, the difference of the appropriation proviso criterion is often based on a different conception of right. For example, Hiller sustains that property right “cannot be created simply by taking possession of space and matter, but must derive from an exercise of original rights. And for Steiner the only original right is a right to equal liberty, namely a right to the same amount of pure negative liberty as any other person” (Wijze – Kramer - Carter, 2009, introduction, pp. xvii).

¹⁶⁹ See: chapter 2, section 2.3.

self-ownership, and opportunity—in contrast to formal freedom, which only incorporates the first two” (*ibidem*, p. 22-23). In this case, the opportunity means that “each person has the greatest possible opportunity to do whatever she might want to do (leximin opportunity)” (*ibidem*, p. 25). According to van Parijs the best way to guarantee real freedom for all is the highest sustainable basic income¹⁷⁰. This basic income has two main features. First of all, it is *unconditionally*¹⁷¹ paid to all on an individual basis, without any means of test or work requirements. Secondly, it is the highest sustainable in the sense that it is required to raise “the lowest incomes as much as is compatible with a ban on forced labour.”¹⁷² (*ibidem*, p. 33) Clearly, the idea of a universal unconditional basic income has important redistributive implications; nonetheless, even in the most generous formulation proposed by van Parijs¹⁷³, it is not a normative criterion that really cares about economic inequality, rather what is morally relevant is whether individuals have a sufficient amount of resources to guarantee their real freedom or negative freedom. In any cases, the universal unconditional basic income as proposed by real or left libertarians is not a relative criterion. In other words, the amount of resources that ensure the real freedom for any individual does not depend on the resources of others. Van Parijs (*ibidem*, p.1) defends his real-libertarianism starting from two fundamental convictions: “our capitalistic societies are replete with unacceptable inequalities” and “freedom is of paramount importance”. But, a careful observation shows us that what is unacceptable in a capitalist society according to van Parijs is not inequality, rather the fact that, in a capitalist society, individuals have a real risk to live in a

¹⁷⁰ See: van Parijs, 1991; 1992; 1995.

¹⁷¹ This basic income is unconditional respecting three main criteria according to which is paid: “1. to individuals rather households; 2. Irrespective of any income from other sources; and 3. without requiring any present or past work performance, or the willingness to accept a job if offered” (van Parijs, 1992, p. 3).

¹⁷² Notes that it means that in certain cases this basic income might be very low or simply zero. For example, “in a poor society, where both the wage rate for the unskilled and the highest sustainable level of basic income are low, this case will often occur. In order to fund the required transfers, one may then have to drive the basic income down to zero.” (1995, p. 76).

¹⁷³ Some left-libertarians authors, such as Steiner, are also in favor with a universal unconditional basic endowment, but it is usually less demanding than van Parijs’ basic income. See: van Parijs. 2009, p. 145-162.

miserable material condition, even if such a society is considerably affluent enough to avoid it. Then, opportunity as the third component of freedom is understood by van Parijs (*ibidem*, p. 25) as a leximin prioritarian principle, namely “the person with least opportunities has opportunities that are no smaller than those enjoyed by the person with least opportunities under any other feasible arrangement”, and we can add, whatever would be the gap in economic inequality between the most and the least advantaged. Moreover, the particular characteristic of this basic income which is universal and unconditional leaves serious doubts about the amount of such income. The point is that it might be difficult to justify a generous basic income for all, either for a problem on economic sustainability on the long run, or, and above all, in terms of reciprocal justification between those who work and those who does not want to work as the hypothetical case of surfers. Likely, it might ensure no more than a decent social minimum for all individuals. I will argue in more detail on the proposal of the universal and unconditional basic income in the last chapter.

3.4 Egalitarianism

Rawls’ democratic equality is criticized for the opposite reason than libertarianism, i.e. it is not egalitarian enough or it is inadequately egalitarian. According to those authors who convey this egalitarian objection, the idea of distributive justice rests preeminently on the value of equality (but they usually maintain non-intrinsic egalitarianism), and in this case, the main question about distributive justice is: “Equality of what?” (Sen, 1980). Many authors answer this question by adopting a different metric for distributional judgments of the kind that the difference principle attempts to make. Alternative to the primary goods, other authors propose as the currency of equality: resources, capability, or welfare. Here, I will concentrate my attention only on two different and paradigmatic egalitarian accounts: Dworkin’s definition of equality of resources, and Sen’s capability approach.¹⁷⁴

¹⁷⁴ I do not take in consideration welfarism in agreeing with Rawls, Dworkin and Sen, that welfare is not an objective standard to systematic interpersonal comparisons of overall individual advantages.

Dworkin (2000) supposes that the right way of defining distributive justice is the equality of resources.¹⁷⁵ His normative starting point is that “equal concerns is the sovereign virtue of political community”; this means that “no government is legitimate that does not show equal concerns for the fate of all those citizens” (*ibidem*, 2000, p. 1). But, the main feature of Dworkin’s conception is that “justice requires compensating individuals for aspects of their situations for which they are not responsible and which hamper their achievement of whatever is valuable in life, but *only for those aspects*”¹⁷⁶ (Roemer, 1996, p. 237). This particular understanding of justice is so-called luck egalitarianism¹⁷⁷. Although luck egalitarianism is not a homogeneous theoretical approach and instead contains a number of different variants, the element of unity is that it is usually presented as an extension and generalization of a fundamental insight in Rawls conception of justice¹⁷⁸, one that Rawls himself failed to fully realize: the issue of responsibility.

As Anderson (1999, p. 290) notes:

luck egalitarianism relies on two moral premises: that people should be compensated for undeserved misfortunes and that the compensation should come only from that part of others’ good fortune that is undeserved.

Then, the criterion for establishing what is undeserved in terms of justice is the responsibility understood as a (adult) voluntary choice. It means that justice should distinguish between the outcomes that result from individual voluntary choices (option luck) and those that are independent of individual voluntary choices (brute luck).

¹⁷⁵ To be sure, if we take in consideration only the difference principle, Rawls’ account can also be considered a resourceist account. Nonetheless, there are some important differences in adopting resource as a metric for interpersonal comparisons. For example, information about individuals’ preferences plays an important role in Dworkin’s view, and almost anyone in Rawls’. This difference between Rawls and Dworkin depends on the different conception of justice that they adopt.

¹⁷⁶ The emphasis in italics is added by me.

¹⁷⁷ This denomination is introduced for the first time by Anderson (1999)

¹⁷⁸ The idea that luck egalitarianism completes a fundamental element of Rawls’ conception of justice is hardly contested. See: Scheffler, 2003; and Daniels, 2003.

Option luck is a matter of how deliberative and calculated gambles turn out – whether someone gains or loses through accepting an isolated risk he or she should have anticipated and might have declined. Brute luck is a matter of how risks fall out that are not in that sense deliberate gambles (Dworkin, 2000, p. 73).

According to luck egalitarians, justice consists of adequately compensating brute luck. The point is to identify for which sensitive-choices individuals are responsible and by contrast for which natural endowments they are not and therefore they can claim a legitimate compensation in name of justice.¹⁷⁹ Dworkin includes people's tastes and ambitions on the side of what people are responsible for, instead of people's endowments (such as genes, abilities and talents) which are considered unchosen circumstances and therefore, according to him, are a morally arbitrary way of distributing resources. Then, distributive justice requires converting brute luck (for example, people's handicaps) into option luck. Dworkin (*ibidem*, p. 66) draws a hypothetical situation in which "a number of shipwreck survivors are washed up on a desert island that has abundant resources and no native population". Moreover, they accept an equal division of resources by what Dworkin calls the envy test: "no division of resources is an equal division if, once the division is complete, any immigrant would prefer someone else's bundle of resources to his own bundle" (*ibidem*, p. 67). Then, the non-arbitrary compensatory redistribution is represented by a hypothetical insurance market in which individuals face, behind a thin veil of ignorance, the same risk of suffering brute luck. According to Dworkin (*ibidem*, p. 98), the result of the hypothetical insurance market is that in which individuals will choose to purchase an insurance that protect them against an incapacity to earn at the thirtieth percentile level of wage distribution.

The envy test proposed by Dworkin was questioned. The main critique concerns the fact that the existence of envy might be neither necessary nor sufficient to justify inequality. First of all, "individuals

¹⁷⁹ The main disagreement among luck-egalitarians is between those who advocate equality of welfare as the only legitimate currency of egalitarian concern (see: Arneson, 1997; G. A. Cohen, 1989, 2008; and Roemer, 1996) and therefore consider also ambitions and tastes as insensitive-choice characteristic of people's personality, and those who deny it, and defend equality of resources, (see: Dworkin, 2000; Rakowski, 1991; and Kymlicka, 2002).

can be more needy than others even if they do not prefer the others' resources or less needy yet still prefer those resources" (Clayton - Williams, 2000, p. 15). Secondly, it is hard to see how envy (the 'I want what you have' thought) can generate obligations on the part of the envied (Anderson, 1999, p. 307). More generally, these objections are related to the luck-egalitarian conception of justice as redress¹⁸⁰. The two most relevant objections to luck-egalitarianism are advanced by Scheffler (2003) and Anderson (1999). According to Scheffler (2003, p. 17), "the most obvious difficulty is that the degree of weight that the luck egalitarian places on the distinction between choices and circumstances seems, on its face, to be both philosophically dubious and morally implausible". On the one hand, "unchosen personal traits and the social circumstances into which one is born are importantly, albeit not exclusively, constitutive of one's distinctive identity;" but on the other hand, "people's voluntary choices are routinely influenced by unchosen features of their personalities, temperaments, and the social contexts in which they find themselves" (*ibidem*, p. 18). The strict distinction between choices and circumstances seems to appeal "from an implausible understanding of the metaphysical status of the category of choice" (*ibidem*). The moral relevance that luck-egalitarians give to the idea of choice and responsibility makes them some kind of cousin of libertarianism in accepting "the results of free choice (or 'option luck') as just, while 'victims' of 'misfortune' are seen as (passive and needy) recipients of compensation" (Forst, 2014, p. 21, note 12).

While Anderson (1999, p. 310) observes that if no one should suffer from undeserved misfortune, it means that the state must make judgments of moral responsibility in assuming outcome to brute or option luck. In this way, luck-egalitarianism requires the state to make grossly intrusive, moralizing judgments of individual's choices, and

¹⁸⁰ The main difference between Rawls' theory of justice and the luck egalitarianism relies properly on the principle of redress, namely "the principle that undeserved inequalities call for redress; and since inequalities of birth and natural endowment are undeserved, these inequalities are somehow to be compensated for" (Rawls, 1971, p. 100). Luck-egalitarianism is grounded on such principle, but Rawls is quite clear in denying such fundamental importance in his own theory. As Scheffler (2003, p. 25) observes, although Rawls (1971, p. 100) admits that "the difference principle gives some weight to the considerations singled out by the principle of redress", he also affirms that "the difference principle is not of course the principle of redress" (*ibid*, p. 101).

therefore interfere heavily on their privacy and liberty.¹⁸¹ So, luck-egalitarianism not only might impose a very difficult achievement, but it might also be highly undesirable. However, for what concerns my point of discussion, Dworkin's proposal, and luck-egalitarianism generally, does not take into account the gap in economic inequality between those who are less endowed and those who are more fortunate. By contrast, the point is simply the compensation of brute luck which means, in Dworkin's account, being ensured to gain at least the thirtieth percentile level of wage distribution might be sufficient. And it does not matter how much the 1% of the richest 1 % has in income and wealth.

The difference principle and, more generally, Rawls' idea of justice were criticized from another egalitarian perspective which differs explicitly on the distributive metric and implicitly on the distributive criterion: Sen's capability approach. Sen (1980) presented the capability metric as an alternative objective standard to interpersonal comparisons for the social primary goods metric, as well as welfare and resources metrics. According to Sen, the primary goods approach does not take adequate consideration for the diversity of human beings (health, longevity, climatic conditions, location, work conditions, temperament, and even body size, among many others). This diversity means that human beings have very different needs, therefore fully satisfying such needs might require a different amount of resources according to the different abilities that people have in converting them to effective capabilities.

Primary goods suffers from fetishist handicap in being concerned with goods, and even though the list of goods is specified in a broad and inclusive way, encompassing rights, liberties, opportunities, income, wealth, and the social basis of self-respect, it still is concerned with good things rather than with what these good things do to human beings (*ibidem*, p. 218).

For these reasons, according to Sen, a basic capability approach can shift attention from goods to what goods do to human beings. Sen offers the following definition of his own account:

The capability approach to a person's advantage is concerned with evaluating it in terms of his or her actual ability to achieve various valuable functionings as a part of living. [...]The approach is based on a view of living as a combination of

¹⁸¹ Wolff (1998) makes the same objection too.

various ‘doings and beings’, with quality of life to be assessed in terms of the capability to achieve valuable functionings (Sen, 1993, p. 41-42).

In this way, Sen focuses on an alternative non-intrinsic argument against socioeconomic inequality; he calls his egalitarian account “basic capability equality” (Sen, 1980, 218). However, although Sen suggests that a theory of distributive justice demands equality of capability, the ultimate aim of the capability approach is that of proposing a better way to understand freedom, a way that focuses on substantive freedom rather than in a simply formal one. So, the capability approach emphasizes the aspect of freedom that is related to substantive opportunity. (Sen, 2009, chapter 14, p. 291-317)

Capability approach was developed in the past decades extensively by Sen¹⁸² and, more recently, by others¹⁸³. The debate about the differences between the capability approach and the primary goods approach (or resourcist approach) is quite vast and exhaustive.¹⁸⁴ This debate is broadly concerning the issue of socioeconomic inequality. For certain aspects we can consider the Sen and Rawls approaches as complimentary, but for others they are really alternative. The most important element for which we can speak about their complementarity is regarding the case of justice toward the disabled. One of the most relevant critiques that Sen moved to Rawls is that the “difference principle would not justify any redistribution to the disabled on grounds of disability” (Brighouse – Robeyns, introduction, 2010, p. 3). Rawls responds to this objection in two ways. First of all, he defends the restricted scope of his theory of justice in excluding the case of the severely physical and mental disabilities; in others words, the moral duties towards disabled people are not duties of justice (at least, according to his understanding). Rawls (1999, p. 83-84; and 2001/a, p. 170-176) asserts that the scope of Justice as fairness assumes that “everyone has physical and psychological capacities within the normal range”. However, even if he excludes the severe cases of disabilities, Sen’s critique (1980, p. 215) regards not only “hard cases”, but also ‘normal’ cases of disabilities (Terzi, 2010). Then, in the second way that Rawls follows to avoid Sen’s critique is to make clear that, given the

¹⁸² See: Sen, 1980; 1987; 1993; 1997; 2009.

¹⁸³ Only to quote some, see Nussbaum (1993, 2006); Anderson (1999, 2010); Arneson (2010); Robeyns (2010; 2014).

¹⁸⁴ See: Brighouse, – Robeyns, *Measuring Justice*, 2010.

fundamental importance of the two moral powers (the sense of justice and the conception of good) in his conception of justice, his account includes the disable cases (at normal range) and therefore their health needs. In *Political Liberalism* (2005, p. 186), Rawls concedes to Sen that any index of primary social goods should “consider basic capabilities, and its aim will be to restore citizens to their proper role as normal cooperating members of society.”¹⁸⁵ In particular, the redistribution to satisfy citizens’ health needs seems to be prescribed in Rawls’ theory of justice by the fair equality of opportunity, then in lexicographical priority to the difference principle. As Daniels (2003, p. 259) observes, “once we include health status within the notion of opportunity, there is much more convergence between Sen’s view and Rawls’ than might at first have appeared.”

There is another important difference between capability and primary social goods approaches. This difference concerns the idea of political conception of justice advocated by Rawls. Indeed, Rawls himself and others¹⁸⁶ have argued that the capability approach endorses a particular comprehensive moral view and therefore it might be incompatible with the reasonable pluralism. Given the fact that people have very different views regarding moral, ethics, and religion, the objection is that the capability approach offers a justice metric which unlikely might honor the publicity criterion, i.e. a claim of justice must be accessible and verifiable to all citizens (de Vita, 2014). However, this objection does not concern itself with the capability approach itself, rather with the purpose of the theory that adopts the capability as a metric and, consequently, with the kind of list of capabilities proposed. For example, this objection is very relevant for a wide-ranging and ambitious list of basic human capabilities as provided by Nussbaum¹⁸⁷;

¹⁸⁵ For the same argument, see also Rawls, 1982/b.

¹⁸⁶ See Pogge, 2010; and Kelly, 2010.

¹⁸⁷ Nussbaum’s list includes capabilities such as: life, bodily health and integrity, senses, imagination and thought, emotions, practical reason, affiliation, relations to other species, play and control over one’s environment. (Nussbaum, 2011, p. 33-34) Sen has been vague in elaborating a rigid list of capabilities. He offers at least a list of relevant functionings (from elementary to complex ones) that should be achieved: “escaping morbidity and mortality, being adequately nourished, having mobility, [...] being happy, achieving self-respect, taking part in the life of the community, appearing in public without shame” (Sen, 1993, p. 46-47). Both Sen’s and, even more, Nussbaum’s capability approaches endorse an Aristotelian view of the human good; it makes

but it is less relevant with a modest and narrow list of capabilities as provided by Anderson's account. Anderson restricts her theoretical understanding on those capabilities necessary for enabling people "to avoid or escape entanglement in oppression social relationships", and "for functioning as an equal citizen in a democratic state" (Anderson, 1999, p. 316). Anderson's capability approach is limited to achieve "democratic equality" (*ibidem*, p. 313), and in doing so there is an evident convergence with Rawls' political conception of justice.

However, the element that marks a fundamental difference between the capability approach and the primary social goods seems to be the distributive criterion of justice rather than the distributive metric itself. Indeed, if the difference principle can be considered a sort of egalitarian prioritarian principle, Sen's distributive criterion (whatever it actually may be) surely does not. In *Inequality Reexamined* (1992, p. 146), Sen expressly criticizes Rawls for his "extremism of giving total priority to the interests of the worst off". Anderson (1999, p. 326) also share this criticism of the difference principle because, according to her, it "might require considerable sacrifices in the lower middle ranks for trifling gains at the lowest levels". The point is that the capability approach seems to endorse a sort of sufficiency principle. (de Vita, 2014, p. 115) This difference is the most important for my investigation, given that I am mainly interested in stressing the way in which Sen (and more generally those authors who adopt the capability approach) focuses on economic inequality, and whether for his account the gap of economic inequality in terms of income and wealth matters. However, the answer seems to be no. The reason is that Sen's capability approach proposes an alternative manner to evaluate the economic inequality, in believing that "income inequality gives a very inadequate and biased view of inequality, even of those inequalities that can be powerfully influenced by economic policy" (Sen, 1997, p. 384-385). As we have already seen, the capability approach does not focus on the resources people have; by contrast, what matters is the manner in which a person is able to convert her income or wealth "into the distinct functioning she can achieve (i.e., the various things we can do or be), and that affects the lifestyles we can enjoy" (*ibidem*). Sen points out at least five fundamental sources of systematic variations in the conversion of income and wealth: Personal heterogeneities, Environmental diversities,

difficult to conceive a capability index that can be effectively adequate for a political conception of justice. However, it is not true for other capability accounts.

Variations in social climate, Differences in relational perspectives, Distribution within the family. (Sen, 1997, p. 385-386; 2009, p. 255-256) Then, according to Sen:

A person with severe disability cannot be judged to be more advantaged merely because she has a larger income or wealth than her able-bodied neighbour. Indeed, a richer person with disability may be subject to many restraints that the poorer person without the physical disadvantage may not have (Sen, 2009, p. 253).

This argument for shifting the attention from income and wealth inequality to Sen's understating of 'economic inequality' has an important consequence. Indeed, focusing on the quality of life rather than on income and wealth might mean that a theory of distributive justice must guarantee the amount of resources that are necessary, and *sufficient*, for a person's capability to achieve functions she has reason to value, regardless of the amount of income and wealth that others may possess.

Although Sen does not embrace sufficiency as a distributive criterion of justice for the simple fact that he rejects the possibility of a universally correct and unique answer to the distributive question, his particular idea of justice is committed implicitly with sufficientarianism. It might depend on two fundamental characteristics of his understanding: first, his comparative approach in contrast with transcendental institutionalism, and, second, his limited scope of justice. Sen's limited scope depends on the fact that capability approach is "only one aspect of freedom, related to substantive opportunities, and it cannot pay adequate attention to fairness and equity involved in procedures that have relevance to the idea of justice" (Sen, 2009, p. 295-296). Moreover, its comparative approach need not be 'totalist', since it has built-in capacity to compare every capability distribution with every other alternative (Sen, 2010, p. 244). Indeed, as Sen admits himself, the main application of his capability approach is to elaborate an index (Human Development Index) for reducing manifest injustice that may exist, such as hunger, famine, illiteracy, epidemic diseases; "but does not have a view on whether a top income tax rate of 39 percent is more just than a top rate of 38 percent" (*ibidem*, p. 246). Sufficientarianism in Sen's account is not problematic when we are concerned with the issue of poverty, absolute and above all relative; rather sufficientarianism might be unsatisfactory for a more full and ambitious account of social justice, in particular one that aspires to also lead with political injustice.

At this point, I will take in due consideration the sufficientarianism as a general principle of distribution.

3.5 Sufficientarianism

According to the sufficiency principle (or sufficientarianism) the distribution of resources in society is just if, and only if, everyone has enough to not fall below a certain threshold. In the most common sufficientarianism understanding, the threshold above which individuals have enough is defined in non-comparative terms; in this case whether any given individual has more or less than others is not morally and politically significant. This means that sufficientarianism has distributive implications (in ensuring that people have enough), but this distribution is non-relational in kind, because it endorses a certain absolute standard of fulfillment. The sufficientarianism debate has flourished from an anti-egalitarianism point of view in rejecting the idea that equality has moral value itself. This premise is shared by many authors among whom the most prominent is Frankfurt.¹⁸⁸ His initial object was to reject the intrinsic concern for substantive inequality (in particular economic inequality), but he moved further in elaborating his own non-comparative distributive account. Frankfurt (1987, p. 21-22) says:

With respect to the distribution of economic assets, what is important from the point of view of morality is not that everyone should have the same but that each should have enough. If everyone had enough, it would be of no moral consequence whether some had more than others.

This means that:

A distributive ideal of sufficiency involves a positive thesis, that bringing people above some threshold is especially important, and a negative thesis, that above this threshold, inequalities are irrelevant from the point of view of justice (Axelsen and Nielsen, 2015, p. 407).¹⁸⁹

¹⁸⁸ For the main important sufficientarian accounts see: Frankfurt, 1987 and 1997 (recently, republished in *On Inequality*, 2015). Walzer, 1983; Raz, chapter 9, 1986; Crisp, 2003. Benbaji, 2005 and 2006; Huseby, 2010; Shields, 2012.

¹⁸⁹ For the same argument, see: Casal, 2007.

If the positive thesis is not so controversial because almost everyone accepts at least a social minimum for all¹⁹⁰, the most controversial assumption concerns the negative thesis that makes the sufficiency distributive principle insensitive to the elimination of inequality, and also to give priority to benefit the worst off.

As Casal observes (2007, p. 312-318), sufficientarianism faces some important problems that concern the threshold according to which people have ‘enough’. One of the most pressing problems regards the kind of standard (subjective or objective) that determines the threshold, and whether this threshold is high or low. The point is that the threshold might run the risk to be arbitrary and implausible. There are different versions of sufficientarianism that vary how sufficiency is understood, and they are more or less succeeded in affording this theoretical problem.

The contentment-based sufficiency account¹⁹¹ seems to be the most exposed to objections. This account adopts a subjective criterion to determine the threshold. For example, in establishing which circumstances an individual has enough income and wealth, Frankfurt (1987, p. 153) suggests that having ‘enough’ means that a person is content with the amount of money he has because he does have “an active interest in getting more”, but all kinds of problems occur that characterize subjective criteria. Indeed, a threshold determined by individuals’ subjective preference and ambition is, at the same time, unacceptably low and high. On the one hand, the richest person in the world might not have enough for the simple fact that he is actively interested in earning far more money; and on the other hand, a very poor person by reason of his constraining condition might develop an attitude of indifference to a more adequate income and wealth, and for this reason, according to the contentment criterion, she might have enough.¹⁹²

Alternatively, others sufficientarians adopted an objective criterion. Some defend a ‘natural’ threshold in guaranteeing a level of basic needs fulfillment.¹⁹³ But this objective criterion faces other important problems. First of all, as Casal (2007, p. 313) notes, “the

¹⁹⁰ As we have already seen, only right-libertarianism rejects even a minimum redistribution as a demand of justice.

¹⁹¹ See: Frankfurt (1987); Benbaji, 2005; and Huseby, 2010.

¹⁹² For the same objection, see: Arneson, 2002; Casal, 2007.

¹⁹³ For this kind of account, see: Crisp, 2003.

insensitivity to local conditions that makes them appear so natural also renders them too minimal to count as plausible sufficiency thresholds in developed societies”. Secondly, a basic need account which might be plausible in defending the positive thesis is that everyone must have enough; but it is less plausible to endorse the negative thesis. Indeed, it seems very “implausible that our moral obligations to others are exhausted once their means for survival are secured.” (Axelsen and Nielsen, 2015, p. 417)

However, other objective standards to establish a plausible threshold seems to be less vulnerable than a ‘natural’ one, in particular the full membership approach and the capability approach are more sensible for the social contest. Although sufficientarianism is usually known as an anti-egalitarian account, it can also be advocated from a (non-intrinsic) egalitarian point of view. The exemplary case is Walzer’s version of sufficientarianism. Walzer defends the idea of complex equality in alternative to the most common simple equality, in doing so he defends a pluralistic system of distributive justice in which each distributive sphere has its own distributive principle, and ultimately it should conform to the shared values and practices of the participants of a certain community or society. This means that justice must fundamentally ensure democratic equality, namely all citizens should enjoy the same full membership. For this reason, Walzer argues that in the sphere of money and commodities, all citizens must be ensured a sufficient level of income and wealth in order to guarantee their full membership. If this sufficient level is ensured:

it just does not matter, from the standpoint of complex equality, that you have a yacht and I do not, or that the sound system of her hi-fi is greatly superior to his, or that we buy our rugs from Sears Roebuck and they get theirs from the Orient. People will focus on such matters, or not: that is a question of culture, not of distributive justice¹⁹⁴ (Walzer, 1983, p. 107-108).

¹⁹⁴ The plausibility of Walzer’s argument is based on two controversial assumptions. The first assumption is that there are things that money cannot buy. However, although it is true this assumption, the point is that these things are not so relevant in terms of justice. Maybe, money cannot buy love, friendships, and sanctity; but these things belong to spheres of life that I consider belonging to the domain of social virtues rather than that of justice. The second assumption is based on the possibility to effectively maintain each separate distributive sphere in order to disallow a monopoly of a certain good

As I have already said, the capability approach for its own intrinsic characteristics is often associated with sufficientarianism. Surely, Nussbaum's version (1992, 2006) is the most famous. She argues for a minimal level of justice in accordance with a list of basic capabilities that must be ensured. Therefore, on her account, an individual reaches the threshold of sufficiency when over the course of her life she has the opportunity or capability to attain each of the functionings necessary for a good life at a good-enough level.

However, although Walzer and Nussbaum offer two objective criteria to establish a sufficient threshold of justice that is less vulnerable to objections than a subjective or naturalistic one, their accounts are still problematic for being insensitive to economic inequality. In particular, when the negative thesis is associated with a sufficient threshold understood in non-comparative terms, it is morally irrelevant not only the inequality between the rich and super-rich, but also the inequality, whatever would be, between the Super-Rich and those who are just above the threshold. Indeed, the negative thesis might be less problematic if sufficientarianism would be understood in comparative terms. On a comparative sufficient threshold, for example, "it might be stipulated that everyone has enough income and wealth when nobody has less than some fraction of the average level" (Arneson, 2002, p. 173), or sufficientarianism would assume multilevel thresholds with different distributive principles rather than a single one for both a positive and negative thesis. In this case the sufficiency principle could only be adequate to ensure the positive thesis, and the prioritarian principle might accommodate the negative thesis.¹⁹⁵ However, either in the case of a fraction of the average level or in the case of the prioritarian principle, the gap of inequality between the worst off and the most advantaged is not necessarily taken into account.

Instead, the most promising is the reformulation of a negative thesis of sufficientarianism proposed by Axelsen and Nielsen (2015) and their sufficientarianism understood as "freedom from duress".

(for example wealth), which is legitimate within his appropriate distributive sphere, is converted into domination to other spheres. I have already discussed this aspect in the first chapter, section 1.3.

¹⁹⁵ This kind of revision of the negative thesis is suggested by Casal (2007, p. 326). According to him, Rawls' justice of fairness endorses already this hybrid solution "in which the difference principle is conjoined to at least three further satiable requirements, concerned with civil liberties, a social minimum, and the sustainability of liberal institutions."

According to them, “freedom from duress entails freeing people from significant pressure in certain central areas of human life, while others are to be considered beyond the scope of justice” (*ibidem*, p. 407). The central area of human life is identified by means of the metric of capability and it endorses some pluralist and moderately perfectionist elements. What is original in sufficiency as freedom from duress in respect to other sufficientarianist accounts, is that inequality is irrelevant only in the central areas of human life where *positional* goods, manifest and latent, are not at stake. As I have already explained in the first chapter, positional (manifest and latent) goods means that one’s absolute position is determined by one’s relative position. For this reasons, the sufficiency as freedom from duress account recognizes that in the central areas of human life in which the distribution of the freedom is governed by positional logics, a person’s relative level of freedom determines their absolute level and, thus, dictates whether they are sufficiently well-off (*ibidem*, p. 422). Adopting the capability approach, Axelsen and Nielsen’s sufficientarian account does not say anything specific about economic inequality; however, given the great convertibility of money, it is clear that wealth directly affects the distribution of positional goods.

The sufficiency as freedom from duress account gives us the opportunity to move from a distributive/allocative conception of justice to a relational conception of justice. Indeed, Axelsen and Nielsen seem to be aware that a pure allocative/distributive understanding of justice is not able to capture an important dimension of unequal distribution for which it is problematic “in so far as it gives rise to unjust relationships of exploitation, domination, and marginalization”. (*ibidem*, p. 420) This is the main reason for which we must take in due consideration, in terms of justice, *also* economic inequality between the super rich and those who have only just enough for the sufficiency threshold. For example, Axelsen and Nielsen rightly note that:

Wealth allows one to obtain greater political influence, status, and enormous market advantages with respect to access to good health, education, and security, while poverty creates great obstacles to obtaining these functionings (*ibidem*, p. 423).

However, they affirm that according to their sufficientarianism such condition would not be obtained because “a person who was just above the threshold of sufficiency would not be under significant pressure against taking advantage of their capabilities for political

influence and respectful social interaction” (*ibidem*, p. 424). What is not explicit is the kind of strategy that they adopt to achieve this goal. Indeed, we can guess that by reason of positional (manifest and latent) goods, economic inequality must not overcome a certain gap between the most and the least advantaged; or by contrast, income and wealth inequality does not matter if we maintain as separate the political sphere and the political decision process to the economic sphere implementing formal barriers for making it very hard to convert income and wealth into political power and influence.¹⁹⁶ Axelsen and Nielsen are not clear about this. Others sufficientarian accounts endorse this second strategy explicitly as we have seen in Walzer and in Anderson’s sufficientarianism (1999, p. 236) which can be considered a hybrid conception between democratic equality and capability approach. However, what is quite evident is that this fundamental aspect of economic inequality emerges only if we adopt the relational conception of justice rather than the allocative/distributive conception.¹⁹⁷

¹⁹⁶ I argued about this strategy (insulation strategy) to contain economic power in the first chapter, section 1.3, and I explained why the insulation strategy is not sufficient alone to avoid material domination. Therefore, Axelsen and Nielsen should include in their sufficientarianism a proportionality insight in order to guarantee effectively freedom from duress.

¹⁹⁷ I want to mention very briefly another particular account, closer to sufficientarianism, proposed by Robeyns (2014) and so called ‘Limitarianism’. She defends “the limitarian doctrine which entails that we all have a duty not to be rich” (*ibidem*, p. 2). Like sufficientarianism, limitarianism also entails a threshold, but by contrast it focuses on the people situated above the threshold and advocates a duty to not have more resources than what is needed for a fully flourishing life. Limitarianism determines a richest line by reference to a certain set of capabilities. Given that limitarianism is concerned with the top of the distribution, at first insight one could suppose that it presents a strict familiarity with my criterion of proportionality, but this is a false impression. The distributive criterion of proportionality does not prescribe any threshold (neither at top nor at bottom). It represents a relational concern for inequality meanwhile limitarianism is a context-specific absolute conceptualization of riches. Robeyns provides two main justifications for the limitarianism: the democratic argument and the argument from unmet urgent needs. The former is based on the idea that inequalities in income and wealth undermine the ideal of political equality given that rich people are able to translate their economic power into political power. The second justification, instead, depends on some empirical and objective conditions of urgent needs. I sustain that the justification for the limitarianism can be found only in the argument from unmet urgent needs because it regards

At the end of this scrutiny of the most relevant allocative/distributive conceptions of justice and its different metrics and criteria to measure and evaluate economic inequality, we can conclude that they are not able to grasp the main demand that *Occupy* advances against economic inequality for the fact that these allocative/distributive accounts neglect the relevance of the question of political and socioeconomic power which is one of the most important reasons to care about the gap of economic inequality between the most and the least advantaged. Of course, the allocative/distributive account grasps an important aspect of substantive justice that is concerned with the goods (also in terms of income and wealth) that people can legitimately claim. I believe that substantive justice is essential if we want to take in due consideration the material power, but as I have already shown in the first chapter, power is essentially relational. It means that the allocative/distributive account cannot offer a compelling idea of justice if it does not include the relational dimension.

our moral duties of social virtues as a rejection of direct and indirect indifference and neglect. By contrast, the democratic argument can be grounded only on a relation conception of justice, because the economic and political power is a relational concept, and therefore the ability to translate economic power into political power depends on the magnitude of economic inequality between the richest and the poor. By contrast, Robeyns' account is not concerned with the issue of inequality, as she expressly affirms (2014, p. 7). Her account is concerned with 'having too much' *itself* rather than having too much respect for others (despite a very weak relative reference to the social context).

4 The relational conception of justice

In defining non-intrinsic concerns for inequality, I said that we have reasons to reduce or eliminate inequality only to benefit someone in some forms. Until now, I have investigated the strategy that the allocative/distributive conception of justice pursues which can be defined, according to Parfit's definition (1997), as a moderate egalitarian view. What emerged from my analysis of the main allocative/distributive theories is that they advance some "special claim to be raised up to the level of the others, but they have no claim that others be brought down to their level" (Parfit, p. 211). Nonetheless, it is only a possible egalitarian argument to avoid the level down objection. Indeed, there is another 'strong' egalitarian reason, still non-intrinsic, for avoiding the level down objection that Parfit does not develop, yet he acknowledges it: "for example, if I am worse off than other people, this may put me in their power, or make me envious, or undermine my self-respect"¹⁹⁸ (Parfit, 2000, p. 110). And, as I have already shown, the question of power is the argument that *Occupy* moves. However, these other kinds of non-intrinsic reasons against economic inequality cannot be grasped by the allocative/distributive view because they are concerned essentially with relations among people rather than with an allocative/distribution.

