

# Justice for Grasshoppers

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Dissertation submitted for degree of Doctor of Political Theory

University of Essex

Department of Government

August 2021

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# Acknowledgements

I'm indebted to my friends and fellow PhD students at the University of Essex and at Pompeu Fabra University, whose company, support, and feedback made my PhD experience so much more enjoyable. Special thanks to my friend Florian, whose company has cheered me up so many times, especially during the isolation of Covid-19 pandemic lockdowns.

I'm also indebted to audiences of several conferences and workshops, including the 8th Summer-School in Political Philosophy & Public Policy of the University of Minho, the 'Rethinking Economic Democracy' Workshop at Leiden University in 2017, the LSE Graduate Political Theory Conference 2018, the 'Beyond Primary Goods' workshop at TU Munich, and the 'Rethinking the Future of Work' Conference at the University of Bucharest.

I'm very grateful to the members of my supervisory board, James Christensen, and Mollie Gerver, who provided me with plenty of constructive and helpful feedback that greatly helped improve my work. I would also like to thank anonymous reviewers and editors of *Political Studies* and *Politics Philosophy and Economics*, for helpful comments and critique that greatly helped improve the contents of chapter 2 and 5 of this dissertation.

It's impossible to overstate how grateful I am to my supervisors Tom Parr and Paul Bou-Habib. Their incredibly generous support, in the form of countless written comments, and in the form of countless friendly discussions, was a constant source of enlightenment and inspiration for me. I could not have wished for friendlier, more supportive, or more competent advisors and I can't begin to detail here how much I learned from them.

I'm also very grateful to my viva examiners, Martin O'Neill and David Axelsen, whose detailed feedback and questions helped me gain much clarity and will improve my future work on related questions.

Finally, and most importantly, I owe great debt to my parents and to my sister. Their kind support kept me going whenever I faced challenges and I wouldn't have been able to write this dissertation without them.

# Declaration

I declare that this thesis is my own work and that it has not been submitted for a degree at another university. Large parts of chapters 2 and 5 of this thesis have been published in the form of articles in *Politics Philosophy and Economics* and in *Political Studies*.

## Summary

This dissertation engages with the question of how much access to free time citizens should enjoy in a just society. A sophisticated liberal egalitarian approach holds that social justice requires protecting at least the freedom to work no more than 8 hours per day.<sup>1</sup> It is unclear whether this approach supports more radical expansions of access to free time, such as the institution of a 4-day work week, a 6-hours work day, or a right to periodic sabbatical leave. Those who support these more radical demands often appeal to controversial perfectionist ideas about the importance of free time for human flourishing to justify their position. This dissertation rejects these perfectionist justifications and explains why those committed to political liberalism can get on board with more radical demands, such as the 4-day work week. Chapter 1 explains why existing approaches to social justice don't offer satisfactory answers to the question of how much access to free time citizens should enjoy. Chapters 2 and 3 explain that some policies to expand opportunities for free time are justifiable on the grounds that they help address morally objectionable collective action problems in the labour market. Chapter 4 lays out a feminist case for improved access to part-time employment. Chapter 5 explains that policies that expand access to free time for middle-aged persons are necessary to address an unfairness in access to free time at different life-stages. Taken together, these considerations make a strong case for policies that aim at expanding access to free time.

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<sup>1</sup>. Julie L. Rose, *Free Time* (Princeton University Press, 2016), 128.

# Introduction

The ancient Greek fable of the ant and the grasshopper tells the story of a work-loving ant, who spends the summer collecting food, and a leisure-loving grasshopper, who spends the summer singing. When winter arrives, the hungry grasshopper begs the ant for food and is rejected. The fable is often interpreted as a lesson about the importance of hard work. I shall argue there is need for a very different kind of lesson in most societies today – one that emphasises the importance of free time and the interests of the leisure-loving grasshopper. My aim in this dissertation is to illuminate what a just society owes to grasshoppers.

To illustrate why one might be concerned about the plight of grasshoppers, i.e., those who would prefer to work less, consider the following observations. 48% of Americans say they don't have enough time and 35% say they're always rushed.<sup>1</sup> In the UK, over thirty percent of individuals employed in the labour market want to work fewer hours.<sup>2</sup> And of these, about a third want this even if it means lower pay.<sup>3</sup> One of the most frequently expressed regrets by individuals in the last twelve weeks of their lives is that they spent too much time at work.<sup>4</sup> Overwork impacts workers' health and stress-related sick leave poses a significant burden for the economies of industrialized countries.<sup>5</sup> In Germany for example, job strain is estimated to create an economic cost of 30.8 billion Euros each year.<sup>6</sup> What makes these observations particularly striking is that since the Industrial Revolution, the average UK citizen has seen a 29-fold increase in income but working time today remains about as high as before the onset of the Industrial Revolution.<sup>7</sup>

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<sup>1</sup> Frank Newport, 'Americans' Perceived Time Crunch No Worse Than in Past' (Gallup, 2015), <https://news.gallup.com/poll/187982/americans-perceived-time-crunch-no-worse-past.aspx>.

<sup>2</sup> UK Office For National Statistics (2019) EMP16: Underemployment and overemployment, April 2019 (<https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/underemploymentandoveremploymentemp16>).

<sup>3</sup> This phenomenon is called overemployment and it occurs whenever an individual would like to work fewer hours, even if this results in reduced income.

<sup>4</sup> Bronnie Ware, *The Top Five Regrets of the Dying: A Life Transformed by the Dearly Departing*, 1st ed (Carlsbad, Calif: Hay House, 2012).

<sup>5</sup> European Agency for Safety and Health at Work. et al., *Calculating the Costs of Work-Related Stress and Psychosocial Risks: Literature Review*. (LU: Publications Office, 2014), <https://data.europa.eu/doi/10.2802/20493>.

<sup>6</sup> Wolfgang Bödeker, Michael Friedrichs: *Kosten der psychischen Erkrankungen und Belastungen in Deutschland*, in: Lothar Kamp, Klaus Pickshaus (Hrsg.): *Regelungslücke psychische Belastungen schließen*, August 2011.

<sup>7</sup> According to Juliet Schor, "One of capitalism's most durable myths is that it has reduced human toil. [...] These images are backward projections of modern work patterns. And they are false. Before capitalism, most people did not work very long hours at all." Juliet B. Schor, *The Overworked American: The Unexpected Decline of Leisure*, vol. Paperback (New York, NY: Basic Books, 1993); Jon C Messenger, Sangheon Lee, and Deirdre McCann, *Working Time Around the World: Trends in Working Hours, Laws, and Policies in a Global*

It seems puzzling that time poverty, long working hours and overwork are so widespread in spite of the great technological achievements of the past century that had the potential to free up more time for us. If it is true that many would prefer to work less, even if this meant a consequent decrease in wages, then how should policy-makers respond to that? To what extent, if at all, should a just society adopt public policies that regulate work hours and expand access to free time?

Throughout most of this dissertation I use the term ‘work’ to refer to ‘time spent on paid employment’. This is not to deny the importance of other forms of work, such as care work and household work (I engage with these forms of work in chapter 4) that occur outside formal labour markets. My choice of this simplistic definition of work reflects the fact that much of my analysis focuses on collective action problems that arise in formal labour markets, which makes it convenient to use the term work as short for ‘time spent on paid employment’.<sup>8</sup>

A growing number of politicians, activists, and scholars claim that governments should undertake efforts to reduce the amount of time people spend at work, or at least to expand opportunities to access free time for those who wish to work less. Working time reduction is frequently touted as an elegant solution to a number of pressing problems, such as overwork, unemployment, environmental destruction, gender inequality, and depression. If everyone worked less, people might be less stressed, there might be more jobs, less resource depletion, less greenhouse gas emissions, a more equitable sharing of work between men and women, and more wellbeing.<sup>9</sup>

At first glance, the arsenal of arguments in favour of reduced work hours that have been put forth in recent years is rather impressive and one might question whether more work is needed to establish the desirability of reduced work hours. As I will show, more work on this front is indeed needed because many of the above-mentioned considerations that seem to recommend a reduction of work hours are less conclusive than they appear to be.

Two kinds of flaws significantly limit the strength of many prominent arguments for reduced working time. The first flaw is that many arguments rely on controversial assumptions about the likely consequences of reduced working time. The second flaw is that many arguments appeal to

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*Comparative Perspective*. (Hoboken: Taylor and Francis, 2011) Chapter 3. See also: James Suzman, *Work: A Deep History, from the Stone Age to the Age of Robots* (New York: Penguin Press, 2021). James E. Thorold Rogers, *Six Centuries of Work and Wages* (London: Allen and Unwin, 1949), 542-43.” Max Roser (2020) - "Economic Growth". Published online at OurWorldInData.org. Retrieved from: 'https://ourworldindata.org/economic-growth' [Online Resource]

<sup>8</sup> Section 1.5 elaborates on the question of how to define and measure work and free time.

<sup>9</sup> Anna Coote, Aidan Harper, and Alfie Stirling, *The Case for a Four-Day Week* (Cambridge, UK ; Medford, MA: Polity Press, 2021); Carl Benedikt Frey, *The Technology Trap: Capital, Labor, and Power in the Age of Automation* (Princeton, New Jersey: Princeton University Press, 2019).

controversial assumptions about the kind of work-life balance that is best for humans. Let's consider each of these in turn to understand what exactly these argumentative flaws are and to appreciate how widespread they are.

## Speculative Consequentialist Arguments

One of the most prominent consequentialist arguments for working time reduction holds that everyone should work less because this reduces unemployment. The idea underlying this argument is that an economy where everyone works fewer hours requires more employees than an economy where everyone who is employed works fulltime. If average working time was reduced, so the argument goes, there would be more jobs because the available amount of work is split between more workers. What's more, reduced work hours might also address the problem of 'working time bifurcation', which describes the problem that there are many countries where some work excessive hours while others are involuntarily underemployed, which means that they work fewer hours than they would want.<sup>10</sup>

The idea that we can increase employment and reduce bifurcation through working time reduction is appealing because unemployment and underemployment are harmful to those who experience it. The involuntarily unemployed often suffer from social stigma, poverty, and poor health and the underemployed often suffer from poverty.<sup>11</sup> One way of improving their situation might be to expand the availability of jobs through working time reduction. Many advocates of reduced working time put this 'employment argument' front and centre of their argumentation.<sup>12</sup>

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<sup>10</sup> "[W]hile the mean workweek in the U.S. has not changed dramatically during the past half century, there are now a higher proportion of workers in low-hour (less than 30 per week) and in high-hour (greater than 50 per week) schedules than there were previously. As of 2004, 26.8% of American men worked more than 50 h per week, up from 14.7% in 1980." Allard E. Dembe, 'Ethical Issues Relating to the Health Effects of Long Working Hours', *Journal of Business Ethics* 84, no. S2 (2009): 197. See also Alan Bogg, Cathryn Costello, and A. C. L. Davies, *Research Handbook on EU Labour Law*, Research Handbooks in European Law Series (Cheltenham, UK: Edward Elgar Publishing, 2016), 274.

<sup>11</sup> Andrew E. Clark and Andrew J. Oswald, 'Unhappiness and Unemployment', *The Economic Journal* 104, no. 424 (1994): 648–59; Tor Eriksson et al., 'Unemployment and Mental Disorders', *International Journal of Mental Health* 39, no. 2 (2010): 56–73; H. Häfner, 'Does Unemployment Cause Illness? A Review of the Status of Knowledge of the Correlation between Unemployment, Physical and Psychological Health Risks', *Fortschritte Der Neurologie-Psychiatrie* 56, no. 10 (1988): 326; Andrew Clark, 'A Note on Unhappiness and Unemployment Duration', *Applied Economics Quarterly* 52, no. 4 (2006): 291–308; Adrian Chadi, 'How to Distinguish Voluntary from Involuntary Unemployment: On the Relationship between the Willingness to Work and Unemployment-Induced Unhappiness', *Kyklos* 63, no. 3 (2010): 317–29; Babette Pouwels, Jacques Siegers, and Jan Dirk Vlasblom, 'Income, Working Hours, and Happiness', *Economics Letters* 99, no. 1 (2008): 72–74.

<sup>12</sup> Stan de Spiegelaere and Agnieszka Piasna, *The Why and the How of Working Time Reduction*, 2017; Coote, Harper, and Stirling, *The Case for a Four-Day Week*.



The employment argument assumes that there is a fixed amount of work in society that must be carried out every year and that this work can either be carried out by a smaller number of people, who each work a lot, or by a larger number of people, who each work fewer hours. However, there is disagreement among economists as to whether it is true that reduced working time leads to more employment. Many think it is a mistake to assume that there is a fixed amount of jobs that can be distributed in different ways across a population.<sup>13</sup> Demand for labour (i.e. the number of available jobs) might change as a result of changes in working time regulation. For example, some employers might not be able or willing to offer jobs on part-time conditions, and as a result there might be fewer jobs available in an economy where working time has been reduced. Empirical findings on the subject are mixed, but most economists agree that the question of whether reduced working time leads to higher employment depends on several circumstantial factors, so that there is no guarantee that working time reduction always, or even normally, has an employment effect.<sup>14</sup>

This highlights an important limitation of highly speculative consequentialist arguments, i.e., arguments that make support for working time reduction policies contingent on rather uncertain effects of these policies. The strength of these arguments depends on the truth of assumptions about complex causal mechanisms that are sensitive to several circumstantial factors. For example, the employment argument favours reduced work hours only to the extent that it increases employment.<sup>15</sup> Working time reduction increases employment only when a number of conditions are met. To illustrate, there must be sufficient training opportunities available to those who seek to occupy newly created jobs, employers must be able to redesign tasks in a way that makes it possible to offer jobs on a part-time basis, employees must be willing to take up part-time jobs, offering jobs on a part-time basis must be profitable for employers, etc.<sup>16</sup>

To be sure, this doesn't mean that those who are in favour of reduced work hours should dismiss the employment argument, or other speculative consequentialist arguments. It merely illustrates that a convincing case for reduced work hours, which applies widely across different countries and

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<sup>13</sup> This is referred to as the "lump of labour fallacy". Tom Walker, 'Why Economists Dislike a Lump of Labor', *Review of Social Economy* 65, no. 3 (2007): 279–91; Paul Krugman to The New York Times, 'Lumps of Labor', 2003, <http://www.nytimes.com/2003/10/07/opinion/lumps-of-labor.html?scp=1&sq=lumps%20of%20labor&st=cse>.

<sup>14</sup> Gerhard Bosch and Steffen Lehndorff, 'Working-Time Reduction and Employment', *Cambridge Journal of Economics* 25, no. 2 (2001): 209–43; Pedro S. Raposo and Jan C. van Ours, 'How Working Time Reduction Affects Jobs and Wages', *De Economist* 158, no. 2 (2010): 193–207.

<sup>15</sup> Another consequentialist argument that has recently gained currency in academic and popular discourse is that reducing work hours can help combat climate change because it leads to a reduction in greenhouse gas emissions. I will engage with this argument in chapter three and show that it is less forceful than is often assumed by its proponents.

<sup>16</sup> Bosch and Lehndorff op. cit., 'Working-Time Reduction and Employment'.

different labour markets, should also receive support from considerations that rely on less controversial assumptions about the likely consequences of working time reduction. The arguments I advance in this dissertation thus don't compete with the employment argument but strengthen the case for shorter work hours from a different angle by showing how it receives support from less controversial considerations.

It bears emphasizing that most arguments for reduced working time – including the ones I advance in subsequent chapters – rely on *some* assumptions about the likely consequences of shorter work hours. For example, I will claim that the effect of some competitive pressures is to increase the amount of time workers spend on the job. The difference between the arguments I advance in this dissertation and speculative consequentialist arguments, such as the employment argument, is thus not one in kind but one in degree. What makes my arguments less controversial is that they rely on assumptions that are likely to hold true under a variety of circumstances.<sup>17</sup>

## Perfectionist Arguments

Let's now turn to the second flaw that plagues many popular arguments for reduced work hours. Many scholars attempt to establish the desirability of reduced working time in a 'perfectionist' fashion, which means that they rely on assumptions about what is best for human flourishing. An example of a perfectionist argument is the idea that expanding everyone's free time is desirable because the kinds of goods we can access through free time are more valuable than the kinds of goods we can obtain through work. To illustrate, free time enables people to be creative and artistic, to contemplate, to have conversations with friends, to be political activists, or to spend time with their families. According to philosophers like Aristotle and Nietzsche, these kinds of activities are highly valuable because they allow us to cultivate noble virtues and realise ourselves. Work, in contrast, is considered less valuable because its aim is merely to preserve humans' continued material subsistence – a more basic and less noble task.<sup>18</sup> Aristotle believed that the less valuable tasks of material production and housework ought to be carried out by women and by slaves, so that men can be free to dedicate themselves to the higher tasks of political deliberation, contemplation and artistic production.

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<sup>17</sup> In chapter three I discuss another prominent consequentialist argument for reduced work hours that relies on highly speculative empirical assumptions – the idea that reduced work hours are necessary to combat climate change because they lead to a reduction in greenhouse gas emissions.

<sup>18</sup> Friedrich Nietzsche, *The Gay Science: With a Prelude in German Rhymes and an Appendix of Songs*, vol. 3. print (Cambridge [u.a.]: Cambridge University Press, 2004), 184.

Of course, no one today claims that there ought to be a subservient class of persons who should work to enable another more privileged class to carry out ‘higher’ activities. But many think we should retain Aristotle’s judgment that work is less valuable than free time.<sup>19</sup> Contemporary perfectionists claim that we should use advanced technology to replace servants with robots and machines, so that we are free from work and can flourish and achieve excellence through higher activities.<sup>20</sup>

Another prominent perfectionist argument for reduced working time holds that long work hours are bad for workers’ happiness. There is evidence that people who work less are on average happier than people who work a lot and many politicians, activists, and scholars take this to be a decisive argument in favour of reduced working time.<sup>21</sup> Unlike the Aristotelian argument, this argument doesn’t rely on the idea that free-time-activities are more valuable than work. It simply observes that a society where people work less is one that produces more happiness. No judgment is made about the value of the activities that humans can engage in when they work and when they enjoy free time. Proponents of the ‘happiness argument’ for reduced working time are not committed to the idea that it is better for humans to engage in artistic production or contemplation, rather than in material production or housework. The happiness argument is perfectionist in a different way, however. It assumes that it is governments’ duty to increase citizens’ happiness because our lives go better when we are happier. Many would agree with this assumption but we can’t expect that everyone should accept it. Imagine for example a mathematician who undergoes great hardship to discover proof of a certain theorem. The happiness she derives from discovering the proof might not outweigh the hardship she incurred during her search but she might nevertheless think of her endeavour as worthwhile.<sup>22</sup> This points us to an important shortcoming of perfectionist arguments.

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<sup>19</sup> Bertrand Russell, *In Praise of Idleness: And Other Essays*, vol. 5. impr (London: Allen Unwin, 1958); Josef Pieper, *Leisure: The Basis of Culture; The Philosophical Act* (Ignatius Press, 2009); Julia Maskivker, *Self-Realization and Justice: A Liberal-Perfectionist Defense of the Right to Freedom from Employment*, Routledge Studies in Contemporary Philosophy 35 (New York: Routledge, 2012).

<sup>20</sup> Russell Muirhead, *Just Work* (Cambridge, Mass: Harvard Univ. Press, 2007); David Frayne, *The Refusal of Work* (London: Zed Books Ltd, 2005); Coote, Harper, and Stirling, *The Case for a Four-Day Week*. Erik Brynjolfsson and Andrew McAfee, *The Second Machine Age: Work, Progress, and Prosperity in a Time of Brilliant Technologies* (York: W. W. Norton & Company, 2014)

<sup>21</sup> Tim Kasser and Kennon M. Sheldon, ‘Time Affluence as a Path toward Personal Happiness and Ethical Business Practice: Empirical Evidence from Four Studies’, *Journal of Business Ethics* 84, no. S2 (2009): 243–55; Pouwels, Siegers, and Vlasblom, ‘Income, Working Hours, and Happiness’; Anthony Lepinteur, ‘The Shorter Workweek and Worker Wellbeing’, 2016; Cem Başlevent and Hasan Kirmanoğlu, ‘The Impact of Deviations from Desired Hours of Work on the Life Satisfaction of Employees’, *Social Indicators Research*, no. 118 (2014): 33–43.

<sup>22</sup> Apart from being objectionably perfectionist, the happiness argument is also consequentialist in a way we might find troubling. The relation between work hours and happiness that some studies have found is

The happiness argument and the Aristotelian argument I just described are problematic because they aren't justifiable to all reasonable citizens. In plural societies, citizens hold a variety of views about what is good in life and at least some will disagree with the idea that free time is more valuable than work. Political liberals think that the kinds of reasons that states offer to justify interventions like working time reduction should be neutral between the various conceptions of the good that exist in society.<sup>23</sup>

Roughly, the idea behind this demand for justificatory neutrality is the following. Citizens are regarded as free and equal in some fundamental sense. State-imposed limitations of freedom and unequal treatment require justification. Modern states yield tremendous power and the laws and regulations issued by states impact citizens' lives and limit their freedom in various ways. If states' use of power is to be legitimate, it must be justifiable to *everyone* whom it affects – not just to a subset of the population. States must justify their exercise of authority in a way that is analogous to the exercise of power among individuals. If an individual wants to exercise authority over another, she must be able to offer reasons that the person she exercises authority over can reasonably be expected to endorse – otherwise her exercise of authority is illegitimate. Similarly, the exercise of state authority is illegitimate when there are some citizens to whom it can't be justified.

To illustrate, consider the case of controversial practices like drug use and gambling. Sometimes governments justify policies to restrict or prohibit these practices by arguing that people have better lives when they abstain from gambling and drug use. Political liberals, in contrast, think that we shouldn't invoke such controversial judgements about what makes for a good life when justifying public policy. The same is true for policies that regulate work hours. Political liberals think that these policies mustn't be justified with reference to an idea of how much free time a good life

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contingent on a number of mediating variables that should make us doubt whether further working time reductions would always increase happiness. One reason why many workers are happier when they work less is that their work is boring, stressful, painful, or otherwise unpleasant. If these workers had access to jobs that are interesting, meaningful, or simply enjoyable, then they might not become happier if they worked less. I will get back to this concern about job quality in a moment. Another reason why further working time reductions might not always increase workers' happiness is that the returns of free time on happiness diminish at the margins. For someone who works very long hours, an additional hour of free time might bring a significant increase in happiness. But as workers gain more and more free time, each additional hour might add less to their happiness. If this is true, the scope of the happiness argument is rather limited.

<sup>23</sup> John Rawls, *Political Liberalism*, Expanded ed, Columbia Classics in Philosophy (New York: Columbia University Press, 2005).

ideally contains. After all, there is reasonable disagreement about the question of what makes for a good work-life balance.

In what follows I will endorse this liberal neutrality constraint as one of the benchmarks that a convincing argument for reduced work hours must meet. I will not however argue for it. Much has been said about the plausibility of political liberalism and I will simply take its attractiveness for granted.<sup>24</sup> This might be disappointing to those who disagree with the ideals of political liberalism. But the fact that my arguments are compatible with liberal neutrality doesn't mean that perfectionists can't get on board with them. On the contrary, liberal anti-perfectionist arguments of the kind I will explore have wide appeal because one can get on board with them independently of one's convictions about what makes for a good life. My aim is thus to complement the existing literature on working time regulation, so that proponents of reduced work hours can rest their demands on a more solid basis.

One implication of my commitment to political liberalism is that I favour policies that expand *opportunities* for free time over policies that force workers to work less. There is a 'coerciveness spectrum' of working time reduction policies, on one end of which lie maximum hours laws that limit the amount of time during which employees can work, and on the other end of which lie incentives and free time protections, such as for example subsidies for part-time work, or a right to part-time work. Another example for a non-coercive policy is the *right to disconnect* introduced in 2017 in France, whose goal it is to reduce cases of burnout among employees by requiring large and mid-sized firms to propose timeframes during which workers are not expected to be online and respond to emails. The French law imposes no legal consequences for non-compliant firms, which places it at the very 'non-coercive' end of the spectrum. Reductions of average working time can also be achieved non-coercively by strengthening the bargaining position of those who have preferences for more free time.

Given my endorsement of political liberalism, I will assume that the most attractive policies are those that lie close to the 'non-coercive' end of the spectrum because these policies are least restrictive of individual freedom. I assume that the task of government is in most cases to provide citizens with fair opportunities to access free time – rather than forcing them to have more free time. However, while in many circumstances working time reductions can be brought about through expanding opportunities for free time, there might be exceptions to this rule, for example when alternatives to maximum hours legislation are unavailable or highly inefficient. Some of the

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<sup>24</sup> For a compelling defence of political liberalism see Jonathan Quong, *Liberalism without Perfection* (Oxford University Press, 2010).

arguments I advance in subsequent chapters will be relevant in such circumstances, because they justify not only opportunities to work less but also policies that lie closer to the ‘highly-coercive’ end of the policy spectrum.

Related to this, it bears emphasizing that there are two ways in which we can understand the term ‘working time reduction’. On one reading, working time reduction refers only to coercive policies, such as maximum hours laws, that restrict the amount of time during which citizens are allowed to work. On a broader interpretation, the term working time reduction refers to the goal of decreasing the average amount of time that is spent on work in a given society. This broader interpretation of the term is consistent with the idea that reductions in average working time should ideally be brought about through non-coercive measures that expand access to free time. Insofar as workers have preferences for more free time, the effect of policies that improve access to free time will be that average working time per worker in society goes down. I will subsequently use the term in this broader sense.

## Scope and Limitations

My analysis is limited to identifying reasons that a politically liberal society can offer for policies that aim at improving individuals’ opportunities for free time. It is also limited in several other ways. Apart from setting aside perfectionist and consequentialist arguments, I must set aside several other issues pertaining to the expansion of access to free time.

First, I lack the space to discuss in detail the empirical features of specific policies that can be used to achieve the aim of improving access to free time, such as, for example, the likelihood or extent to which they can achieve their aimed-at consequences. Policy makers have a variety of tools at their disposal to affect the opportunities people have to reduce the work they do, including, for example expansions of entitlements to annual vacation, the right to work part time, the introduction of a right to sabbatical leave, or the prohibition to work more than a certain number of hours per week. Subsequent chapters contain *some* discussion of policy-options as they relate to the different arguments I present. My main goal is however not to assess the soundness of the empirical assumptions made by specific policies, but to assess the normative arguments for whether they are in principle justified.

Second, I focus narrowly on the *quantity* of work that is carried out in society, thereby largely bracketing concerns about the *quality* of work. There is an emerging literature on the question of whether states should undertake efforts to improve people’s access to high-quality work, which,

interesting though it is, I must set to one side.<sup>25</sup> To some, this might look like a concerning omission, which is why I will justify the decision not to engage with the quality of work in a moment.

Third, I lack the space to engage with many of the interesting psychological and sociological aspects of free time, time-pressure, and time poverty. Feelings of time-pressure arise not only from ‘objective’ circumstances, such as low income and social pressures, that I discuss in this dissertation, but also from several psychological mechanisms.<sup>26</sup> For example, people feel more time-pressured when they have high opportunity costs. Someone who earns \$500 per hour perceives her free time to be more precious and scarcer than someone who earns \$50 per hour. People also feel more time-pressured when they don’t enjoy what they’re doing or when they perceive their goals to stand in conflict with each other, so that dedicating time to the pursuit of one goal sets back the pursuit of another goal.<sup>27</sup> I mention these psychological dimensions of time pressure for the sake of completeness but will subsequently set them aside. There are also interesting sociological and historical findings on the topic of overwork, time-pressure, and acceleration that I cannot address in my discussion.<sup>28</sup> I also lack the space to engage with the history of ideas in philosophy as it pertains to the demand for a shortened workweek, the value of free time, and what it means to be ‘at work’ in an abstract philosophical sense.

Before I begin to describe the content of subsequent chapters, I must engage with three important objections that might appear to undermine the proposal to regulate working time from the very outset. The first is that working time regulation would be unnecessary if all citizens had access to meaningful work, so that they wouldn’t perceived work as burdensome. The second objection holds that there would be no need for working time regulation if everyone received a sufficiently generous basic income that provides them with the freedom to reject work arrangements that don’t suit their preferences. The third objection takes the form of a dilemma according to which there

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<sup>25</sup> Samuel Arnold, ‘The Difference Principle at Work’, *Journal of Political Philosophy* 20, no. 1 (2012): 94–118; Richard J. Arneson, ‘Is Work Special? Justice and the Distribution of Employment’, *The American Political Science Review* 84, no. 4 (1990): 1127–47; A. Gheaus and L. Herzog, ‘The Goods of Work (Other than Money!)’, *Journal of Social Philosophy*, no. 47(1) (2016): 70–89.

<sup>26</sup> John P. Robinson, ‘Americans Less Rushed But No Happier: 1965–2010 Trends in Subjective Time and Happiness’, *Social Indicators Research* 113, no. 3 (2013): 1091–1104; John P. Robinson and Geoffrey Godbey, *Time for Life* (University Park: Pennsylvania State Univ. Press, 1997); Daniel S. Hamermesh, *Spending Time: The Most Valuable Resource* (New York: Oxford University Press, 2018).

<sup>27</sup> Kira M. Newman, ‘Why You Never Seem to Have Enough Time’, *Greater Good Science Center, UC Berkeley*, 2019,

[https://greatergood.berkeley.edu/article/item/why\\_you\\_never\\_seem\\_to\\_have\\_enough\\_time](https://greatergood.berkeley.edu/article/item/why_you_never_seem_to_have_enough_time).

<sup>28</sup> Judy Wajcman, *Pressed for Time*, paperback edition 2016 (Chicago; London: The University of Chicago Press, 2015); Hartmut Rosa, *Social Acceleration, New Directions in Critical Theory* (New York: Columbia University Press, 2013); Chris Rojek, *The Labour of Leisure* (Los Angeles; London: SAGE Publications, 2010).

are two ways in which working time reduction can be implemented, one of which causes unemployment and the other causes poverty, so that working time reduction always involves a choice between two bad options.

## Meaningful Work

Let's first consider the meaningful work objection. According to this objection, complaints about excessive work hours are widespread because most people don't perceive their work as meaningful or enjoyable. Working time regulation might be unnecessary if everyone had access to high-quality work because workers wouldn't mind spending their time on enjoyable and meaningful activities. In other words, complaints about excessive work hours are ultimately triggered by the quality of work, not by its quantity.

A reply to this objection should begin by conceding that *some* complaints about excessive work hours could indeed be ameliorated or eliminated by improved working conditions. Long working time is much easier to accept when work is fun and meaningful. But it is unlikely that all complaints about excessive hours would disappear if workers had access to good work. Even the most enjoyable activity can become frustrating if we must pursue it over a very long stretch of time. And although work might be a highly meaningful activity, it competes for our time with other meaningful activities that we could pursue outside work. Some complaints, including those I describe in subsequent chapters, would therefore persist even in a world where access to good work is universal, or at least greatly expanded.

We must also bear in mind that providing everyone with access to good work would be extremely costly. One reason why many perceive their work as burdensome is that it is highly specialized and repetitive. It might be possible to improve the quality of jobs by making them less specialized, so that workers could "hunt in the morning, fish in the afternoon, rear cattle in the evening, [and] criticise after dinner".<sup>29</sup> However, this would arguably risk an unacceptable loss in productive efficiency. The affluence of industrialized societies is largely due to a highly specialized division of labour and reducing that specialization would result in a much lower standard of living.<sup>30</sup>

Improving the quality of work should therefore not be regarded as a substitute but as a complement to policies that expand opportunities for free time. Given that it is very costly to provide everyone

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<sup>29</sup> Karl Marx. *The German Ideology*. 1845. Part I: Feuerbach. *Opposition of the Materialist and Idealist Outlook*. See also Paul Gomberg, *How to Make Opportunity Equal: Race and Contributive Justice*, vol. 1. publ (Malden, MA [u.a.]: Blackwell, 2007).

<sup>30</sup> Andrea Veltman, 'Is Meaningful Work Available to Everyone?', *Philosophy and Social Criticism*, no. 41 (7) (2015): 725–47.



with access to high-quality work, we should be open to the idea of using working time reduction as a way of addressing complaints about unpleasant working conditions. Complaints about bad work can be addressed either by improving the quality of work, or by reducing the amount of time workers must spend on unpleasant jobs, or, of course, a combination of both.

## Basic Income

Let's now turn to the second objection according to which any need for working time regulation could be obviated by the introduction of a basic income. To understand how the introduction of a basic income might address complaints about long work hours, it is helpful to observe that working time mismatches – i.e., situations where workers work fewer or more hours than they would like to work – often result from workers' inability to bargain for working time arrangements that better suit their preferences. In contemporary societies employers normally enjoy more bargaining power than workers. This is because most workers depend on a monthly income to sustain themselves economically so that they can't credibly threaten employers with quitting their jobs or refusing proposed work contracts. Employers, by contrast, often have savings that allow them to withhold their offers. Employers' bargaining power is further enhanced by the fact that there is involuntary unemployment in most societies, which makes it possible for employers to credibly threaten workers with dismissal. Proponents of basic income maintain that workers and employers would bargain on a much more even footing if workers received an income that is not conditional on their willingness to sell their labour. One consequence of this 'levelling' of bargaining power might be that workers would be able to bargain for working time arrangements that suit their preferences.

One attraction of this solution to the problem of working time mismatches is that it is anti-perfectionist. As I emphasized in the previous section, citizens have different conceptions of what an ideal work-life balance is. Some citizens are grasshoppers, others are ants. The introduction of a basic income would make it possible for workers to bargain for contracts that suit their preferences – whatever these preferences are. States that introduce basic income, don't thereby endorse any view of what an ideal work-life balance is. We might say that basic income offers a *procedural* solution to the problem of work hours mismatches, whereby the total amount of work carried out in a society is the product of individual choice rather than a *top-down* implementation of an independently identified work-quantity, such as the 40 hours work week.

Another advantage of basic income is that it would help both waged workers and self-employed workers achieve their preferred work life balance. Other policies, such as maximum hours

legislation, face the difficult problem of dealing with the self-employed. Van Parijs and Vanderborght describe this problem as follows.

if the compulsory reduction in working time were meant to apply to all workers, whether waged or self- employed, a nightmarishly expensive and intrusive bureaucracy would be required to achieve anything approaching a fair implementation. If, instead, the measure were restricted to waged workers, then the self-employed, both real and fake, would proliferate. Employers would rather hire the services of self-employed workers— highly skilled or not— who could work without time limit than have employees on their payrolls with tightly limited hours. As a result, an unhealthy bubble of pseudo- self-employed, precarious workers would develop and the expected impact on job-sharing would fail to materialize.<sup>31</sup>

In summary, there seem to be two weighty reasons for preferring basic income over working time regulation: on the one hand, basic income is more respectful of individual choice and on the other hand it is more efficient because it circumvents the need to regulate the self-employed.

Several things can be said in response to the basic income objection against working time regulation. Let me begin by noting that it is somewhat misleading to characterise basic income and working time regulation as two competing policy options. If it were true that the introduction of a generous basic income leads to a reduction in work hours, then we should perhaps endorse it as an interesting and perhaps necessary part of a policy-package whose aim it is to reduce working time. In that sense I don't regard the proposal to introduce a basic income as an objection to the proposal to reduce working time.

I do however reject the idea that the introduction of a basic income would be *sufficient* to achieve the end of reduced working time. Basic income addresses some but not all morally objectionable causes of excessive work hours. It expands workers bargaining power and thereby mitigates the problem that workers must often sign contracts that are unfair to them. But unequal bargaining power is not the only cause of objectionably long-working-time. As I will explain in chapters 2, 3, and 4, excessive work hours are sometimes caused by collective action problems that arise even under circumstances where workers and employers bargain on an equal footing. Chapter 5 contains a more detailed discussion of the proposal to achieve justice in access to free time through fair

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<sup>31</sup> Philippe van Parijs and Yannick Vanderborght, *Basic Income: A Radical Proposal for a Free Society and a Sane Economy* (Cambridge, MA: Harvard University Press, 2019), 49.

bargaining and concludes that though enhancing workers bargaining power is important, it is not enough to provide everyone with fair opportunities to access free time.

It also bears emphasizing that basic income is not the only anti-perfectionist way of achieving reduced working time. As I just explained, basic income is attractive because it leaves the decision of how much to work to each individual. But there are other policies that are respectful of individual choice. To illustrate, states can institute a right for workers to take sabbatical leave. Those who wish to make use of this right can take it up but there is no requirement to take sabbatical leave.

There is another reason to be suspicious about the idea of relying *solely* on basic income as a means of achieving justice in access to free time. Many philosophers argue that basic income is most attractive and most defensible when it is unconditional and when it is pitched at the highest economically sustainable level.<sup>32</sup> This kind of basic income is somewhat more utopian than working time regulation in the sense that it is more difficult to institute under conditions that are currently given in most societies. Instituting a generous basic income requires a very significant redistribution of wealth and is likely to face fierce resistance from privileged classes.<sup>33</sup> The fight for a shortened workweek in contrast is somewhat more realistic in the sense that it already enjoys broad support in the worker movement and governments around the world have gathered extensive experience with the implementation of policies that regulate working time. In the short run it might be easier to achieve significant working time reductions than to achieve a generous basic income.

