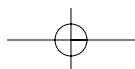
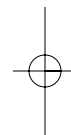
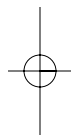
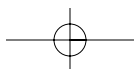
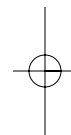
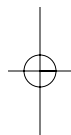


PART II





4

Democratic Liberalism: The Politics of Dignity

Craig Duncan

For the medieval philosopher St. Thomas Aquinas, the idea of hell posed one hell of a problem. He revered the Bible, of course, and the Bible says that punishment should fit the crime—as the famous phrase has it, “an eye for an eye, a tooth for a tooth.” Yet the horrors of hell last forever, making hell an *infinitely bad* punishment. Wouldn’t hell, then, be a fitting response *only* to an *infinitely bad* crime? But—and here is the problem—how could any finite human being possibly be guilty of such a crime?

Here is Aquinas’s answer: “Sin which is committed against God is infinite. For the sin is the more serious, as the person against whom one sins is the greater. For example, it is a more serious sin to kill a prince than to kill a private citizen. But the greatness of God is infinite. Therefore, one deserves infinite punishment for a sin that is committed against God.”¹ In short, when a person commits a crime, we are to measure the seriousness of that crime with reference to the “greatness” of the party wronged by the crime. Since God’s greatness is infinite, an offense against God counts as an infinite crime.

To be sure, Aquinas’s answer has its problems (for one thing, it implies that the average murderer’s crime is on a par

80 / Chapter 4

with Hitler's crime—both are infinitely bad!). But that is neither here nor there, for this is not an essay on theology but on political philosophy. Aquinas's answer is worth examining even in an essay on political philosophy because it contains an idea with political implications that are worth exploring, namely, the idea of wronging a being's "greatness." "Greatness" is one of many such words Aquinas could have used to express his idea; other similar words include "honor," "majesty," "augustness," "magnificence," "sublimity," and—to use a word that will figure prominently in the pages to come—"dignity." This allows us to redescribe Aquinas's idea in different terms. When Aquinas says that the ultimate crime is to sin against God's greatness, we might say he means that the ultimate crime is to fail to show due respect for the dignity of God.

Aquinas's main focus is on God, but he also mentions princes and private citizens, and it is here we can discern the political implications of his idea. They are not appealing implications, for they are mired in the distinctly unappealing political assumptions of the Middle Ages. It is a greater crime, Aquinas says, to kill a prince than it is to kill a private citizen. In fact, this medieval idea of "greater dignity, greater crime" was explicitly formalized in feudal Anglo-Saxon England in the institution of the *wergild*. The *wergild* fixed the value of each person's life: a serf's *wergild* was less than a noble's *wergild*, which in turn was less than a king's *wergild*. If you killed someone, the law required you to pay that person's *wergild*. As Marilyn McCord Adams comments, "On this system, someone might be able to afford to kill a serf, but not a noble, or a noble but not a king. . . . [G]uilt was proportional to the augustness or majesty of the offended party and not just to the act of the offence."²

Fortunately, times have changed. If you respond in horror to the *wergild* system, then to that extent you have internalized an egalitarian idea of first-order importance, namely, the idea of the *equal dignity* of human beings. It is this egalitarian idea that lies at the foundation of the political philosophy defended in this chapter, which I will call "democratic liberalism." To that defense I now turn.

1. Dignity and Responsible Choice

Let us begin by exploring the idea of dignity. Consider a thought experiment described by the American philosopher William James. In a discussion of utopian political visions, James poses the following question:

If the hypothesis were offered us of a world in which [various thinkers'] utopias should be all outdone, and millions kept permanently happy on the one simple condition that a certain lost soul on the far-off edge of things should lead a life of lonely torture, what except a specific and independent sort of emotion can it be which would make us immediately feel, even though an impulse arose within us to clutch at the happiness so offered, how hideous a thing would be its enjoyment when deliberately accepted as the fruit of such a bargain?³

I suggest that the "emotion" to which James refers is surely none other than that of respect, namely, respect for the dignity of that "certain lost soul" whose torture would guarantee the happiness of millions. The power of this idea of dignity is apparent from the size of the benefit—unimaginable happiness—that is foregone in its name.

What is it, though, that gives a human being such a powerful dignity? The most plausible answer looks to our impressive mental capabilities: our self-consciousness, our capacity to imagine future consequences, to articulate our values, to deliberate as to which course of action is best, to guide our choices by these deliberations, and so on.⁴ This is a plausible answer, because this constellation of mental capabilities allows adult human beings to cross an important threshold, namely, the threshold that separates beings who are *morally responsible* for their actions from beings who are not. The powers of choice that ordinary human adults possess are such that they are responsible for their choices in a way that young children, for instance, are not. That is a significant difference, well worthy of a deep respect. This fact is acknowledged in the numerous distinctions we draw between appropriate ways of

82 / Chapter 4

treating adults and appropriate ways of treating children. "Show me some respect," a young adult might say to her elders who persist in treating her as a not-yet-responsible being.

Of course, a number of puzzles accompany the notion of moral responsibility. Where exactly should we draw the line between beings who are responsible for their actions and beings who are not? Moreover, insofar as moral responsibility is widely thought to depend on the existence of a free will, we face the well-known challenge of how free will can exist in a world of atoms and energy bound by scientific laws. Clearly, it would be foolish of me to attempt to solve this deep challenge in the short space I have here. Instead I will be content to note that regardless of the puzzles that abound in the debate over free will, it is hard to deny that there is surely *some* difference between adults and children that warrants us treating them differently. Adult decision making is typically competent in the way a young child's simply is not. The capacity for this sort of competent decision making is what I have in mind when I speak of the capacity for responsible choice. The free-will debate, however it turns out, will surely not erase all morally relevant distinctions between adult and children.

In proposing that politics be founded on respect for human dignity, understood in terms of the distinctive human capacity for choice, I am aligning myself with a long-standing tradition in moral philosophy, the best-known adherents of which range from the ancient Greek and Roman Stoics to the eighteenth-century German philosopher Immanuel Kant and beyond.⁵ I will later have more to say about Kant's position in particular. For now, though, I want to continue to develop this foundation for politics. Toward that end, the next obvious question to ask is this: Supposing the source of human dignity does lie in our capacity for responsible choice, what does it mean to *respect* this capacity? The answer to this is threefold: one respects the capacity for responsible choice by observing a strong presumption against impairing it, against constraining it, and against ignoring it (that is, against failing to recognize its exis-

tence).⁶ Each of these ways of failing to respect dignity requires commentary. The next section takes up this task.

2. Respecting Human Dignity

The most devastating way one can fail to respect another person's dignity is by failing to recognize any presumption against *impairing* that person's capacity for responsible choice. In general, one impairs a person's capacity for responsible choice by crippling the mental capabilities necessary for responsible agency or by preventing their healthy development. Certain forms of abuse, both physical and psychological, can produce this result, especially if the victim is a child. Quite plausibly, too, a person's capacity for responsible choice is crippled while he or she is in the grip of a severe substance addiction. Additionally, one can impair other people's capacity for choice by paralyzing them with fear or by incapacitating them with intense and prolonged pain—and so on. In all these cases the implications for dignity are especially severe. For when a person's capacity for responsible choice is destroyed, we may say that his or her dignity is correspondingly *diminished*.⁷

The second way in which one can fail to respect another person's dignity is by failing to observe any presumption against *constraining* the exercise of that person's capacity for responsible choice. The clearest case of this lies in physical constraints on a person's body. At the extreme, the person is shackled to a dungeon wall, thereby removing nearly all opportunity for action. A prison cell allows a greater scope of action than a set of shackles but drastically less scope than exists outside of prison—and so on for other less impairing physical restraints. In the case of constraint, it is not genuinely apt to say that the constrained person's dignity is *diminished*, for unlike the case of impairment, the person's capacity for responsible choice will remain intact so long as the constraint is not so extreme as to be mentally incapacitating. Rather, the harm

84 / Chapter 4

of constraint lies in preventing the person from using this capacity in significant ways. This is a serious harm, for ideally one's life should reflect one's dignity, much like the moon reflects the light of the sun. While constrained, however, a person's life does not reflect his or her capacity for responsible choice, much like the moon no longer reflects any light while in the earth's shadow during a lunar eclipse. For this reason, it is best not to say the person's dignity is *diminished*, as we did in the previous case of impairment; rather, we should say that the person's dignity is *obscured*.

In addition to *physical* constraints, there is another important sort of constraint by which one may obscure another person's dignity, namely, *threat-based* constraints. The paradigm instance of this type of constraint is a mugger with a gun in his hand who says, "Your money or your life." Complying with his demand, you might later say, "He forced me to hand over my wallet; I had no choice but to do as he said." Of course, in a technical sense this is not quite right: you *could* have made a dash for it, or tried to tackle the mugger, or defiantly said to him, "No, you'll just have to shoot me if you want my money." From this technical point of view, the mugger does not constrain you unless and until he does so physically. We should however ask why, contrary to this technical point, it seems so natural to say that you were *forced* to do as the mugger said, even if no shot was ever fired. It is natural to say that you were forced to hand over your money, despite having some choice in a technical sense, because owing to the lethal threat against your life you had no "real" choice, we might say. Your choice was between handing over your wallet or putting your life in serious jeopardy; those were your only options. Since the latter option is an intolerable one, handing over the money was your only *tolerable* option. Given this, no one could reasonably hold you responsible for the loss of the money; your exercise of responsible choice was constrained during the mugging. During that time, your dignity was obscured—eclipsed, we might say, by the dark shadow of the mugger's deed.

The Politics of Dignity / 85

This discussion of constraining a person's exercise of responsible choice helps us to understand one of our core values, namely, the value of *freedom*. This is so because constraints on people's exercise of their powers of choice are in fact constraints on their freedom. It thus follows that respect for a person's dignity requires one to respect that person's freedom. There is yet more that respect for dignity requires. For in addition to underlying the core value of human freedom, I now will argue that the ideal of respect for human dignity also underlies the core value of human *equality*.