Forst (2014) well summarizes some important shortcomings with the allocative/distributive conception of justice, and the main reasons to prefer what he calls an alternative 'picture' of justice, namely the relational conception of justice. As Forst (2014, p.18-19) rightly observes, a purely goods-focused view obscures essential aspects of justice.¹⁹⁹ First of all, the allocative/distributive account neglects the question of how the goods to be distributed come into existence. Therefore, it overlooks the political question of who determines the structures of production, organization, and distribution. Adopting the picture of a 'neutral' distributor machine, the allocative/distributive view focuses mainly on the right metrics and criterion to realize the just distribution. In this way, citizens are understood as passive recipients of

¹⁹⁸ Parfit did not develop this hypothesis because he is interested in defending a complex and comprehensive account of non-relational egalitarianism, one that is not concerned only with the issue of justice and instead also focuses on metaphysical evaluations and judgments.

¹⁹⁹ For a similar critique, see: Young, 1990.

goods, rather than as active subjects of justice, and participate as free and equal individuals. This does not mean that allocative/distributive theories consider the political dimension pointless in elaborating a distributive theory of justice, but that in most of the cases they take as separate the political dimension from the substantive one. This detachment is sharp in some cases (for example, in Dworkin's account (2000, p. 65) or in Frankfurt's sufficientarianism) and less evident in others (for example, in Axelsen and Nielsen sufficientarian account).²⁰⁰ Clearly, this account could be simply considered as limited in scope because they are concerned only with the substantive or material justice, and in some cases (Axelsen and Nielsen, 2015, p. 413 or Robeyns, 2014, p. 22) they recognize that the exact amount of substantive or material justice can be determined only by means of a political process and a public deliberation. However, the point here that we are trying to underline is that, in terms of justice, the substantive or material dimension cannot be separated from the political (and relational) dimension.²⁰¹ This latter consideration leads me to highlight another, and perhaps the most important, aspect of justice that is neglected by a pure allocative/distributive view. As Forst (2014, p. 19) observes, according to "the goods-fixated view of justice [...] someone who suffers deprivation as a result of a natural catastrophe is equivalent to someone who suffers deprivation as a result of economic or political exploitation." In this way, the allocative-distributive conception conflates the paradigm of justice and the paradigm of social virtues. As I have already said, I think that it is opportune to treat only the latter as a case of (genuine) moral demand of justice; and in this last case, the inequality itself in reaching a certain gap or range might be the essential element of domination or exploration. For this reason, for example, it is appropriate to take as separate the concept of poverty (absolute and relative) from the concept of justice. Of course the two concepts are strictly linked, and most of the poverty cases are manifest cases of injustice.²⁰² For all these reasons, I believe that the

²⁰⁰ Rawls' theory of justice is a clear exception, and for this reason we will treat his theory also from the point of view of a relational conception of justice.

²⁰¹ It is also true for the contrary. Indeed, as I will try to show in this chapter, the relational conception of justice cannot be separated from the substantive or material justice.

²⁰² Of course, the two concepts are strictly linked, and most of the poverty cases are manifest cases of injustice. Recently, Stephen O'Brien, the UN's

allocative/distributive conception is not able to compellingly grasp the grammar of justice and, by contrast, the relational view is the adequate conception of justice. As it has emerged clearly in the previous chapter (at least, I hope), the allocative/distributive conception of justice tends to overlook or misunderstand the relevance and influence of power; meanwhile the relational conception makes the notion of power central in its perspective. The relational conception of justice focuses on how people are treated in terms of intersubjective relations rather than in terms of what people have. In this case, therefore, the first question of justice is the question of power.

For justice is not only a matter of which goods, for which reasons and in what amounts, should legitimately be allocated to whom, but in particular of how these goods come into the world in the first place and of who decides on their allocation and how this allocation is made.²⁰³
(*ibidem*, p. 34)

From this point of view, the relational conception of justice pursues a non-intrinsic concern for inequality. As Bufacchi (2012, p. 10-11) observes:

Just because there is inequality it does not necessarily mean that an injustice is occurring. [...] Inequalities create the conditions within which social relations of vulnerability and power arise, but it is only when someone takes advantage

humanitarian chief, declared that the world is facing its biggest humanitarian crisis since the end of the Second World War, with 20 million people facing starvation and famine in Yemen, Somalia, South Sudan and Nigeria. With the exception of what is happening in Somalia, all the other crises are caused by human beings. Following our analytic distinction, we can consider the cases of Yemen, South Sudan, and Nigeria manifest cases of injustice meanwhile the case of Somalia, where the main cause of food shortage is one of the worst drought in recent history, is a case of humanity. This distinction is important only because, beyond any peculiar differences from each case, the way in which we should intervene changes considerably in the cases of Yemen, South Sudan, and Nigeria to Somalia. In the first three cases we have to face civil war, or a struggle for the national political power by different military groups; and in the case of Somalia, the local government's incapacity to cope with severe droughts. Nonetheless, this moral distinction among these cases does not make the Somali crisis less morally urgent than the others (see: *Financial Times*: [link no. 1](#); and *The Guardian*: [link no. 1](#)).

²⁰³ For the same argument see also Anderson, 1999, p. 312.

of these inequalities in order to bring about a partial distribution of resources (widely defined) that an act of injustice can be said to occur.

Surely, Pogge's account of social justice is one of the most compelling relational accounts in defending that a case of justice is that in which someone contributes, directly or indirectly by means of social institutional influence, to the perpetuation of a socioeconomic condition of others. In this sense, even the existence of a "radical inequality"²⁰⁴ does not intrinsically represent a condition of injustice. According to Pogge, only if this radical inequality is a result, at least, of one of these three conditions – a. the effects of shared social institutions; b. the uncompromising exclusion from the use of natural resources; c. the effects of a common and violent history –²⁰⁵ it can be considered an injustice. Pogge's relational account focuses on the global dimension of social justice, in particular he focuses on the kind of (negative) duties of justice that affluent countries and indirectly their citizens have in not contributing to global poverty. In this thesis, I am exclusively interested in developing a relational conception of justice applied at the national or domestic level. Although, I agree with Pogge, and others²⁰⁶, that our duties of justice (following a relational view) imply some important global distributive implications, I believe that the requirements of justice at a national level might be more stringent and demanding than those at a global level. Pogge might agree on this important difference, but I am not sure that Pogge's account is also fully adequate to apply for the cases of injustice at a national level. For example, a certain economic inequality might not represent an injustice at a global level, but the same inequality, instead, might be considered a manifest injustice at a national level. I am not sure if Pogge's account offers some theoretical instruments to fully identify this aspect.²⁰⁷

²⁰⁴ Pogge (2002, p. 198) defines radical inequality by reference to five conditions.

²⁰⁵ Pogge (2002, p. 199 – 204) puts forward other additional conditions for each of these three main grounds of injustice.

²⁰⁶ Beitz, 1999; Joshua Cohen, 2001.

²⁰⁷ It is particular problematic the idea to provide a complex and internationally acceptable core criterion of basic justice in *the language of human rights*, as Pogge (2002-2008) seems to do. I think that in this way, first, Pogge conflates two different philosophical agendas – human rights and (global) justice – and it entails serious dangers for both of them (see: Ali, 2016).

I sustain that the relational conception is the most adequate way to lead with the idea of social justice. Nonetheless, I will try to demonstrate that the pure relational conception of justice can also be inadequate if it overlooks the relevance of the economic inequality in terms of material power. The relational conception of justice is grounded on the basic assumption that the gap between the most and the least advantaged in material or substantive inequality (such as economic inequality) is not moral/political significant, whatever this range would be, if the intersubjective relations and structures are free from coercion and domination. I agree with this fundamental assumption, but what I want to make clear in this thesis is that the gap between the most and the least advantaged in terms of income and wealth determines the magnitude of material power and therefore it might represent a material domination. For this reason, the relational conception of justice should prescribe a distributive criterion of material justice (coherently with a procedural view), one that does not permit an (potentially) unlimited economic inequality. I sustain that the criterion of proportionality is appropriate for this scope.

In this chapter, I will focus on the two most relevant contemporary political philosophical theories: Rawls' theory of justice and Habermas' discourse theory. I will begin my investigation with Rawls (next section, 4.1). First of all, his theory represents a sort of middle ground between a substantive/distributive conception of justice and a pure relational one. In responding to Habermas, Rawls (Reply to Habermas, in Rawls, 2005, p. 421-433) himself seems to defend this middle position. Rawls' intuition is that the procedural justice and substantive justice are in a certain sense inseparable, otherwise the pure procedural theory would be merely formal. From this point of view, I agree with this Rawls' intuition. However, I want to make this interplay more evident and dynamic. Secondly, I will try to clarify what is the correct way to understand Rawls' theory of justice, whether as an allocative/distributive theory or a relational one. I suggest understanding Rawls' theory as a relational conception of justice. In doing so, I will propose a procedural interpretation of the difference principle as a criterion of proportionality. I sustain that it is able to reconcile more adequately (a) Rawls' first and second principle of justice, and (b) the procedural and substantive conception of justice; moreover, (c) it exemplifies the normative justification according to which economic inequality is just if, and only if, it remains within a reasonable range.

In this way, I will be able to realize a productive dialogue between Rawls' political conception of justice and Habermas' discourse

theory. It is this dialogue that allows me to overcome the apparent contraposition between the pure procedural view and the substantive view. In this respect (section 4.2), I will try to move a step further in emphasizing how the relation between Rawls' and Habermas' theories is something more than a simple "familial dispute" (Habermas, 1995, p. 110), rather both projects should be seen as complementary in such a way that only together would they have the effect of properly defining what both authors believe to be the legitimate boundaries of political philosophy without being too modest in one or the other theoretical and methodological direction. On the one hand, I agree with Habermas that political philosophy cannot be too modest in terms of moral/political justification as Rawls seems to presuppose in his *Political liberalism*, otherwise, he would not be able to develop his political conception of justice as a freestanding view. On the other hand, I disagree with Habermas that political philosophy should be less modest than Rawls' theory, focusing "exclusively on the procedural aspects of the public use of reason and derives the system of rights from the idea of its legal institutionalization" (Habermas, 1995, p. 131), and thus leaving the substantive questions open; for example, about Rawls' two principles of justice. Otherwise, Habermas' discourse principle would not be able to provide a fundamental criterion for identifying the effects of the illegitimate distribution of power in whatever forms it might manifest; for example, in the form of material power. In doing so, I advocate the criterion of proportionality as a relational and procedural criterion that, at the same time, is able to adequately take into account material (or substantive) justice, and therefore capture in a compelling way the risk of material domination.

4.1 Rawls' political conception of justice

In the previous chapter, I have discussed Rawls' theory of justice from a specific and restricted point of view. Given the fundamental importance of primary goods in Rawls' theory, one might have strong reasons to consider his theory within the allocative/distributive paradigm. Although Rawls' theory also surely shares the allocative/distributive picture, I agree with Forst that it is more adequate to understand Rawls' theory as a relational theory of justice, "the one which accords priority to social structures and relations and the social status of the individual" (Forst, 2014, p. 31). We can observe some important elements in Rawls' theory that authorizes this interpretation. First of all, we can underline the Kantian background of Rawls' theory.

Since *A theory of Justice to Political liberalism*, through the fundamental article of “Kantian Constructivism” (1980), Rawls emphasized certain Kantian elements meanwhile rejects many others. However, what remains central in Rawls’ normative thought is the Kantian character of the autonomy of free and equal persons²⁰⁸. In this sense, we can exclude the possibility that, according to Rawls, persons are passive recipients of justice; in contrast, they are “able to regard the principles of justice as morally self-given; hence, the citizens view the social basic structure which is grounded in this way as the social expression of their self-determination” (Forst, 2014, p. 31). So, we can understand in which sense Rawls asserts that “the original position may be viewed, then, as a procedural interpretation of Kant’s conception of autonomy and the categorical imperative”. (Rawls, 1971, p. 256) According to Rawls, persons are regarded as free and equal in virtue of the two powers of moral personality: 1) the capacity for a sense of justice, and 2) the capacity for a conception of the good. Moreover, these two powers are associated with the idea of society as a fair system of cooperation. Cooperation is guided by publicly recognized rules and procedures that those who cooperate accept; therefore, cooperation involves the idea of fair terms of cooperation which specify an idea of reciprocity (Rawls, 2005, p. 16)²⁰⁹. Clearly, the difficulty is to find a point of view from which the fair terms of cooperation could be determined to avoid moral arbitrariness. According to Rawls, this point of view is the original position with what he calls the veil of ignorance, which permits us to “abstract from and not be affected by the contingencies of the social world”, and therefore “eliminating the bargaining advantaged that inevitably arise within the background institutions of any society from cumulative social, historical, and natural tendencies” (*ibidem*, p. 23).

Now, in order to inscribe Rawls’ theory in the family of relational conception of justice, we should ask ourselves the fundamental reason that moves Rawls in considering social inequalities and, above all, natural endowments as arbitrary circumstances in allocating any legitimate advantages in the social cooperation. What is important to clarify is that the arbitrariness of the social and natural contingencies is

²⁰⁸ Rawls, 1971, p. 251-257 (section 40).

²⁰⁹ The idea of reciprocity is alternative to the idea of impartiality and the idea of mutual advantage. Gibbard (1991) puts in relation these three different ideas of justice.

neither a criterion of allocative distribution grounded on a certain idea of equality, nor is it the result of rigorous ‘moral geometry’ in the relation between the original position and the two principles of justice.²¹⁰ By contrast, the arbitrariness of the social and natural contingencies, and the consequent inequalities, is due to a way in which the basic structure of society deals with such contingencies. Rawls is clear about this point.

The natural distribution is neither just nor unjust; nor is it unjust that persons are born into society at some particular position. These are simply natural facts. What is just and unjust is the way that institutions deal with these facts. Aristocratic and caste societies are unjust because they make these contingencies the ascriptive basis for belonging to more or less enclosed and privileged social classes. The basic structure of these societies incorporates the arbitrariness found in nature (Rawls, 1971, p. 102).

From this point of view, we can say that in terms of justice we have the political/moral duties to take into account the consequences of our actions, directly and indirectly, on others’ well-being. According to Rawls, when we speak about social justice we refer to how all major social institutions that together compose the basic structure that affect individuals.

By major institutions I understand the political constitution and the principal economic and social arrangements. Thus the legal protection of freedom of thought and liberty of conscience, competitive markets, private property in the means of production, and the monogamous family are examples of major social institutions. Taken together as one scheme, the major institutions define men’s rights and duties and influence their life prospects, what they can expect to be and how well they can hope to do. The basic structure is the primary subject of justice because its effects are so profound and present from the start (Rawls, 1971, p. 7).²¹¹

²¹⁰ In the sense that the original position should not be viewed as an attempt to ground principles of justice in a neutral theory of rational choice (see Rawls, 2005, p. 306; and this thesis, chapter 2, section 2.2).

²¹¹ See also Rawls, 2005, p. 258.

From this point of view, Rawls distinguishes what can happen to an individual by reason of his own particular circumstance, and what by reason of the imposition of a certain basic structure. (*ibidem*. p. 54) It is not a case that the least advantaged are always identified as representative of social groups, and not as a single individual. Otherwise, it would be impossible to prove the political and social dimension of a certain claim of (social) justice that satisfies the criteria of reciprocity and publicity. In *Justice as Fairness: A Restatement* (2001/a, p. 50), Rawls is much clearer in rejecting the idea of allocative justice “as incompatible with the fundamental idea by which justice as fairness is organized: the idea of society as a fair system of social cooperation over time”. Therefore, in Rawls’ conception of justice, the problem of distributive justice nowise concerns “how a given bundle of commodities is to be distributed, or allocated, among various individuals whose particular needs, desires, and preferences are known to us, and who have not cooperated in any way to produce those commodities.” (*ibidem*)

Now, the fundamental question is how the two principles of justice chosen in the original position guarantee that everyone engage in the basic structure of society, as a public system of rules, can consider these rules and his participation in the activity as they are defined by the result of a reasonable agreement (Rawls, 1971, p. 55-56). In other words, how do the two principles respect (or better, do not violate) the idea of autonomy as free and equal people? And, above all, what kind of autonomy is that? In answering these questions, we should detach the most important differences between Kant’s moral constructivism and Rawls’ political constructivism, in doing so we can appreciate the main features of Rawls’ political conception of justice as non-metaphysical or non-transcendental and non-comprehensive. These features also have strong consequences in addressing the problem of distributive justice.

Rawls identifies four main differences. Two of these concern a different idea of autonomy, and I have already emphasized in the chapter 2, section 2.4. Here, I focus on the other two differences. So, “the third difference is that the basic conceptions of person and society in Kant’s view have, let us assume, a foundation in his transcendental idealism.” (Rawls, 2005, p. 100) In this sense, we can understand why Rawls defines the original position as a “device representation” (*ibidem*, p. 27) which does not presuppose any particular metaphysical conception of the person. In this respect, the justification of the original position also depends upon whether it adequately represents our considered moral judgments as these are established in a process of

reflective equilibrium. In other words, Rawls rejects the transcendental and metaphysical foundation. Finally, the last difference is connected to the previous ones concerned with the distinct aim of Kant's moral constructivism view and Rawls' political constructivism view. Rawls (*ibidem*, p. 100) says that "justice as fairness aims at uncovering a public basic of justification on questions of political justice given the fact of reasonable pluralism". It means that Justice as fairness is presented in *Political Liberalism* as a non-comprehensive conception of (political) justice, differently from *A Theory of Justice* in which it was understood as a comprehensive (even if liberal) conception of justice. With this last difference, Rawls extends his earlier idea of independence of moral theory from epistemology and metaphysics. As Freeman (2007, p. 233) notes:

Political liberalism goes one step further than this: it means that a significant part of morality—'the domain of the political' (PL, 38)—is independent, not just of epistemology and metaphysics, but of comprehensive moral conceptions as well (including Kantian morality and the value of moral autonomy).

Clearly, conceiving a conception of justice as political and non-metaphysical and non-comprehensive emphasizes the immanent character of Rawls' theory, but it also leaves room for many objections concerning the valid basis of justification of his theory. I am not interested here to mention and problematize this aspect in detail. However, what it is important to underline is that the literature has generally understood this 'political' shift in the normative ground of Rawls' theory as a discontinuity between *Political Liberalism* and *A theory*, in the sense that in *A Theory* Rawls tries to answer the fundamental question of social justice, whereas in the *Political Liberalism* the fundamental question is the tolerance that exists in the liberal democracy. According to this interpretation, the focus on the socioeconomic inequalities, for example, would become secondary to the issue of democratic tolerance. Rawls always rejected this interpretation, and *Justice as Fairness: A restatement* was an attempt to interplay his two most important works. The point is that Rawls continues answering the fundamental question of social justice, but in *Political Liberalism* he realizes that one of the three main kinds of conflict among citizens, pluralism of comprehensive doctrines, can only be mitigated but not completely eliminated, "since comprehensive doctrines are, politically speaking, unreconcilable and remain

inconsistent with one another” (Rawls, 2005, p. lviii). It implies an important change in the justification of conception of justice and in the idea of stability. The main weakness in *Political Liberalism* is that Rawls does not seem to be able to adequately separate the two stages of his theory: the political conception of justice as a freestanding view and the idea of stability. Here, I am simply interested in exploring the main consequences concerning the problem of distributive justice once Rawls presents his conception of justice as political and non-metaphysical and non-comprehensive; and, in doing so, shows the deep difference between Kant’s moral constructivism and his political constructivism.

First of all, in avoiding conceiving the basic conception of person and society from a metaphysical and transcendental point of view, Rawls avoids one of the most serious flaws in Kant’s idea of (social) justice. As I have already said, it is his *noumenal* view of the human being that leads Kant to underestimate the importance of material social conditions in such a way that according to him the equal treatment that all people are entitled under the law of the state is entirely coherent with a huge inequality in possessions (Johnston, 2011, p. 162). By contrast, Rawls does not conceive human beings and society in formal terms. Instead, following Rousseau (*The Social Contract*), he takes “men as they are” (Rawls, 2001/b, p. 7).

Secondly, Rawls clarifies that his conception of justice is not comprehensive, and for this reason it is ‘political’. In the original position, the veil of ignorance is thick rather than thin in order to not allow the parties to know people’s comprehensive doctrines: moral, religious and also philosophical.²¹² It means that Rawls also considers people’s deep disagreement between, for example, an egalitarian and libertarian ‘philosophical’ comprehensive conception of justice. It also has a strong consequence on the argument that leads people to reasonably choose the two principles of justice and in particular the difference principle. For example, it is evident that the idea of equality, as well as the concern for efficiency, plays a less relevant task than it was supposed to in many interpretations. To many, the difference principle is appealing “for the demand that the advantages enjoyed by the least advantaged should be as generous as (sustainably) possible provides a transparent and elegant way of articulating an egalitarian impulse and a concern for efficiency” (Van Parijs, 2003, p. 200). Then, the debate on the difference principle was, and is, characterized by the

²¹² Rawls, 2005, p. 24, note 27; and Rawls, 1980, KC, p. 549.

fundamental question of how much social and economic inequalities the principle permits, once it prescribes to maximize the well-being of the least advantaged.²¹³ As we have already seen in the previous chapter, this question can have a less or more egalitarian answer. In the debate, it seems to depend on the weight, and priority, that we might attribute to the egalitarian appeal or the socioeconomic efficiency. According to those who advocate the leximin (or Pareto efficient) difference principle what matters is to maximize the advantage of the least advantaged group under any other feasible arrangement. Once we have maximized the position of the worst off, they cannot deny any further increasing in economic inequality if it still represents the socioeconomic scheme in which the position of the worst off is maximized under any other feasible arrangement; unless the least advantaged group would appeal to a certain egalitarian value. By contrast, those who defend a more egalitarian interpretation of the difference principle sustain that any further increasing in economic inequality impose (re)distributive duties to the most advantaged in the sense that such increasing is allowed if, and only if, it improves for a certain amount²¹⁴ and also the position of the worst off. Only in this way, they sustain, the difference principle is compatible with the idea of reciprocity, and it can realize the value of fraternity, as in Rawls' intention (Rawls, 1971, p, 105). Here we can contextualize the well-known G. A. Cohen's critique of Rawls. Cohen's central argument is that approving (special) economic incentives to motivate talented producers means to accept the difference principle in its lax form. According to Cohen, there are two understandings of the difference principle:

In its strict reading, it counts inequalities as necessary only when they are, strictly, necessary, necessary, that is, apart from people's chosen intentions. In its lax reading, it countenances intention-relative necessities as well. So, for example, if an inequality is needed to make the badly off better off but only given that talented producers operate as self-interested market maximizers, then that inequality is endorsed by

²¹³ One of the first moments in which the question rose strongly can be considered Rawls' response to Alexander and Musgrave (Rawls, 1974).

²¹⁴ It leaves open how much this amount range should be. This aspect is a fundamental question of my own investigation.

the lax, but not by the strict, reading of the difference principle (Cohen, 2008, p. 69).

For this reason, Cohen believes that the subject of social justice is not primarily the basic structure of society, as Rawls sustains, rather a criterion of distributive justice that should also be applied to individual behaviors, preferences and attitudes. However, Cohen is aware of the kind of political problem that governments should face to implement such egalitarian ethos, and how it might mean rejecting freedom of choice of occupation. In order to avoid these kinds of problems, Cohen suggests what he calls “ethical solution” (Cohen, 2008, p. 189). This means that individuals, simply by reason of their egalitarian ethos, ‘voluntarily’ choose the occupation in which they are more talented without requiring any special economic incentives for it.²¹⁵ It is easy to clearly observe all of the main differences between Cohen’s egalitarian conception of justice and Rawls’ political conception of justice. For Cohen, it is not problematic to assume the ethical solution, and therefore a comprehensive conception of justice, since his idea of justice is both metaphysical and transcendental. This means that justice is not a normative regulatory idea, and it does not prescribe “rules of social regulation” (*ibidem*, p. 302). Therefore, Cohen’s main purpose is not to provide a conception of justice that serves, also and mainly, as a standard of political justification. Instead, it is Rawls’ fundamental purpose.²¹⁶ Given the existence of irreconcilable conflicts that can only be mitigated, we can hope (in the best case) in the existence of an overlapping consensus among reasonable doctrines that holds the political conception of justice, but we cannot exclude the presence of unreasonable doctrines. Therefore, although Rawls does not explicitly offer a theory of power, the way we ought to justify and legitimate the ‘coercive’ use of power emerges as one of the fundamental questions that *Political Liberalism* tries to answer. In this respect, given that what characterizes the relational conception of justice is the fundamental role of social and political power, we can consider without reservations Rawls’ political conception of justice as belonging to this ‘picture’ of justice.

Now, taking seriously the meaning of Rawls’ conception of justice as political and non-metaphysical and non-comprehensive, we

²¹⁵ In this way, according to Cohen (2008, p. 189), the egalitarian trilemma among equality, freedom, and Pareto efficiency is dissolved.

²¹⁶ About the specific way in which Rawls understands normative political theory, see also de Vita, 2017.

should discard any hypothesis that the economic distributive implication prescribed by the difference principle depends on some kinds of egalitarian ethos. Nonetheless, it does not mean that the leximin or Pareto efficient is the only coherent and possible interpretation of the difference principle.²¹⁷ On the contrary, the continuity between *A Theory* and *Political Liberalism* reinforces the hypothesis that the most fundamental justification for the difference principle does not rely on a certain notion of equality, rather it is grounded on the idea that the difference principle –together with the previous parts of the second principle of justice as a whole – is the only way to guarantee, first, the effectiveness of liberty in order to not be purely formal, and, second, to guarantee full (political) autonomy as free and equal persons. In particular, we can understand full autonomy (political and not ethical) as the power that every person should effectively own, and feel himself as a cooperating member of society; or in the language that I have employed along this thesis: to be a person free from any kind of relation of domination.

In order to adequately capture these aspects, we do not have to commit one of the most common interpretive errors: taken in isolation the content of the Second Principle and in particular that of the Difference Principle. As Daniels (2003, p. 245) stresses, what Rawls defines as *democratic equality* requires reference to all parts of the two principles of justice taken as a whole, even if lexicographically ordered.²¹⁸ This common interpretative error was instigated by Rawls

²¹⁷ This thesis defends the idea that a political conception of justice can, and should, imply strong distributive results without appealing any egalitarian value. Of course, it means that a non-comprehensive conception of justice has a cost to pay, as rightly G. A. Cohen observes (1997, p. 17). Indeed, once a political conception of justice leaves out the question of social virtues, it cannot fully realize the value of fraternity; but the point is that although a political conception of justice is less egalitarian than an ethical or comprehensive one, it is much more than the debate seems to admit. A society can be just from a political morality point of view even if it does not maximize equality as an ethical egalitarian society might do.

²¹⁸ In the previous chapter I mentioned this mistake; nonetheless, there, I took into consideration, temporarily, the difference principle in isolation from other parts of the two principles of justice. The reason in doing it was, first, the necessity to underline the kind of distributive criterion of material justice in terms of income and wealth that the difference principle prescribes; and, second, to follow the subsequent objections that some authors have motioned

himself in separating quite rigidly, at least at the first insight, the two principles of justice. Baynes (1991, p. 161) might be right when he suggests that:

The distinction between the two principles of justice and the claim for the priority of the first – the heart of what Rawls calls the ‘special conception’ – corresponds to a fundamental division in the basic structure, namely, the distinction between the public and the private, between political and civil rights (guaranteed by the first principle) and social and economic inequalities (regulated by the second principle).²¹⁹

For this reason, I suggest an alternative interpretation of the two principles of justice. The suggestion is to conceive all parts of the two principles of justice as belonging to a unique principle of justice (but maintaining it lexicographically ordered) and, above all, to understand the difference principle as a criterion of proportionality between the best off and the worst off in terms of income and wealth. In this way, Rawls’ theory of justice might realize in a more compelling way some of its main normative pretensions: 1) offer a better reconciliation of liberty and equality; and therefore avoiding one of the most relevant objections to liberal tradition, i.e. the system of liberties is commonly taken alone and it is purely formal,²²⁰ 2) Avoid the problem of ‘indeterminateness’ of economic inequality that characterizes the difference principle. The points 1) and 2) are strictly linked with each other.

Although I agree with Cohen about the problem of indeterminateness, I identify this problem for different reasons and so I will offer a different solution.²²¹ As I have already noted, even the difference principle is understood as an extreme version of the priority

against the difference principle within the paradigm of the allocative/distributive conception of justice.

²¹⁹ According to Baynes (1991, p. 161), “this division of the basic structure results in the systemic neglect of a public sphere within civil society”.

²²⁰ Rawls (2005, p. lvi, note 34) agrees with Hegel, Marx and other socialist thinkers in moving this critique.

²²¹ Cohen (2008) focuses on the problem of ‘indeterminateness’ in showing that the difference principle permits unjustified economic inequality because it does not maximize equality and does not fully realize the value of fraternity and so people’s moral nature. Actually, it is the other way around, I focus on the problem of indeterminateness from a deontological point of view, rather than from a teleological and consequentialist point of view as Cohen does.

view, one that permits any further increase in economic inequality if, and only if, it entails an improvement for the worst off, we might have serious doubts if, according to the difference principle, the gap between the most and least advantaged really matters. This doubt becomes stronger once I clarified how the justification of the two principles of justice must be political and, therefore, it cannot endorse an ethical justification, even an egalitarian one. In this sense, the problem of 'indeterminateness' is connected with an important contradiction between the distributive criterion that the difference principle seems to prescribe and Rawls' strong egalitarian pretension against the great and excessive economic inequality. In this respect, on one hand, the difference principle, as Rawls admits himself, neither specifies limits to the economic inequality ratio between the more and less advantaged, nor does Justice as fairness offer a further criterion to judge this gap. But on the other hand, Rawls declares that the two principles of justice are only compatible with an institutional background in which, among other things, economic inequality is not excessive in a way that the ownership of wealth and capital are sufficiently dispersed. I believe that in Rawls' theory, the key concept to respond adequately to the points 1) and 2) is the worth of liberty; and it is also the point of connection between the first and second principle that permit me to unify the two principles in a single one in which all its parts are lexicographically ordered.

Before introducing in detail the concept of the worth of liberty, I need to say something about the conception of liberty adopted by Rawls. For sure, Rawls does not share the conception of negative liberty, as the absence of external interference and obstacles, familiar to the liberal tradition; rather he adopts an idea of liberty as self-determination closer to the positive conception. Without entering in the classic controversy between the negative and positive conception of liberty (Berlin, 1969), it is worthy to underline that Rawls' conception of liberty is not 'positive' in the sense that it entails some references to the idea of self-realization²²². By contrast, Rawls maintains a deontological formulation and, at the same time, he tries to bypass the classical controversy following the triadic definition of social freedom by MacCallum (1967) and Oppenheim (1961). This means that Rawls' conception of liberty is not formal because it implies a certain dimension of power, i.e. the means to achieve something. I think that the worth of liberty is the

²²² For more details about liberty as self-realization see, for example, Taylor, 1985/b, p. 211-229.

notion that much more emphasizes this dimension. Rawls introduced the worth of liberty in *A theory*, but it gained centrality in his following works.²²³

Thus liberty and the worth of liberty are distinguished as follows: liberty is represented by the complete system of the liberties of equal citizenship, while the worth of liberty to persons and groups is *proportional* to their capacity to advance their ends within the framework the system defines. Freedom as equal liberty is the same for all; the question of compensating for a lesser than equal liberty does not arise. But the worth of liberty is not the same for everyone. Some have greater authority and wealth, and therefore greater means to achieve their aims. The lesser worth of liberty is, however, compensated for, since the capacity of the less fortunate members of society to achieve their aims would be even less were they not to accept the existing inequalities whenever the difference principle is satisfied. But compensating for the lesser worth of freedom is not to be confused with making good an unequal liberty. Taking the two principles together, the basic structure is to be arranged to maximize the worth to the least advantaged of the complete scheme of equal liberty shared by all. This defines the end of social justice. (Rawls, 1971, p. 204, *Italic* added by me)

Rawls guarantees the worth of liberty by means of different normative prescriptions. First of all, Rawls lists some essential prerequisites that may protect the basic liberties and prevent social and economic inequality from being excessive (Rawls, 2005, p. lvii). The social minimum and other more specific institutions such as basic health care assured to all citizens, a certain fair equality of opportunity especially in education and training, and public financing of elections are considered by Rawls as “constitutional essential” (Rawls, 2001/a, p. 47). However, Rawls is explicit in asserting that these institutions do not fully satisfy the principles of justice as fairness. This means, for example, that the difference principle is more demanding than a social minimum providing for the basic needs for all citizens (*ibidem*, p. 48). It

²²³ About the fair value of political liberty, see: Rawls, 1971, p. 201-205; p. 222-234; p. 278. And Rawls, 2005, p. 5-6; p. 324-331.

is important to note that some of these policies and institutions available to protect citizens from absolute deprivation are not subordinated to the basic liberty principle in the same way than the second principle of justice and the difference principle are (Rawls, 1971, p. 245).²²⁴ So then, it is valid to assume that Rawls guarantees the worth of liberty in a more ambitious way than he does through these essential prerequisites. The hypothesis is that the difference principle is properly the normative mean to achieve this aim. However, here arises one of the most important ambiguities in Rawls' theory, one that should be solved in order to overcome the problem of indeterminateness of the difference principle.

Given what I have said so far about the worth of liberty, we can assume that it depends on the level of resources available to a person. At the first insight, the difference principle could be considered a normative criterion to also maximize the worth of liberty since the difference principle states that inequalities in the distribution of primary social goods are justified only to extent that they result in the greatest amount of these goods for the worst off (taking into account any possible alternative institutional arrangements of the basic structure). But this assumption is not pacific. Daniels (1975, p. 271) was the first author who problematizes in detail this aspect arguing that the "worth of liberty is especially sensitive to relative differences in the index of primary social goods and is not a simple monotonic function of it." Daniels focuses on the incompatibility between equal liberty and unequal wealth and power, and therefore between the first and second principles. In order to fully appreciate this fundamental critique we should remember the manner in which the two principles of justice maximize the primary social goods: rights, liberties, powers and opportunities, income and wealth, and the social basis of self-respect. According to Rawls, by means of this index of primary goods we are able to make interpersonal comparisons and identify the position of the worst off among any alternative arrangements of basic structure. However, as Rawls (*ibidem*,

²²⁴ In this respect, the *social minimum* satisfies another important complementary function together with the difference principle. Indeed, as Casal (2007, p. 323-324) recalls "the difference principle requires maximizing the lifetime expectations of some representative member of the least advantaged group and so permits all members of the group to fall temporarily below a minimum and even permits some members to fall permanently below. A guaranteed minimum is an attractive supplement to the difference principle because it rules out such undesirable outcomes."

p. 93) himself admits, it would be very difficult to develop the index itself. Thus, Rawls tries to simplify this problem in two ways. First of all, he assumes that the two principles of justice are serially ordered (*ibidem*, p. 73).

This means that it is given priority to the principle of basic liberty and that it can be restricted only for the sake of liberty (*ibidem*, p. 302). That is, neither the extent nor the equality of liberty can be traded away for other social goods. The only problem that remains is to define who the least advantaged group is. So, Rawls introduces another simplification: the representative of the least advantaged group is specified only by the level of income and wealth, by reason of the hypothesis that “these primary social goods are sufficiently correlated with those of power and authority” (*ibidem*, p. 97). What Rawls does not seem to capture is that the worth of liberty is a function of an individual’s relative position in the distribution of resources; i.e. the worth of each of the basic liberties does not depend on the absolute material wealth rather it depends on the relative dimension of material wealth. Daniels focuses properly on this point.

If worth of liberty is not included among the goods indexed, then Rawls appears to be authorizing a trade-off between it and the primary social goods which are indexed, since he claims that the lesser worth of liberty of the worst-off is compensated for by maximization of their index (Daniels, 1975, p. 270).

