

Article

The System Isn't Broken. It's Fixed

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Abstract: This paper has two distinct and related aims. First, I attempt to clarify the oft-made claim that somehow the “system is fixed”. What is meant by that charge and how is it distinct from other kinds of complaints with regard to economic inequality? Second, I attempt to show how important it is to understand what we are doing *together* as members of a (political) economy. Without a clear conception of our joint, collaborative activity, it is difficult to have a fruitful discussion of economic justice. Throughout the paper, I borrow insights from the philosopher Elizabeth Anderson.

Keywords: egalitarianism; equality of opportunity; equality of outcome; John Rawls; joint cooperative activity; Elizabeth Anderson

1. The Complaint about Inequality

My title is a phrase that I first heard at a rally for campaign-finance reform. However, I think it also describes how many people feel about our economy—that it is “rigged” in favor of certain positions, or sectors, or individuals. The complaint here is that some people do much better than others, in material terms, *not* because of (a) effort or talent or contribution or anything that could be described as “merit,” *nor* because of (b) luck or fortune or anything accidental or impossible to predict, but because of (c) the way the system is arranged—the way things have been set up to be. The complaint is not about vast differences in the luck of the draw. Rather the complaint is that the deck is stacked. Or to shift metaphors: the playing field is not level. The fix is in.

I think this is a complaint of the right shape when it comes to thinking about economic inequality¹. So if we want to think clearly about inequality, we need to get clear on this *kind* of claim and what it presupposes. In particular, it presupposes that there is something we are doing together, in the sense of a joint, cooperative activity. It is only in the context of a game that we are already playing that it makes sense to complain about a stacked deck or an un-level playing field. And whether or not those complaints are justified depends on the nature of the game. Likewise, in the case of political economy, we need to first grasp the joint activity—the practice, or set of practices—that provides “the subject of justice”, in Rawls’ phrase².

Until we can (a) agree that there is something we are doing together in this sense, and (b) arrive at an acceptable *conception* of our joint activity (or joint activities), we will not be able to understand or evaluate any claim that “the system is fixed”. We will not have a sense of what “the system” is, and

¹ I do not mean that this is the only legitimate type of complaint about economic inequality. Rather I mean that this type of complaint makes sense, and that it is especially relevant to our situation—i.e., that it captures the core of the concern that many people have about the economic inequality in our society.

² For Rawls the subject of justice is the “basic structure” of a society. My point here is not to endorse Rawls’s particular approach to the subject of justice, or his particular conception of the basic structure. However, I think Rawls was correct to insist that in thinking about socioeconomic justice we must get clear on whatever it is that we are doing together—our practices and institutions that provide the basis for claims about (in)justice. (Rawls 1971, pp. 7–11). See also (Young 2011, pp. 34–74).

what standards properly apply to it. However, if we can arrive at a conception of our joint activity, then we will have much of what we need to understand and evaluate the relevant claims. So this is where the action is, in my view, when it comes to normative thinking about economic inequality. And yet, we face challenges at precisely this point. “The system” seems extremely hard to define, either vague or hopelessly complex. Moreover, there are ways in which the fundamentally cooperative character of our economic life is hidden from view, and easy to overlook.

In light of all this, my paper has two modest aims. In the next section, I try to spell out the complaint that “the system is fixed” and to distinguish it from other concerns about economic inequality. In the third section, I try to show both the importance and the difficulty of bringing into view what we are doing together—i.e., arriving at a proper conception of our joint activity. To do this, I will consider a recent essay by the philosopher Elizabeth Anderson.

2. Four Distinctions

Let us consider four distinctions that are important for our normative thinking about inequality. Taken together, these distinctions will bring the complaint about economic inequality into clearer focus. First, we can distinguish between:

- (1) Concerns about equality per se, which are essentially relational in character. These are concerns about the similarities and differences in the way people are treated by others or by institutions, including differences in status, standing, and recognition.
- (2) Concerns about *sufficiency*, which are about everyone having enough in some respect—e.g., enough for a flourishing life. These concerns are not essentially relational. Instead they are about the absolute position of certain people, such as the standard of living of the poor.

I accept that in many contexts, we should focus on absolute position rather than equality or inequality. However, that is not my concern here, because it is not the complaint of someone who says that “the system is fixed”. That is a complaint about justice. And Aristotle was correct: justice is about “*to ison*”—the equal³. Justice is sensitive to the relationship between people in a way that looks to their relative positions, not merely their absolute positions. In this respect, considerations of justice are distinct from considerations of compassion or humanitarian concern.