The key question to ask about the value of equality is: In what sense are people equal? The answer to this question is hardly obvious; after all, some people are stronger than others, some are smarter, virtuous, better looking, more artistic, more personable, and so on. The ideal of respect for human dignity has an answer to this question, however. Recall the mental prerequisites of responsible choice mentioned earlier: our self-consciousness, our capacity to imagine future consequences, to articulate our values, to deliberate as to which course of action is best, to act on our choices, and so on. To be sure, people differ in each of these mental abilities; some are better than others at imagining future consequences, or at guiding their choices by their deliberations, etc. Yet once a person's degree of these abilities passes a certain threshold, we rightly hold him or her to be capable of responsible choice. That is to say, all those who pass a basic line of competency share the status of "responsible being," even if some are more competent than others. (Compare the class of responsible beings with the class of pregnant women—all of the women in this class are pregnant, even though some are more advanced in their pregnancy than others.)⁸ Importantly, this is *not* to say all members of this class *do* in fact make choices we judge to be wise, prudent, moral, etc.; many do not. Rather, it *is* to say that members of this class make choices—good or bad—for which we can properly hold them responsible.

On this account of equality, one respects another person as an equal by recognizing in one's actions the other person's

86 / Chapter 4

status as a being capable of responsible choice. Failing to do this is another failure of respect for human dignity, alongside impairing a person's capacity for responsible choice, or constraining its exercise. One fails to recognize other people's status as beings capable of responsible choice when one treats them as something other than such a being. Consider in this regard the famous formula of Kant, according to which you should "always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end."⁹ Suppose for instance (to take one of Kant's own examples) that I borrow some money from another person and make a lying promise to repay it, with no intention ever to do so. In this case I am surely not treating the other as a person in her own right, with her own life to lead and own choices to make; rather I am treating her as nothing more than, say, an ATM machine with buttons I may push to obtain free money.

So treating others as mere instruments for achieving your personal ends is one way of failing to recognize others as responsible beings, and thus one way of failing to treat them as equals. Moreover, treating others as mere instruments is not the only way of failing to treat them as equals (that is, of failing to treat them as "ends," to use the Kantian lingo). You might for instance treat them as pieces of refuse to be destroyed or cleared away (as in cases of "ethnic cleansing"). Or you might treat them paternalistically, as incompetent at making their own choices—say, by censoring what they read, or by assigning them their occupation, choosing their spouses for them, etc. Or you might treat them as nothing at all, as nonentities. You would do this, for instance, if you look upon other people who are suffering impairment of their capacity for responsible choice, or a constraint on its exercise, and you treat them with indifference despite being able to help them with only a reasonable level of effort on your part. Finally, you might in light of a stereotype view other people as beings whose choices are fated to take a certain form; in this case you

The Politics of Dignity / 87

are treating others as mere cardboard cutouts of people, not full-blooded ones. In short (and at the cost of some linguistic infelicity), we can say that respecting people's capacity for responsible choice requires that we observe a very strong presumption against treating people in instrumentalizing, refusing, infantilizing, nonentitizing, or stereotyping ways—that is, against treating them as inferiors, rather than as equals who are capable of responsible choice.

To fail to observe this presumption, we may say, is to insult another person's dignity, and hence to fail to respect it. Thus we may set *insulting* other people's dignity alongside the other failures of respect previously examined: *diminishing* other people's dignity by impairing their capacity for responsible choice, and *obscuring* other people's dignity by constraining their exercise of this capacity. Much of the rest of this chapter will be an exploration of the political implications of the strong presumption against these ways of failing to respect human dignity.

3. The Liberal Principle of Legitimacy

So far we have focused on the dignity of the human *individual*, which has led to an understanding of the freedom and equality of individuals. But of course, human individuals live in *societies*. This is surely part of our nature; as Aristotle famously said, humans are social animals.¹⁰ In fact, our capacity for responsible choice itself requires nurturing social relations for its development. Young children who through some misfortune are forced to grow up on their own in the woods—"feral children," as they are called—are hardly recognizable as human, so irreparably diminished are their linguistic and other cognitive skills.¹¹ It is time, then, that we considered what implications the ideal of respect for dignity has for the way we ought to organize our societies.

The first question to ask is what society is. I propose we understand society as a system of cooperation by which members

88 / Chapter 4

gain in their ability to complete the fundamental tasks of living. Certainly, compared to a solitary existence, life in society better enables one to feed, clothe, shelter, and protect oneself from nature's threats. The enablement that social cooperation makes possible need not be limited to enabling us in meeting our basic needs, however. Whatever goals one has *beyond* meeting one's basic needs, the resources (both physical and human) that cooperation generates will better enable one to meet those goals, compared with a Robinson Crusoe-style existence (and even Crusoe, remember, was raised in human society). These same resources will also better enable one to fulfill whatever basic moral duties one has (these too ought to be reckoned tasks of living).

This system of social cooperation should be one that respects the dignity of its members. This is easier said than done, however, for a fundamental dilemma arises in this regard. For societies of more than a handful of people, after all, cooperation requires authoritative rules; the history of human experience is testament to this fact. Moreover, in a world of less than perfect beings, these rules will need to be enforced via some sanctions, especially when there is potential for serious conflicts of interest. In general, sanctions against uncooperative behavior can take many forms, as a glance at various forms of cooperation shows. Examples include the withdrawal of good will (if you refuse to buy a round of beers when your turn comes, you will not get invited out again), penalties assigned by referees in sports,¹² the withdrawal of privileges (disbarring lawyers, removing medical licenses, etc.), and the fines and imprisonment meted out by criminal law. These last sorts of sanctions most acutely raise the dilemma I have in mind. Imprisonment and heavy fines, after all, constrain people's exercise of their capacity for responsible choice. Moreover, insofar as punishment of this sort makes some people (the punished) subordinate to others (the punishers), it is in danger of failing to recognize other people as beings who are competent to make their own choices. The fundamental dilemma of

The Politics of Dignity / 89

human dignity, then, is this: On the one hand, as the case of feral children shows, the human capacity for responsible choice requires some sort of society for its development; yet on the other hand, society requires authoritative rules, the enforcement of which both constrains people's exercise of their capacity for responsible choice (thus threatening their freedom) and risks failing to recognize people as beings capable of responsible choice (thus threatening their equality). Put in terms of dignity, we may express the fundamental dilemma as this: Human dignity is diminished outside of society, and yet in society it risks being obscured or insulted.

How, then, can we reconcile the binding rules necessary for life in society with respect for human dignity—in particular, with respect for other people as free and equal beings? This puzzle is especially acute for political society, since in the typical case (immigration being the exception) one is simply born into the society in which one lives. Unlike the case, say, in which a group of friends all agree to play basketball, there does not appear to be any voluntary act in which all citizens consent to the rules of their society.¹³ I believe the best response to the fundamental dilemma of human dignity is to follow the twentieth-century philosopher John Rawls and recommend that society be ordered along the lines of what he calls “the liberal principle of legitimacy.” According to this principle, political decisions are legitimate insofar as they are conducted in accordance with a constitution the essentials of which it is reasonable to expect all citizens to accept as free and equal citizens.¹⁴ This means the basic rules of society should be chosen so as to create a reasonable balance among the various inevitable threats to human dignity, chief among which are the threats of constraint and insult.

Begin first with the threat of constraints. Here it is important to realize that because not all choices a person might make are equally significant—some choices are much more fateful than others—it follows that not all constraints on choice are equally significant. In particular, it is not reasonable to expect

90 / Chapter 4

citizens to accept a distribution of constraints that significantly constrains the fateful choices of their lives—the choice of occupation, of spouse, of friends; the choice whether to have children; and so on. By contrast, lesser constraints, such as reasonable taxes, red lights at intersections, anti-pollution laws, and so on, will leave citizens largely free to choose the shape of lives. This suggests that in asking what set of basic social rules it is reasonable to expect citizens to accept, one key criterion is whether proposed sets of rules are likely to leave citizens with a tolerable amount of choice over the shape of their lives.

This is key, for absent such choice a person's mode of life becomes that of a mere creature of circumstance; his or her dignity is obscured, and hence his or her life is degraded. The choice over the shape of one's life, moreover, must be a *real* one, in the sense explored above when discussing the case of mugging. It will not do, for instance, for a totalitarian state to say, "Well, our citizens do in fact have a *choice* of their lives' shape—a choice between the gulag and conformity." Likewise, consider an impoverished worker who lives on the edge of disaster and must constantly face "choices" in which all but a handful of options have intolerable consequences: do this or face hunger, do this or face illness, do this or face eviction, do this or see your children suffer, and so on. Since her existence is merely one of lurching from crisis to crisis, she has no significant choice over the shape of her life. Although her exercise of her capacity for responsible choice is not as constrained as that of gulag prisoner's, it is significantly constrained all the same. We might say that while gulag prisoners and impoverished workers are of course alive, they are not living much of a life.¹⁵ To actively live a life requires at least a tolerable amount of choice among sets of tolerable options. Hence we can say this about the threat to dignity that comes with the constraints that life in society imposes on a person's freedom: In choosing a set of basic rules that it is reasonable to expect all citizen to accept, one key criterion is whether they leave citizens with genuine choices over the shape of their lives.

The Politics of Dignity / 91

What, though, about the second threat to dignity identified above, the threat to citizen's equality? This was the risk inherent in any distinction between the rulers and the ruled, namely, the risk of failing to recognize citizens' status as beings capable of leading their own lives via their capacity for responsible choice. The proper response to this threat surely lies in some form of democracy, which gives citizens an equal share of voting power, thereby recognizing in a significant way their equal status as beings capable of responsible choice. By contrast, to live under a dictatorship (even a benevolent one) and be given no say as to who rules and what laws they create, is not to live as a competent adult who can order his or her own affairs. Rather, it is to live as a schoolboy or schoolgirl, in thrall to those in authority, and with little or no recourse to challenge their dictates. The line of argument from respect for dignity to democratic government is thus straight and short.

Putting this element of democracy together with the goal of leaving citizens free to shape their lives gives us a response to the fundamental dilemma of human dignity; we can conclude that society's basic social rules should establish a *liberal democracy*—that is, a democratic form of government limited by a constitutionally guaranteed set of individual rights that ensure one has significant freedom to choose the shape of one's life. The dignity-based political philosophy that recommends this form of government I will refer to as *democratic liberalism*. As with any political philosophy, however, much depends on the details. What precise form should democracy take, and precisely which rights should be guaranteed? I will consider each of these questions in turn, beginning with individual rights.