This means that:

The very inequality of wealth and powers which, we are assuming, acts to increase the index of the worst-off individuals can at the same time act to decrease his worth of liberty [...] This effect is decisive where worth of liberty is affected by comparative access to those resources and institutions such as qualified legal counsel or the mass media, which are needed for the effective exercise of liberty. The result is that the worst-off, despite their increased indices, may be in a relatively worse position to effectively exercise their liberty (Daniels, 1975, p. 271).

Daniels suggests to Rawls two main alternatives. One is that in which “Rawls could reject the claim that significant economic and social inequalities cause inequalities in liberty or worth of liberty” (Daniels, 1975, p. 280). This is an implausible assumption from a

theoretical and empirical point of view²²⁵, and it would contradict other fundamental parts of Rawls' theory.²²⁶ Another alternative, one that Daniels advocated, is to attempt reconciling the First and Second Principles by refusing to allow any inequalities in wealth and powers that can cause inequalities in worth of liberty. "Since liberty has priority over other social goods, no trade-off can be allowed between worth of liberty and the index of primary goods" (Daniels, 1975, p. 279).²²⁷

Rawls' subsequent reformulations in his account of the basic liberties matched, at least partially, with this alternative. First in "The Basic Liberties and Their Priority" (Rawls, 1982/a, p. 42-45) and then in *Political Liberalism*, Rawls (2005, p. 5) emphasizes the special role of the equal political liberties since he includes the worth (or the fair value) of these liberties, and only these, in the first principle of justice.

Each person has an equal claim to a fully adequate scheme of equal basic rights and liberties, which scheme is compatible with the same scheme for all; and in this scheme the equal political liberties, and only those liberties, are to be guaranteed their fair value²²⁸

²²⁵ As we have already seen at the beginning of this thesis, there is a lot of empirical evidence of this phenomenon. But, the relation between political and economic power is absolutely relevant also from a theoretical and purely conceptual point of view. As Barry (2002, p. 156) argues, if we believe that "voters have power over those elected and that consumers have power over producers, we also have to say that those who own or control capital have power over government. Conversely, the reasons that can be given (and have been given) for denying that capital owners have power over governments would be equally good reasons for denying that voters have power over governments and that consumers have power over producers."

²²⁶ See: Rawls, 1971, section 36 (Political justice and the constitution), and section 43 (Background institutions for distributive justice). I will return to this point further on.

²²⁷ In this line of thought, Daniels (1975) suggested a special Liberty-Restricted Difference Principle (LRDP).

²²⁸ Another important change in the formulation of the first principle already introduced in "The Basic Liberties and Their Priority" (1982, p. 4) concerns a replacement of the words "the most extensive total system" which were used in *A Theory* to the words "a fully adequate scheme". Rawls said that this revision was made to try to answer the forceful objections formulated by Hart (1975). See also Rawls, 2005, p. 5.

Despite that, Rawls seems to accept that the nature of politics makes the value of liberties competitive and therefore their worth is ensured by a proviso in the first principle, but he does not extend it to all liberties.²²⁹ Although, I could agree with Rawls that not all kinds of liberties are competitive in their use, I believe that other liberties also share this competitive nature along with the political liberties; for example, those liberties strictly related with the socioeconomic sphere taken apart from political liberties. The fact that Rawls only includes the worth of political liberties in the first principle of justice leaves open the question whether this solution is effectively able to avoid what I call the problem of ‘indeterminateness’ that characterize the difference principle. I could follow the interpretation of many authors²³⁰ according to which the fair value of political liberties is the criterion that limits the economic inequality permitted by the difference principle. Baynes (1991, 160) exemplifies well the point.

Perhaps the difference principle is really quite radical: It requires that *after* social and economic inequalities are restricted so that they do not upset the fair values of political liberty – including the fair value of forming and expressing public opinion – such inequalities are *still* only permissible if they benefit the least advantaged.

Nonetheless, this interpretation is not free of troubles. Indeed, this ‘strong egalitarian interpretation’ of the difference principle depends on the way in which Rawls defines political liberties, and consequently it affects how their worth should be secured. Rawls seems to endorse both of two alternative strategies: the insulation strategy and the background institutions strategy. I have already argued about these two strategies in the first chapter (section 1.3).

Given the fact that Rawls includes in the first principle of justice only the fair value of political liberties, in following with the insulation strategy, he would not worry about economic inequalities in terms of the gap between the most and the least advantaged because of the worth of political liberties is secured by a number of policies that make it impossible to translate the power of money into political power. So then, the distributive criterion of the difference principle might be interpreted

²²⁹ Joshua Cohen (1989, p. 738-739, note 32) agrees with Rawls in take into account only the case of political liberty.

²³⁰ For example, see: Cohen, 1989; Baynes, 1991, de Vita, 2007; 2008; Forst, 2012; Werle, 2014; Thomas, 2017.

coherently only in his more common formulation of maximization of the worst off in terms of income and wealth, whatever is the range within which these economic inequalities fall. An insulation strategy would represent a strong separation between the first principle, which guarantees the traditional political and civil liberties and the second principle which regulates the distribution of income and wealth.

Surely Rawls prescribes the public policies that characterize the insulation strategy; nonetheless, this strategy does not seem Rawls' primary tool of ensuring the fair value of the political liberties. The hypothesis is that Rawls relies much more on a certain kind of institutional background to avoid an excessive economic inequality and, above all, the concentration of wealth in private hands. Already in *A Theory*, Rawls seems to prescribe the background institutional strategy as indispensable to guarantee the worth of liberty, in particular political liberties. In many passages Rawls suggests the limitation of economic inequality and economic concentration in order to guarantee the fair value of liberty, in particular political liberties (Rawls, 1971, p. 225-226).

Moreover, in a wider picture, Rawls links the violation of fair equality of opportunity with the loss of value of political liberty.

Fair equality of opportunity means a certain set of institutions that assures similar chances of education and culture for persons similarly motivated and keeps positions and offices open to all on the basis of qualities and efforts reasonably related to the relevant duties and tasks. It is these institutions that are put in jeopardy when inequalities of wealth exceed a certain limit; and political liberty likewise tends to lose its value, and representative government to become such in appearance only (*ibidem*, p. 278).

However, the problem is that Rawls seems to point out these institutional devices as simple suggestions because these kind of questions, according to him, "belong to political sociology" (*ibidem*, p. 227). He wants to make clear that "the theory of justice does not by itself favor either form of regime" (*ibidem*, p. 280). In this sense, Rawls makes a sharp distinction between the theory of justice and a theory of political system (*ibidem*, p. 227). Thus, one might be inclined to suppose that the kind of background institutions is only part of the latter, and the theory of justice in its ideal arrangement must not prescribe anything of that; and therefore neither of the two principles of justice with the difference principle. However, in *Justice as Fairness: A Restatement*

(2001/a), Rawls reshapes this distinction in a more flexible way, specifying what kinds of regime as social system are compatible with the two principles of justice. Rawls distinguishes:

Five kinds of regime viewed as social systems, complete with their political, economic, and social institutions: (a) laissez-faire capitalism; (b) welfare-state capitalism; (c) state socialism with a command economy; (d) property-owning democracy; and finally, (e) liberal (democratic) socialism (*ibidem*, p 136).

So in answering the question which of these regimes satisfy the two principles of justice, he asserts that each of the first three kinds of regimes, (a) to (c) violate them in at least one way; by contrast, the regimes, (d) e (e) property-owning democracy and liberal socialism, satisfy the two principles of justice (*ibidem*, p. 137-138). It is extremely interesting to recall the motivations that make (b) welfare-state capitalism incompatible²³¹ on the contrary of (d) and (e).

Welfare-state capitalism also rejects the fair value of the political liberties, and while it has some concern for equality of opportunity, the policies necessary to achieve that are not followed. It permits very large inequalities in the ownership of real property (productive assets and natural resources) so that the control of the economy and much of political life rests in few hands. And although, as the name 'welfare-state capitalism' suggests, welfare provisions may be quite generous and guarantee a decent social minimum covering the basic needs (§38), a principle of reciprocity to regulate economic and social inequalities is not recognized (*ibidem*, p. 137-138).

Therefore, although Rawls is clear in underlining that Justice as fairness does not decide between a property-owning democracy and liberal socialist, he seems to have a preference for a property-owning democracy.

The background institutions of property owning democracy work to disperse the ownership of wealth and capital, and thus to prevent a small

²³¹ Even for a superficial reading of *A theory of justice*, it is easy to see why (a) and (c) also are incompatible. However, Rawls remember such reasons (2001/a, p. 137-138).

part of society from controlling the economy, and indirectly, political life as well (*ibidem*, p. 139).

In this way, Rawls not only suggests to protect the fair value of liberty by means of the background strategy, which limits both economic inequality and economic concentration, but he also suggests a social system (as property-owning democracy) that does not structurally permit that these kind of economic inequalities arise. It seems that Rawls prefers an *ex ante* socioeconomic distribution rather than an *ex post* redistribution. So, Rawls takes into account the relational power and also the structural power, and consequently he is careful to avoid either relational domination or structural domination. The emphasis on the structural dimension of power can be considered another important reason to suppose that Rawls mainly and primarily adopts the background strategy. As Thomas (2017, p. 181-182) observes, the insulation strategies *alone* leaves in place structures of domination in the same way that welfare state capitalism leaves in place a structure of domination.²³²

However, at this point we can detect the most important contradiction related to the problem of indeterminateness, namely between the distributive criterion, that the two principles of justice, and in particular the difference principle, prescribes, as well as the choice of a certain ideal type of social system (property-owning democracy or liberal market socialism) that represents a pre-emptive step of undermining very dominant socioeconomic positions even before they can arise. I think that this problem is the lack of an adequate reconciliation between the (pure) procedural and the substantive justice, although Rawls tries to do it.

²³² Thomas (2017, p. 95) also argues that a property-owning democracy is Rawls' primary means of ensuring the fair value of the political liberties. In addition, Thomas sustains that only a property-owning democracy should be considered compatible with Rawls' principle of reciprocity. According to Thomas (*ibid*, p. 96), "if the overall goal is to make capitalism convergent with the aims of liberal democracy by dispersing control of capital, then that strategy applies as much to public as to private agents." To be sure, Thomas (*Ibid*, p. 217-218) is not a critic of liberal market socialism, but the point is that he believes that only with a property-owning democracy in place we can reasonably expect the flourishing of a range of micro-level institutions, including also a plurality of micro-institutional economic forms typical of liberal market socialism (*ibidem*, p. 254-255). I will return to this point in the next chapter.

Now, if it is true that the two principles of justice in guaranteeing the idea of autonomy as free and equal people and in protecting people by every kind of social injustice, even the social injustice as domination, rejects some particular kind of social systems, such as laissez faire capitalism and welfare-state capitalism because, among others things, they disregard the fair value of the political liberties allowing a great economic inequality and economic concentration, then the two principles of justice as a whole must prescribe a socioeconomic distribution that does not allow these kind of economic inequalities to happen. But, the two principles of justice are not able to do it adequately. As I have already mentioned in the previous chapter, the difference principle, even in its stronger egalitarian formulation, might permit a potentially unlimited economic inequality if it is demonstrated that a further increase in inequality represents a maximization of the worst off position. As Rawls (2001/a, p. 68) himself admits, what it lacks is a criterion for judging this range, i.e. the increase in the position of the most advantaged that this further inequality will entail in comparison with the increase in position of the less advantaged. However, even in the case that the fair value of political liberty, ensured by a proviso in the first principle, would be the criterion that we are looking for, it still remains an important problem: the relation between the distributive requirements of the difference principle that does not prescribe any limit in the range of economic inequality and how to guarantee the fair value of political liberties. Given the fact that Rawls includes in the first principle only the fair value of political liberties, and only those liberties, it still leaves room for the hypothesis that this fair value might be ensured through the insulation strategy alone.

However, as I have already demonstrated²³³, insulation strategy neglects material domination that can occur in the economic sphere itself, even in the case (unlikely) in which economic power is prevented from translating into political power. In other words, Rawls should recognize that not only the nature of politics makes the worth of political liberty competitive but also the nature of the socioeconomic system makes the worth of other liberties (even not all liberties) competitive; for example, the liberties to pursue our own conception of

²³³ See the first chapter (1.3)

good in realizing our preferences and needs in the socioeconomic system.²³⁴

I believe that the criterion of proportionality in its deontological and procedural formulation that I advocate in this thesis is able to reconcile more adequately (a) the first and second principle of justice, and (b) the procedural and substantive conception of justice; moreover, (c) it exemplifies the normative justification according to which economic inequality is just if, and only if, it remains within a reasonable range. Indeed, (a) if it is true that the two principles of justice are compatible only with a certain social system that does not permit excessive economic inequality and economic concentration and the fair value of political liberties should be guaranteed foremost through a background strategy, then it means that the difference principle should be considered as a distributive criterion of proportionality in economic inequality between the best off and the worst off. Moreover, (b) the distributive criterion of proportionality does not contradict a deontological and procedural view (and the relational conception of justice). Indeed, it asserts that the primary rules that permit a (potentially) unlimited economic inequality must be reasonably rejected. Lastly, (c) the interpretation (and reformulation) of the difference principle as a criterion of proportionality realizes effectively the intuitive idea of how a procedural justice treats the question of distribution, i.e. “to design the social system so that the outcome is just whatever it happens to be, at least so long as it is within a certain range” (Rawls, 1971, p. 85). The distributive criterion of proportionality obliges us to prescribe this range (I will do it in the next chapter, 5). In doing so, it also achieves the reconciliation between procedural and substantive justice in a way that it is coherent with Rawls’ intentions (Reply to Habermas, in Rawls, 2005, p. 421).²³⁵

²³⁴ Many authors (see: Miller, 1974, 1978; Shue, 1975; Joshua Cohen, 1989; Zaino 1998; Werle 2014; de Vita 2007, 2008) suggested that we might avoid this problem in Rawls’ theory if we take under serious consideration the relevance of the primary social good of self-respect which Rawls himself assigns a central place in his theory (See, Rawls, 1971, p. 107, 256, and 362.) Even if I generally agree with this interpretation, I believe that the notion of self-respect remains for its own intrinsic features quite linked with a certain subjective dimension (or with a certain egalitarian value), at least more than the notion of the worth of liberty or, above all, that of power.

²³⁵ My hope is that it achieves the same task in a more compelling way.

4.2 Habermas' discourse theory of deliberative democracy

Rawls and Habermas have followed different theoretical and methodological paths, each one able to synthesize a side of the most important dichotomy in contemporary philosophical debate, such as analytic and continental, political philosophy and social philosophy, normative and critical theory. Despite the differences, their common starting point is in Kant's practical philosophy and their theoretical developments²³⁶ which not only brings their theories quite close, but leads to a certain convergence. Indeed, both Rawls and Habermas advance an intersubjective and procedural reformulation of moral autonomy and the categorical imperative, respectively grounded on a non-metaphysical and post-metaphysical conception. Moreover, both of them apply their conceptions of political morality to the 'basic structure' of society (even if Habermas does not explicitly adopt this term), namely to the major political, economic, and social institutions. The closeness of the two theoretical projects is proved unequivocally by the dialogue that the authors themselves begun in 1995²³⁷. This dialogue is indirectly continued by others authors²³⁸ who tried to make Rawls' and Habermas' divergences and disagreements very instructive, showing at the same time a certain complementarity of both philosophical perspectives. In this respect, I will try to move a step further in emphasizing the relation between Rawls and Habermas' theory as something more than a simple "familial dispute" (Habermas, 1995, p. 110), rather both projects should be seen as a strict complement to one another in such a way that only together would they have the effect of properly defining what both authors believe to be the legitimate boundaries of political philosophy without being too modest in one or the other theoretical and methodological direction.²³⁹ On the one hand, I agree with Habermas that political philosophy cannot be too modest in terms of moral/political justifications as Rawls seems to presuppose in

²³⁶ In particular, considering *Political Liberalism* (2005) and *Facts and Norms* (1996).

²³⁷ This dialogue was held in *The Journal of Philosophy*, Vol. 92, no. 3. Habermas in p. 109-132, and Rawls in p. 132-180. Rawls, Reply to Habermas, is also reprinted in Rawls, 2005.

²³⁸ See: Baynes 1991; McCarthy, 1994; Forst, 2002, 2012; and Hedrick, 2010; Werle, 2008.

²³⁹ I briefly argued on this interpretation in Ali, 2017/b.

his *Political liberalism*, otherwise, he would not be able to develop his political conception of justice as a freestanding view. Rawls should adequately separate the two stages of his theory: the political conception of justice as a freestanding view and the idea of stability. For what concerns the first stage, Rawls seems to be unable to compellingly ground the moral justification of his 'political' conception. The risk is to conceive the term 'political' in the wrong way, involving a certain moral abstention or neutrality and grounding his political conception only on some liberal 'political' values. By contrast, I think that the term 'political' should be directly based on the principle of norm justification, like in Habermas' account. In other words, a political conception of justice represents a much stronger moral claim than what Rawls seems ready to admit to. But, on the other hand, I disagree with Habermas (1995, p. 131; and 1990, p. 94) that political philosophy should be less modest than Rawls' theory, focusing exclusively on the procedural aspects of the public use of reason and deriving the system of rights from the idea of its legal institutionalization, and thus leaving the substantive questions open; for example, what Rawls' two principles of justice are concerned with. The disagreement in regards to what Habermas thinks to be beyond a pure procedural theory, in particular all substantive and material issues, such as the social norms that regulate the socioeconomic distribution (more or less the content of the second principle of justice), Rawls believes that, instead, it is an intrinsic element of a procedural and relational conception. Otherwise, Habermas' discourse principle would not be able to provide a fundamental criterion for identifying the effects of the illegitimate distribution of power in whatever forms it might manifest; for example, in the form of material power. I suggest that Habermas tends to overlook material power for three central elements in his discourse theory. First, Habermas' intersubjective and procedural reformulation of moral autonomy and the categorical imperative in the form of the discourse principle might remain too abstract and formal. Second, Habermas' procedural model of democracy (deliberative democracy), according to which democracy is characterized by a discursive process of rational opinion and will formation in the public sphere might be too ideal and formal. Third, Habermas' conception of communicative power needs to explicitly include the dimension of material power.

Given the restrictive topic of this thesis, I will focus only on those parts of Habermas' theory that are relevant for the investigation of such topic. I think that the Rawls – Habermas dialogue permits me to underline those elements that are necessary to realize a productive

interplay between material and procedural justice without abandoning a relation conception of justice based on the principle of norms justification; a task that, I believe, the distributive criterion of proportionality in its deontological formulation is able to achieve, at least in its area of application.

Forst summarizes very well the general critique that Habermas moves to Rawls:

In short, Habermas argues that Rawls, on the one hand, does not sufficiently take into account the concept of moral autonomy because he dilutes the validity claims of the principles of justice, and, on the other hand, does not conceive of the concept of political autonomy radically enough, since the construction of principles of justice with the help of the original position anticipates too much of the actual political practice of self-determining citizens (Forst, 2012, p. 88).

This general critique is further specified in three fundamental objections: 1) the first objection concerns Rawls' risk of making his theory dependent on contingent agreement among comprehensive doctrines; thus, according to Habermas, "Rawls should make a sharper separation between questions of justifications and questions of acceptance" (Habermas, 1995, p. 110).²⁴⁰ This is the only way that Rawls would be able to avoid any ambiguity about the 'philosophical-normative' validity of *Political Liberalism*, and so reject objections like those advanced by Rorty (1991), Mouffe (1994), Galston (1994), according to which the capacity of separating citizens' ethical and metaphysical convictions from their political ones – the essence of the notion of reasonableness – is purely and simply a liberal virtue, and, as such, part of an internal component of the comprehensive doctrine of liberalism.²⁴¹ Here, the point is whether the concept of overlapping consensus has, contrary to Rawls' intention (Rawls, 2005, p. 64), a function in grounding a political conception of justice; 2) the second Habermas objection concerns the liberal basic rights primacy over the democratic principle of legitimation.²⁴² According to Habermas (1995,

²⁴⁰ Habermas is not the only important author to voice this objection. For example, see: Gauss, 1996 and 1999.

²⁴¹ For more details on this question, see: Maffettone, 2004.

²⁴² This objection is linked with the problem in Rawls' theory to conceive the basic liberties also in terms of 'primary goods' as well as other authentic goods,

p. 110), “Rawls thereby fails to achieve his goal of bringing the liberties of moderns into harmony with the liberties of the ancients”. In this sense, according to Habermas, Rawls fails to capture the co-originality of basic subjective rights and popular sovereignty; 3) finally, with the third objection Habermas directly criticizes the substantive propositions that Rawls advances with the two principles of justice. This third objection is a direct result of the first and the second objections. Once Habermas detects the source of the two previous objections in the difficulties associated, mainly with the design of an original position, he suggests that Rawls might avoid these difficulties by operationalizing the moral point of view in a different way, namely “if he kept the procedural conception of practical reason free of substantive connotations by developing it in a strictly procedural manner” (*ibidem*, p. 116). For this reason, Habermas leaves all substantive questions to the public use of reason and he limits himself to reconstruct the conditions of democratic deliberation. In this sense, Habermas sustains that Rawls’ political conception of justice is not purely procedural enough.

These divergences that are exemplified in Habermas’ three objections rely on different understandings of how to avoid Kantian’s metaphysical presuppositions – for Rawls and Habermas respectively through a non-metaphysical or a post-metaphysical conception – and a different methodology that Rawls defines as ‘constructive’ and Habermas as ‘reconstructive’.²⁴³ This means that, although the procedure or device of justification of moral norms proposed by Habermas and by Rawls are based on the fundamental idea of reciprocity and both of them ensure impartiality and generality in relation to arbitrary positions in the formation of moral judgments, the discourse principle (D) is a procedure for examining the validity of the

for example income and wealth, that must be fairly distributed. Since, as Habermas notes (1995, p. 114), rights can be ‘enjoyed’ only being exercised, and so they cannot be assimilated to distributive goods without forfeiting their deontological meaning, the paradigm of distribution generates difficulties for Rawls. According to Habermas, this problem cannot be solved with the priority of the first principle over the second one, and only partially by incorporating the guarantee of the fair value of liberty into the first principle because it tacitly presupposes a deontological distinction between rights and goods (Habermas, 1995, p. 116).

²⁴³ For more details about these different theoretical and methodological understandings, constructive and reconstructive, see respectively: Rawls, 1980; and Nobre – Repa, 2012.

norms in discussion, meanwhile the original position is a device for the production of justified norms and so moved forward also in substantive proposals.

Rawls' replies reflect this main distinction, but a careful analysis will show a certain complementarity of the two different perspectives rather than, at first insight, an apparent incompatibility. From this point of view, I believe that Rawls' reply is not satisfactory regarding the first Habermas' objection, and it is only partially satisfactory regarding the second objection. I will briefly discuss these two objections in order to show some advantages of Habermas' proposal. From the beginning of this thesis, I opted for a moral/political justification of 'principles' or 'social norms' based on the 'negative' formulation elaborated on by Scanlon, which is quite close to the one from Habermas. This formulation is able to make a separation between questions of justifications and questions of acceptance. In this regard, I agree enough with the contents of the first and the second objections proposed by Habermas. But, besides that, I sustain that we should reject the third Habermas objection. I will discuss deeply the third objection because it concerns my central topic. In this respect, my position is closer to that of Rawls (*Reply Habermas* in Rawls, 2005, p. 421) according to which, Habermas' view is, or should be, also substantive, even though the substantive elements may differ. In this aspect, I believe that Habermas' procedural conception of practical reason should be less vague and indeterminate concerning the questions of distributive justice; otherwise he would be unable to guarantee that the process of rational opinion and will formation are not affected by arbitrary, coercion or, above all, domination in virtue of the excessive asymmetry of material power relations.

I begin with Rawls' reply to the first Habermas' objection. Rawls rejects the first objection by reason of the fact that Habermas' position is comprehensive while his position is limited to the political category, and only that. Rawls (*ibidem*, p. 375-377) recalls that the central idea of political liberalism is that it can be formulated independently of any particular comprehensive doctrine, religious, philosophical, or moral. Political liberalism never denies or questions these doctrines in any way, so long as they are politically reasonable. By contrast, according to Rawls, Habermas' theory of communicative action is comprehensive insofar as it gives "a general account of meaning, reference, and truth or validity both for theoretical reason and for the several forms. It rejects naturalism and emotivism in moral argument and aims to give a full defense of both theoretical and practical reason" (*ibidem*, p. 376). The

point is that Rawls is right to define Habermas' moral theory as comprehensive, but only for an aspect, even if it regards a very important philosophical question: Why be moral? This question is concerned with the *ultimate* grounds of moral obligations and, above all, the sources of moral motivations. Surely, Habermas takes part in this kind of discussion. Indeed, since his own linguistic turn in the early 1970s, he tries to answer this question in grounding the foundation (or semi foundation) of moral theory in the ideal speech situation.²⁴⁴ For example, Habermas argues "that the understanding of any basic speech act (whether an indicative or an imperative) is essentially connected to a set of validity claims and to the possibility of the hearer taking a rationally motivated 'Yes/No' position toward those claims" (Baynes, 1991, p. 78). This task inevitably forces him to take position about some very strong epistemological assumptions that involve terms as truth and logic coherence or validity. For this reason he introduces the principle of universalization (U) that is an attempt to reconstruct basic moral intuitions already contained in our communicative practices.²⁴⁵ Rawls tried to answer this question in the third part of a *Theory*, a part that entails those kinds of problems that he overcame or bypassed with *Political Liberalism*. The point is that Rawls believes that the answer to this kind of question leads inevitably to formulate or adopt a certain comprehensive moral/philosophical doctrine, even inevitably comprehensive metaphysical. I left open the question whether Habermas' theory of communicative action is metaphysical in grounding the source of moral motivations, or if it is effectively post-metaphysical and semi-transcendental as Habermas defines it. Now, despite Rawls is right in sustaining that his political conception of what justice can, and perhaps must do to avoid this moral question that usually is disputed among metaphysical doctrine, Habermas' theory of communicative action aims to provide a compelling answer not only to the moral question, "why be moral?", but also for practical/political questions in the domain of "what do we owe to each other?". In this respect Habermas does not endorse a comprehensive (or metaphysical) conception. Indeed, we cannot make the mistake of overlapping the

²⁴⁴ Apel (1998, p. 258-62) defines it as the ideal communication community.

²⁴⁵ Habermas tries to answer another important question in social philosophy: how is social order possible? For this reason, he engages a dialogue with Durkheim, Weber, and Parsons. See: Baynes, 1991.

discourse principle (D) with the principle of universalization (U)²⁴⁶ (Habermas, 1990, p. 66). The discourse principle (D)²⁴⁷ – “just those action norms are valid to which all possibly affected persons could agree as participants in rational discourses” (Habermas, 1996, p. 107) – is a principle of justification of ‘social’ norms that tries to manage our deep and extensive moral/political disagreements about those that should be our legitimate duties and rights, and for these reasons the principle (D) concerns the domain of what we owe to each other. As I have already asserted in the introduction of this thesis, one can share Habermas’ discourse principle (D) (or others similar principle of justification) without taking a position about the *ultimate* grounds of moral obligations and the sources of moral motivations.²⁴⁸

²⁴⁶ Habermas defines (U) as the principle of universalization: “All affected can accept the consequences and the side effects of its general observance can be anticipated to have for the satisfaction of everyone’s interests (and these consequences are preferred to those of known alternative possibilities for regulation)” (Habermas, 1990, p. 65).

²⁴⁷ In the first formulation of the principle of discourse, Habermas (1990, p. 66) defines it as the ‘principle of discourse ethics’, but then he realizes that in this previous formulation he has not sufficiently distinguished between the discourse principle and the moral principle. Instead, the discourse principle, as presented in *Between Facts and Norms* (1996, p. 108-109), “is only intended to explain the point of view from which norms of action can be impartially justified”. In this way, the discourse principle is conceptually prior to the distinction between law and morality. Thus, Habermas hopes to avoid a moralistic interpretation of law and consequent favoring of private autonomy in the form of human rights (Habermas, 1990, p. xxvi translator’s introduction by William Rehg). For more details about this important change see: Volpato Dutra - Lois, 2007, and Volpato Dutra, 2011.

²⁴⁸ It is really interesting to observe how in formulating this principle of the justification of norms, Habermas weakens his epistemological premises. (Habermas, 1990, , p. 92 and 97) “The concept of the justification of norms must not be too strong, otherwise the conclusion that justified norms must have the assent of all affected will already be contained in the premise” (*ibidem*. p. 212, nota 7). In this aspect Habermas differs from Apel (1998, 258-62). Indeed, according to Habermas, rules of argumentation should not be immediately regarded as moral/political norms. “Even if participant in an argumentation are forced to make substantive normative presuppositions (e.g. , to respect one another as competent subjects, to treat one another as equal partners, to assume one another’s truthfulness, and to cooperate with one another), they can still shake off this transcendental-pragmatic compulsion when they leave the field of

Therefore, the discourse principle (D) is not comprehensive in Rawls' sense since it neither answers the ethical questions of good life nor it is based on any particular comprehensive moral idea or moral value. Paradoxically, it is Rawls who could run this risk. As Forst (2012, p. 96) observes, "Rawls is unable to clearly explain the moral justification of the political conception: he fluctuates between a form of justification based on an ethical-comprehensive doctrine and a freestanding moral justification". What Rawls calls "*pro tanto justification*" runs the risk of being considered 'comprehensive' because it simply "reconstruct[s] a substratum of intuitive ideas latent in the political culture of his society and its democratic traditions" (Habermas, 1995, p. 120)²⁴⁹. Unfortunately, Rawls seems to proceed properly in this way. He says that the *pro tanto*²⁵⁰ justification takes into account only political values as fundamental ideas:

All belong to the category of the political and are familiar from the public culture of a democratic society and its tradition of interpretation of the constitution and basic laws, as well as of its leading historical documents and widely known political writing (*Reply Habermas* in Rawls, 2005, p. 376).

Rawls himself admits this limit when he says that justice as fairness "springs from and belong to the tradition of liberal thought and the larger community of political culture of democratic society" (*ibidem*, p. 432). The problem is that Rawls does not realize the normative

argumentation. The necessity of making such presuppositions is not transferred directly from discourse to action. In any case, a *separate justification* is required to explain why the normative content discovered in the pragmatic presuppositions of argumentation should have the power to regulate action". (1990, MC, p. 86, *Italic* by me) This means that the validity of norms, however, can only be established and justified in practical discourses. This aspect is also important for rejecting Habermas' third objection to Rawls.

²⁴⁹ This does not mean that Habermas considers Rawls a contextualist, and indeed, Habermas rejects Rory's interpretation of *Political Liberalism*.

²⁵⁰ Rawls introduces a second and a third kind of justification: full justification and public justification. The second is carried out by an individual citizen as a member of civil society; meanwhile, the third, and last, is carried out by political society, and it works in tandem with the other three ideas with a reasonably overlapping consensus, stability for the right reason, and legitimacy. None of these other justifications seem to say something more against Habermas' objection.

problem that this aspect entails. The concrete doubt is whether this argument can be valid as a reasonable justification that all citizens could accept (or not reasonably reject) even for those citizens that do not share this political culture of a liberal democratic society but live in the same political community. To make this argument valid, Rawls should explicitly assume that the liberal-democracy has a normative value; otherwise this argument is adequate only for the notion of (political) legitimacy rather than for the notion of (political) justification. Maffettone (2010, p. 16) defines very well the distinction between these two different notions: “In general, for justification I mean the normative force of a theoretical-political conception. For legitimacy, however, I mean the shared consensus on the institutions among the citizens of a liberal-democratic regime”²⁵¹. Maffettone underlines how both notions, legitimacy and justification, are relevant, and even complementary, in political liberalism but it seems that Rawls sacrifices the latter for the sake of the former.²⁵² The risk is that the political liberalism would be considered only a political theory rather than as a theory of political justice, and therefore it would lose the normative force (even in terms of distributive social justice) that, instead, is characterized in *A Theory*.²⁵³ For this reason, I think that Rawls cannot reject the first Habermas objection once it is well understood. Therefore, Rawls should separate the question of justification and the question of acceptance; and in doing so he needs to adequately separate the first and the second stage of exposition of his theory (which correspond respectively to the notion of political justification and that of political legitimacy or more generally the notion of ‘stability’). From this point of view, Habermas’ theoretical proposal is more compelling and rightly less modest than the one from Rawls.

²⁵¹ My translation.

²⁵² What is interesting is that Rawls agrees with the distinction between legitimacy and justice. Legitimacy is a weaker idea than justice and imposes weaker constraints of what can be done (Reply to Habermas in Rawls, 2005, p. 427-428).

²⁵³ Although Rawls affirms that, in *Political Liberalism* (2005, p. 7), the egalitarian requirements do not change in any respect, the continuity between *A Theory* and *Political Liberalism* in its egalitarian component is a great preoccupation for many egalitarian authors. See: de Vita (2007, p. 25) or Eslund, 1996. In the previous section, I have already shown in which way it is possible to maintain the normative force of this ‘egalitarian component’.

Moving onto the second objection, also in this case, Rawls' reply is not totally satisfactory. According to Habermas, Rawls fails to harmonize the liberties of the modern with the liberties of the ancient, and he ends by giving priority to the former rather than the latter. Thus, Rawls would subordinate the democratic process and popular sovereignty to the liberal rights. According to Habermas, this subordination is the result of the two-stage²⁵⁴ character of political conception of Justice as fairness by which first the representative of the parts, in the original position, select the principles of justice and only after that moves to the citizens' regular application of those same principles under the actual conditions of political life (Habermas, 1995 p. 128). Rawls denies this objection providing three reasons (*Reply Habermas* in Rawls, 2005, p. 396-420). First, Rawls says that Habermas misunderstands what he calls the idea of *four-stage sequence* of original position which is composed of the following passages: constitutional, convention, legislation, and adjudication. Second, Rawls sustains that Habermas' idea of co-originality between human rights (or subjective rights) and popular sovereignty is implicit in the first principle of justice too. So, the first principle of justice includes and justifies simultaneously the two types of liberties: moderns and the ancients. The third reason that Rawls offers is that Habermas also cannot avoid the two stages procedure. It is very difficult to say if Rawls' arguments are able to reject Habermas' objection because the way in which Habermas justifies the system of rights is very different than Rawls does through the first principle of justice. However, it is likely that Rawls in the first principle of justice justifies simultaneously the negative liberties and positive liberties rather than the liberties of moderns and the liberties of the ancients.²⁵⁵ Indeed, as Forst notes, Rawls' attempt to conceive the co-originality in the first principle of justice is not the kind of co-originality that matters to Habermas, "since both of these categories of rights are understood by Rawls not as constitutive conditions for legally institutionalized democratic law-making, but are formulated as basic rights that only need political implementation" (Forst, 2012, p. 110). In this respect, the source of Habermas' co-originality should be found

²⁵⁴ It does not refer to the two stages of exposition of political liberalism that I mentioned before and along the thesis.

²⁵⁵ It is a mistake to overlap the negative and the positive liberty with, respectively, liberty of the moderns and of the ancients. They are almost four distinct ideas of liberties. For the liberty of the moderns and of the ancients see Constant (1819); and for the negative and positive liberty see Berlin, 1969.

directly in the discourse principle and in his emphasis of participants in a practical discourse.

One begins by applying the discourse principle to the general right to liberties – a right constitutive for the legal form as such – and ends by legally institutionalizing the conditions for a discursive exercise of political autonomy. By means of this political autonomy, the private autonomy that was at first abstractly posited can retroactively assume an elaborated legal shape. Hence the principle of democracy can only appear as the heart of a system of rights. The logical genesis of these rights comprises a circular process in which the legal code, or legal form, and the mechanism for producing legitimate law – hence the democratic principle – are co-originally constituted (Habermas, 1996, p. 121-122).