This distinction is worth emphasizing, because in conversations about economic equality, some people want to shift the focus to sufficiency or poverty, as if equality per se is a distraction⁴. To such attempts to shift the conversation, I say: No. If someone complains that there is an injustice, then we have to take that claim at face value, and evaluate it. And if there *is* an injustice—if the deck is stacked—we cannot solve that problem by simply shifting the topic to sufficiency. That would be like telling someone, “Sure the deck is stacked, but your cards aren’t *that* bad . . . ”

Second, we can distinguish between:

- (1) Concern with equality of position *simpliciter* and *for its own sake*—a state of affairs in which everyone has the same amount of stuff, or is in the same position.
- (2) Concern with equality in how one *treats* and *is treated* by others—that one’s relationships embody equality of standing and mutual recognition; that no one is dominated by another, or simply has to accept their situation “and deal with it” because the will of someone else determines what happens to them.

The focus of egalitarianism, as I understand it, is the second of these, not the first. It is a caricature of actual egalitarian thought to suppose otherwise. Egalitarians do not make a fetish of states of affairs in

³ “If, then, the unjust is unequal, the just is equal, which is in fact what is held to be the case by everyone, even without argument.” (Aristotle 2011).

⁴ See, e.g., (Frankfurt 2015).

which everyone has equal stuff. Rather, they are concerned that everyone be treated as moral equals with an equal claim to respect, and that social and economic practices reflect this equality. Our interest in material equality flows from a deeper commitment to equal dignity⁵.

The egalitarian concern with equal treatment and equal regard (rather than equality of position for its own sake) fits with a focus on joint activity. For our practices and institutions treat people in various ways, and they shape how individuals treat and are treated by others. This treatment includes expressing or embodying attitudes about the value or standing of the participants—what the practice “says”, implicitly or explicitly, about the character, worth, status, etc., of various persons.

To be clear, the second distinction is *not* the same as yet a third distinction, between:

- (1) Equality of opportunity⁶
- (2) Equality of outcome

Egalitarians care about *both* of these kinds of equality, depending on the context. However, *neither* of these is about the value of equality of position *simpliciter* and for its own sake. Rather, depending on the context, equality of opportunity and/or equality of outcome can matter—if they do matter—because, given the shared activity among persons, their equal moral standing gives them a claim to equal opportunities and/or equal outcomes.⁷

Finally, we should distinguish two ways of understanding that idea that the system has been “fixed” or “rigged”:

- (1) A (quasi)conspiracy theory view, which posits individuals who have intentionally rigged the system and are pulling the levers of power.
- (2) A human responsibility view, which holds simply that there are humanly created and maintained practices that are evaluable according to standards of justice (unlike naturally occurring phenomena).

I am interested in the second idea, not the first. The second idea is all we need to make sense of the claim that there is some injustice in the arrangement of our joint activity, or traceable to that arrangement.

With these four distinctions in mind, we can return to the idea that “the system is fixed”, which I said is the kind of complaint we should focus on when it comes to economic inequality. We can now say that this complaint (a) embodies a concern with equality per se, rather than with sufficiency or absolute position, but (b) this concern is not based in valuing the equality of a material position for its own sake—rather, we are concerned with equality in the material realm because of a deeper commitment to the equal dignity of persons, and (c) the type of equality that matters remains to be seen—it might be *either* the equality of opportunity or the equality of outcome or both, and (d) all of this presupposes the reality of our joint, cooperative activity, not a conspiracy.

3. What Are We Doing Together?

In order to evaluate a complaint of this kind, we require some conception our joint, cooperative activity. In brief, what are we doing together? And who are “we” anyway?

Answering these questions involves two broad tasks, and these tasks correspond to two ways that we might disagree over how to characterize the activity.⁸ Roughly speaking, the first task is to provide a *normative* characterization of the activity, by which I mean an account of the purpose of the activity and a normative conception of the participants. Aristotle, for example, argues against those who see a

⁵ For powerful statements of this point, see (Anderson 1999) and (Sheffler 2003).

⁶ A further important distinction is between formal equality of opportunity and fair equality of opportunity. See (Rawls 1971, Chp. II, sct. 14).

⁷ For further discussion, see (Scanlon 2003).

⁸ The line between these two tasks might not be a bright one. And in labeling one task “first”, I am not saying that it must come first chronologically.

polis as a community organized merely for the sake of trade and mutual protection. To look at a *polis* that way reflects a failure to grasp the true purpose of a polis in fostering the happiness (*eudaimonia*) of the citizens (Aristotle 1998). Or take another example: In thinking about political life, should we conceive of all citizens as “free and equal, reasonable and rational”? Or should we conceive of the participants in civic activity in different terms, such as those that imply some natural hierarchies of rights and privileges?

A second task concerns what we can loosely call “matters of fact”. Here the challenge is to figure out what is actually going on with the practice, or what has happened in the past, or is likely to happen in the future. We might agree on the normative characterization of the activity—the point of the practice and the normative conception of the participants—but disagree about what the participants are actually doing or experiencing. In the extreme case, we might disagree about whether a given practice even exists. On the other hand, we might agree on what is happening, but disagree about whether this amounts to failure or success in living up to the true purpose of the practice and the normative standing of the participants. So when it comes to thinking about our joint economic activity, we need both a normative characterization of what we are doing together and an accurate sense of what is actually going on.