4. The Dignity-Based Conception of Rights

We can group individual rights into civil rights, personal rights, economic rights and political rights. Basic *civil rights* include rights to freedom of expression, freedom of association, and

92 / Chapter 4

freedom of conscience.¹⁶ Basic *personal rights* include a right to bodily integrity (which encompasses more specific rights against slavery and against cruel and unusual punishment, as well as rights against murder and assault) and a right to privacy. The right to privacy is a complex one that encompasses more specific rights against unreasonable searches and seizures, as well as rights to choose the form of one's intimate relations, for example. These latter rights include a strong presumption against interfering with a person's choices regarding friends, sexual relations, and children (whether to have children at all, and if so, how to raise them). Basic *economic rights* include the right to hold personal property and make contracts on equal terms with others (a right formerly denied to wives, who in the past could only hold property in their husband's name) and rights against discrimination (as a job-seeker, employee, or consumer). Basic *political rights* include the equal right to vote and run for office; rights against discrimination in public services (education, government benefits, etc.); and such due process rights as the right to equality before the law and the right to contest any charges against one in a fair and timely trial.

This is a long list of rights. Moreover, each right on the list has a complex structure; books discussing them fill library shelves, and in the space I have here I cannot hope to argue for any of them in detail. What I hope instead to do is indicate in outline form how the understanding of human dignity—and in particular, the understanding of human freedom and equality that follows from this, which I have called democratic liberalism—supports these rights. Take freedom of expression as a case in point. Some of the argument for this is admittedly of a purely instrumental character. For example, it may be dangerous to entrust a government with even a limited power to censor speech, for once having this taste of power, those in charge may tyrannically seek ever more. Moreover, freedom of expression is needed to promote the vigorous public debate on which democracy relies. These are powerful arguments, but I do not think they exhaust the case for freedom of ex-

The Politics of Dignity / 93

pression. The latter argument would offer little protection to nonpolitical forms of expression. The former argument risks overestimating, in paranoid fashion, the prospects of governmental tyranny. In addition, I fail to see how a very general worry about tyranny can generate a specific account of several necessary limits to freedom of expression (such as restrictions on libel, which I will discuss in a moment).

Fortunately, not all of the argument for the right to freedom of expression is of an instrumental nature. This right gains obvious intrinsic support from considerations of dignity, and its emphasis on the importance of an ability to give shape to one's life. Censors, after all, may deprive a person of valuable information she needs in shaping her life. In cases of significant state control of information, it is the *state* that significantly shapes citizens' lives, rather than citizens shaping their own lives. Moreover, since a person's conception of her fundamental moral duties is among the most important of contours in the shape of her life, it follows that insofar as these duties require her to speak or express herself in other ways, freedom of expression is a necessary element of her ability to shape her life. (Think in this regard of a religious person who believes that God requires her to be a "witness" to religious truth and evangelize on its behalf, or think of a person who believes that he has a fundamental moral duty to speak out against serious injustices of which he is aware.) For such people, limits on expression will be experienced as limits on their ability to shape their lives in fundamental ways.¹⁷

Considerations of human equality also support freedom of expression. In general, the ideal of respecting humans as equals translates into the political sphere as an ideal of *equal citizenship*; laws and social practices should not distinguish between first- and second-class members of society. Instead the mass of citizens should be recognized as competent adults who are themselves capable of making responsible choices. That is to say, authorities should presume each adult citizen to be capable of responsible choice. This presumption may not

94 / Chapter 4

be true in every case; some adult citizens indeed may be so imprudent that they fail to qualify as competent at leading their own lives. Government laws are necessarily general in scope, however, rather than tailored to each individual citizen, and in general adult citizens are competent to lead their own lives.¹⁸ A society in which government censors decide what the general public can and cannot read or hear, however, is not a society in which the mass of citizens are recognized as competent adults. Instead the censors view the mass of citizens as immature beings who must for their own good be protected from sources of expression that might corrupt them or otherwise harm them. In short, a censoring society is one that infantilizes most of its members; by failing to recognize its members' capacity for responsible choice, such a society thereby insults its members' dignity.¹⁹

The right to freedom of expression does, though, have limits. For instance, in the United States the Supreme Court has rightly judged that consistent with the right to freedom of expression the state may criminalize speech that is both intended to and likely to create "imminent lawless action," such as incitement to riot.²⁰ A proper understanding of the right to freedom of expression would recognize other exceptions as well. Examples of these include: reasonable constraints on defamation (*libel*, in written form; *slander*, in verbal form); restrictions on material that may harm minors (e.g., daytime TV/radio broadcasts and billboards of a sexually or violently graphic nature); restrictions on speech that creates a hostile work environment (e.g., sexual harassment); laws against passing on classified information or printing words in violation of a copyright; and laws against false or misleading advertising.

In each of these cases, the nature of the restrictions is to be determined by asking what restrictions it would be reasonable to expect free and equal members of society to accept. Take libel law for instance. Leaving this as a private tort (i.e., the subject of a private lawsuit) rather than a public criminal offense takes the government out of the censorship business, thereby

The Politics of Dignity / 95

avoiding the equality-based worries of infantilizing treatment. As for the freedom-based worries regarding restrictions on expression, here a reasonable balance must be struck between various burdens on people's ability to control the shape of their lives, burdens that fall in different places with different sorts of libel laws. If the harm of libel is not legally recognized at all, for instance, people will lose important control over their reputations, for these will be highly vulnerable to the spread of false and malicious rumors. This is a real harm, inasmuch as some control of one's reputation is crucial for control of one's life more generally. On the other hand, too severe a penalty for libel and too loose a definition of it will significantly impede the flow of important information, as the fear of a libel suit will lead some people with important information to keep their mouths shut. As remarked above, people need a free flow of information in order to plan their lives effectively, so this is a significant burden. Inasmuch as there are burdens at stake with either the presence or absence of libel law, a reasonable compromise clearly is needed. The current U.S. understanding is a plausible compromise along these lines. According to this understanding, a party who takes offense at a published claim and sues for libel must prove that the writer knew the published claim was false or otherwise acted with a reckless disregard for the truth.²¹ This understanding of libel offers potential victims protection against the most serious threats to their reputations at the hands of unscrupulous malefactors while at the same time offering competent journalists reasonable assurance against a lawsuit.

This discussion of the right to freedom of expression indicates the manner in which other individual rights are justified. The decisions protected by the right to privacy, for instance, are some of life's most fateful ones, and ones that typically lie at the heart of a person's self-understanding—hence a fundamental concern with people's ability to give shape to their lives leads to a fundamental concern with protecting privacy. The right against economic discrimination protects one against artificial

96 / Chapter 4

obstacles that compromise one's ability to choose an occupation (a fateful decision) as well as earn the resources one in general needs to shape a life. Additionally, economic discrimination can create a castelike distinction between first- and second-class members of society; thus it is obviously objectionable on the grounds of equality as well (I will have more to say about this shortly). And so on for the other rights.

Having briefly discussed liberal rights, I want to turn now to the other half of democratic liberalism and discuss what sort of democracy the ideal of respect for human dignity requires.

5. Improving Democracy

As with individual rights, the issues related to the structure of democracy are complex ones, and my remarks will have to be suggestive. One important question concerns whether to have a *direct* democracy (in which citizens themselves propose and vote on laws) or a *representative* democracy (in which elected offices perform these functions). To a large extent this question is settled by pragmatic considerations (direct democracies are better suited to small city-states than to today's large nation-states), but a dignity-based case is not wholly silent here. I do not believe that the demands of dignity *require* direct democracy, for to say that citizens are competent beings capable of responsible choice is not to say they are all competent to judge the various issues requiring political attention, from taxes to defense to education to the environment and so on. A representative democracy instead, and more accurately, presumes citizens are first and foremost competent to choose leaders who are themselves competent at judging these issues. This is not to say that the ideal of direct democracy has no relevance, however. Since in fact many private citizens do have competent knowledge of a variety of issues, especially those that directly implicate their interests, a representative democracy should also create significant space for citizen input into its deliberative practices (via open hearings and other public forums, say).²²

The Politics of Dignity / 97

In addition to the choice between direct and representative democracy, other important choices concern the structure of political elections and campaigns. Regarding elections, one important choice is that between “winner-take-all” electoral systems and systems of “proportional representation.” In a winner-take-all system of voting, such as exists in the United States, the candidate with the highest number of votes is elected, and no one else. The major disadvantage of this system is that it easily leads to a political scene in which two parties dominate, making it extremely hard for smaller parties to arise and win office. (Think, for instance, of how hard it is to get elected in the United States if one is not a member of the Republican or Democratic parties.) This is so because many voters will see a third-party vote as a wasted one, given the dim prospects of electoral success.

By contrast, most European democracies have an electoral system of “proportional representation,” which allows a greater variety of parties to win legislative office. Although such systems can be structured in different ways,²³ one example of such a structure will indicate the general idea. A legislative district in this structure is not a small district with *one* representative, as in the current U.S. system for the House of Representatives, but rather a larger district with (say) five representatives. Each party then fields up to five candidates for the district. Correspondingly, each voter has five votes to spread among the candidates as he or she pleases (including the option of multiple votes on a particularly favored candidate). Once the votes are counted the top five vote-getters receive legislative seats. Such a system, unlike our current one, gives small parties a realistic chance of winning a seat, for any candidate receiving over 20 percent of the vote is guaranteed election, and in races with many participants a candidate can often win with less than this. This is likely to enrich public debate by including a greater diversity of viewpoints, which in turn is likely to improve the quality of debate and thereby improve the quality of laws and public policies. A second benefit, and one that is even more significant from the point of view of democratic liberalism, is that

98 / Chapter 4

proportional representation is more truly representative, inasmuch as the views of legislators will more closely mirror the actual spectrum of views that prevail among citizens. This reduces the gap between the ruling group and the ruled, and thereby better respects the dignity of citizens.