However, I do not need to put a conclusive word on this dispute in favor to Habermas or Rawls, but I think that, regarding the topic of this second objection, Habermas' proposal is more compelling. In particular, Habermas' project to conceive a virtuous circle between private and public autonomy, as well as between human rights and popular sovereignty maintaining a deontological perspective anchor in the discourse principle is an important point of reference. My only reservation, even quite relevant, with Habermas' project is that, I believe it hides a theoretical deficit that might run the risk of not being able to detect all forms of domination, such as material domination. This aspect emerges clearly once we focus on the third objection that Habermas moves against Rawls that, I think, should be rejected.

In consideration of this third objection, I agree with Rawls in extending his political conception of justice beyond those theoretical limits that Habermas supposes should not be overcome. Moreover, I agree with Rawls (*Reply Habermas* in Rawls, 2005, p. 421) when defending that his theory must be substantive, and he does not see why Habermas' view is not also substantive; or as I add, if not, it should be too. According to Rawls, although Habermas sustains that his discourse-theoretical idea is restricted to an analysis of the moral point of view and the procedure of democratic legitimation, it does not mean that he can avoid relying on substantive content. Rawls mentions a number of passages, mainly, in *Between Facts and Norms* (1996) in which Habermas admits that his account cannot be purely formal.

Habermas begins to use the term ‘justice’ to refer to the more specific meaning of social/political justice only when he combines, in *Between Facts and Norms*, his discursive moral theory with a theory of law and democracy; in all previous texts Habermas understands the term of justice in a more general meaning as universal moral norms (Forst, 2012, p. 87-88). The point is that when Habermas needs to move from a very abstract level to a concrete and immanent application to the scope of a post conventional democracy, he inevitably has to ‘substantiate’ the system of rights that satisfies the discourse principle.²⁵⁶ According to Habermas (1996, p.122), “this system should contain precisely the rights citizens must confer on one another if they want to legitimately regulate their interactions and life contexts by means of positive law.” Then, Habermas introduces five fundamental categories of rights (1) to (5). The first three categories of rights generate (in abstracto) the legal code itself by defining the status of legal persons:

1. Basic rights that result from the politically autonomous elaboration of the right to the greatest possible measure of equal individual liberties.
2. Basic rights that result from the politically autonomous elaboration of the status of a member in a voluntary association of consociates under law.
3. Basic rights that result immediately from the actionability of rights and from the politically autonomous elaboration of individual legal protection (*ibidem*, p. 122).

According to Habermas, these three basic categories of civil rights guarantee the private autonomy, since they “result simply from the application of the discourse principle to the medium of law as such, that is, to the conditions for the legal form of a horizontal association of free and equal persons” (*ibidem*). It means that citizens become authors of their legal order only through the fourth basic category of rights which correspond to political autonomy:

²⁵⁶ Note that when applied to law, the discourse principle has to be understood as ‘the principle of democracy’. In this sense, the discourse principle refers to the validity of action norms in general meanwhile the principle of democracy establishes a procedure of legitimate lawmaking. Thus, Habermas (1996, p. 110) wants to mark the distinction between the principles of democracy and morality.

4. Basic rights to equal opportunities to participate in processes of opinion - and will - formation in which citizens exercise their political autonomy and through which they generate legitimate law (*ibidem*. p. 123).

Again, according to Habermas, these are the four categories of civil rights that allows citizens to interpret and develop their private and civic autonomy simultaneously. However, Habermas perceives that the co-originality between the popular sovereignty to the liberal rights cannot be conceived only abstractly and formally. Indeed, the status of free and equal active citizens should enable citizens to change and expand their various rights and duties, or "material legal status" (*ibidem*). Therefore, according to him, with a view toward this goal, the four categories of civil rights imply the category of social and ecological rights:

5. Basic rights to the provision of living conditions that are socially, technologically, and ecologically safeguarded, insofar as the current circumstances make this necessary if citizens are to have equal opportunities to utilize the civil rights listed in (1) through (4) (*ibidem*).

However, Habermas conceives that only the four categories of civil rights as absolutely justified meanwhile the (5) category of social and ecological rights can be justified only in relative terms. In this sense, the co-originality between the popular sovereignty to the liberal rights justifies absolutely only the four categories of civil rights and, on the contrary, the 'social rights' are conceived only as derived from them (Forst, 2012, p. 192). Then, although Habermas conceives the fifth category of social rights as a necessary means for the genuine and effective worth of the first four categories of rights, but the significance of this category for issues of social justice remains vague and indeterminate (Forst, 2012, p. 115).

Thus, we can observe how Habermas' theory risks to be affected by a serious problem of indeterminateness or 'formalism'. In particular, Habermas should make clear that all five fundamental categories of rights, from (1) to (5) are conceived simultaneously; otherwise he would overlook the dimension of material power, and consequently the material domination. I think that this deficit in Habermas' theory likely depends on the three main elements that I summarize previously. Here, I can only sketch them but I hope that it will be sufficient to show why Habermas' theory should be 'substantive', in a certain sense.

The first element concerns the problem that Habermas' intersubjective and procedural reformulation of moral autonomy and the Categorical Imperative in form of the discourse principle might remain too abstract and formal. In other words, the question is whether some objections that Hegel moves against Kant's moral philosophy also apply to the discourse principle. Habermas (1990, p. 195-215) recognizes some important affinities with Kantian moral theory, but he tries to show the most relevant difference that allows the discourse principle to reject Hegel's objections (at least, those that Habermas considers valid). Two aspects mark the deepest difference between the discourse principle and Kantian ethics. The first aspect concerns the reformulation of the concept of autonomy, as I have already explained (chapter 2, section 2.4), in which Kant conceived *monogically* meanwhile in Habermas the idea of autonomy is intersubjective. The second aspect is that the discourse principle replaces the Kantian categorical imperative in the procedure of moral argumentation. The consequence of this is that we have to consider the discourse principle as a practical discourse, abandoning Kant's *noumenal* dimension. For my argument, this aspect is essential. The manner in which Habermas should conceive social rights is decisive in allowing the discourse principle not to fall into Kant's highly abstract and formal view of human being. As I have already said, it is his *noumenal* view of the human being that leads Kant to underestimate the importance of material social conditions in such a way that according to him the equal treatment that all people are entitled to under the law of the state is entirely coherent with a huge inequality in possessions (Johnston, 2011, p. 162). Instead, in order to consider the discourse principle as a practical discourse, though ideal, it must conceive people as they are, even in their material and substantive condition; otherwise, Habermas would not be able to reject the objection that is moved against Kant. This means that what Habermas (1990, p. 202) defines as "the individual's inalienable right to say yes or no to criticizable validity claims" must be conceived as an effective and practical capacity. From this perspective, the fifth category of fundamental rights (socioeconomic rights) is intrinsically necessary to ensure that, in the process of opinion and will formation, people have the formal possibility and also material conditions to participate and, above all, have adequate power in respect to others to accept or reject the better argument. But, Habermas does not seem to conceive, at least explicitly, this material dimension in his broad theory and, in particular, in his procedural model of deliberative democracy. This aspect allows me to move to the second point.

The second element concerns with the risk that Habermas' procedural (deliberative) model of democracy might be too ideal and formal. His model of deliberative democracy characterized by "the exercise of public authority is oriented and legitimated by the laws citizens give themselves in a discursively structured opinion - and will-formation" (Habermas, 1996, p. 170) is an alternative to both liberal and republican models. On the one hand, Habermas' model extends the political process beyond the aggregation of individual preferences and self-interest that characterize the classical liberal model. On the other hand, Habermas' procedural model does not require deliberation that aims toward ethical consensus. Therefore, it avoids grounding the notion of popular sovereignty on the ethical substance of a specific community or a collective subject, as it happens in the republicanism. In other words, it is a model that combines a procedural account of democratic legitimacy with deliberative politics. The core element of his procedural democracy is that the principle of popular sovereignty is restated in terms of discourse theory in a way in which "all political power derives from the communicative power of citizens" (*ibidem*, p. 170). This conception of popular sovereignty allows us to appreciate how the concept of communicative power is a central notion in Habermas' procedural model of deliberative democracy. Habermas reformulates the concept of communicative power borrowed from Hannah Arendt. According to Habermas' definition, "a communicative power of this kind can develop only in undeformed public spheres; it can issue only from structures of undamaged intersubjectivity found in nondistorted communication" (*ibidem*, p. 148).

In *The Theory of Communicative Action Vol. I and II* (1984, 1987), Habermas distinguished between the 'lifeworld' constituted by communicative action in the medium of ordinary language, and 'subsystems' (market economy and administrative state) which are governed by the 'non-discursive' and anonymous mean of money and power. In this way, these subsystems work independently of intentional actor actions. Although systemic coordination by market mechanisms and state power are indispensable for social coordination in modern societies, they tends to 'colonize' through their non-discursive 'special codes' (money and power) the domain of the lifeworld, eroding the solidarity that can only be achieved communicatively. Instead, in *Between Facts and Norms*, Habermas focuses on the deliberative politics that releases the normative resources of the lifeworld through the use of law in order to contend the 'colonization of the lifeworld' by money and administrative power; in this sense, law functions as a hinge

between system and lifeworld (Habermas, 1996, p. 56). For this reason, it is central the role that the informal public sphere performs, together with the formal political system, in ensuring political legitimacy. Therefore, the normative requirements for legitimation are divided between institutionalized deliberative bodies and the informal communication of the public sphere. This means that, according to Habermas, the formal political system alone is insufficient to confer democratic legitimacy. The latter is completed and fully realized only through the normative reasons generated by an informal public sphere. The informal public sphere is not in itself an association or organization, and Habermas offers a description of its composition.

Its institutional core comprises those nongovernmental and noneconomic connections and voluntary associations that anchor the communication structures of the public sphere in the society. Civil Society and the Political Public Sphere component of the lifeworld. Civil society is composed of those more or less spontaneously emergent associations, organizations, and movements that, attuned to how societal problems resonate in the private life spheres, distill and transmit such reactions in amplified form to the public sphere (Habermas, 1996, p. 366-367)

According to this conceptualization, the public sphere remains open to communication from the lifeworld contexts of communicative action and the discourse of those who are potentially affected by political decisions²⁵⁷. In this way, the informal public sphere, by means of communicative power can be considered an effective counter-power to the medium of money and administrative power in their process of colonization of the lifeworld. Now, as Flynn (2004, p. 444-447) observes, although it is clear that the informal public sphere plays an essential role in ‘cultivating normative reasons’ and the legislative process can be viewed as the procedure for transforming arguments and reasons into law, and it explains why, from a normative point of view, the legislature is required to remain porous to the normative reasons generated in the public sphere; it is not entirely clear how the transmission of reasons from the informal public sphere to the formal

²⁵⁷ In this way, Habermas seems to answer to the objection (see: Honneth, 1991) that his theory ignores the relevance of relational power and, above all, the informal spheres of social life. Indeed, the informal public sphere depends, clearly, upon the continued contributions of individuals and associations.

political system would actually generate communicative power. The most common and classical interaction is the general election in which the public determines their representatives or decides through referendums. But, two main problems arise within this form of transmission. The first “problem with associating communicative power with voting is that the act of voting itself, while it does communicate a preference, is not a particularly good example of political communication given its lack of discursivity” (*ibidem*, p. 447). The second problem is linked with my main objection to Habermas, because the way in which communicative power is generated in the informal public opinion might be restricted by what Habermas calls ‘social power’. Habermas (1996, p. 175) uses the term ‘social power’:

(...) as a measure for the possibilities an actor has in social relationships to assert his own will and interests, even against the opposition of others. Social power can both facilitate and restrict the formation of communicative power, though it does so differently than administrative power.

As Habermas admits himself, ‘social power’ can restrict the formation of communicative power in case in which, for instance if:

(...) it provides some parties with a privileged opportunity influence the political process in such a way that their interests acquire a priority not in accord with equal civil rights. Businesses, organizations, and pressure groups can, for example, transform their social power into political power by way of such interventions, whether they do so directly by influencing the administration or indirectly by manipulating public opinion (*ibidem*).

On the contrary, ‘social power’ can facilitate the formation of communicative power when “material conditions for an autonomous exercise of equal liberties and communicative freedoms are satisfied” (*ibidem*). For this reason, Habermas cannot also neglect the economic material dimension, namely a certain amount of income and wealth in respect to others.²⁵⁸

²⁵⁸ I do not need to mention the possibility that Habermas could endorse the insulation strategy (keeping money out of politics) because it would be inconsistent with his whole theory by providing a rigid separation between the formal political system and the informal public sphere. That is a separation that Habermas rejects doubtless.

However, there is another less obvious form of transition between informal public sphere and the formal political system. It concerns a model of deliberative democracy that is characterized by ‘local’ or ‘thematic’ deliberative forums, authorized to make binding decisions, flanking the classical parliamentary bodies in a decentralized process of decision making. Sometimes, Habermas seems to opt for this kind of deliberative model. However, beyond the difficulty to implement this model effectively and realistically, I do not see how it can avoid the restrictive effects of ‘social power’ in the formation of communicative power. Indeed, even a deliberative institutional structure of diffuse participation and deliberative practice should ensure that material conditions for an autonomous exercise of equal liberties and communicative freedoms are also satisfied in the ‘local’ and ‘thematic’ deliberative forum. For example, wealth and education affect the terms of participation and conditions of deliberation at any level. And most social goods that are relevant to the definition of social power are positional in nature (manifest or latent).

This brief inquiry into the main normative requirements of Habermas’ procedural model of deliberative democracy allow me to conclude my argument moving to the third element that I want to emphasize; namely, Habermas’ conception of communicative power needs to include the dimension of material power in its relations terms. According to Habermas (*ibidem*, p. 119), the formation of communicative power can only be linked with the communicative action of citizens in their use of their ‘communicative freedom’, which is essentially the ability of participants in discourse to take yes or no positions on validity claims. This means that:

All members must be able to take part in the discourse, even if not necessarily in the same way. Each must have fundamentally equal chances to take a position on all relevant contributions with a yes or no (*ibidem*, p. 182).

For this reason, I sustain that the power to say *yes or no* should be ensured also in its substantive and material dimension which mainly depends on the inequality economy between the most and the least advantaged. Using a vocabulary familiar to Habermas, I might affirm that the system of rights that satisfy the discourse principle, when applied to a post conventional democracy, are not generated only by the co-originality between human rights and popular sovereignty, but also between these two and the socioeconomic rights. Only in this way, Habermas would be able to take into account both formal and material

power. In other words, the asymmetry of socioeconomic positions, such as the gap between the top and the bottom of economic distribution, is something that determines (and not simply affects) the procedure of democratic justification. From this point of view, I believe that Habermas' discourse theory of deliberative democracy also prescribes, even implicitly, some substantive requirements of social justice, similar to those that Habermas condemns in Rawls' difference principle. Otherwise, Habermas' theory would be considered a pure formalistic theory. I think that my distributive criterion of proportionality that reformulates, in relational and procedural terms, Rawls' difference principle might be consistent also with Habermas' discourse theory.

Lastly, I want to mention, very briefly, Forst's distributive criterion of justice in order to show the difficulty that the pure procedural and relational conception faces in conceiving substantive requirements of justice, and its risk of vagueness with respect to the economic inequality issue. Forst's case is instructive because he realizes that Habermas' theory, when it comes to the question of distributive justice remains too vague and indeterminate. In contrast to this indeterminacy, Forst allows a 'minimal' answer to this question, as a way to conceive a higher-level discursive version of the Rawlsian 'difference principle', according to which unequal distributions of social resources, goods, and opportunities can only be justified when they can survive the 'veto' of the worst off; namely that those who have gained more must do so on terms that are justifiable to those who have gained the least (Forst, 2012, p. 115 and 197; Forst, 2014, p. 36)²⁵⁹. The fundamental difference between Rawls' difference principle and Forst's 'veto' principle is that the former is a particular principle of distribution, while the latter is simply "a higher-level principle of justification of possible distributions" (Forst, p. 2014, p. 36). I presented Forst's justificatory conception of justice in the second chapter, and therein showed that according to Forst's account, a justification that cannot be reasonably rejected should satisfy the criteria of reciprocity and generality. But, it means that many economic distributions may satisfy these criteria, even those that might permit an (potentially) unlimited economic inequality, such as, a relational interpretation of the difference principle as a prioritarian principle, one that prescribes an increasing in

²⁵⁹ Forst borrows the 'veto' formulation from Rawls: *A Theory of Justice. Revised Edition* (1999, p. 131). However, this formulation of the difference principle appears only in this text.

economic inequality should mean an improving of the worst off position but that it does not take into account the *proportionality* between the improving of the worst off and the best off. To be sure, all things considered, I believe that Forst would reject this kind of distribution, but he should make it explicit. For this reason, I sustain that what Forst (*ibidem*, p. 35-36) calls the fundamental (*minimal*) justice, which ensures a “basic structure of justification” (what I call, instead, the justification of primary rules) should be assessed according to the distributive criterion of proportionality (at least, for what concerns economic distribution).²⁶⁰

In this chapter, I tried to show (and Forst’s account is an exemplary case) why we have to realize Rawls’ intuition, according to which the procedural justice and substantive justice are in a certain sense inseparable, otherwise the pure procedural theory would be merely formal. I hope that this interplay is now more evident and dynamic. My dialogue between Rawls’ political conception of justice and Habermas’ discourse theory of deliberative democracy properly served for this purpose, and the distributive criterion of proportionality is the main productive result. On the one hand, a procedural interpretation of the difference principle as a criterion of proportionality is able to reconcile more adequately (a) Rawls’ first and second principle of justice, and (b) the procedural and substantive conception of justice; moreover, (c) it exemplifies the normative justification according to which economic inequality is just if, and only if, it remains within a reasonable range. On the other hand, the distributive criterion of proportionality is able to bring out explicitly some substantive requirements of social justice that Habermas’ discourse theory of deliberative democracy prescribes, or should prescribe, in order to effectively ensure the procedure of democratic justification.

²⁶⁰ However, other distributive criteria are possible to realize in what Forst calls the full (maximal) justice. Indeed, the socioeconomic positions along the entire distribution (into a permissible range between the top and bottom of distribution) can also be assigned by satisfying others criteria or political and social values. I better clarify this point in the chapter 5.

5 The application of the distributive criterion of proportionality

In this fifth chapter, I will argue about the normative implications of the distributive criterion of proportionality in shaping the entire social design (the background of the major social institutions).

The first question that I have to answer is whether the exact acceptable gap of economic inequality (in income and wealth) between the most and the least advantaged should, and could, be decided in theory. It is difficult to answer this question univocally. I believe that it is possible to answer yes, but only if we take into account two other fundamental aspects: the first is theoretical and the second is practical. From a theoretical point of view, I want to remain coherent with the account that characterizes a critical theory of social justice, therefore it is necessary to avoid any paternalistic attitude and respect the active role of citizens. Moreover, there is a practical argument that makes us wonder that this gap might depend on regarding a set of political, socioeconomic and cultural circumstances that differ from one society to another. For this reason, I think that it is possible to determine this range, normatively binding, between the top 1% and the bottom (50%) of the distribution, but I suggest a range that does not prescribe an ideal society nor the most egalitarian society that we could concretely expect to achieve, or even that we have already observed.

Inspired by Piketty's historical analysis of economic inequality (2014, p. 247-249), I agree that the best way to measure economic inequality is through the distribution tables, indicating the shares of various deciles and centiles in total income and wealth (separately). We will probably never know what the range of an ideal just society is, but we know that the range of those societies that doubtless permit an unjust economic inequality, one that is oppressive in the economic sphere and is also easily converted in unequal political power. Therefore, on the one hand, I sustain that *nobody* should earn more than 18 times of the average income (post-tax) of the bottom 50%. In a society in which the average income is 2,000 euros a month (post-tax), it means that if the bottom 50% earn an average of 1,200 euros a month (post-tax), nobody should earn no more than 21,600 euros a month (post-tax). This ratio of 1 to 18 in income draws a distribution that is more unequal than the most egalitarian developed capitalistic society in recent times, the countries in Scandinavia of the 1970s-1980s (a low inequality society), but is less unequal than a medium inequality society like Europe in 2010. On the other hand, I sustain that *nobody* should own more than 100 times of the average wealth (per adult) of the bottom 50%. In a

society in which the average wealth is 200,000 euros per adult, it means that if the average wealth of the bottom 50% is 25,000 euros per adult, nobody should own more than 2.5 million euros. At the same time, if in that society the average wealth of the bottom 50% is 40,000 euros per adult, nobody should own more than 4 million euros. This ratio of 1 to 100 in wealth is far from representing a low wealth inequality society (and also an ideal wealth distribution), one that, according to Piketty (2014), has never been observed. Nonetheless, this range might draw a medium wealth inequality society which a wealth distribution is similar, more or less, to the Scandinavian countries in the 1970s-1980s. Of course, it would be a more egalitarian society than a medium-high wealth inequality society like Europe in 2010, and even more than the US in 2010. In this way, I think that a society which is regularly able to maintain a ratio of 1 to 18 in income and a ratio of 1 to 100 in wealth could be described as a realistic utopia.²⁶¹ However, both these ranges should be understood just as a starting point of this discussion. Indeed, it is possible that the ranges I proposed might be too narrow or, instead, too wide. But, even if we might not find an agreement about the optimal and fair range, once we have accepted that each society must decide the acceptable range between the most and the least advantaged, this normative idea has some strong implications for the way in which a society should shape its own basic structure (legal, political, socioeconomic, and cultural). For example, we can no more reject the progressive taxation; otherwise we would not be able to respect the acceptable range between the best off and the worst off, whatever this range might be. From this point of view, a regressive tax system and a flat-tax system are themselves unjust tax policies because they allow an (potentially) unlimited inequality.

The economic inequality in the contemporary capitalistic societies is a very complex and multidimensional issue; therefore it would be naïve (and also a great mistake) to offer a simple solution. So,

²⁶¹ To be sure, my proposal is revolutionary in case of some countries like Brazil, Russia, and US which are, actually, the most unequal societies in the world, both in terms of income and wealth. However, it does not mean that the acceptable ranges should be implemented from one day to another. By contrast, we need a radical and long-run project of social and political transformations, and it concerns the question of transitional justice. Albeit, it is not directly the issue of my investigation, in the last chapter (6), I will present a set of distributive proposals that in the short-medium-run might considerably reduce the actual level of income and wealth inequality.

in this chapter, I will try to show that the distributive criterion of proportionality is able to take into account all complexity of this issue. It is important to recall that the distributive criterion of proportionality is grounded on the normative argument according to which the primary rules (legal, political and socioeconomic) that permit an (potentially) unlimited accumulation of power, formal or/and material, in favor of some individuals or groups must be reasonably rejected. Only in this way, a society can avoid domination. This means that power is the key notion, and we should take into account the different forms of power – structural and relational – and the different power resources – ideological, formal and material. Therefore, designing a just (and fair) economic distribution means to investigate the capitalism logic and the structure of itself and the different sources of economic inequality and the mechanisms of accumulation, for example between income from labor and income from capital. It means to understand the current capitalism dynamics such as the rise of a class of supermanagers and superinvestors, as well as the impressive technological change and a new wage of automation. In particular, taking into account structural power allows us to unmask some theoretical ‘illusions’ such as the idea that the perfect competitive market realizes a fair distribution within itself (because in perfect competition no actor is more powerful than another) or the theory of marginal productivity which presumes to explain the astronomic rise of supermanagers wages. In this sense, the value of meritocracy and individual responsibility as well as the idea of absolute individual property are often used as ideological tools to picture a certain distribution as ‘natural’ or ‘pre-political’ rather than as a social construct based on specific institutional rules and compromises (Piketty, 2014; Murphy - Nagel, 2002; Frank, 2016). For this reason, we should take into account also the relational power and ask ourselves: who has the power to establish and shape the socioeconomic arrangements? From the point of view of material power, we should ensure for all a *proportional* amount of economic resources in terms of income and wealth. In this last chapter, I will argue about all these dimensions of distribution and the normative implications in taking seriously the economic inequality between the most and the least advantaged. I will structure the chapter as it follows on the next paragraph.

In the next section (5.1), once realized that the gap between the top and the bottom of distribution really matters, I need to clarify in which sense the distributive criterion of proportionality is a radical restatement of our (in a liberal democracy) fundamental considerations

about a just and fair economic distribution. However, in doing so, I will show that the criterion of proportionality does not endorse a counterintuitive assumption about the idea of efficiency and the notion of poverty. After that, in the section 5.2, I will argue about different possible 'relative' measures of economic inequality, such as Gini coefficient (Gini, 1912), Theil index (Theil, 1958), Atkinson index (Atkinson, 1970), P90/P10 interdecile ratio, or Piketty's distribution tables (2014). I believe that Piketty's distribution tables indicating the shares of various deciles and centiles in total income and total wealth (separately) are the most adequate method to analyze economic inequality. I will show that there are some valid reasons that justify this preference, but the most important is that we should accurately distinguish the different sources of economic inequality. Therefore, following Piketty, it is necessary to take apart income from labor, capital ownership and income from capital. Only in this way can we take into account one of the most fundamental 'structures of capitalism', i.e. $r > g$. In other words, looking at the history of the distribution of income and wealth (as Piketty does), we observe that "the distribution of wealth—and therefore of income from capital—is always much more concentrated than the distribution of income from labor" (Piketty, 2014, p. 336). So, I suggest two different acceptable ranges for income inequality and for wealth inequality, respectively a ratio of 1 to 18 and a ratio of 1 to 100. Then, I will face the fundamental question of how to radically reshape the institutional background in a way to invert the trend of wealth accumulation, and more broadly to reduce the current economic inequality. As Martin O'Neill (2017, p. 370) suggests, we can answer this question from two different perspectives: a long-run strategy and some short-to-medium run strategies. The first strategy means to prescribe an ideal type of social system in which we have political and socioeconomic institutions that systematically prevent material domination and so allow democracy to regain control of capitalism. Instead, a combination of short-to-medium run strategies is a less ideal approach and it means to discuss a set of distributive proposals with the aim of containing and reducing the present, economic inequality of income and wealth. I will address the long-run strategy in the last section (5.3) arguing about some ideal type of social systems that are compatible with the distributive criterion of proportionality, such as property-owning democracy, liberal socialism, or pluralist commonwealth (Alperovitz, 2006; 2012). The main feature of these ideal social systems is the so called predistribution (or ex-ante distribution) as opposed to a simple redistribution (or ex-post

distribution). I will argue, above all, on Meade's original version of property-owning democracy because of the mix of it, between private and public forms of capital predistribution, without a total replacement of the traditional welfare system. From this perspective, we can realize that a strict opposition between predistribution and redistribution might be misguided. They are complementary rather than substitutive. This awareness makes the argument about short-to-medium run strategies and discussion of specific sets of distributive proposals more urgent; and, in doing so, the necessity of a plurality of distributive means appears more evident. So, in the last chapter (6) I will argue on several radical proposals addressing different fields of distribution, each of which raises specific normative questions that deserve to be discussed.

5.1 Proportionality, efficiency and poverty

Although the criterion of proportionality endorses a non-intrinsic concern for inequality, the economic gap between the top and bottom of distribution is the core of its distributive implications. In this way, at first sight, it seems to contrast with two main dominating assumptions concerning a just (or fair) economic distribution in our liberal democracies. First, it should be able to raise enough resources to provide an adequate level of public goods, such as defense, law enforcement, and education; and second, it should result in a decent standard of living for the least advantaged members of the society (Murphy and Nagel, 2002). As I have already said, only a few advocate a pure libertarian distribution and reject the 'redistributive' justice. By contrast, from the point of view of mainstream theories of justice, a fair economic distribution should give priority (or some kind of special regard) to the worst off, and, at the same time, being compatible with a Pareto improvement (or most generally with efficiency). But the current interpretation of these two fundamental assumptions has a strong implication regarding economic inequality about the gap between the top and bottom of distribution. Indeed, if the priority of the worst off (or guaranteeing a level of sufficiency for all) merely means to raise the *absolute* economic level of people with few resources, then reducing the degree of inequality from the top does not matter. In our liberal democracies, this position seems to be quite reasonable and it seems difficult to reject it without endorsing an intrinsic concern for inequality. Indeed, even egalitarian authors (non-intrinsic) such as Murphy and Nagel (*ibidem*, p. 186) are uncertain about the question of "whether large inequalities toward the top of the economic distribution are

objectionable, independently of the value of lifting the standard of living and opportunities of those toward the bottom”. They believe that “bringing down the top, unless if it is a mean of bringing up the rest, is not a policy that can be easily defended by politically attractive arguments” (*ibidem*, p. 187). Contrarily, the distributive criterion of proportionality focuses precisely on the range between the top and the bottom of distribution; and in doing so, it seems to deny the two assumptions mentioned above. But, instead, it just qualifies them to offer a different interpretation, even maintaining a non-intrinsic concern for inequality. Along this thesis, I have tried to show that if we really care about the worst off – maximizing their position, guaranteeing a sufficiency, or ensuring equality of opportunity – we should account their economic position in strict relative terms rather than in absolute terms. Otherwise, we neglect that some of the most important social goods have a positional nature (manifest and latent), like education, for example. Or we neglect that the question of power is the first question of justice, and that power (political, economic or social) is an essential relational concept. Reporting an extreme case that is happening in one of the richest parts in the world – the San Francisco Bay Area – might make this point clear. The cost of living in the San Francisco Bay Area has grown to a point that forces people who have more than decent jobs (and a high level of education and qualification) to live as homeless. This social phenomenon is different from other common situations in the U.S.A. that share a high percentage (for a developed country) of people living in a condition of absolute poverty. In that region, for example in Mountain View, the ‘absolute’ condition of those people who live in an uncomfortable living situation, as described by the report²⁶², strictly depends on relative conditions of the new millionaires of the tech boom. For example, it is their enormous socioeconomic bargaining power to afford an astronomic price to rent a house that hampers the worst off to do the same. This case clearly shows that the most important social goods are positional goods, and it perfectly explains the illusion that a high level of education accessible for all can alone realize equal opportunity and reduce extreme inequality. As Piketty explains well:

qualification levels shifted upward: a high school diploma now represents what a grade school certificate used to mean, a college degree what a

²⁶² AP NEWS: [link no. 1](#). For more details on such socioeconomic phenomenon, see: AP NEWS: [link no. 2](#).

high school diploma used to stand for, and so on. As technologies and workplace needs changed, all wage levels increased at similar rates, so that inequality did not change (Piketty, 2014, p. 484).²⁶³

Of course, one might think that the solution in this case is still to raise in absolute terms the economic position of those people until they can rent a house or afford a decent life. But this interpretation does not catch the point: this ‘absolute’ level that hypothetically would ensure a decent life condition, and also a fair distribution, is a function of what others own, and in particular what those who are on the top of the distribution own.

However, even the distributive criterion of proportionality can qualify in a compelling way the point of view of mainstream theories of justice, I cannot deny (and I do not want to) that it entails some radical implications; for example, for the way in which we conceive the relation between efficiency and a just distribution. Indeed, the distributive criterion of proportionality does not prescribe to choose A (half at 260 – half at 120) rather than B (half at 190 – half at 100) because in the former social design the position of the bottom of the distribution is the highest in absolute terms, regardless of increasing in economic inequality. Instead, it might prescribe to choose C (half at 150 – half at 100 or even half at 140 – half at 90) rather A or B. It is true that C is less ‘efficient’ than A and B regarding the size of the cake, and, above all, C (in case half at 140 – half at 90) is less ‘efficient’ than A regarding the slice of the cake at the bottom of distribution (and it is this second aspect that can disturb our intuitions about the just and fair distribution), but it does not mean that C is completely incompatible with efficiency. In order to appreciate this aspect and to not suggest a counterintuitive perspective, I should introduce some specifications regarding the concept of efficiency and poverty.

The numbers above do not say a lot; they even sound quite empty, but the purpose is to emphasize that what matters is the size of the cake and the distribution in conjunction, and in a certain case a smaller cake better distributed is preferable to a larger one with a higher level of inequality, and even if it presents (in absolute terms) a larger slice of the cake at the bottom of distribution.²⁶⁴ As Atkinson (2015, p.

²⁶³ For a detailed explanation of the phenomenon, see also: Kaus, 1992.

²⁶⁴ In the next section, I will prescribe the permissible proportionality between the top and the bottom of distribution.

243) observes, “into the balance come both the extent of the efficiency loss and the way in which we judge gains and losses.” I believe that if egalitarians are sure about the validity and the attractiveness of their conceptions of distributive justice, they should not be scared to admit that in some cases we can reduce economic inequality only at the expense of economic output and/or economic growth. First of all, this ascertainment is problematic only if we remain bonded to the paradigm of infinitive growth and the classic welfare economic model; and secondly, it does not mean to accept the trade-off between equity and efficiency as inevitable in any case. However, I want to make clear that, of course, efficiency matters, and a certain social design that respects the distributive criterion of proportionality and maintains the level of inequality between the top and bottom of distribution as low as possible, it should be sustainable in the long run. In other words, a social design should not be economic regressive or even depressive, but it might simply be a sustainable steady-state economy or a slow growth economy.²⁶⁵ Nowadays, we have strong reasons to abandon the paradigm of infinitive growth, firstly due to given environmental constraints and, secondly, given that a high economic growth might no longer be accessible for an advanced economy such as the U.S.A., EU, or Japan.²⁶⁶ Another important aspect concerns the classical model to evaluate efficiency. The first widespread belief that we should unveil is the theorem that perfect competitive markets determine prices that measure at least approximately the real scarcity of goods and for this reason allocate resources efficiently. For the most part they do not.

²⁶⁵ Authors such as Rawls, Mill and Meade sustain that it might be unreasonable to rule out the possibility that a society as a whole sets itself “low growth” or “no growth” targets.

²⁶⁶ In the current economic system, the reason why all of us understandably worry about the low or slow growth depends on the current structure of ownership and wealth and its enormous concentration. It is enough to recall the most famous Piketty’s mathematical inequality: $r > g$ (where “ r ” is the rate of return on capital, and “ g ” is the rate of growth) to understand that in the actual economic structure a stagnant economy amplifies wealth inequality (In the next section, I will explain this mechanism in more details). For this reason, it is not surprising that authors such as Rawls and Meade, who sustain the possibility of a society with a zero or slow growth, defend a great transformation in the socioeconomic system in a way to ensure a robust dispersion of wealth and ownership like in the liberal socialism and a property-owning democracy. I will back this point later.

(Bowles, 2012, p. 16). As Atkinson (2015, p. 246) also clarifies, we have to take account the conditions under which this theorem is valid.

The conditions are stringent: (1) households and firms have to act perfectly competitively (taking prices and wages as given); (2) there has to be a full set of markets, equilibrating the supply and demand for all goods and services now and in the future; and (3) there has to be perfect information.

First, it is clear that these conditions do not apply to real economies, second, and more important, it is hard to imagine an economy in which there is no government. On the one hand, we cannot presume that a market economy is, by its nature, efficient; but, on the other hand, we cannot assume the opposite, that government and state is an effective and efficient instrument for the implementation of economic objectives. In other words, it means that we should recognize coordination failures in both the market and state. From this perspective, we can realize that there may be more than one market outcome, and therefore the equity-efficiency trade-off is not so inevitable. Indeed, some important studies²⁶⁷ showed how economic inequality, in particular wealth and ownership concentration, might be very inefficient.