Thus far I have been describing things at a rather abstract level. To make matters more concrete, I turn now to a recent essay by Elizabeth Anderson, “Equality and Freedom in the Workplace: Recovering Republican Insights”. Anderson’s essay, I believe, does a brilliant job of showing both (a) how our joint activity can be hidden from view, and (b) how bringing that activity into view can re-frame our normativity thinking about (in)equality.

Anderson begins by looking at various employment laws that aim to benefit workers and provide them with greater control—e.g., minimum wage laws, safety laws, union laws. Such laws, of course, are often favored by those who are worried about economic inequality. Indeed, they are frequently seen as a way to make our economic arrangements more just, or “less fixed”. As Anderson notes, however, opponents of these laws object that they interfere with the liberty of employers and employees alike. If consenting adults are willing to sign a labor contract to work on different terms, who are we to interfere with their freedom by making it illegal to do so? Anderson notes that liberal egalitarians have a standard rejoinder to this free contract ideology. The rejoinder is that “unequal bargaining power between workers and employers makes the labor contract not truly voluntary” (Anderson 2015, p. 49)—we need some equality of the *starting point* to ensure *truly* free contracts. Understood this way, the disagreement is between parties who both value freedom, but who disagree over *when* a contract is truly free: “advocates of laissez-faire see attempts to secure equality of bargaining power as a threat to individual freedom. Liberal egalitarians see some level of equality as a prerequisite in individual freedom.” (Anderson 2015, pp. 49–50).

Anderson argues, however, that both sides vastly overestimate the role of bargaining in labor contracts, and underestimate the role of the state. As she says:

The typical worker, upon being hired for a job, is not given a chance to negotiate. Nor is she handed a contract detailing the terms of the deal. She is handed a uniform, or a mop, or a key to her office, and told when to show up. The critical terms are not even what is said, but what is left unspecified. The terms do not have to be spelled out, because they have been set not by a meeting of minds of the parties, but by a default baseline defined by corporate, property, and employment law that establishes the legal parameters for the constitution of capitalist firms. Negotiated labor contracts mostly make only minor modifications to a relationship whose normatively critical features have already been set by law independently of the will of both parties, much as prenuptial agreements make minor modifications on the marriage “contract” whose fundamental terms are set by law.” (Anderson 2015, p. 50)

Why have both libertarians and liberal egalitarians overlooked this point? Because “they conflate capitalism with the market, and therefore imagine that the labor contract is the outcome of market

orderings generated independently of the state.”(Anderson 2015) This picture is wrong, however, because it leaves out the crucial role of capitalist firms in shaping the terms of labor. It also leaves out the essential role of the state in defining the structure, or constitution, of capitalist forms. What is distinctive of capitalism is not markets, but capitalist firms. And the “*labor contract is not properly seen as an exchange of commodities on the market, but as the way workers get incorporated under the governance of productive enterprises* [capitalist firms]. Employees are governed by their bosses. The general form of that government is determined by the laws of property, incorporation, and labor, not by contract.”(Anderson 2015)

This means that the constitution of capitalist firms is rightly seen as a political creation. And in a democracy, this means that the constitution of firms is the result of *joint cooperative activity*. Such firms exist, and have their shape, only because of something that we, *qua* citizens, have done and are doing, in our making, enforcing, and following laws. Capitalist firms exist only because we—all of us—make and sustain them through our joint political activity. Politics makes the market.

It follows from this, Anderson argues, that the constitution of capitalist firms should be seen as a “public good”, and hence properly subject to control by democratic processes and evaluation by democratic standards. And this makes a big difference for arguments about employment and labor laws concerning wages, safety, unions, and workplace democracy. To see the difference, consider this analogy: If we accept the standard framing of debates about labor and employment laws, then provisions to strengthen the position of workers will look like government interference in the market—like a fan running onto the field to catch a fly ball (Anderson 2015, pp. 40–51). The argument between libertarians and egalitarians is then over whether or not such interference is justified. However, that overlooks the real role of the state, which is making the rules of the game, and hence making it possible to play in the first place—i.e., in creating the distinctly capitalist markets that structure our economy. It overlooks, in other words, something we are *already doing together* *qua* citizens. Something which might have been taken as a *given*, and hence as a baseline from which to argue, is now seen as the *product* of our joint, cooperative activity. And bringing that joint activity into view dramatically shifts the terms of the debate in thinking about equality (and freedom).

4. Conclusions

In this essay, I have tried to do two things. First, I have attempted to understand a central complaint about economic inequality—to explore and refine the thought that “the system is fixed”. Second, I have argued that to take this complaint seriously, we need to arrive at a characterization of our joint activity that is both normatively and descriptively correct. However, I have not argued for a particular characterization of our joint activity, beyond the basic notion of cooperation among persons equal in dignity. And I have not provided an account of the standards according to which our economic arrangements should be judged to be just or unjust. Nor have I said anything about the facts, about what is actually going on with us. Thus, while I have tried to provide some orientation for our thinking about economic inequality, all the real work remains to be done.

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