Beyond the choice of electoral systems, another important choice in the design of democracy is the choice of campaign systems. An important question here is what role money ought to play. In the United States, the amount of money involved in politics is staggering. According to data from the Federal Elections Commission, for instance, the average cost of all campaigns for the U.S. House of Representatives in 2002 was nearly \$468,000. More particularly, the average cost of a winning House campaign was \$898,000; the average cost of defeating an incumbent was \$1.6 million.²⁴ In the 2000 House races, 94 percent of the candidates who spent the most money won.²⁵ Running for the U.S. Senate, moreover, is even more costly. For Senate races in 2002, the average cost of all campaigns was \$2.2 million, the average cost of a winning campaign was \$4.8 million, and the average cost of defeating an incumbent was \$6.8 million.²⁶ In the 2000 Senate races, 85 percent of the candidates who spent the most money were successful at the polls.²⁷ In the 2004 presidential election George W. Bush spent \$367million, compared to John Kerry's \$323 million.²⁸

The obvious threat here is that our system is becoming (has become?) merely a democracy in name and truly a *plutocracy* in practice (plutocracy being rule by the wealthy). The system is broken, and in general politicians are not nearly as responsive to the needs of everyday people as they should be. As things stand now, the huge amounts of money involved in politics give wealthy citizens (and large corporations) wildly disproportionate political influence, in terms of access both to politicians and to political office itself.²⁹ This is obviously incompatible with any reasonable conception of equal citizenship, for the point of an equal right to vote is subverted when dollars rather than votes are the driving force in the formation of law and policy.

The Politics of Dignity / 99

What can we do to fix this? Something is needed to give nonwealthy candidates a fair chance of obtaining office, and to free them once elected from the need to indebt themselves to wealthy campaign donors. Fortunately, one such remedy is already in place in Maine, Arizona, Vermont, North Carolina, Massachusetts, and New Mexico—namely, the “Clean Money, Clean Elections” system of public campaign finance. This system is a voluntary one—that is, it is a candidate’s choice whether or not to participate in the Clean Elections system. Candidates who wish to participate must qualify by collecting a set number of five-dollar donations from voters in their district. A candidate running for the Arizona House, for example, must collect two hundred of these five-dollar donations. Once qualified, candidates must not spend any private money, including their own; instead each receives a fixed amount of campaign funding based upon previous campaign averages in their state. Sticking with the example just used, an Arizona House candidate receives ten thousand dollars for the primary and fifteen thousand for the general election. Additionally, if a Clean Elections candidate is outspent by a privately funded opponent, then funds matching the private candidate’s expenditures are released to the Clean Elections candidate. Independent expenditures can also trigger matching funds (e.g., if, say, MoveOn.org funds advertisements for liberal candidates or the NRA funds advertisements for conservative candidates). These matching funds are not limitless—in Arizona, for instance, matching funds are capped at triple the original grant amount—but in practice they have worked well to give publicly funded candidates competitive shots at gaining office.³⁰

While this system has only been in place since 2000 in Maine and Arizona (and not even that long in other states), it is already a tremendous success. In Arizona, for instance, there was a 58 percent increase in the number of people who ran in the 2000 election cycle compared with the 1996 cycle. Clean Elections candidates now hold 41 percent of all statewide offices.³¹ Voter turnout in 2002 was 22 percent higher than in

100 / Chapter 4

1998.³² The number of minority candidates tripled between 1998 and 2002.³³ Also, while of course the system requires taxpayer money, the amount required is affordable—\$12.9 million in Arizona in the 2002 elections, for example³⁴—and it is money well spent, inasmuch as it preserves the health of or democracy. Like health care for individuals, we should not in any case expect health care for democracy to be cost-free.

6. Opportunity for Free and Equal Workers

So far we have discussed the forms of individual rights and democratic governance that it would be reasonable to expect members of society to accept as free and equal people. These subjects were worth discussing because of the far-reaching implications they have for the freedom and equality of society's members. Another subject that needs discussing is the structure of the economy, for this too has far-reaching implications for the freedom and equality of society's members. A full discussion of this subject would evaluate various capitalist and socialist ways of structuring the economy. Limited space precludes a full discussion, however; my strategy instead is to examine the system that readers are presumably most familiar with—namely, capitalism of the sort that prevails in the United States—and ask whether this system is compatible with respect for human dignity, and if not, whether it can be made so.

The first point to make is a negative one. The account of human freedom central to democratic liberalism focuses on people's ability to give shape to their own lives. This account will surely lead to an endorsement of *some* form of property rights, since control of the shape of one's life requires the control of some significant amount of personal resources (one's residence, means of transport, clothing, money for raising a family, money for vacations and hobbies, etc.). This account, though, does not lead to an endorsement of *absolute* property

The Politics of Dignity / 101

rights, according to which nearly all forms of taxation and all limits on freedom of contract count as illegitimate restrictions on freedom. Absolute property rights are not necessary in order for people to be able to shape their lives. Property and contract rights are not currently absolute in the United States, for instance; we must pay taxes and heed business regulations. Yet it would be preposterous to suppose on this account that no one in the United States has adequate ability to give shape to his or her life. Millions of people have this ability, and have it in spades.

A concern with human freedom, then, leads to a focus on whether members of society have adequate opportunity to shape their lives rather than on whether absolute property rights are granted to members. We will shortly ask whether all Americans genuinely have adequate opportunity in this regard. But first I want to note that on the subject of opportunity, a concern to respect human *equality* in addition to human freedom will lead to a concern with more than just an adequate opportunity to shape one's life. In many contexts, after all, we often speak of the importance of *equal* opportunity. A dignity-based approach such as democratic liberalism implies that we are right to speak of this as important.

What exactly, though, do we mean when in political contexts we speak of the importance of "equal opportunity"? In fact, there is more than one way to define the ideal of equal opportunity; I will look at two such definitions. The first and least demanding definition of equal opportunity requires only that jobs be granted or denied to people on the basis of their qualifications, regardless of how they came by these qualifications. This familiar conception of equal opportunity—which we can refer to as *formal equality of opportunity*—rules out discrimination on the basis of race, ethnicity, sex, sexual orientation, religion, and so on. The conflict between this sort of discrimination and the ideal of equal citizenship is obvious. Martin Luther King Jr. perhaps described it most movingly in his famous "I Have a Dream" speech delivered at the Lincoln

102 / Chapter 4

Memorial on August 28, 1963, exactly one hundred years after President Abraham Lincoln's Emancipation Proclamation:

One hundred years later, the life of the Negro is still sadly crippled by the manacles of segregation and the chains of discrimination. One hundred years later, the Negro lives on a lonely island of poverty in the midst of a vast ocean of material prosperity. One hundred years later, the Negro still languishes in the corners of American society and finds himself an exile in his own land.³⁵

Discrimination, then, can reduce a person from an equal member of society into an internal exile ("an exile in his own land"). At best, discrimination treats another being as a nonentity whom it is fitting to confine to a "lonely island"—that is, to marginalize from society's mainstream. Worse yet, it can treat another being as a mere instrument, someone who exists to do the bottom-of-the-barrel, unwanted jobs in society, so that the people who really matter do not have to do them. Worst of all, it can signal that another being is to be regarded wholly with contempt and treated as a piece of refuse. As remarked earlier, such nonentitizing, instrumentalizing, and refusizing treatment is utterly inconsistent with respecting another being's dignity.³⁶

The second definition of equality of opportunity goes beyond the first; following the philosopher John Rawls, we can refer to this conception as *fair equality of opportunity*.³⁷ In addition to requiring (like formal equality of opportunity) that job seekers be hired on the basis of their qualifications, *fair equality of opportunity* requires that job seekers have equal opportunity to obtain qualifications in the first place. In the contemporary United State this requirement is surely not met. Reports about the poor quality of inner-city schools compared with wealthy suburban schools are depressingly familiar, for example. Fixing this inequity will require equalizing the funding between urban and suburban schools. Unfortunately, one consequence of any such reform is that suburban dwellers will have to pay more in taxes than they currently do to keep their own schools at the same level of quality, since after such

The Politics of Dignity / 103

a reform they will share the costs along with inner-city residents of raising the latter's schools to suburban levels. This is unpleasant, of course, but it just reflects the fact that basic fairness, like other good things in life, is not free of charge. If we want a fair society in which all citizens are treated as equals, we need a level training field as much as a level playing field.³⁸ Thus the ideal of respect for dignity identifies fair equality of opportunity, rather than merely formal equality of opportunity, as the superior conception of equal opportunity.

We should not, however, deceive ourselves into thinking that improved education can by itself genuinely equalize the opportunity to acquire job qualifications. Differences in family cultures will remain, including the extent to which parents emphasize education; the amount they read to their children; the amount they are willing and able to help with homework; whether they can provide quiet areas for study; whether they teach their children good grammar and social skills; whether they are willing and able to take their children to museums, libraries, and other stimulating places; and so on.³⁹ These acts should not be required by law; among other reasons, to do so would violate the right to privacy mentioned above in section 4. Moreover, while the phenomena so far listed concern just education, family differences matter at the level of job competition too, of course. Family connections can help one get a job, and family wealth can pay for an elite college education, fund an unpaid summer internship to gain job skills, and provide much needed start-up funds for opening a business (or collateral for a business loan). Moreover, individuals from rich families can take steep risks as young would-be entrepreneurs, secure in the confidence that they will not have to live in poverty should they fail.⁴⁰ And so on. While the economic advantages owing to family wealth can be blunted by public policy (say, with a more equitable distribution of wealth), those owing to family culture and connections cannot.

Economic opportunity, in short, will never truly be equal so long as the private family exists in some form, as it should. While we should strive to make opportunities more equal, we

104 / Chapter 4

must at the same time recognize sensible limits to this ideal. But just as importantly, we should also avoid an opposite failing—namely, that of looking at differences in pay between people on different rungs of the economic ladder and wrongly reasoning that inasmuch as genuinely equal opportunity really does exist, each person is getting exactly the outcome he or she truly deserves. Judgments of desert require more nuance than this. The next section examines this subject.

7. Desert and Market Outcomes

Suppose we really did live in a society that was free of racial and other types of discrimination and that provided all its members with high-quality schools. Apart from the unequal opportunities stemming from differences in family wealth and family culture, could we say that in such a society all people get exactly the economic rewards they deserve to get, so that it would be morally objectionable to disturb whatever income distribution was produced by the workings of a capitalist marketplace (as happens, say, when taxes on the well-off help to fund health care, housing, and other forms of assistance for the poor)?