The second concept that I need to briefly explore is the poverty one, and its relations with justice as well as with inequality. Although I have tried to prove how the worst off position should be considered in its relative terms and for this reason inequality between the top and bottom of distribution really matter (at least, according to the concept of social justice), many might be worried about taking into account the absolute value of the worst off position because they want to be sure that a certain distribution would guarantee that anyone will be situated above the line of poverty. I agree with Sen (1985; 1992; 2001) that it is necessary to maintain an irreducibly absolute component in the notion of poverty, but I think that we should avoid conflating the notion of justice and poverty. Indeed, a ‘poor’ society is not itself an unjust society, by contrast a very affluent society might present material injustice. If a group of people is put in the worst off position of an affluent society, it does not mean that they are absolutely poor but nonetheless they might be subject to material domination.²⁶⁸ Clearly, for

²⁶⁷ See: Bowles, 2012; Lansley, 2012; Stiglitz, 2012; Atkinson, 2015.

²⁶⁸ One might say that in our contemporary world, a poor society is always a result of some severe forms of political injustice. Likely, it is true for most

the same reason, even a 'poor' society might present material domination depending on its level of economic inequality, and unfortunately this is the most common scenario. However, in our complex social reality the distinction between justice and poverty cannot be sharply marked. For this reason, the idea of proportionality applied as a (economic) distributive criterion of social justice is compatible with other criteria (for example with sufficientarianism) when they serve the notion of poverty. Moreover, another important reason to not decide theoretically the exact number of proportionality in economic distribution is that, in certain circumstances, we might need to take into account a generalized condition of poverty. For example, we cannot exclude beforehand the hypothesis that, in some particular situations, a rise in economic inequality might favor the economic output or total growth and therefore it might be used for improving the absolute condition of poor people.

Now, I hope it is clear that the distributive criterion of proportionality is compatible with the two fundamental intuitive assumptions in our liberal democratic societies about the just economic distribution: the distributive scheme should permit to raise enough resources to provide an adequate level of private and public goods and it also should guarantee a decent standard of living for the worst off. In this sense, it does not contrast with a certain idea of efficiency and the notion of poverty. However, on the other hand, the criterion of proportionality qualifies these two assumptions in a way to radically change our considerations about a just economic distribution.

5.2 A permissible range of economic inequality: income and wealth

On the question of the measurement of inequality, the main fundamental problem is due to the choice of the kind of index or coefficient of inequality. An accurate scrutiny of the most popular and common indexes or coefficients of inequality shows how not all of them are adequate to capture the phenomenon of material domination. A first

cases. Nonetheless we cannot exclude that a political society might share a certain ethical conception that does not consider worthy being an affluent society in terms of goods; or that some cultural and social praxis make a certain society less productive or laborious than others. The point is always how people treat each other rather than how much goods they have. In this sense, I follow Rawls' intuition that a society can be considered just (almost) independently of its level of affluence. See: Rawls, *The Law of Peoples*, 2001/b.

distinction begins with a methodological point of view. To reach my goals here, I am interested in a *relative* and *objective* measure. First of all, only a relative measurement of inequality is compatible with the criterion of proportionality. The relative measure of inequality is usually criticized for two main reasons: first, it does not measure the absolute income; thus, it may happen that the relative inequality remains stable while there is an absolute increase of income, and for example the number of people in absolute poverty decreases; second, the relative measure can make some comparative evaluations very difficult, for example, an affluent and a poor country might have an identical relative inequality ratio (or almost the same inequality hierarchy) even if in these countries the quality of life, economic opportunity and absolute wealth and income are very different. However, these disadvantages in the relative measure are problematic only if we conflate the notion of justice with that of poverty. As I have already specified in the previous section, although poverty and justice (as well as poverty and inequality) are two strictly linked concepts, we should keep them separated as much as possible.²⁶⁹ Moreover, this measure should be objective in the sense that it employs some statistical measure of relative variation of income, as opposite to indexes that try to measure inequality in terms of some *ethical* notion of social welfare independently of distribution, like in the welfare utilitarian economics tradition.²⁷⁰ (Sen, 1973; 1997).

²⁶⁹ Moreover, the measurement of poverty needs a specific metric. See: Sen, 1976, 1992.

²⁷⁰ According to the welfare economics tradition, a higher degree of inequality simply corresponds to a lower level of social welfare for a given total income (Sen, 1997, p. 2). So, since all that matters in this view is the total sum of individual utilities, welfare, economic speaking, is profoundly unconcerned with inequality, at least in the sense in which the word is used in common language. "It would be odd to describe (0, 10) and (5, 5) as having the same degree of inequality" (Sen, 1997, p. 39). Some famous examples of welfare economics measurement of income distribution are Dalton (1920), Champernowne (1952), Atkinson (1970; 1975). However, as Sen (1973; 1997) notes, Atkinson's approach is not exclusively utilitarian. In a certain sense, Sen in *On Economic Inequality* (1973) was much more concerned with showing that inequality evaluation can be based on taking full note of, both, total aggregation and relative variation of distribution. According to Sen (1997, p. 117), "they can be accommodated together within the general approach of inequality measurement developed by Atkinson by changing the formulations appropriately."

Once specified, I will take into account only those measures of inequality that are relative and objective. I also need to clarify, briefly, the main concepts underlying the statistical measure of relative variation of income.²⁷¹ First of all, we must decide if we should measure the distribution of outcomes in terms of income or in terms of consumption. There is a great discussion among economists about the supposed superiority of consumption or income as an indicator; likely, the choice between them depends on the purpose of the analysis. From the point of view of this thesis, there is a great advantage to focus on income and earnings as an indicator of potential control over resources. As Atkinson observes, the point is that the use of resources goes beyond consumption:

When measuring inequality, we are concerned not just with the consumption of the rich—important though this may be—but also with the power that wealth can convey. This power may be exercised over one’s family, as with the passing on of wealth to heirs, or more generally in such ways as control of the media or influence with political parties (Atkinson, 2015, p. 37).

Then, the second concept that I have to explore is the measure unit in the analysis. Nowadays, survey data are widely used to study inequality. The total household income is yielded from different components: A) earnings from work, not only the wage and salary received by employees but also the income of people who are self-employed b) another important component of household income is derived as return of capital, such as interest, dividends, rents, capital gains and profits, C) transfer payments received from private bodies, such as pensions, and state transfers, D) subtracting income tax, security taxes and other direct taxes (Nolan – Salverda - Smeeding, 2011, p. 7; Atkinson, 2015, p. 30-31). What is really important is that the total household available income must be adjusted for household size and composition. The last distinction that I have to specify is between the vertical dimension and the horizontal dimension of inequality. In this thesis, I mainly focus on the vertical dimension; nonetheless it is important to mention the significance of the horizontal dimension as well. It concerns income inequality across various groups, such as by gender, location, or ethnic group. For example, about the gender wage

²⁷¹ For the moment, I do not take into account the distinction between income and wealth.

gap, in the majority of OECD countries, it decreased from 1960 to 2000, but the general pay gap is still remarkable in favor of male wages, and it has been decreasing more slowly or stagnating since the late 1990s, but in some countries, like Italy, it has increased (Atkinson, 2015, p. 38). The situation of ethnical inequality is, in some cases, way more dramatic. For example, in a recent study, Shapiro (2017) reports how the inequality's impact differs by race in the U.S.A, in particular his research documents how African Americans net wealth is just a tenth compared to white Americans.

Now, I will focus on the manner in which we might organize these data, for example according to which index or coefficient. Many relative indexes are used to summarize inequality in terms of a single number. It is useful to describe their main properties. First of all, we can start from two fundamental dimensions: the range between the extreme value of distribution (the highest and the lowest income levels) and its internal distribution. At first glance, in this thesis I have focused properly on the first dimension – the range or the gap – but it would be very simplistic considering only this dimension in between the extremes. There are two simpler forms to measure the range and the internal distribution, both unsatisfactory. The range (E) can be defined as the gap between these two levels as a ratio of mean income. If income is divided equally, then clearly $E = 0$ (Sen, 1997, p. 24). Meanwhile, the entire distribution might be simply measured (the so-called relative mean deviation: M) “to compare the income level of each with the mean income, to sum the absolute values of all the differences, and then to look at that sum as a proportion of total income. With perfect equality $M = 0$ ” (*ibidem* p. 25). If E does not take note of the entire distribution, the main problem with M is that “it is not at all sensitive to transfers from a poorer person to a richer person as long as both lie on the same side of the mean income” (*ibidem*). A first apparent solution is to introduce the variance (the common statistical measure of variation). It has the fundamental property to evaluate as a reduction of inequality a transfer from a richer person to a poorer person. But, the variance also shows an important trouble for inequality measurement: since it depends on the mean income level, “if every income is increased equiproportionately, inequality increases” (Jenkins - Kerm, 2011, p. 9). From this very brief overview of the dimensions of inequality, we can observe the main fundamental properties of the relative measures of inequality. Thus, in taking note, both of the range between the extremes and the entire distribution in between the extremes, these properties should be the following: 1) mean income level independence (or scale invariance): if

every income increases by the same portion, inequality must not increase; 2) replication invariance: it holds if a simple replication of the population of individuals and their incomes does not change aggregate inequality; 3) symmetry: the index depends only on the income values used to construct it and not additional information such as who the person is with a particular income; 4) the principle of transfers (or Pigou-Dalton condition): inequality increases as a result of a regressive transfer; 5) transfer sensitivity: given income transfer should have the greatest effect at the lower end of the distribution²⁷² (Jenkins - Kerm, 2011, p. 10-11; Sen, 1997, p. 139).

There are many synthetic indexes that share these main properties, such as the Gini coefficient (Gini, 1912; 1921) and Generalized Gini (or S-Gini), Theil index (Theil, 1958), Atkinson index (Atkinson, 1970), P90/P10 interdecile ratio; and even so, not all of them satisfy all these properties, for example, P90/P10 interdecile ratio does not satisfy the principle of transfer. Surely, the most widely used index is the Gini coefficient, which ranges from 0 (perfect equality) to 1 (perfect inequality). The Gini coefficient is the ratio of the area enclosed by the Lorenz curve²⁷³ and the perfect equality line to the total area below that line. However, each index or coefficient has some advantage and some limits, and given that economic inequality is such a complex concept, we likely cannot appoint the best one in absolute terms. But the main problem of synthetic indexes (like the Gini coefficient) is that “they claim to summarize in a single numerical index all that a distribution can tell us about inequality” (Piketty, 2014, p. 266). This

²⁷² In order words, the welfare impact of a tiny transfer from a man with £ 1,000 to one with £ 900 is thought to be more important than that from a man with £ 100,100 to one with £ 100,000 (Sen, 1997, p. 32). However, this property might be considered simply as an additional property, rather than as a fundamental one, because it is not a relative sensitivity *per se* (Sen, 1997, p. 148). The point is that transfer sensitivity relies on income rather on the relative people position to others to determine the impact of transfers; and this choice might be questionable.

²⁷³ “The Lorenz curve is the graph of cumulative income shares against cumulative population shares, and the generalized Lorenz curve is the Lorenz curve scaled up by mean income. The curvature of the Lorenz curve summarizes inequality: if everyone had the same income (the perfect equality case), the Lorenz curve would lie along a 45 ray from the origin and, if all income were held by just one person (complete inequality), the curve would lie along the horizontal axis” (Jenkins - Kerm, 2011, p. 8).

way, they fail to satisfy two types of conditions that come to play a central role in inequality analysis: decomposability and subgroup consistency (Sen, 1997, p. 149). In other words, the Gini coefficient (and others similar indices) is not able to decompose inequality according to different income sources, e.g. labour income and capital income. Moreover, it also neglects the income and wealth levels of various social groups.²⁷⁴

Therefore, for my purpose, I think that Piketty's distribution tables (2014) indicating the shares of various deciles and centiles in total income and total wealth (separately) are the most adequate method to analyze economic inequality. First, the evaluation in terms of deciles and centiles perfectly grasps Occupy's claim against the enormous increase of inequality in favor of the top 1%. Second, Piketty's distribution tables permit to determine "the extent to which a *disproportionate* share of growth has been captured by the top end of the distribution"²⁷⁵ (*ibidem*, p. 269). As I already said, others synthetic indexes, such as the Gini coefficient or P90/P10 interdecile ratio, do not permit this accurate and precise evaluation. But, most important, Piketty's distribution tables allow us to put again classes at the core of the distributive debate. Piketty designs four main classes entirely based on statistic concepts such as deciles: the bottom 50%, the middle 40%, the top 10%, and the top 1%. He calls these classes²⁷⁶ respectively: lower, middle, upper, and dominant (*ibidem*, p. 267, 269). In this view, distributive tables are also valuable because they force everyone to take note of the share of income and wealth of the different social groups, particularly the bottom and the top deciles or top centile, which make up the existing hierarchy (*ibidem*). For example, in a society in which the

²⁷⁴ Nonetheless, it does not mean that Gini and others indexes are not useful, since sometimes we do not have an available alternative, and a significant reduction of inequality measured in Gini coefficient would already be, a great egalitarian achievement.

²⁷⁵ Italic by me.

²⁷⁶ As Piketty himself admits, this class terminology is quite arbitrary, and it represents only an economic classification. Clearly, a compelling terminology of the issue of social classes requires a more extent sociological investigation (see: Bourdieu - Passeron, 1990; Bourdieu, 2005; Boltanski - Chiapello, 2007). However, this method could partly compensate for the common omission of the issue of social classes in the current debate about economic inequality. In this regard, recently Schutz (2011) offers a comprehensive work about the question of social class and its effects on economic inequality.

top 10% share 70% of the total wealth (capital ownership), with an average wealth of 200,000 euros per adult, each of the richest 10% therefore owns on average the equivalent of 1.8 million euros. But if we look at the top 1%, the members of this top group share generally around 35% of total wealth, it follows that each of the richest 1% owns 10 million euros (with 890,000 for the 9%). Meanwhile, in the same society with this ‘very high’ wealth inequality (like US in 2010), the bottom 50% own only 5% of total wealth, it follows that each person among the poorest 50% possesses on average a net wealth of 20,000 euros. (*ibidem*, p. 258-259, and p. 602, note: 19). Third, and above all, the distribution tables allow us to accurately distinguish the different sources of economic inequality: income and wealth. More precisely, following Piketty (*ibidem*, p. 336), economic inequality might be deconstructed into three terms: “inequality in income from labor; inequality in the ownership of capital and the income to which it gives rise; and the interaction between these two terms”. Only in this way, can we take into account one of the most fundamental structures of capitalism, i.e. $r > g$ (where “ r ” is the rate of return on capital and “ g ” is the economy’s growth rate). In other words, looking at the history of the distribution of income and wealth, we can note that “the distribution of wealth—and therefore of income from capital—is always much more concentrated than the distribution of income from labor” (Piketty, 2014, p. 336).

In Piketty’s analysis (2016, p. 91), “the size of the gap between r and g is one of the important force that can account for the historical magnitude and variations in wealth inequality”. In order to understand the $r > g$ mathematical inequality²⁷⁷, I need to recall Piketty’s two ‘fundamental laws of capitalism’. Indeed, what is really relevant is the share of income from capital in national income, α .²⁷⁸ So, the first fundamental law is $\alpha = r \times \beta$. This law “links the capital stock to the flow of income from capital. The capital/income ratio β is related in a simple way to the share of income from capital in national income,

²⁷⁷ Now so well-known, that there are even $r > g$ *T-shirts* (Goldhammer, 2017).

²⁷⁸ Some authors criticized Piketty’s definition of ‘capital’ for neglecting the distinction between capital conceived of as a factor of production and wealth more generally which includes assets that may have no productive use (see, Galbraith 2014). The controversy of it is not so relevant for my restricted goal that concerns only economic inequality rather than the question of capital.

denoted α ” (Piketty, 2014, p. 52).²⁷⁹ Then, if we are concerned about the inequality that might be associated with an increasing capital share of national income, then we need to examine what determines the capital/income ratio (β) in the long run. This will lead us to the second fundamental law of capitalism: in the long run, the capital/income ratio β is related in a simple and transparent way to the savings rate s and the growth rate g according to the following formula: $\beta = s / g$. (*ibidem*, p. 166). Therefore, the combination of the two fundamental laws of capitalism, the share of income from capital in national income is $\alpha = r \times s / g$. Now, given that Piketty’s historical analysis, covering three centuries and over twenty countries, shows that the irrefutable historical fact that r was indeed greater than g over a long period of time, “the idea that unrestricted competition will put an end to inheritance and move toward a more meritocratic world is a dangerous illusion” (*ibidem*, p. 424). This unveiling is undoubtedly the main contemporary contribution of the question of economic inequality. What is astounding in Piketty’s conclusion is that the inequality $r > g$ “has nothing to do with market imperfections and will not disappear as markets become freer and more competitive” (*ibidem*). It is clear that equality of rights and opportunity is not enough to ensure an egalitarian distribution of wealth. If the technological frontier continues to advance along this trend, many liberal capitalistic societies (mostly the U.S.) will soon reach a very high level of wealth inequality in which the top 10% own 90% of national wealth, and the top 1% own 50%, in a very similar scenario already experimented in Europe during the Belle Époque (*ibidem*, p. 248). In a society of that kind, there is no space for the notion of social mobility. It will be simply a society dominated by rentiers.

Now, I need to highlight two important specifications about the mathematical inequality $r > g$. First, there is a considerable divergence in capital returns (r) “between bigger and smaller investors, with those who already have substantial holdings of capital seeing a much bigger return on their investments than those who have only small investments” (O’Neill, 2017, p. 351). The main reason is that part of the return on capital is absorbed by intermediaries, such as banks, pension funds, investment funds, and others institutions in the financial sector

²⁷⁹ This means that if the value of the capital stock is around 600% of yearly income (β of 6) and a rate of return on capital of 5%, then α would account for 30% of national income (Piketty, 2014, p. 53). However, Piketty’s ‘first law of capitalism’ is not a law in the sense of a general empirical regularity, but it is in fact simply an accounting identity (Piketty, 2014, p. 45).

(Atkinson, 2015, p. 161). As Piketty (2014, p. 439 and 448) shows, divergence and inequality in the returns on capital is a function of initial portfolio size. Therefore, the distribution of wealth depends on how that wealth is invested, and it is not really surprising to discover that financial intermediation serves different investors more or less well in proportion to their existing wealth. For this reason we can argue about the phenomenon of ‘superinvestors’.

The second specification about the inequality $r > g$ is that, as Piketty (2016) himself admits, it is not a useful tool for the discussion of rising inequality of labor income. For example, $r > g$ cannot explain the explosion of the top managers wage. Indeed, we should take into account other mechanisms and policies to explain the rise of the top income share in the recent decades. Piketty (*ibidem*, p. 92) points out three groups of factors: rising inequality in access to skills and to higher education; exploding top managerial compensation (probably stimulated by changing incentives and norms, and by large cuts in top tax rates); changing labor market rules and bargaining power. However, as Margaret Levi (2016) rightly observes, many important issues – such as the changing nature of the workplace and the evolution of organized interests – regarding labor income inequality are not sufficiently addressed in Piketty’s analysis (they are only partially treated in chapter 9 of *Capital*). This second specification allows us to distinguish two different phenomena at work: the rise of a class of ‘superinvestors’ and ‘supermanagers’. However, they are two convergent phenomena to the detriment of those who are neither supermanagers nor rentiers. There are two reasons why Piketty focuses mainly on wealth inequality. First of all, as a historical fact, wealth inequality is much more pronounced than income from labor inequality. Secondly, according to him, in a liberal democratic society there is something of normative repellent in achieving social success only from inherited wealth rather than through study, talent and effort; a society of patrimonial wealth is not democratic at all. So, what seems to be particularly disturbing in the process of the capital/income ratio rising is the amplification of pre-existing wealth inequality in the degree to which individuals can achieve a given level of income from investment and rents rather than in labor participation. For this reason, Piketty is more interested in the inequality created by inherited wealth. Moreover, from the perspective of inheritance, the distinction between extreme inequality of income from labor and income from ownership loses its relevance since in the long-run, for example, very high compensations to the top managerial class are translated into wealth inheritance in favor of their own next family

generations. However, it does not mean that, according to Piketty, inequality of income from labor in any case is not problematic. Indeed, Piketty (2014, p. 416-418) also rejects meritocratic extremism.²⁸⁰ Currently, the stratospheric pay of supermanagers (at least 50 to 100 times average income) is justified in terms of merit and productivity, but also in this case Piketty (2014, p. 330) shows that these claims have little factual basis, and by contrast they are grounded on another great economic illusion: the theory of marginal productivity. As I mentioned in the first chapter (section 1.2), Piketty's diachronic and synchronic data (*ibidem*, p. 334) do not support this theory. Instead, since the labor market is a social construct based on specific rules and compromises, this phenomenon depends on other factors like bargaining power, incentives, a particular form of property rights, and so on. Nonetheless, it is undeniable that "pure income from capital, unearned income, seems for Piketty to be in a morally different place than earned income" (Murphy, 2016, p. 625). For this reason, I need to draw an important clarification, and perhaps a distinction, between Piketty's normative commitments concerning economic inequality and mine.

On the one hand, I agree with Piketty (2014, p. 266) in distinguishing income from labor and income from capital in the measurement of inequality because the economic mechanisms at work are very different in the two cases. Given that according to the criterion of proportionality the gap between the top and the bottom of distribution matters normatively, we should be really interested in detecting the different economic sources that generate this gap. So, we should distinguish income and wealth (i.e. capital ownership and income from it) because wealth inequality is 1) much more pronounced and concentrated than income from labor inequality; 2) it has much more economically inefficient effects than income from labor inequality; and 3) it has strong implications in terms of economic and political power.

But, on the other hand, I disagree with Piketty in distinguishing income and wealth because the normative justifications are very different in the two cases. Since Piketty is an economist rather than a political philosopher, he comprehensibly spends little time to explain why inequality matters from a normative point of view. Some authors such as Murphy (2016) and O'Neill (2017) tried to identify the normative commitments behind Piketty's work. Both authors reached

²⁸⁰ Piketty makes a clear reference to the dystopian fable *The rise of Meritocracy* (Young, 1994).

the conclusion that Piketty's normative and moral commitments about economic inequality are broadly Rawlsian, and they interpreted Piketty's social justice view as 'non-intrinsic egalitarianism'. Piketty moves two main instrumental (or non-intrinsic) objections to economic inequality: democratic and meritocratic objections. The first objection concerns both procedural unfairness and oligarchic political domination in both the political and economic spheres; meanwhile the second objection concerns the harm of social status and self-respect (O'Neill, 2017, p. 358; Murphy, 2016, p. 614-615). But regarding this second objection, as Murphy (2016, p. 621) observes, Piketty seems to depart from Rawls' idea of social justice in one extremely important respect. Indeed, although Piketty (2014, p. 417) rejects the meritocratic extremism as merely an ideological justification for the emergence of the supermanagers and the extreme income inequality, he seems to introduce an element of moralism implicitly in his entire discussion of capital and the return of the rentiers; an element that Rawls hardly might accept, since he considers the natural lottery as arbitrary too. In many passages Piketty seems to share the same luck egalitarian position, when he argues that economic justice mainly concerns "with the means of effecting real improvement in the living conditions of the least advantaged, [...] and exactly what factors are within and beyond the control of individuals (where does luck end and where do effort and merit begin?)" (*ibidem*, p. 480); or when he emphasizes the moral distinction between unearned and earned incomes which explains his focus, principally on inheritance (*ibidem*, p. 507-508). In other words, Piketty seems to share the moral premise that economic outcomes should track choice, but should not track luck (inheritance) or disconnect from work; it is not a coincidence that he mentions many times as an example the case of Liliane Bettencourt "who never worked a day in her life" (*ibidem*, p. 440). This kind of moral judgment appears evident when Piketty underlines what he sees as particularly arbitrary in the transition from being entrepreneurs to being rentiers.

Entrepreneurs thus tend to turn into rentiers, not only with the passing of generations but even within a single lifetime, especially as life expectancy increases: a person who has had good ideas at the age of forty will not necessarily still be having them at ninety, nor are his children sure to have any (*ibidem*, p. 443-444).

Now, the point is that Piketty runs the risk to question not the amount of economic inequality and concentration but the moral nature

of its sources. So, it seems that, given $r > g$, wealth accumulation is arbitrary from a normative point of view simply because, “once you have a fortune, it grows all on its own, without you doing anything” (Murphy, 2016, p. 625). As Murphy suggests, it might follow that if supermanagers were rewarded in proportion to the amount of good they do to others (and they do not, because the theory of marginal productivity lacks of any objective basis), Piketty would have no objection. It might mean that Piketty is a moderate meritocratic or an equal libertarian (or even a moderate luck egalitarian).²⁸¹ The point is not to discover exactly Piketty’s own idea of social justice, and he is quite reticent to take a clear normative position. Rather, he (*ibidem*, p. 480) is inclined to leave the question of social justice to democratic deliberation and political confrontation. Perhaps, Piketty simply adopts a pragmatic and pluralistic normative approach, and indeed O’Neill’s interpretation goes in this direction without mentioning the doubt raised by Murphy. Likely, O’Neill (2017, p. 358) gives more normative weight to the democratic objection, given that he considers Piketty, in philosophical terms, a relational egalitarian rather than a distributive one. At the end, Murphy himself believes Piketty would reject equal libertarianism, all things considered. Nonetheless, I agree with Murphy that:

some account of merit is driving Piketty’s concern with the return of the rentier, and this inevitably introduces an element of moralism—in the sense that moral evaluation of exactly how someone gets their income and wealth plays a role in the account of economic justice (Murphy, 2016, p. 627).

Here, I want to make clear that the distinction between income and wealth adopted by my criterion of proportionality is not based on a morally significant difference between income in the form of gifts or bequests and income in the form of work. I have already mentioned the reasons above for this fundamental distinction. The criterion of proportionality focuses exclusively on the size of the gap between the most and the least advantaged. Just to be clear, it does not mean that

²⁸¹ A radical implication of the equal libertarian approach to inheritance might imply (all else unchanged) confiscation of all inheritance, since all inheritance is a matter of luck. But, Piketty is too pragmatic and reasonable to suggest anything like confiscation of all gratuitous transfer of capital (Murphy, 2016, p. 626-627).

merit, effort and responsibility are values that should have no space in our liberal-democratic societies. By contrast, it is absolutely legitimate to think that these values should have an important role and function to assign the different social positions along the top and bottom of distribution, provided that the range between the top two extremes of the distribution excludes any form of domination. In other words, these values should not be considered as a benchmark for a just distribution as a whole, and to shape the basic structure of society.²⁸² At this point, I hope that it is clear enough for which reasons and in which sense Piketty's distribution tables indicating the shares of various deciles and centiles in total income and total wealth (when looked separately) are the most adequate method to analyze economic inequality.

As I proposed at the beginning of this chapter, the acceptable ratio is of 1 to 18 in income and a ratio of 1 to 100 in wealth. I think that a society that respects both these ranges is a realistic utopia. It means that my proposal does not prescribe an ideal society nor the most egalitarian society that we could concretely expect to achieve, or even that we have already observed. Piketty's historical analysis of economic inequality and other comparative data can confirm the reasonableness of my proposal. I begin with inequality of income.

Piketty (2014, p. 247, and p. 255-257) distinguishes four different societies according to their own level of inequality of labor income: low inequality (Scandinavia, 1970s-1980s), medium inequality (Europe, 2010), high inequality (US, 2010), and very high inequality

²⁸² I think that we should interpret in this way Rawls' rejection of the natural lottery. However, I have already argued in more detail about the luck egalitarianism in section 3.4. Here, I want only to add an aspect. Someone might believe that it is a good strategy to appeal to the idea of 'meritocracy' to prove that the rentier's economic accumulation is arbitrary and unjustified, but I disagree. I think that it is useful to show (as Piketty does) how 'meritocracy' is used as a contradictory ideology to mask the actual relations of domination, but we should resist to share this ideology and apply it coherently. Indeed, by following this line of thought, we should apply the same 'meritocratic' criterion not only to the top of the distribution but also to the bottom, and in particular to poor people. Therefore, I do not need to dwell here on why this strategy is not as appealing as it would seem at the first sight. This is one of the most important reasons for why the idea of social justice should not track any conception of worth, deserve, merit, or individual responsibility at all. The point is to be sure that the basic structure of society is arranged in a way to exclude, as much as possible, any forms of coercion, discrimination, exclusion, maldistribution, and above all, domination.

(US, 2030?). The entire labor income distribution in each society is differentiated into four classes: lower (the bottom 50%), middle (middle 40%), upper (the top 10%), which also includes dominant (the top 1%). Here, I report only the range in inequality between the average earning of the top 1% and the average earning of the bottom 50% (this is what matter for my argument). So, in a low inequality society like the Scandinavian countries of the 1970s-1980s, the top 1% of earners make on average 7 times the average wage of the bottom 50%. It means that the top 1% earn 5% of the total wages, while the bottom 50% earn 35% of the total wages. In arithmetic terms, if the average wage is 2,000 euros a month, the egalitarian Scandinavian 1970s-1980s distribution corresponds to 10,000 euros a month for the top 1% and 1,400 a month for the bottom 50%. By continuing the arithmetic exercise with the same average wage at 2,000 euros, in the medium inequality society (similar to Europe in 2010), the top 1% earn 14,000 euros on average (7% of total wages) and the bottom 50% earn 1,200 euros on average (30% of total wages); it means that the ratio between the two averages is of 1 to 11. Instead, in a high inequality society (like the United States in 2008), the ratio of the average wage of the top 1% to the bottom 50% is 24 to 1. So, the top 1% earns 24,000 euros a month on average (12% of total of wages) and the bottom 50% earns just 1,000 euros a month on average (20% of total wages).²⁸³ I need to immediately emphasize that these data represent the average of the two extremes of the distribution. It means that in the top 1% there are some who earn much more than the average of this class.²⁸⁴ For this reason, in my proposal the acceptable range

²⁸³ Piketty forecasts (2014, p. 257) that if the trend observed in the United States (or other countries) were to continue, then by 2030 the top 1% of earners will be making 34,000 euros a month (17% of total wages), and the bottom 50% just 800 euros a month (20% of total wages). In this case the ratio will be 1 to 43.

²⁸⁴ Of course, a certain disparity also exists in the bottom 50%, but it is not comparable to what we can find in the class of the 1%. Indeed, the distribution at the bottom 50% is usually less unequal. For example, in Brazil the distribution at the bottom 50% is contained between a spectrum of wages that goes from 73 reais to 1,132 reais a month (see: IBGE: [link](#)). But also in a developed country like Italy, this spectrum of wages in the distribution of the bottom 50% is quite narrow: from 7,500 euros to 20,000 euros a year; by contrast in the distribution of the top 1% that starts from 150,000 euros a year and reaches some millions euros a year for some very affluent individuals (see: *Dipartimento delle finanze, Analisi dati IRPEF – Anno d'imposta 2015*: [link](#)).

takes into account the average income of the bottom 50% and the best income at the very top of the distribution. In this way, the range I proposed is able to properly avoid the risk of ‘civil’ oligarchy: a narrow class of individuals who have an enormous economic and political power.

I said before that *nobody* should earn more than 18 times of the average wage (post-tax) of the bottom 50%. If we take into account the Scandinavian 1970s-1980s case in which the range between the wage on average of the top 1% and the bottom 50% was only 7 times, my ratio of 1 to 18 is less demanding, because only very few individuals likely earned more than 18 times in the Scandinavian countries in the 1970s and 1980s. Instead, my proposal might prescribe a distribution of income similar to that of a medium inequality society like Europe in 2010, in which the ratio between the wage on average of the top 1% and the bottom 50% is of 1 to 11. But, my proposal is able to avoid extreme income inequality into the class of the top 1%, limiting the income of a small part of this group (from the top 0.3% to 0.1%). In order to prove the reasonableness of my proposal, I will show the possible effect on some real income distribution; for example, in Italy and the United States.

The average income (post-tax) in Italy in 2015 was 20,690 euros a year (so 1,725 euros a month). Precisely, the bottom 50% earned around 13,200 euros on average a month. It means that a ratio of 1 to 18 prescribes that *nobody* should earn more than 238,000 euros a year post-tax. Note that the President of the Italian Republic earns 143,000 euros a year (post-tax). In Italy, actually, only around the top 0.2% earn more than 238,000 euros a year post-tax; they are roughly 80,000 individuals compared to a population of 60 million.²⁸⁵ But, in this top 0.2% there are some CEOs who earn some millions of euros a year post-tax, like the CEO of ENI or ENEL.

The 1 to 18 ratio seems to be reasonable and effective also for a more affluent (and more unequal) country, such as the United States. The average income (post-tax) in the U.S. in 2014 was 64,600 dollars a year.²⁸⁶ The bottom 50% earned on average 25,000 dollars a year (19.4% of total income), it means that according to the ratio of 1 to 18, nobody should earn more than 450,000 dollars a year. Now, we can

²⁸⁵ All data are available in *Dipartimento delle finanze, Analisi dati IRPEF – Anno d’imposta 2015*: [link](#).

²⁸⁶ For all data see: Piketty- Saez - Zucman, 2016, table S.7, p. 68.

observe that the top 1% earned on average, in 2014, around 1,000,000 dollars a year (15.6% of total income). But the point is that, in the US, the level of earnings that the top 0.1% can reach is immense. Indeed, by 2007, the ratio of the average annual pay of chief executives of large and medium sized American companies to that of all workers stood at 344 to 1 (in the 1960 it was just 1 to 42), and it reaches an extreme level in the case of America's largest companies, such as the chief executive of Walmart who earns 900 times the pay of his average employee (Lansley, 2012, p. 23-24). Therefore, in the case of US income distribution, the ratio of 1 to 18 would also constrain the income at the very top of distribution. Indeed, into the top 1%, only a part would earn effectively more than 450,000 dollars a year (likely those who belong to the top 0.3%) given that just the top 0.1% earn on average 4,400,000 dollars (6.8% of total income). In number of adults, according to a full population of 234,400,000 adults, the top 0.3% of the population corresponds to 703,200 adults, meanwhile the bottom 50% correspond to 117,200,000 adults. In the case of the United States, my proposal means a redistribution of, approximately, 7% of total national income. In both cases, Italian and US income distribution, the 1 to 18 ratio limits income at the very top of distribution (from the top 0.3% to 0.1%).

A concrete application of the 1 to 18 ratio to the Italian and U.S. income distribution shows that the range I proposed does not allow only an excessive inequality, and it constrains mainly the earnings of those people who are situated at the very top of the 1% group. This range should be applied to both public and private job positions.²⁸⁷ This proposal does not violate the freedom of the private initiative, because it does not impose a top threshold that cannot be surpassed. For example, those who are at top job positions can increase their income in absolute terms but not at cost (or exploration) of those who cooperate at bottom job positions of society. Thus, a top income can increase, of course, but only if it is followed by a proportional increase of the bottom 50%

²⁸⁷ In Switzerland (December 5, 2013), a public referendum properly took place on this proposal, trying to establish a ratio of 1 to 12 between the executive's pay and the lowest pay in the company. The proposal was defeated with 65% of vote (the vote participation was 53%). It is likely that a ratio of 1 to 12 was too narrow, and it contributed to the rejection of the proposal. My proposal of a ratio 1 to 18 is less demanding. For details about the referendum see: *The Guardian*: [link no. 2](#); *The Independent*: [link no. 1](#); and CNN: [link](#).

income (on average) that respects the permissible range. The limit range should also include cash, bonus and additional compensations.²⁸⁸

For those who believe that a ratio of 1 to 18 in income is too demanding, I can point out how this range allows someone to earn in just 2 years as much as a person at the bottom 50% earns (on average) throughout his almost entire working life, 36 years. I think that those who are situated on the very top of distribution cannot reasonably claim more than this. On the other hand, for those who believe that my ratio is still not egalitarian enough, I can remind them that my proposal aims to be realistic and feasible. Indeed, if the range I proposed might not seem so radical for European countries (albeit it would be, however an enormous egalitarian improvement, also in Europe), it would have a revolutionary impact in countries like the United States, in which the top 1% earn on average around 40 times more than the bottom 50% on average, or like Brazil which also presents an extreme income inequality. The case of Brazil is an exemplary case of the kind of radical effects that could have the kind of range that I proposed. Indeed, the top 1% earns on average around 36 times more than the bottom 50% on average. In numbers, the top 1% earn on average 27,000 reais a month and the bottom 50% earn just 747 reais a month. The first group (1%) is composed by 889,000 individuals and the bottom 50% by almost 45 million.²⁸⁹ In the Brazil case, the 1 to 18 ratio means that nobody should earn more than 13,450 reais a month (post-tax). Now, it is evident that not all people who earn more than this amount are really super rich or they belong to the dominant elite. The point is that in Brazil the distribution is extremely unequal. On the one hand, there are a few tens of thousands of citizens who earn an astronomical income. Indeed, “while Brazil is half as rich as France and less than one third as rich as the U.S.A. overall, its elites benefit from similar magnitudes of income

²⁸⁸ In the last year, Tim Cook, Apple's chief executive, saw his salary and bonus jump 47%, reaching almost \$13 million (with \$3.06m his salary and a further \$9.3m in cash bonuses and the remainder additional compensation). See: *The Telegraph*: [Link](#).