The fact that basic income is more difficult to achieve doesn't mean that activists should give up the fight for this idea. But we should be open to the idea of making progress towards social justice on different fronts, both in the short run and in the long run. The urgency of the problem of excessive work hours makes it imperative to explore alternatives to basic income that have a chance of being implemented in the near future.

## The Dilemma between Poverty and Unemployment

I now turn to the third concern that threatens to undermine the proposal to reduce working time. To understand this concern, we must observe that there is a distinction between working time reduction policies that compensate workers for the loss of income that fewer work hours entail, so that their absolute monthly income remains the same although they work less, and policies that

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<sup>32</sup> Philippe Van Parijs, *Real Freedom for All: What (If Anything) Can Justify Capitalism?*, Oxford Political Theory (Oxford: Clarendon Press, 1995).

<sup>33</sup> Lukas Stanczyk and Alex Gourevitch, 'The Basic Income Illusion', *Catalyst*, 2018, <https://catalyst-journal.com/vol1/no4/the-basic-income-illusion>.

don't foresee such compensation, so that those who work less, receive less pay. The objection holds that each of these choices, compensation, and no compensation, has unpalatable consequences, so that proponents of reduced working time are faced with a dilemma.

Consider first cases where governments issue coercive working time restrictions without compensation. This threatens to harm those with little marketable skill, who must work long hours to earn enough to meet their basic needs. Imagine someone whose income is very low, so that she has no choice but to work a lot in order to afford life's basic necessities. Governments that prevent low-income earners like her from working enough to make ends meet harm these persons because they make them substantially worse off than they would be if they could work enough to meet their basic needs. One of the most fundamental tasks of a just society is to ensure that all its members can meet their basic needs. Yet, maximum work hours legislation might have the effect of pushing low-income earners beneath a subsistence threshold.

Faced with this unacceptable consequence, proponents of reduced working time might propose that workers should receive wage compensation when their working time is reduced, so that their monthly income remains the same, although they work less. This leads us to the second horn of the dilemma. Imagine that governments require employers to increase workers' hourly wages when their working time is reduced, so that workers' absolute income remains the same before and after working time has been reduced.

Such a policy resembles minimum wage legislation in that it forces employers to pay workers more than they would pay in a free market setting. This makes working time reduction vulnerable to an objection that is often levelled against minimum wage legislation. The objection assumes that employers' demand for labour goes down when the price of labour goes up, so that employers who are required to pay wages that lie above the market equilibrium will offer fewer jobs than they would otherwise offer. According to the neoclassical model of the labour market, free bargaining between workers and employers under idealised conditions maximises employment because it helps identify an equilibrium price of labour where the market clears and no involuntary unemployment occurs.<sup>34</sup> In a world where states require employers to deviate from this equilibrium price, there might be more unemployment because employers are not willing to hire some workers under these conditions. The upshot of this is that working time reduction with wage compensation might cause unemployment.

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<sup>34</sup> James D. Gwartney, Richard Stroup, and J. R. Clark, *Essentials of Economics*, 2nd ed (Orlando: Academic Press, 1985), 405.

Consequently, advocates of reduced working time seem to face a dilemma. If working time reductions are implemented without wage compensation, low-income earners might be pushed beneath a subsistence threshold. If workers receive wage compensation, unemployment might increase.

One response to this purported dilemma is to deny that raising workers' wages does in fact lead to higher unemployment. We can grant, for the sake of argument, that neoclassical theory is right in assuming that deviations from a free market equilibrium wage lead to higher unemployment. But real existing labour markets differ from idealised models in various ways. One difference between real labour markets and the idealised model is that employers often enjoy an unfair advantage in bargaining power over workers. The neo-classical model assumes that employers have no market power to determine wages. In real labour markets, this requirement is often not met because unemployment, asymmetric information, and imperfect labour mobility give some degree of wage-setting power to employers.<sup>35</sup> We can speculate that an economy where workers and employers could bargain on a more or less equal footing would be one where most workers earn substantially higher wages than they currently do.<sup>36</sup> The upshot of this is that legislation to increase workers hourly wages doesn't distort ideal free market outcomes but brings economies closer to the kind of outcome that would emerge from an ideal free bargaining setting.

An alternative reply to the dilemma-objection points out that it need not be employers who must subsidise workers' wages. The task of compensating workers for the income-loss they incur as a result of reduced working time can be assumed by the state. Governments can use tax revenue to subsidise workers' wages so that they don't fall below a subsistence threshold. This ensures that employers aren't forced to pay higher hourly wages and thus have no reason to hire fewer workers. This approach has been endorsed among others by John Rawls, according to whom governments should subsidise wages in cases where workers would otherwise be unable to meet basic necessities.<sup>37</sup>

Finally, governments can avoid the dilemma by providing welfare services to those who are at risk of poverty, so that lower wages don't result in lower living standards. This would leave the market price of labour unchanged while ensuring that no one falls below a subsistence threshold.

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<sup>35</sup> William M. Boal and Michael R Ransom, 'Monopsony in the Labor Market', *Journal of Economic Literature* 35, no. 1 (1997): 86–112.

<sup>36</sup> David E. Card and Alan B. Krueger, *Myth and Measurement: The New Economics of the Minimum Wage*, Twentieth-anniversary edition (Princeton: Princeton University Press, 2016).

<sup>37</sup> Freeman, Samuel, John Rawls: Think Tank interview with Ben Wattenberg, 2 September 2004, <https://www.pbs.org/thinktank/transcript1158.html>.

Summing up, I have responded to three objections against the proposal to regulate working time, showing that improving the quality of work and introducing a basic income is not sufficient to address concerns about excessive work hours and that governments who aim at reducing working time are not forced to choose between increasing either unemployment or poverty. This clears the path for subsequent chapters, where I explain how collective action problems, negative externalities, and concerns about fairness can ground a liberal and anti-perfectionist case for reduced working time.

## Chapter Overview

My main point of departure is that collective action problems and negative externalities sometimes cause objectionably long work hours. Politically liberal societies should be concerned with externalities and collective action problems when they impose objectionable limits on individuals' ability to choose a work life balance that fits their preferences. Under some circumstances, working time regulation enhances individuals' ability to act in line with their preferences and therefore doesn't violate the liberal neutrality constraint.

The first chapter situates my philosophical project in the context of liberal egalitarian approaches to social justice. It sets the stage by describing what implication these approaches have for the question of how governments should regulate work hours. I engage in some detail with the most prominent liberal egalitarian approach to social justice – John Rawls's theory of justice – and discuss how it can inform discussions of working time regulation. I explain how his theory generates a 'sufficientarian' concern for free time, according to which governments must ensure that citizens have enough opportunities for free time to be able to enjoy the fair value of their basic liberties, and a 'fairness' concern, according to which citizens are entitled to a fair share of the primary good, 'leisure'. I discuss how free time might be incorporated into an index of advantage and what implications follow when free time is treated as a primary good. To that end, I discuss how free time can be defined and measured. Finally, I point out several difficulties that the Rawlsian approach faces when it is applied to the problem of working time regulation. One particularly important shortcoming of the Rawlsian approach is that it doesn't yield sufficiently precise judgements to evaluate the above-mentioned demands for a shortened workweek. In subsequent chapters I show how more specific conclusions as to how much working-time regulation is morally justifiable can be reached.

Chapter 2 engages with a collective action problem that occurs between workers in the labour market – the working time rat race. What causes this collective action problem is that employers often use working time as a proxy for their employees' productivity and commitment. Those who

work particularly long hours are awarded benefits such as raises or promotions or are spared from dismissals. This makes it individually rational for each worker to work extra-hours in an attempt to out-compete colleagues. However, if many workers pursue this strategy, it loses its effectiveness. My analysis shows that workers with preferences for more leisure have a claim to state intervention to remove the rat race when this doesn't impose disproportionate harm on third parties.

Chapter 3 extends discussion of the rat race by showing that collective action problems that cause long work hours arise not only between individuals but also between firms. Firms often use novel technology to increase production of goods and services. An alternative to using novel technology to increase output is to use it to reduce the amount of working time that goes into the productive process. I show that firms often prefer expansions of output over expansions of workers' leisure because they face a collective action problem that makes it rational for each firm to enhance competitiveness by increasing output although this strategy is self-defeating when a large number of firms pursues it. This gives rise to a complaint for workers, whose preferences would be better served if firms sometimes used novel technology to reduce working time.

Up to this point my focus is on interactions between workers, employers, and firms in the labour market. Chapter 4 broadens the scope of my discussion by considering the problem of unpaid work and the gendered division of labour. Until today, most heterosexual couples with children follow a division of labour whereby men engage in more paid work and women conduct more care- and housework. Many regard the persistence of this division of labour as morally objectionable, but philosophers have difficulties explaining why exactly it should be condemned and overcome. I criticise various accounts of the injustice of the gendered division of labour and claim that considerations around voluntariness, equality of opportunity, discrimination and autonomy fail to detect the distinctive moral wrong of the gendered division of labour. I then argue that this moral wrong is best cashed out as a negative externality imposed by those who divide work along traditional gender lines on those who would like to split paid and unpaid work more equally.

Finally, chapter 5 discusses the problem of differential costs that individuals face when they want to access free time at different life-stages. Here I don't ask how much individuals would work in the absence of morally objectionable externalities and collective action problems but how costly access to free time should be at different stages of an individual's life. In most industrialized countries, citizens enjoy a very large amount of free time towards the end of their lives, when they are retired, but find it very costly to access free time during the middle part of their lives. This is concerning because those who die early are deprived of the reward of free time that retirement holds. Extreme discrepancies between a time-rich old age and a time-scarce middle age are not, however, inevitable: Some states incentivize long work hours during middle age in combination

with early retirement, whereas others incentivize shorter work hours during middle age and later retirement. I argue that justice requires a redistribution of access to free time from old age to middle age, so that access to shorter work hours during middle age becomes less costly and early retirement becomes more costly.

The main contribution of this dissertation is then to show why we should endorse demands to increase citizens' access to free time, such as for example the introduction of a four-day work week or the right to periodic sabbatical leave. Existing liberal approaches, such as Rawls's theory of justice, don't provide specific enough guidance to decide whether or not justice requires expanding protections of free-time. Perfectionist approaches reach more determinate conclusions but they can't be justified to all members of a society. Evaluating the morality of externalities, problems of collective action, and fairness in access to free time at different life-stages helps appreciate several thus far overlooked reasons to be concerned with the fate of grasshoppers. Each chapter offers some reason to be concerned about the fate of grasshoppers in our societies. Taken together, these different considerations make a strong case for working time reduction. Justice requires facilitating much more access to free time than is currently available to citizens in countries around the world.



# 1. Liberal Egalitarianism and Free Time

As I explained in the introduction, demands for reductions in working time have gained much prominence in recent years. For political philosophers, this raises the question of whether a significantly reduced work week is compatible with or indeed required by social justice. In this chapter, I discuss what resources existing liberal egalitarian approaches offer to understand demands for expansions of free time and how they judge the above-mentioned demands for significant expansions of access to free time.

## 1.1 Preliminaries

The most prominent liberal egalitarian approach to social justice is John Rawls's Justice as Fairness, and much contemporary theorising on free time is informed by Rawls's theory. Most notably, Julie Rose has recently produced seminal work on how Rawls's liberal egalitarian framework generates a concern for justice in the distribution of free time.<sup>1</sup> Rawls's theory is a natural starting point for my discussion, not only because it remains one of the most influential approaches to social justice but also because Rawls acknowledges the importance of free time and offers some – albeit very brief – comments on what his approach might entail for justice in access to free time.

The implications of Rawls's theory for how we should think about justice in the distribution of income and wealth have been discussed at great length. Here, my task is to explore what implications his conception of justice has for the way we should think about justice in access to free time. How much guidance can we derive from a suitable interpretation of Rawls's theory to judge the idea of reducing the average workweek?

To answer this question, I first describe some aspects of Rawls's theory that are relevant to assessing problems of free time and that explain why free time is a good whose distribution must be evaluated separately from the distribution of other goods, such as income and wealth. Section 1.2 explains how Rawls's theory generates a concern for the protection of free time on the grounds that citizens can only make effective use of their basic liberties if they have enough free time. Section 1.3 explains that beyond the provision of an amount of free time that is *sufficient* to protect basic liberties, Rawls's theory also requires that all citizens must enjoy a *fair share* of free time. In section 1.4, I discuss how free time should be defined and measured. This is important because answers to the question of how much access to free time citizens should enjoy partly depend on how exactly free time is defined. Section 1.5 discusses how the size of a fair share of free time

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<sup>1</sup> Rose, *Free Time* op.cit.

might be determined. I explain that Rawls's theory faces significant difficulties in determining how much free time should be made available to everyone. It doesn't yield sufficiently precise advice to judge popular demands, such as the introduction of a four-day work week. This observation motivates subsequent chapters, where I explain how morally objectionable collective action problems give rise to a liberal, anti-perfectionist case for working time regulation.

## 1.2 Rawls's Theory of Justice, Free Time, and the Convertibility Objection

According to Rawls, we should conceive of justice as requiring a fair distribution of the benefits and burdens that individuals incur when they cooperate in society.<sup>2</sup> In order to discover the content of such fair conditions of cooperation, Rawls proposes the following contractualist thought experiment. A group of individuals is tasked with designing the constitutional setup of a society that specifies how the benefits and burdens of social cooperation ought to be distributed. The participants of this fictitious bargaining process are guided by rational self-interest and have no knowledge of the social position they will occupy in a future society. Crucially, they lack knowledge of their personal characteristics such as age, gender, race, or social class and are therefore unable to bargain for rules that favour the particular group to which they belong.<sup>3</sup>

Rawls argues that it would be rational for individuals in this situation to agree on three principles of justice that would guide cooperation in society. The first of these principles secures an extensive set of basic liberties for everyone. The second principle establishes that competition for advantaged social positions be open and fair, and the third principle demands that there be no social and economic inequalities unless these inequalities work to the greatest benefit of the least advantaged members of society.<sup>4</sup> The first principle takes priority over the second and the second takes priority over the third, which means for example that restrictions of basic liberties can't be justified by improvements in equality of opportunity to access attractive social positions. In order to identify who belongs to the group of the 'least advantaged' and in order to determine which positions count as 'advantaged social positions', Rawls proposes an index of goods that all citizens can reasonably be expected to want more of, independently of their particular conceptions of the good life.<sup>5</sup> Those who fare worst with regards to their endowment of these goods are considered least advantaged.

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<sup>2</sup> John Rawls, *Justice as Fairness: A Restatement* (Cambridge, Mass. [u.a.]: Harvard University Press, 2001), 5–8.

<sup>3</sup> Rawls *op. cit.*, 14–18.

<sup>4</sup> Rawls *op. cit.*, 42–50.

<sup>5</sup> Rawls calls goods that fulfil this criterion "*social primary goods*". Often, these goods are also referred to as *all-purpose means* or *resources* because their use is not limited to the pursuit of specific goals. Instead, these resources are generally valuable to citizens because they are instrumental to advancing a wide variety of

To preview, concerns about justice in the distribution of free time are generated by two different aspects of Rawls's theory. First, some working time regulations and entitlements to free time are needed to ensure that citizens can make effective use of the liberties protected by the first principle. Second, citizens need free time to advance their life plans – whatever they are. Therefore, a plausible interpretation of Rawls's theory entails that all citizens are entitled to a fair share of free time.

Before I explore these implications of Rawls's theory in more detail, it is important to engage with an objection according to which it is superfluous to think about justice in the distribution of free time in the context of Rawls's theory. This objection – let's call it the *convertibility objection* – holds that once a fair distribution of income and wealth is achieved, a fair distribution of free time will automatically follow. This is because citizens can supposedly use money to buy free time. Those with preferences for lots of free time can choose to give up some of their money in order to work less and those with preferences for lots of income can choose to forgo free time and work long hours. Therefore, in order to achieve a fair distribution of free time, it suffices to achieve a fair distribution of income and wealth. Moreover, in order to ensure that citizens have enough free time to make effective use of their basic liberties, it is not necessary that states attend to distributions of free time directly. Instead, endowing everyone with enough money suffices to guarantee that citizens can buy any amount of time needed for the exercise of their basic liberties. If this were true, it would not be necessary to analyse injustices in access to free time because these injustices would be corrected as soon as a fair distribution of money is achieved.

According to Julie Rose, this objection fails because it rests on the mistaken assumption that money and free time are perfectly convertible.<sup>6</sup> Rose defines free time as the number of hours that are left to a person after she has met life's necessities. I will discuss this and competing definitions of free time in more detail in section 1.4. For now, to understand the convertibility objection, it suffices to know that Rose calculates the amount of free time that a person has by summing up how much time that person spends on unavoidable activities, such as earning money, sleeping, or caring for dependants. This sum of 'unfree' time is then subtracted from the 24 hours of time in a day and the resulting figure is a person's free time. Rose claims that money can't always be converted into free time because of two reasons – each of which suffices to demonstrate their imperfect convertibility.

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different life plans. Rawls details that five such goods can be identified: The basic rights and liberties; Freedom of movement, and free choice among a wide range of occupations; The powers of offices and positions of responsibility; Income and wealth; The social bases of self-respect. (*JF*, 58–59)

<sup>6</sup> Julie L. Rose, 'Money Does Not Guarantee Time: Discretionary Time as a Distinct Object of Distributive Justice', *Journal of Political Philosophy* 22, no. 4 (2014): 438–57 Op. cit.

First, workers are in many cases unable to choose their preferred working-time. Many jobs are available only on a take-it-or-leave-it basis, so that workers often have to spend more or less time at work than they would actually like.<sup>7</sup> Second, time spent on unavoidable private activities such as personal care, housework and care for dependants cannot always be reduced by buying services in the market. The amount of time individuals devote to these activities varies greatly, and often this variation is not just a result of differential preferences. Some individuals need more sleep than others, some (for example those with disabilities) must devote more time to personal care than others, and some have to spend more time on care for dependants than others. Many activities of personal care, such as sleep, must be performed by each individual herself and can therefore not be bought in the market. Moreover, even when time-saving services are available in the market, individuals cannot always legitimately be expected to use money to outsource activities such as caring for one's frail mother. Citizens sometimes have weighty reasons to perform these activities themselves, e.g. in order to protect valuable emotional bonds. In some cases, the decision to care for someone should not be treated as a discretionary use of a person's free time but as something that deduces from that person's free time.

According to Rose, each of these two considerations shows that money and free time aren't perfectly convertible and as a result we cannot achieve a fair distribution of free time indirectly by distributing income and wealth fairly. Issues of fairness in the distribution of free time arise even against the backdrop of a fair distribution of money and therefore we must attend to justice in the distribution of free time separately.<sup>8</sup>

Note that Rose shows only that an extreme claim according to which money and free time are *perfectly* convertible is false. She doesn't engage with a more moderate claim according to which money and free time are *largely* convertible. Rose points out that workers are often unable to choose their preferred working-time. For example, many law firms offer jobs on the condition that employees agree to working long hours. Those who would like to work fewer hours cannot get these jobs at all. What this shows is that *within* particular occupations or firms, workers are often unable to choose their preferred working-time. However, this doesn't rule out another way of trading money for time: Those with strong preferences for fewer work hours might be able to choose to work in different jobs that require fewer work hours. The upshot of this is that there

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<sup>7</sup> Lonnie Golden and Tesfayi Gebreselassie, 'Overemployment Mismatches: The Preference for Fewer Work Hours', *Monthly Labor Review*, no. 130(4) (2007): 18–37.

<sup>8</sup> Of course, justice in the distribution of free-time will be compromised much more severely when there is no just distribution of income and wealth. Many workers in contemporary societies cannot trade money for time for the simple reason that the wages they earn are too low to allow for significant reductions in working time. They simply must work long hours in order to make ends meet.

might be some cases where workers cannot trade money for time but they can do so most of the time. Something similar might be true for individuals who must spend more time on necessary activities, such as personal care and sleep, than others. These individuals might not be able to offset their entire free time-disadvantage through purchasing services and time-saving technologies but they might be able to offset their disadvantage to a very large extent in this way. If this were true, it would show that generating a fair distribution of income and wealth could suffice to generate a largely fair distribution of free time.

In reply to this, one might point out that expecting workers to change jobs when they want changes in working time is excessively demanding. Changing one's job is often a difficult and costly endeavour – especially when it involves re-training and or moving houses, for example. Moreover, expecting workers to change jobs when their working time preferences aren't met arguably conflicts with protecting their freedom of occupational choice. The freedom to pursue an occupation of one's choice is important, among other things, because most people spend a significant part of their lives at the workplace and the workplace affects their well-being in a profound way. Telling workers that they can't have their fair share of free time unless they agree to switch to whatever occupation is compatible with having that fair share greatly reduces the value of their freedom of occupational choice.

Similarly, it might be unreasonable to expect individuals with disabilities to buy whatever time-saving services are available in the market, so that they don't fall short of their fair share of free time. This is because those who are being cared for can have weighty interests in being cared for by relatives or others with whom they have strong emotional bonds or relations of trust that would suffer if care was outsourced. In the same way, those who provide care to relatives, partners or friends can have a strong interest in providing this care themselves as opposed to buying care services in the market. As I mentioned above, we might have to regard time devoted to caring for one's disabled mother as something that reduces this individual's free time even if the market offers a service that performs the same caring task. These considerations suggest that even if money and free time are largely convertible, it might be a mistake to expect citizens always to carry out these conversions when they lack free time.

But there is a more fundamental reason why it is important to think about free time as an object of distributive justice. Recall that according to the convertibility objection it is not necessary to think about fairness in access to free time because individuals can use money to buy as much time as they need. However, in order to figure out what a fair money-distribution is in the first place, it is indispensable to have knowledge about people's time-needs. Even if time and money are convertible, we must still be sensitive to variations in individuals' time needs, and resulting

distribution of money must be appropriately sensitive to this. To illustrate, imagine a person whose disability causes her to be objectionably time-poor unless she buys some time-saving services in the market. We can't determine how large this person's fair share of money is unless we know how much money she needs to buy the time-saving services she needs. We must have knowledge about her time-deficit in order to allocate enough compensatory money to her. What this means is that even if money and free time were perfectly substitutable, we would nevertheless have to think about fairness in the distribution of free time in order to find out what justice in the distribution of money requires. If money and free time were perfectly convertible, we might not need *policies* that regulate the availability of free time because people could simply buy as much time as they need. But we would still need to know how much money must be allocated to those who would otherwise fall short of their fair share of free-time. This shows us that thinking about justice in the distribution of free time is indispensable – even if money and free-time are largely convertible. As a result, the convertibility objection fails.

It bears mentioning that there are different ways in which governments can respond to cases where individuals have less than their just share of free time. First, governments can attend to the availability of free time 'directly', for example by subsidising childcare facilities or by regulating work hours. Second, governments can sometimes *compensate* individuals for free time disadvantages. In other words, even if an individual's free time can't easily be expanded through subsidies and regulations, and even if that individual can't use money to buy more time, it might still be possible to offset the disadvantage she suffers by granting her additional money. Plausibly, some but not all injustices in the distribution of free time can be remedied in this way. As I explain in the subsequent section, citizens need a certain amount of free time to be able to make use of their basic liberties. Given the priority for the protection of basic liberties in Rawls' theoretical framework, citizens who don't have enough time to exercise their basic liberties can't be compensated for that shortfall with money. In other cases, where basic liberties aren't threatened by a shortfall in free time, money can plausibly compensate for this disadvantage. Consider the case of harried wall street bankers. Their time-poverty arguably doesn't normally ground a complaint of justice because it is outweighed by, or compensated for, by their high income or by other advantages they enjoy, such as comfortable working conditions.<sup>9</sup>

It also bears mentioning that the degree to which money and free time are convertible changes over time and can be influenced by state action. For example, states can subsidize research on time-

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<sup>9</sup> We can imagine exceptions to this possibility of compensation, for example when bankers who must work very long hours are denied time off to vote. Arguably it would be unreasonable to ask these bankers to change their occupation in order to be able to make use of their basic liberties.

saving technology, so that more of this technology becomes available. Or states can subsidize already existing time-saving technology, such as washing machines or internet access, so that it becomes less costly for citizens to convert money into free time.

With these preliminary considerations in mind, let's now turn to a specific argument for the protection of free time according to which states must ensure that citizens have enough time to make effective use of their basic liberties.

### 1.3. Protecting the Fair Value of Basic Liberties

One particularly important way in which Rawlsian justice can be compromised is when citizens can't make use of the basic liberties protected by the first principle. According to Rawls, the protection of some liberties such as freedom of expression, freedom of association, and freedom of occupational choice is especially important because only when these liberties are protected can citizens develop what Rawls calls a 'moral personality'. Having a moral personality means, among other things, that citizens are capable of devising and revising life plans and of understanding and endorsing fair terms of cooperation. We can't hope to construct a just society unless citizens have these abilities because without these abilities, citizens would be unable to appreciate the merits of a social system where people come together to interact on mutually advantageous terms.<sup>10</sup> What distinguishes basic liberties from non-basic liberties is precisely that only the basic liberties are necessary for the development of a moral personality and it is for this reason that Rawls grants a special status to them.<sup>11</sup>

Arguably, two conditions must be met to make the basic liberties effectively available to everyone. First, citizens need a formal entitlement to each of the basic liberties, such as for example the legal right to freedom of association. Second, citizens need enough resources to be able to exercise the basic liberties. This second condition is often emphasized by authors belonging to a Marxist tradition of thought. Marx pointed out that under capitalism, workers' rights are often empty because workers are deprived of the resources they need to make use of their rights.<sup>12</sup> For example, the right to private property is of little use to workers if their income and power are too small to accumulate any such property.<sup>13</sup>

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<sup>10</sup> Rawls, *Justice as Fairness: A Restatement*, 18–24.

<sup>11</sup> Rawls op. cit, 112.

<sup>12</sup> Karl Marx, On the Jewish Question, 1844. Accessible at <https://www.marxists.org/archive/marx/works/1844/jewish-question/>

<sup>13</sup> Samuel Arnold, 'Putting Liberty in Its Place: Rawlsian Liberalism without the Liberalism', *European Journal of Philosophy* 26, no. 1 (2018): 213–37.

According to Julie Rose, something similar is true for the resource of free time. Following a religion, discussing politics with friends, and voting in elections are all ways of exercising one's basic liberties and all require a certain amount of time that is not consumed with work and other necessities of life.<sup>14</sup> Lukas Stanczyk illustrates this insight, explaining that

if you have to work five days a week from morning till night as well as on weekends just to pay the rent and avoid eviction, then many of the most important liberties of citizenship will for this reason be rendered worthless to you. Forced to be at work at all hours on pain of losing your job, falling behind on the rent, and getting kicked out by your landlord, you will have little use for the freedom to engage in protest and peaceful assembly, to join a political or social organization, or to make other uses of the freedoms of speech, conscience, and association. More generally, in order to make effective use of the numerous legal freedoms you have as a citizen to pursue your personal projects whether alone or with others, you need not just the money but also the time away from work that is required to make some meaningful headway on your goals.<sup>15</sup>

If basic liberties are to be protected not merely in a formal but in a substantial sense, it follows that citizens need a certain amount of free time that enables them to make effective use of their legal freedoms. This type of argument justifies the protection of a certain amount of free time that is sufficient to ensure that citizens can make use of their basic liberties. In other words, protecting the fair value of the basic liberties can be achieved by providing a threshold entitlement to free time that ensures that all citizens have enough time e.g., to go to assemblies, to vote, and to inform themselves. This threshold might not be the same for everyone. Some citizens will need larger shares of free time than others to reach the same adequacy threshold. This is because some can make more effective use of their free time than others (think for example of people who live far away from public forums, or people who read more slowly than others, etc.).

Apart from arguments of this 'sufficientarian' kind, there are also arguments about *fairness* that make entitlements to free time depend on how much free time an individual has *in comparison* to someone else. My task in the next section is to explore this type of argument.

Before that, it is worth pausing to ask how contemporary societies fare with regards to the requirement that everyone must have enough free time to be able to exercise their basic liberties. As I mentioned, the requirement that everyone must have *enough* free time is weaker than the requirement that everyone must enjoy a *fair share* of free time. We can speculate that a relatively

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<sup>14</sup> Rose, *Free Time* Ch. 1.

<sup>15</sup> Lucas Stanczyk, 'Free Time and Economic Class', *Lam, Ethics and Philosophy* 5, no. 0 (2018): 64.



small amount of free time, say 3 or 4 hours per week, is enough for citizens to exercise their basic liberties. During this time citizens can for example inform themselves about political developments, participate in political organizations or go to demonstrations. But most countries, including affluent western democracies, fail to protect even this minimal amount of free time that citizens need to exercise their liberties. Those who must work long hours in order to make ends meet often find it difficult even to find enough time and energy to meet basic needs, such as conducting housework or attending to the needs of children and other dependants.<sup>16</sup> People who earn low wages are not only disadvantaged because they have little money, but also because they have too little free time to make effective use of their basic liberties. States can respond to this problem by redistributing money. Severe time-poverty that curtails citizens ability to exercise their basic liberties is normally caused by money-poverty and can be remedied by redistributing wealth. Another way of putting this is that money and free time disadvantages often *cluster*.<sup>17</sup> Focusing on the fact that people need a minimal amount of free time to be able to function as competent citizens thus helps us appreciate an important and often neglected argument for redistributing wealth and income. I now turn to the question of fairness in the distribution of free time between different groups and individuals in society.

#### 1.4. Free time as a social primary good?

Rawls specifically addresses one concern about free time according to which his theory is unfairly biased in favour of those who have preferences for lots of free time. This implication of Rawls's theory was first noticed by the economist Richard Musgrave, who notes that the Difference Principle counts those who deliberately decide not to work and to live off social benefits, in order to “surf all day off Malibu”, as members of the group of the least advantaged, whose position ought to be maximally improved.<sup>18</sup> This is because those who decide not to work have less income available to them than those who do, which in turn makes them fare worse with regards to Rawls's index of advantages. Musgrave correctly points out that this is an implausible implication of Rawls's theory because under the assumption that there is no involuntary unemployment, a lifestyle of little income and lots of free time will likely be chosen and enjoyed by some citizens.<sup>19</sup> Given that these

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<sup>16</sup> Messenger, Lee, and McCann, *Working Time Around the World: Trends in Working Hours, Laws, and Policies in a Global Comparative Perspective*. Ch. 3.

<sup>17</sup> Jonathan Wolff and Avner De-Shalit, *Disadvantage*, OPT, Oxford Political Theory (Oxford: Oxford University Press, 2013) Ch. 7.

<sup>18</sup> Richard Musgrave, “Maximin, Uncertainty, and the Leisure Trade-Off”, *Quarterly Journal of Economics* 88, 1974, 625–32, at p. 632

<sup>19</sup> Interesting complications arise when the assumption that there is no involuntary unemployment is dropped. In this chapter I set these complications to one side and remain within the idealised theoretical framework of a society where all unemployment is voluntary.

leisure-loving individuals may enjoy opportunities that are identical to those who prefer to work, it seems unjust to count them among the least advantaged, who benefit from redistribution that the Difference Principle requires.

Rawls proposes to remedy this flaw by including approximately 16 hours of leisure per day to the index of social primary goods. As a result, those who decide not to work will have an additional 8 hours of leisure (assuming that the average work day is 8 hours), which makes them better off compared to those who spend 8 hours at work. Consequently, the voluntarily unemployed and those who voluntarily work few hours are less likely to count among the least advantaged (though this of course depends on how well or badly they fare with regards to their possession of other social primary goods).

These comments by Rawls on free time make it seem as if the main reason for incorporating leisure to the index of primary goods is to remedy the “surfer problem”. Yet, there are other, arguably stronger, reasons to justify this move.<sup>20</sup> According to Julie Rose, free time should enter Rawls’s list of social primary goods because citizens need free time to advance their conceptions of the good life – whatever they are.<sup>21</sup> Meeting friends, doing sports, going to the church, reading books, taking piano classes, etc. *all* require free time.

According to Rose, many political philosophers have mistakenly assumed that free time is a *specific good*, not an *all-purpose means*. This is important because according to Rawls, the Difference Principle only governs distributions of all-purpose means, not distributions of specific goods. Specific goods are goods that are desired by some and not by others. Ice cream is a specific good because some enjoy eating it and others don’t. To understand why the Difference Principle does not apply to specific goods, consider the following example. Some individuals in a society like ice cream but haven’t got any. Governments can remedy this by delivering ice cream to those who like it. Alternatively, governments can ensure that citizens have fair shares of the all-purpose means money that citizens can then use to purchase ice cream themselves. One advantage of the latter strategy is that it is not paternalistic. Paternalism occurs when governments’ actions are guided by the idea that the government’s judgment of how individuals should lead their life is superior to that of each individual.<sup>22</sup> Delivering ice cream to citizens amounts to treating them like children who ought not to determine themselves the amount and type of food they eat.

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<sup>20</sup> Rose, *Free Time*, 19–20.

<sup>21</sup> This view is shared by Philippe Van Parijs who points out that “Freely chosen time off work is no less important an indicator of the quality of the lifetime prospects of the worst off than their purchasing power.” Philippe van Parijs, ‘Difference Principles’, in *The Cambridge Companion to Rawls*, ed. Samuel Freeman (Cambridge: Cambridge University Press, 2002), 219.

<sup>22</sup> Quong, *Liberalism without Perfection* Ch. 3.

Another advantage of this strategy is that it allows governments to comply with the liberal principle of neutrality. As I explained in the introduction, governments ought not to justify their actions by appeal to conceptions of the good that citizens can reasonably disagree about. This is attractive because citizens can and do in fact reasonably disagree about the worth of different ways of life. By supplying only all-purpose means, governments do not favour or encourage the leading of some ways of life over others.

Rawls believes that free time qualifies as a social primary good because it “meets the essential condition that primary goods must not presuppose any particular comprehensive doctrine.”<sup>23</sup> Plausibly, this is the case. Providing citizens with fair shares of free time doesn’t amount to favouring one conception of the good over another because free time is needed to pursue all sorts of activities.

Yet, in order to establish the claim that free time is a social primary good, two further conditions must be met. First, a good qualifies as a social primary good only if an objective measure exists to establish who possesses how much of this good. Applied to the case of free time, the criterion of objective measurability entails that equally situated individuals with equal amounts of free time are judged as having the same amounts of free time. Conversely, if two individuals have different amounts of free time, this difference must be accurately detected by our tool of measurement.

Objective measurability is important because it is necessary to ensure fairness: imagine that you and I have equal amounts of free time but a flawed measurement tool determines that your free time is 20 hours less per week than mine. This entitles you to unwarranted compensation. Objective measurability also requires that researchers can rule out (or correct for) bias that occurs through self-reporting. We can expect that individuals’ own judgments about how much free time they enjoy are sometimes distorted. For example, someone might feel time-pressured and harried although she enjoys a lot of free time. As a result, the harried person reports that she enjoys less free time than she actually possesses.<sup>24</sup> We can also imagine that some individuals would deliberately provide false information about how much free time they enjoy, for example because they expect to be compensated for their purported time-poverty or because they want to appear ‘busy’ and productive in the eyes of others.<sup>25</sup>

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<sup>23</sup> Rawls, *Justice as Fairness: A Restatement*, 179 see also page 57.

<sup>24</sup> Hamermesh, *Spending Time* Ch. 2.

<sup>25</sup> Another interesting example of how the publicity criterion can constrain state’s efforts to implement social justice concerns the problem that workers sometimes bargain for high wages, rather than putting up with a lower wage in order to benefit the least advantaged. If states wanted to sanction the profit-maximising behaviour of those who bargain for high wages, they would have to collect information about

The second criterion social primary goods must meet is that the information necessary to establish who possesses how much of the good in question must be publicly available. This is important for two reasons. First, the public availability of information makes it possible for everyone to verify whether the information governments use to inform redistributive policy is accurate or not. This establishes trust and enhances stability. The second reason why using only publicly available information to determine how many social primary goods citizens possess is that this helps protect citizens' right to a private life. Liberal states may not closely monitor sensitive aspects of citizens' private lives in order to obtain knowledge about their possession of certain goods.<sup>26</sup> Consider the example of self-respect. In principle, self-respect would seem to be an attractive candidate for a social primary good because possession of it arguably helps advance any conceivable life plan that citizens may have. However, in order to obtain information about the degree to which someone possesses self-respect, states would have to intrude that person's private sphere in objectionable ways. Therefore, according to Rawls, self-respect should itself not be considered a social primary good.<sup>27</sup> In order to ensure fairness in the distribution of the important good self-respect governments should therefore provide a fair distribution of the *social bases* of self-respect. What this means is that governments should facilitate access to goods that are necessary for developing a secure sense of self-respect, such as for example the possibility of making meaningful contributions to society through work.<sup>28</sup>

Given the fact that knowledge about the distribution of social primary goods is fundamental for the pursuit of social justice, we might ask why citizens can't be expected to put up with the idea that the state should monitor some aspects of their personal life. After all, private firms routinely monitor sensitive aspects of people's lives and they do so for reasons that seem much less important, morally speaking.<sup>29</sup> For example, many firms gather extensive data about the preferences and personality types of the users of their products in order to improve the effectiveness of their

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workers talents and motivations that isn't publicly available. For discussion of this problem see Andrew Williams, 'Incentives, Inequality, and Publicity', *Philosophy & Public Affairs* 27, no. 3 (1998): 225–47.