No. Far too many factors go toward determining your economic reward for there to be any simple correlation between this and your just deserts. For starters, much of your reward depends on luck. This luck takes several forms: simply being in the right place at the right time (say, a chance noticing of some job opening, or a chance meeting that leads to a useful business contact, etc.); or being born to the right family; or being born with genes that make one “gifted” in some way that the market values. Much of your economic compensation also depends on large-scale phenomena that are in no single individual’s control: how scarce your skills are, what patterns of consumer taste prevail, what level of unemployment prevails in your society, where in the business cycle (the cycle between growth and recession) your society is, how competent the po-

The Politics of Dignity / 105

litical and economic leaders of your society are, what collective bargaining agreements already exist, what natural resources are to be found in your society, what your society's level of technology is, and so on—for none of which you can individually take any credit. To better see this role that luck plays, consider that the average American today in 2005 commands vastly more resources than almost all Americans who lived in 1805, and vastly more than almost all Cambodians, say, in 2005. But is a typical American individual of today really personally more *deserving* of material comfort than nearly all Americans of 1805 and nearly all Cambodians of today? Surely not. This is *not* to say that no one deserves anything of what they earn. Rather, it is to say that applying a notion of desert to the economic realm is a tricky business and that we should thus avoid hasty conclusions to the effect that any and every interference with market outcomes involves taking away from people resources they are entitled to on grounds of desert.

A more reflective stance on economic desert would begin by asking what its basis is. Here we can usefully distinguish between objective criteria and subjective criteria. The claim that one deserves reward in proportion to one's *contribution to society* is an example of an objective criterion, whereas an example of a subjective criterion comes with the claim that one's deserts depend on the level of one's *efforts*—one's efforts, presumably, to be a productive member of society. This can usefully be thought of as a subjective version of the objective criterion of social contribution, since one's level of effort reflects the strength of one's desire to contribute to the economy.

In my view the choice between these objective and subjective criteria is not an easy one; in fact, I believe our common-sense moral beliefs attach importance to both criteria, even though they can conflict in many situations. Instead of trying to resolve this tension, I want to show that *neither* view of desert leads to a moral prohibition on any sort of interference with market outcomes. Start with an effort-based theory of desert. Clearly, one's financial rewards in an economic market

106 / Chapter 4

do not depend merely on one's effort. I may try very hard to be a good mechanic, for instance, but if I do not succeed in my attempts to fix cars, I will eventually find myself with no customers; my (low) financial earnings will thus not match my (considerable) level of effort. On the other hand, if I am a wealthy investor (I own thousands of shares of Microsoft, say), I can earn a comfortable living just from the returns on my investments, with *no effort* on my part at all once the investment is made; my (high) financial earnings will thus not match my (nonexistent) level of effort. (I may spend some effort in monitoring my investments, of course—but if I am wealthy enough I can pay someone to do even this task for me.) Hence on an effort-based theory of desert it is simply not plausible to claim that in a perfectly free capitalist market each individual earns exactly what he or she deserves to earn; hence one cannot, on an effort-based theory of desert, oppose all interferences with market outcomes as either taking away from people money they deserve or giving to people money they do not deserve.

The theory of desert based on social contribution rather than effort is a more plausible foundation from which to argue that justice requires us to leave market outcomes alone. This argument runs as follows: The better one is able to produce goods that consumers desire, the more money one will typically earn; the producing of goods that consumers desire is a type of social contribution; hence, one's financial rewards in the free market match one's social contributions. This argument, however, is far from a perfect, for the correlation between social contribution and financial reward is approximate at best. For example, porn king Larry Flynt, the founder of *Hustler* magazine, undoubtedly earns more in a year than, say, two hundred nurses combined earn, but does he really contribute more to the common good than two hundred nurses combined contribute, on any plausible way of measuring this? I doubt it. This is but one of many examples of a mismatch between reward and social contribution. Does a pro wrestler really contribute, say, forty times more than a superb daycare worker? What about a cigarette company executive versus a farmer? And so on.

The Politics of Dignity / 107

Let us, however, temporarily waive these difficulties for the sake of argument. It is after all quite a challenge to know how best to measure a person's contribution to the common good, if not by market returns, and I lack the space here to confront this challenge. Even waiving the difficulties identified in the previous paragraph, however, we still do not yet have a contribution-based argument requiring us to leave market outcomes alone. For apart from self-employed individuals, the revenue from sales of a product or service accrue firstly to a *firm* rather than to the individual. What follows then from a contribution-based account of desert is that in a perfectly competitive market, the *group of people* constituting a firm collectively deserves the firm's revenue. This leaves as still to be addressed the question of how the group should divide its revenue amongst themselves.

On a contribution-based theory of desert, this question is answered by measuring each individual's contribution to the firm's production. But how should this be measured? One possible strategy suggests itself, namely, that an individual's contribution to the firm should be measured by whatever price his or her skills can command on an open labor market. However, this view assumes too rosy a picture of the way in which wages are determined. Consider for instance that your wages are influenced by the overall supply of people with your skills. If people with your skills suddenly become scarce, you will likely be able to demand a pay raise, even though your contribution to the firm's production remains what it always has been. In this case an increase in pay does not correspond to an increase in contribution. The flip side of this example is the case of someone with fairly common skills. Due to a large supply of these skills, such a person will command only a low wage, regardless of how essential his or her skills are to a firm's production. One example of this (out of many possible examples) is the case of janitors. They typically have low wages, despite the fact that janitors perform an essential service—without janitors other employees would have to work among piling-up trash and grime or do the job themselves and

108 / Chapter 4

have far less time for their other tasks.⁴¹ The same, moreover, can be said of any essential task, from stocking shelves to operating a cash register to loading trucks with freight.

A critic might try to defeat this point by saying that individuals could have avoided these lower-rung jobs had they merely “applied themselves” by studying harder in school. On this view, low wages are one’s just deserts—punishment, of a sort—for past imprudence. This view, however, suffers from a number of flaws. First, we should remember our earlier observation that fair equality of opportunity to acquire qualifications or find a job does not yet prevail in our society and in fact never will, given differences in family culture and connections that no institution can fix. Not everybody has a fair go in life. Second, even if fair equality of opportunity *did* prevail, it is hardly the case that imprudent decisions made as a *teenager* truly make one deserving of lifelong low wages; such a “punishment” does not fit the “crime.” Third, it may be that some people through bad genetic luck (a low innate intelligence, say) are simply not capable of performing more highly paid jobs. Finally, and most decisively, this view ignores the fact that such jobs as cleaning floors and emptying wastebaskets must be done by someone. If everyone were to gain a college degree, then this only means that someone with a college degree would end up cleaning floors, barring some technological breakthrough or some unprecedented system of sharing cleaning tasks among a wide pool of employees (which would in any case boost the wages associated with cleaning well above their current level). All of this reveals a mismatch between wages of workers at the bottom end and those workers’ actual contributions to production.

A similar mismatch exists at the top end as well. Consider for instance the case of CEO pay compared to the pay of workers on the shop floor. According *The Economist* (a right-of-center periodical), the top one hundred CEOs have an average annual compensation of \$37.5 million each, over a thousand times the pay of the average worker.⁴² This ratio

The Politics of Dignity / 109

represents a tremendous increase in less than a generation; thirty years ago, for example, the equivalent ratio was thirty-nine to one, with the top one hundred CEOs receiving an average of \$1.3 million a year in pay.⁴³ In some individual cases, moreover, the ratio is now far higher than a thousand to one; for example, Ed Whitacre, the CEO of SBC Communications (a telecommunications company), was paid \$83 million in 2001.⁴⁴ To put this into perspective, consider that a minimum-wage worker, earning \$5.15 an hour and working forty hours a week with no vacations, would have to work 7,748 years to earn what Whitacre earned in this *single* year.

It is hard to believe the dramatic increase in CEO pay in recent years is entirely justified by a corresponding increase in CEOs' economic contributions. In fact, between 1990 and 2003 average CEO pay rose nearly two and a half times faster than did corporate profits.⁴⁵ Consider too that the pre-tax pay of chief executives in the United States is three times that of chief executives in similar-sized companies in Britain and four times those in France and Germany.⁴⁶ It is hard to believe that American CEOs are genuinely three to four times more productive than their European counterparts. A better explanation lies in the clubby nature in which many CEOs' pay is set. As Princeton economist Paul Krugman explains,

The key reason executives are paid so much now is that they appoint the members of the corporate board that determines their compensation and control many of the perks that board members count on. So it's not the invisible hand of the market that leads to those monumental executive incomes; it's the invisible handshake in the boardroom.⁴⁷

Since cronyism rather productivity explains much of lavish CEO pay, there is an obvious mismatch between it and one's desert (understood as a function of one's contribution).

Beyond the issue of just CEO pay, we find a more general phenomenon of those people at the top of the American economic ladder reaping huge gains in comparison with the rest

110 / Chapter 4

of workers. Between 1973 and 2000, for example, the average real income of the bottom 90 percent of American taxpayers actually fell by 7 percent, while the income of top the 1 percent of taxpayers rose by 148 percent.⁴⁸ Even within the top 1 percent bracket, gains were lopsided; the income of the top 0.1 percent rose by 343 percent, and the income of the top 0.01 percent rose 599 percent.⁴⁹ Indeed, the gains in income have been so strong at the high end that 94 percent of the growth in total income since 1973 has gone to the top 1 percent of taxpayers.⁵⁰ Clearly, America's increased prosperity in the last thirty years has not been shared with average workers.

Like generations past, however, Americans workers over the past thirty years have been doing their part to contribute to the economy; they thus deserve to share in the economy's increased prosperity. The important moral ideal at the root of this claim is one of *reciprocity*—those who contribute should benefit in kind. This moral ideal in fact follows from the deeper ideal of human equality, as I earlier interpreted this. For when exchanges in the labor market do not take place on a reciprocal footing, a morally objectionable asymmetry exists. One party is being unfairly taken advantage of—*exploited*, in a word—and thereby treated to some extent less like a person and more like a mere tool for another's purposes. Such instrumentalizing treatment, I earlier noted, is inconsistent with the ideal of human equality in its most defensible form.

In short, neither an effort-based nor a contribution-based account of desert supports the rather common view that the free market gives people exactly what they deserve. On this common but mistaken view, the free market is like a natural lake into which various gardeners dip their buckets; just as the amount of water withdrawn exactly matches the size of a person's bucket, on this view the free market's reward exactly matches the size of the contributions that a worker puts into it. The statistics cited above suggest a rather different metaphor. We should think of the economy not as a natural lake but instead as a man-made irrigation system, which like other man-

The Politics of Dignity / 111

made things is often in need of some adjustment: some workers toil in their modest garden patches while the irrigation system above drips meager amounts of water; meanwhile a leaky valve elsewhere in the system means others receive lavish amounts of water (and grow lavish gardens as a result).