²⁸⁹ *IBGE*: [link](#).

For others data see: Neri - Souza, 2012; Medeiros - Souza - Castro, 2015; Souza, 2017). Only taking into account data of income inequality, Brazil is one of the most unequal countries in the world. For example, according to Medeiros - Souza - Castro's (2015) the top 1% own 23% of total Brazil income. And, according to another research – *World Inequality Report 2018*, coordinated by Alvaredo (et al.), 2018 ([link](#)) – the top 1% own 27.8% of Brazil's total income.

(compared to France, Brazilian elites in the top 1% and above have higher average incomes)” (Morgan, 2017, p. 16). Moreover, if we look at the top thousandth in the top centile, we find that the top 0.1% roughly gets 11% of Brazil’s total income, the top 0.01% get 5,4% of total, and the top 0.001% get 2,5% of total (*ibidem*, table 3). On the other hand, while the rich in Brazil are like the rich in developed countries, the rest are much poorer. Indeed, there are millions of citizens at the bottom 30% who earn considerably less than the minimum wage established by law (in 2018, 954 reais). The range that I proposed makes clear and condemns this extreme inequality, but it does not mean that tomorrow (in the ‘unlikely’ hypothesis that the Brazilian government would accomplish my range), the best strategy would be a taxation of 100% to all wages that overcome the actual admissible ratio; on the contrary, a similar strategy, beyond raising serious doubts of legitimacy, is surely inefficient and unenforceable. The range that I proposed is a ‘proportionality’ and not a threshold. It means that if we start reducing the extreme economic inequality and economic concentration at the very top of distribution (from the top 0.3% to 0.1%) and increase the average income of the bottom 50%, we soon realize that many people that nowadays earn more than the permissible range – those who are at the very bottom of the 1% group – in the short-medium-run will be situated into the permissible range. Implementing a criterion of justice in an unjust society is always a matter of transitional justice. Brazil, and others countries in a similar situation, needs some decades of social, cultural and political reforms to arrange its background of society in a way to find the optimal distribution that would be able to respect regularly and sustain the ratio of 1 to 18 in income.²⁹⁰ Note that one of the most effective strategies to raise the average income of the bottom 50% is to realize an egalitarian, as much as possible, wealth distribution. In this way, people at the bottom might increase their bargaining power, their education and job formation, and so on. For this reason, we should take seriously the question of wealth inequality.

I sustain that *nobody* should own more than 100 times of the average wealth (per adult) of the bottom 50%. The 1 to 100 ratio in wealth is also far to represent a low wealth inequality society (an ideal wealth distribution). Instead, it might be a medium wealth inequality

²⁹⁰ Although the transitional justice is not the issue of my investigation, in the last part of my thesis I will try to show how it is possible to revert the actual trend of economic inequality.

society, one that, with a certain approximation, might correspond to Scandinavia in 1970s-1980s. In this case, also, Piketty's historical analysis might be useful to correctly understand my proposal. Piketty identifies 5 types of societies with a different degree of wealth inequality from low to very high. According to Piketty (2014, p. 248 and p. 257-260) a low wealth inequality society (which was never observed) might be characterized by a ratio 1 to 20 between the average wealth of the bottom 50% and the average wealth of the top 1%. In numbers, it means that if the average wealth is 200,000 euros per adult, the top 1% own on average 2 million euros per adult (10% of total wealth), and the bottom 50% own on average 100,000 euros (25% of total) per adult, making it clear that my proposal is less demanding. Indeed, it is closer to a medium wealth inequality society that Piketty identifies with a distribution in which (with the same average wealth of 200,000 euro per adult) the top 1% own on average 4 million euros (20% of total) per adult and the bottom 50% own on average 40,000 euros (10% of total) per adult. In this case, the ratio between the two averages is 1 to 100. However, my proposal (like for the ratio in income) takes into account the ratio of 1 to 100 between the average wealth of bottom 50% and the wealthiest. In this sense, it mainly constrains those who are situated at the very top of wealth distribution (roughly from the top 0.3% to 0.1%). Although, a 1 to 100 ratio allows, however, consistent wealth inequality between the top and the bottom of distribution, it would be a great egalitarian advance, in respect to our actual wealth inequality societies such as Europe (medium-high inequality society) which are characterized typically by a ratio between the average wealth of the bottom 50% and the average wealth of the top 1%, of 1 to 200 or 1 to 250. Clearly, in countries like the US, Brazil, or Russia with a high wealth inequality, typically with a ratio between the bottom 50% and the top 1% of 1 to 350, my proposal might entail a sort of distributive 'revolution'.²⁹¹

Again to make clear the implications of the range in wealth that I proposed, I will take into account the distribution of wealth in Italy.²⁹²

²⁹¹ Piketty (2014, p. 247) identifies a very high wealth inequality society in a distribution in which the top 1% own on average 50% of total wealth and the bottom 50% own on average 5% of total wealth. In this case the ratio is of 1 to 500. A similar distribution was observed in Europe in 1910.

²⁹² It is similar, with a certain approximation, to many other continental European countries. See: *World Inequality Report 2018* coordinated by Alvaredo (et al.), 2018: [link](#).

With an average wealth of 190,000 euros per adult (in 2017), the bottom 50% own, on average, around 23,000 euros per adult, and it means that, according to the ratio of 1 to 100, *nobody* should own more than 2.3 million euros per adult. Instead, actually the top 1% in Italy own, on average, almost 4 million euros per adult.²⁹³ We can observe that a 1 to 100 ratio would mean, if respected, a great egalitarian improvement. In this case also, the ratio I proposed limits the wealth accumulation at the very top of distribution (from the top 0.3% to 0.1%). Indeed, we should be aware that within the group of the top 1%, with an average of 4 million euros per adult, there are some people who own wealth of billions of euros. For example, in the 2017 *Forbes* list of the World's Billionaires,²⁹⁴ we find within the first 100 positions three Italians, Maria Franca Fissolo (wife of the late Michele Ferrero), Leonardo Del Vecchio (Luxottica founder), and Stefano Pessina (pharmaceutical sector), with an individual wealth respectively of 25.2 billion dollars, 17.9 billion dollars, and 13.9 billion dollars.

For all these reasons, I believe that the ratio of 1 to 18 in income and the ratio of 1 to 100 in wealth cannot be reasonably rejected. It means that in a just society *nobody* should earn more than 18 times of the average of income (post-tax) of the bottom 50%, and *nobody* should own more than 100 times of the average wealth of the bottom 50%.²⁹⁵

²⁹³ For all data see: *Global Wealth Report, Credit Suisse 2017*: [link](#).

²⁹⁴ *Forbes*: [link](#).

²⁹⁵ Given that I am interested in avoiding material domination, I admit that the ranges that I proposed take into account two 'extremes' of distribution, the bottom 50% and the richest, and it seems to neglect the intermediate classes. For example, it is true that, hypothetically, we could increase the amount per person (in absolute terms) of income or wealth allowed by the ratio of 1 to 18 or the ratio of 1 to 100 increasing, in turn, the percentage of total income/wealth earned/owned by the bottom 50% at cost of other classes: the middle 40% and the top 10%, excluding the top 1%. However, it is possible only until a certain point. First of all, we should remember that each class must earn or own, on average, more than the class that precedes it at the bottom of the distribution. Therefore this distributive hierarchy limits the possibility to increase the amount of income or wealth per person permitted by my ranges at the cost of the intermediate classes. Secondly, and most important, a just society should not only guarantee a reasonable range in economic inequality between the best off and the worst off, but it should also guarantee what concerns the first condition of Rawls' second principle of justice: "social and economic inequalities, first, are to be attached to positions and offices open to all under condition of fair equality of opportunity" (Rawls, 2005, p. 6); in this sense, my distributive

Now, I can go forward to investigate a fundamental question: how to stop the increasing process of economic inequality (in particular wealth inequality) and reversing it. I will try to respond this question in the next section. Here, I think it is useful to recall Piketty's proposal, not because it is so convincing, but actually because it received some well-argued objections. A good starting point might be to begin properly with the two main objections to Piketty's proposal.

In *Capital*, Piketty (2014, p. 517) proposes a progressive annual tax on global wealth, in which “the largest fortunes are to be taxed more heavily, and all types of assets are to be included: real estate, financial assets, and business assets— no exceptions”. He precisely proposes an optimal annual tax rates on wealth.

For instance, if top wealth holders are rising at 6-7% per year in real terms, as suggested by Forbes-type wealth ranking, and if one seeks to stabilize the level of wealth concentration, then one might need to apply top wealth tax rates as large as 5% per year, and possibly higher (Piketty, 2016, p. 100).²⁹⁶

According to Piketty, the introduction of a progressive global tax²⁹⁷ on capital is the ideal tool for democracy to regain control over the globalized financial capitalism in a context of an international race and the inability of domestic tax schemes to reach capital income effectively. To be sure, Piketty proposes the global wealth tax for the primary purpose to regulate capitalism rather than simply finance the social state.

The goal is first to stop the indefinite increase of inequality of wealth, and second to impose effective regulation on the financial and banking system in order to avoid crises. To achieve these two ends, the capital tax must first promote democratic and financial transparency: there

criterion of proportionality should be understood only as a better reformulation (or as a substitution) of the difference principle. Therefore, it is very unlikely that a society that also satisfies the first condition of the second principle of justice results in a disharmonious economic hierarchy that severely penalizes the intermediate classes.

²⁹⁶ For more details about optimal tax rates on inheritance, income labor, and top income labor, see respectively: Piketty – Saez, 2013/a; 2013/b, and Piketty – Saez – Stantchev, 2014.

²⁹⁷ Something more ambitious than Tobin's famous proposal (1978).

should be clarity about who owns what assets around the world (Piketty, 2014, p. 518).

Piketty's solution on the current economic inequality has received two main objections. First, many authors (Žižek, 2014; Ronzoni, 2016; Farrell, 2016) consider the global wealth tax an unrealistic utopian policy. Indeed, as Piketty himself admits, the great difficulty is that this policy requires a very high level of international cooperation and regional political integration. But, in the actual international circumstances, this kind of cooperation and integration seems to be like pie in the sky. Piketty might reject this objection by debunking his utopian proposal in the direction of the aim and the extension. First of all, Piketty might say that his global capital tax proposal has a less ambitious goal; namely to open an accurate public debate that permits people to make more concrete the notion of wealth and generate empirically valid knowledge and data that can inform a democratic debate. This goal might be reached even if the global wealth tax will not be implemented effectively. For instance, the fight that many countries (in particular the EU and U.S.A. against Switzerland banks secrecy system) are starting against the tax havens around the world might be considered a little step in the process of financial transparency hoped by Piketty. Secondly, Piketty might suggest reformulating his proposal as a 'regional' wealth tax. Piketty suggests that the European Union is the regional entity with the highest concrete ability to implement a wealth tax, but we might imagine a step forward, for instance cooperation between the U.S.A. - EU or among Latin American countries²⁹⁸ to impose a 'regional' wealth tax. It is also an utopic policy, but it seems, at least, more realistic than an actual global tax.

²⁹⁸ However, a previous fundamental step should be introducing a serious wealth tax at domestic levels in countries like Brazil or Argentina. In particular, Brazil lacks even an accurate measurement of wealth concentration and wealth inequality. Data are available only regarding income inequality without distinguishing between income from labor and income from capital (See: Neri - Souza, 2012; Medeiros - Souza - Castro, 2015; Souza, 2017). This means that much should be done, at a domestic level still, and it is questionable, as Piketty presupposes without a depth discussion, whether globalization prevents all countries to apply significant wealth taxation at domestic level. It seems to be, rather a lack of political will, at least in many cases; I will return to this point in the conclusion.

The second objection is more promissory. Some authors (Acemoglu - Robinson, 2014; Widerquist, 2015; Anderson, 2016; Thomas, 2016; O'Neill, 2016 and 2017.) questioned the lack of institution centrality in Piketty's argument. Indeed, in *Capital* institutions play a small role in the explanation of economic inequality, and in particular in wealth accumulation. This apparent negligence might explain why Piketty seems to put too much faith in 'redistribution' policies based on a more aggressive fiscal transfer rather than concentrating his efforts on suggesting a radical transformation of the actual dominant institutional design (what usually is defined as pre-distributive strategy). Surely, Piketty's explicit aim is to refute Kuznets's argument (1953) that the 'natural' internal dynamic of capitalism leads to a decrease in inequality over time. For this reason, in *Capital* (2014, p. 255) all data collected are pretax (or before-tax) distribution. In this sense, the great achievement of *Capital* is that it presents to us how markets *actually* work. However, it does not mean that Piketty believes that markets work, or would work, only in this way; or that there exists something like a market outside of the social institutions. By contrast, Piketty is an institutionalist and he believes that the market is a social construction.²⁹⁹ Indeed, he makes clear that the mathematical inequality $r > g$ is an historical fact, not a logical necessity (*ibidem*, p. 353). More recently, Piketty (2016, p. 91) clarifies that he does not view:

$r > g$ as the only or even the primary tool for considering changes in income and wealth in the 20th century, or for forecasting the path of inequality in the 21st century. Institutional changes and political shocks [...] played a major role in the past, and it will probably be the same in the future.

Piketty (*ibidem*, p. 103-104) himself admits that in *Capital* he devoted too much attention to progressive capital taxation and too little attention to a number of institutional disposal, asset-specific policies and regulations, including for instance land use, housing policies, property rights, intellectual property right laws, monopoly power, and power relations in the labor market. Given all these institutional elements I believe that the first question of economic justice is the question of power, and for this reason the primary question of this thesis

²⁹⁹ Just to quote some important references on this argument, see: Polanyi, 2001; Streeck, 2010; Graeber, 2012, chapter 5. .

is to know who has the power to establish and shape the socioeconomic arrangements.³⁰⁰

Therefore, the implicit achievement of Piketty's work is that the market system is a complex set of institutions that have grown out of a long history and are dependent on the rules and laws of society. Thus, in order to understand the history of inequality distribution of wealth, we should scrutinize, for example, the particular property right regime affirmed in the last three centuries in capitalistic society, or the institutional background on which trade has this tendency (Widerquist, 2015, p. 87). Once caught the essential relevance of the institutional structure, the fundamental question is how to reshape it in a way to invert the trend of wealth accumulation, and more broadly to reduce the current economic inequality. As O'Neill (2017, p. 370) suggests, we can answer this question from two different perspectives: a long-run strategy and some short-to-medium run strategies. The first strategy means to prescribe an ideal kind of social system in which we have political and socioeconomic institutions that systematically prevent material domination and so allow democracy to regain control of capitalism. In other words, an ideal social system is able to regulate without extraordinary interventions economic inequality into a reasonable range, such as that which I proposed for income and wealth (1 to 18, and 1 to 100, respectively). Instead, a combination of short-to-medium run strategies is a less ideal approach and it means to discuss a set of distributive proposals seeking to contain and reduce, at the present,

³⁰⁰ Moreover, there is an important lesson that can be drawn from Piketty's historical analysis of wealth inequality. Only in the middle of the twentieth century, and for the first time, a comparatively egalitarian form of capitalism emerged (the egalitarian exceptionalism). It was the result of a mix of factors, like the shocks to which capital was subject – the capital destruction involved in the period of two world wars – as well as the public policies and institutions were put in place in the early-to-mid 20th century to regulate the relations between capital and labor. Our pessimism or optimism depends on the weight that we assign to the first factor or the second one. However, there is a question which is apart, whether we are optimistic and mainly attribute the fall of the rate of return of capital to the institutional regulations in that period. Indeed, we might raise the doubt if nowadays we have the power to implement such egalitarian policies given the actual level of asymmetrical relations of political and economic powers in favor to a small class of super-riches. In other words, we might even have a solution but we do not have the effective political power to implement it against the economic interests of a 'civil' oligarchy. I will face this worrisome question in the conclusion.

economic inequality of income and wealth. In this sense, this strategy could be also a useful instrument for a transitional justice. Both perspectives are important and, in part, complementary (we need the ideal perspective in order to guide our political actions and institutional reforms), and both of them are relevant normatively. I will begin to address the long-run strategy in the next section, and then I will argue in more detail about the short-to-medium run strategies in the last chapter.

5.3 Mead's property-owning democracy: a hybrid strategy

One of the characteristics of the distributive criterion of proportionality is to connect and harmonize the criterion of distributive justice and the kind of background institutions that are compatible with and realize it.³⁰¹ In this sense, the distributive criterion of proportionality is compatible with certain ideal types of social systems and also, on the contrary, it rejects others. Following Rawls, I hope that it is already clear enough why ideal models of social systems like the laissez-faire capitalism or the welfare-state capitalism (at least as Rawls defines it) violates the distributive criterion of proportionality.³⁰² Instead, the distributive criterion of proportionality seems to be compatible with a property-owning democracy, a liberal (democratic) socialism, and a pluralist commonwealth.

Of course, these social systems are ideal types, and I might discuss many interesting aspects but I do not have the time and space here. However, I want to mention at least two. The first thing we should ask ourselves is whether these ideal social systems are realistic utopias. In order to know if our utopias are effectively realistic we should develop a full theory of social transformation which involves many interlinked components. One of the most recent and comprehensive inquiries on this issue is Wright's work: *Envisioning Real Utopians* (2011). For instance, he identifies four interlinked components: "a theory of social reproduction, a theory of the gaps and contradictions of reproduction, a theory of trajectories of unintended social change, and a

³⁰¹ I have already argued about this important aspect in the section 4.1 regarding Rawls' political conception of justice.

³⁰² Even if the state socialism with a planned economy would not violate the distributive criterion of proportionality because it does not permit great material inequalities, it surely violates certain individual rights and it might also disregard a proportional distribution of formal political power with an excessive concentration of it in the hand of the state apparatus.

theory of transformative strategies” (*ibidem*, p. 191). A second aspect that may be interesting to examine is whether the ideal types of social system mentioned above are still in a certain sense ‘capitalistic’ societies or if they are not capitalistic at all. Clearly, it depends on the kind of definition of capitalistic society we adopt, and it requires a discussion that might cover an entire thesis. Here, I want to stress only two essential elements that might help for my discussion. Surely, a capitalistic society is characterized for being a free market economic system and for pursuing a ‘potentially’ infinite capital accumulation and economic growth. Now, ideal types of social systems such as property-owning democracy, liberal-democratic socialism, and pluralist commonwealth are all systemic models which attempt to resolve theoretical and practical problems associated with the traditional capitalism and the traditional state socialism, and for this reason the ‘free’ market system (even when strongly regulated) maintains a certain centrality, but they do not share the paradigm of infinite capital accumulation and economic growth. Indeed, as Thomas (2017, p. 287) rightly observes, social systems such as liberal democratic socialism (or liberal market socialism in Stuart Mill’s definition) and a property-owning democracy might aim at a zero real capital growth society. For instance, the ‘slow growth’ (or even no ‘growth’) economies might be pursued on the grounds that we may want to avoid social irrational expenditure and environmental unsustainable growth.³⁰³ In this respect, both of them give society a certain control over the direction of new capital investment, or, at least, shift the balance between such collective control and private actors. In both cases, there is a combination of free market with sensitivity to who controls capital. Then, the point is whether we consider both of two elements – free market and capital accumulation/economic growth – as indispensable to define a ‘capitalistic society’. For instance, Tomasi (2012) seems to answer yes, arguing that a capitalist economy that has abandoned the goals of growth and capital accumulation is no longer capitalist at all.

However, I am not interested in this answer itself, but I stressed these two aspects to clarify the main feature that these ideal social systems have in common. Namely, they are forms of political economy seeking to preemptively disperse accumulation of capital. This institutional characteristic is so called predistribution (or ex-ante

³⁰³ I have already explained in the section 5.1 why it is unreasonable to consider efficiency and economic growth itself as a criteria of justice.

distribution) as opposed to a merely redistribution (or ex-post distribution). Redistribution involves the classical measures of progressive taxation and social protection. It is “the more common egalitarian strategy that accepts the given distribution of wealth and seeks to override market outcomes through tax and transfer policies designed to attenuate the consequences of concentrated ownership” (Bowles, 2012, p. 18). Opposite to that, predistribution implies to restructure the economy as a whole by means of wealth and capital ownership dispersion to produce a way in which markets implement more egalitarian outcomes. One important difference among these ideal social systems is due to the weight that each one gives to the private or public sector, as well as individual or collective, forms of capital predistribution.

I will exclusively focus on Meade’s original version of property-owning democracy. Beyond an obvious limit of space here, there are two main theoretical reasons. First, the discussion about the ideal social systems that systematically prevents political and economic domination, allowing democracy to regain control over capitalism revolves around some variations or reformulations of Meade’s property-owning democracy. For example, Rawls seems to give a preference to Meade’s property-owning democracy over the liberal democratic socialism (without entering in details)³⁰⁴. In this line of thought, Thomas (2017) sustains that between a property-owning democracy and liberal democratic socialism only the former should be considered compatible with Rawls’ principle of reciprocity. According to Thomas (*ibidem*, p. 96), “if the overall goal is to make capitalism convergent with the aims of liberal democracy by dispersing control of capital, then that strategy applies as much to public as to private agents.” To be sure, Thomas is not a critic of liberal market socialism, but the point is that he believes that only with a property-owning democracy in place we can reasonably expect the flourishing of a range of micro-level institutions, also including a plurality of micro-institutional economic forms, typical of liberal market socialism (*ibidem*, p. 217-218 and 254-255). However, both Rawls and Thomas mark a clear distinction between the two social systems – a property-owning democracy and a liberal democratic socialism –, which does not seem to present in Meade’s original version (O’Neill, 2012; Jackson, 2012). Another clear example of convergence

³⁰⁴ In this respect see: Freeman’s own work on property-owning democracy (Freeman, 2009, 2013).

with Meade's egalitarian project is the Pluralist Commonwealth (a systemic social model developed and refined over the last forty years by political economist and historian Gar Alperovitz³⁰⁵) The term 'Pluralist Commonwealth' is, usually, offered to stress the inevitability— for functional as well as scale reasons — of different institutional forms of wealth democratization. This is something not commonly recognized in discussions of alternative systemic models, which often tend to narrowly focus on the simple polarity of state ownership versus worker-ownership, or state versus self-managed firms. According to Alperovitz (2012), the Pluralistic Commonwealth could realize many of the same goals as the property-owning democracy, but with a richer attention to questions of how to stabilize geographic communities over time. Second, since a property-owning democracy has been presented as an alternative of capitalist welfare system (in particular since Rawls), because the latter permits a higher level of wealth inequality and concentration, it is often conceived as a system that completely replaces the traditional welfare system and its redistributive policies, but it is misleading. Indeed, Meade's original version of property-owning democracy combines a mix between private and public forms of capital predistribution, without a total replacement of the traditional welfare system. From this perspective, we can realize that a strict opposition between predistribution and redistribution might be misguided, and both strategies are complementary rather than substitutive. If, and I say if, we will avoid the concretization, in a day not so far, of Meade's dystopia (The Brave New Capitalists' Paradise), it is likely that a future egalitarian society will need a plurality of tools combining redistribution with both public and private forms of capital and wealth predistribution as well as some forms of workplace democracy and an efficient social state. So, Meade's original project makes more evident the necessity of a plurality of distributive means.

It is useful to briefly recall the historical development of the idea of a property-owning democracy, because it is a contradictory story. Jackson (2005; 2012) retraced the historical genesis of a property-owning democracy and its different political trajectories and appropriations. The term 'property-owning democracy' was first coined by the Scottish Conservative politician Noel Skelton in the *Spectator* in 1923, who hoped to adapt Conservatism to the arrival of a mass

³⁰⁵ For more details about the *Pluralist Commonwealth project* see: [link](#).

working-class electorate by proposing the diffusion of individual property ownership as an ideological alternative to the collective ownership defended by socialists (Jackson, 2012, p. 37). However, conservatives said little about reducing the large wealth inequalities that stratified Britain. Further, this term was used by British left parties. Indeed, for left egalitarians, private property, when fairly distributed, was very desirable, since it improved both freedom and equality. Two historical passages are important to provide a precise political and intellectual context for the emergence of Meade's thought. At first, the idea of a property-owning democracy was associated with the Liberal Party, at least certain intellectual and activists associated with the Party. These Liberals considered property dispersion as crucial for the realization of individual independence and autonomy. Then, in a second historical development, the idea of a property-owning democracy gained space within the Labour Party and in particular among the group of intellectuals and politicians located on the right of the Party who were dubbed the 'revisionists'. They sought to downplay the importance of nationalization to the achievement of socialist objectives and instead to focus the Labour Party's attention on social policy and the distribution of property as the primary fields for the egalitarian achievement. It was James Meade himself who offered the first stretch of the emerging revisionist agenda in a memorandum produced for the Labour Party Research Department in 1948 (Jackson, 2005). To sum it up, a property-owning democracy, as advocated by Meade is located in the context of the debate about capitalism and socialism in Britain between the interwar period and the 1950s (Jackson, 2012).³⁰⁶ Keeping in mind this

³⁰⁶ Given that the origin of the project is so variegated and it passes through a spectrum from conservative to labour, it not surprising that the property-owning democracy generated two opposite strands of thinking. Indeed, along an egalitarian strand of thinking envisaged a property-owning democracy as a mean of fostering civic equality and avoiding the dominance of a wealthy minority (and surely, Rawls' adoption of Meade's property-owning democracy project can be seen as an appropriation of this line of thought). On the other side, opposite to that, intellectuals and politicians associated with the rise of neoliberalism (in particular, those on the Thatcher government) borrowed a version of the property-owning democracy that was not intended to be egalitarian at all. This version attached greater importance to personal responsibility and individual property, and it was indifferent to a significant widening of income and wealth inequalities. The ultimate goal was to diminish the legitimacy of the state's efforts to redistribute economic resources and interfere with market-generated property entitlements. This strident opposition

context helps us to understand the main features of Meade's version of property-owning democracy and how Meade combined elements from both liberalism and socialism. It can be considered as an egalitarian pluralistic project, which involves three main institutional branches:

- (i) strengthening the provision of public goods and income transfers through the traditional mechanisms of the social state, whilst simultaneously pursuing "capital predistribution" in both its (ii) individual and (iii) collective forms (O'Neill, 2017, p. 364).

Meade reached this conclusion by starting from the necessity of combining an efficient manner of using all scarce resources and an equitable distribution of income and wealth between the citizens in the community at any point of time. (Meade, 1964, p. 22) On one side, Meade (*ibidem*, p. 13) acknowledges that the use of the price mechanism would protect certain important individual liberties and promote efficiency. For this reason, he relies on the free play of the price mechanism to allocate resources rather than a central planning. But on the other side, he is aware that the use of price in no way ensures a desirable distribution of income and wealth; contrary to that, it would, if left to its own devices, result in unacceptable poverty and inequality. Moreover, Meade predicted with great antecedence the relentless consequences of technological advances and automation that would greatly increase the productivity of capital relative to labour (*ibidem*, p. 21-25).

Further, Meade (*ibidem*, p. 46) also perceived that the return of savings is a function of the absolute amount invested. It means that the savings of the already wealthy increases much more rapidly than those of more modest savers. So, according to Meade, the increase of the return of capital relative to labour and the disproportional return of savings in favor of the wealth savers relative to modest ones represent a combination of forces that will exaggerate the inequality in the distribution of total personal income.³⁰⁷ Starting from this diagnostic,

shows that it is important to make explicit our moral and political normative commitments because the same apparent idea, the property-owning democracy in this case, can have opposite distributive implications depending on its normative grounds.

³⁰⁷ This prediction is now confirmed by Piketty's historical analysis of wealth inequality. But at that time, Meade did not have the wealth of historical data that Piketty could collect, and the economic mainstream was more optimistic about

Meade individuated in the ownership of property and capital the main force of inequality. Indeed, his examination of the factors determining the distribution of property and capital shows that, first, the high earning power makes it easier to accumulate property ownership, and second, there is some positive correlation between large proprietries and high earning power. It means that the high earning power is not wholly due to education, environment, and genetic factors in determining a person's ability to earn; rather the distribution of property ownership is the main factor. Moreover, "in a society which left everything including education to private market forces rich fathers could educate their sons much more readily than could poor fathers" (*ibidem*, p. 48-49).

Thus, he proposed 'a property-owning democracy' as the most effective institutional model to avoid a dystopic social outcome with a few multi-multi-multi-millionaires and an immiserated proletariat of butlers, footmen, kitchen maids, and other hanger-ons, a dystopia that Meade calls: *the Brave New Capitalists' Paradise* (*ibidem*, p. 33). On the one hand, we can consider Meade's property-owning democracy as an alternative model to a Trade Union State, a Welfare State or a Socialist State (however, all these four models are thought to be antagonistic to the *Brave New Capitalists' Paradise*). The main feature that marks a property-owning democracy is that it focuses on policies and institutional reforms which influence the ownership of property toward a more equal distribution. A property-owning democracy is a social arrangement system that tends to equalize property ownership and wealth, because it is one of the main sources of power (*ibidem* p. 39).

The main aim to pre-distribute wealth is to make the result of the market fairer before applying a progressive redistribution of income from labour; for this reason, a property-owning democracy is considered a pre-distributive system. In this sense, a property-owning democracy is an alternative to the Trade Union State and the Welfare State, because they almost leave untouched the wealth and property ownership inequality. Moreover, they involve some important economic inefficiency, something that a property-owning democracy seems to avoid by means of an egalitarian distribution of wealth. A property-owning democracy is also an alternative to a socialist state, but for another reason. Indeed, as I said before, it maintains the mechanism of price to conduct the economy efficiently, and guarantees certain individual liberties.

the internal dynamic of capitalism that would naturally lead to decrease inequality over time as Kuznets theorized (1953).

On the other hand, Meade's property-owning democracy might be seen as a combination of some important elements of the other three models. Meade adopted a hybrid egalitarian strategy. Indeed, with careful examination of his entire version of property-owning democracy (Meade, 1964; 1975; 1989) we realize that it is characterized for:

a significant role for the state in ensuring a more equal distribution of income and wealth through the progressive taxation of wealth; the introduction of co-partnership between labor and capital in place of traditional capitalist firms; and the development of state investment funds that would take a significant stake in private industry in order to use the capital returns to fund a basic income for all citizens (Jackson, 2012, p. 45).

As a proof of this plurality of egalitarian means and a combination of different social models, we can see that Meade also adopts some important institutional assets that are clearly elements of a liberal socialism regime, such as a community fund that owns 50% of the national productive assets (two examples of this sort of public institution might be the *Alaskan Permanent Fund*, or the *Norwegian Statens Pensjonsfond Utland*). In this sense, the distinction between a property-owning democracy and a liberal socialism is not so pronounced in Meade's own version as Rawls seems to presuppose. On the other side, Meade (1964, p. 75) himself admits that his proposals "are needed, for the most part, to supplement rather than to replace the existing Welfare-State policies". It means that Meade does not reject classical redistributive income taxes and subsidies, but he simply believes that it cannot be the only instrument in play. In this respect, the common opposition between 'predistribution' and 'redistribution' might be misguided. As Piketty (2016, p. 104) argues, Meade believes that "progressive taxation of income, inheritance and wealth is important both for redistribution and predistribution: of course it is an indispensable tool in order to limit market-induced inequality ex post; but it also reduces asset inequality ex ante". For example, an optimal taxation of top labor income at 82% as suggested by Piketty - Saez - Stantcheva (2014) is primarily a powerful instrument to disincentivize the disproportionate raise in the top salaries rather than an instrument to properly collect revenues.

An ideal type of social system is usually conceived as an internal coherent system, and we often have the impression that the only possible solution is to implement it all at once. Thus, we might believe

that there are only two alternatives: to implement the ideal type of system (as if we would have a sort of magic wand) or remain with the actual one. But, in this way we lose, first, the possibility to understand how to achieve step by step this ideal system.³⁰⁸ Second, given that each one of these egalitarian ideal social systems would require enormous social transformations (some of them concretely revolutionary) the idea that we should realize the entire social system exactly as in the way it was conceived might simply turn out to be unachievable. Therefore, it is more productive to investigate all policies measurements and institutional devices that would go in the direction of implementation of our ideal social system. Then, depending on the actual social circumstances and political possibilities we might imply only some elements, and nonetheless it already may be a great advance. In this section the effort was to show that Meade's own version of property-owning democracy is an ideal social system that already includes a plurality of tools and a combination of social regimes. From this perspective, it is evident how fundamental it is to argue about the short-to-medium run strategies and discuss some specific sets of distributive proposals. In this level of discussion, the distributive criterion of proportionality also gives us some important normative indications and prescriptions.

³⁰⁸ Of course, there are some valuable and rigorous philosophical works that properly focus on the way to afford these progressive steps. For example, *Williamson (2012)* provides a detailed sketch of how these policies might implement a full-blown property-owning democracy in an evolutionary fashion over a 20/30 year time period (in the context of the contemporary United States).

6 The idea of proportionality: predistribution and redistribution

In the previous chapter, I have tried to show how the distributive criterion of proportionality has a twofold function. If the fundamental question is how to radically reshape the background institutions in a way to invert the trend of wealth accumulation, and more broadly to reduce the current economic inequality, it prescribes some normative implications from two different perspectives: a long-run strategy and some short-to-medium run strategies. In this last chapter, I will focus on some short-to-medium run strategies arguing on several radical proposals addressing different fields of distribution, each of which raises specific normative questions whose merit should be discussed. A point of reference might be the Atkinson's work – *Inequality: what can be done?* (2015) – and his fifteen concrete proposals that follows Meade's egalitarian spirit.³⁰⁹ Atkinson suggests a pluralistic distributive approach in which his proposals might be collected in four broad areas – wealth distribution and capital shared, social security, progressive taxation, countervailing power of economic decision making – addressing the main challenges of the current capitalist trend: the rise of a class of superinvestors and renters, a class of supermanagers, and the acceleration in technological change and automation. These three central elements in capitalism's actual dynamics have deep combining and overlapping effects. The systemic involuntary unemployment and the rise of wealth accumulation are, in part, linked to the impressive advance in technological change and automation. This trend seems to accelerate in the long-run perspective to the point that we will face a twofold problem: “can we all find jobs as a robot designer (or in leisure-related activities), and who owns the robots?” (Piketty - Saez, 2014, p. 841). A possible solution to these kinds of problems is not only difficult but also normative problematic. Since the whole system of production is not totally automated yet, people still take their productive contributions and efforts seriously. Therefore, each concrete proposal has strong consequences for the ways in which we conceive social cooperation and job participation, individual responsibility and meritocracy, individual liberty, freedom of private initiative, and property right. In light of these considerations, I will discuss some concrete proposals in each area that I separated in

³⁰⁹ By implementing Atkinson's proposals in the context of the UK, Atkinson estimates a reduction of economic inequality in 3 points of the Gini coefficient.