<sup>26</sup> James Rachels, 'Why Privacy Is Important', *Philosophy & Public Affairs* 4, no. 4 (1975): 323–33; Judith Jarvis Thomson, 'The Right to Privacy', *Philosophy & Public Affairs* 4, no. 4 (1975): 295–314; Carissa Veliz, *Privacy Is Power: Why and How You Should Take Back Control of Your Data* (London: Transworld Publishers Ltd, 2020).

<sup>27</sup> Rawls, *Justice as Fairness: A Restatement*, 60.

<sup>28</sup> Arnold, 'The Difference Principle at Work'.

<sup>29</sup> Olivia Solon, 'Big Brother Isn't Just Watching: Workplace Surveillance Can Track Your Every Move', *The Guardian*, 2017, <https://www.theguardian.com/world/2017/nov/06/workplace-surveillance-big-brother-technology>; Kirstie Ball, 'Workplace Surveillance: An Overview', *Labor History* 51, no. 1 (2010): 87–106; Michel Anteby and Curtis K. Chan, 'A Self-Fulfilling Cycle of Coercive Surveillance: Workers' Invisibility Practices and Managerial Justification', *Organization Science* 29, no. 2 (2018): 247–63.

advertisement.<sup>30</sup> What's more, these practices are legal and most users consent to terms and conditions that make the use of smartphone apps and other software conditional on giving up information about their private lives. This raises the question of how strictly the publicity criterion ought to be interpreted. Perhaps the gathering of data about *some* aspects of citizens lives is justifiable because it helps states to pursue the ends of social justice more effectively.

Rawls is convinced that intruding upon citizens' private lives in order to obtain information about their possession of free time is not necessary because free time meets the criteria of objective measurability and publicity. Free time "[...] has a reasonably objective measure and is open to view."<sup>31</sup> However, Rawls offers no further arguments to support this claim. My task in the next section is to discuss whether it is true that free time can be operationalized in a way that complies with the criteria of objective measurability and publicity. This is important because in order to fruitfully apply Rawls's theory to questions of free time, it is necessary to identify a definition of free time that is both philosophically appealing and empirically measurable. As we shall see, these requirements can come into conflict with each other.

## 1.5 Defining and Measuring Free Time

Before I begin to analyse different definitions of free time, it bears pointing out that there are two different reasons for attempting to define free time. On the one hand, there is an abstract, philosophical question as to what it means for time to be free. On the other hand, there is a 'political' question as to how free time should be defined, given that this definition will be employed by policymakers in order to design legislation that attempts to promote justice in the distribution of free time. To illustrate this distinction between a philosophical and a political definition of free time, consider the analogous question of how to define work. It is interesting to understand what it means 'to be at work' in the most fundamental and abstract sense, and philosophers have devoted a lot of thought to this question. But knowing the most appealing philosophical definition of work is of limited use when it comes to implementing policies that attempt to regulate working time or improve working conditions. To illustrate, Andre Gorz proposes a philosophical definition of work, according to which work is an activity that is primarily aimed at meeting needs that are not ends in themselves.<sup>32</sup> This definition might or might not be philosophically appealing but it is clear that it is of limited use when our task is to find out for example whether the introduction of a universal basic income discourages people from working. In order to find this out, we must find a

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<sup>30</sup> Jonathan Shaw, 'The Watchers. Assaults on Privacy in America', *Harvard Magazine*, 2017, <https://harvardmagazine.com/2017/01/the-watchers>.

<sup>31</sup> Rawls, *Justice as Fairness: A Restatement*, 179.

<sup>32</sup> André Gorz, *Reclaiming Work: Beyond the Wage-Based Society* (Cambridge [u.a.]: Polity Press, 1999).

measure of how much people work, that is we must empirically operationalize the concept of work. Gorz's philosophical definition of work is rather vague and therefore difficult to empirically operationalize. Political definitions are designed with an eye on the requirement for empirical application.

To be sure, the task of finding the best political definition of free time shouldn't proceed independently from the search for the best philosophical definition. But it might deviate from the philosophical definition and compromise some philosophical depth in order to meet the criterion of measurability, and perhaps also the criterion of publicity. In what follows, I'm exclusively concerned with finding an appealing *political* definition of free time.

One common understanding of free time is that of time not spent on paid employment. This negative definition is attractive because of its simplicity. Let's refer to it as the *simple approach* to defining free time. Free time understood as time not spent on the job is relatively easy to measure in an objective way and information about how much time people spend on the job is publicly available for most jobs. After all, this definition of free time doesn't require states to obtain knowledge about the types of activities that individuals pursue when they're not on the job. Instead, it suffices to know how much time an individual spends on paid employment. Whatever time is left after this is done counts as free time.

The simple approach faces some difficulties. Sometimes individuals work from home without registering their work as working-time. Self-employed workers sometimes don't keep track of their working-time. Some workers think about their work outside the workplace, for example when they try to solve intellectual or emotional problems related to their job. Others pursue leisure activities during their official working-time.

Yet, the greater worry about the simple approach is that it disregards activities other than paid work that arguably also reduce an individual's free time. In particular, it regards time spent on unavoidable activities such as housework as free time. This seems arbitrary. Citizens' free time is not only limited by paid- but also by unpaid activities.

To illustrate why the simple approach is problematic, imagine that a government decides to compensate people for time-poverty and it regards everyone as time-poor who works more than 8 hours per day. Judged by this definition, someone who works 10 hours on a paid job is entitled to compensation. Someone who works 6 hours on a paid job and 6 hours on care and housework isn't entitled to compensation although the latter person arguably makes a greater effort.<sup>33</sup>

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<sup>33</sup> Whether this is true might depend on how enjoyable the housework is.

Most empirical time-use studies employ a more sophisticated way of conceptualising free time that avoids this pitfall.<sup>34</sup> These studies begin by defining a number of activities that individuals necessarily have to carry out. Roughly, these activities fall into the categories of paid labour, unpaid household labour and personal care. For example, most individuals must spend some time earning money, preparing food, cleaning the house, washing their teeth, and sleeping. Free time is then calculated as the number of hours that is left for an individual after having completed all unavoidable activities. We can refer to this as the *basic needs approach* to defining free time because it relies on the idea that some activities are necessary to meet basic needs and therefore these activities limit people's free time.

Researchers gather this information by sending out questionnaires and diaries that ask respondents to keep track of their time use by noting down how much time they spend on what kind of activity every day. Defining free time in this way requires more detailed personal information but this need not be problematic because researchers can use representative samples from voluntary respondents and infer from these samples to larger groups of persons.

Yet, the basic needs approach also faces a serious problem. It is true that activities such as cooking, sleeping, or earning money are obligatory and unavoidable in one sense. But it is also true that many individuals decide to spend significantly more time on these activities than would be necessary to cover their basic needs. To illustrate, some persons enjoy cooking and decide to spend several hours every day preparing sophisticated dishes. It would seem odd to regard this way of spending their time as strictly necessary and as something that reduces their free time. Similarly, many individuals decide to earn significantly more money than they would need to cover their basic needs and it would seem odd to treat harried Wall Street bankers as seriously disadvantaged because of their lack of free time. After all, they could decide to work in occupations that pay less and require fewer hours. And of course, those who have enough savings can (and sometimes do) decide to not work at all.

Goodin et al. propose to remedy this defect by employing novel empirical methodology that modifies and improves the basic needs approach: *the social benchmark approach*.<sup>35</sup> This approach begins by defining how much time individuals in a society must spend on a certain activity in order to meet their basic needs. For example, it stipulates that in order to meet one's basic financial needs, one must at least earn a poverty line income – defined as half of the median income of one's society.

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<sup>34</sup> Jonathan Gershuny and Kimberly Fisher. (2013) Multinational Time Use Study. Centre for Time Use Research, University of Oxford. Hamermesh, *Spending Time*.

<sup>35</sup> Robert E. Goodin et al, *Discretionary Time: A New Measure of Freedom*, (Cambridge [u.a.]: Cambridge University Press, 2008).

Time spent on paid employment that goes beyond the number of hours necessary to earn a poverty line income is regarded as free because it is a discretionary use of one's time. This makes it possible to distinguish cases where someone is time-poor because she decides to work a lot from cases where someone is time-poor because she must work a lot in order to make ends meet.

It is important to note that this approach employs a *socially relative* measure of what is necessary to cover one's basic needs. Whether someone is considered time-poor depends on how much time other individuals in a society typically need to perform a particular activity. Like the above-described time-use studies, this measure of free time can meet the criterion of publicity because it draws on similar data than 'standard' time-use studies – data that is publicly available.

It is not clear whether the social benchmark approach can meet the criterion of objective measurability. This is because it is not sensitive to some circumstances that affect individuals' time needs. Imagine two individuals, A and B, who are equally situated except that A has a disability and B doesn't. As a result of her disability, A must spend more time on personal care.<sup>36</sup> The social benchmark approach will incorrectly register the additional time that the disabled person spends on personal care as discretionary time. This is because the social benchmark approach measures differences in only household structure, such as the question of whether a household consists of a double-earning couple without kids or whether it consists of a part-time-employed single parent. It also measures how much income each member of a household earns, but it doesn't measure whether someone has a disability or not. This means that it can't detect whether someone voluntarily spends a lot of time on personal care because she enjoys spending her time in this way or whether someone spends a lot of time on personal care because she must do so. The criterion of objective measurability demands that such differences between voluntary and non-voluntary time-use be detected but the social benchmark approach fails to do so.

This shortcoming of the social benchmark approach points us to an important trade-off that objective-list measures of free time face. Fine-tuning the concept of free time by adding further variables such as disability generates two kinds of costs. First, it is more difficult and therefore more costly for researchers to gather additional data on personal characteristics such as disability. Empirical research in the social sciences always faces the problem that examining an object of study in further detail comes at the cost of not being able to study as many objects as would be possible if each case were studied in less detail. In other words, large-N studies reveal less information about the details of each object of investigation than small-N case studies. Goodin et al decide to exclude additional criteria, such as disability from their empirical analysis in order to be able to examine a

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<sup>36</sup> compare Rose, *Free Time*, 56.



number of cases large enough to allow for some degree of generalisation and inference. Second, gathering further information about personal characteristics comes at the cost of further intrusions into people's private lives. Evaluating someone's household structure is arguably less intrusive than enquiring about physical or mental disabilities that that person might have.

Apart from its problems with objective measurability, the social benchmark approach has another disadvantage: it is sensitive to spurious social factors.<sup>37</sup> To illustrate what socially spurious means, imagine you live in a society where everyone spends 4 hours cooking each day. Stipulate furthermore a measure of basic necessity according to which everyone falls short of their basic cooking necessities who spends less than 75% of the median cooking time of that society on cooking. In that society, everyone who cooks less than 3 hours per day counts as time-poor in that domain. This is implausible but the fact that the social benchmark approach is a socially relative measure makes it susceptible to this kind of problem.

More realistically, imagine two identical societies that differ in that only one of them has lots of competitive pressures and the other doesn't. In the first society, average working time is high, at say 50 hours per week, because workers face competitive pressures that make it rational for them to work a lot. For example, workers might attempt to out-compete each other by increasing their working time in order to impress their employers or in order to be able to buy status objects, such as fancy cars or watches. In the second society, working time is much lower, at say 30 hours per week, because workers can coordinate their conduct and avoid outcomes where competitive pressures make everyone work more. Because the social benchmark approach is a socially relative measure, it will determine that the amount of time spent on paid employment that is necessary to meet one's basic needs (calculated as the time that is necessary to earn 50 per cent of the society's median income) is lower in the first and higher in the second society. This is implausible, because by assumption workers in both societies have the same preferences and the same basic needs.

Lastly, and related to the previous point, the social benchmark approach is problematic because the definition of free time that it provides is somewhat arbitrary. Why exactly should we decide that the amount of time that is necessary to meet one's basic needs in terms of sleep lies at say 75% of the median sleeping time in a society? What good argument could be offered for this definition of how much sleep people minimally need, as compared to an alternative definition according to which people's basic sleeping needs lie at 85% of a society's median sleeping time? It is not obvious at all which of these two definitions is superior and given that the social benchmark approach must

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<sup>37</sup> Rose op. cit, 55.

somewhat arbitrarily settle on one specific definition, it risks reflecting the researcher's conviction about what life's necessities are, rather than detecting what life's necessities are in fact.

For these reasons, Rose suggests another variation of the basic needs approach. She defines free time as time available to us after having performed all activities that are necessary to meet our basic needs or the basic needs of our dependents.<sup>38</sup> More specifically, Rose conceives of basic needs as “the material needs one must meet in order to attain a basic level of functioning in one's society”.<sup>39</sup> Again, these needs are made up of financial needs, household needs and bodily needs. Rose suggests that the social benchmark approach that defines free time exclusively in a socially relative way be complemented with other more objective information such as expert judgments and proposes to approximate her favourite definition of free time by using a measurement tool that is “moderately tailored to individual circumstances”. Such a hybrid account could use both information about statistical distributions and individual circumstances for example by consulting experts as to how certain disabilities impact individual's time needs. This is appealing because it makes it possible to detect differences in time-use that are outside an individual's control and should therefore not be counted as a discretionary use of their time. Unlike the social benchmark approach, Rose's basic needs approach fares better with regards to the criterion of objective measurability because it can take into account more detailed information, such as whether someone has a disability or not.

However, as I said earlier, this improvement in objective measurability comes at the expense of a loss with regards to the publicity requirement. Detecting how much time an individual objectively must spend on necessary activities will likely involve scrutinising sensitive aspects of that individual's life. Moreover, considering more variables (such as different types of disabilities) makes representative studies that require a large number of observations much more costly – perhaps prohibitively costly. As Goodin notes, Rose's “philosophically preferred conceptualization of free time in terms of how much time it takes each individual to meet “basic needs” in his or her own very particular circumstances would almost certainly defy any attempt at systematic empirical operationalization.”<sup>40</sup>

Among those definitions of free time that have been empirically operationalized, the social benchmark approach sticks out as the best available combination of philosophical accuracy and empirical precision. It avoids the blunt mistake of treating all time outside paid employment as free

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<sup>38</sup> At this point I set aside discussion of what exactly is meant by “basic level of functioning in one's society”. I assume that a reasonable definition of what a basic level of functioning is exists.

<sup>39</sup> Rose, *Free Time*, 58.

<sup>40</sup> Robert E. Goodin, ‘Freeing Up Time’, *Law, Ethics and Philosophy* 5, no. 0 (2018): 40.

time and it avoids the more subtle mistake of treating any amount of time spent on necessary activities as “unfree”. At the same time, it successfully distinguishes between different household structures and income categories and makes these comparable between countries. The information necessary to make these comparisons is publicly available and although it overlooks some important differences between individuals, it successfully measures many time-use differences between individuals in a reasonably objective way.

To conclude this section, let me summarise the two most important difficulties that *all* versions of the objective needs approach to defining free time face. The objective needs approach makes somewhat arbitrary judgments with regards to a) which activities should be considered ‘unfree’ and b) how much time should be regarded as ‘enough’ to meet one’s basic needs within each category of unavoidable activity. To illustrate the first problem, imagine a person who for some reason has no options but to stare at a blank wall during her free time. It is implausible to think that someone enjoys free time when that person can’t do anything valuable during this time. In other words, the basic needs approach might judge that two persons enjoy the same amount of free time when one of them has lots of opportunities to use her free time in ways that are valuable to her and the other person can’t do anything worthwhile during her free time. To illustrate the second problem, imagine someone who is convinced of the paramount importance of sleep for human health and flourishing. This person might define ‘basic-sleep-necessity’ more generously than someone who thinks that six hours of sleep per night are more than enough. Similarly, someone who enjoys fast food and who dislikes cooking might reach a different judgement about what should count as time that is necessary for cooking than someone who believes in the importance of preparing fresh ingredients at home. These two problems arise because the objective needs approach is insensitive to individuals’ judgments about the value of the activities they engage in. I will get back to this important observation in the last section, when I discuss whether we can determine a person’s fair share of free time through an envy-test that doesn’t rely on a definition of what exactly counts as free time.

In summary, I have compared and evaluated different definitions of free time with regards to how well they meet Rawls’s criteria of objective measurability and publicity. I have argued that the simple approach to defining free time is unsatisfactory and that among the objective needs approaches to defining free time, Goodin et al’s social benchmark approach strikes the best balance between empirical measurability and accuracy in detecting free time disadvantages. In the next section I turn to the question of what implications follow from granting free time the status of a social primary of the good. According to Rose, citizens are entitled to enough free time to make effective use of their basic liberties and also to a fair share of free time. But how large is this fair share?

## 1.6 Determining the Size of a Fair Share of Free Time

As Rose points out, the answer to the question of how large a fair share of free time is depends roughly on three types of considerations. First, it depends on the theory of justice one endorses.<sup>41</sup> Some theories specify that citizens have a duty to ensure that the basic needs of all members of a society are met. Other theories endorse a prioritarian or an egalitarian distributive principle. Here, I will exclusively focus on the Rawlsian framework that demands that basic needs of all citizens be met, and that deviations from equality be tolerated only if they maximally serve the interests of the least advantaged. Second, the size of citizens' fair shares of free time depends on how much time-saving technology is available in a society. Members of an impoverished society of peasants may have to work more to meet everyone's basic needs than members of a technologically advanced society. In much richer societies, by contrast, accumulated wealth and technology can be used to make significant amounts of free time available. Third, the question of how much free time should be available to citizens depends on the weight we assign to the resource of free time as compared to other resources. In other words, we must decide how important expansions of free-time are, given that reductions in work hours normally lead to reductions in the production of goods and services.

### 1.6.1 Does the Difference Principle Require the Fostering of a Work Ethos?

With regards to the first point, one might think that an implication of Rawls's Difference Principle is that it imposes sharp limits on the amount of free time that citizens may enjoy. This is for the following reason. The Difference Principle requires that institutions be designed in a way that maximally benefits the worst-off members of a society – insofar as these efforts don't conflict with the requirements set out by the first two principles.<sup>42</sup> A society whose institutional setup encourages an ethos of work will arguably produce more goods and services that are then available for redistribution to the worst off.<sup>43</sup> A society that doesn't encourage productive activity will not be

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<sup>41</sup> Rose, *Free Time*, 128.

<sup>42</sup> Samuel Richard Freeman, *The Cambridge Companion to Rawls* (Cambridge, U.K.; New York: Cambridge University Press, 2003), 231; Joshua Cohen, 'Taking People as They Are?', *Philosophy & Public Affairs* 30, no. 4 (2001): 363–86.

<sup>43</sup> Authors like G.A. Cohen argue that the difference principle should be understood to apply *directly to individual conduct*. From this perspective, individuals who can choose between more or less working-time have a weighty reason to prefer more over a less work: working more will create more wealth available for redistribution to the worst-off. Note that it is not necessary to endorse this controversial interpretation of the difference principle in order to establish the claim that the difference principle may demand the fostering of a work ethos. Governments can incentivize work without persuading individuals of the importance of solidarity with the worst-off for example by designing economic institutions in ways that make productive activity attractive.

Cohen, G. A. "Where the Action Is: On the Site of Distributive Justice." *Philosophy & Public Affairs*, vol. 26, no. 1, 1997, pp. 3–30.

able to redistribute as much resources and therefore falls short of the requirement to maximally benefit the least advantaged. Therefore, the Difference Principle might require the fostering of a work ethos, which in turn means that citizens should enjoy only little free time, so that they can maintain a high level of productive activity. From the perspective of someone who belongs to the group of the least advantaged it might be preferable to live in a society where everyone works a lot because this presumably reduces the cost of consumer items and expands opportunities for employment. What's more, a state whose citizens work a lot can collect more revenue in taxes that can be used to benefit the least advantaged, either directly, for example through generous unemployment benefits, or indirectly, when it is invested in public infrastructure. If this reading of the Difference Principle were correct, then Rawls's theory would be incompatible the kinds of reforms that I mentioned in the introduction, such as the 4-day workweek.

There are two reasons to think that the Difference Principle does not require the fostering of a work ethos. First, the Difference Principle is best interpreted as a constraint on what types of social and economic inequalities are permissible, not as a teleological principle that requires moves towards alternative states where the least advantaged enjoy more goods and services.<sup>44</sup> Imagine a society of two individuals with a distribution of material wealth of 3,3. Imagine now that a move towards an alternative state of 4,5 is available. On a plausible interpretation, the Difference Principle allows but doesn't require this move. It might allow the move from 3,3 to 4,5 because the inequality in the second scenario can be justified to the worst-off person by explaining that she has been benefited by the inequality-introducing move. But it would be implausible to think that the Difference Principle always requires moving to alternative states of affairs that increase the wealth of the least advantaged. By way of illustration, imagine a wealthy egalitarian society where everyone enjoys a decent standard of living. This society contemplates implementing productivity-stimulating reforms that would make it super-wealthy and very unequal. Compared to the previous situation, the reforms would benefit the poor to a small extent and the rich to an enormous extent. The Difference Principle doesn't mandate this move because it is constrained by other considerations. For example, the move towards a super-wealthy society might reduce the value of the basic liberties enjoyed by the least advantaged in objectionable ways. The wealthy might be able to use their economic power to buy political power, so that the poor have unfairly little political influence. The inequality-introducing reforms might also harm the poor in other ways, for example by making them dependant on the rich or by impairing their sense of self-esteem.<sup>45</sup>

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<sup>44</sup> Rawls, *Justice as Fairness: A Restatement*, 64.

<sup>45</sup> It is for this reason that Rawls thinks that his conception of justice is compatible with a steady state economy where no economic growth occurs.

The second reason for why Rawls's theory doesn't necessarily recommend the fostering of a work ethos is that increasing production is not always the best way of benefiting the worst off. Apart from income and wealth, there are other social primary goods that co-determine whether an individual qualifies as disadvantaged. Importantly, individuals can be benefited by expanding the availability of free time or by improving working conditions.<sup>46</sup> Often, expansions of free time or improvements of working conditions come at the expense of reduced income. Sometimes the best way of benefiting the worst-off may not be to encourage more productive activity but to facilitate access to free time. To illustrate, some workers might prefer entitlements to longer paid vacation over a raise of their income. Similarly, some people might prefer an improvement of their job-quality, such as more autonomy, less supervision, or more predictable work schedules over a raise of their income.

This leads me to the third consideration that determines how large citizen's entitlement to free time is: The relative weights assigned to different resources. In order to see why the way in which weights are assigned to primary goods affects people's entitlement to free time, imagine that Rawls's index of advantage assigns a lot of weight to the good of income and wealth and much less weight to other goods. This means that someone who has little money is considered worse off than someone who has little free time. As a result, the money-poor person will receive more in compensation than the time-poor person.

### 1.6.2 Determining the Relative Weights of the Resources of Money and Free Time

Imagine that a government decides to increase everyone's access to free time by subsidising childcare provisions or by passing more restrictive maximum work hours legislation. Restricting the time during which citizens can work restricts their ability to earn more income through working longer hours. Cases like this confront us with a difficult trade-off. If more work is done, more goods and services are produced and more material wealth is available. However, this comes at the

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<sup>46</sup> A concern for the quality of working conditions is expressed by Rawls third social primary good "Powers and prerogatives of offices and positions of responsibility". Rawls believes that citizens, in order to be able to competently participate in a social system of cooperation, need to dispose of "self-governing and social capacities" and argues that "Powers and prerogatives of offices and positions of responsibility" are conducive to developing "self-governing and social capacities". Samuel Arnold offers an interpretation of this somewhat opaque primary good according to which it intends to ensure that citizens can develop the internal resources of intelligence and virtuosity. Since states cannot provide citizens directly with intelligence and virtuosity, they instead ought to ensure that citizens have access to the "social bases" necessary for developing these capacities. In the case of intelligence and virtuosity, so Arnold argues, it is "positions of authority, responsibility and complexity" that are necessary to develop these capacities. Arnold, 'The Difference Principle at Work', 103.

cost of a loss in free time.<sup>47</sup> In order to know what citizens just share of free time is, we need to know something about the relative weights that should be assigned to the resources of money and free time.

Rose proposes three different approaches to determine these weights. As I will explain, none of these approaches is entirely satisfactory. The first solution Rose proposes is that the “relative weights may be empirically determined. If, for instance, a theory holds that justice requires maximizing the real freedom of the least advantaged position, the theory could hold that, in any given circumstances, a specific ratio of free time to income and wealth would in fact maximize the least advantaged’s real freedom.”<sup>48</sup>

It is not entirely clear what Rose means by ‘empirically determining’ the weights. She suggests that once we know the objective set out by a theory of justice (for example maximizing the real freedom of the least advantaged) we should provide citizens with whatever ratio of money and free time that would successfully maximize this real freedom.

This approach seems to beg the question because it doesn’t specify how we should go about determining which money-free time-ratio is the one that maximizes the least advantaged’s real freedom. Some individual’s real freedom will be maximised by increasing income whilst that of others will be maximised by expanding free time. Absent further elaboration, this approach is not satisfactory because it doesn’t provide helpful guidance. It simply reaffirms the idea that there is one particular money-free time-ratio that maximizes real freedom without explaining how this ratio can be identified.

The second approach suggested by Rose determines weights by using “intuitive judgments of what would be rationally prudent for the least advantaged”.<sup>49</sup> This strategy asks us to imagine a representative individual from the group of the least advantaged who is tasked with determining weights for money and free time in a way that would be rational for her. This approach suffers from a similar defect than the first. For how are we to know which individual would best represent the group of the least advantaged? On the one hand, a fictitious representative chooser must have *some* preferences in order to decide between different possible ways of assigning weights to primary

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<sup>47</sup> This difficulty is aggravated by the fact that free time not only needs to be weighted against income and wealth but possibly also against the benefits derived from the activity of work itself. Some authors have argued that meaningful work should itself be regarded as a social primary good. This is because contributing to society through inspiring, self-directed, and complex work is arguably something that everyone desires independently of their conception of the good life. Gains in free time not only come at the expense of income and wealth but also at the expense of the goods of work other than money.

<sup>48</sup> Rose, *Free Time*, 132.

<sup>49</sup> Rose op. cit, 132.

goods. On the other hand, he mustn't have too specific preferences because he must represent everyone who belongs to the group of the worst-off, not just a subset. The main difficulty this approach faces is then that citizens of liberal societies – including those who are least advantaged – typically have a plurality of preferences and conceptions of the good. Some prefer expansions of free time over expansions of their income and others prefer more income over more free time. Therefore, intuitive judgments about what is rational and prudent can't determine the relative importance of money vis-à-vis free time. The very point of a good theory of justice in access to free time is to shed light on how to resolve such intuitive responses. The theory is therefore defective if its solution is simply to rely on the intuitive judgements that it is meant to shed light upon.

Lastly, Rose proposes to determine weights democratically. Here, the idea is to consult citizens as to whether they would prefer more money or more of free time and then employ the option that is preferred by a majority. Consider the following example. A 10% increase in the availability of free time comes at the expense of a 1% reduction in income and wealth. Citizens will disagree about the comparative importance of money and free time but only few would argue that income and wealth should be considered 10 times more important than free time. Policy makers may be able to identify cases like this where one option is preferred over the other by a majority and use this majority-vote as guidance for their decisions.

This approach faces the difficulty that it must explain why the preferences of a majority should be decisive when we must determine the relative importance of money and free time. Ronald Dworkin refers to political questions that should be solved by majority-vote or by some other appeal to the distribution of preferences in a society as “choice-sensitive” and contrasts them with “choice-insensitive” issues that shouldn't be resolved by majority-vote.<sup>50</sup> An example for a political issue that shouldn't be solved by majority-vote is the question of whether racial discrimination should be allowed or prohibited.

One important concern about the proposal to treat the relative importance of money and free time as a choice-sensitive question is that there can be cases where majority decisions impose excessive costs on minorities. Imagine for example a society that consists of many work-lovers and few leisure-lovers, where the work-lovers democratically decide to institute public policies that force everyone, to work 15 hours per day. Imagine furthermore that free time preferences in this society are stable over time, so that work-lovers prevail over leisure-lovers each time a democratic decision

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<sup>50</sup> Ronald Dworkin, *Sovereign Virtue* (Cambridge, Mass.: Harvard Univ. Press, 2002), 204.



is taken. This is an instance of a ‘tyranny of the majority’, where excessive costs are imposed on a minority.

To be sure, it might be that the democratic approach should be implemented because it is legitimate. But this leaves open the question whether it is the truly just one. It would be implausible to assume that democracy always produces results that are just. While much more could be said about this question, I conclude that absent further argument, the ‘democratic approach’ isn’t fully satisfactory because it is vulnerable to a ‘tyranny-of-the-majority-objection’.

In summary, none of the three approaches identified by Rose offers a compelling solution to the problem of how to assign weights to the resources of money and free time. What’s more, the three approaches of determining weights either empirically, or through intuitive judgments, or democratically are mutually incompatible and might each generate different recommendations. A proponent of any of these approaches would not only have to show that one of them is convincing but also that it is superior to the others. The trade-off between money and free time is an instance of a more general difficulty of establishing the relative importance of different social primary goods that is often referred to as the ‘index problem’.<sup>51</sup> Critics contend that this is a serious defect of Rawls’s theory for it reveals that little concrete policy guidance can be derived from it.

The difficulty of establishing the comparative weights of resources also gets reflected in Rawls’s somewhat arbitrary suggestion to include 16 hours of free time to the index of advantages. As we saw, Rawls’s motivation for including free time to the index of primary goods is that his Difference Principle is otherwise unfairly biased in favour of the leisure loving surfers. However, Rawls doesn’t provide a principled justification for this modification of his theory. Why 16 hours? Why not 12 or 20? And why exactly should we assume that the free time enjoyed by those who decide not to work is equally valuable to the income gained from a low-income 8-hours work day?

Moreover, the decision to include free time within the index of advantages in this way may have the effect of creating a bias in favour of those who have preferences for lots of work. This critique is put forth by Philippe Van Parijs, who illustrates his concern with the following example.<sup>52</sup> Imagine that the wealth of a society is increased by an external gain, say the discovery of a natural resource. Rawls’s theory mandates that this gain be distributed in the form of a proportional increase of workers’ wages. However, as a result of this, the position of those who don’t work stagnates in absolute terms and gets worse in relative terms. They haven’t got more than before

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<sup>51</sup> Richard J. Arneson, ‘Primary Goods Reconsidered’, *Noûs* 24, no. 3 (1990): 429.

<sup>52</sup> Philippe Van Parijs, ‘Why Surfers Should Be Fed: The Liberal Case for an Unconditional Basic Income’, *Philosophy & Public Affairs* 20, no. 2 (1991): 101–31.

and compared to those who see their wages increased by the external gain in wealth, their position has become worse. Yet, Rawls wants to assume that those who don't work enjoy an advantage equal to the income gained from 8 hours of work done by the least advantaged workers. This makes it seem as if the position of those who don't work has improved. A rise in income of those who work is interpreted as an improvement of the position of those who don't work. This seems wrong. Those who would prefer to have more free time are "being treated to a sheer semantic trick".<sup>53</sup>

In reply to the charge that Rawls's theory offers no principled way of assigning weights to resources, one might contend that in some cases, free time can be expanded *gratis*, that is without any reduction in income and wealth. Another way of putting this is that sometimes there is no trade-off between money and free time because free time can be expanded at no cost. This can be the case when the returns to long work hours are low and the costs of long working time are high.

Returns to long work hours are low when the worker's ability to work productively declines as the length of the work day increases. Workers are normally most productive during the first few hours of their workday but as time goes by, energy and concentration diminish until a point is reached where an additional hour of working time creates only little additional output. This effect is especially pronounced in mentally or physically demanding jobs where workers quickly exhaust their physical strength or their ability to concentrate. The costs of long working time are high when workers' health is negatively impacted by overwork. For example, work related accidents are more likely to occur when workers spent a lot of time at the workplace and workers are more likely to suffer from burnout and other work-related illnesses when they work long hours.<sup>54</sup> Taken together, diminishing returns to work and the costs of long working time can create situations where expansions of free time have no monetary cost: Reductions in economic output are outweighed by reductions in health expenditures.

Nevertheless, such 'easy cases' where everyone benefits from the implementation of a policy or where those who are adversely affected by a policy can be compensated because the policy creates a net benefit are exceptionally rare.<sup>55</sup> Often, expansions of free time will cause reductions in income and wealth and Rawls's theory provides only little guidance for deciding such trade-offs.

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<sup>53</sup> Van Parijs op. cit, 111.

<sup>54</sup> A. E. Dembe et al., 'The Impact of Overtime and Long Work Hours on Occupational Injuries and Illnesses', *Occupational and Environmental Medicine* 62, no. 9 (2005): 588.

<sup>55</sup> John H. Pencavel, *Diminishing Returns at Work*, vol. 1 (Oxford University Press, 2018).

### 1.6.3 The Envy-Test

There is an alternative way of determining a person's level of free time-advantage that avoids both the difficulty of assigning weights to different primary goods and the difficulty of defining what exactly free time is and which activities should be considered 'unfree'. According to this approach, we should consult individuals' personal judgments as to whether or not they are disadvantaged, rather than constructing an objective metric that determine someone's level of advantage independently of that person's own evaluation of her situation. In order to see the appeal of this approach, imagine that we must judge the level of free time-advantage enjoyed by

*Lena, the happy farmer.* Lena works on a farm where she spends almost all of her time attending to the needs of her plants and animals. What's more, she has no discretion over when she carries out her work because the cycles of nature and the needs of her animals precisely dictate at which moment she must carry out which task. Lena has heavily invested in agricultural skills, so that she can't easily switch to a job that would offer her more free time. Yet, she loves her work and doesn't envy others whose work allows them more free time.

On a Rawlsian index of advantage, Lena would fare worse (assuming other things are equal) than, say an office worker whose job offers him more free time. As a result, Lena might be due compensation for something that she herself doesn't regard as a disadvantage. This strikes many as a counterintuitive result.<sup>56</sup>

In response to this and other problems that Rawls's approach to identifying someone's level of advantage faces, Ronald Dworkin has proposed to evaluate individuals' level of advantage not by reference to a list of primary goods but through an envy-test that consults individuals' own judgements about their level of advantage. This test imagines that we ask Lena whether she envies someone else's opportunities for free time, whereby envy is understood in the following technical sense: A envies B, if A considers her opportunities for free time to be less valuable than the opportunities that B enjoys.

This way of determining someone's level of advantage is appealing because unlike Rawls's metric of advantages, the envy test doesn't rely on a potentially controversial list of goods that are assumed to be valuable to everyone. We can imagine that citizens will disagree over the comparative value of different goods, so that in some cases an individual's personal judgment about her level of advantage will conflict with the judgment of the primary goods metric. In contrast to Rawls's

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<sup>56</sup> Andrew Williams, 'Equality for the Ambitious', *The Philosophical Quarterly* 52, no. 208 (2002): 377–89.

objective metric, the envy-test doesn't isolate the moral question of whether someone is entitled to compensation from the ethical question of how someone evaluates her own situation. The envy-test insists that someone may claim compensation only if she regards herself as worse off than the person from whom she claims compensation. As a result, the envy-test doesn't usurp judgment over someone's level of advantage and is therefore easier to justify to all members of a community.<sup>57</sup>

In the case of Lena, the envy-test generates the intuitively plausible result that Lena is not due any compensation because she doesn't regard her lack of free time as a disadvantage. Rawls's objective metric test, in contrast, implies that Lena is disadvantaged although she doesn't think that this is true.

It is important to mention that for someone to be judged as disadvantaged by the envy-test, that person's claim to be worse off than someone else must be authentic. A person's judgment to be worse off than someone else is authentic, roughly speaking, when it is formed under suitable circumstances, that include for example the absence of unjust indoctrination and the absence of constraints "on opportunities to form, to reflect on, or to advocate convictions, attachments, or preferences."<sup>58</sup> To illustrate, if Lena's parents had brainwashed her to believe that there are no worthwhile activities other than farming, then we shouldn't trust her judgment that she doesn't envy, say an office worker whose jobs offer more free time. Similarly, we shouldn't trust Lena's judgment when they are significantly affected by psychological biases.

What's more, the envy-test doesn't require that a person actually formulates a belief or a judgment as to whether or not she envies someone else's opportunities. Rather, what counts is whether a person's values imply that she's disadvantaged because her opportunities are less valuable than those of someone else.<sup>59</sup> These specifications of the envy-test rule out that its results are distorted by a number of mistakes that people can make when formulating their judgments.