Thinking of the economy as a man-made irrigation system is apt for another reason—a modern economy is certainly a man-made creation rather than a natural phenomenon. It is the creation of a dense network of very complex property and contract laws, together with a society's accountancy practices, prevailing styles of corporate governance, the actions of central banks (e.g., the Federal Reserve), regulatory schemes, and the functioning of police and the justice system, among other things—all of which take different forms in different capitalist countries. Given this complexity, it would be amazing indeed if any modern market economy succeeded in rewarding its participants exactly as they deserve.

Of course, even if man-made modern market economies often fail at the task of ensuring that people get what they deserve, it does not straightaway follow that any *nonmarket* institution—government, in particular—can succeed at this task. The centrally planned economies of the Soviet Union and its satellites, for example, were failures. But within a market framework, government may have a role to play in making the market more reciprocal than it otherwise would be. To advert to our earlier metaphor of an irrigation system, if some people are receiving inadequate amounts of water whereas others are overflowing in it then surely some plumbing is in order to remove the clogs and leaks that create inadequate and excessive flows. Government has a role to play here, most obviously in assisting those at the bottom of society, which I will shortly discuss. But government also has a less obvious role to play, in creating a framework within which individuals can do their own “plumbing.”

What is needed for this are labor laws that create the space for various forms of employee organizations, so that employees have some significant say in their work conditions and

112 / Chapter 4

pay. These organizations can take various forms, from traditional labor unions to “workers councils” to employee-owned firms. The first of these forms of organization (a labor union) is familiar to Americans; the remaining two forms are less familiar. Workers councils, common in Europe, do not collectively bargain as unions do over wages, hours, or benefits, but they do have significant legal rights to information and consultation with management on labor policies. In employee-owned firms, by contrast, workers have the same ultimate power over a firm’s organization that shareholders in a traditional firm have; it is up to them how to use it.⁵¹

These forms of employee organization make it more likely that employee contributions receive the recognition they are due. But they are important for another reason as well, a reason that stems from the fact that an employer has a significant sort of power over employees, namely, the power to fire them. How significant this power is varies, of course; firing a teenager from a summer job is quite a different matter from firing a middle-aged parent whose family lives from paycheck to paycheck. In the large majority of cases, being fired is disruptive enough to one’s life to make the threat alone an effective tool of employee control. The loss of earnings can be significant; finding a new job can sometimes be a lengthy process and often can require uprooting one’s family and moving to a new location. At the extreme—say, if jobs are scarce and there is no safety net in the form of unemployment insurance, health insurance, etc.—the threat of being fired is a serious threat to one’s health or even to one’s life.

The power that employers have over employees is problematic from the point of view of respect for human dignity, much as the power of political rulers over the ruled is also problematic from this point of view. While in neither case is this power over others wholly eliminable, at the very least it should be made *accountable*, so that one does not live wholly at the mercy of those with power. Measures that can make employers’ power accountable range from health and safety laws

The Politics of Dignity / 113

that protect employees to laws defining sexual harassment (and other forms of harassment) to laws that facilitate the forms of employee organization mentioned above (unions, workers councils, employee-owned firms). In the latter case, laws can protect employees who are attempting to unionize against being dismissed, and they can require a firm to recognize a union once some significant threshold of employee support has been crossed.⁵² Forms of encouragement, from tax breaks to regulatory relief, could also be given to firms that establish workers councils or are owned by their employees.

In short, rather than attempting to micromanage the economy in order to ensure each worker receives the treatment he or she deserves, it is better for the government to act for the most part *indirectly*, by facilitating forms of corporate governance in which employees have some significant say regarding their treatment. That said, there remains a direct role for government to play in aiding people at the bottom of the economic ladder. It is to this topic we turn in the next section.

8. A Dignified Minimum

One obvious form of support for people at the bottom is minimum-wage legislation. This acknowledges that full-time workers (who presumably are doing jobs that need doing by someone) deserve wages that enable them to live dignified lives. Wages below a decent minimum wage treat workers more like disposable instruments for others' needs than people with their own lives to live. The current level of \$5.15—which totals to a mere \$10,300 a year for full-time worker who works fifty weeks a year—is surely too low. One obstacle in the way of raising the minimum wage is the widespread belief that this would increase unemployment. Recent research by the economists Alan Krueger and David Card, however, has cast serious doubt on this claim. In a “controlled experiment” of sorts, Krueger and Card compared the effect on low-wage employment of a raise

114 / Chapter 4

in New Jersey's minimum-wage laws with similar employment a few miles away in Pennsylvania (a state that had not recently raised its minimum wage); there was little discernible difference in unemployment rates.⁵³ Moreover, there are other ways apart from minimum-wage laws by which to raise the wages of low-end workers. The current Earned Income Tax Credit, for instance, is a refundable tax credit that significantly boosts the income of working families in the United States. (In this scheme low-income workers receive a credit to apply against their taxes; they then receive a check for any part of their credit that is unused once their taxes are paid. This can increase a low-income family's earnings by several thousand dollars a year, thereby reducing poverty. In 1999, for instance, the Earned Income Tax Credit lifted 4.7 million working families above the poverty line.)⁵⁴

Another direct way for government to repair some of the shortcomings of the market is to maintain a social safety net, in the form of unemployment insurance, social security, and measures to ensure that health insurance is affordable. In addition to these benefits (which poor and nonpoor alike receive), there should be maintenance income for those in poverty. In fact, even those who never find themselves in need of this safety net benefit from it. Partly this benefit consists in *peace of mind* that one will not find oneself in abject destitution. But that is not the whole of the benefit; the social safety net also benefits even those who never receive its payments inasmuch as it dulls the edge of employer power over employees. Since it cushions the blow one would receive in the event of losing one's job, the social safety net makes an employer's threat of firing less fearsome and thereby helps to keep his or her power over others within reasonable bounds. (In this regard, one current hole in the American safety net concerns health care. Around forty-five million Americans lack health insurance, and those who do have it usually receive it through their employers.⁵⁵ Receiving health care through an employer is clearly far from ideal, however, inasmuch as this can tie a person to his or her current

The Politics of Dignity / 115

job, reducing his or her employment options and thereby increasing an employer's threat power.)⁵⁶

That said, one of the most obvious functions of the social safety net is that of helping those people at the bottom of the economic ladder. This function is necessary in order to make real the ideal of equal citizenship discussed earlier, which rules out citizens having to live as "internal exiles" in their own land, marginalized from society's mainstream. Deep poverty conflicts with this ideal, for it rules out much of what middle-class citizens take for granted: owning one's own home, having a reliable car, attending sporting events, going away on vacation, providing music lessons (or other extras) for one's children, belonging to a gym, and so on. An important role of the social safety net lies in dismantling the poverty traps that can deny individuals effective access to these mainstream experiences and others.

Of course, whether poor individuals are to a significant extent trapped in poverty or rather are failing to avail themselves of the opportunities they already possess is a controversial question that makes debates over the welfare provisions of the social safety net especially heated. A full explanation of the causes of poverty is clearly beyond the scope of this short essay. Let me instead simply say that while the causes of poverty are complex, many citizens' views on poverty unfortunately consist of little more than stereotypes. For instance, consider the popular image of poor people as made up mainly of "welfare queens"—the image of nonworking African American women who live in ghettos supporting their out-of-wedlock children on government checks year after year. In fact, 51 percent of the poor are (non-Hispanic) *white*, compared to 25 percent who are black; 37 percent live in suburbs; 66 percent of the poor do not live in female-headed families; and among poor family heads (male and female), 60 percent are employed, with 23 percent of poor family heads working at least fifty weeks a year, full-time.⁵⁷ Over the period 1979–1991, moreover, fully one-third of Americans were poor for at least one year, but

116 / Chapter 4

only 5 percent were poor for ten years or more.⁵⁸ This variety is indeed what one should expect, given the large number of poor people in America—35.8 million people in 2003, according to the most recent data at the time of writing, equivalent to 12.5 percent of all Americans (up from 12.2 percent in 2002).⁵⁹

Hence the poor comprise more kinds of people than popular belief supposes. The same is surely true of the causes of poverty. Yes, a significant chunk of poverty is undoubtedly due to imprudent decisions made on the part of individuals. But not all of it is. As just noted, many of the poor are working hard, struggling to make ends meet. In addition, many are unemployable on account of old age or severe disability. Limitations on opportunities explain a significant amount of poverty as well. We have already noted the inequalities in opportunity that exist in public education and in family cultures and connections. Moreover, even apart from these inequalities, economic opportunity itself is not unlimited; in particular, it is not the case that everyone who wants a job can easily find one. This is obvious in a recession, when the unemployment rate is high. But involuntary unemployment is always present to some extent, owing to the way the economy is managed by the Federal Reserve. If the unemployment rate dips too “low”—below what economists call the “non-accelerating inflation rate of unemployment” (NAIRU)—then the Federal Reserve will raise interest rates to slow down the economy (the economy will slow, because higher interest rates mean less business investment in new projects); this deceleration in turn will bring the unemployment rate back up (fewer new business projects means less need for employees).⁶⁰ This is not a nefarious plan on the part of the Federal Reserve; its goal is to prevent runaway inflation (which can be sparked by an extremely tight labor market), and runaway inflation is indeed worth avoiding, even at the cost of some unemployment.⁶¹ But the Fed’s policy does mean there will always be a significant number of people who at any given moment are unable to find a job through no fault of their own.

The Politics of Dignity / 117

Taking note of these points and thereby acknowledging the existence of the “deserving poor” is compatible with also acknowledging that some abuse of the welfare system does exist. The right to public assistance is not a boundless right, and abuse is a matter of serious concern. It is important to note, however, that the existence of some amount of abuse does not straightaway entail that the entire welfare system should be scrapped, any more than the existence of some speeding entails that we should do away with the highway system. For to scrap the entire welfare system would be to leave some citizens trapped in destitution.. In short, any given society here has a choice between (1) deciding to help those who are poor, at the cost of tolerating some abuse of the system; or (2) deciding to tolerate no abuse whatsoever, at the cost of leaving the non-abusing majority of the poor in humiliating conditions. Surely choice (1) is preferable, for while the cost of welfare abuse pinches an individual taxpayer only slightly (since the total cost is spread among millions of similar taxpayers), the cost of being trapped in poverty pinches a poor individual hard enough to devastate his or her life.