Atkinson's work. In doing so, I will consider these proposals in the perspective of the distributive criterion of proportionality. In other words, I will investigate whether their aim is effectively to reduce the distance between the top and bottom of distribution, and maintaining it within an acceptable range.

Clearly, I cannot argue about all fifteen proposals, but I will choose those that are central to the current debate concerning the four broad areas I mentioned above: 1) wealth distribution and capital shared; 2) social security; 3) progressive taxation; 4) countervailing power of economic decision making. In the first section (6.1), I will discuss whether wealth and capital should be distributed and shared by means of the basic income, the capital endowment and the sovereign wealth funds. In the section 6.2, I will underline that the basic income could also be a proposal for addressing systemic unemployment, social exclusion and poverty; in this sense, it is also an instrument of social security. I will argue about the nature of it, whether the basic income should be universal and also unconditional, or not. It likely depends on the kind of function and the level of distributive ambition that the basic income should (and could) perform. From this perspective, it is interesting to confront Van Parijs (1995; 2017) and Atkinson (2015) conception of the basic income. Then, in section 6.3, I will discuss a progressive income and wealth taxation scheme. Given that we cannot neglect that people tend to feel that they are (morally) entitled to earn what they deserve in the free market, the most promising approach is to find a way in which markets will implement more egalitarian outcomes. So, a progressive system of taxation should also be conceived for this intent. Moreover, also regarding the tax system, the distributive criterion of proportionality can clarify our normative considerations, in particular regarding the concept of fairness applied to taxation. Finally, in the last section (6.4), I will make clear that, although throughout this thesis I made the effort to focus on the importance of material power to significantly improve the bargaining power of the less advantaged, I cannot however also overlook the role of formal power, and therefore the role that the worst off have in economic decision-making via their socioeconomic positions. Some serious proposals should be discussed in this direction too; for example, the balancing of power among stakeholders, permitting a certain degree of corporate governance and workplace democracy, and guaranteeing an effective legal framework that allows trade unions to represent and protect workers. And further we should discuss the role of public decision on the side of production, at least for a list of goods that should be considered essential for the

development of society. Not all decisions about production can be left only for private initiatives.

6.1 Wealth distribution and capital shared

I begin to focus on the first point: wealth distribution and capital shared. As we have already seen, wealth is the most prominent source of economic inequality and the most important resource of power. It is clear when we investigate the phenomenon of power asymmetry between the wealthy and small savers as well as between the wealthy and the poor borrowers. In the first case, we have already shown that the rate of return on capital is much lower for small savers. The reality is that for owner/occupiers, the bottom 99%, their most valuable asset is likely to be simply their home, if they even have one (Atkinson, 2015, p. 161). At this point, it is quite clear that the divergence in the return of capital cannot be bridged by market competition, and for this reason Atkinson (*ibidem*, p.168, *proposal 5*) proposes that “the government should offer via national savings bonds a guaranteed positive real rate of interest on savings, with a maximum holding per person”. But, it is only a partial solution. Indeed, the wealth inequality reveals its asymmetrical power also in the credit-market structure. Indeed, those who are not wealthy enough are disadvantaged in credit market simply because they are precluded from engaging in efficient contracts. As Bowles explains,

among those who do borrow, those with more wealth borrow on better terms. This is because greater wealth on the part of the agent allows contracts which more closely align the objectives of principal and agent. [...] Those lacking wealth, for example, may acquire funds to support their education and other forms of human capital on less favorable terms than the rich and, as a result, may forgo investments in learning when private and social returns exceed their costs (Bowles, 2012, p. 37-38).

The result is that the asset-poor will pay higher rates when borrowing or be entirely excluded from the credit market. All these phenomena are due to the fact that efficient financial and, above all, employment contracts are necessarily incomplete. Although this incompleteness ensures a certain degree of flexibility and therefore efficiency, on the other hand, it leaves room for power relations among economic agents, and so wealth inequality gives an enormous economic

power to those who are at the top of distribution. Here, I no longer need to recall that this economic power is also converted into political power. For all these reasons, the most convincing strategy is wealth distribution and capital shared. The fundamental question is how wealth should be ‘distributed’, whether by means of a universal basic income, a basic capital endowment, or other means.

First of all, we should attack the main mechanisms by which the wealthy are able to preserve their position at the top of the distribution: inheritance. As I have already clarified in the section 5.2, there is nothing intrinsically wrong with inheritance, but the problem is that inheritance is highly unequal. A first wealth distributional instrument might seek to ensure that everyone receives a minimum ‘inheritance’ or capital endowment. Inheritance for all is not a new idea. Thomas Paine (*Agrarian Justice*) already in 1797 defended a similar proposal. The most systematic and ambitious modern counterpart of Paine’s proposal might be found in the Ackerman and Alstott’s proposal (1999): a ‘stakeholder grant’ paid to all at the start of adult life.³¹⁰ They argue that every citizen (precisely they advance and modulate this proposal in the case of the U.S.A.) has the right to share in the accumulated wealth by preceding generations. The U.S. proposal by Ackerman and Alstott envisaged (at the time of publication) a payment of \$80,000, possibly handed out in four installments of \$20,000. The proposed sum was around the double of the median family annual income at the time. According to them, this grant should be financed by a 2% tax on personal wealth. Later, I will discuss in more detail the issue of progressive taxation and in particular wealth and inheritance taxation. At this moment, I want to explore in more detail the main features of pre-distributive instruments like the capital endowment. A capital or basic endowment has much in common with a basic income (a regular income paid to every individual member of a society). Indeed as Van Parijs and Vanderborght (2017, p. 30) notes, “basic endowment could easily be converted into a basic income. It would only need to be invested in such a way as to generate an actuarially equivalent annuity up to the recipient’s death, thus generating a regular flow of income”. Most importantly, both are universal and unconditional in the sense that they are paid to everyone on an individual basis, in cash, without means

³¹⁰ Other authors suggested a similar proposal. For example, Tobin (in 1968) advocated a ‘national youth endowment’, or Klein (1977) and Haveman (1988) a ‘universal personal capital account’.

test or work test, and irrespective of income from other sources. In other words, the rich are entitled to it just as much as the poor, as well as the voluntarily unemployed are not less entitled to it than the employed and the involuntarily unemployed. According to the proponents, all these features make the universal and unconditional capital endowment or basic income a paramount instrument of freedom.³¹¹ Indeed, they are usually advocated from an equal libertarian perspective. In particular, the basic income or capital endowment are usually conceived to integrally satisfy the distributive requirement of social justice. However, from this point of view, I need to take great distance.

According to the distributive criterion of proportionality, the capital endowment, or the basic income, might only be a legitimate and effective distributive mean, but it does not embody as such the distributive conception of justice.³¹² There is a theoretical and a practical reason. First of all, according to those who advocate the basic endowment and the basic income from a strict liberal or libertarian theoretical perspective (it is also true for the luck egalitarianism), the normative point of view is to ensure not only formal freedom but also ‘material’ or real freedom for all, but it does not mean it as having a

³¹¹ However, although both capital endowment and basic income aim to guarantee material or real freedom for all, there is an important normative difference between them. As van Parijs (2017, p. 30-31) notes, “the basic endowment is about equalizing opportunities at the start of adult life, while basic income is about providing economic security throughout life”. Indeed, “the basic endowment offers all the possibilities offered by a basic income, since it can be turned into an annuity. But the converse is not true if the basic income is not mortgageable, as most basic income advocates insist it should not be” (*ibidem*, p. 31). This means that, according to the capital endowment, once a young citizen has collected the basic grant, then she would freely spend or invest it. In this case, freedom is also conceived as freedom to make mistakes and accept their consequences. In contrast, the basic income is conceived since “lifelong basic security does not only protect the freedom of all of us against our own freedom in our youth” (*ibidem*)

³¹² For example, I think that a certain hostility to a universal and unconditional basic income shared among egalitarians (see: Barry, 1992; and Rawls, 1988, p. 257, note 7) is due to their libertarian roots. I believe that this hostility might overcome if we consider the basic income, or other unconditional tools, only as a component of the distributive conception of justice, or as an essential distributive mean, given the actual socioeconomic circumstance. Here, I take this direction which also seems to be in the spirit of the most recent Barry’s interpretation (see Barry, 2005, p. 209-215).

primary concern with inequality, at least regarding the gap between the best off and worst off. As I have already explained in chapter 3 (section 3.2 and 3.3), this normative perspective justifies economic inequality according to the leximin criterion. “Such inequalities can be justified, but only to the extent that they boost the real freedom of those with least of it or, less loosely put, only to the extent that reducing them would shrink the value of what can be sustainably given to those who receive the least” (*ibidem*, p. 108). Again, the problem is that the real freedom is measured in distributive absolute terms. For example, it is easy to appreciate this aspect looking at one of the possible funding sources of the basic income. “If it is funded exogenously—for example, by revenues from publicly owned natural resources or by transfers from another geographical area—the introduction of a basic income increases everyone’s income by the same amount” (*ibidem*, p. 17). It is evident that the primary concern of the basic income (the same also might be true for the capital endowment) is not with inequality, given that in this case the relative inequality between the top and the bottom of distribution remains unaltered. One might argue that practically this problem does not arise, because realistically the basic income or basic endowment is funded through the taxation of income and wealth within the population concerned. Moreover, the same might continue to assert that the question is only practical because it simply depends on the amount of the basic income or endowment that is ensured for all; and we might advocate for the highest *sustainable* for both beneficiaries. But, also from a practical point of view the two mechanisms cannot satisfy as such the conception of justice according to the distributive criterion of proportionality. The point is that the universal and unconditional characteristics combine with the necessity that the basic income or capital endowment would be sustainable in the long run makes very difficult that its amount reaches a level which is able alone to significantly reduce income and wealth inequality. In order to briefly show an evaluation, I will take into account only a sustainable amount of basic income because it is more generous than the capital endowment, at least regarding to Ackerman’s - Alstott’s and Van Parijs - Vanderborcht’s proposal. Indeed, Ackerman and Alstott calculate that a grant of \$80,000 at age 21 would be approximately equivalent to a monthly basic income of \$400 from age 21 to age 65 (in the context of the U.S.A). In contrast, Van Parijs and Vanderborcht suggest picking the amount of the basic income on the order to 25% of the current GDP per capita. According to them (*ibidem*. p. 10), this level of basic income is “both modest enough for us to dare to assume that it is sustainable and

generous enough for it to be plausible that it will make a big difference”. It means concretely that in the U.S.A., a monthly basic income would be \$1,163 (as in 2015).³¹³ Now, it is quite evident that even this generous universal basic income cannot fully satisfy a distributive conception of justice. Now, as I said above, the intrinsic features of basic income, universality and non-conditionality make it very difficult to raise this amount considerably. The problem is that:

a universal basic income is feasible only if a sufficient number of people continue to work for wages with sufficient effort to generate the production as taxes are needed to fund the universal grant. If too many people are happy to live just on the grant [...] or if the necessary marginal tax rates were so high as to seriously dampen incentives to work, then the whole system would collapse (Wright, 2010, p. 155).

It is particularly problematic in the basic income in its pure form in which it would replace all existing social transfers, and in case of which it is associated only with a flat-tax (the same marginal rate of tax for all levels of earnings) as the unique source of funding.³¹⁴

³¹³ Just to make some valuable confrontations with other countries, a monthly basic income pitched at 25% of GDP per capita would be “\$1,670 in Switzerland, \$910 in the United Kingdom, \$180 in Brazil, \$33 in India, and \$9.50 in the Democratic Republic of the Congo. Correcting for purchasing power parity, these figures become \$1,260 for Switzerland, \$860 for the United Kingdom, \$320 for Brazil, \$130 for India, \$16 for the Congo. A worldwide basic income funded with a quarter of world GDP would come to about \$210 per month or \$7 per day in nominal terms” (van Parijs - Vanderborgh, 2017, p. 11).

³¹⁴ It is surely the case of the ‘negative income tax’ according to Milton Friedman’s formulation (1962). The negative income tax is based on the idea that people below a certain threshold would receive a payment rather than paying tax. In this way, it shares many similarities with the universal basic income. Indeed, in both cases, the unit is the individual, there is no work test, and the funding might be secured by a personal income tax with the same linear profile (the flat-tax). But, in Friedman’s proposal, the notion of negative income tax is restricted to a linear taxation. Meanwhile, the notion of basic income is not restricted to this special case – at least, in van Parijs - Vanderborgh’s definition (2017, p. 36) – and it might be consistent with a progressive or regressive taxation. Van Parijs and Vanderborgh does not seem to take an explicit position whether combining the basic income with the flat-tax, regressive or progressive taxation. Even James Tobin (Tobin – Pechman –

According to Atkinson (2015, p. 218), “a flat-tax rate of 33 percent would finance a basic income of 13 percent of average income, which seems scarcely adequate to replace existing social transfers”. For these reasons, recently van Parijs - Vanderborght clarified that basic income should only substitute existing benefits that are lower than it, and it should not be understood as being, by definition, a full substitute for all existing transfers, much less a substitute for the public funding of quality education, quality health care, and other services. Moreover, it might be funded with many other sources rather than a simple flat-tax³¹⁵ (van Parijs - Vanderborght, 2017, p. 12 and 36).

This discussion allows me to clarify in which way the distributive criterion of proportionality endorses distributive tools like the universal basic income and the universal capital endowment. On the one hand, I agree with the normative idea behind the universal and unconditional basic income (or capital endowment) which “affects power relations as its very core. Its point is not just to soothe misery but to liberate us all” (*ibidem*, p. 12). I believe that given the structure of the actual capitalism, characterized for a new wave of automation and the consequent structural joblessness and precariousness, some universal and unconditional distributive tools are indispensable. These features might increase the bargaining power of the very worst off, since they could say no more be easily vulnerable to precarious contracts, unpredictable earnings and so on; in this way they could be free from the most urgent forms of exploitation and exclusion.³¹⁶ From this perspective, a universal capital endowment or universal basic income is an important pre-distributive tool, especially if it is funded by a wealth

Mieszkowski, 1967) proposed his own version of the negative income tax during the 1960s, but independently from Freidman.

³¹⁵ It is not so clear in the first van Parijs’ comprehensive formulation of universal basic income (van Parijs, 1995).

³¹⁶ Moreover, the basic income might be one of the most innovative tools against poverty (absolute and relative). However, the basic income is not by definition sufficient to get every household out of poverty. “Whether it does depend on the poverty criterion chosen and the country considered, and also on the composition of the household and the part of the country in which it is situated. For example, in the United States, a basic income at 25% of GDP per capita (\$1,163) exceeds only the 2015 official poverty lines of \$1,028 for single people; but it might not be sufficient below the European Union’s criterion of risk of poverty” (van Parijs - Vanderborght, 2017, p. 11).

tax. For example, Atkinson (2015, p. 170, *proposal 6*) opts for a capital endowment (minimum inheritance) paid all at adulthood, financed by a ‘lifetime capital receipts tax’. On the other hand, the characteristics of universality and non-conditionality does not allow these tools to ‘distribute’ a sustainable amount of income and wealth which alone might be able to satisfy a conception of distributive justice compatible with the criterion of proportionality, this way, we will need other instruments to be associated.

Indeed, the individual wealth is only one side of the coin, and we might achieve distribution also via the national wealth, i.e. the wealth that the citizens of a country collectively own. From this perspective, I do not share the theoretical (and in many cases, also ideological) suspicion towards the role of the government that equal libertarianism seems to endorse. For example, this kind of suspicion is evident in Ackerman - Alstott’s capital endowment proposal. They said that “the point of stake holding is to liberate each citizen from government” (Ackerman - Alstott, 1999, p. 8-9). By contrast, the distributive criterion of proportionality assigns an important role to the government and collective wealth, and surely a sovereign wealth fund is an essential instrument. As Atkinson (2015, p. 174) suggests, “by holding capital and by sharing in the fruits of technological developments, the state can use the resulting revenue to promote a less unequal society. [...] To the question, who owns the robots? the answer should be that, in part, they belong to us all.” For this reason, he (*ibidem*, p. 175, *proposal 7*) proposes that “a public Investment Authority should be created, operating a sovereign wealth fund with the aim of building up the net worth of the state by holding investments in companies and in property”. Some well-known examples of sovereign wealth funds are the Alaskan Permanent Fund or the *Norwegian Statens Pensjonsfond Utland* (SPU). The former was created in 1976 in order to ensure for all citizens dividends from Alaska’s natural resources. In the case of Norway, the sovereign wealth fund was established to ensure that the benefits from the North Sea oil production accrued, not just to the current generation, but also to future generations. One of the most recent sovereign wealth funds was established in France in 2008 (*Le Fonds stratégique d’investissement*). This fund is answerable to the Parliament and is a long-term investor in the service of the public interest. And clearly, I cannot forget to mention the current experiences of Singapore and China. But the issue of public intervention in economy by means of a sovereign wealth fund leaves open the question of nationalization. Indeed, it is very important to know whether the

classical form of nationalization is avoidable. It is possible if we separate the ‘control’ of state enterprises, where the government (central or local) can directly influence enterprise policy from the ‘beneficial ownership’. Atkinson (*ibidem*, p. 176-177), inspired by Meade (1984), advocates that the government should own a sizeable shareholding, benefiting fiscally, without exercising a controlling influence on the policies of the enterprise. In this way, avoiding the classical nationalization, the government might raise the net revenue, which could contribute towards the cost of a social dividend (as explicitly in the case of the Alaskan Permanent Fund that provides in 2015 a dividend for all close to 3% of Alaska’s GDP per capita), or/and it would provide a source of funding for infrastructure investment, for universal education and health, and for climate change mitigation. Moreover, this kind of sovereign wealth fund – that benefits but not controls – might be a realistic solution for a structural aspect of actual capitalism. Indeed, although we should pursue with more effectiveness than nowadays anti-monopolistic policies and proceed toward a more decisive dispersion of capital ownerships, we should be aware that some advanced technological sectors of production need a very high concentration of resources and capital to be efficiently developed, particularly in the context of an intense international competition. In this way, we might ensure innovation, technological advancement and market efficiency in some specific and restricted sectors and, in the same way, guarantee a certain redistribution of the profits generated by a few enterprises that works in these sectors. Moreover, the relation between the private enterprises and the government in terms of research and innovation is much more mutual dependent than how it is currently described in the public opinion debate. For this reason, it is an open question which kind of control (and according to which modality) the state could exert on certain economic sectors. I will get back to this point later.

6.2 Social security

Until now, I have argued for the capital endowment and basic income as pre-distributive means, particularly the case in which they are mainly financed by inheritance/wealth taxation and sovereign wealth fund. However, they might perform another essential function too, as instruments of social security. It is unlikely that a society might implement both the universal and unconditional capital endowment and basic income; and apart their evident similarity, the capital endowment is better to equalize opportunities at the start of adult life, while the

basic income works better to ensure an economic security throughout life. For this reason, the universal basic income is a more direct instrument to guarantee social security for all, and innovate and complement (rather than replace) the existing welfare state. However, if our aim is not merely to ensure a minimal level of resources for all (an aim that can be achieved presumably by a generous universal and unconditional basic income) but it is more ambitious (as in my case, i.e. reducing the current economic inequality and maintaining it within a reasonable and sustainable range in the long run), we should not discard a combination of unconditional and conditional distributive tools. It seems to be the complex solution advocated by Atkinson. Throughout this thesis I have made clear how the welfare-capitalist system allows great economic inequality and, above all, wealth concentration on the top of the distribution. Nonetheless, we cannot deny that the welfare state based on a set of fundamental social rights (education, health, and retirement) has in the past century played a major role in reducing inequality (Piketty, 2014, p. 481). I have already said that an ambitious egalitarian project aiming to reduce the gap between the top and bottom of the distribution needs the support of a modern and efficient welfare state. So, the objective is to reformulate and improve the actual welfare system in a way that overcomes the limitations and challenges that this system faces today. For example, one of the most acute problems of the current national insurance system is to avoid the ‘poverty trap’; i.e. “the earnings people receive for a low-paid job are offset, or even more than offset, owing to work-related expenses, by the corresponding reduction or suppression of the means-tested benefit” (van Parijs – Vanderborght, 2017, p. 19). If a social security system aims to avoid the poverty trap, it should not rely on an income-testing approach.³¹⁷ Some of Atkinson’s proposals proceed in this direction. Arguing about the issue of wealth distribution and capital shared, I have already mentioned that Atkinson, among other proposals, advocates a universal and ‘unconditional’³¹⁸ capital endowment or minimum inheritance (*proposal 6*). However, Atkinson (2015, p. 212) suggests other universal and unconditional

³¹⁷ There are two other related problems with the means-tested scheme. First, the inherent complexity of income-testing creates barriers to claiming. And the second problem is that those who receive means-tested benefits, as opposed to universal benefits, might be stigmatized (Atkinson, 2015, p. 211).

³¹⁸ However, Atkinson (2015, p. 171-172) leaves open the question whether some restrictions should be imposed on the use of minimum inheritance; for example, to invest more in education or in training.

tools, such as the universal Child Benefit which should be paid with respect to all children and regardless of the family's income. According to Atkinson, a substantial Child Benefit is central to any program that seeks to reduce inequality, and complementary with investment in infrastructure and services that aid children. However, although Atkinson conceives this distributive measurement in a universal and unconditional manner, his preoccupation about economic inequality indicates that the Child Benefit should also be subject to income tax. "Child Benefit that is substantial but taxable [...] is an effective way of ensuring that all families receive some recognition of their family responsibilities but that more is given per child to those on lower incomes" (*ibidem*, p. 214).³¹⁹ Clearly, to be effective it should be combined with a progressive taxation in which the marginal tax rate is progressively raised on those with middle and upper income (I will

³¹⁹ In a certain way, the Child Benefit might be considered as a universal ambition and unconditional extension of Brazilian's *Bolsa Família* Program. The program was created in 2003 as part of President Luiz Inácio Lula da Silva's *Fome Zero* program through the amalgamation of the means-tested child-benefit system *Bolsa Escola*, and various other means-tested programs (Pinzani - Rêgo, 2013). This program is unanimously considered one of the most effective and largest anti-poverty programs around the world (see: *The Economist*: [link](#); and *The World Bank*: [link](#)). The program is though mainly for families, even if it is also paid for individuals. There are three main conditions. "The allowance is granted to individuals or families (defined widely as a unit formed by one or two parents and their children, by one or two grandparents and their grandchildren, by an aunt or an uncle and her or his nephews etc.) whose income per capita is less or equal to R\$ 77. [...] For school age children under fifteen there is a 'variable' allowance per capita of R\$ 35 for a maximum of five children. For teenagers under nineteen, there is a 'variable' allowance per capita of R\$ 42 for a maximum of two young persons. In any case, a family will not receive more than five 'variable' allowances. Therefore, the maximum allowance for a family with three children under fifteen years and two teenagers under nineteen years is R\$ 266" (Pinzani - Rêgo, 2016, p. 118-119). But "the participants have to meet two conditions in order not to lose the allowance: if there are children in the family, they have to go regularly to school and to get regular vaccinations" (*ibidem*, p. 118). It is important to note that the aim of the program is not simply to increase economic inclusion nor economic development (even if it works in both directions), but *Bolsa Família* is a program to create citizenship and civic inclusion. Moreover, van Parijs and Vanderborght (2017, p. 161) consider *Bolsa Família* more similar to a basic income than other means-tested schemes, even if it is still a long way from a genuine unconditional basic income.

argue in detail about progressive taxation after, as the third point of my discussion). So, he proposes (*ibidem*, p. 218, *proposal 12*) that the “Child Benefit should be paid for all children at a substantial rate and should be taxed as income”. But, if our purpose is to provide social security for all, we should also do something for adults. A basic income is one of the most innovative and effective proposals to avoid the ‘poverty trap’, and it also might be a manner to innovate the actual welfare system.

I have already argued about the universal and unconditional basic income, now it is interesting to analyze Atkinson’s basic income proposal which is universal, but also ‘conditional’. This kind of basic income would be paid at the same rate for all adults (and embody additions paid with respect to disability or other special circumstances) but pay on the basis not of citizenship but of ‘participation’; and for this reason, it is called ‘Participation Income’. Atkinson defines ‘participation’ broadly as making a social contribution taking account of the range of activities³²⁰ in which a person of working age is engaged (exempting those unable to participate on the grounds of illness or disability). Therefore, Atkinson proposes “a participation income should be introduced at the national level, complementing existing social protection” (*ibidem*, p. 223). However, Atkinson himself admits that the participation condition is controversial. First of all, the Participation Income is a ‘conditional benefit’, thus undermining one of the core principles of the basic income. Secondly, it entails additional costs for administration. And, above all, the criteria for establishing a social contribution (participation) might be ethically and politically problematic because it “raise(s) important issues of the burden of proof, the degree of intrusiveness, the interpretation of different activities in a multicultural society, and the location of power in the beneficiary-administrator relationship” (*ibidem*, p. 220). Despite these difficulties, I suggest to consider the Participation Income into a broader distributive picture than which is collocated. According to Atkinson, a substantive universal basic income paid for all people and for their entire lives, even for those who devote their lives only to pure leisure (the so famous ‘surfers’ in Malibu), is a chimera in the current social and political context, in which individual responsibility and efforts, productive

³²⁰ For example, “full or part-time waged employment or self-employment, by education, training, or an active job search, by home care for infant children or frail elderly people, or by regular voluntary work in a recognized association” (Atkinson, 2015, p. 219).

contributions, and development of talents are considered with great importance.³²¹ Maybe, it is better to rely on a plurality of distributive policies that are more easily justified on a separate basis and more likely to gather political support. For example, the Participation Income might better convey a positive message about reciprocity, social cooperation, or equal opportunity. The same could be said for the other mentioned proposals advocated by Atkinson, which could be invoked by politically appealing to a fundamental idea of our liberal-democratic societies: every citizen must be put in the effective conditions to collaborate in the realization of the social product and any substantial impediment must be removed.

6.3 Progressive taxation

Now, I will move to argue about income and wealth taxation which still remains the main distributive tool to reduce economic inequality. The tax system is usually understood as a simple redistributive mean, but this is a misleading. The tax system is not simply a tool to collect revenues, but it is also a mean to regulate capitalism in a way in which the free market might implement a more egalitarian outcome; but in order to achieve this purpose the tax system must be properly shaped. Also regarding the tax system, the distributive criterion of proportionality can clarify our normative considerations. Traditionally, a tax design is associated with a scheme that is both efficient and fair. I start by taking into account the concept of fairness.

On the one hand, the criterion of proportionality well embodies the concept of fairness applied to taxation that we usually endorse. “Fairness involves a perceptible link between effort and reward: people deserve to keep at least a reasonable portion of what they earn through increased hours or increased responsibility or a second job” (*ibidem*, p. 187). But, on the other hand, I need to specify in which way it is adequate to appeal to the idea of proportionality applied to taxation, in order to avoid some important misunderstandings. Indeed, the idea that taxpayers should contribute in *proportion* of what they earn, own and inherit might be understood very differently according to (a) the ‘benefit principle’, (b) the principle of equal sacrifice or (c) the principle of

³²¹ Perhaps, this problem would be irrelevant, but only in a futuristic society in which the whole system of social production is totally automated. However, in this futuristic scenario, likely, a universal and unconditional basic income would be the last of our social problems.

proportional (or marginal) sacrifice. (Murphy – Nagel, 2002). The distributive implications are very different for each of these interpretations regarding different tax categories: proportional, regressive or progressive. The distributive criterion of proportionality should be understood coherently only with the latter (c); meanwhile, I reject both (a) the ‘benefit principle’, (b) the principle of equal sacrifice for the same reasons.

The benefit principle is based on the idea that “fairness in taxation requires that taxpayers contribute in proportion to the benefit they derive from government” (*ibidem*, p. 16). Moreover, “the baseline for determining the benefits of government is the welfare that a person would enjoy if the government were entirely absent” (*ibidem*) Then, if we accept income as a measure of people’s welfare, according to the benefit principle “people should pay tax in proportion to their income, which is to say at the same percentage—a flat tax” (*ibidem*, p. 17) In this case the proportionality is taken literally: the average rate remains constant as income increases (flat tax or ‘proportional’ taxation). For example, Hayek (1960) draws this conclusion from the benefit principle. But, a more radical conclusion (and even less egalitarian) might follow if we believe that everyone should share the *same proportion* of the common burden in real terms. This interpretation is embodied in (b) the principle of equal sacrifice. This principle would seem to provide the natural solution to the problem of fair ‘taxation’ for a pure libertarianism. A libertarian conception of justice is usually “based on either some notion of desert for the rewards of one’s labor, or of strict moral entitlement to pretax market outcomes, limits the role of the state to the protection of those entitlements and other rights” (*ibidem*, p. 26). Therefore, according to a libertarian point of view, government should not alter the distribution of welfare produced by free activities in the market, but someone should pay for government services like security, infrastructures, administrative juridical justice, etc. So, the principle of equal sacrifice seems to solve the problem of the burdens of service costs. The idea that everyone contributes the same amount is extremely regressive in term of taxation, like the ‘poll tax’ adopted during Margaret Thatcher government in the United Kingdom in 1988 and abolished in 1991. A tax is regressive when “its rate decreases for richer individuals, either because they are partially exempt (legally, as a result of fiscal optimization, or illegally, through evasion) or because the law

imposes a regressive rate” (Piketty, 2014, p. 495). The poll tax³²² was regressive because it required the same payment of every adult no matter what his or her income or wealth might be, therefore its rate was lower for the rich (*ibidem*, p. 634, note 3). Now, both (a) the ‘benefit principle’, (b) the ‘principle of equal sacrifice’ raises two fundamental objections. Murphy and Nagel (2002) resume these two objections very well.

First, they treat justice in taxation as a separate and self-contained political issue, without considering how government allocates its resources. Indeed, taxation has two primary functions, what Murphy and Nagel call, (1) *public-private division* and (2) *distribution*. The former (1)

(...) determines how much of a society’s resources will come under the control of government, for expenditure in accordance with some collective decision procedure, and how much will be left in the discretionary control of private individuals, as their personal property;

Meanwhile, the latter (2)

(...) plays a central role in determining how the social product is shared out among different individuals, both in the form of private property and in the form of publicly provided benefits (*ibidem*, p. 76)

Although these two functions are conceptually distinct, at the same time they are mutually interdependent. Indeed, some public expenses are themselves redistributive in effect, in particular a national health and education system, and we can only address the *public-private division* question in light of some answer to the problem of *distribution*.

³²² It was a local tax, and its public and popular rejection was the main reason for Margaret Thatcher’s resignation as Prime Minister and party leader in November 1990. This episode shows, as Murphy and Nagel observe, that very few people are consciously committed to the libertarian theory of justice. Hardly anyone really believes that market outcomes are presumptively fair. Indeed, at the level of concrete proposals for tax reform, the principle of equal sacrifice is always abandoned in practice. Nonetheless, the principle of equal sacrifice in its libertarian interpretation advocated in the public debate has important political consequences, for example in the spectacular decrease in the progressivity in the income tax, at least in some countries like the United States and Britain.

The point is that, as Piketty (2014, p. 481) notes, taxation is neither good nor bad in itself; everything depends on how taxes are collected and what they are used for. For this reason, we cannot consider the question of taxation apart from the question of how the government allocates its resources. However, this interrelationship is very complicated and, here, I cannot enter in details, but I want to mention an important Piketty consideration. Although, in principle it is possible that a country could decide to devote two-thirds or three-quarters of its national income to taxes and use them for purposes of high priority, such as education, health, culture, clean energy, and sustainable development, there are at least two good reasons to believe that a drastic increase, in the foreseeable future, is not realistic and desirable. First, once the public sector grows beyond a certain size, it must contend with serious problems of organization; and second, in a world of low productivity growth, on the order of 1–1.5% society has to choose among different needs, and there is no obvious reason to think that nearly all needs should be paid for through taxation (*ibidem*, p. 481-482). Therefore, the relation between taxation and public provision is very complex.

The second objection that we can raise against both (a) the ‘benefit principle’ and (b) the principle of equal sacrifice concerns their implicit vision of the government “as a provider of services whose demands for payment intrude on a laissez-faire capitalist market economy that produces a presumptively legitimate distribution of property rights” (Murphy - Nagel, 2002, p. 15). This means that pretax market outcomes are considered presumptively just, but at this point in my thesis, it is fair to say that this approach is flawed in its foundation. Market outcomes depend on the kinds of their own political, legal, and socioeconomic arrangements (what I called the primary rules) that determine the existence and the functioning of the market. For this reason, the fundamental question of justice is to know who has the power to establish and shape these arrangements. For this reason, we should reject the idea that the tax scheme should track a conception of worth, responsibility, merit, or natural property rights; by contrast, tax schemes should be designed to achieve an unbiased ‘distribution’ which means avoiding material domination (as well as other dimensions of injustice, such as formal domination, coercion, or exclusion). This is the manner in which the criterion of proportionality is applied to taxation, as a distributive mean (among others) that does not permit economic inequality to reach an excessive and illegitimate range. From this perspective, the concept of fairness assumes a specific interpretation embodied by (c) the principle of proportional (or marginal) sacrifice,

also well-known as ‘ability to pay’: those who have more money are more able to pay. The point is that “the better off a person is, the greater the real sacrifice that should be exacted through taxation” (*ibidem*, p. 29).³²³ As Murphy and Nagel explain,

(...) since the underlying idea of the principle of proportional sacrifice must simply be that fair taxation will extract more, in real terms, from those who are better off, there should be no special magic in the formula of strict proportionality. The same general idea could lead, for example, to even more strongly egalitarian view that taxes should be levied at progressively higher proportions of real sacrifice as welfare rises (*ibidem*, p. 29).

For this reason, the principle should also be called principle marginal or increasing sacrifice, and it favors a progressive tax scheme. “A tax is progressive when its rate is higher for some than for others, whether it be those who earn more, those who own more, or those who consume more” (Piketty, 2014, p. 495).

Now, it is not sufficient to advocate a progressive taxation as the best interpretation of the concept of fairness applied to taxation, we should be sure that a progressive taxation does not have counterproductive effects. In this sense, we should also take into account the notion of efficiency; in particular we should design the progressive tax scheme in a way that avoids the disincentive argument. The disincentive argument is based on the assumption that a high income tax rate will induce people to engage in less productive and entrepreneurial activity, since it seems unreasonable to expect that people work equally hard whatever the rate of taxation would be.³²⁴ In order to design a progressive tax scheme that is able to avoid these kinds of problems, we should progressively modulate taxation maintaining distinctly the different sources of economic inequality: income from labor, capital ownership and income from capital. For example, given that taxation on income from labor and on income from capital or

³²³ This principle has achieved constitutional status in Germany, Italy, and Spain (Murphy - Nagel, 2002, p. 20).

³²⁴ Some authors, for example Cohen (2008), suggest that to solve this problem by appealing to an ethical argument according to which people would voluntarily work hard without payment incentives in order to achieve a more egalitarian society. I do not follow this ethical conception.

wealth have different economic effects in terms of efficiency, we should tax more severely wealth, inheritance and property than income from labor, and above all, we should design a more steep progressive tax system rather than a slight one (*ibidem*, p. 497). Atkinson's proposals regarding taxation go in this direction and now I will begin to argue about the progressive income taxation.