As a result, the envy-test is a philosophically appealing alternative to Rawls's metric of advantages. Crucially, the envy-test generates plausible results in cases that pose severe difficulties to the Rawlsian approach. By way of illustration, imagine the case of a corporate consultant whose job is very well paid and involves very long work hours. Should we consider the consultant disadvantaged because of her lack of free time? Perhaps she isn't disadvantaged because she could change her profession in order to work on a different job that offers more free time. But expecting her to change her profession if she wants to enjoy more free time might limit her freedom of occupational

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<sup>57</sup> Williams op.cit.

<sup>58</sup> Dworkin, *Sovereign Virtue*, 160. Not everyone agrees with this. See for example Kristi A. Olson, 'Impersonal Envy and the Fair Division of Resources', *Philosophy & Public Affairs* 46, no. 3 (2018): 269–92.

<sup>59</sup> Williams, 'Equality for the Ambitious', 387.

choice in an objectionable way. The Rawlsian approach must provide answers to these difficult questions. The envy-test, in contrast, handles this case more easily. It asks whether the consultant can claim in good faith that she envies the opportunities of someone whose job pays less well but offers more free time. If she can't make that claim, she doesn't count as disadvantaged.

Something similar may be true in cases where parents lack free time because of their choice to raise children. The Rawlsian approach must answer the difficult question of whether raising children (whom one by assumption has chosen to have) is a necessary activity that deduces from one's free time or not. The envy test, in contrast, can ask the parent whether she envies the opportunities of someone who doesn't have children and enjoys more free time. If the parent answers 'no', then she doesn't count as disadvantaged.

In many cases, the envy-test can be carried out without actually asking any particular individual whether or not she envies someone else's opportunities. Imagine for example that we ask ourselves whether the consultant from the previous example envies the opportunities of a badly-paid and precariously-employed gig-economy worker who enjoys somewhat more access to free time. In cases like this, we can confidently assume that the consultant can't claim in good faith that she envies the gig-economy worker's opportunities. We can reach this judgement without operationalizing the envy-test, that is without enquiring about the actual opinions of the individuals involved in this example.

But not all cases are as clear as this one. Imagine that we want to know whether the high-earning consultant envies the opportunities of a public administration official who has an attractive and convenient office job that pay significantly less but offers more access to free time. Cases like this, where disparities in opportunities between two persons are much smaller, intuitive judgment doesn't seem to provide an obvious and appealing solution. In such cases we would have to know more about the values and preferences of the individuals involved.

But operationalizing the envy-test appears to be extremely difficult, if not impossible. Empirical researchers tasked with carrying out the envy-test would face many difficulties. For example, in order to provide valid answers, respondents must distinguish the technical definition of 'envy' employed by the envy-test from the more common way in which the term is used in everyday language. Moreover, researchers must know whether a respondent has formed his convictions under suitable conditions that make them count as authentic. Even more worryingly, researchers would have to find ways of knowing whether a person's judgments coincides with the judgment that is implied by the values that this person holds.

This shows us that operationalizing the envy-test is epistemically very demanding. And even if information about the above-listed questions could be obtained in principle, it might not be permissible for researchers to acquire this information because it touches sensitive aspects of respondents' private lives. In summary, the envy-test is a philosophically appealing alternative to Rawls's objective metric approach that generates intuitively correct results in some cases. But in order to judge a broad range of relevant cases, it would have to be empirically operationalized, which is epistemically so demanding that it appears to be impossible, at least in some cases.

## 1.7 Outlook

I have shown that as of now, liberal egalitarian theories of justice have great difficulty evaluating the kinds of demands for a reduced work week that I mentioned in the introduction. Is the 4-day work week compatible, incompatible, or indeed required by social justice? Julie Rose offers the most detailed liberal-egalitarian engagement with the subject of free time and identifies several policies to protect citizens fair share of free time. However, her recommendations remain somewhat vague and arguably too modest. For example, she suggests that the fair share of free time that should be enjoyed by all citizens in industrialized societies is "likely at least the "eight hours for what we will" demanded by early labor reformers, if not more."<sup>60</sup> This judgement offers little help for evaluating the justifiability of the more radical proposals that I am concerned with. In subsequent chapters I attempt to fill in this gap.

According to Rose, protecting citizens' fair share of free time can be achieved roughly by two types of policies. Some policies, such as wage subsidies, minimum wage laws or a universal basic income are needed to ensure that citizens can meet their basic needs without falling short of their fair share of free time. Other policies, such as maximum work hours legislation, are needed to protect citizens' ability to choose to not spend more time on meeting their basic needs than is protected by their entitlement to free time. This is important because sometimes citizens' ability to choose to spend less time at work is undermined by the desire of other workers to spend more time at work. If some workers decide to work unusually long hours, they can create competitive pressures and establish a social norm that makes it costly for other workers to choose to spend less time at work. Here, Rose touches on an important issue. Competitive pressures often create collective action problems where each individual worker finds it attractive to increase her working time although

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<sup>60</sup> Beyond that, Rose contends that it must be possible to enjoy some free-time together with others. Free-time is of much less worth if it cannot be spent with family or friends, for example because of unpredictable schedules or odd working times. Citizens are therefore entitled to coordinated free-time. Rose suggests Sunday closing laws as an attractive way of ensuring that at least some free-time can be spent in company with others. Rose, *Free Time*, 128.

she might not do that if she reliably knew that others will also refrain from increasing their working time. Rose suggests that some working time regulations can be justifiable on the grounds that they protect workers from competitive pressures but several important questions are left open.<sup>61</sup>

Why exactly should the conduct of workers who decide to compete with each other concern policy makers? What different types of competitive pressures that impact citizens' access to free time are there, how do they arise, and what is morally problematic about them?<sup>62</sup> I address these questions in the subsequent two chapters.

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<sup>61</sup> Rose *op. cit.*, 139.

<sup>62</sup> Samuel Arnold agrees that “Rose might have pushed her analysis a bit further here. Overwork, relative to what’s objectively necessary for basic needs satisfaction, has multiple causes, only some of which are due to employment practices. Surely consumer capitalism plays a large role here as well. Pressured by consumerist norms to “keep up with the Joneses”—to have the latest iPhone, the right granite countertops, and so on—people spin the hamster wheel of employment far longer than is really necessary for basic needs satisfaction. Rose correctly notes that unregulated labor markets jeopardize people’s fair shares of free time by leaving them with no good alternative to over-work. Unbridled consumerism, I am suggesting, may have the same effect. Might justice therefore require state action to combat, or at least moderate, consumerism?” Samuel Arnold, ‘Review of Free Time by Julie L. Rose. Princeton, NJ: Princeton University Press, 2016.’, *The Journal of Politics* 80, no. 1 (2018): e31–32.

## 2. The Rat Race between Workers<sup>1</sup>

A significant amount of overemployment in society arises from a dynamic that I will call the *working time rat race*. What drives this dynamic is the fact that employers routinely use ‘time-spent-at-work’ as a proxy for their employees’ productivity and commitment.<sup>2</sup> Workers who spend a particularly long time at the workplace are often rewarded with promotions, raises, bonuses, or are saved from dismissals and budget cuts. This creates an incentive for workers to demonstrate their willingness to work longer hours than their colleagues, since this increases their likelihood of attaining benefits and avoiding burdens.

However, as more workers work longer hours in order to demonstrate their productivity and commitment, this strategy loses its effectiveness. If everyone increases their working time, no one will be ahead of the others in the race for promotion but everyone will work more. The working time rat race is, in other words, a collective action problem where (i) it is individually rational for each worker to spend more hours at work than her competitors and (ii) because of this, the outcome is a situation that is worse for most of those who compete in this way.<sup>3</sup>

In this chapter I show that working time regulations are sometimes justifiable on the grounds that they help workers overcome the rat race, or at least redress its effects. This “rat race” justification manages to justify working time policies without appealing to perfectionist views about the ideal balance between leisure and work that makes for a “good life”.

The chapter is structured as follows. Section 2.1 describes the working time rat race and the problem of overemployment in more detail. Section 2.2 explains why the rat race sometimes gives rise to a complaint on the side of workers who are negatively affected by it. Sections 2.3, 2.4, and

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<sup>1</sup> Large parts of this chapter have been published in the form of an article: Malte Jauch, ‘The Rat Race and Working Time Regulation’, *Politics, Philosophy & Economics* 19, no. 3 (August 2020): 293–314.<sup>4</sup>

<sup>2</sup> Renée M. Landers, James B. Rebitzer, and Lowell J. Taylor, ‘Rat Race Redux’, *The American Economic Review* 86, no. 3 (1996): 329–48.

<sup>3</sup> The outcome may not be worse for *all* of the competitors because those who enjoy long work hours may not mind participating in the rat race. Nevertheless, it is accurate to refer to the rat race as a collective action problem. To see why, consider a classic example of a collective action problem. A group of fisherpersons fish in the same lake. Each has an incentive to catch as many fish as s/he can but if everyone fishes too much, the fish will die out. This suggests that everyone should have an incentive to fish only a sustainable amount. However, realistically, some fisherpersons may not have an interest in the long-term stability of the fish-stock. Some fisherpersons may soon retire and others may want to take up a different job in the near future. These individuals would prefer to be able to fish as much as they can. Nevertheless, we can still refer to this situation as a collective action problem because the interest in a sustainable fish-stock is shared by most individuals. I will argue in section 2.4 that most workers have an interest in not participating in the rat race.



2.5 answer objections to labour market policies that remove the rat race. Section 2.6 sets the stage for the subsequent chapter.

Before I begin, let me issue an important qualification. I don't commit to the claim that *all* working time rat races call for state intervention. Sometimes, rat-race-removing interventions are morally impermissible because they worsen the situation of the least advantaged. Importantly, there are working time rat races that occur between privileged workers who possess scarce talents that allow them to extract very high wages. If states help these workers overcome their collective action problem, so that they end up working significantly less, then there is less income upon which states can levy taxes that serve to redistribute wealth to the least advantaged. In other words, regulating rat races that occur between very privileged workers can be harmful to the least-advantaged. Section 2.5 elaborates on this.

## 2.1 Overemployment and the Rat Race

Mismatches between preferred work hours and hours actually worked are widespread and a number of studies show that overemployment is pervasive in industrialized countries.<sup>4</sup> A survey conducted for the European Commission reports that 38% of employees in 12 European countries would like to reduce their work hours.<sup>5</sup>

One natural explanation for this has to do with transaction costs. Employers prefer to hire a smaller number of workers, who each work long hours, than to hire a larger number of workers, who each work short hours. This is because employers incur transaction costs when they advertise jobs, select and contract workers, supervise and train workers, coordinate tasks between workers, provide office equipment, and pay payroll taxes and social security costs. The existence of these costs makes it attractive for employers to hire fewer workers that each work longer hours because each additional worker adds a fixed amount of these transaction costs.

However, the “transaction cost” explanation for overemployment is not completely satisfactory. It cannot account for all overemployment because, at least in some cases, employers could pass transaction costs on to those who prefer to work fewer hours by offering them lower hourly wages. According to neoclassical economic theory, workers who prefer working less at lower hourly pay

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<sup>4</sup> Jerry A. Jacobs and Kathleen Gerson, *The Time Divide*, (Cambridge, MA: Harvard University Press, 2004); Jeremy Reynolds and Lydia Aletraris, ‘Pursuing Preferences: The Creation and Resolution of Work Hour Mismatches’, *American Sociological Review* 71(4) (2006) 618–38; Jeremy Reynolds, ‘When Too Much Is Not Enough’, *Sociological Forum* 19(1) (2004) 89–120; Maite Martinez-Granado, ‘Testing Labour Supply and Hours Constraints’, *Labour Economics* 12(3) (2005) 321–43.

<sup>5</sup> John M. Evans, Douglas C. Lippoldt and Pascal. Marianna, ‘Trends in Working Hours in OECD Countries’, *OECD Labour Market and Social Policy Occasional Papers*, No. 45 (2001), OECD Publishing, Paris,

would still supply their labour at that lower pay in ways that compensate for the higher transaction costs of part-time work arrangements.<sup>6</sup>

There is a further and more convincing explanation for overemployment that refers to a collective action problem between workers. Workers have incentives to pursue a “long work hours strategy” although most workers would be better off if no one pursued this strategy. The dynamic of this collective action problem runs as follows. Employers have to make decisions about hiring, promoting, and firing employees. One of the most important criteria for deciding which person gets hired, promoted, or fired is the respective worker’s productivity and commitment. Being complex and multi-faceted concepts, productivity and commitment are very difficult to measure. Employers therefore regularly resort to approximating workers’ productivity and commitment by using their working time as a proxy. Those who work long hours are regarded as especially productive and committed. Workers are aware of this practice and often compete with each other in order to display their willingness to work long hours so as to increase their chances of getting hired or promoted. Landers et al. find evidence for this mechanism and describe it as follows:

Performing extra work, beyond the norm of a job, workplace or occupation, may be a way for a worker to transmit a signal of promotability or value to employers. [...] The pursuit of long-term relative status through increasing their own work hours promotes a “rat race” with all workers working longer average hours.<sup>7</sup>

Rat races of this type may occur not only between employed workers but also between those who seek employment. Job applicants sometimes demonstrate motivation and enthusiasm to their prospective employers by offering to sign contracts that specify particularly long hours.

One obvious drawback of showing commitment through long working time is that, if pursued by many, this strategy loses effectiveness. Think of the familiar case of a crowd in a concert, where everyone stands on their toes in order to improve their sight of the stage. Here, the individually rational thing to do for each person ceases to yield benefits if it is done by everyone. These situations are referred to as collective action problems and they occur when disincentives make it difficult for a group of individuals to pursue a mutually beneficial goal. Most individuals would be better off if everyone pursued a common strategy of cooperation, but each individual has an incentive to defect.

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<sup>6</sup> Economists refer to this as the “part-time wage penalty”. See for example Manning and Petrongolo (2008).

<sup>7</sup> Landers et al. op. cit., p. 70.

It bears emphasizing that the working time rat race is not limited to situations where workers seek advantages such as employment, promotions or bonuses. It also occurs when workers attempt to *avoid disadvantages* such as downgrading and dismissals. “If a worker believes their employer uses input time as a screen before an anticipated downsizing or reorganization, they may view longer hours as a protective device or immunization against the risk of future job loss, income loss or demotion”.<sup>8</sup>

Furthermore, workers sometimes increase their working time because the sheer fact that someone works exceptionally long hours earns that person reputation and esteem. In Western countries, “being busy” and having little free-time has become an indicator of a particular social status that many strive to achieve.<sup>9</sup> On average, individuals with more education and with higher paid jobs have less free-time and “being busy” is often associated with being important or sought-after.<sup>10</sup> This can make it attractive for anyone to emulate time-pressured lifestyles in order to gain the prestige associated with these lifestyles. This too is an instance of a collective action problem because no one will increase their relative social standing if everyone pursues the long-work-hours-strategy.

Lastly, working time can be driven up by a desire to protect or enhance one’s social standing by purchasing status goods. This kind of *competitive consumption* occurs when individuals buy products whose possession grants them social prestige and sets them apart from their peers.<sup>11</sup> For those who rely on paid employment as a source of income, competitive spending often requires increased working time. However, the relative social standing of those who engage in competitive consumption does not improve if this strategy is pursued by a large number of others who do the same. Keeping up with the Joneses gets harder if the Joneses are keeping up with the Smiths!<sup>12</sup> Competitive consumption is a different manifestation of the working time rat race where the collective action problem is initiated by a desire to set oneself apart through purchasing goods that enhance one’s positional standing.

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<sup>8</sup> Landers et al. op. cit., p. 70.

<sup>9</sup> Ronald J. Burke (ed.), *The Long Work Hours Culture* (Bingley: Emerald, 2008).

<sup>10</sup> Daniel S. Hamermesh, *Spending Time: The Most Valuable Resource* (New York: Oxford University Press, 2018).

<sup>11</sup> See for example Juliet Schor, *The Overspent American: Why We Want What We Don’t Need* (New York: HarperCollins, 1998); Juliet Schor, *The New Politics of Consumption*, Boston Review, June 1, 1999; Robert Frank, *Luxury Fever* (New York: Free Press, 1999); Fred Hirsch, *Social Limits to Growth*, Rev. ed (London: Routledge, 1995).

<sup>12</sup> Compare Samuel Arnold, *Contesting the Work-Spend Cycle: The Liberal Egalitarian Case Against Consumerism*, Forthcoming in *Whither Work? The Politics and Ethics of Contemporary Work*, ed. Keith Breen and Jean-Philippe Deranty (Routledge)

In short, the rat race occurs in different contexts and is triggered by different motivations. What’s more, workers can increase their working time in ways other than working extra hours or agreeing to contracts that specify long hours. One especially concerning form of increased working time is *competitive presenteeism*. This term is used to describe situations where workers demonstrate commitment by coming to work in spite of ill health.<sup>13</sup> If one or several workers decide to come to work despite being ill, they can set a precedent and an expectation with regards to what can be reasonably expected from workers when they are ill. A related phenomenon involves workers who take very short periods of maternity leave. A prominent example for this is the case of former French Minister of Justice, Rachida Dati, who resumed work after five days of maternity leave. Some commentators argued that this was possibly motivated by a concern of no longer being taken seriously by members of the Sarkozy administration after a longer maternity leave.<sup>14</sup>

In summary, the working time rat race is a collective action problem that occurs in several different contexts and that leaves most workers worse off than they would otherwise be if a large number of them engage in it. Let me conclude this section by formalising this result. Consider first a simple case:

*Promotion:* Two workers with preferences for lots of leisure are equally qualified and do the same kinds of tasks. Both want to be promoted. Their boss wants to promote the more productive employee based on whoever displays higher commitment. When leaving the firm each day, she observes which worker’s office light is still switched on. Both workers are aware of this and thus face a decision between leaving work on time or staying longer in order to increase their chances of getting promoted.

The different outcomes of this decision situation can be presented in the following payoff matrix:

		Worker A	
		Leave on time	Extra hours
Worker B	Leave on time	0/0	-2/1
	Extra hours	1/-2	-1/-1

<sup>13</sup> Hesam A Quazi, *Presenteeism: the invisible cost to organizations* (Palgrave Macmillan, London: 2013)

<sup>14</sup> Anne Perkins, *Maman sans bébé*, The Guardian (January 8<sup>th</sup> 2009), <https://www.theguardian.com/commentisfree/2009/jan/08/rachida-dati-france-maternity> (accessed on April 11<sup>th</sup> 2019).

This decision situation resembles a Prisoners Dilemma in that it is individually rational for each worker to pursue the “dominant strategy” of working extra hours although both are worse off if this strategy is pursued by both. When they are unable to coordinate their actions, the workers converge on the equilibrium outcome in the bottom right box where both work overtime. Next, I will explain why this gives rise to a complaint on behalf of those affected by the rat race.<sup>15</sup>

## 2.2 The Complaint against the Rat Race

Note that both workers in the above example would prefer to leave on time and that neither of them is more likely to achieve the promotion if they both work overtime. In other words, a Pareto-improving shift (from the bottom right to the top left corner of the matrix) is possible but, in the absence of a coordinating mechanism, the workers cannot make that shift. Assume now that an outside agent, say the state, could enact a policy that helps the workers coordinate their conduct in order to realise the Pareto-improving shift. Assume moreover that the state refuses to enact this policy and fails to provide any good reasons for its refusal. In this case it would seem reasonable for the workers to mount a complaint against the state. Its refusal to act leaves them worse off than they could otherwise be for no good reason. To clarify the nature of their complaint, consider the following example:

*Two villages:* Two villages are close to each other but separated by a river. Residents of both villages have an interest in meeting each other but the absence of a bridge makes it difficult and costly for them to do so. To see each other, the villagers must cross the river in boats.

Let’s assume that each villager on either side of the river has an interest in building a bridge because the per capita cost of using boats is much greater than the per capita cost of constructing a bridge. However, there is a difficulty in that the villagers find it hard to trust each other. Each individual has an incentive to free-ride on the efforts others make in order to build the bridge by not contributing to the project of its construction. Assume again, that the state could intervene to solve

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<sup>15</sup> Note that we can draw a distinction between rat races that increase productivity and rat races that do not increase productivity. In one version of the rat race, workers work longer hours in order to demonstrate commitment and this additional effort *does* in fact lead to higher productivity (say in the form of more goods and services produced). In an alternative scenario, workers *pretend* to work longer hours in order to achieve the same ends. In this case, workers spend more time at the workplace without actually increasing productivity. This latter scenario is additionally troublesome – i.e. apart from any complaints it might raise on the part of workers who wish to work fewer hours – because it introduces an inefficiency into the economy. I will set aside this scenario and instead focus on the more difficult case of the productive rat race where workers actually do produce more goods and services in their over time.

this collective action problem, say by raising the necessary funds through taxing the villagers, but suppose it refuses to do so for no good reason. Intuitively, this gives rise to a complaint on the part of the villagers.

Collective action problems similar to this occur frequently in the real world and, in some cases, they have led states to intervene, and with good reason. One example of this is the educational arms race. Sometimes parents seek to enhance their children's competitiveness by providing them with private lessons or sending them to expensive private schools with the aim of increasing their children's future opportunities, such as the likelihood of being admitted to a prestigious college or finding high-earning employment. However, given that the number of such desirable positions is limited, children will benefit in the competition for these positions from only *comparative advantages*, and not from absolute standards of education. This can lead to an educational arms race, where parents have incentives to invest into ever more strategies that will confer advantages on their children. But these strategies can lose their effectiveness when similar strategies are pursued by a large number of other parents.<sup>16</sup>

Arguably the situation of the parents in this case is analogous to that of workers in the labour market who work longer than they would like. They are made worse off than they might have been in that they are unable to coordinate their conduct and possess a complaint against governments that do not assist them in overcoming this obstacle by, say, introducing legislation whose purpose is to prevent the collective action problem from arising or to redress its effects.

Consider now an objection to this claim which holds that the harmful effects of collective action problems like this are not enough to justify coercive state intervention. In other words, the benefits of regulating a collective action problem cannot justify the costs associated with intrusive regulation. To illustrate this, imagine the following scenario:

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<sup>16</sup> This can cause a number of injustices. One of them has to do with the fact that resources invested in the arms race generate no real benefits and could instead be invested in different ways, such as aid for the worst off. Certain restrictions of markets in education are therefore justified (among other things) because they have the potential to correct for this injustice. For discussion, see Daniel Halliday, 'Private Education, Positional Goods, and the Arms Race Problem', *Politics, Philosophy & Economics* 15, no. 2 (2016). There are of course other reasons for being concerned about the educational arms race. For example, spending on private schools can be opposed on the grounds that it undermines equality of opportunity.

*Buying a television:* A group of consumers is interested in buying a new television. A retailer offers a television at a price of £500 but each consumer would prefer to spend only £490 on this product. If the consumers could coordinate their actions and collectively bargain with the retailer, they would be able to drive down the price to £490.

Imagine now that a state reacts to this situation by employing public officials whose job is to coordinate consumers into large consumer groups who then use their collective bargaining power to achieve lower prices. Imagine furthermore that organizing consumers into groups and coordinating their interests is a laborious process that involves significant administrative costs. It is less straightforwardly clear that this intervention is justifiable because it involves a large effort in order to provide a relatively trivial benefit.

There is however an important disanalogy between *Promotion* and *Buying a television*. The interest at stake for consumers in *Buying a television* is relatively small. They face a one-time loss of £10 if they are unable to coordinate their conduct. The workers in *Promotion*, by contrast, spend significantly more time at the workplace as a result of the working time rat race. This is time they could otherwise spend on activities that they much prefer, such as being with their friends or families, as well as on activities that may be socially beneficial, such as learning about and involving themselves in politics. The loss of free time associated with the rat race is an important harm that *does* justify intervention on their behalf. Similarly, I believe that intervention is justifiable in *Two villages* if the cost of using boats to cross the river is sufficiently great.

Summing things up, we can formulate the following preliminary principle: Victims of collective action problems like the rat race have a claim to intervention on their behalf only if a Pareto-improving shift is available and the costs of intervention are strongly outweighed by its benefits.

By “intervention”, I mean a policy that changes the pay-off structure of a decision situation of a group so that it becomes advantageous for each individual to act in a way that is consistent with the collective interest of the group. In the case of the rat race, an intervention is a policy that makes it easier or less costly for each individual to abstain from participating in the rat race, and so work in accordance with her working time preferences. We can contemplate a number of specific policies that potentially fulfil these criteria. Consider for example the proposal to strengthen labour unions. Unions can provide a platform for overcoming collective action problems like the rat race by facilitating communication, issuing and enforcing collectively binding rules of action, and exerting power to force employers into acceptance of and compliance with working time regulations. Indeed, unions have historically been the single most important factor in reducing working time

and regulating the workplace and today many unions endorse proposals of working time reduction such as the 4-day working week.<sup>17</sup>

A different way to increase workers' bargaining power is to equip them with a basic income. It is often argued that a basic income would make it less costly for individuals to express their authentic preferences for leisure and working time because it provides them with a reliable exit option from work contracts that do not suit their interests<sup>18</sup> Though there is substantial uncertainty about the question what the likely effects of the introduction of a basic income would be, it can be expected that most forms of the basic income – if pitched at a reasonably high level – will lead to an increase in workers' bargaining power. This is mainly because it equips them with the freedom to quit unpleasant jobs. Insofar as it decreases the severity of the threat of unemployment, it mitigates rat races triggered by the desire to avoid dismissals or other disadvantages. It is less clear whether a basic income would address rat races that evolve around other competitive goals such as competitive consumption or achieving a promotion.

Rat races can also be tackled more directly through the issuing of maximum work hours laws. Such restrictions seem like a natural response to the rat race because they make it impossible for workers to use working time as a means of competing with each other. Their main advantage is that they are relatively cheap and effective and policy makers can draw on substantial historical experience with regards to their implementation. A major drawback of this strategy is that it is a relatively blunt instrument that is likely to treat alike different workers in different sectors and with different preferences. This is problematic because rat races in different sectors differ in how severe they are and should therefore be addressed in different ways. The main advantage of simplicity gets undermined the more policymakers attempt to finetune and tailor maximum hours laws to specific circumstances.

## 2.3 Regulation is Almost Never Pareto-Improving

I now address an important objection that denies the assumption that the removing of rat races constitutes a Pareto-improving shift. While interventions to remove the rat race will benefit workers who prefer to enjoy more leisure – the grasshoppers –, they will harm those who prefer to work more and enjoy less leisure – the ants. This means that removing the rat race is not a Pareto-improving shift.

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<sup>17</sup> John H. Pencavel, *Diminishing Returns at Work*, (Oxford University Press, 2018), Ch. 2.

<sup>18</sup> See for example Philippe Van Parijs, *Real Freedom for All: What (If Anything) Can Justify Capitalism?* (Oxford: Clarendon Press, 1995). Parijs and Vanderborght, *Basic Income*. Op. cit.



To illustrate this concern, let's go back to *Two villages*. The objection begins with the insight that the example of *Two villages* is too simplistic in the following way: In reality, not all villagers will have an interest in the construction of a bridge. Some will be indifferent and some will be opposed to such a project. For some residents, the expected benefit of the bridge does not outweigh the cost they would have to bear. Others may even consider the bridge a disutility, say because it ruins a beautiful landscape. As a result, the construction of a bridge is no longer justifiable on the grounds that it advances everyone's interest. A similar objection applies against the grasshoppers' demand to remove the rat race. Helping grasshoppers by regulating labour markets harms the interests of ants because the introduction of a regulatory mechanism makes it more difficult or more costly for them to work as long as they please. If this were the case, interventions would in fact not be Pareto-improving because they improve the situation of grasshoppers at the expense of the interests of ants.

There are two ways in which defenders of working time reduction policies can respond to this objection. First, they can point out that not all forms of intervention harm ants. While coercive policies such as maximum work hours laws may well harm ants, a number of other interventions may not, such as, for example, non-coercive measures that use incentives and voluntary opt-in programmes. An illustrative example of a non-coercive policy is the "Right to Disconnect" introduced on 1 January 2017 in France, which requires firms with more than 50 employees to propose timeframes during which workers are not required to be online and to respond to emails.<sup>19</sup> As I explained in the introduction, the French government introduced this right as a response to widespread overwork and a rising prevalence of burnout syndrome. In contrast with maximum work hours legislation, this policy imposes relatively little harm on ants because it strengthens workers' ability to not work overtime without *preventing* them from doing so. However, while it may take the sting out of some rat races, the right to disconnect will not remove them entirely because it will be possible and advantageous for workers in many situations to compete against each other by working extra hours. Crucially, the right to disconnect does not provide workers with a means of coordinating their actions in order to align their collective interest with what is individually rational for each worker. Something similar will likely be true for other non-coercive policies besides protecting the right to disconnect.

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<sup>19</sup> Nicolas Boring, 'France: Right to Disconnect Takes Effect', (The Library of Congress, January 13<sup>th</sup> 2017), section Global Legal Monitor. <http://www.loc.gov/law/foreign-news/article/france-right-to-disconnect-takes-effect/> (accessed April 4<sup>th</sup> 2019).

For example, states can create mechanisms that allow for an opting-out of established working time directives when certain conditions are met.<sup>20</sup> States can also take measures to augment workers' individual or collective bargaining power, for example by providing everyone with a basic income or by implementing state-supported sectoral bargaining systems. Such policies are preferable to coercive maximum hours laws because they're less restrictive of ants' freedom to work as long as they please. Nevertheless, we must assume that these rat race-removing policies too will normally harm ants, at least to *some* extent, and so this first response to the objection is not enough.

This leads us to a second response to the objection which posits that interventions are justifiable even if they are not, strictly speaking, Pareto-improving. Philosophers have dedicated much thought to the question of how to evaluate policies that benefit some and harm others and there are different approaches to this question. However, reasonable approaches converge on the idea that if the affected interests of those who would be benefitted and those who would be harmed are identical or similar in strength, we should aggregate these interests across individuals and settle the decision in favour of the group who experiences the largest loss. One particularly appealing approach is the contractualist 'Complaint Model'. In the subsequent paragraphs I use the Complaint Model in order to adjudicate between the competing interests of ants and grasshoppers once we've dropped the assumption that regulating the rat race is beneficial to everyone. I'm not suggesting that the Complaint Model is the *only* theoretical approach that provides a satisfactory solution to the problem of grasshoppers' and ants' competing interests. Here I'm using it merely as an illustration for how one can sustain the argument that regulation to remove the rat race can be justifiable even though it harms ants to some extent.

According to the Complaint Model, we should endorse a policy if and only if the strongest complaint against it is smaller than the strongest complaint that can be raised against alternative policies.<sup>21</sup> To illustrate, if we must choose between either saving one person from death or a million persons from headaches, the Complaint Model plausibly recommends saving one person from death. Other doctrines, such as utilitarianism, that rely on a straightforward aggregation of harms and benefits might implausibly recommend saving a large number of persons from headaches. In the case of the rat race, the Complaint Model recommends regulation if and only if the complaint

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<sup>20</sup> See for example Bogg, Costello, and Davies, *Research Handbook on EU Labour Law* Chapter 12.

<sup>21</sup> See for example T.M. Scanlon, *What We Owe to Each Other* (Cambridge, Mass.: Belknap Press of Harvard Univ. Press, 2000), 230.

against the rat race that can be raised by the most adversely affected grasshoppers is stronger than the complaint that can be raised by those ants that are most adversely affected by regulation.<sup>22</sup>

It is likely that the complaint that can be mounted against the rat race by any *individual* grasshopper is similarly weighty or weightier than the complaint that arises for any individual ant as a result of regulation. The most significant harm suffered by ants as a result of regulation is a loss of financial income. Many types of collectively binding regulation to prevent the rat race from occurring will effectively prevent ants from spending as much time at the workplace as they please and, as a result of that, prevent them from increasing their income through overtime work.<sup>23</sup> On the side of grasshoppers, the rat race sets back an interest in free time, which – like money – is an important resource that can be used to pursue a wide variety of ends. Moreover, an ample literature documents that long work hours have deleterious effects on workers’ safety and health.<sup>24</sup> If it were true that the loss of free time, taken together with the risks and health effects of long work hours, harms individual grasshoppers more severely than the loss of income harms individual ants, the Complaint Model would recommend regulating the rat race.

This simple “minimize the largest complaint” principle can generate implausible consequences in some cases. For example, if we have to choose between saving one person from losing three fingers and saving 1000 persons from losing two fingers, the simple version of the Complaint Model counterintuitively recommends saving one person from losing three fingers. However, the Complaint Model can be modified in ways that avoid this troubling implication. For example, a sophisticated version of the Complaint Model can allow for the aggregation of individual complaints in cases where complaints are similarly severe. Arguably, the complaint that arises from a loss of two fingers and the complaint that arises from a loss of three fingers are sufficiently similar

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<sup>22</sup> One might wonder what exactly is meant by the term ‘complaint’. As I understand it, the concept of a complaint within a Scanlonian contractualist framework broadly refers to something that sets back a person’s interest. A person has a complaint against a principle to regulate social interaction if that principle sets back her interests.

<sup>23</sup> One might worry that regulation also restricts ants’ access to goods other than money that are also obtainable through work, such as social recognition, self-esteem, and realising community with others. However, these goods are not exclusively available through work. For example, individuals can gain social recognition and experience a sense of community with others through joining voluntary societies. Moreover, acquiring these non-monetary goods arguably does not require that workers be allowed to work as long as they *maximally* wish but only *enough* to meet a certain threshold. For example, a particular job can be a source of self-esteem even when the worker in question is allowed to pursue it for only 30 rather than 50 hours per week. Recent research suggests that as little as 8 hours per week might be enough to reap the ‘goods of work’ other than money Daiga Kamerāde et al., ‘A Shorter Working Week for Everyone: How Much Paid Work Is Needed for Mental Health and Well-Being?’, *Social Science & Medicine* 241 (2019).

<sup>24</sup> Kapo Wong, Alan H. S. Chan, and S. C. Ngan, ‘The Effect of Long Working Hours and Overtime on Occupational Health: A Meta-Analysis of Evidence from 1998 to 2018’, *International Journal of Environmental Research and Public Health* 16, no. 12 (2019).

to trigger a concern for the number of individuals who are affected by these losses. I will assume that this is the most plausible version of the Complaint Model.<sup>25</sup> In order to see how this version of the Complaint Model applies to the rat race, consider the following example:

*10-hours reduction:* Imagine an economic sector where the rat race leads to an increase in average working time from 40 hours to 50 hours per week. A government responds to this with an intervention – say a strengthening of labour unions – that removes the rat race and leads to a 10-hours working time reduction.

Let's assume for a moment that the complaint that arises for ants as a result of regulation and the complaint that arises for grasshoppers as a result of the rat race are similarly severe, so that the Complaint Model requires their aggregation (I will later defend this assumption). If this is true, the Complaint Model would recommend regulating the rat race *if* grasshoppers outnumber ants. Plausibly this is the case in most contemporary societies. Consider the example of the United Kingdom. Statistics about overemployment and underemployment can be used as a very rough indicator for the distribution of working time preferences and thus for the distribution of grasshoppers and ants. In the UK, about 32 million individuals are employed in the labour market. Of these, more than 3 million want more hours, 10 million want fewer hours and the rest wants neither more nor fewer hours. Of those who want fewer hours, more than 3 million would want them even if this means lower pay. 6,5 million want fewer hours but not with less pay.<sup>26</sup> This suggests that there are roughly three times more grasshoppers than ants.<sup>27</sup>

However, not everyone agrees that such statistics reveal conclusive information about working time preferences. This is because of a purported process of adaptive preference formation where individuals in work-centred societies are nudged into believing that lifestyles centred around gainful employment are particularly valuable: “The connection between identity and occupation is forged

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<sup>25</sup> It is beyond the scope of this chapter to explain and defend this version of the Complaint Model. There is ample literature on the question of what role aggregation should play in contractualist theory Sophia Reibetanz, ‘Contractualism and Aggregation’, *Ethics* 108, no. 2 (1998): 296–311; Joe Horton, ‘Always Aggregate’, *Philosophy & Public Affairs* 46, no. 2 (2018): 160–74; Veronique Munoz-Darde, ‘In the Face of Austerity: The Puzzle of Museums and Universities’, *Journal of Political Philosophy* 21, no. 2 (2013): 221–42.

<sup>26</sup> UK Office For National Statistics, ‘EMP16: Underemployment and overemployment’, <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/datasets/underemploymentandoveremploymentemp16> (last accessed 22nd of January, 2020).

<sup>27</sup> We can expect that there are varying shares of ants and grasshoppers in different sectors of the economy. A more precise analysis, which is beyond the scope of this paper, would disaggregate these figures and identify the share of ants and grasshoppers in different sectors of the economy in order to make sector-specific policy recommendations.

from a young age, with children being prompted by parents and educators to refine their career aspirations and begin cultivating their employability”.<sup>28</sup>

The importance of the institution of paid employment for our identity, social recognition and material subsistence, so the argument goes, makes it difficult to form preferences that are not aligned with the dominant attitudes towards work.<sup>29</sup> Moreover, the advertisement industry constantly creates new desires for consumer products that can only be afforded through gainful employment. This puts a premium on high-working time, high-income lifestyles and makes it attractive to develop preferences for paid employment. The upshot of this argument is that the number of “real” ants is likely to be substantially lower than suggested by the statistics. While this is perhaps correct, it is entirely unclear what exactly our preferences would look like in an “undistorted”, work-morality-free setting. It is also unclear whether theorists opposed to perfectionist approaches to social justice have reasons to criticise the above-described process of preference-formation in work-centred societies. Interesting though it is, I will set this concern to one side.