All the same, a society is within its rights to try to reduce the level of abuse it must tolerate. The first step is to understand exactly what behavior is abuse and what is not. This should be understood with reference to the ideal of reciprocity. It is not abuse for the elderly and severely disabled to receive support without working, for example; because they are not employable, their nonwork does not amount to treating their fellow citizens as mere instruments in support of their own purposes.⁶² However, able-bodied citizens of working age who draw support while not seeking work (or training for it) instrumentalize their fellow citizens, provided that non-humiliating work opportunities do in fact exist for them. Such behavior is a departure from the ideal of reciprocity. For this reason it is compatible with respect for human dignity to require those who receive public assistance to work, when possible.

118 / Chapter 4

Building a work requirement into a system of public assistance must be done right, however. For example, at least two challenges arise when those who receive public assistance are single parents caring for dependent children. To see the first such challenge, note that child rearing is in general socially productive labor, although it is not paid; society after all needs to be replenished with new generations. In a sense, then, single parents on public assistance are in fact already working. I do not think, however, that this fact by itself ought entirely to exempt single parents from a work requirement. A society can conceivably acknowledge in general the social contributions of parents and at the same time judge that particular forms of parenting—namely, single parenting in conditions of poverty and unemployment—are inauspicious enough not to warrant subsidizing. A second challenge that arises with requiring single parents to work concerns the cost of child care. Reliable child care is expensive, and the low-wage jobs for which welfare mothers are eligible often do not pay enough to make it affordable. For this reason work requirements need to be accompanied by vouchers or refundable tax credits that make child care accessible to low-income workers. If this is not done, it is innocent children who will pay the price up front, and society who will pay the price later when these children become adults. (Indeed, there are independent reasons to provide high-quality day care for poor children; a number of recent studies suggest that it can in fact pay for itself by reducing rates of juvenile delinquency and crime later on, as well as by raising rates of college attendance.)⁶³

Whatever the form a work requirement takes, it should not be seen as a form of punishment for poverty, as it was in the poorhouses of the past. Rather, it is simply an acknowledgment that the ideal of reciprocity imposes obligations on all persons—on the well-off, not to treat fellow citizens as nonentities who can be abandoned to suffer in degrading conditions; and on the poor, not to exploit the good will of their fellow citizens.⁶⁴ Indeed, this ideal of reciprocity ought also to

The Politics of Dignity / 119

lead us to adjust somewhat our understanding of the goal of public assistance, which is usually described as enabling individuals to become “self-supporting.” This is a laudable goal, but as described it is misleading, for *no* person apart from a bona fide Robinson Crusoe-type is genuinely self-sufficient. Instead, we are all mutually dependent on each other’s playing his or her part in the economy at large, which is in truth a system of joint production that is not the making of any single individual.⁶⁵ The goal of welfare and other provisions of the social safety net is best described not as making current welfare recipients “self-sufficient,” but instead as moving them into a more balanced relation of reciprocity with their fellow citizens. But by the same token, the goal is also to move well-off citizens into a more balanced relation of reciprocity with less well-off citizens, by requiring them to acknowledge that all citizens who do their part in a system of joint production are at a minimum entitled to a life of dignity.

9. Conclusion

Throughout this essay I have defended an understanding of human dignity in terms of the capability for responsible choice, together with an ideal of respect for human dignity thus understood—an ideal that establishes very strong presumptions against diminishing, constraining, or insulting human dignity. This has helped illuminate such fundamental values as freedom and equality. It has also led to an endorsement of democratic liberalism, yielding plausible conclusions as regards the structure of individual rights, democracy, and the economy. A glance back at the *wergild* system of medieval times, which by law punished the murder of a prince differently from the murder of a peasant, shows how far we have traveled down the path of respecting dignity, toward democratic liberalism. Now we have the challenge of traveling the rest of the way together.

120 / Chapter 4

Notes

1. Thomas Aquinas, *Summa Theologica*, Prima Secundae, q. 87, a. 4, arg. 2. Quoted in Marilyn McCord Adams, "Hell and the God of Justice," *Religious Studies* 11 (1979): 442.

2. Adams, "Hell and the God of Justice," 442. *Wergild* literally means "manprice" in Anglo-Saxon (www.en.wikipedia.org/wiki/Wergild).

3. William James, *Essays in Pragmatism* (New York: Hafner, 1948), 68.

4. In focusing specifically on *human* dignity, I do not mean to suggest that all talk of dignity is out of place as regards nonhuman animals. For excellent discussion of this issue, see Martha Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge, Mass.: Harvard University Press, 2005), chap. 6.

5. The preamble to the United Nations' Universal Declaration of Human Rights (1948), for instance, begins, "Whereas recognition of the *inherent dignity* and of equal and inalienable rights of all members of the human family is the foundation of freedom, justice, and peace in the world" [emphasis added]. Available at www.un.org/Overview/rights.html.

6. I speak of observing a *strong presumption* against impairing, constraining, and ignoring the capacity for responsible choice, rather than an *absolute prohibition* against these, because the theory I will defend is not an absolutist theory. We may face tragic choices in which, say, constraining a person is necessary to prevent even graver indignities to others. I will have more to say about this later in section 3.

7. It is not necessarily destroyed altogether, for as I observed in note 4, there may be other forms of dignity besides the characteristic human sort located in the capacity for responsible choice.

8. To be sure, this account of human equality does not grant equal status to absolutely every living being with human DNA. Profoundly retarded individuals and young children do not make the cut, for instance. This by itself is not an objection to my proposed foundation for moral equality, however, since to my knowledge no one proposes treating young children or the profoundly retarded—someone who understands no language of any kind, for instance—exactly the same as citizens generally (e.g., granting them the right to vote). This does not imply, however, that these human beings have *no* rights of any kind. Children's status as responsible beings in training will give them certain rights. Profoundly retarded people's status as bearers of tragic misfortune will morally rule out subjecting them to further indignities beyond what they already suffer by nature; one should not kick people who are already down. Beyond these merely suggestive remarks, however, in the short space I have here I will not address further the difficult question of what

The Politics of Dignity / 121

rights incompetents possess. For more discussion on the disabled, see Martha Nussbaum, *Frontiers of Justice*, chaps. 2 and 3.

9. Immanuel Kant, *Groundwork of the Metaphysics of Morals*, trans. H. J. Paton (New York: Harper and Row, 1964), 96.

10. Aristotle, *The Politics and the Constitution of Athens*, rev. student ed., trans. Benjamin Jowett, ed. Stephen Everson (Cambridge, U.K.: Cambridge University Press, 1996), 1253a3.

11. For information and references on feral children, see the material at www.feralchildren.com.

12. Playing a sport is a type of cooperative activity, despite the presence of competition. For to play a sport genuinely is to commit oneself, to a significant extent, to play by the rules of the sport. (Think of the ideal of good sportsmanship, for example). Someone who sees no intrinsic reason not to cheat is not playing a sport; rather, he is treating it as something like a ritual that is to be exploited (rather than participated in) for his own ends. In analogous fashion, the presence of economic competition does not fundamentally alter the cooperative aspect of society. If economic competition degenerates into a no-holds-barred struggle to destroy others, *society* has disappeared and been replaced by something akin to a ritualized form of warfare.

13. This has not, however, stopped some philosophers (e.g., John Locke) from claiming that appearances are deceiving, that in fact all members of society *do* consent—tacitly consent—to its rules. For my criticism of this claim, see chapter 2, section 3 of this book.

14. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993), 137.

15. For further astute discussion of this contrast, and of the idea of shaping a life, see Richard Norman, *Ethics, Killing, and War* (Cambridge, U.K.: Cambridge University Press, 1995), chap. 2.

16. I believe that the right to freedom of religion—a right of fundamental importance—is in fact entailed by the rights to freedom of expression, association, and conscience. Thus there is no need to list it separately. If I am wrong about this, then of course freedom of religion should be added to the list alongside these other freedoms. For further discussion of this matter, see Andrew Altman, “Freedom of Speech and Religion,” in *The Oxford Handbook of Practical Ethics*, ed. Hugh LaFollette, 358–86 (Oxford, U.K.: Oxford University Press, 2004).

17. This point is made in Joshua Cohen’s admirable article, “Freedom of Expression,” *Philosophy and Public Affairs* 22 (1993): 207–63.

18. Moreover, if in a given society citizens are *not* in general competent to lead their lives, one must ask whether this is remediable through improvements in the education system, rather than inherent in the nature of things. I believe our modern experience with liberal democracy shows that with a good education citizens in general can achieve such competency.

122 / Chapter 4

19. Cf. the words of the French philosopher Helvétius: "To limit the press is insult a nation; to prohibit reading of certain books is to declare the inhabitants to be either fools or slaves" (Claude Adrien Helvétius, *De L'Homme* [London: Thoemmes, 1999], vol. 1, sec. 4). The main idea of this passage is surely correct, though as I note in what follows, some narrowly defined limits to freedom of expression are necessary.

20. *Brandenburg v. Ohio* (1969), 395 U.S. 444.

21. *New York Times Co. v. Sullivan* (1964), 376 U.S. 254

22. For some innovative suggestions along these lines, see Bruce A. Ackerman and James F. Fishkin, *Deliberation Day* (New Haven, Conn.: Yale University Press, 2004).

23. For useful information on these various ways (and their pros and cons), see the website of the Center for Voting and Democracy at www.fairvote.org.

24. These statistics are available at the website of the Center for Responsive Politics (www.opensecrets.org/bigpicture; click on links labeled "The Price of Admission" and "Different Races, Different Costs")

25. URL www.opensecrets.org/pressreleases/Post-Election2000.htm.

26. URL www.opensecrets.org/bigpicture.

27. URL www.opensecrets.org/pressreleases/Post-Election2000.htm.

28. URL www.opensecrets.org/presidential/index.asp .

29. For one such example involving the company Enron and House majority leader Tom DeLay, see Paul Krugman, "Machine At Work," *New York Times*, July 13, 2004. For an in-depth study of an earlier example, see Jeffrey H. Birnbaum and Alan S. Murray, *Showdown at Gucci Gulch: Lawmakers, Lobbyists, and the Unlikely Triumph of Tax Reform* (New York: Vintage Books, 1988).

30. Public Campaign, "The Road to Clean Elections," (www.publiccampaign.org/publications/trtce/TheRoadToCleanElections.pdf).