First of all, if we really want to reduce economic inequality between the top and bottom of distribution, we should raise considerably the top tax marginal rate. In some cases, this increasing should be very consistent, for example, in the United States, Britain and Brazil (to suggest but a few). It might be in part a solution for the explosion of executive salaries which is surely related (among other factors) with the sharp reduction of the top tax rate that we have experienced over the last three decades (*ibidem*, p. 508-512). So, Atkinson proposes to increase the top labor income taxation to 65%.³²⁵ The main objection to a very high top tax rate is that, however, a raise in the top tax rate does not lead to more revenue; for example: Brewer - Saez - Shephard (2010, p. 110) calculates that the revenue-maximizing top tax rate would be 56.6% (but including others taxes, they conclude that for a revenue-maximizing income tax rate of 40%). However, even if this calculation would be true and the objection in part valid, the main reason to raise the top tax rate is not primarily to collect revenue but to regulate the labor market, reducing the bargaining power and incentives of the top executives in negotiating higher pay. This is precisely the bargaining effect that Piketty identifies in the *Capital*. In the 1950s and 1960s, with very high marginal tax rates (around 80%), top executives had little reason to fight for a very large pay (millions of dollars), and also other interested parties were less inclined to accept it, because 80% (at least) of the increase would any way go directly to the government (Piketty, 2014, p. 510). This is a clear example that progressive taxation is also a pre-distributive mean rather than a simple redistribution policy. Piketty - Saez (2013/b) are more radical and estimate that the optimal top tax rate in the developed countries is at 82%. Their idea is back to the top tax rate (80-90%) in force in the United States and Britain during the 1930s to 1980s, by contrast the 30-40% in 1980-2010 (See also Piketty, 2014, p. 505-508). Given the nature of my proposal, a similar top tax rate is

³²⁵ He proposes this rate precisely for the UK in which the actual top tax rate is 45%, but he believes that it might be the same, at least, for other developed countries.

essential to guarantee the permissible range that I proposed. Clearly, it should be applied only at the very top distribution in those cases in which people earn more than the 1 to 18 ratio. I do not think that it would be necessary to impose a 100% of taxation on those earnings, because the intent is that the entire socioeconomic scheme would be structured in a way that there are no reasons to pay the actual enormous wages or that a few people do not have the power to pay similar wages for themselves.

However, the top tax rate is only a component of an effective progressive income taxation that aims to maintain the economic inequality between the best off and the worst off within an acceptable range. So, it is very important that the progressive tax structure does not raise the tax rate on lower levels of income (and pensions) and that it does not disincentivize work, innovation, and productivity. For this reason, Atkinson proposes a step by step progressive taxation.

The purpose of high marginal tax rates is to raise the average tax rate paid by people on higher incomes, [...] and it depends not on the marginal tax rate he or she faces but on the marginal tax rates lower down the scale. This means that, to increase the average tax rate on the well-off, marginal tax rates have to rise lower down the income scale (*ibidem*, p. 188).

In the specific case of the UK, Atkinson suggests that the marginal tax rates start at 25% (20% on earned income), and rise by steps of 10% until reaching 65%. However, other countries might use the same graduate structure of tax rates but adopt different percentages for each step. Therefore, according to Atkinson, “we should return to a more progressive rate structure for the personal income tax, with marginal rates of tax increasing by ranges of taxable income, up to a top rate of 65%, accompanied by a broadening of the tax base” (*ibidem*, p. 188, *proposal 8*).

Now, I turn out on the question of wealth taxation. The main target should be to tax capital more than labor, but in doing so we might apply the same progressive tax structure proposed for the personal income tax. There are some concrete forms to achieve this: reducing the asymmetry in the tax treatment of capital income and labor income by assimilating capital gains to taxable income; increasing the tax contribution coming from inheritance and all bequests and gifts *inter vivos*; taxing capital directly through a steeply progressive personal-wealth tax; providing a minimum tax for corporate tax, and a

progressive ‘global’ tax on capital or some more modest variation of it (like a ‘regional’ tax).

The first question concerns how to tax more income from capital. According to Atkinson, at the level of income taxed to the top marginal rate (for example, 65% or more), it is not easy to distinguish between income from capital and earned income (income from labor); so, his solution is to maintain the same top rate (65%) for earned and investment income but provide an earned income discount for an initial band. “Earned Income Discount would restrict the tax reduction to those on middle and low earnings by gradually withdrawing the discount once a specified level of earnings was reached” (*ibidem*, p. 192).

The inheritance of wealth is a major source of economic inequality, and for this reason one of the most important distributive means in reducing economic inequality is the wealth transfers taxation. As Piketty’s data show (2014), over the last decades, inheritance has returned as a powerful force, and it has also depended on the reduction of inheritance and estate taxes.³²⁶ The classical form of taxation of wealth transfer is the inheritance tax, but it is not able to capture all forms of wealth transfer such as all kinds of bequests and gifts *inter vivos*. There are two main ways of replacing the classical inheritance tax. One concerns taxing inheritances received under the personal income tax, and the other is to convert the inheritance tax into a lifetime capital receipts tax. Atkinson opts for the latter in order to avoid the negative revenue consequences that might include tax inheritances under the personal income tax. For example, people inheriting houses worth, say, £250,000, would find themselves paying up to top marginal tax rate percentages, even if this is the only amount they ever inherit. Therefore, according to Atkinson (2015, p. 194, *proposal 10*), a lifetime capital receipts tax including all gifts *inter vivos* above an additional modest annual exemption might be more promising. Atkinson provides an example of how this tax works:

A person receives £50,000 from an aunt’s estate in the first year. Suppose that this is below the threshold (set, say, at £100,000 per person), in which case no tax is payable. Five years later, the person receives a further bequest of £80,000. This

³²⁶ For example, the *Economic Growth and Tax Relief Reconciliation Act* signed by President George W. Bush gradually reduced estate and gift taxes starting in 2002 and repealed the estate tax altogether in 2010. However, it was later reinstated. See: Graetz - Shapiro, 2005.

takes the total to £130,000, which is £30,000 above the threshold, so that tax is due on £30,000 at, say, a rate of 20%. An uncle then gives the same person £20,000. Tax is payable on the entire gift. If the uncle had instead made the gift to the person's brother, and the brother had not previously had any inheritance (or gift), then no tax would have been payable (*ibidem*).

Moreover, Atkinson suggests to adopt a gradual structure of rates of 'inherited wealth' similar to that proposed on the personal income tax, but associated with a higher top marginal rate than 65%. The main innovation of a lifetime capital receipts tax with a progressive rate structure is that people are taxed on the amount received rather than the amount left (in the current system it is the opposite). The most important aspect regarding the reduction of wealth concentration and inequality is that a progressive lifetime capital receipts tax would provide a direct incentive to spread wealth more widely.

People could pass on their wealth tax free if it were transferred to people who have received little so far in lifetime receipts. In this way, it could contribute to reducing both gender inequality and inequality across generations (*ibidem*, p. 196).

The lifetime capital receipts tax could also be used to finance the payment of the minimum inheritance for all. However, there are other means to extend wealth taxation. One is an annual wealth tax like the famous France's annual wealth tax (*Impôt de Solidarité sur la Fortune*). The current wealth tax in France is based on the market value of various types of assets, annually reevaluated. In this sense, it is close to a capital tax, and it is quite different from the past annual wealth tax models which were not based on the market value (Piketty, 2014, p. 532-354).³²⁷ France's annual wealth tax was only a partial success due to the difficulty in designing such a tax properly within a single country. Indeed, nowadays, capital is much freer to move beyond national frontiers than people. Thus, there is a serious difficulty to collect annual

³²⁷ According to Piketty (2014, p. 533), the past design of these annual wealth taxes rendered them useless, and it is the main reason that led Germany and Sweden to abolish their annual taxes on capital. An annual capital tax is in force in Switzerland but with relatively low rates. Instead, in Spain the wealth tax is based on more or less arbitrary assessments of real estate and other assets, like German and Swedish abolished wealth taxes.

wealth taxation at a domestic level, and there is a tax competition among nations to attract foreign capital by means of lower taxation. This phenomenon is one of the main explanations why wealth and income from capital are taxed at a lower rate than income from labor. For this reason, Piketty (2014, p. 532) favors a global wealth tax (a global tax on capital) explicitly designed for the globalized patrimonial capitalism of the twenty-first century. However, such global tax would require a very high level of international cooperation, and it is described even by Piketty as a utopia. Even so, it is imaginable some ‘regional’ steps in this direction (for example, in the European Union area) and we should not underestimate the power of some countries in effectively taxing capital, even in the current international tax competition. The power of the United States (and others) to contrast the globalization constraints on wealth taxation is quite different than a small and peripheral country; and much depends on the lack of political will. For example, restricting the activities of tax havens is something that is realistic in the current scenario, but again what lacks is political will (I will get back to this point in the conclusion). Moreover, we cannot exclude the possibility for a more modest proposal. For example, as suggested by Atkinson (2015, p. 201), the creation of a World Tax Administration “which would allow individuals to apply to opt out of the national (and subnational) taxes on income, capital gains, and wealth by entering a global tax regime”. The participation of this global tax regime would be voluntary either for countries or for individual taxpayers. However, according to Atkinson (2015, p. 202), there are some advantages to “the taxpayer in that he or she has to deal with only one tax authority, and the regime would create greater certainty about the tax liabilities”. Lastly, we should reduce in some way the power of multinational corporations to minimize their tax liability. It is a well-known phenomenon the capacity of multinationals to avoid paying taxes in countries where they have large sales, shifting their profits to countries where the corporate tax is lower. In this regard, one possibility is a national minimum tax for corporations that would limit the tax relief that was available on interest paid and other deductions. Recently, the EU is pursuing with more rigor and intransigence the tax liability of the multinationals (for example, the case of Apple in Ireland³²⁸) and some EU countries are providing an

³²⁸ *BBC News*: [link](#).

innovative tax applied to Web multinational corporations (for example, the Web Tax in Italy³²⁹).

6.4 Countervailing power of economic decision making

Throughout this thesis I made the effort to focus on the importance of material power (power that depends on the *relative* amount of income and wealth) to significantly improve the bargaining power of the worst off. I cannot also disregard the power exercised by different actors in virtue of their socioeconomic positions (what I called formal power) and their roles in economic decision-making. The issue of countervailing power also in the dimension of economic decision-making has important distributive effects in reduction of inequality. It means that the power that actors hold by reason of their positions and roles in economic decision-making should also be *proportionally* distributed.

First of all, we should distinguish between beneficial ownership and control ownership. Even a person with a modest share of a pension fund is a beneficial owner, but she has no power in the process of decision-making of that fund; for example, she cannot replace the management or vote for or against a takeover. In this respect, Atkinson (*ibidem*, p. 131, *proposal 2, part a*) suggests that “public policies should achieve a proper balance of power among stakeholders, and to this end should (a) introduce an explicitly distributional dimension into competition policy”. This last point concerns the necessity to limit the exercise of monopolizing power in the market’s production. Competition policy can influence how firms situate themselves in the market. For example, “the viability of small local shops depends on how the large firms are regulated. Setting access prices for rival suppliers may have consequences downstream for the products available to consumers” (*ibidem*, p. 127). In this sense, competition policy regards itself with distributive issues, as in many cases, a simple regulation is sufficient to have strong positive or negative effects in term of competition policy. For example, the *Federal Communications Commission* recently repealed the U.S. net neutrality rules, which since 2015 had prohibited Internet providers from blocking or slowing

³²⁹ *The Financial times*: [link no. 2](#).

particular websites.³³⁰ The new regulation grants internet providers extraordinary new power that might be used to discriminate the smaller players in economy in favor of the bigger ones that can afford to pay more for internet services and, therefore, take a great advantage over the smaller firms.

Another important dimension of countervailing power concerns the governance of the firms and the relationships in the workplace; what Anderson (2017) recently calls a “private government”. It concerns the kinds of power relations that workers are subject to in the private sector and workplace. As I have pointed out in this thesis, in a society that does use the free market, the state is kept out of decision-making in many dimensions of the private sector and workplace; moreover for reasons of efficiency labor contracts are inevitably incomplete: they do not specify precisely everything a worker might be asked to do. Therefore, Anderson calls attention to the way in which authority and power is exercised over workers, that in many cases they are exposed to a high degree of arbitrariness and unaccountability (for instance, the precarious working conditions that Amazon³³¹ is able to impose, even in all developed liberal-democratic countries). According to Anderson,

you are subject to private government wherever (1) you are subordinate to authorities who can order you around and sanction you for not complying over some domain of your life, and (2) the authorities treat it as none of your business, across a wide range of cases, what orders it issues or why it sanctions you (*ibidem*, p. 44-45).

In order to avoid arbitrary power and domination within the firms, Anderson points out four general strategies to improve the countervailing power of workers: (1) exit, (2) the rule of law, (3) substantive constitutional rights, and (4) voice.³³² The first strategy

³³⁰ See: *The Washington Post*: [link](#); and *The New York Times*: [link no. 1](#).

³³¹ Anderson, 2017, p. 128-129. See also a recent strike in Italy and the attitude of omnipotence that Amazon shows in that situation: *La Stampa*: [link](#). see

³³² I believe that ‘private government’ is a useful concept to show why economic power matters itself within the economic domain and private sector, beyond its capacity to be converted into political power. However, I have an important reservation about Anderson’s broad approach. I think that Anderson underestimates the relevance of material power and distributive justice in ensuring an effective countervailing power in the private sector. It is understandable that in *Private Government* (2017) she wants to mobilize a

concerns the effective possibility that employees can change a job with oppressive hours, low payment, and precarious working conditions. Unfortunately, contractual barriers to exit are common and growing; for instance, “non-compete clauses, which bar employees from working for other employers in the same industry for a period of years” (*ibidem*, p. 66). Second, the rule of law is a legal framework aiming to guarantee that employers do not abuse their authority subjecting workers to humiliating treatment, and impose excessive constraints on their freedom. Third, Anderson suggests (*ibidem*, p. 68) that a just workplace constitution should incorporate basic constitutional rights, akin to a bill of rights against employers, in order to strengthen the workplace too, by rights such as workers’ freedom to exercise their political rights, free speech, and sexual choices. However, there are limits to how far a bill of rights can go in protecting workers from abuse. The main deficit is that such laws do not provide forms of worker participation in governance at the firm level; and for this reason, we should ensure that the workers have a voice in those matters (the fourth strategy). Surely, workplace democracy and labor unions are the most common and traditional models for worker’s voice within the firms. One of the most successful implementation of corporate governance (with workers on corporate boards and the codetermination of industrial policy) is the German model of workplace democracy which demonstrates that empowering workers in this way is both feasible and compatible with an extraordinarily high level of prosperity. Of course, the German model is not easily exportable in other social and political contexts; however it is a proof that a form of codetermination and workplace democracy is possible and also efficient. Moreover, in this German model a fundamental rule is played by trade unions which still maintain a significant influence and bargaining power. By contrast, in other

different language than that of fairness and distributive justice, but it seems that this underestimation about the relevance of material power (in relative terms) and, above all, economic inequality between the best off and the worst off goes through all her entire work. For example, in “What Is the Point of Equality”, Anderson (1999, p. 326) rejects Rawls’ difference principle because it is a too demanding form of reciprocity; by contrast, she endorses a sufficientarian conception based on the capability approach. Again, the problem is, like in almost all forms of sufficientarianism, that she seems to conceive what counts as ‘enough’ in absolute terms, and conceiving formal and institutional barriers to prevent that economic power is translated into political power (some similar with the insulation strategy).

developed countries the decline of influence of trade unions is absolutely evident and it seems irreversible. Surely, the radical changes in the labor market structure and in the legislation concerning trade unions contributed to this decline, but the incapacity of trade unions to understand these transformations and protect the new vulnerable categories of workers was also an important factor for this decline; moreover, in some circumstances trade unions contributed to the maintenance of the status quo, and so they appeared as conservative forces. Nowadays, we should rethink the role and organization of trade unions.

Lastly, if we want to seriously take into account the issue of bargaining power in the process of decision-making, we cannot escape a fundamental question: can we leave the market economy to make all decisions about production? The answer is quite simple, no! Not all decisions about production can be left only to private initiative. For example, the technological change has great consequences not only concerning the distributive question of who owns the robots, but also it deeply affects our lifeworld views and, above all, the decisions today about the direction of technological innovation will have significant effects into the future to the point that we have to ask ourselves what kind of world (if any) we want to leave for the future generations. These questions are also valid for all the most relevant sectors of production of our societies. It is legitimate that a political community has the power to decide and influence the path taken. Of course, the government actions should be the result of a democratic process and the legitimate use of public reason. Unfortunately, in public debate there is a sort of dichotomy that presents only two possible alternatives, the free market or the planned economy, as there could not exist some sort of middle ground between them. The actual reality is very different but it is distorted by the myth of the genius entrepreneur who alone takes all risks and creates a revolutionary product which is able to innovate and change forever the entire society; an exemplary case is the figure of Steve Jobs and his Apple creations. Opposite to that, as Mazzucato (2013) brilliantly shows in her comprehensive work, the state investments in Research and Development are a necessary first condition in generating private innovation later. Her investigation on the historical development of Apple shows that what many successful entrepreneurs have done – including Steve Jobs – is to integrate state funded technological developments into breakthrough products. For example, each of the technologies that make the iPhone so ‘smart’ can be traced back to state investments, from the Internet itself, to the touch-

screen display, to the new voice-activated SIRI. It is evident the role played by public sector agencies of the United States (but it is also true in cases of Japan, South Korea, Germany, Denmark, and of course China) in making risky investments and in funding most of the crucial elements behind companies such as Google, Apple, and others. In other words, in our economies the government already intervenes directly and indirectly in the market in a number of ways, and there is nothing of surprising or illegitimate in this.

For example, production heavily depends on the property rights regime and patent system. In certain circumstances, state intervention is indispensable to permit that some lifesaving medicines would be produced at an accessible cost (such as for HIV treatments). Therefore, the main question is not the government intervention itself, but what economic interests, and of whom, are protected or favored by the government when it decides, or not, to intervene. It 'seems' that, nowadays, governments decide to intervene, or not to, to guarantee and favor the economic interests of the top 1% of the society.

Conclusion

At this point of my inquiry I hope that my argument is quite clear and compelling. That being said, I want to take advantage of this brief conclusion to focus on just two purposes: first, to summarize the fundamental elements of the relationship between injustice, economic inequality and the idea of proportionality; and second, to briefly address a political and practical question that I have avoided so far, which does not concern the normative dimension of my investigation, but rather the question whether we have the concrete possibility and power to implement the normative distributive requirements and proposals.

In this thesis, I tried to answer a fundamental question in political philosophy; namely, when and why is economic inequality unjust? In doing so, I focused on testing the hypothesis whether the gap between the most and the least advantaged in terms of income and wealth matters. Along the thesis, my effort was to show and prove that, yes, it matters. In doing so, I do not advocate an intrinsic concern for inequality, one that sustains a diminution of inequality, even if it would be worse for some people and better for no one, simply for the sake of equality as a moral value. This assumption is able to reject the Leveling Down Objection if, and only if, it abandons any normative pretensions. By contrast, I assess the economic inequality taking into account the fundamental normative question of ‘what we should do’, or better ‘what do we owe to each other’. However, although I endorse a non-intrinsic concern for inequality, I do not share the same conclusion of the most common distributive theories of justice. They take distribution to be just simply according to an impartial and non-arbitrary point of view, so that economic inequality is considered unjust merely for being the result of a ‘maldistribution’. For example, economic inequality is usually contested when a society does not secure a fair system of equal opportunity for all, a decent socioeconomic minimum, or the maximization of the position of the worst off. However, all these socioeconomic criteria might be ensured without taking into account the gap between the most and the least advantaged. Indeed, if we adopt a purely goods-focused view, as the allocative-distributive conception of justice does, the just distribution is assessed in absolute terms of what people have. Then, from this point of view, economic inequality is no longer normative significant, whatever the gap between the most and the least advantaged would be. But, in this way, the allocative-distributive conception of justice neglects the relational dimension that concerns how people are treated in terms of intersubjective relations. From the latter point of

view, by contrast, a just distribution is assessed taking into account the social goods in its positional nature (namely, the absolute value of a positional good depends precisely on how much of it one has compared to others) and, above all, the fundamental question of power. Therefore, only the relational conception of justice (that I advocate) is able to compellingly detect the fundamental dimension of social injustice as domination.

I said that domination implies to obey the foreign wills of others as opposed to “obeying only oneself” or “being one’s own master”. In other words, it means that domination counts when some individuals or groups are not able to consider themselves as co-authors of the primary rules (legal, political, and socioeconomic) for lack of adequate formal or material (or both) powers, or as an effect of a certain structural power. In this sense, domination concerns itself with the dimension of social injustice as an injury to our ‘deliberative’ autonomy. Indeed, if it is true that the primary rules (legal, political, and socioeconomic) are responsible for assigning what people are legitimate to claim according to their contribution and participation in the social cooperation, and also are responsible in limiting or restricting people’s participation and contribution, it means that we cannot take them for granted. Rather, what matters is who has the power to shape and establish the primary rules that regulate our social relations in the subjective circumstances of justice – those conflicts and disagreements about norms and principles that govern our social relations and that they cannot be reconciled by appealing to our social virtues – and the objective circumstances of justice – all social relations that cannot be considered ‘voluntary’ and in which, by contrast, domination is potentially at stake. I also showed that in a social system that makes use of the (not pure) free market, the power of establishing and shaping the socioeconomic arrangements is shared, asymmetrically, between political government that establishes the legal framework of market and the economic free actors within this framework. Therefore, we should take into account both political and economic inequality. For this reason, I argue that the insulation strategy (keeping money out of politics) alone is insufficient to avoid social injustices such as domination. Indeed, even if the strong barriers in protection of the political dimension by external influences would work effectively (something highly unlikely), the economic inequality and its corresponding economic power still continue to be normative relevant in socioeconomic sphere, and over other non-political domains of social life. Moreover, I observed that political, economic, and social power come from different power resources: formal and material. Thus, for

example, we can identify formal political power and material political power as well as formal economic power and material economic power. Given that for material power, I refer to a certain amount of accumulation and concentration of income and wealth, and since power is always a relational concept, those people who are the least advantaged can reasonably reject primary rules that permit (potentially) unlimited economic inequality because such rules might endorse material domination. For this reason, I affirm that economic inequality has to be assessed according to the distributive criterion of proportionality. It means that we must decide the acceptable range between the top of distribution (the top 1%) and the bottom of distribution (the bottom 50%) in order to avoid no limit increasing of economic inequality. In this way the economic inequality and economic concentration cannot reach an excessive magnitude, therefore it cannot represent a dominant economic power in its own sphere and, above all, it cannot be translated into political power in a dominant way. The result is to avoid the phenomenon of a 'civil' oligarchy.

However, my argument that concerns the question of power as the first fundamental question of justice and the idea of domination as an injury to our 'deliberative' autonomy can emerge in all its force, but only through a critical theory of justification which employs a 'non-ideal' theoretical approach together with a methodological approach that does not overlook the perspective of the victims of injustices. I believe that only following a critical conception of social justice we can fully understand why social justice really matters and, above all, when it comes into play. For this reason, it was not fortuitousness that my thesis and my entire political philosophical investigation began with the social and political demand against the current economic inequality raised by the Occupy Wall Street movement. It represented my 'privileged' starting point. The *Occupy* movement points out the existence of an elite, the richest 1% or even the 0.1%, who is increasingly concentrating the wealth and income in contraposition with the 99% of the population. From this point of view, *Occupy* affirms that the huge current economic inequality contributes to impose arbitrary and oppressive political and socioeconomic relations. For this reason, I sustained that *Occupy's* demand against the current economic inequality can meet the most valid argument in the dimension of social injustice as material domination. I think that the idea of proportionality grasps *Occupy's* demand against excessive economic inequality.

The distributive criterion of proportionality focuses directly on the gap between the top and the bottom of the distribution, which should

not exceed a certain reasonable proportionality. I believe that it is possible to determine this range, normatively binding, between the top 1% and the bottom (50%) of the distribution, but I will suggest a range that does not prescribe an ideal society nor the most egalitarian society that we could concretely be expected to achieve. So, I sustained that *nobody* should earn more than 18 times of the average income (post-tax) of the bottom 50%, and *nobody* should own more than 100 times of the average wealth (per adult) of the bottom 50%. I believe that a society which is regularly able to maintain a 1 to 18 ratio of income and a 1 to 100 ratio of wealth could be described as a realistic utopia. In order to prove the reasonableness of my proposal, I showed the possible effect on some real income and wealth distribution. The cases of Italian, U.S., and Brazilian income or wealth distributions proved that my proposal, if correctly implemented, would be able to avoid extreme income and wealth inequality into the class of the top 1%. For this reason, I sustain that the ratio of 1 to 18 in income and the ratio of 1 to 100 in wealth cannot be reasonably rejected. However, my proposal should be understood just as a starting point of this discussion. And, even if someone might disagree about the range of economic inequality that I proposed, once accepted that economic inequality between the most and the least advantaged should not exceed a certain proportionality, this normative idea has some strong implications for the ways in which a society should shape its own basic structure (legal, political, socioeconomic, and cultural). Therefore, I also discussed the implications and accomplishments of the distributive criterion of proportionality concerning a set of distributive proposals in four broad areas: 1) wealth distribution and capital shared; 2) social security; 3) progressive taxation; 4) countervailing power of economic decision making. Each concrete distributive proposal surely has strong consequences for the ways in which we conceive social cooperation and job participation, individual responsibility and meritocracy, individual liberty, freedom of private initiative, and property rights. In this respect, I argued that the distributive criterion of proportionality offers a productive way to deal with our complex social and political commitments in relation with the requirements of social justice.

Now, I conclude to address the political and practical question that I mentioned above. This question does not concern the normative dimension of my investigation. Indeed, even if my argument that condemns a disproportionate economic inequality would be compelling and normative valid, it does not answer the following question: do we have the concrete possibility and power to implement the radical

‘distributive’ proposals necessary for considerably reducing the current economic inequality? I have to be honest, and my answer is no, at least in the very short run. Perhaps, in the medium-long-run we can be less pessimistic. Here, I can only argue very briefly about three main aspects that force us to be pessimistic in the very short run, but that they leave room for hope in the medium-long-run: the constraints imposed by globalization; the lack of political power; and the lack of political will.

It is well-known that the argument according to which by reason of the actual process of globalization, the national governments are no longer able to manage their domestic economics and therefore to maintain control over economic inequality; in particular for the impressive rising of the financial global market. In other words, trade liberalization and other aspects of globalization are thought to restrict the set of redistributive policies that are politically available in democratic nation states. This is one of the most important reasons that leads Piketty (2014) to propose ‘a global tax on capital’. Indeed, it is true that in the actual globalization race:

advanced economies face increased competition from countries where wages of unskilled workers are lower. Industries that rely heavily on unskilled workers find it increasingly difficult to compete, and jobs are lost or outsourced to lower-wage countries (Atkinson, 2015, p. 83).

One of the most relevant effects is that “the more internationally mobile factors of production – capital and professional labor – tend to be owned by the rich, and a nation-specific tax on a mobile factor induces national-output reducing relocations of these factors” (Bowles, 2012, p. 74). This scenario together with the unrealistic hypothesis of a global confederation (while a world state might be an undesirable alternative) that would be able to implement some global redistributive policies, such as the global tax, seems to preclude any kind of optimism. However, the kinds of constraints imposed by globalization should not be overestimated. First of all, there are some examples of successful redistributive policies implemented even in small economies fully integrated into the global economy, such as the case of Nordic social democracy and East Asian land reforms (*ibidem*). Secondly, globalization may limit the effectiveness of some more common redistributive policies but not all kinds of (re)distributive strategies. Indeed, as Bowles (*ibidem*, p. 76) observes, it is true that globalization makes it difficult for national states to affect the relative (after-tax)

prices of mobile goods and factors of production; in this sense, globalization fixes the relative prices of some productive services. But,

(...) it precludes neither an egalitarian redistribution of the tangible and human assets from which those services flow, nor the enhancement of the assets currently owned by the less well-off, nor the improvement of the institutionally determined flow of services from labor assets (*ibidem*, p. 98).

This means that a large set of egalitarian policies and interventions remain available for governments. Therefore, although it is necessary to pursue the difficult attempt to improve international coordination and accountability, and severely regulate the financial global market, I think that the national government is, realistically, the main and the stronger actor who still has some chance to implement serious distributive policies. For this reason, I focused on the concern for economic inequality at a domestic level.

However, even if the constraints imposed by globalization are not so stringent as it is usually thought, we might perceive that citizens and egalitarians leaders lack the effective political power to implement distributive policies and achieve a radical transformation of the basic structure of society. In other words, it means that our liberal democratic societies are already 'civil' oligarchies. This very pessimistic reading of our actual societies can be exemplified by a certain interpretation of Piketty's historical research of economic inequality. Indeed, what Piketty's historical excursus teaches us is that the capital/income ratio remains surprisingly constant across history with the only exception of the first 30 years after the Second World War (*Trente Glorieuses*). Ronzoni (2016) suggests not to read this egalitarian 'exceptionalism' as a result of the policies and regulations of the post-war, but rather these egalitarians policies were made possible as a result of the destruction of capital stock due to the two world wars that balanced momentarily the power relationship between capital and labour and increased the bargaining power of surviving laborers, with the consequent reduction of economic inequality. In this case, then, once the recovery of capital reached a certain level, the economic inequality started again to increase, and a change in policy followed; one that generated a 'civil' oligarchic system. According to this reading, social-democratic politics by itself is by far not enough to contain inequality, unless in case of an extraordinary and often disastrous exogenous event such as a world war (a kind of event that does not sound like a desirable option). Now, it is

very difficult to provide a univocal understanding of the causes of the so called *Trente Glorieuses*, and honestly the hypothesis in favor of the policies and regulations of the post-war as the cause of the egalitarians ‘exceptionalism’ is often a question of hope, or even egalitarian ‘faith’. Indeed, all we have to hope is that our democratic societies are not *de facto* ‘civil’ oligarchies. Surely, there are some clues that do not make hope very strong. The recent Trump’s tax reform³³³ might be one of these. A super-millionaire President and a parliament serving the economic interests of the lobbies³³⁴, corporations and the wealthiest 1% that approve a tax bill with the unequivocal effect of increasing taxes on the lower and middle classes and then use those revenues to pay for a massive tax cut for corporations and super-rich.³³⁵ In a few words, the antithesis of the idea of proportionality. This is likely the most regressive tax bill in the contemporary history of the United States, being justified by the most popular of the neoliberal economic arguments: a tax cuts pass, economy grows, jobs grow, wages rise, people will be happy. So, it does not matter the huge increase in economic disparity that this regressive tax bill will generate in the medium-long run. Unfortunately, the 2008 crisis was the most powerful and crude proof against this argument; moreover, empirical evidences suggest that the extraordinary level of economic inequality now experienced in many economies is detrimental to them. Therefore, we might suppose that after decades of optimistic and triumphant neoliberalism beliefs, the last disastrous decade would have convinced people that the magic argument that economic inequality, whatever magnitude it would reach, is an unavoidable price for economic growth and well-being is simply false. We may guess that neoliberalism is a simple spectre that walks in the world, but that spectre is rather alive and well, as Trump’s tax bill proves. However, in these years, it is true that neoliberalism has lost its appeal in many western countries, particularly in Europe. Nonetheless, first, it is not easy to say if this sentiment is already so general and widespread in the liberal democratic public opinion, and second, public policies are still oriented toward the same dominated neoliberal doctrine. Of course, this last aspect might be

³³³ *The New York Times*: [link no. 2](#).

³³⁴ *The New York Times*: [link no. 3](#).

³³⁵ Vox: [link](#); and *Axios*: [link](#).

a proof of a great distance between the actual political leaders and the new public opinion mood, or more dangerously, that as I said, the 'civil' oligarchy is already a fact in our liberal democracies that effectively hampers every important measure of a political economy aimed at reducing economic inequality. Nonetheless, we should take into account some important facts: Trump (and others super-millionaire presidents or Prime ministers) was democratically elected, and even the democratic process in the U.S.A., and in many other liberal democratic countries, is strongly distorted by an effective unequal political power among citizens, we should not forget that in the same distorted system Obama won two president campaign elections. Moreover, although Obama was not able to maintain his radical promises of transformation in the direction of a more egalitarian society, for the political hostility of the congress and other economic and social forces (and even for his own faults), he approved a radical health federal reform (for the standards of the United States health system) that covered 20 million citizens who were before without any medical insurance, provided a more strict regulation of the Wall Street financial system, and above all he did not renew the tax cuts to the rich granted in previous Bush administrations. It means that, however, something can be made despite the counter-power of lobbies and private corporations. In particular, the EU seems to have a greater capacity to resist the power of lobbies and multinationals. Perhaps the current economic inequality has not generated a drift toward oligarchy yet.

However, even if in this case we might also be less pessimistic and suppose that citizens can still have the political power to implement distributive proposals through a democratic process, there is the last aspect that I have to mention, one that might explain more than the others the present pessimism; namely, the lack of political will. When we argue about the lack of political will to implement serious distributive proposals, we should count not only political leaders and officials authorities (the difference between Obama and Trump is quite evident) but also common citizens and electors, and public opinion. It is true that the objection against the current level of economic inequality has grown in the last years. The case of the *Occupy* movement is an important example. Indeed, although *Occupy* lost the initial momentum, *Occupy* influenced and changed in part the public opinion, and not only in the U.S.A., regarding the current economic inequality and its social and political effects. For example, without *Occupy*, it would have been impossible to have the great performance of the almost unknown senator of Vermont, Bernie Sanders, who defines himself as a socialist, during

the 2016 Democratic Party presidential primaries. However, this ‘egalitarian’ sentiment is not so rife, and it is often advocated in some contradictory way. For example, even in the case in which left governments implemented efficient and successful distributive policies, in particular in some Latin American countries such as Brazil, as Senator Gleisi Hoffmann (the president of Brazil’s Workers’ Party) says: “the social programs, the gains people saw during that period, were seen as the result of their individual effort”³³⁶. For this reason, I think that in the public opinion, the strongest and most pervasive argument against limitation of economic inequality is not based on economic efficiency and growth, but rather on a moral/political argument which is declined in different ways. For example, imposing constraints of economic inequality violates individual liberties and meritocracy, it impedes the legitimate development of a particular conception of a good life, and, in the most sophisticated argument, the economic inequality is not unjust when it is the result of the free market. We may make a big mistake if we underestimate this normative point of view. In this thesis, I tried to offer my modest contribution regarding this point.

I hope that I have demonstrated that a ‘social’ system which allows a disproportionate economic inequality is an unjust system because it violates and disrespects one of the most fundamental moral and political ideas: the idea according to which no one must obey the arbitrary and oppressive foreign will of others; an idea that rejects domination in all its forms. And, the disproportionate economic inequality between the best off and the worst off represents surely what I called material domination. Moreover, domination as an injury to our ‘deliberative’ autonomy, that embodies the deepest and most priceless political value on which our liberal democracies are based. In this way, I think that I have offered an argument that cannot be reasonably rejected, even in the light of the increasing pluralism that characterizes our liberal societies. Our hope about the concrete possibility, in the not so distant future, to implement radical distribution proposals also depends on the acceptance of this normative point of view. In this respect, I believe that my proposal of economic proportionality, and its 1 to 18 ratio of income and 1 to 100 ratio of wealth, which does not allow an extreme economic inequality, could get support from 99% of the population.

³³⁶ *The New York Times*: [link no. 4](#).

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