However, there is still reason to believe that the above figures overstate the number of ants in the UK. In an economy where everyone received the wage to which they’re morally entitled, these figures would provide conclusive knowledge about the number of ants in a society. In the real world, where many do not receive just wages, these statistics are likely to reflect more than just working time preferences. For example, some may want more hours because they need more income to survive or because they want social security benefits that are available through full-time but not through part-time employment. In other words, not everyone who is overemployed is necessarily an ant. The upshot of this is that under any reading of the statistics, ants are outnumbered by grasshoppers.

In order to approximate the number of ants and grasshoppers in the UK, we must also answer the question of how we should interpret the divide between those grasshoppers who would like to reduce their working time only with full wage-compensation and those who would like to work less even if this means less money. On which side of the equation of our harm-comparison should

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<sup>28</sup> David Frayne, *The Refusal of Work*, (London: Zed Books Ltd, 2005), pp. 14–15.

<sup>29</sup> Some empirical findings seem to vindicate this hypothesis. Consider the example of Sweden: “Ironically, the demand for fewer hours is most pronounced in Sweden, where weekly and annual hours are already low and the government has devoted itself to reducing the conflict between work and family. It seems that generous social benefits make working fewer hours an attractive option in Sweden, especially for women with children. In the United States, where average work hours are high and work-family conflict is severe, the working population is split between those who want more hours and those who want fewer” Jeremy Reynolds, ‘When Too Much Is Not Enough’, *Sociological Forum* 19(1) (2004) 89–120, page 95.

we register those grasshoppers who are not willing to take an income loss? It is possible that these workers are not harmed by rat races because if they were harmed by rat races and if they earn incomes above the wage minimally required by justice, they would welcome even those types of working time reduction that go along with wage reductions. But we can nevertheless assume that those grasshoppers are in favour of the intervention of strengthening labour unions. This is because labour unions typically advocate *both* better pay *and* reduced working time. Hence, in our calculation we should count at least all those on the side of grasshoppers who claim to be overemployed and all those on the side of ants who claim to be underemployed. This means that under the most conservative estimation (disregarding issues around low wages and adaptive preference formation) ants are indeed outnumbered by grasshoppers by three times. The upshot of this is that rat race-removing interventions are recommended by a reasonable version of the Complaint Model that aggregates whenever the competing interests at stake are similar.

Let me now defend the assumption that the harms at stake on the side of grasshoppers and those at stake on the side of ants are sufficiently similar to justify aggregation. As I said, the rat race sets back grasshoppers' interest in free time and regulation sets back ants' interest in additional income. Both free time and money are important resources that individuals can use to advance their life plans. The question is how one can vindicate the judgement that these competing interests in money and free time are of comparable significance without relying on a perfectionist standard of human flourishing. In other words, can we establish that the harm suffered by grasshoppers under *laissez-faire*, that is when no rat race-removing regulations are in place, and the harm suffered by ants under *intervention*, that is when policies to remove the rat race are in place, are sufficiently similar to allow for aggregation without making controversial assumptions about human flourishing?

One way to avoid relying on a perfectionist standard is to appeal, instead, to individual judgements about the relative significance of money and free time. Such individual judgements can be revealed through a "willingness-to-pay" test of the kind that Ronald Dworkin has proposed.<sup>30</sup> To see what this involves, suppose an ant and a grasshopper each earn an annual salary of £40,000 under a regime of *laissez-faire* with 40 hours of work per week, and that they can instead earn £35,000 under a regime of *intervention* with 35 hours per week. We must decide whether to shift from the regime of *laissez-faire* to a regime of *intervention*. Using a willingness-to-pay test involves asking the ant how

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<sup>30</sup> Ronald Dworkin, *Law's Empire*, (London: Harvard University Press, 1986) Chapter 8. See also Paul Bou-Habib, "Torts, Markets and Equality," *Annual Review of Law and Ethics* Vol. 17, 2009: 309-326. Note that the willingness-to-pay test is always carried out against a backdrop of equal bidding power. This ensures that it doesn't produce outcomes that are skewed in favour of rich workers who use their high income to 'outspend' poor workers.

much she would be willing to pay to retain the regime of *laissez-faire* and the grasshopper how much she would be willing to pay to shift to a regime of *intervention*. Suppose that the ant would be willing to reduce her salary by £2,500 in order to retain *laissez-faire* (i.e., so that her salary would shift from £40,000 to £37,500). Suppose, next, that the grasshopper would be willing to sacrifice £2,500 in order to have *intervention* instead of *laissez-faire* (she would accept a salary of £32,500 in order to have *intervention*). On a willingness-to-pay test, the competing interests of this ant and grasshopper are equivalent in significance. By contrast, suppose the ant was more extreme in her judgement, so that she would derive *zero* value from the extra free time she could have under *intervention*, and would thus be willing to pay almost £5,000 in order to retain *laissez-faire* (almost all of the income she would gain from *laissez-faire*). In this case, we should conclude that her interest in *laissez-faire* is weightier than the grasshopper's interest in *intervention*. This is because the ant would be willing to pay more in order to retain *laissez-faire* than the grasshopper would be willing to pay in order to have *intervention*. Using a willingness-to-pay test of this kind allows us to reach this judgement about the relative significance of their interests without assuming that the ant or grasshopper have the better conception of the good life and is thus anti-perfectionist.

To my knowledge, such a willingness-to-pay test hasn't been operationalised in the context of working time regulation. What I offer here is only a sketch of a theoretical solution to the problem of comparing the goods of money and leisure in a way that is anti-perfectionist. My hypothesis, that the interests of grasshoppers that would be set back under *laissez-faire* and the interests of ants that would be set back under *intervention* are sufficiently similar in order to permit aggregation, would be confirmed if ants and grasshoppers would offer similar amounts in a willingness-to-pay test. And as I have shown above, a reasonable version of the Complaint Model that aggregates similar complaints would settle the dispute between ants and grasshoppers in favour of the latter because there are many more grasshoppers than ants.

## 2.4 Regulation is Harmful to Third Parties

One might worry that regulating the rat race wouldn't set back the interests of only ants but also those of other parties affected by the rat race and its regulation. Crucially, in the absence of regulation, the rat race works to benefit consumers and business owners, for example, because it leads to an increased production of goods and services. If regulation to prevent the rat race from occurring was in place, consumers would see an increase in the prices of goods and services because

the additional labour generated by the rat race works to expand the availability of consumer goods.<sup>31</sup> Business owners might also be harmed by regulation because they would no longer benefit from the (occasionally gratis) extra work that occurs as a result of the rat race.<sup>32</sup> It might seem arbitrary to focus discussion of the effects of regulation exclusively on the interests of grasshoppers and ants when there are also other parties whose interests are adversely affected by regulatory intervention. Taking the interests of these other parties into account might weaken the case for working time regulation because it could reveal that regulation is more harmful than the initial analysis that is restricted to the interests of grasshoppers and ants suggests.

However, it is far from obvious that considering additional interests weakens the case for working time regulation.<sup>33</sup> There are two main reasons to assume that the conclusion of the Complaint Model wouldn't be altered by considering other affected interests, i.e., beyond the interests of ants and grasshoppers. First, many of these other affected interests side with the grasshoppers' complaint against the rat race. For example, children would likely benefit from the presence of workers who return from work earlier. Other family members, dependents, and friends of those who participate in the rat race might favour regulation because it would allow them to spend more time with these workers. Moreover, insofar as it is true that long work hours have adverse effects on workers' health, consumers might benefit from regulation because public expenditure to treat overwork-related health issues might go down.

Second, the interests of many parties other than ants that are harmed by regulation aren't weighty enough to alter the recommendation of the Complaint Model. It is true that consumers have an interest in cheaper goods and the rat race reduces the prices of consumer goods. But the harm suffered by each consumer as a result of slightly higher prices is not enough to outweigh the harm experienced by grasshoppers when their free time is significantly reduced by the rat race. Neither

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<sup>31</sup> As I mentioned above, not all rat races are productive in the sense that they lead to an increased production of goods and services. We can imagine cases where workers attempt to impress their boss by staying longer in their office without actually carrying out more work during these extra hours. The objection I discuss in this section only applies to productive rat races, where competition between workers leads to an increased production of goods and services.

<sup>32</sup> This loss suffered by business owners might also be passed on to consumers in the form of higher prices.

<sup>33</sup> One might think that there is a straightforward reply to this objection, according to which the interests of consumers or business owners wouldn't be affected by regulation because business owners could pay for new workers from the decreased wage of existing workers that are willing to work fewer hours with less compensation. However, this reply assumes that it would be easy to transfer these small amounts of freed-up time to new employees. This in turn is not a realistic assumption to make because transaction costs and other frictions that occur in real existing labour markets (as compared to idealised theoretical models) make it difficult to realise these time-transfers..



can somewhat lower prices of consumer goods outweigh the other interests I mentioned above, such as the interests of children to spend more time with their working parents.

What's more, most people must work in order to be able to consume which means that they must weigh their interest in cheaper products against their interest in free time. Another way to put this is to say that there is often identity-relation between the groups of grasshoppers, ants, and consumers. Grasshoppers and ants are not only workers but also consumers, and consumers are often (though not always) workers. We should assume that individuals don't treat their working time and leisure preferences as entirely independent from their consumption preferences. The two are intertwined: Supposedly, ants' main reason for preferring long work hours is that this affords them more consumer goods and grasshoppers know that working little is incompatible with a consumption-intensive lifestyle. This means that insofar as consumers are grasshoppers, their interests in cheaper consumer goods is mitigated by their interest in leisure. Those consumers that are ants also have an interest (though a much smaller one) in free time that reigns in their desire for cheap consumer goods.

Having said this, it bears emphasizing that there are *some* rat races whose removal is impermissible because they generate significant benefits for the least advantaged. To understand why this might be the case, note that workers whose skills are high in demand on the labour market often earn high wages, whilst those whose skills are low in demand are often badly paid. Many think that some market-induced inequalities of this kind can be morally objectionable, and that this can justify compensation to those whose skills happen to be low in demand. It is even less controversial that states have a duty to provide the worst-off with at least enough resources to cover basic necessities. One straightforward way of complying with that duty is to impose progressive taxation on high-income earners. The revenue created by this taxation can then be redistributed in ways that benefit the worst off. However, the size of the revenue that can be extracted from high-income earners depends on the size of these workers' income. Much more tax revenue can be extracted from a high-income earner who works 70 hours per week than from the same person working only 35 hours per week. With this in mind, consider now the following scenario.

*Corporate consultants:* A group of corporate consultants is affected by a rat race, as a result of which they work much longer than they would do otherwise. The consultants are top-earners and their income is taxed at a rate that is compatible with the demands of social justice. The state solves their collective action problem so that each consultant works significantly less than before. Consequently, the state-revenue that flows from taxation of their income diminishes.

If states solve the corporate consultants' rat race, they lose resources that could otherwise be used to improve the situation of the worst-off.<sup>34</sup> The worst off are of course those who normally rely most on tax-funded social services and if the state's tax base shrinks, they will be the ones who suffer most from cuts to these services. This suggests that the removal of rat races between very privileged workers is morally impermissible because it harms the worst-off.

Note that the force of this argument against regulating rat races between privileged workers depends on the truth of an assumption that sometimes isn't met in reality. It assumes that workers whose working time increases as a result of the rat race earn higher incomes than those who don't participate in the rat race. But this isn't always the case. We can imagine that the corporate consultants from our example attempt to impress their boss by staying longer in their offices even though they know that these extra hours won't be paid. If those who participate in the rat race don't earn more income as a result of increasing their working time, then there is no additional tax revenue that can be extracted from them.

Nevertheless, we should expect that many rat races between privileged workers create paid overtime work that can be taxed to benefit the least advantaged. Regulating these rat races would harm the interests of the least advantaged to an extent that makes regulation morally impermissible. Another way to say this is that the urgency of the moral concern about excessive working time diminishes as workers become better off. Any reason states can have to aid time-pressured top-earners will often be outweighed by the more urgent moral concern that this will set back the interests of those who're already disadvantaged. In cases like *corporate consultants*, the complaint generated by *intervention* is stronger than the complaint generated by *laissez-faire*. The interest of the least advantaged in maintaining the same level of tax-funded social services outweighs the corporate consultants' claim to enjoying more free time.

Contrast *corporate consultants* with a rat race that occurs among disadvantaged workers. Imagine for example a group of gig-economy delivery workers that is affected by a rat race whereby everyone accepts delivery-jobs in their free time in order to avoid the threat of being dismissed. Imagine also that the state helps these workers overcome the rat race by subsidising gig-economy labour unions. In this case, the rat race removal doesn't harm the least advantaged but rather improves their situation because it provides them with access to additional free time.

What follows from this is that states ought not to solve all rat races indiscriminately but only when this doesn't set back the interests of the least advantaged. In extreme cases, where privileged

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<sup>34</sup> Compare Stanczyk, 'Free Time and Economic Class', 71; Paula Casal, 'Mill, Rawls and Cohen on Incentives and Occupational Freedom', *Utilitas* 29, no. 4 (2017): 4.

workers generate enormous tax revenue, states might even have reasons to make it more difficult for these workers to solve their collective action problems in order to “squeeze” a maximal amount of tax income from them.<sup>35</sup>

## 2.5 Regulation is Ineffective

I now turn to an objection according to which regulating the rat race is an idle exercise because, instead of removing the rat race, regulation will only shift the problem to another field, where it then re-emerges. Remember that the rat race occurs when workers use long work hours as a means of signalling productivity and commitment in order to achieve, for example, a promotion. Imagine now that states pass legislation that makes it impossible for employers to make promotion decisions on the grounds that someone works longer than someone else. Obviously, this legislation will not remove the worker’s desire to get a promotion. If workers know that they cannot use long work hours as a means of demonstrating commitment, they may find other ways of competing that are just as harmful to their interests. For example, they may decide to demonstrate their commitment by working more *intensively*. This suggests that regulation to remove the rat race may be futile because it only moves the problem and leads to the emerging of another rat race elsewhere.

The force of this objection mainly depends on two factors: a) How many workers, if any, will enter a different rat race once the rat race around work hours is removed? b) How harmful is the new rat race as compared to the old one? The answer to these questions will in turn depend on the question of how difficult or promising it is to enter into a new rat race, say around the intensity of work.

Remember that the rat race around the length of the working day occurs relatively frequently because workers are aware that working time is an easy and inexpensive way for employers to approximate productivity and commitment. Often (though not always), it is more difficult and more expensive for employers to measure the intensity of their employees’ work. This is because measuring work intensity requires information about both quantity and quality of the products or services produced by each worker. Goods or services are normally produced collectively by a number of workers which makes it more difficult to trace the contribution made by each individual. In other words, the intensity of work is less publicly verifiable than the number of work hours. Workers will find it attractive to compete by increasing their work intensity only if they expect that

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<sup>35</sup> There are several ways in which states can regulate rat races in a discriminatory rather than in a universal fashion. For example, states can help create or strengthen gig-economy labour unions and refrain from strengthening unions that represent privileged professions.

employers register and reward this additional effort. Workers will abstain from entering into a work-intensity rat race if intensity is not adequately measured or measurable.

It bears mentioning that insofar as workers do participate in work-intensity rat races, these are particularly burdensome. Staying longer at the workplace can often be done with comparably little effort, especially when workers decrease their work intensity. Working more intensely on the other hand is almost always associated with additional strain. This means that *if* work-intensity rat races occur they give rise to concern as well.

For the sake of the argument, imagine for a moment that the new rat race around work intensity is equally or even more harmful than the one around working time. Would this give us reason to refrain from removing the working time rat race? Or would it rather give us reason to issue legislation that removes the work intensity rat race as well? If it were true that the removing of each rat race would always lead to the emergence of a new and equally harmful rat race, then it would indeed be futile to pass any such legislation. But it's implausible to assume that this is the case.

Remember the above example of the educational arms race where parents attempt to provide their children with comparative advantages e.g., by sending them to expensive private schools. Imagine that a state decides to address this arms race by prohibiting private schools. Supposedly parents could now redirect their efforts and enter a different arms race, say by providing their children with additional private lessons in their free time. Does this mean that the prohibition of private schools is futile? Not necessarily, because we would expect the new arms race around private lessons to be less expensive and therefore less wasteful.

Something similar is true for the rat race around working hours. We can expect that workers will not always be able to find new ways of signalling motivation and commitment that have equally harmful effects than the working hours rat race. At some point workers may attempt to signal their motivation by smiling when their boss is around or by walking through the corridors of the firm in an especially energetic way. At this point, states may well decide that although problematic in some sense, these rat races are not worth regulating because their effects are not profound enough to justify intrusive and coercive measures.

## 2.6 Why can't the market solve the rat race?

To conclude, let me come back to a concern that I mentioned at the beginning of this chapter. Some might worry that I am underestimating the capacity of the market to solve collective action problems like the rat race 'organically', that is without state intervention. Consider the following way in which the market might provide a solution to the rat race. Many workers have preferences

for fewer work hours, and if they're willing to work for lower wages in order to obtain their preferred working-time arrangement, then we would expect that some companies try to attract these employees by offering jobs that involve fewer work hours. The fact that we observe so little part-time employment might mean that workers prefer not to take up opportunities for reduced working time when firms offer such opportunities, because they prefer income over free time. Another reason why workers might prefer not to take up opportunities for reduced working time is that working conditions have improved significantly over the course of the past two centuries. Many jobs that used to be boring or hazardous are now interesting and safe, so that there is less reason for workers to reduce work hours.

I mentioned previously that transaction costs and regulations, such as minimum wage laws, can make it difficult for firms to pass the costs of part-time employment on to employees. But let's assume for a moment that some, or perhaps even most of the costs of part-time employment can be passed on to employees, so that those who want to work less can do so if they're willing to work for a lower hourly wage. If this is true, then the prevalence of long work hours might mean that there is after all no demand for jobs with reduced working time. Claims of workers who say that they would prefer to work less even if this results in reduced income might be disingenuous: when confronted with the choice between income and free time they opt for income.

In the subsequent chapter I address this concern by offering another explanation for why there is so little part time employment. As I will show, collective action problems around increased working time occur not only between individual workers but also between firms. Collective action problems between firms offer an additional explanation for the prevalence of excessive work hours. They also help explain the related fact that industrialized societies continuously increase the production of consumer items, while the amount of free time that citizens enjoy has remained largely constant over the course of the last century.

### 3. The Rat Race between Firms

In this chapter I assess a complaint against economic institutions of contemporary societies that incentivize firms to produce an abundance of consumer goods and insufficient opportunities for workers to enjoy free time. Let me begin by drawing attention to some historical trends regarding material production and working time.

The economic history of humanity can be divided into two fundamentally different periods: One before and one after the onset of economic growth.<sup>1</sup> During the first part, which lasted several thousand years, most humans were relatively poor and during the much shorter second part, economic activity and average incomes grew very rapidly. Since the onset of the industrial revolution, living standards in many countries have improved dramatically. “Before 1750, per capita income in the world doubled every 6,000 years; since then, it has doubled every 50 years.”<sup>2</sup> Today, there are some countries where average life expectancy is twice as high as 200 years ago and “no country in the world has a lower life expectancy than the countries with the highest life expectancy in 1800.”<sup>3</sup>

In spite of this progress, there is growing scepticism over the value of perpetual economic growth.<sup>4</sup> One source of such scepticism has to do with the fact that economic growth has dramatically increased the availability of consumer products, but it hasn’t led to comparable expansions of citizens’ free time.<sup>5</sup> To illustrate, since the Industrial Revolution the average UK citizen has seen a 29-fold increase in prosperity.<sup>6</sup> Average working time, in contrast, *increased* during the time of the industrial revolution and is now roughly at the same level as before the industrial revolution. According to Juliet Schor,

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<sup>1</sup> Max Roser (2020) - "Economic Growth". Published online at OurWorldInData.org. Retrieved from: 'https://ourworldindata.org/economic-growth' [Online Resource]

<sup>2</sup> Frey, *The Technology Trap: Capital, Labor, and Power in the Age of Automation*, X.

<sup>3</sup> Max Roser, Esteban Ortiz-Ospina and Hannah Ritchie (2013) - "Life Expectancy". Published online at OurWorldInData.org. Retrieved from: 'https://ourworldindata.org/life-expectancy' [Online Resource]

<sup>4</sup> E. J. Mishan, *The Costs of Economic Growth*, Pelican Books (Harmondsworth: Penguin, 1969); Giorgos Kallis, 'In Defence of Degrowth', *Ecological Economics* 70, no. 5 (2011): 873–80; Julie L. Rose, 'On the Value of Economic Growth', *Politics, Philosophy & Economics*, 2019; Ed Diener and Martin E.P. Seligman, 'Beyond Money: Toward an Economy of Well-Being', in *The Science of Well-Being*, ed. Ed Diener, vol. 37 (Dordrecht: Springer Netherlands, 2009), 201–65; R. A. Easterlin et al., 'The Happiness-Income Paradox Revisited', *Proceedings of the National Academy of Sciences* 107, no. 52 (2010): 22463–68; Richard A. Easterlin, *Happiness, Growth, and the Life Cycle*, vol. Book, Whole (Oxford [u.a.]: Oxford Univ. Pr, 2010).

<sup>5</sup> John Kenneth Galbraith, *The Affluent Society*, 40th anniversary ed (Boston: Houghton Mifflin, 1998).

<sup>6</sup> Max Roser (2020) - "Economic Growth". Published online at OurWorldInData.org. Retrieved from: 'https://ourworldindata.org/economic-growth' [Online Resource]

One of capitalism's most durable myths is that it has reduced human toil. This myth is typically defended by a comparison of the modern forty-hour week with its seventy- or eighty-hour counterpart in the nineteenth century. The implicit – but rarely articulated – assumption is that the eighty-hour standard has prevailed for centuries. [...] We are asked to imagine the journeyman artisan in a cold, damp garret, rising even before the sun, laboring by candlelight late into the night. [...] These images are backward projections of modern work patterns. And they are false. Before capitalism, most people did not work very long hours at all. The tempo of life was slow, even leisurely; the pace of work relaxed. Our ancestors may not have been rich, but they had an abundance of leisure.<sup>7</sup>

In an influential essay, John Maynard Keynes predicts that within two generations, technological progress will make it possible for humans to work as little as 3 hours per day. Today we know that Keynes was too optimistic in predicting the imminence of a society of abundant free time.<sup>8</sup> According to Todd Rakoff,

changes in the economy have affected the distribution of hours among jobs much more than they have moved the overall averages. In recent years there has been a growth (or, historically speaking, a re-emergence) of jobs with very long hours—jobs more than 25 percent longer than the 40-hour standard, jobs that cannot be seen as the 40-hour week plus a few hours of occasional overtime. Of men in their middle years (aged 25–54) in non-agricultural employment, 22.2 percent worked 49 or more hours per week in 1976; by 1993, 29.2 percent did. The comparable figures for women are 5.7 percent and 12.0 percent.<sup>67</sup> Much of this increase happened in the late 1980s. In 1985, almost 17 million non-agricultural employees, men and women, worked 49 hours or more per week; by 1993 the figure had jumped to almost 22 million.<sup>9</sup>

Many find this puzzling. Technological development continually increases the availability of consumer items but it hardly reduces the amount of time people spend at work.<sup>10</sup> One might say

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<sup>7</sup> Schor, *The Overworked American: The Unexpected Decline of Leisure*, Paperback:43; Messenger, Lee, and McCann, *Working Time Around the World: Trends in Working Hours, Laws, and Policies in a Global Comparative Perspective*. Chapter 3.; Suzman, *Work: A Deep History, from the Stone Age to the Age of Robots.*; James E. Thorold Rogers, *Six Centuries of Work and Wages* (London: Allen and Unwin, 1949), 542-43.”

<sup>8</sup> John Maynard Keynes, *Essays in Persuasion*, vol. 1. publ. in the Norton Library (New York: Norton, 1963).

<sup>9</sup> Todd D. Rakoff, *A Time for Every Purpose* (Cambridge, MA: Harvard University Press, 2009), 76.

<sup>10</sup> Some economists disagree with this observation, arguing that since the onset of the Industrial Revolution there has been a very significant increase in retirement, so that over the course of a lifetime, individuals enjoy much more leisure now than before the Industrial Revolution. Messenger, Lee, and McCann, *Working Time Around the World: Trends in Working Hours, Laws, and Policies in a Global Comparative Perspective*. Ch. 4. This is an important observation and it is correct that average working time over the course of a worker's lifetime

that capitalism has an *output-bias*: firms tend to employ increases in productivity to produce more goods and services, rather than using it to cater to popular demands for more free time, such as the call for a four day work week.<sup>11</sup> The idea that technological progress should not only bring about higher output and higher wages, but also reductions of working time, has been endorsed by philosophers like Bertrand Russel, Hannah Arendt, and André Gorz, who claim that modern societies are ‘labouring societies’ that put too much emphasis on the value of work, while denigrating activities of leisure.<sup>12</sup> According to these authors, the output-bias ought to be removed, so that the privilege of enjoying free time becomes more widely available – even if this means that fewer goods and services will be produced as a result. But why exactly should we be troubled by the fact that free time hasn’t grown to the extent that some philosophers wished or expected?

My answer to this question draws on the claim that firms often face a morally objectionable collective action problem that makes it rational for each firm to increase output, although no firm is better off when all firms pursue this strategy. Before I elaborate on this explanation, I assess two alternative objections that are frequently raised against economic institutions that cause the output-bias. Section 3.1, discusses the claim that such institutions are objectionable because they exacerbate the destruction of the environment. It shows that this ecology-based objection against the output-bias has much less force than is commonly assumed. Section 3.2 assesses an objection according to which output-biased institutions are objectionable because they diminish human welfare. The most rigorous version of this objection is advanced by G A Cohen. I explain that his account is unsatisfactory because it is incomplete. Section 3.3 develops Cohen’s intuitions and proposes a more convincing version of the welfare-based objection. I argue that the output-bias is morally objectionable because it is caused by a collective action problem that leaves those who sometimes prefer more free time over cheaper consumer items worse off than they could otherwise be. Sections 3.4 and 3.5 respond to objections according to which we shouldn’t abandon the output-bias because this would harm consumers and because the output-bias is necessary to generate economic resources to combat demographic change. These objections apply not only to the arguments for reduced work hours I consider in this chapter, but also to the proposal to reduce

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(at least in industrialized countries) is now somewhat lower than before the Industrial Revolution. However, longer life expectancies have not only increased retirement, they have also increased the number of years during which workers are employed. As a result, the effect of increased life expectancy and increased retirement on how much free time someone enjoys over the course of her lifetime is rather limited. I get back to the problem of how much free time individuals of different age groups enjoy in chapter 5.

<sup>11</sup> I subsequently use the term ‘output-bias’ as an abbreviation for economic institutions that lead firms to use increases in productivity in a one-sided way that favours expansions of material output over expansions of workers’ free time.

<sup>12</sup> Hannah Arendt, *The Human Condition*, vol. Book, Whole (Chicago: Univ. of Chicago Press, 1959), 126–36; Russell, *In Praise of Idleness: And Other Essays*; Gorz, *Reclaiming Work: Beyond the Wage-Based Society*.



work hours in general. I consider them here because they are particularly relevant in the context of discussions of economic growth.

### 3.1 The Ecology Critique of the Output-Bias

A frequently voiced critique of contemporary economies is that they are unsustainable.<sup>13</sup> Some critics of the output-bias maintain that economic systems that mostly use productivity-increases to produce more consumer items are incompatible with a planet whose natural resources are finite.<sup>14</sup>

According to Naomi Klein

our economic system and our planetary system are now at war. Or, more accurately, our economy is at war with many forms of life on earth, including human life. What the climate needs to avoid collapse is a contraction in humanity's use of resources; what our economic model demands to avoid collapse is unfettered expansion. Only one of these sets of rules can be changed, and it's not the laws of nature.<sup>15</sup>

Currently humans extract natural resources like fresh water, sand, timber, or oil at unsustainable levels and with potentially disastrous consequences for us and for other species. According to the Global Footprint Network, humans are depleting natural resources 1.6 times faster than they can be regenerated by ecosystems.<sup>16</sup> In other words, we would need 1.6 earths to be able to continue resource-depletion and greenhouse gas emissions at the same rate than it currently occurs. To a large extent, these resources are extracted for the purpose of increasing the supply of consumer items. Something similar is true for current levels of greenhouse gas emissions, which – unless dramatically reduced – will cause catastrophic climate change.

Adhering to an unsustainable economic system is morally objectionable for many reasons. For example, it harms the global poor – the group who has benefited least from past carbon emissions and who is most vulnerable to the effects of climate change, it might conflict with our duties towards future generations, and it harms other species.<sup>17</sup> We might also have a duty to protect parts

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<sup>13</sup> Naomi Klein, *This Changes Everything: Capitalism vs. the Climate*, First Simon&Schuster hardcover edition (New York: Simon & Schuster, 2014); John Bellamy Foster and Brett Clark, *The Robbery of Nature: Capitalism and the Ecological Rift* (New York: Monthly Review Press, 2020).

<sup>14</sup> By 'productivity-increases' I mean novel technology or novel knowledge that reduce the costs of producing goods and services.

<sup>15</sup> Klein, *This Changes Everything*, 21.

<sup>16</sup> Mathis Wackernagel, Bert Beyers, and Katharina Rout, *Ecological Footprint: Managing Our Biocapacity Budget* (Gabriola Island: New Society Publishers, 2019).

<sup>17</sup> See for example Simon Caney and Mary Robinson, 'Climate Change, Human Rights and Moral Thresholds', in *Human Rights and Climate Change*, by Mary Robinson, ed. Stephen Humphreys (Cambridge: Cambridge University Press, 2009), 69–90; Henry Shue, 'Global Environment and International Inequality', *International Affairs* 75, no. 3 (1999): 531–45.

of nature, such as the rainforest or the tundra, because their beauty makes them intrinsically valuable and therefore worth protecting – independently of whether they benefit sentient creatures. Critics motivated by these sustainability-concerns maintain that economic systems that are not output-biased are ones where everyone works less and where everyone – as a result of working less – produces and consumes less, so that less resource-depletion occurs. Recent studies lend some support to this hypothesis, suggesting that countries where people work less emit less greenhouse gases.<sup>18</sup> According to one study, if European workers worked as long as workers in the United States, they would consume between 15 and 30 percent more energy.<sup>19</sup> We can refer to this as the *ecology critique* of the output-bias.<sup>20</sup>

However, considerations of sustainability and environmental protection provide much less support for reduced production and increased leisure than is often assumed. This is because there are many ways of combatting climate change, and increasing workers' free time is not the most effective among them. While policies to reduce productive activity might be somewhat effective in protecting the environment, there are other policies that can achieve this goal much more effectively. To illustrate, states could disincentivise activities that involve pollution, waste-production, and greenhouse gas emissions to a much greater extent than they currently do. Existing mechanisms, such as the 'cap and trade' system, that are set up to disincentivize emissions are effective in principle but have raised the costs of emitting greenhouse gases only to a very small extent. Carbon taxes would be more effective if they were pitched at a higher level and if fewer legal loopholes to avoid the paying of such taxes existed.<sup>21</sup> Another example for a policy that would be highly effective at protecting the environment is the subsidising of renewable energies in combination with a prohibition to use fossil fuels to generate energy. Significant reductions of greenhouse gas emissions could also be achieved by a prohibition of industrial animal farming.

Policies like these are more effective at achieving ecological sustainability than reducing working time because we can expect that at least some workers would use expansions of their free time to

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<sup>18</sup> David Rosnick and Mark Weisbrot, 'Are Shorter Work Hours Good for the Environment? A Comparison of U.S. and European Energy Consumption', *International Journal of Health Services: Planning, Administration, Evaluation* 37, no. 3 (2007): 405; Anders Hayden and John M. Shandra, 'Hours of Work and the Ecological Footprint of Nations: An Exploratory Analysis', *Local Environment* 14, no. 6 (2009): 575–600; Jonas Nässén and Jörgen Larsson, 'Would Shorter Work Time Reduce Greenhouse Gas Emissions?', 2010; ILO and UNEP, 'International Labour Organisation (ILO) and United Nations Environment Programme (UNEP) Report: "Green Jobs: Towards Decent Work in a Sustainable Low-Carbon World"', *International Journal of Climate Change Strategies and Management* 1, no. 1 (2009).

<sup>19</sup> Rosnick and Weisbrot, 'Are Shorter Work Hours Good for the Environment? A Comparison of U.S. and European Energy Consumption'.

<sup>20</sup> Coote, Harper, and Stirling, *The Case for a Four-Day Week* Ch. 2; André Gorz, *Critique of Economic Reason* (London: Verso, 1989) Ch. 11.

<sup>21</sup> Paula Casal, 'Progressive Environmental Taxation: A Defence', *Political Studies* 60, no. 2 (2012): 419–33.

engage in activities that are harmful to the environment. For example, if workers have more free time, they might decide to use this free time to travel to distant countries – an activity that involves significant greenhouse gas emissions. Or they might spend their free time shopping and purchasing short-lived consumer items that are harmful to the environment.

The above-cited positive correlation between working time and carbon emissions is contingent on several mediating variables and we can't be certain that working time reductions will improve sustainability. To further illustrate the contingency of the relation between work hours and carbon emissions, consider two workers who work the same number of hours per week and earn the same income, but differ in their spending habits. One of them spends her disposable income on cinema, yoga classes, local concerts, and vegan restaurants, the other spends her income on short-lived fashion products, airplane travel, and meat dishes. These two persons might have carbon footprints of very different sizes although they work the same number of hours.

If working time reductions are to improve sustainability, they must be accompanied with further regulation and incentives that make it attractive for workers to use their free time in ways that aren't harmful to the environment, such as for example higher taxes on carbon emissions. This in turn raises the question of why we shouldn't rely exclusively on these incentives in the first place.

Given the urgency of the ecological crisis, policymakers should prioritise implementing measures that are known to be highly effective and that have the potential of curbing emissions within a short time span. Consider the problem of deforestation. One way of protecting forests might be to re-design economic institutions in ways that make everyone work less and as a result consume less – including fewer consumer items that are made of wood. This strategy might be somewhat effective but it is rather indirect in the sense that its success is contingent on several empirical premises, such as that people who work less consume fewer timber-products. An alternative strategy to avoid deforestation is to impose limits on how many trees per year can be logged and to impose sanctions on firms that don't comply with these regulations. Such targeted measures reduce productive activity in those sectors of the economy that are particularly harmful to the environment but they don't necessarily reduce overall productive activity. After all, sustainability might require growth in economic sectors that produce solar panels, bicycles, or railways. What's more, policies that prohibit the logging of trees might be sufficient to combat deforestation. In other words, if policies to protect forests were sufficiently strict and if they were effectively enforced, then there would be no need for additional policies of working time reduction.

This observation generalizes. If higher taxes on carbon emissions, a prohibition of fossil fuel power plants, etc were sufficient to avoid ecological catastrophe, then there would be no ecology-based reason for removing the output-bias.

It is conceivable of course that all measures known to be most effective at protecting the environment taken together are not sufficient to avoid ecological catastrophe. Reducing everyone's working time might then make *some* contribution to ecological sustainability above and beyond other measures. If this were true, there would be an ecology-based case for working time reduction to complement other measures of environmental protection. I don't want to rule out that this might be the case and the urgency of the ecological crisis makes it important to figure out whether working time reduction might help achieve something that all of the more targeted policies taken together can't achieve. All I want to show here is that the ecology-critique of the output-bias is significantly weaker than is often assumed in academic and in popular discourse.

In some cases, moves towards more sustainability can actually lead to an *increase* in average working time. To understand why this might happen, consider the case of food production. One model of food production – let's call it 'industrial farming' – is carried out by large corporations who produce food in a highly automated fashion on large monocultures or livestock farms, through extensive use of machinery, pesticides, fertilisers, antibiotics, etc. A competing model of food production that we can refer to as 'organic farming' is based on biodiversity and sustainability and is usually carried out by small-scale producers. It is widely held that organic farming is more sustainable than industrial farming and that moves towards the organic farming model are necessary to prevent further environmental destruction.<sup>22</sup> Note however that organic production is much more labour-intensive than industrial farming. More working time is needed to produce a certain amount of food through organic farming than through industrial farming because organic farming benefits less from economies of scale and because it relies less on automation. Making food production more sustainable might cause an increase of the total amount of work that is carried out in a society and therefore limits the prospects of working time reduction. Something similar is arguably true for other industries, where more sustainable modes of production would require more human labour. In a society that consumes less energy and less natural resources, some of the work that is now carried out by energy-consuming machines would have to be carried out by humans. As a result, average working time might *increase* instead of go down.<sup>23</sup>

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<sup>22</sup> Niels Halberg and Adrian F. Müller, eds., *Organic Agriculture for Sustainable Livelihoods* (New York, NY: Routledge, 2012).