31. Clean Elections Institute, Inc., "2002 Success of Clean Elections" (www.azclean.org/documents/2002SuccessStats.doc).

32. Clean Elections Institute, Inc., "2002 Success of Clean Elections."

33. Clean Elections Institute, Inc., "2002 Success of Clean Elections."

34. Clean Elections Institute, Inc., "The Road to Victory" (www.azclean.org/documents/2002RoadtoVictory-Final.pdf). The money comes from fees on lobbyists who represent for-profit activities and from a ten percent surcharge on civil and criminal fines (Public Campaign, "The Road to Clean Elections").

35. Martin Luther King, Jr., "I Have a Dream," in *The Moral Life*, 2nd ed., ed. Louis Pojman (Oxford, U.K.: Oxford University Press, 2003), 649.

36. Race relations have improved significantly since the time of King's speech, thanks in large measure to the Civil Rights Movement's victories in the form of the 1964 Civil Rights Act and 1965 Voting Rights Act. We still have a significant way to go before racial discrimination is eliminated, however. For evidence of continued discrimination, see chapter 6, section 3 of this book.

The Politics of Dignity / 123

37. John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, Mass.: Harvard University Press, 1999), 63.

38. For valuable suggestions as to how to spend the extra money raised for failing schools, see Matthew Miller, *The Two Percent Solution: Fixing America's Problems in Ways Liberals and Conservatives Can Love* (New York: PublicAffairs, 2003), chap. 6.

39. Cf. Richard Rothstein, *Class and Schools* (Washington, D.C.: Economic Policy Institute, 2004).

40. This point is made in Brian Barry, *Why Social Justice Matters* (Cambridge, U.K.: Polity, 2005), chap. 14.

41. Cf. Elizabeth S. Anderson, "What Is the Point of Equality?" *Ethics* 109 (1999): 322. My defense of democratic liberalism is heavily indebted to this article.

42. "Special Report: Ever higher society, ever harder to ascend—Meritocracy in America," *The Economist*, January 1, 2005, 22–25. This article also reports that social mobility (i.e., individuals' likelihood of moving up the class ladder) has *declined* in the United States since the 1970s, to point where the United States now has less social mobility than many other countries, such as Germany, Sweden, Finland, and Canada. This decline in mobility has begun to worry even conservative commentators; see for instance David Brooks, "The Sticky Ladder," *New York Times*, January 1, 2005.

43. "Special Report," *The Economist*, 24.

44. Matthew Boyle, "When Will They Stop?" *Fortune*, May 3, 2004, 123.

45. Robert Trigaux, "Executive Compensation Rises through Lavish to Absurd," *St. Petersburg Times*, April 26, 2004 (www.sptimes.com/2004/04/26/Columns/Executive_compensatio.shtml). For further data see the summary at www.faireconomy.org/press/2004/CEOPayRatio_pr.html and Lucian Bebchuk and Jesse Fried, *Pay without Performance: The Unfulfilled Promise of Executive Compensation* (Cambridge, Mass.: Harvard University Press, 2004).

46. Alan B. Krueger, "When It Comes to Income Inequality, More than Just Market Forces Are at Work," *New York Times*, April 4, 2002.

47. Paul Krugman, "For Richer," *New York Times Magazine*, October 20, 2002, 66. See Derek Bok, *The Cost of Talent: How Executives and Professionals Are Paid and How It Affects America* (New York: Free Press, 2002) for an extended study of CEO pay.

48. Paul Krugman, "The Death of Horatio Alger," *The Nation*, January 5, 2004 (www.thenation.com/doc.mhtml?i=20040105&s=krugman).

49. Krugman, "The Death of Horatio Alger."

50. Krueger, "When It Comes to Income Inequality."

51. For a sophisticated defense of worker-owned firms, see Samuel Bowles and Herbert Gintis, "A Political and Economic Case for the Democratic Enterprise," *Economics and Philosophy* 9 (1993): 75–100.

124 / Chapter 4

52. Laws like this already exist in the United States, but the monetary sanctions levied against firms who fire union-seeking employees are so minimal that many business break these laws with little hesitation and treat the fines as just another routine cost of business. Another problem is firms' ability to delay recognition of a union for years (sometimes as much as ten years) owing to a ridiculously slow recognition process overseen by the National Labor Relations Board. For details see Human Rights Watch, *Unfair Advantage: Workers' Freedom of Association in the United States under International Human Rights Standards* (2000), available online at www.hrw.org/reports/2000/uslabor. For valuable suggestions as to how to improve U.S. labor laws, see Richard Freeman, "Lessons for the United States," in *Working under Different Rules*, ed. Richard Freeman, 223–39 (New York: Russell Sage Foundation, 1994). These problems help explain the extraordinary decline in unionization rates in the United States, to the point where by 2003 under 9 percent of the private sector was unionized, *less than half* the unionization rate of every other industrial democracy (www.aflcio/ecouncil/ec02262003b.cfm). This is surely part of the reason that average wages have fallen in the United States over the past two decades, while in the same period they have *risen* in every other OECD country—that is, every other major developed country. (See Richard Freeman, "The New Inequality in the United States," in *Growing Apart: The Causes and Consequences of the Global Wage Inequality*, eds. Albert Fishlow and Karen Parker [New York: Council on Foreign Relations Press, 1999], 29).

53. David Card and Alan B. Krueger, *Myth and Measurement: The New Economics of the Minimum Wage* (Princeton, N.J.: Princeton University, 1995). Other natural experiments are also examined in this book. See also the symposium on the book in *Industrial and Labor Relations Review* 48:4 (1995). For a concise summary of the shift in thinking among many economists regarding the minimum wage, see Thomas Palley, "Building Prosperity from the Bottom Up," *Challenge* 41 (1998): 59–72.

54. Center on Budget and Policy Priorities, "Facts about the Earned Income Credit: Tax Time Can Pay for Working Families" (2004), 21, citing the U.S. Census Bureau's Current Population Survey; available online at www.cbpp.org/eic2004/eic04-factbook.pdf.

55. Associated Press, "Ranks of Poverty and Uninsured Rose in 2003, Census Reports," *New York Times*, August 26, 2004 (www.nytimes.com). Forty-five million Americans constitute 15.6 percent of the population. This is an increase from the 15.2 percent of Americans who lacked health insurance in 2002.

56. For a helpful overview of America's employer-based health insurance, see Uwe E. Reinhardt, "Employer-Based Health Insurance: A Balance Sheet," *Health Affairs* 18 (1999): 124–33. See Miller, *The Two Percent Solution*,

The Politics of Dignity / 125

chap. 5, for a discussion of what is probably the most feasible option in the American context for fixing this hole in the safety net (namely, "community rated" private insurance plus a requirement that all citizens purchase health insurance, with the poor assisted by public subsidies). For examples of health systems from other countries, which can serve as useful comparisons, see Laurene Graig, *Health of Nations: An International Perspective on U.S. Health Care Reform* (Washington, D.C.: Congressional Quarterly Books, 1999). Finally, for insightful philosophical reflection on health care, see Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, Mass.: Harvard University Press, 2000), chap. 8.

57. Mary Jo Bane and Lawrence M. Mead, *Lifting Up the Poor: A Dialogue on Religion, Poverty and Welfare* (Washington, D.C.: Brookings Institution Press, 2003), 59. The figures are for the year 2001 and come from the U.S. Census Bureau's March 2002 Annual Demographic Supplement, tables 2-4. The Census Bureau's threshold for poverty was \$18,104/year for a family of four in 2001. One reason for popular misconceptions about the poor lies with media images that disproportionately display poverty as a black phenomenon. For a sophisticated media critique, see Martin Gilens, *Why Americans Hate Welfare: Race, Media, and the Politics of Antipoverty Policy* (Chicago: University of Chicago Press, 2000). For full-length studies of the working poor, see Katherine S. Newman, *No Shame in My Game: The Working Poor of the Inner City* (New York: Vintage Books, 2000) and David K. Shipler, *The Working Poor: Invisible in America* (New York: Knopf, 2004).

58. Bane and Mead, *Lifting Up the Poor*, 58.

59. Associated Press, "Ranks of Poverty and Uninsured Rose."

60. Paul Krugman, "Labor Pains," *New York Times Magazine*, May 24, 1999, 24-26.

61. A significant number of economists, however, believe the importance of NAIRU has been overrated and that the Federal Reserve could do more to lower unemployment without creating runaway inflation. See for example James K. Galbraith, *Created Unequal: The Crisis in American Pay* (Chicago: University of Chicago Press, 2000); Thomas I. Palley, *Plenty of Nothing: The Downsizing of the American Dream and the Case for Structural Keynesianism* (Princeton, N.J.: Princeton University Press, 2000); and George A. Akerlof, "Behavioral Macroeconomics and Macroeconomic Behavior," *American Economic Review* 92 (2002), 411-33. For a variety of viewpoints, see the symposium on NAIRU in the *Journal of Economic Perspectives* 11:1 (1997).

62. In saying that the seriously disabled are not employable, I have in mind primarily those with very serious mental disabilities. A person in a wheelchair is employable, of course, provided he or she can reach the workplace. Considerations of dignity point to the need for laws requiring businesses to make reasonable accommodations for the physically disabled, so

126 / Chapter 4

that they too can participate in work. Cf. Nussbaum, *Frontiers of Justice*, chaps. 2 and 3.

63. For a summary of recent studies see Alan B. Krueger, "Inequality, Too Much of a Good Thing" (Unpublished manuscript), available online at www.irs.princeton.edu/pubs/pdfs/inequality4.pdf. See also the Committee for Economic Development's 2002 report, "Preschool for All: Investing in a Productive and Just Society" (www.ced.org/docs/report/report_preschool.pdf).

64. This point bears on an assessment of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), by which the U.S. Congress instituted work requirements as a condition of welfare receipt. On the whole, the framework I am employing supports this reform, though I think much less attention was paid to crucial issues of childcare and job training than was necessary. The most successful systems of welfare in America, such as the Minnesota Family Investment Program, pay a great deal of attention to these issues. For details, see Dave Hage, *Reforming Welfare by Rewarding Work: One State's Successful Experiment* (Minneapolis: University of Minnesota Press, 2004). I am skeptical, moreover, of one other significant element of PRWORA, namely, its time limits, which restrict federal welfare receipt to a total of five years over the course of a single lifetime. I know of no a priori guarantee that misfortune never totals to longer than five years for any individual.

65. I take the term "system of joint production" from Anderson, "What Is the Point of Equality?" 321.