<sup>23</sup> Cohen recognizes this challenge and proposes the following two-step solution. First, we should understand leisure not as freedom from work but as freedom from unwanted activity. Second, an

In summary, the ecology-critique of the output-bias is inconclusive because the environment doesn't always benefit from reductions of productive activity and because benefiting the environment can sometimes require increasing the share of human labour that goes into the productive process. The ecology critique of the output-bias is thus an example of the inconclusive consequentialist arguments to which I have referred in the introduction. I now turn to a more promising argument, according to which output-biased economies are objectionable because they promote human welfare to a lesser extent than economic systems that aren't output-biased.

### 3.2 The Welfare Critique of the Output-Bias

A sophisticated version of a welfare-based objection to the output-bias is advanced by G.A. Cohen, according to whom

The productive technology of advanced capitalism begets an unparalleled opportunity to lift the curse of Adam and liberating men from toil but the production relations of capitalist economic organization prevent the opportunity from being seized. The economic form most able to relieve toil is least disposed to do so.<sup>24</sup> [...] Because capitalism always favours expanding output, it will, for that reason and to that extent, be a detrimental economic system under certain conditions. [...] American capitalism now functions detrimentally to human welfare in the stated respect.<sup>25</sup>

Roughly, Cohen's argument can be summarized as follows.

Premise 1: Capitalist economies are highly productive and therefore create a potential for reduced working time but the dynamics of capitalist production prevent that potential from being realized.

Premise 2: Humans would enjoy more welfare under alternative economic systems, such as democratic socialism, where everyone can work less, even if working less raises the price of consumer goods.

Premise 3: A society where humans enjoy more welfare is preferable (other things equal) to one with less welfare.

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economic system that doesn't exhibit the output-bias must necessarily be socialist and under socialism most work will no longer be tedious but rather pleasant. Therefore, we can both abandon the output-bias and expand leisure. *Karl Marx's Theory of History*, 323. This solution isn't convincing for several reasons. Importantly, Cohen argues neither for the assumption that the only conceivable economic system without output-bias is socialism nor does he argue for the assumption that work would be more pleasant under socialism than under capitalism.

<sup>24</sup> Gerald A. Cohen, *Karl Marx's Theory of History* (Oxford: Clarendon Press, 1978), 306.

<sup>25</sup> Cohen, 310.

Therefore, capitalism is objectionable because it promotes human welfare to a lesser extent than alternative economic systems.<sup>26</sup>

We can refer to this as the *welfare critique* of the output-bias. Cohen maintains that Premise 1 is true because

advances in productivity enable gains in either direction [more output or more leisure]<sup>27</sup>, typically at the expense of gains in the other direction. Now capitalism inherently tends to promote just one of the options, output expansion, since the other, toil reduction, threatens a sacrifice of the profit associated with increased output and sales and hence a loss of competitive strength.<sup>28</sup>

This defence of his first premise is too brief and incomplete. Cohen claims that firms who use productivity-gains to increase output are more competitive than firms who use productivity-gains to reduce working time, but he offers no further argument to sustain this claim. Why exactly are firms that increase output more competitive than firms that reduce working time? After all, working time reductions reduce labour costs so that this might at least sometimes be profitable. Cohen doesn't explain convincingly why capitalist economies normally favour expansions of output over expansions of free time.

Something similar is true for the second premise of Cohen's argument, which states that humans would enjoy more welfare in a society where everyone works less, even if consumer items become somewhat more expensive as a result. Cohen offers the following rationale to support this premise. Workers can be expected to benefit both from expansions of output and from expansions of leisure. Different workers prefer different work-leisure balances. Almost no one prefers to *always* expand output and never expand leisure. Recall that this is precisely what happened over the course of the past two centuries. Economic output has grown tremendously and working time has shrunk by only a very small extent. Even those who think of material wealth as more important than free time would perhaps agree that material wealth isn't important enough to justify this extreme discrepancy. Economic systems that always expand output don't cater to the interests of a large majority of workers who would like to see a more even mix between output and leisure. Cohen thinks it would be strange to assume that workers *always* favour cheaper consumer goods over expansions of free time. At least some of the time, workers would like to use productivity to reduce working time. This implies that the kind of work-leisure mix that we would find in a society without output-bias promotes human welfare to a greater extent than contemporary economic systems.

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<sup>27</sup> Explanation added.

<sup>28</sup> Cohen, *Karl Marx's Theory of History*, 304.

But Cohen offers little by way of argument to explain why exactly there is so much material production and consumption under capitalism despite the fact that this frustrates most people's preferences. The most natural explanation for why people work as much as they work and consume as much as they consume is that this is what they prefer to do. After all, if there was demand for shorter work hours, we would expect capitalists to set up firms that cater to this demand by offering part-time employment. If Cohen's assumption that workers would at least sometimes prefer to expand their free time is true, then why are there so few workers who choose part time work? Cohen's analysis is incomplete because he offers no convincing answer to this question.

Later in his career, Cohen walked away from many of his commitments in *Karl Marx' Theory of History* and centred his critique of capitalism around other ideas such as that capitalism undermines solidarity and creates morally objectionable inequalities.<sup>29</sup> But it would be premature to abandon his critique of the output-bias. As I will show, the gaps in his analysis can be filled out so that it becomes conclusive. My point of departure for a convincing welfare critique of the output-bias is the observation that the output-bias is caused by a collective action problem that prevents firms from reducing working time. If all firms in a market could coordinate their actions, they would sometimes use productivity-increases to expand workers' free time. In the absence of a mechanism to facilitate coordination, firms must choose to use productivity-increases to expand output because they would otherwise face a competitive disadvantage. This explanation of the output-bias reconciles Cohen's plausible intuition that workers sometimes prefer working time reductions over increased material production with the observation that working time reductions occur so rarely.

### 3.3 The Rat Race Critique of the Output-Bias

In order to illustrate the claim that the output-bias is caused by a collective action problem, consider the following example.

*Bakery:* A new oven enables a bakery to bake twice as effectively as before. The new oven is also available to other bakeries that compete in the same market. The bakeries can now choose between:

- a) *Increased output:* Baking twice as much bread, while keeping stable average working time per worker.

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<sup>29</sup> In a remarkable passage towards the end of his book Cohen states that "More recently, [...] I have come to wonder whether the theory which the book defends is true (though not whether, as I claimed, it was affirmed by Karl Marx). I do not now believe that historical materialism is false, but I am not sure how to tell whether or not it is true." Cohen, 341.

- b) *Reduced working time*: Halving each employees' working time, while keeping bread production stable.

Firms can also realize combinations of a) and b), and in the real world the output-bias manifests itself as a combination of a) and b) whereby the share of a) is much larger than the share of b). For the sake of simplicity, I focus on a binary choice between more output and more leisure. At the moment I also put to one side other possible courses of action, such as dismissing half of the workforce while keeping stable average working time per worker. I will get to this and other complications in a moment.

Let's begin by noting that a) is an attractive choice because there are several ways in which increasing output can enhance the bakery's competitiveness. First, increasing output directly reduces the unit costs of each loaf of bread so that the bakery will be able to offer its bread at a cheaper price.<sup>30</sup> Second, economies of scale may lead to an indirect reduction of unit costs. An example of this would be synergies that result from larger production, such as the possibility to make cheaper bulk orders for wheat and yeast or to improve the division of labour in the baking process. Third, an increase in production can enhance the bakery's competitiveness by increasing its market power and thereby its ability to influence prices. Economic models of perfect competition assume a large number of firms that are each small enough to not be able to influence prices. If firms systematically favour the strategy of increased output over the strategy of increased leisure, a process of growth and consolidation can be expected to take place. Firms that produce more output normally increase their market-share and this involves replacing smaller, less competitive firms. The result of such a process can be an oligopsony, i.e., an economy with relatively few firms that each have substantial market power.

In fact, most contemporary economies are characterised by a trend towards corporate consolidation and one reason for this trend is the capacity of large firms to exert market power and influence prices<sup>31</sup>. An example for this is the beer brewing industry, where Anheuser-Busch InBev

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<sup>30</sup> One might object to this assumption by pointing out that new technology doesn't always reduce unit costs. If the cost of maintaining the oven were very high, production costs could be driven up by the new technology instead of making it cheaper. For example, we could imagine that the new oven is incredibly energy consuming and that electricity is very expensive. In reply to this objection we can maintain that engineers and other developers of new technology have little incentive to invent machines or other products that would drive up production costs. Presumably demand for machines that would make production costlier is very low. Therefore, it is likely that our bakery will be able to produce bread at a lower price if it chooses to use the oven as a means of expanding bread production.

<sup>31</sup> David Autor et al., 'The Fall of the Labor Share and the Rise of Superstar Firms' (Working Paper, 2019); Keith Cowling and Philip R. Tomlinson, *Monopoly Capitalism* (Oxford: Oxford University Press, 2012); John Bellamy Foster, *The Theory of Monopoly Capitalism* (Monthly Review Press, 2014).



controls around 60% of the world market profit.<sup>32</sup> This dominant position is the result of a series of acquisitions and mergers that are partly motivated by the prospect of gaining market power and partly by the competitive advantage that results from economies of scale. In extreme cases, so called winner-takes-it-all markets offer a very high premium on becoming the biggest player.

To be sure, the fact that firms have *some* reason to expand output is not enough to establish the conclusion that these reasons normally outweigh reasons to adopt the alternative strategy of expanding workers' free time. After all, working time reductions might be a way of reducing labour costs that go into the process of production. Sometimes the expected benefit of using new technology as a means of saving labour costs can be higher than the expected benefit of using technology as a means of expanding output. Especially when production is very labour intensive and when labour costs are high, firms have incentives to reduce production costs through working time reduction. In cases where the gains from reduced labour costs exceed the gains from increased output, firms will opt for working time reductions. Imagine for example a traditional vegetable farm where most sowing, cultivating, and harvesting is done by humans. If a tractor became available to this farm, it might be rational for the farm owner to use the tractor to reduce labour costs, rather than using it to produce more vegetables.

One reason why we nevertheless observe so much material production and so little working time reduction might be that cases where working time reductions are more profitable than expansions of output are very rare. Perhaps the gains associated with expansions of output are so significant that they usually outweigh the benefits associated with reduced working time. In sectors of the economy that offer big premiums on firm-size and market share, this explanation has considerable force.<sup>33</sup>

But there is another explanation for why we don't observe significant working time reductions over time. This explanation has to do with the fact that firms can reduce the amount of labour that goes into the production process in two ways. They can either reduce each employees' working time or they can fire some employees while leaving constant the working time of those who remain employed. For privately-owned firms, the latter option of dismissing a part of the workforce will often be more attractive. This is because dismissing some workers is normally cheaper than maintaining a larger number of part-time workers because each individual worker creates certain

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<sup>32</sup> Jeff Spross, 'What Beer Reveals about Monopoly Power', *The Week*, 2017, <https://www.theweek.com/articles/736059/what-beer-reveals-about-monopoly-power>.

<sup>33</sup> Jonathan Tepper and Denise Hearn, *The Myth of Capitalism: Monopolies and the Death of Competition* (Hoboken, New Jersey: John Wiley & Sons, 2019).

fixed costs such as social security expenses, office equipment, etc.<sup>34</sup> What's more, firms can't pass all these costs onto employees because regulation such as minimum wage laws often make this impossible. The fact that a significant part of workers in industrialized countries are overemployed, i.e., that they would like to work fewer hours but don't find jobs that offer these conditions, suggests that firms find it very difficult to offer one and the same job with different working time arrangements.<sup>35</sup> This means that in cases where firms want to reduce the costs of labour, they'll often find dismissals more attractive than working time reductions. The upshot of this is that, firms have incentives to prefer dismissals and expansions of output over expansions of workers' free time because this generates a competitive advantage vis-à-vis those firms who decide to expand workers' free time.

With this in mind, we can now formalize the choice between output and free time as a game theoretical problem involving two players (firm A and firm B).

		Firm A	
		Increase Output	Reduce working time
Firm B	Increase Output	0/0	1/-1
	Reduce working time	-1/1	0/0

When both firms decide to expand output (top left), their competitive standing relative to each other remains the same. We can assign values of 0 to each firm in this scenario because from the perspective of competitiveness, the choice to expand output is neither beneficial nor harmful to each firm. In cases where one firm decides to increase output while the other firm decides to reduce working time (bottom left and top right), the former of will gain a competitive advantage and the latter will consequently face a competitive disadvantage. Therefore, we can assign values of 1 and -1 to the respective outcomes. Lastly, if both firms jointly decide to reduce working time, their competitive standing relative to each other again remains unchanged, so that we can assign values of 0 to each firm in this scenario. This makes it individually rational for each firm to increase output but neither firm gains a competitive advantage if both firms choose to increase output. When firms

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<sup>34</sup> Lonnie Golden, 'Part-Time Workers Pay a Big-Time Penalty' (Economic Policy Institute, 2020), <https://files.epi.org/pdf/179038.pdf>; Daniel Aaronson and Eric French, 'The Effect of Part-Time Work on Wages: Evidence from the Social Security Rules', *Journal of Labor Economics* 22, no. 2 (2004): 329–252.

<sup>35</sup> Golden and Gebreselassie, 'Overemployment Mismatches: The Preference for Fewer Work Hours'.

are unable to coordinate their actions, they will choose to expand output in order to avoid the disadvantageous situation depicted in the bottom left and top right box of the matrix.

For the firms' employees, the most likely outcome (increased output) is suboptimal in the sense that all workers could enjoy more leisure if they could coordinate to reduce working time. At least sometimes, workers prefer expansions of free time over expansions of output but in the absence of a means of coordination, this option is not available. We can refer to this dynamic as the *output rat race* between firms.

Note that this rat race occurs independently of whether or not there is a conflict of interest between the employees and the owners of a firm. One might think that the reason why firms often decide to increase output rather than reduce working time is that firm owners are primarily concerned with their firm's profitability and are indifferent to employees' welfare. This would suggest that the output rat race arises only in contexts where firms are owned privately and where workers can't bring their work-leisure preferences to bear on the firm's decision-making. From this perspective, the root of the problem is not a collective action problem but an ownership structure that prevents workers from expressing their preferences. Cohen defends this view, arguing that the output-bias wouldn't arise under economic systems where firms are owned collectively. Here I disagree with Cohen.

In order to assess whether it is true that the rat race between firms is caused by private ownership, assume for a moment that the bakeries from our example operate in a world where all firms are worker-owned cooperatives. Assume moreover that some cooperatives use their new ovens to expand workers' free time and other cooperatives use the oven to expand output. Finally, assume that as a result of this choice, those cooperatives that expand output gain a competitive advantage. In the long run, the output-oriented cooperatives will drive the free-time-oriented cooperatives to extinction because they're able to offer their product at a cheaper price. Just like in a world of privately-owned firms, this makes it individually rational for each cooperative to expand output because expanding leisure bears the risk of bankruptcy (which we can assume to be much worse for workers than a deviation from their preferred work-leisure balance). The upshot of this is that the output rat race is likely to occur not only when firms are owned privately but also under market socialism, where firms are owned collectively.

To be sure, private ownership of firms can *exacerbate* the rat race when it prevents workers from realizing their preferences even in cases where expansions of output only lead to marginal increases in profitability. Capitalists whose aim it is to maximize profit will prefer increased output when it leads to a small increase in profitability, even if increasing free time would greatly improve workers'

welfare. Worker cooperatives in contrast would opt for expansions of free-time in cases where this doesn't threaten competitiveness because it leads to only a small increase in profitability.<sup>36</sup>

Before I conclude my explanation of the output rat race, it bears pointing out that the competitiveness-gain that firms derive from expanding output is largely independent from the elasticity of demand for the firm's product. Demand is highly elastic when consumers buy much more of a product when the price of the product goes down. Nonessential goods such as electronics, or dining out are examples of goods with highly elastic demand. Demand is very inelastic when consumers don't buy more of a product, or only very little, when the price of the product goes down. Examples of goods with high inelastic demand are consumer staples such as tap water or salt. One might think that expanding output increases competitiveness only if demand for the product in question is highly elastic. As a result, the rat race will occur only in contexts where demand for the product in question is highly elastic. If this were true, it would diminish the scope of the rat race explanation for the output-bias. However, as I will now explain, firms have incentives to expand output independently of whether or not demand for their product is elastic.

Coming back to our bakery example, imagine for a moment that aggregate demand for the bakery's bread is rather inelastic. This means that consumers will not buy more bread when the bakery offers it at a cheaper price. At first sight, this seems to entail that producing more bread at a cheaper price is not attractive for the bakery because there are no or only few consumers who will buy the surplus bread. But let's analyse more closely what happens when one bakery expands output and the other reduces working time. The bakery who expands output will be able to offer its bread at a cheaper price. In reaction to this, consumers will stop buying the more expensive bread offered by the 'reduce-work-hours-bakery' and instead buy the cheaper bread offered by the 'expand-output-bakery'. In other words, the bakery that expands output increases its market share. Consumers don't buy more bread overall but they buy a larger share from the 'expand-output-bakery'. The prospect of selling more bread through an expansion of its market-share makes it rational for each firm to expand output.

Contrast this with a scenario where demand is elastic. This means that as a result of cheaper prices aggregate demand will increase. In this scenario it is more straightforwardly rational for each firm to expand output because firms can sell more, even if they don't expand their market-share. In

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<sup>36</sup> Cohen is right to assume that private ownership makes it more likely that firms that want to reduce labour costs choose dismissals over working time reductions. As I explained previously, dismissals normally reduce labour costs more than working time reductions, so that profit-maximising capitalists prefer the former over the latter. Worker cooperatives prefer reducing everyone's working time over dismissing some workers in cases where profitability can be increased by reducing labour costs.

summary, the choice to expand output is attractive independently of whether demand is or elastic or not.

The output rat race between firms, like the rat race between workers that I discussed in the previous chapter, gives rise to a complaint on the side of those who participate in it. Many workers would prefer to have their working time reduced but they are unable to coordinate their efforts in ways that would bring this goal about. In the absence of a regulatory mechanism, the collective action problem locks them in a rat race toward ever increased production. This is significant because it means that regulatory intervention could improve workers' welfare. In many cases, regulation can make workers of competing firms better off because it facilitates access to the otherwise unavailable option of reduced working time.

Assume now that an outside agent, say the state, could enact a policy that helps the workers coordinate their conduct but refuses to do so and fails to provide goods reasons for its refusal. In this case, workers can mount a complaint against the state. Its refusal to act leaves them worse off than they could otherwise be for no good reason.

To clarify the nature of this complaint, consider the structurally similar collective action problem around tax competition between countries. Nowadays, states must choose their preferred tax regime against a background of mobile capital. Wealthy individuals and international corporations can often pick and choose where to shift their capital and where to pay taxes. This makes it individually rational for each state to attract foreign capital by offering low taxes or other attractive conditions, such as strong bank secrecy laws. However, this strategy ceases to be beneficial if it is pursued by many states. A race to the bottom around lower taxes can result in a situation where no state achieves its goal of attracting a disproportionately large share of foreign capital but each state suffers a loss from having eroded its tax base at home.<sup>37</sup> Citizens who suffer from these effects can mount a complaint against a situation where they could be better off if a mechanism to coordinate the actions of states was in place so that a race to the bottom can be avoided.

Something similar is true for the output rat race. It leads to a situation where the gains of productivity are one-sidedly turned into increased output so that workers find it difficult to access more leisurely lifestyles. Workers have a complaint against situations where states can facilitate mechanisms of coordination that help firms overcome the rat race but fail to do so for no good reason.

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<sup>37</sup> See for example Peter Dietsch, *Catching Capital: The Ethics of Tax Competition* (Oxford University Press, 2015).

Another reason why the rat race explanation of the output-bias is significant is that it shows why an objection against regulating rat races between individual workers fails. In the previous chapter I explained how collective action problems between workers can lead to morally objectionable outcomes where workers work more than they would in the absence of these collective action problems. Some are sceptical about this argument for working time regulation because, as I explain in section 2.6, it is conceivable that the market would solve these collective action problems between workers if workers really had preferences for reduced work hours. If there is demand for part-time employment, then one might expect that firms would cater to this demand by offering jobs that involve fewer work hours. The fact that we observe so little part-time employment might mean that workers prefer not to take up opportunities for reduced working time when firms offer such opportunities. However, as I have shown in this chapter, rat races occur not only between workers but also between firms. This means that the market by itself can't provide a solution to rat races between workers. Objections against working-time regulation according to which such regulation is unnecessary because markets generate sufficient opportunities for part-time employment fail because they overlook the rat race between firms.

### 3.4 Consumer Interests

One might object to this that there *is* in fact a good reason for states not to regulate the output rat race. In justifying their refusal to intervene, states can appeal to the interests of consumers who benefit from the rat race because expansions of output reduce the price of consumer items. Consumers benefit when firms use novel technology to produce more goods because increased production, in combination with market competition, results in lower prices of consumer items. Solving the rat race through working time regulation benefits workers but it might harm consumers, so that we're unsure whether solving the rat race is desirable or not. I have already discussed a very similar objection in section 2.4 but it is worth getting back to some of the concerns about consumer interests as they arise in the context of the rat race between firms.

In response to this objection, we must first note that the extent to which consumers benefit from increased material production depends on the level of wealth of a given society. For a poor society, an increase in economic output leads to a significant increase in citizens' life-satisfaction and for a society that is already quite rich, the same increase in economic output leads to only a marginal increase in life-satisfaction. The wealthier a society gets, the more difficult it becomes to achieve

further increases in well-being through increases in material production.<sup>38</sup> One might say that material production has diminishing returns on well-being.

Regulating the output rat race in very poor countries might be impermissible because citizens of these countries stand to benefit a great deal from lower prices. This is not to say that citizens of poorer countries wouldn't also benefit from expansions of free time. It is estimated for example that collectively women around the world spend a total of 40 billion hours collecting water each year, which is "equivalent to all the hours worked in a year by the entire workforce in France."<sup>39</sup> For women who spend several hours each day collecting water, additional free time might be more valuable than cheaper consumer products. But it is at least conceivable that the welfare gains associated with cheaper consumer items sometimes outweigh the welfare gains associated with expansions of free time in poor countries. This would be true in cases where someone can't meet her basic needs because she can't afford to purchase essential products like food or clothes unless prices of these products go down.

The welfare of citizens of wealthy countries, in contrast, increases only marginally when material production increases. In some cases, the output rat race can even be harmful to consumers. Consider the phenomenon of planned obsolescence. In order to be able to expand output, many firms limit the durability of their products, so that consumers must soon dispose of them and replace them with new products. Planned obsolescence occurs in almost all sectors of the economy. Products as different as smartphones, cars, and furniture are often designed to have a deliberately limited lifetime, after which consumers must dispose of them. Demand for these products is often rather inelastic, so that consumers replace them as soon as they break down. According to studies of the European Parliament and the European Commission, planned obsolescence severely reduces the welfare of citizens of all European countries.<sup>40</sup> This is especially true for low-income households because "The more dependant agents are on the product for their income, the more

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<sup>38</sup> Mishan, *The Costs of Economic Growth*; Kallis, 'In Defence of Degrowth'; Rose, 'On the Value of Economic Growth'; Diener and Seligman, 'Beyond Money: Toward an Economy of Well-Being'; Easterlin et al., 'The Happiness-Income Paradox Revisited'; Easterlin, *Happiness, Growth, and the Life Cycle*.

<sup>39</sup> UNICEF, 'Collecting Water Is Often a Colossal Waste of Time for Women and Girls', Press Release, 29 August 2016, <https://www.unicef.org/press-releases/unicef-collecting-water-often-colossal-waste-time-women-and-girls>; Dale Whittington, Xinming Mu, and Robert Roche, 'Calculating the Value of Time Spent Collecting Water: Some Estimates for Ukunda, Kenya', *World Development* 18, no. 2 (1990): 269–80.

<sup>40</sup> Carlos Montalvo, David Peck, and Elmer Rietfeld, 'A Longer Lifetime for Products: Benefits for Consumers and Companies' (Brussels: European Parliament's Committee on Internal Market and Consumer Protection, 2016), [https://www.europarl.europa.eu/RegData/etudes/STUD/2016/579000/IPOL\\_STU\(2016\)579000\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2016/579000/IPOL_STU(2016)579000_EN.pdf); European Commission. Directorate General for the Environment. and TNS Political & Social, 'Attitudes of Europeans towards Waste Management and Resource Efficiency.' (LU: Publications Office, 2014), <https://data.europa.eu/doi/10.2779/14825>.

likely it is that they will benefit from an extension of the product's lifespan."<sup>41</sup> The output rat race incentivizes firms to use planned obsolescence to increase the number of goods they can sell. If it is true that the output rat race causes planned obsolescence, then it follows that the output rat race doesn't always benefit consumers—it often sets back their interests.

Another way in which the output rat race sets back consumers' interests is through negative externalities that are caused by excessive working time. Overwork impacts workers' health and stress-related sick leave poses a significant burden for the economies of industrialized countries.<sup>42</sup> In Germany for example, job strain is estimated to create an economic cost of 30.8 billion Euros each year.<sup>43</sup> The main reason why many employers nevertheless demand excessive work hours of their employees is that the costs associated with treating burnout and other stress-related diseases can be 'externalised' in the sense that these costs are covered by taxpayer-funded healthcare systems. The possibility of externalising the costs of overwork, in combination with the possibility of hiring fresh staff from the 'reserve army of the unemployed' can make it rational for firm owners to treat employees as disposable capital that can be replaced when it has been used in an unsustainable fashion.

The upshot of these considerations is that the output-bias does not necessarily benefit consumers. This is important because it shows that the output-bias can't be defended on the grounds that it reduces the prices of consumer goods. Noticing this strengthens the welfare objection against the output-bias. Yet we must be cautious not to dismiss the effect of the rat race on consumer prices entirely. Output rat races between firms might *sometimes* be morally permissible when they occur in contexts where citizens' interest in accessible consumer items outweighs workers' interest in free time. The case against the output-bias is much stronger in affluent countries where we can expect consumers' interest in cheaper goods to be outweighed by other considerations, such as workers' interests in free time or consumers' interests in durable products.

### 3.5 Demographic Change

Finally, one might object to what I have said so far by explaining that the rat race is morally justifiable because it helps states discharge other duties of justice. Importantly, states must find adequate responses to the challenge of demographic change, which involves a growing number of

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<sup>41</sup> Montalvo, Peck, and Rietfeld, 'A Longer Lifetime for Products: Benefits for Consumers and Companies', 10.

<sup>42</sup> European Agency for Safety and Health at Work. et al., *Calculating the Costs of Work-Related Stress and Psychosocial Risks: Literature Review*.

<sup>43</sup> Wolfgang Bödeker, Michael Friedrichs: *Kosten der psychischen Erkrankungen und Belastungen in Deutschland*, in: Lothar Kamp, Klaus Pickshaus (Hrsg.): *Regelungslücke psychische Belastungen schließen*, August 2011.



old people, who no longer participate in the productive process, must be provided with the necessities of life and with a fair share of society's resources. As the populations of industrialized countries grow older, the same number of workers must cater to the needs of a larger number of retirees. It might seem that further expansions of economic output are needed to countervail the pressure that demographic change exerts on the welfare state. If states issue legislation to eliminate the output rat race, there will be fewer goods and services available for redistribution to the old than would otherwise be available. This means that while eliminating the output rat race would be beneficial to middle-aged workers, it would be harmful to the retired who have an interest in expansions of output.<sup>44</sup>

Note that this is not only an objection against the rat race critique of the output-bias but also against other arguments in favour of working time reduction. The worry that shorter work hours will harm the old also casts doubt on the arguments presented in other chapters of this dissertation. I reply to it here because concerns about the costs of demographic change are voiced especially often in the context of discussions of economic growth. But my remarks should be read to apply more widely.

In reply to the demographic change objection we can point out that the interests of retirees aren't only set back by reductions in the amount of goods and services that are available to them but also by reductions in the amount of time that workers can spend with their elderly relatives and friends. According to the United States' National Poll on Healthy Aging, 1 out of 3 retirees reports a lack of companionship.<sup>45</sup> This is significant because loneliness and social isolation are among the most significant threats to the health and wellbeing of elderly persons.<sup>46</sup> One straightforward way of addressing the so called 'loneliness epidemic' amongst the elderly is to expand workers' free time. To be sure, there is no guarantee that all or even most workers will use their additional free time to provide company to their elderly relatives and friends. But something similar is true for the expansion of output. Many retirees would likely benefit from increased output but in the absence

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<sup>44</sup> Daniel Halliday, Tom Parr "Aging, Justice and Work: Alternatives to Mandatory Retirement" in *The Ethics of Aging*, ed. C. Wareham, Cambridge University Press.

<sup>45</sup> Solway E, Piette J, Kullgren J, Singer D, Kirch M, Malani P. Loneliness and health. University of Michigan National Poll on Healthy Aging, March 2019. Available at: <http://hdl.handle.net/2027.42/148147>

<sup>46</sup> John T Cacioppo and Stephanie Cacioppo, 'Older Adults Reporting Social Isolation or Loneliness Show Poorer Cognitive Function 4 Years Later', *Evidence Based Nursing* 17, no. 2 (2014): 59–60; Tilmann von Soest et al., 'Development of Loneliness in Midlife and Old Age: Its Nature and Correlates.', *Journal of Personality and Social Psychology* 118, no. 2 (2020): 388–406; Kimberley Brownlee, 'The Lonely Heart Breaks: On the Right to Be a Social Contributor', *Aristotelian Society Supplementary Volume* 90, no. 1 (2016): 27–48. Avi Bitzur; Eran Fisher, "It Is Not Good for Man to Be Alone": The Struggle against Loneliness in Old Age: Basic Assumptions for an Integrative Operational Concept – The Israeli Case," *International Journal of Social Science Studies* 6, no. 1 (2018): 82-106

of further regulation and incentives, there is no guarantee that the gains of increased output end up in the hands of retirees. In any case, we can expect that increasing workers' free of time will cause some workers to dedicate more time to elderly relatives or friends so that this move would at least provide some benefit to this group.

It also bears emphasizing that demographic change is not a natural or unavoidable phenomenon that industrialized countries must deal with – whatever else they do. The ageing of the populations of industrialized countries only occurs against the backdrop of a policy of closed borders that prevents younger persons from other countries from entering industrialized countries. If the conditions to enter industrialized countries were less strict, more young people would enter these countries and thereby countervail the effect of demographic change.<sup>47</sup>

Lastly, we must note that over the course of a whole life, everyone, including those who are now old, benefit from working time reduction. Most of those who receive pensions when they are old have previously been workers themselves, and at this earlier time of their life they would have benefitted from expansions of their free time. Those elderly who enjoyed the benefits of reduced working time when they were middle-aged can't reasonably ask the younger generation to work more, for them to enjoy a higher standard of living. We might say that enjoying free time at one stage of our life compensates us for some (though not all) hardships that we encounter at later stages of our life. We shouldn't look at retirees and workers as two separate groups who compete for society's resources but as one group that lives through different life-stages over the course of time. Adopting this perspective is not sufficient to address the objection from demographic change but it weakens its force. I will get back to the question of how much access to free time individuals should have at different stages of their lives in chapter 5.

Taken together, the insights on loneliness, replacement migration, and fairness between age groups suffice to address the demographic change objection. Retirees who live in societies without output-bias can be just as well off or even better off than retirees who live in societies that are output-biased.

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<sup>47</sup> Paul Bou-Habib, "The Case for Replacement Migration," *Journal of Political Philosophy* 27, no. 1 (2019): 67–86. Apart from opening borders there are several other strategies of combatting demographic change, such as for example incentivizing procreation. However, many of these strategies have significant drawbacks. Increased birth rates for example are bad for ecological sustainability. Other strategies, such as reduced spending on health care for the elderly are even more controversial.

## 4. Breadwinners and Homemakers

In the previous chapter I have shown how collective action problems between firms preclude opportunities for reduced working time and explained that this is concerning because it reduces workers' welfare in objectionable ways. Thus far my focus has been on work that is carried out inside formal labour markets, where workers and firms compete and experience problems of collective action. This chapter broadens the scope of my analysis to include work that is carried out outside formal labour markets. More specifically, I engage with the question of how paid work, housework, and care work is shared among men and women and discuss the morality of traditional breadwinner-homemaker arrangements

### 4.1 Setting the Stage

Let me begin by explaining what such traditional arrangements are and why one might be concerned about them. On average, women work more than men.<sup>1</sup> When we sum up time spent on paid work, care work and household work, we find that women across the world spend significantly more time working than men. What's more, men dedicate many more hours to paid labour than women. In particular, more men than women work in full-time occupations, while women represent a larger share of part-time employees.<sup>2</sup> The flipside of men engaging more often in full time paid work is the fact that women specialise more often in care and housework.<sup>3</sup> We can refer to this as the *gendered division of labour*. To a significant extent, the gendered division of labour is caused by entrenched social norms and patriarchal institutions that stigmatise deviations from 'traditional' lifestyles and make it more costly for women than for men to choose long work hours arrangements.<sup>4</sup> Vice versa, men often find it costly to reduce the time they spend on paid employment. On the one hand this is because full-time employment normally offers superior pay and better working conditions than part-time employment and on the other because social norms

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<sup>1</sup> According to the fifth European Working Conditions Survey "women work, on average, 64 hours a week compared to [...] 53 hours worked by men". Mark Smith, *Women, Men and Working Conditions in Europe*, 5th European Working Conditions Survey (Luxembourg: Publ. Off. of the Europ. Union, 2013), p.9

<sup>2</sup> Daniël van Hassel et al., 'Age-Related Differences in Working Hours among Male and Female GPs: An SMS-Based Time Use Study', *Human Resources for Health* 15, no. 1 (2017): 84; Messenger, Lee, and McCann, *Working Time Around the World: Trends in Working Hours, Laws, and Policies in a Global Comparative Perspective*. Chapter 4.

<sup>3</sup> Gina Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, (Oxford ; New York: Oxford University Press, 2019) Ch.1.

<sup>4</sup> Gheaus, Anca. Gender. In 'The Oxford Handbook of Distributive Justice' Edited by Serena Olsaretti. Vol. 1. Oxford University Press, 2018.

that ascribe to men the role of ‘breadwinners’ stigmatize housework and parenting. I will elaborate on the causes and the effects of the gendered division of labour in the next section.

The gendered division of labour is especially disadvantageous for women. Part-time workers earn lower hourly wages, are less likely to get tenure, are less likely to be promoted, receive fewer bonuses and are generally less likely to occupy influential positions in the labour market. Recent research suggests that the gender pay gap – the fact that women often have lower wages than men – is largely caused by this part-time pay penalty.<sup>5</sup>

As a result, both men and women are restricted in their ability to choose divisions of labour that involve an equal-split of paid and unpaid work between partners.<sup>6</sup> By ‘restricted’ I don’t mean that it is impossible for couples to split paid and unpaid work equally but that the financial and social costs of choosing an equal-split-lifestyle are higher than the costs of choosing a ‘traditional’ division of labour. Note that while obstacles to accessing the option of an equal-split of paid and unpaid work between partners are harmful to both women and men, they are disproportionately harmful to women, so that the gendered division of labour remains a distinctly feminist concern or, as Gina Schouten puts it, “the linchpin of gender injustice”.<sup>7</sup>

I will refer to traditional divisions of labour, whereby men dedicate more time to work in the labour market and women dedicate more time to care- and housework, as *specialization*. And I will refer to arrangements, whereby couples divide the tasks of paid work and unpaid work in an equal fashion as *equal-split*. It bears emphasizing that there are two ways of understanding the idea of an *equal-split* of paid and unpaid work between men and women. *Equal-split* can be interpreted to apply to individuals, so that each person engages in some paid work and in some care- and housework. This is the sense in which I will use the term *equal-split* in this chapter. It can also be interpreted in an aggregate way, as a statistical average. On this understanding, *equal-split* is compatible with the idea that some or even all couples specialise but it requires that roughly the same number of men and women specialise in paid work and roughly the same number of men and women specialise in unpaid work. We can imagine a society where everyone specializes but work is split equally on aggregate, so that around 50 per cent of men work as homemakers and around 50 per cent of

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<sup>5</sup> Claudia Goldin. *Hours Flexibility and the Gender Gap in Pay*. Centre for American Progress. 2015. Kristi Olson, *The Solidarity Solution: Principles for a Fair Income Distribution* (New York, NY: Oxford University Press, 2020) Ch. 8. To be sure, the gender pay gap also has other causes, such as sexist discrimination by employers. However, according to Goldin, sexist discrimination is not the main cause of the gender pay gap.

<sup>6</sup> Here, I use the term ‘gender-egalitarian’ in a narrow sense: I use it to describe arrangements between couples who divide the tasks of paid work, care work and housework equally between each other, so that both engage in some amount of paid work and in some amount of care- and housework.

<sup>7</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 31.

women work as breadwinners. In other words, couples specialise but a person's gender can't predict whether she's more likely to specialize in a particular way.

My main concern in this chapter is not with specialization *per se* but with specialization along traditional gender lines, i.e., arrangements where men mainly work as breadwinners and women mainly work as homemakers. I will use the term specialization to refer to this latter, 'traditional' division of labour. Arrangements where couples divide the tasks of paid employment and unpaid work against the grain of established social norms are less concerning because they don't perpetuate patriarchal norms and I therefore dedicate much less discussion to this kind of specialization.<sup>8</sup>

My aim in this chapter is to explain that it is unjust that in contemporary societies the lifestyle of *equal-split* is more costly to access than the lifestyle of *specialization*. Beyond that, I defend the idea that increasing the availability and the quality of part-time work are necessary (though not sufficient) to overcome the gendered division of labour. My argument proceeds as follows: Section 4.2 describes the extent of inequality in working time between genders in industrialized countries and explains how this unequal working time distribution carries with it an unequal distribution of benefits that are exclusively obtainable through long work hours in the labour market. Section 4.3 assesses several unsatisfactory ways of objecting to the gendered division of labour and Section 4.4 presents a successful account of what is morally objectionable about this division of labour. Section 4.5 answer is an objection that this account faces and section 4.6 argues that established sets of policies that aim at removing patriarchal social norms that give rise to the gendered division of labour – in order to be more successful – ought to include policies of working time reduction and subsidies for part-time employment.

Apart from the gendered division of labour, there are other work-related gender-inequalities such as the sectoral division of the economy into male-dominated and female-dominated sectors. Important though they are, I will set discussion of these other inequalities to one side in this chapter.

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<sup>8</sup> Another reason why I don't say much more about the difference between the individualised and the aggregate understanding is that many of the strategies and policies that can be employed to achieve either individual or aggregate equal-split are very similar. Both, the decision to share paid and unpaid work equally between partners and the decision to specialise against the grain of tradition are stigmatised by patriarchal norms and both kinds of decisions – if taken by a large number of individuals – have the effect of eroding these social norms. Therefore, policies that encourage and subsidise individual equal-split also help those who seek to specialise against the grain of social norms. Vice versa, policies that encourage specializing against the grain also help those couples who seek to enact an individualised equal-split.

## 4.2 The Extent of Gender Inequality in Working Time

According to a report of the European Parliament,

Women are more likely than men to work part-time across all Member States. In the EU28 in 2012, although women represented 46% of those employed, they accounted for a massive 76% of all part-time workers and conversely only 38% of all full-time workers.”<sup>9</sup>

Women spend fewer hours on paid work than men and more often work in part-time occupations. In addition to that, the share of employed women (as opposed to those who do not engage in paid work at all) is significantly smaller than the share of employed men. The same report finds that the share of employed women in the EU28 lay at 64% in 2014, while the share of employed men lay at 75%.<sup>10</sup> The gender inequality in time devoted to paid work doesn't stop here: Men also devote more years of their life to paid work than women. On average, men spend 37.4 years of their life on paid work, while women do so only during 29 years of their life.<sup>11</sup> What makes this fact even more remarkable is that men have lower life expectancies than women, which means that in proportion to an individual's lifetime, this inequality is even greater. Lastly, men are much more likely to work long hours in the labour market, defined as work hours in excess of 48 hours per week.<sup>12</sup> For the purpose of this chapter, this latter fact is of special importance because as I will explain later, commitment to long work hours is often necessary for being promoted and climbing the career ladder. The highest positions both in the private and the public sector almost always require full-time or more than full-time commitment.

The flipside of the underrepresentation of women in paid employment is a larger commitment to household and care work.<sup>13</sup> In the UK, women engage in 26 hours of unpaid work per week while men do so only during 16 hours per week.<sup>14</sup> This finding generalizes: “Everywhere, women devote 1 to 3 hours more a day to housework than men; 2 to 10 times the amount of time a day to care

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<sup>9</sup> Davaki, Konstantina. (2016). *Differences in Men's and Women's Work, Care and Leisure Time*. A Study for the Directorate General for Internal Policies, Department C: Citizens' Rights and Constitutional Affairs, Gender Equality, European Parliament, Brussels, page 17. Compare also: J. Evans, D. Lippoldt, and Marianna P., „Trends in Working Hours in OECD Countries“, 2001, p. 12

<sup>10</sup> Davaki op. cit, p.15

<sup>11</sup> See for example Davaki op. cit, p.16.

<sup>12</sup> In his book *A Time for Every Purpose*, Todd D. Rakoff (2002, 76) explains that: “Of men in their middle years (aged 25–54) in non-agricultural employment, 22.2 percent worked 49 or more hours per week in 1976; by 1993, 29.2 percent did. The comparable figures for women are 5.7 percent and 12.0 percent.”

<sup>13</sup> The degree to which men participate in unpaid work strongly correlates with a country's wealth. This means that women in poor countries face a larger share of unpaid work than their counterparts in rich countries. See: United Nations Department of Economic and Social Affairs, *The world's women 2015*, Sixth edition (New York: United Nations, 2015), 89, <http://www.worldcat.org/oclc/988086142>.

<sup>14</sup> British Office for National Statistics, „*Women shoulder the responsibility of 'unpaid work'*“, 2011, <https://visual.ons.gov.uk/the-value-of-your-unpaid-work/>.

(of children, elderly, and the sick), and 1 to 4 hours less a day to market activities.”<sup>15</sup> What’s more, women don’t spend more time only on care- and housework, but they also devote more mental and emotional energy to the management and functioning of households.<sup>16</sup>

It is important to note that the unequal division of working time between genders mostly occurs between mothers and fathers, not so much between childless couples.<sup>17</sup> Childless couples often find it easier to achieve a more equal distribution of paid employment, housework and care work. “Caretakers at every income level have fewer options than non-caretakers at the same income level”<sup>18</sup> This also gets reflected in the amount of free-time available to parents and childless couples. “Parenthood generally imposes more time pressure on mothers than fathers [...] having children costs women almost 7 hours compared to under 4 for men.”<sup>19</sup> Importantly, when we look at the total amount of work carried out by any individual (that is paid employment and care and housework combined) we find that women work significantly more than men. This is often referred to as a ‘double shift’ that is disproportionately often taken up by women.<sup>20</sup>

To a significant extent, these inequalities in working time between genders are explained by what Susan Moller Okin calls the “gender system”: A set of patriarchal norms, traditions and institutions that present the gendered division of labour as natural and desirable and nudge women into the role of housekeepers and caretakers.<sup>21</sup> Another reason why parents often decide against *equal-split* arrangements is that given currently existing economic institutions, it is more efficient to choose a specialised division of labour. This means that parents who opt for *specialization* will often be economically better off than those who share the tasks of parenting and paid employment.

Note that the fact that *specialization* is often more efficient than *equal-split* doesn’t explain why it is mostly men who specialise in paid employment and women who specialise in care and housework. Again, part of the reason why we still observe a division of labour along these gender lines is that

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<sup>15</sup> World Bank, Hrsg., *Gender Equality and Development*, World Development Report, [34.]2012 (Washington, DC: World Bank, 2011), 80.

<sup>16</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 33; Kristin Wong, ‘There’s a Stress Gap Between Men and Women. Here’s Why It’s Important.’, *New York Times*, 14 November 2018, <https://www.nytimes.com/2018/11/14/smarter-living/stress-gap-women-men.html>.

<sup>17</sup> Claudia Dale Goldin, *Understanding the Gender Gap: An Economic History of American Women*, NBER Series on Long-Term Factors in Economic Development (New York: Oxford Univ. Press, 1992).

Kleven, Henrik, Camille Landais, and Jakob Egholt Sogaard. 2018. “Children and Gender Inequality: Evidence from Denmark.” Working Paper 24219. National Bureau of Economic Research. <https://doi-org.serlib0.essex.ac.uk/10.3386/w24219>.

<sup>18</sup> Anne Alstott, *No Exit: What Parents Owe Their Children and What Society Owes Parents* (Oxford; New York: Oxford University Press, 2004), 97.

<sup>19</sup> Alstott, 97.

<sup>20</sup> See for example Mark Smith, *Women, Men and Working Conditions in Europe*, 5th European Working Conditions Survey (Luxembourg: Publ. Off. of the Europ. Union, 2013), p.9.

<sup>21</sup> Okin, Susan Moller (1991). Justice, Gender, and the Family. *Philosophy and Public Affairs* 20 (1):77-97.

social norms stigmatise couples who divide labour against the grain of these norms. But there are other reasons. For example, women normally have to interrupt paid work during the first couple of months after giving birth and this can introduce a path dependency. Couples often find it convenient to stick with the division of labour that is initially introduced by the biological fact that it is women who give birth and who breastfeed. After some time, this division of labour is difficult to give up because women's ability to access attractive jobs is reduced after having spent some months outside the labour market.<sup>22</sup>

There are two further ways in which the gendered division of labour is disadvantageous for women. First, part-time work arrangements are inferior to full-time work in several respects. Hourly wages are lower for those who work few hours, training is less often granted to part-time workers, and the probability of securing permanent work contracts is much lower for part-time workers.<sup>23</sup> Part-time workers experience much less wage progression over the years than fulltime workers and many social security benefits are attainable only through full-time employment. As a consequence, women are less economically independent, earn lower wages and have less employment stability than men.<sup>24</sup>

Second, positions of high political and economic influence are almost exclusively obtainable through full-time or more than full-time work. Women confronted with the challenge of combining paid and unpaid work are often less capable of using long work hours as a means of advancing their careers. This contributes to an extremely unequal distribution of power and influential positions: In the United Kingdom, "97 per cent of the top 100 FTSE organisations have male "chairmen", two thirds of UK Members of Parliament are men and only one out of 12 judges at the Supreme Court is a woman.<sup>25</sup> In spite of large differences between countries, this pattern generalizes: Men are much more likely than women to occupy supervisory positions in all European countries.<sup>26</sup>

When couples who divide labour along gender lines split up, these disadvantages often persist.<sup>27</sup>

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<sup>22</sup> Kathleen Gerson, *The Unfinished Revolution: How a New Generation Is Reshaping Family, Work, and Gender in America* (Oxford; New York: Oxford University Press, 2010).

<sup>23</sup> Evans, Lippoldt, and Marianna op cit. p. 13.

<sup>24</sup> Mark Smith, *Women, Men and Working Conditions in Europe*, Bd. 13/49, 5th European Working Conditions Survey (Luxembourg: Publ. Off. of the Europ. Union, 2013), p 10; Davaki op. cit, p.19

<sup>25</sup> LSE Commission on Gender, Inequality and Power. „Confronting Gender Inequality”, 2015, 13, <http://www.lse.ac.uk/gender/research/Gender-Inequality-and-Power-Commission>.

<sup>26</sup> Mark Smith, *Women, Men and Working Conditions in Europe*, Bd. 13/49, 5th European Working Conditions Survey (Luxembourg: Publ. Off. of the Europ. Union, 2013), 31, <http://gso.gbv.de/DB=2.1/PPNSET?PPN=791913112>.

<sup>27</sup> Susan Moller Okin, *Justice, Gender, and the Family*, 15. (New York: Basic Books, 1998) Ch.7.



When marriages collapse, divorce laws in American jurisdictions typically require an equal division of property when the settlement is contested but often do not require the primary bread-winner, who is usually the male, to share the expected income stream from his earning power enhanced during the course of the marriage through sacrifices typically put forth by both partners.<sup>28</sup>

It bears mentioning that the fact that men earn higher salaries and occupy more influential positions is not exclusively caused by their willingness and ability to work particularly long hours. Other mechanisms, such as direct discrimination against women, favouritism towards men and different aspirations and attitudes that are themselves shaped by social norms can play a role as well. However, recent studies suggest that flexibility in work hours is *the* primary cause of the gender pay gap and it might well be the most important reason for why men find it easier to obtain positions of influence.<sup>29</sup>

In summary, I have reported on the extent of inequality in the distribution of working time between genders and on resultant inequalities in income, working conditions and power. I now turn to assessing the question of what makes these inequalities unjust. Political philosophers have objected to the gender system and patriarchal social norms on various grounds. For example, it is often claimed that the distribution of labour that arises from the gender system is objectionable because it is chosen involuntarily, because it violates equality of opportunity or because it reduces citizens' autonomy. The next section assesses and rejects these objections to the gendered division of labour. Subsequently, I introduce a more promising account of what is morally troubling about the gendered division of labour according to which 'specializers' harm those who would prefer to enact *equal-split* by imposing a disproportionate negative externality on them.

### 4.3 Unsatisfactory Objections to the Gendered Division of Labour

In order to illustrate different objections that have been raised against the gendered division of labour, consider the following scenario:

*Greta and Lukas:* Greta and Lukas are young adults who each want to raise families and pursue a career.<sup>30</sup> They can each individually choose between three different combinations of housework and gainful employment. They can choose a) *career* which involves lots of work in the labour market and little unpaid work, b) *equal-split* which involves an equal mix

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<sup>28</sup> Richard J. Arneson, 'Feminism and Family Justice', *Public Affairs Quarterly* 11, no. 4 (1997): 314.

<sup>29</sup> Claudia Goldin. Hours Flexibility and the Gender Gap in Pay. Center for American Progress. 2015.

<sup>30</sup> Compare the example of Ann and Bob in Williams, Andrew (2002). Dworkin on capability. *Ethics* 113 (1):23-39.

of unpaid work and gainful employment and c) *housework* which involves lots of unpaid activities such as caring for dependants and raising children and little or no gainful employment. The sort of jobs they can get when they choose *career* are different from the jobs they can get when they choose *equal-split* or *housework* in that they offer better pay and better working conditions. Moreover, Greta would be stigmatised if she pursued *equal-split* or *career* because her society tells her that *housework* is the more appropriate thing for her to do. *Housework* is furthermore attractive to her because most of her preferred potential partners engage in *career* and look for houseworkers as their preferred partners. Lukas on the other hand would be stigmatised if he pursued housework and faces significant opportunity costs when he chooses *equal-split* over *career* because of the advantages associated with the jobs available through *career*. As a result, Greta chooses *housework* and Lukas chooses *career*.<sup>31</sup>

Many will regard this situation as unjust – either to Greta or to both Greta and Lukas. One reason why it might be unjust is because Greta’s and Lukas’s choices may not be voluntary.

#### 4.3.1 Voluntariness

Greta’s and Lukas’s decisions to pursue *housework* and *career* might be influenced or even determined by deeply internalised social norms so that they can’t be assumed to be authentic choices of their own. And, so the argument goes, individuals ought to be able to take important decisions voluntarily. Some theorists argue that compliance with established gender norms is morally objectionable because it is not voluntary or not sufficiently voluntary.<sup>32</sup> Consider the following case of involuntary behaviour.

*Hypnosis:* A person is being hypnotised to alter her lifestyle preferences so that she chooses to become a lawyer instead of a carpenter.

The person in this example has a complaint against the hypnosis because it undermines her capacity for independent reasoning. Arguably, our decisions can be assumed to be voluntary only if our capacity to reason is sufficiently great to recognise different options and assess their value.<sup>33</sup> After

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<sup>31</sup> We can imagine that Greta and Lukas are a couple but this assumption is not necessary to demonstrate that they have a complaint about their situation.

Clare Chambers, ‘Choice and Female Genital Cosmetic Surgery’, in *Female Genital Cosmetic Surgery*, ed. Sarah M. Creighton and Lih-Mei Liao, 1st ed. (Cambridge University Press, 2019), 72–79.<sup>32</sup> Clare Chambers, ‘II—Ideology and Normativity’, *Aristotelian Society Supplementary Volume* 91, no. 1 (2017): 175–95.

<sup>33</sup> Joseph Raz, *The Morality of Freedom* (Oxford University Press, 1988), 372.

the person in our example is hypnotised, she's unable to see other options than to become a lawyer and because of that her choice to become a lawyer is not voluntary.

However, choices to comply with patriarchal social norms are often not similar enough to *hypnosis* to establish that they're not voluntary. Most citizens have access to information about different lifestyle choices and while social norms may provide strong incentives to prefer one lifestyle over the other, they can't be said to completely undermine citizens' capacity to reason. To be sure, not too long ago in the past, the grip of patriarchal norms on citizens' imagination was much stronger and its' effects were more similar to *hypnosis*. But most contemporary societies are somewhat diverse and allow citizens to reflect on lifestyle choices to a reasonable degree.<sup>34</sup> The upshot of this is that decisions to lead gendered lifestyles should normally be considered voluntary if we understand voluntariness to mean the absence of brainwashing or other factors that undermine our ability to reflect on our decisions. It would be odd and perhaps disrespectful to dismiss someone who chooses to lead a traditional lifestyle as brainwashed.<sup>35</sup> As Andrew Mason puts it: "Many women with childcare commitments who decide to look after their children personally regard themselves as having the option to act otherwise [...]. If we deny that this is so, don't we come dangerously close to failing to respect them as persons [...]"<sup>36</sup>

However, our decisions can be said to be involuntary not only when our capacity to reason is undermined but also when we choose one particular option only in order to avoid unreasonable costs that would be associated with all alternative options.<sup>37</sup> Your choice to hand your wallet to a robber who threatens you with death if you fail to do what he tells you is involuntary not because you are unable to reason but because the cost associated with the alternative of not handing out the wallet is unreasonably high.

Is it possible that the choice to lead a gendered lifestyle is involuntary in the sense that the choice to lead gender-neutral lifestyles imposes an unreasonable cost? This depends on what we mean by 'unreasonable cost' but even without specifying what exactly 'unreasonable' means we can see that the cost of enacting *equal-split* is not always unreasonably high. Consider the following analogy.

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<sup>34</sup> Certainly there are important differences between countries and between social classes. For example, individuals from disadvantaged social backgrounds and with restricted access to education might find it more difficult to evaluate and resist patriarchal social norms.

<sup>35</sup> Compare Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 96.

<sup>36</sup> Andrew Mason, 'Equality, Personal Responsibility, and Gender Socialisation', *Proceedings of the Aristotelian Society* 100, no. 1 (2000): 239.

Serena Olsaretti, 'Freedom, Force and Choice: Against the Rights-Based Definition of Voluntariness', *Journal of Political Philosophy* 6, no. 1 (1998): 53–78.<sup>37</sup> Serena Olsaretti, *Voluntariness, Coercion, Self-Ownership*, ed. David Schmidtz and Carmen E. Pavel, vol. 1 (Oxford University Press, 2016).

*Religious belief:* Stephen acquires faith in Christianity. He perceives his faith as his own choice although his upbringing and the culture that surrounds him encouraged the choice to become Christian. His religion imposes certain costs on him. For example he must regularly travel to the nearest church in order to attend mass.<sup>38</sup>

The acquiring of a religion is similar to the adoption of gendered lifestyles in that it is often influenced by social norms and a culture that makes the choice of alternative lifestyles more costly. Yet, we insist that many costs associated with a religious lifestyle ought to be internalised by the individuals in question.<sup>39</sup> We are reluctant to judge compliance with entrenched social norms as involuntary in this case and therefore we should also be wary about objections to the gendered division of labour that deny the voluntariness of these lifestyle choices.

As I will explain later, I think that the most plausible account of why the gendered division of labour is morally objectionable is based on the observation that patriarchal social norms impose unjustifiably high costs on those who would like to enact *equal-split* arrangements. But the fact that the costs associated with *equal-split* arrangements are unjustifiably high doesn't mean that decisions to lead traditional lifestyles are involuntary. By way of further illustration, imagine a political activist who opposes a law that the government is about to pass. A demonstration against the law takes place but the activist doesn't participate in the demonstration because it's cold and rainy outside. The activist's decision not to participate in the demonstration results from the costs associated with participating and she might have a complaint against the organizers of the demonstration who should have chosen a sunnier day. But her decision to stay home is not best described as involuntary. After all, the activist herself and many of those who hold faith in a religion or who divide labour along traditional gender would reject descriptions that characterise their behaviour as involuntary.

Before I proceed to discussing another account of the objectionability of the gendered division of labour, let me issue an important qualification. I have argued that decisions to divide housework and paid work along traditional gender lines are not involuntary because in many cases the costs associated with equal-split arrangements are not unreasonable. This is particularly clear in the case

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<sup>38</sup> A very similar example is offered by Gina Schouten in „Is the Gendered Division of Labor a Problem of Distribution?“, in *Oxford Studies in Political Philosophy, Volume 2*, ed. by David Sobel, Peter Vallentyne, and Steven Wall (Oxford University Press, 2016), 185–206, page 13

<sup>39</sup> To be sure, there are reasons to believe that *some* costs associated with religious lifestyles should be socialised. For example, there is an interesting question as to whether members of the Sikh-community should be allowed to ride motorcycles without helmets so that they don't have to take off their turban. In countries with universal health care coverage, allowing this practice amounts to socialising some of the increased healthcare costs that result from the risky practice of riding motorcycles without helmets. But most costs associated with religious lifestyles, such as the travelling to nearby churches, shouldn't be socialized.

of middle-class parents who must forgo higher wages than they choose *equal-split*. It is less clear in the case of working-class parents where the income-loss associated with the part time penalty can have more severe consequences. There might be some cases where choosing *equal-split* over *specialization* would push working-class parents beneath a subsistence threshold. In cases like these, the costs associated with *equal-split* are indeed unreasonable and the decision to specialise should therefore be characterised as involuntary. Considerations of voluntariness are therefore not entirely irrelevant when we assess the morality of the gendered division of labour. What I have shown in this section is that there are many cases where considerations of voluntariness are not sufficient to determine that the gendered division of labour is morally objectionable. We must therefore look beyond voluntariness to determine what if anything makes the gendered division of labour objectionable.

### 4.3.2 Equality of Opportunity

Another intuitively appealing but not entirely satisfactory approach locates the injustice in *Greta and Lukas* in a violation of the demands of equality of opportunity. The general idea behind the principle of equal opportunity is that there are several factors that ought not to influence an individual's prospects when she competes for desirable social positions. One specification of this principle demands that anyone's success in competition for advantaged social positions depend only on talent, effort, and social background, but not on personal characteristics such as gender, race or age. G A Cohen refers to this as the "bourgeois" principle of equal opportunity.<sup>40</sup> On a more demanding understanding – which Cohen calls the "left-liberal" principle of equal opportunity, a person's prospects ought to depend only on talent and effort, not on social background and other personal characteristics.<sup>41</sup> More demanding still, we might insist that a person's prospects depend exclusively on effort, not on talent, social background, or other morally arbitrary features of a person such as gender and race. Cohen refers to this as the "socialist" principle of equality of opportunity.

To see whether the gendered division of labour as described above upsets equality of opportunity, consider the following scenario.

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<sup>40</sup> G. A. Cohen, *Why Not Socialism?*, STU-Student edition (Princeton University Press, 2009).

<sup>41</sup> This interpretation is endorsed among others by Rawls who refers to it as the principle of "Fair Equality of Opportunity". See: John Rawls, *Justice as fairness: a restatement* (Cambridge, Mass. [u.a.]: Harvard University Press, 2001), 42–50

*Job Application*: Greta and Lukas, who are equally talented and equally ambitious, compete for an attractive job that involves long work hours. Lukas gets the job because the employer knows that, on average, male applicants are more likely to be able to work long hours and less likely to intermit work to care for children or other dependants.

On any of the three readings of equality of opportunity outlined above, equality of opportunity is upset by *Job Application*. Lukas's gender works as a predictor for his success in a job application. Yet, gender is among the characteristics deemed as morally arbitrary by all specifications of equality of opportunity. This suggests that the selection process in *Job Application* is unfair because it violates equality of opportunity: Lukas ought not to obtain the position in virtue of his gender.

However, this analysis overlooks the fact that there might be situations where the mechanism that generates the advantage that Lukas enjoys vis-à-vis Greta in *Job application* simultaneously generates a disadvantage for him when it comes to accessing care- and housework. Imagine that Lukas enjoys raising children, caring for his parents and conducting housework. However, patriarchal social norms stigmatise him when he doesn't fulfil the role of the family's breadwinner. Greta, who is disadvantaged in the competition for paid jobs, finds it much easier to take up these tasks. Just like paid employment, housework offers several valuable goods.<sup>42</sup> For example, houseworkers and caretakers find it easier to develop valuable emotional bonds with those for whom they care or whom they raise. Moreover, their work is normally more self-directed because unlike paid employees they are neither subject to the direct rule of a manager nor to the indirect rule of profitability that private firms in free markets must obey.<sup>43</sup>

The upshot of this is that in many cases the gendered division of labour simultaneously creates a disadvantage for one group on one metric and an advantage for the same group on a different metric. It is possible that Greta is not worse off than Lukas overall, because although she is denied opportunities for paid employment that Lukas enjoys, so too Lukas is denied perhaps equally valuable opportunities for care work that Greta enjoys. This means that we cannot conclude that Lukas's opportunities are, on the whole, better than Greta's. As Gina Schouten puts it,

It is plausible that women enjoy fewer opportunities, on average, for leisure or for satisfaction and achievement in the world of paid work or in politics. But that difference

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<sup>42</sup> John Baker, 'All Things Considered, Should Feminists Embrace Basic Income?', *Basic Income Studies* 3, no. 3 (2008).

<sup>43</sup> To be sure, care workers might be subject to the rule of a demanding child and they might resent that rule. But there are important differences between obeying the orders of a boss of a private company and catering to the needs of a demanding child. One such difference is that it is easy for free and equal citizens to accept the justification that can be given for obeying the 'rule' of a demanding child, while it is less clear whether private firms can offer good justifications for the authority they exercise over employees.

renders their opportunity sets less valuable all-things-considered only if the value lost due to their relatively small share of these opportunities isn't outweighed by the value gained from the opportunities of which women enjoy a more favorable share: opportunities to care for dependents, for example, and to form the bonds of intimacy that caregiving work enables.<sup>44</sup>

It is therefore questionable whether we can object to the gendered distribution of labour solely by pointing to the fact that opportunities to access paid work are distributed unequally between genders.<sup>45</sup> Why should we find it troubling if someone's has less access to one good than someone else, if at the same time she's got privileged access to a different good? It seems like the advantage that Lukas has in *Job Application* is only one aspect that needs to be taken into account for an all things considered judgment about the justice of a gendered distribution of labour.<sup>46</sup> If we take a broader view, we find that in order to establish the claim that someone is being treated unfairly all things considered, it's not sufficient to have knowledge about the distribution of opportunities in the competition for desirable jobs.

To illustrate, imagine a world where preferences for care work and work in the labour market are formed freely, i.e. without undue pressure from patriarchal social norms. Imagine also that opportunities to access paid work and care work are unequal in this world. This means that some face higher costs when they want to access paid work and others face higher costs when they want to access care work. Lastly, imagine that the goods enjoyed by those who engage in care work are equally valuable than the goods enjoyed by those who engage in paid work. It is difficult to see why equality of opportunity would require equalising everyone's access to paid work and care work despite the fact that (in our imaginary world) the bundles of goods accessible through both kinds of work are equally valuable.

But not everyone agrees that the demands of equality of opportunity are best understood from such a global, all-things-considered perspective. Rather, we might think that equality of opportunity must pertain locally, in different particular contexts, where opportunities are equalised separately and independently from advantages that individuals enjoy in other contexts. From this perspective, it is bad if someone is denied equal opportunities to access attractive jobs even if the person who is denied these opportunities is very advantaged in other regards. Local equality of opportunity tries to equalise opportunities in different realms *one by one* without considering an individual's overall

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<sup>44</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 104.

<sup>45</sup> Neither is it enough to point out that important goods such as money and health are distributed unequally between genders because of decisions of many couples to prefer *specialization* over *equal split*. Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor* Ch.3.

<sup>46</sup> Compare Schouten op. cit., 195.

level of advantage. The reason for preferring local over global equality of opportunity might be that some goods aren't substitutable so that privileged access to one good can't compensate for difficulties in accessing another good. Let's consider some further examples in order to see whether this local understanding of the demands of equality of opportunity is preferable to the global understanding.

*Time-poverty*: consider the following two kinds of jobs: a) the job of a corporate consultant which involves good working conditions, a very high salary and long work hours (i.e. limited access to the goods of leisure) and b) the job of a delivery worker which involves bad working conditions, poor pay and long work hours. Money and free time aren't fully substitutable, so that the corporate consultant, can't use her wealth to buy as much free time as she would like to enjoy.

*Organ transplant*: consider two persons, one poor and one rich, who both need an organ transplant.

A local reading of the principle of equality of opportunity would require providing the workers in *time-poverty* with the same entitlements to accessing free time or with the same amount of compensation for their lack of free time. In the case of *organ transplant*, it would require flipping a coin rather than giving the organ to the poor person. On the global understanding, the delivery worker has the stronger claim to free time protections and the poor person should get the organ transplant. These two examples show that a global understanding of equality of opportunity delivers more plausible outcomes. Consider now a third example.

*Stephen Hawking*: Because of his disability, Stephen Hawking must use a wheelchair in order to be mobile. Equality of opportunity requires that everyone have access to mobility. In realms other than mobility, such as money, education and social esteem, Stephen Hawking is very advantaged.

It might seem like global equality of opportunity – implausibly – would deny him the wheelchair because his disadvantage in the realm of mobility might be outweighed by advantages in other realms so that overall-speaking he doesn't count as disadvantaged.<sup>47</sup> Local equality of opportunity in contrast would provide the wheelchair to Hawking because it proceeds independently from an individual's overall level of advantage.

But it's not true that global equality of opportunity would prevent Stephen Hawking from using a wheelchair. Rather, a society committed to global equality of opportunity might say to him: "Look,

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<sup>47</sup> Derek Parfit, 'Equality and Priority', *Ratio* 10, no. 3 (1997): 101.



you're already a millionaire. You can afford buying your own wheelchair. This will enable us to provide an additional wheelchair to someone who can't afford it." To be sure, states might have other reasons to provide wheelchairs to everyone who needs them – independently of how advantaged they are. For example, universal coverage might be more efficient than means-testing. The point here is merely that the implications of global equality of opportunity in *Stephen Hawking* are more plausible than they initially seem.

To this, the proponent of local equality of opportunity might reply that the global equality of opportunity approach only generates a plausible result in *Stephen Hawking* because the goods of mobility and money are substitutable. Wheelchairs can be bought with money. Hawking can use his wealth to improve his situation. If the goods of money and mobility weren't substitutable, then we would have to equalise opportunities locally, one by one. But note that while money and mobility are *partly* substitutable (the wheelchair increases Hawking's mobility), they aren't *fully* substitutable. Even if Hawking was incredibly wealthy, he probably couldn't achieve the same level of mobility than a person without disability by buying further mobility-enhancing devices. Where does this leave the dispute between a global and local understanding of the demands of equality of opportunity? Would Hawking's access to mobility look any different if we adopted a local equality of opportunity perspective? Presumably not. In this case, funds to pay for mobility-enhancing technology would come from general tax revenue rather than out of Hawking's own pocket. But the fact remains that access to some goods, such as health or mobility, can't always be made perfectly equal. Therefore, the global equality of opportunity perspective generates plausible results in *Stephen Hawking*. And if the global reading of equality of opportunity is right, then it isn't clear why unequal access to goods such as paid employment is objectionable in all cases, i.e., even when individuals have advantaged access to other goods. This is because advantages on one metric (say, the goods of care work) can off-set disadvantages on another metric (say, the goods of paid work).

The local equality of opportunity approach also faces the difficult task of identifying in an anti-perfectionist fashion those contexts of social life that require an equalising of opportunities regardless of an individual's overall level of advantage and those that don't. Attractive paid jobs and care work seem to be plausible candidates of contexts where local equality of opportunity should obtain but there might be others.<sup>48</sup>

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<sup>48</sup> Suppose for example that someone has greater opportunities for becoming a carpenter and worse opportunities for becoming a fire fighter. A proponent of local equality of opportunity might claim that greater opportunities to access one kind of job can't offset worse opportunities to access another kind of job.

Why should paid work and care work figure among the goods whose access should be regulated by equality of opportunity whilst access to other goods, such as love, free time or nature might not be regulated by this ideal? Any answer to this question must involve claims about the special importance of paid work and care work for human flourishing that at least some citizens will reasonably reject. As Gina Schouten puts it, “Because individuals may reasonably disagree about the relative value of work and leisure—and indeed, of paid and caregiving work—inequalities in kinds or amounts of work cannot straightforwardly be identified as objectionable distributions without violating the constraint of neutrality.”<sup>49</sup>

On the other hand, it is just as difficult to defend the idea that *only* opportunities to access paid jobs – not opportunities to access care work – should be equalised without invoking some notion of what is necessary for humans to lead a good life. Not everyone will agree that apart from equalizing opportunities to engage in attractive paid work we should also equalise opportunities for everyone to engage in care work. The types of reason we can offer for including care work to the list of realms where local equality of opportunity should obtain will necessarily involve controversial assumptions about the importance of care work for human flourishing.

Those who maintain that the demands of equality of opportunity are best understood as a global assessment of an individual’s level of advantage do not face this problem. We can circumvent the objectionably perfectionist strategy of determining what is necessary for humans to flourish by directly exploiting individual judgments. More specifically, we can make use of Ronald Dworkin’s envy-test in order to find out whether an individual’s opportunities to engage in care work and paid work are unjustly limited or not.<sup>50</sup> In some cases, women will envy men’s superior opportunities with regards to accessing attractive jobs. If they could, these women would give up their privileged opportunities to engage in care work in order to obtain improved access to paid work. Vice versa, some men might envy women’s opportunities to care and would give up their privileged access to paid work if they could.<sup>51</sup> If there are many women who envy men’s opportunities for paid work and few men who envy women’s opportunities for care work, then the envy test yields the result that the gendered division of labour generally makes women worse off than men. This strategy of determining whether someone’s access to paid work or care work is objectionably limited is attractive because it provides helpful guidance while remaining neutral between different

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<sup>49</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 100.

<sup>50</sup> I’m assuming that the envy test should be applied globally, not locally. For an example of how the envy-test might be applied locally, we can imagine a person who envies Johnny Cash’s musical talent but doesn’t envy him all things considered, for example because of his struggle with depression. More would have to be said to establish that the global reading is the correct reading of the envy test. Here I simply assume that this is the case.

<sup>51</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 110.

conceptions of the good. At the same time this type of analysis is rather different from traditional accounts of equality of opportunity. The most plausible way of determining whether someone's access to a certain good is unfairly limited doesn't make use of the language of equality of opportunity.

In summary, what I have established in this section is that traditional accounts of equality of opportunity are unsatisfactory because they ignore an individual's overall level of advantage. Therefore, objections against the gendered division of labour that point to a lack of equality of opportunity in the realm of paid work or in the realm of care work aren't conclusive. They establish that an individual is disadvantaged in one regard but this leaves open the possibility that the individual is not disadvantaged all-things-considered.

### 4.3.3 Discrimination

Another way of sustaining the claim that there is something morally objectionable in *Job Application* is to say that the employer engages in wrongful statistical discrimination.<sup>52</sup> In the context of job applications, statistical discrimination occurs when employers use information about the distribution of certain characteristics (such as the likelihood of taking parental leave) as a means of assessing the qualification of individual applicants. When women compete for positions that involve long work hours, employers may know that on average women are less likely to make long hours a priority and more likely to intermit work to care for children or other dependants. They then use this information when making recruitment or promotion decisions and discount the merit of women who apply accordingly.<sup>53</sup> Consequently, women are less likely to obtain desirable positions that involve long-working-time.

*Job Application* is an instance of statistical discrimination because it involves the use of distributional probabilities about a socially salient group. If the employer were to reject Greta on the grounds that she has directly informed him that she is intending to take parental leave, she would engage in non-statistical discrimination.<sup>54</sup> Note that the causal relation between discrimination, unequal

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<sup>52</sup> Ingrid Robeyns, 'When Will Society Be Gender Just?', in *The Future of Gender*, ed. Jude Browne (Cambridge: Cambridge University Press, 2007), 54–74; Shelley J. Correll, Stephen Benard, and In Paik, 'Getting a Job: Is There a Motherhood Penalty?', *American Journal of Sociology* 112, no. 5 (2007): 1297–1339.

<sup>53</sup> Correll, S. J., Benard, S., and Paik, I. (2007). "Getting a Job: Is There a Motherhood Penalty?" *American Journal of Sociology* 112: 1297–338. Glass, J. (2004). "Blessing or Curse? Work-Family Policies and Mothers' Wage Growth Over Time," *Work and Occupations* 31: 367–94.

<sup>54</sup> Not everyone is convinced that there is a meaningful difference between statistical discrimination and other forms of discrimination. After all, trusting Greta that she will indeed take parental leave also involves a belief in the probability of her living up to her own prediction. Interesting though it is, I will set this complication aside and assume that statistical discrimination is indeed meaningfully different from direct discrimination. For more information on this complication see Kasper Lippert-Rasmussen, *Born Free and Equal?: A Philosophical Inquiry into the Nature of Discrimination* (Oxford University Press, 2013), 82.

opportunities and the gendered division of labour is complex and not unidirectional. When discriminatory employment decisions like in *Job application* are widespread, they can lead individuals to adopt gendered divisions of labour. On the other hand, when lots of couples engage in *specialization* along traditional gender lines, employers may use that information as a basis and justification for discrimination. We might say that individual decisions and social norms are mutually reinforcing. But in order to find out whether discrimination provides a good explanation for the moral badness of the gendered division of labour it is not necessary to figure out the exact causal mechanism between discriminatory hiring practices and decisions to enact *specialization*. It's enough to know that discrimination of the kind described in *Job application* occurs frequently and is avoidable in the sense that employers could decide not to discriminate. In this section I set aside the question of how large the causal contribution of discrimination to the gendered division of labour is. Instead, I focus on the question of whether it is discrimination or some other moral consideration that best explains the badness of the gendered division of labour.

Against the claim that Greta is a victim of wrongful statistical discrimination, one might object that not all instances of statistical discrimination are morally objectionable. In fact, some instances of statistical discrimination are plainly permissible. "For instance, for obvious reasons riot police pay more attention to young males at Premier League matches than to elderly females at botanical garden displays even if the latter gather in large, unruly crowds."<sup>55</sup> A simple way of drawing the distinction between objectionable and permissible statistical discrimination is to say that statistical discrimination is objectionable only when those who are discriminated against are part of a socially salient group that is harmed by the discriminatory practices. In other words, it is necessary (though perhaps not sufficient) to establish that someone is a victim of wrongful statistical discrimination that that person is a member of a socially salient group and that the discriminatory practice harms that person. According to Kasper Lippert-Rasmussen, "a socially salient group is one in which membership significantly affects social interactions across a wide range of social relations. On this account, men and women and, in many societies, blacks and whites form socially salient groups, but a particular family and the group of people in whose surname the letter P appears twice do not."<sup>56</sup> To illustrate this further, being a member of a political party is not usually a socially salient characteristic but being a member of the group 'women' is socially salient.<sup>57</sup> Greta is a woman and she's harmed by the employers' discriminatory practice, since the employer's decision leaves her

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<sup>55</sup> Lippert-Rasmussen, *Born Free and Equal?*, page 80

<sup>56</sup> Lippert-Rasmussen op. cit., page 80

<sup>57</sup> Lippert-Rasmussen op. cit. Ch.1.

worse off than she could have been if she had been hired. This suggests that what's morally objectionable about *Job application* is that Greta is a victim of wrongful statistical discrimination.

To this one might object that adopting this definition of statistical discrimination implausibly forces us to conclude that young men at Premier League matches are also victims of wrongful statistical discrimination. After all, they too belong to a socially salient group ('young men') and they too are harmed by the police's stop and search practices. But this objection overlooks a relevant difference between the two cases. The extent to which the (let's assume respectful) stop and search interventions set back the young men's interests isn't large enough to constitute a significant harm. After all, the football fans also benefit from interventions that ensure for example that no one carries weapons to the stadium. What's more, the young football fans are relatively advantaged, which makes it easier to justify imposing costs like those associated with police controls.<sup>58</sup> Being rejected in a job application is different from police controls at Premier League matches in that it sets back the interests of those who are rejected to a very significant extent and because there is no way in which this practice benefits persons like Greta.

But there is another reason to be wary about the idea that the badness of the gendered division of labour is best cashed out in terms of statistical discrimination. Upon closer inspection, the concern about a disadvantage that Greta faces when applying for attractive jobs is hardly distinct from the concern about equality of opportunity that I discussed in the previous section. We are troubled by inequalities in opportunity because some are made worse off by these inequalities for no good reason and in much the same way we are troubled by statistical discrimination because it creates an unjustifiable disadvantage for those who are subject to this practice. In many cases, statistical discrimination is bad precisely because it undermines equality of opportunity. In order to illustrate the idea that the moral badness of statistical discrimination might reside in its' equal-opportunity-undermining effects, consider the following example.

*Forced retirement:* An airline establishes a maximum age from which on pilots may no longer work for the airline because on average, pilots above a certain age, say 65 years, are less able to perform the demanding tasks that the job of a pilot involves.

Some pilots will still be able to competently perform all tasks after having passed the age of 65. Competent pilots above 65 who would wish to continue their work could complain that they're not allowed to do so in spite of the fact that they're still qualified. Yet, many think that this is an instance of permissible statistical discrimination because over the course of a lifetime, all pilots

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<sup>58</sup>Imposing the costs associated with stop and search practices is much more difficult to justify in cases where individuals targeted by police belong to disadvantaged groups, such as migrants and ethnic minorities.

have the same opportunity to perform their job during a specific period of time. The reason why many feel less troubled by *Forced Retirement* than by *Job Application* is that in *Job Application*, Greta's opportunity to perform an attractive job is unequal, while opportunities among pilots – over the course of a lifetime – are not negatively affected by the policy of forced retirement.<sup>59</sup>

Previously I said that statistical discrimination is bad insofar as it is harmful and one way in which people can be harmed is when their opportunities are limited for no good reason. The comparison of the examples of *Forced Retirement* and *Job Application* suggests that statistical discrimination is objectionable in the case of *Job Application* because it upsets equality of opportunity and it is permissible in the case of *Forced Retirement* because it doesn't upset the pilots' equality of opportunity. If it is true that the concerns of statistical discrimination and equality of opportunity (at least in the case of *Job Application*) are so intimately related, then it becomes apparent that the concern I raised about equality of opportunity in the previous section also bites against statistical discrimination as a way of objecting to the gendered distribution of labour. The presence of statistical discrimination merely shows that someone is disadvantaged when applying for jobs. But when the same characteristic of a person that generates the disadvantage in job applications generates an advantage in access to care, we are forced to conclude that all things considered the individual in question may not have a complaint.

In order to salvage statistical discrimination from this critique, we can point out that statistical discrimination is not bad only when it upsets equality of opportunity but also when it is disrespectful. For example, the reason why many find it troubling when police engages in racial profiling – which is an instance of statistical discrimination – is because it is disrespectful towards those who are the target of racial profiling. Racial profiling treats everyone who belongs to a racial group as a potential criminal and thereby expresses a general attitude of disrespect towards that group.

Does the employer treat Greta with disrespect when she bases her hiring decision on the assumption that Greta is more likely to intermit work because of pregnancy than Lukas? Note that unlike police who engages in racial profiling, the employer doesn't treat Greta as a criminal. We might say that she fails to treat Greta according to her merit because she simply assumes that what is true for women on average is also true for the particular applicant Greta. But this failure to treat her according to her merit is not necessarily disrespectful. It might simply reflect the fact that the employer wants to hire someone who is likely to be able to work long hours for a long period of

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<sup>59</sup> Norman Daniels, 'Justice between Age Groups: Am I My Parents' Keeper?', *The Milbank Memorial Fund Quarterly. Health and Society* 61, no. 3 (1983): 518.

time. This need not imply an assumption according to which women are generally worth less than men. But there is another sense in which the employer's conduct can be regarded as disrespectful. The employer's decision to reject Greta reflects the longstanding patriarchal assumption that men and women are fundamentally suited for different roles.<sup>60</sup> Until today, hiring decisions and labour market institutions are often based on the idea of an 'ideal worker' who doesn't have care obligations.<sup>61</sup> In treating Greta as less well-suited for the labour market and better suited for care and housework, the employer reinforces a disrespectful stereotype. This is true whether or not the employer actually believes in the truth of this stereotype. In short, the employer's decision to reject Greta in *Job application* is morally objectionable because it is disrespectful and this insight must be part of any explanation of why the gendered division of labour is unjust. However, as I will explain in a moment, it can't be the whole story.

To recapitulate, we have established so far that we cannot object to the gendered distribution of labour on the grounds that it causes harmful statistical discrimination. This is because the same mechanism that generates a disadvantage for Greta when competing for jobs in the labour market might also create an advantage for her when it comes to accessing the goods of care so that on the whole we're not sure whether she's harmed by the gendered division of labour or not. We have also established that unequal treatment in job applications can be morally objectionable because it discriminates against women in a disrespectful way. But what about aspects of the gendered division of labour other than job applications? What about the decision of *Lukas and Greta* to enact a traditional division of labour because social norms make *equal-split* arrangements more costly to access? Here, the analytic framework of discrimination doesn't yield further insights. Discrimination helps us understand one aspect of the moral badness of the gendered division of labour but it can't explain why other aspects, such as the case of *Lukas and Greta* are also wrong.

We can imagine that a gendered division of labour could exist in a world without statistical discrimination. Imagine for example a society without statistical discrimination against women that nevertheless patriarchal social norms. In this society, norms that stigmatise deviations from traditional *specialization* are powerful enough to generate a gendered division of labour even if employers don't discriminate against women. Considerations other than discrimination are needed to explain why one might object to the existence of this division of labour. In contemporary societies, statistical discrimination likely contributes to the continued existence of the gendered division of labour but there are also several other factors that causally contribute to the perpetuation of this division of labour. This means that we must look beyond considerations of

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<sup>60</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 206.

<sup>61</sup> Okin, *Justice, Gender, and the Family* Ch.6.

discrimination, equality of opportunity, and voluntariness in order to find out why we're troubled by *Lukas and Greta*.

In the next section I analyse two kinds of objections to the gendered division of labour that both appeal to the value of autonomy. I will argue that these too are ultimately unsatisfactory ways of objecting to the gendered division of labour. After that, I go on to explain what I think is a more decisive argument against it.

#### 4.3.4 Autonomy

One might argue that the incentives that cause Greta and Lukas to lead gendered lifestyles are objectionable because they - for no good reason - limit the set of lifestyle options from which Greta and Lukas can choose. We can imagine alternative societies without social norms that nudge individuals into particular lifestyles and we might think that members of these societies have more freedom to choose between different valuable options. This is significant because the freedom to choose between valuable options is an important part of personal autonomy, understood as the ability to live a life of one's own choosing.

To make this clearer, it is helpful to observe that by "freedom" we ordinarily mean not only the absence of interference from others but also a set of further conditions that all fall under the label of personal autonomy. More specifically, it is common to distinguish roughly between three necessary conditions that facilitate autonomous decision-making.<sup>62</sup> In order to be autonomous, an individual a) has to have a certain cognitive competence to form and pursue goals, b) has to be free from arbitrary external interference that prevents her from pursuing these goals and c) has to be able to choose from a range of valuable options. As is clear from condition (c), the extent to which an individual enjoys personal autonomy thus depends partly on whether the individual has access to valuable options from which to choose when pursuing her life plans.<sup>63</sup> Someone who has access to a larger number of valuable options enjoys autonomy to a greater extent than someone whose option set is more limited.<sup>64</sup>

Greta's and Lukas's options are reduced through the attitudes of other members of their society and feminists have long contended that the gender system has precisely this effect of narrowing

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<sup>62</sup> Raz, J. (1986). *The Morality of Freedom* (Oxford: Oxford University Press).

<sup>63</sup> Compare Will Kymlicka, *Multicultural Citizenship* (Oxford University Press, 1996), Ch. 5

<sup>64</sup> On a different conception of autonomy, a person is autonomous when she has sufficient valuable options, i.e., when a certain threshold is met. On this conception, her autonomy doesn't increase when further options are made available to her. I don't agree with this conception of autonomy but the argument I engage with in this section doesn't depend in any fundamental way on which of these conceptions is correct. This is because expanding someone's opportunity set is valuable not only because it increases autonomy but also for other reasons, for example because it can improve that person's welfare.



the range of valuable options from which individuals can choose. Liberal feminists are particularly concerned with this effect of patriarchal institutions because they regard freedom as a fundamental value and one important aspect of freedom is personal autonomy. An autonomous person can live her life directed by intentions and considerations that are her own and not merely imposed from outside. This means that in order to be free, we need to be autonomous or in other words that personal autonomy is a necessary condition for freedom.

In the presence of patriarchal norms, the options of *career*, *equal-split* and *housework* are available at differential costs to Greta and Lukas, so that their ability to choose between them is limited in one sense. Greta and Lukas might have a complaint against the current state of our societies because it reduces their personal autonomy for no good reason.

In an alternative society without patriarchal norms, Greta and Lukas would each face the same costs for choosing *career*, *equal-split*, or *housework*. To illustrate, the costs that Lukas faces when he opts for *housework* would be the same than the costs that Greta faces when she chooses *housework*. Their gender doesn't determine how much resources they must forgo to access each of these lifestyles and as a result they can both choose between a wider set of options. Note that in a world without patriarchal norms, *equal-split* might still be more expensive than *specialization* because *specialization* is sometimes economically more efficient. This is because couples who specialise might be able to carry out tasks more efficiently, so that they earn higher incomes and enjoy more free time. Governments can enlarge citizens' set of options even further by introducing subsidies and taxation that aim at equalising the costs of all three lifestyle options, so that each of them is equally costly to access. Arguably, a person who can choose between three equally accessible options is more autonomous than a person who can choose between two equally costly options and a third option that is more costly.

But note that Greta's and Lukas's choice sets cannot be expanded for free. Interventions that aim at equalising the costs of *career*, *equal-split* and *housework* must subsidise *equal-split* so that this choice becomes equally affordable than the gendered division of labour where one person pursues *career* and the other *housework*. The same is true for the more moderate proposal to only equalise the costs of *career* and *housework* for both genders. Policies that make *housework* more accessible for men include for example parental leave subsidies and policies that make *career* more accessible for women include for example the subsidising of childcare.

In order to make *equal-split* more affordable, states must use a part of their budget to subsidise it. This means that less resources are available for other projects that states might fund. As a result, the option sets of recipients of these alternatives ways of spending the state budget will be reduced.

Imagine for example that resources that are spent on subsidising *equal-split* could alternatively be spent on the construction of a bridge that facilitates access to an island. Expanding the opportunity set of those who prefer to enact *equal-split* comes at the expense of shrinking the opportunity set of those who would like to have better access to the island.

Note moreover that we could expand citizens’ autonomy by subsidising all sorts of reasonable lifestyles that are currently expensive to pursue. For example, it is difficult and costly for most people to become astronauts. Those who would like to become astronauts would see their choice sets expanded if states used a larger part of their budget to fund space travel. Assuming that the choices that sustain patriarchal norms and the gendered division of labour are voluntary, why should states cater to the interests of those who enjoy *equal-split*? Why not also subsidise lifestyles that involve space travel, football, or art history? Liberals think that states ought not to use their budget to subsidise any of these particular lifestyles because exercises of state power are legitimate only when they are justifiable to all reasonable citizens independently of their convictions of what makes for a good life.<sup>65</sup> To illustrate this concern, consider the following example of how interventions can change the costs of different lifestyles.

	<i>Equal-split</i>	<i>Career</i>	<i>Housework</i>
<i>No subsidy</i>	7	4	4
<i>Equal-split Subsidy</i>	5	5	5

The figures in this table represent opportunity costs associated with the lifestyles of *equal-split*, *career* and *housework* under a ‘laissez-faire’ and under an equal-split-subsidy scenario. For example, the costs of choosing *equal-split* under the subsidy scenario are high because of the considerable benefits associated with *career* and *housework* in this scenario.

Through *equal-split* subsidies, this payoff structure can be changed. Subsidies are used to make *equal-split* more attractive with the effect of decreasing the attractiveness of a life solely dedicated to *career* or *housework*. Such interventions modify the prices of different lifestyles but it would be wrong to say that they expand everyone’s opportunity set because opportunities to pursue *career* and *housework* are reduced in the intervention scenario. For this reason, we cannot object to the gendered division of labour by pointing out that it reduces everyone’s autonomy because the autonomy of those who

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<sup>65</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor* Ch.2.

like to enact *equal-split* can't be increased without reducing the autonomy of those who enjoy traditional *specialization* lifestyles.<sup>66</sup>

#### 4.3.5 Autonomy and Citizenship Interests

Faced with this difficulty, Gina Schouten advances a different objection against the gendered division of labour that invokes the value of autonomy in a more complex way. She observes that there is a sense in which *equal-split* arrangements can be regarded as particularly autonomous because decisions to enact *equal-split* embody the ideal of free and equal citizens. *Equal-split* embodies the ideal of freedom because it shows that citizens have the capacity to take decisions autonomously, even when these decisions go against the grain of established traditional lifestyles. And *equal-split* embodies the ideal of equality because partners share the tasks of paid work and unpaid work, thereby showing that men and women (in the case of heterosexual couples) aren't necessarily suited for different kinds of work. She describes lifestyles that embody the ideals of freedom and equality in this way as 'comprehensively autonomous'.

Schouten then notes that we can't justify *equal-split* subsidies by appealing directly to the value of comprehensive autonomy because citizens will reasonably disagree about the question whether there is something particularly valuable about comprehensively autonomous lifestyles. She endorses the liberal commitment to a strong presumption against policies that promote specific conceptions of the good.<sup>67</sup> This liberal neutrality constraint rules out interventions to subsidise *equal-split* when these interventions are justified by appeal to the idea that comprehensively autonomous lifestyles are more valuable than traditional lifestyles, such as *specialization*.

However, there is a different way in which *equal-split* subsidies can be justified with the appeal to the value of comprehensive autonomy that is compatible with the liberal neutrality constraint. In order to understand this alternative appeal to autonomy it is important to observe that the liberal neutrality constraint doesn't require neutrality of outcomes in the sense that states should help every citizen advance their conceptions of the good to the same degree. Instead, it requires justificatory neutrality. This means that the reasons that states invoke when justifying coercive policies must be acceptable to everyone. Arguments that are based on the purported value of one specific conception of the good over which citizens can reasonably disagree are not permissible

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<sup>66</sup> Note also that the argument from autonomy has another implication that some will regard as counter-intuitive. Assume for a moment that it was true that equalising the costs of *equal-split*, *housework*, and *career* would increase everyone's autonomy. Imagine now that a government decides to make *equal-split* not only equally costly but cheaper than *housework* and *career*. The criterion of autonomy tells against making *equal-split* more accessible than lifestyles that involve *specialization* although this might precisely be what is needed to erode patriarchal norms and create a more gender-egalitarian society.

<sup>67</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor* Ch.2.

from that perspective. The upshot of this is that policies whose effect is to promote comprehensively autonomous lifestyles such as *equal-split* are not illegitimate per se. Instead, their legitimacy depends on the types of reasons that can be offered in favour of their implementation. In order to illustrate this idea, Schouten asks us to

Suppose (probably counterfactually) that the monogamous family were essential to children's development of the moral powers of citizenship. In this case, a politically liberal regime might legitimately incentivize monogamy. The state could not invoke the value of monogamy itself to justify such incentives, but it could invoke values implied by interests of citizenship—in this case, the development of moral powers.<sup>68</sup>

As a next step in her argument, Schouten posits that all citizens have a strong interest in protecting an important aspect of their moral personality: The ability to develop and revise an idea of what is of value to them and what sort of life they want to live. She draws on Rawls, according to whom we must protect our ability to form and revise a conception of the good because this ability is a fundamental condition for the creation of a just society.<sup>69</sup> This is because citizens, in order to take part in social life and appreciate the merits of a social system where people come together to interact on mutually advantageous terms, must be able to develop a sense of justice and an idea of what their interests and life plans are. A just society must provide conditions that allow for the development of a moral personality thus understood and arguably this involves ensuring that citizens be able to assess and modify their life plans.

From positing the fundamental importance of this abstract citizenship interest, Schouten goes on to argue that in order to be able to revise our conception of the good, we need to be exposed to role models who enact lifestyles that embody autonomous choices.<sup>70</sup> According to her, the ability to imagine one's life otherwise depends in part on the visibility of different ways of life that individuals can observe and from which they can choose.<sup>71</sup> It is very difficult, she claims, for someone to imagine her life otherwise if she can't see enactments of autonomous lives around her. Without role models who make visibly autonomous choices, citizens are less likely to be able to critically reflect on their own lifestyles. From this perspective, enactments of comprehensively autonomous lifestyles, such as *equal-split*, are politically valuable because they help others see that

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<sup>68</sup> Schouten op. cit., 183f.

<sup>69</sup> John Rawls, *Justice as fairness: a restatement* (Cambridge, Mass.: Harvard University Press, 2001), 18–24.

<sup>70</sup> Gina Schouten, „Citizenship, Reciprocity, and the Gendered Division of Labor: A Stability Argument for Gender Egalitarian Political Interventions“, *Politics, Philosophy & Economics* 16, Nr. 2 (2017): p. 182

<sup>71</sup> Kymlicka, Will. *Multicultural Citizenship: A Liberal Theory of Minority Rights*. Oxford: Oxford University Press, 1996.

lifestyles other than those recommended by tradition and social norms are available and can be taken up if one decides to do so. In Schouten's words,

Protecting the capacity for revising one's conception of the good requires ensuring the capacity for comprehensively autonomous reflection and action. If a person is immersed in a lifestyle that discourages developing that capacity, then we can have assurance that she can develop that capacity only if role models of comprehensive autonomy are visible to her. It follows that citizens have an interest in ensuring that lifestyles enacting comprehensive autonomy be taken up sufficiently broadly that the autonomy remain accessibly role modeled, even to those who do not value it. If broad enactment of comprehensively autonomous lifestyles does not obtain as a matter of course, then a citizenship interest favors subsidizing those lifestyles.<sup>72</sup>

According to Schouten, it is particularly important that gender-egalitarian ways of life, such as *equal-split* are visible and genuinely available to citizens. Partly this is because enactments of gender-egalitarian lifestyles will enable others to make autonomous choices.

Beyond that, Schouten also thinks that the stability of liberal societies depends, among other things, on the question whether comprehensively liberal lifestyles are in broad circulation. She claims that in order to elicit stable endorsement over time, the institutions of liberal societies must be congruent with citizens' conceptions of the good life. This doesn't mean that each citizen's conception of the good must be promoted but that the institutional structure of a liberal society mustn't impose costs "that citizen[s] might reasonably regard as unfair in light of shareable political values."<sup>73</sup> Arguably, the high costs of accessing *equal-split* are of this type. Until today, many jobs offered to men are predicated on the assumption that men have no care or housework obligations that they must meet alongside their paid employment. By the same token, employers often assume that women are likely to carry out care work and housework alongside their jobs. Throughout most of history these assumptions have been implicit in the design of labour market institutions. To illustrate, there are still many countries where provisions for men to take paternal leave are less generous than those offered to women.<sup>74</sup>

This institutionalized assumption contradicts the liberal ideal of free and equal citizens who take important decisions, such as what type of work to pursue, autonomously. Citizens can reasonably

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<sup>72</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 184.

<sup>73</sup> Schouten op. cit., 211.

<sup>74</sup> A particularly striking example for the existence of these institutionalised assumptions is the labour market of Japan. Kumiko Nemoto, 'Long Working Hours and the Corporate Gender Divide in Japan', *Gender, Work & Organization* 20, no. 5 (n.d.): 512–27. See also Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 205.

regard this institutional arrangement as unfair, not because it poses an obstacle to one particular conception of the good but because it undermines the shareable political value of being able to choose autonomously and to critically assess one's life plans.<sup>75</sup> According to Schouten, the upshot of this is that states may legitimately subsidise policies that aim at promoting the gender-egalitarian lifestyle of *equal-split*.

Schouten's citizenship-interest-based objection against the gendered division of labour is unsatisfactory in two respects. First, and perhaps less worryingly, Schouten fails to show whether it is empirically true that the existence of role models actually facilitates citizens' capacity to analyse and revise their conception of the good. This assumption sounds plausible enough but needs to be backed up with sociological and psychological evidence. After all, it is conceivable that our ability to revise our conception of the good mostly depends on our parents and upbringing. Later in life it might largely depend on education and on fictional role models that we encounter for example in novels or movies, rather than on the real persons we encounter in everyday life. This would give states reasons to promote feminist art, literature, school curricula, etc. but it might not provide reasons to restructure the labour market.

Second, it is unclear whether the role model requirement licences the types of interventions that Schouten envisions. Given the prominence of the role model requirement in her argument, it is striking that Schouten doesn't spell out in any detail what it is and what it requires. She argues that

Reflecting on and revising one's conception of the good require that one have the capacity to judge which of the values she sees reflected around her are worthy and which are unworthy of her own endorsement and allegiance. It is this capacity that I claim, in order reliably to be realized, depends on visible access to role models of comprehensive autonomy.<sup>76</sup>

Let's assume it is true that our ability to assess our life plans in some way depends on the visibility of role models for comprehensively autonomous behaviour. In order to be able to determine whether subsidising gender-egalitarian lifestyles is justifiable in light of the role model requirement, it would be important to know more about what is meant by "visible access to role models of comprehensive autonomy". Must a certain percentage of the general population act as role models

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<sup>75</sup> According to Schouten there is also a more practical reason to think that the gendered division of labour poses a threat to stability. She cites empirical evidence suggesting that gender egalitarian lifestyles are valued by many and that the fact that they are costly to pursue is resented by those who like to take them up.<sup>75</sup> This, she thinks, provides evidence that liberal societies where gender egalitarian lifestyles are costly to access potentially generate discontent and unrest and therefore a lack of stability.

<sup>76</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 188.

and, if yes, how high a percentage should be regarded as enough? How exactly must role models be distributed within a population? Is it important that they be dispersed more or less evenly across a country in terms of geography and in terms of race, age and social class?<sup>77</sup> Must role models for comprehensively autonomous lifestyles be visible in ‘real life’, say in every school or in every village? Or does it suffice if gender-egalitarian lifestyles are modelled by a small number of prominent persons who are known to a wide public? Consider for example the case of New Zealand’s Prime Minister, Jacinda Ardern, who famously gave birth to a child while in office and who enacts a comprehensively autonomous lifestyle in many other ways. Might she alone, or a small number of persons like her, suffice to fulfil the role model requirement in New Zealand?

Schouten explains that “[...] an enactment of comprehensive autonomy must be within the reach of any particular person [...]” but fails to specify what “within the reach of any particular person” means.<sup>78</sup> We might find that the types of gender-egalitarian interventions that Schouten envisions can be justified by some specifications of the role model requirement and not by others. This worry can be overcome if it can be shown that the role model requirement demands a large number of role models and that it can be met only by implementing subsidies for gender egalitarian lifestyles for everyone. But consider now the following scenario.

*Successful role modelling:* Let’s assume that citizens’ abilities to revise their conception of the good depends on a large number of role models for comprehensively autonomous behaviour, say 20 per cent of the population, more or less evenly distributed across territory, social class, race and age. Imagine a society where subsidies and incentives for gender-egalitarian lifestyles are in place. These subsidies ensure that at least 20 per cent of couples in the population enact the gender-egalitarian lifestyle of *equal-split*. These role models in turn make it easier for the other 80 per cent of couples to reflect on their conception of the good. But imagine that, while these role models facilitate reflection, they don’t actually lead the rest of society to pick up these lifestyles.

It seems like in this society, Schouten’s citizenship-interests-based argument doesn’t recommend any further interventions to promote gender egalitarianism. In other words, her argument deems a society where 80 per cent of couples do not live gender-egalitarian lifestyles as gender-just. To me, this would be a troubling implication. The mere presence of role models for gender egalitarian lifestyles isn’t enough to justify the continued existence of a pervasive gendered division of labour. Should our support for policies that aim at overcoming the gendered division of labour be solely

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<sup>77</sup> Schouten affirms that distribution matters but doesn’t explain how it matters and what type of distribution of role models we should seek.

<sup>78</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 186.

motivated by the abstract citizenship interest of being able to revise our conception of the good? It seems counterintuitive to regard a society as gender-just where only a minority leads gender-egalitarian lifestyles. As I will explain in the next section, there are reasons that militate for more equality of outcome.

This concern about Schouten's argument is further aggravated by the fact citizens' ability to revise their conception of the good can arguably be facilitated by a variety of role models for comprehensively autonomous lifestyles – not only by gender-egalitarian role models. Recall that gender-egalitarian lifestyles such as *equal-split* are only one instance of a diversity of lifestyles that can be regarded as comprehensively autonomous. For example, one might argue that the ideal of free and equal citizens is also embodied by workers who own and manage their own companies and who collectively make decisions as to how to arrange the workplace and how to organize the process of production.

Imagine a society where 10 per cent of the population work in worker cooperatives and 10 per cent of the population (who are not identical with those who work in the cooperatives) enact gender-egalitarian lifestyles. Together, these two groups satisfy a requirement according to which at least 20 per cent of the population must act as role models for comprehensively autonomous lifestyles in order to enable citizens to reflect on their conceptions of the good. The upshot of this might be that Schouten's argument also deems a society as gender-just where 90 per cent of the population don't live gender egalitarian lifestyles. Perhaps Schouten thinks that we can't aggregate role models across different contexts of social life in this way, so that a minimum role-model-threshold must be met within each relevant context of social life. But what reasons could be offered in favour of such a non-aggregative view? After all, what counts from Schouten's perspective is the protection of citizen's ability to form and revise a conception of the good. If this can be achieved through enactments of comprehensively autonomous lifestyles other than *equal-split*, then it is difficult to see why we shouldn't aggregate role models across different social contexts. What's more, a non-aggregative view faces the difficult task of identifying the relevant contexts of social life that each separately must meet the role model requirement. It seems difficult to identify a non-arbitrary criterion to distinguish those social contexts where the role model requirement must be met from those where it doesn't have to be met.

To be sure, this doesn't contradict Schouten's claim that *some* subsidies and incentives for gender-egalitarian lifestyles can be justified by abstract citizenship-interests. What it shows is that citizenship-interest considerations aren't enough to justify the feminist demand that the gendered division of labour be completely eroded and that gender mustn't work as a predictor for what sort of lifestyle an individual lives.



Until now, I have pointed out how arguments from voluntariness, equality of opportunity, discrimination and autonomy are unsatisfactory in establishing the injustice of the gendered division of labour. We must assume that many specializers take their decisions to divide labour in a traditional way voluntarily. We must also assume that parenting, care and housework – just like gainful employment in the labour market – provide access to important goods so that we can't defend *equal-split*-subsidies on the grounds that they facilitate access to the superior goods of gainful employment. We can object to statistical discrimination against women in the labour market because this kind of discrimination is disrespectful. But statistical discrimination is only one aspect of the gendered division of labour and while abolishing discrimination is very important, it's not enough to overcome the gendered division of labour. On what grounds can we justify further interventions, such as the subsidising of *equal-split* arrangements?

#### 4.4 Harmful External Effects

As I pointed out above, the set of valuable lifestyle options from which citizens can choose can't be expanded gratis. In order to make the lifestyle of *equal-split* as affordable as *career* and *housework*, states must use funds to subsidise *equal-split*. Moreover, policies that erode patriarchal social norms and the gendered division of labour set back the interests of those who celebrate traditional *specialization* because they reduce the social recognition of this lifestyle. There is therefore a challenge in adjudicating between the competing claims of those who would like to see an erosion of the gendered division of labour and those who want to retain the status quo.

An alternative approach to analysing the morality of decisions to specialize and the justifiability of *equal-split*-subsidies starts with the observation that decisions of couples to specialise impose a negative externality on those couples that would like to enact *equal-split*. Decisions of couples to specialise along traditional gender lines impose a negative externality on those who would like to enact *equal-split* because they sustain social norms according to which men should be breadwinners and women homemakers.<sup>79</sup>

Compliance with social norms normally (though perhaps not always) reinforces these norms.<sup>80</sup> An example for this phenomenon is that most men in western societies don't wear dresses. Presumably this is because of social norms that stigmatize men when they wear dresses. We can speculate that

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<sup>79</sup> Ann E. Cudd, *Analyzing Oppression*, Studies in Feminist Philosophy (New York: Oxford University Press, 2006).

<sup>80</sup> Pierpaolo Battigalli and Martin Dufwenberg, 'Dynamic Psychological Games', *Journal of Economic Theory* 144, no. 1 (b2009): 1–35; Cristina Bicchieri, 'Norms of Cooperation', *Ethics* 100, no. 4 (1990): 838–61; Cristina Bicchieri, 'Covenants without Swords: Group Identity, Norms, and Communication in Social Dilemmas', *Rationality and Society* 14, no. 2 (2002): 192–228; Geoffrey Brennan et al., *Explaining Norms* (Oxford University Press, 2013).

these norms would be much weaker, or indeed non-existent if there was a sizable number of men who don't comply with this norm.

We can expect patriarchal norms to be stronger in societies where almost everyone specializes and to be weaker or non-existent in societies where roughly 50% of couples specialize against the grain of tradition, i.e. where half of those men who specialise work as homemakers and half of those women who specialise work as breadwinners. We would also expect patriarchal norms to be weaker in societies where most couples enact *equal-split*. As I explained in the previous section, it might also make a difference what the identities of those who decide to specialise are. Individuals who are particularly visible, well-known, popular, respected or advantaged in other ways likely have greater influence on social norms than less advantaged individuals who are largely invisible in popular discourse. This in turn affects the size of the externality that they impose.

Note that no negative externalities are generated by couples who specialise against the grain of established social norms i.e., couples where men mainly work as homemakers and women mainly work as breadwinners. As I said previously, I use the term *specialization* to refer to divisions of labour along traditional gender lines and my discussion of negative externalities focuses on this kind of *specialization*. But as I will explain in a moment, the interests of those who prefer to specialise in *some* way – whether traditional or not – are also affected by subsidies for *equal-split* and therefore need to be taken into account.

The negative external effect of any individual's decision to specialise is very weak but the aggregate effect of a large number of persons who all decide to specialise can be powerful. Imagine a world where only one person believes that men should be breadwinners and women should be homemakers. This wouldn't be enough to establish a widespread social norm that imposes costs on other person's behaviour. By contrast, in a society where a majority believes in the breadwinner/homemaker norm, the external effects of this belief can be quite strong.

There is an interesting question as to whether individual actions whose effects are imperceptibly weak can be morally objectionable and whether states may regulate this kind of individual conduct.<sup>81</sup> This question is familiar from debates around the consumption of meat or greenhouse gas emissions. Important though it is, I will set discussion of this problem to one side and simply

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<sup>81</sup> Derek Parfit, *Reasons and Persons*, Repr (Oxford: Clarendon, 1992) Ch. 3.

assume that it can be wrong for individuals to make very small contributions to something that is harmful only when a large number of persons contributes to it.<sup>82</sup>

A significant number of those who specialise don't specialise because they endorse and celebrate patriarchal norms but because they find it individually costly to deviate from these norms. These individuals face a collective action problem where it is individually rational for each person to comply with traditional norms but the group as a whole could be better off if everyone jointly decided to deviate from traditional norms. In the presence of social norms that stigmatise men when they act as homemakers and that stigmatise women when they act as breadwinners, it is rational – because less costly – for each individual to comply with the social norm. However, social norms lose their force when non-compliance with these norms becomes normalised. When *equal-split* lifestyles are enacted by a large number of persons, the social norms that stigmatise *equal-split* are eroded. Each individual finds it costly to act in ways that go against the grain of established social norms. But non-compliance with norms is much easier when enacted simultaneously by a large number of people. To illustrate, imagine the following scenario.

*Skinniness:* The fashion industry establishes a social norm that penalises young women when they are not skinny. Some would prefer to be less skinny but individually, each woman finds it costly to violate the norm because non-compliance leads to stigmatization.

Those who don't like the norm would find non-compliance much easier if they could coordinate to jointly move away from the skinniness-norm. This would normalise more diverse body shapes and reduce stigma.

Let's assume that states could facilitate this collective move away from compliance with the skinniness-norm, for example by requiring the fashion industry to display a larger variety of body shapes. Those who are adversely affected by the skinniness-norm might have a complaint against the state when it refuses to provide this move for no good reason. Plausibly, the interests at stake for those who suffer from the norm (e.g., interests in health) are more important than the interests of those who would like to retain the norm because they endorse it and benefit from it.

To be sure, not all social norms have effects that are harmful enough to justify coercive interventions. Consider a social norm where the interest at stake for those who don't comply are less weighty.

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<sup>82</sup> Kai Spiekermann, 'Small Impacts and Imperceptible Effects: Causing Harm with Others: Small Impacts and Imperceptible Effects', *Midwest Studies In Philosophy* 38, no. 1 (2014): 75–90; Stephanie Collins, *Group Duties: Their Existence and Their Implications for Individuals*, (Oxford: Oxford University Press, 2019).

*Dress code:* Managers are expected to wear suits. If someone shows up at work in casual clothes, their non-compliance with the suit-norm is very visible and they are being stigmatized. However, not everyone likes wearing suits. Many would prefer to dress in more casual ways. Each manager would find it much easier to dress casually if he could coordinate his behaviour with a sizeable number of like-minded managers who would like to dress casually as well.

If the suit-norm was successfully eroded, everyone would find their set of dress-choices expanded by the option of casual clothes. But the move to a world without the suit-norm wouldn't benefit everyone. For the sake of argument, we can assume that firms might be more successful when all managers wear suits, perhaps because this puts their business partners under an impression of discipline and professionalism. A norm like this doesn't licence governmental intervention to erode it because the interest at stake on the side of those who suffer from the suit-norm (i.e., the superior comfortableness of casual clothes) is not particularly weighty.

The interests at stake in *Lukas and Greta* are more similar to those in *skinniness* than to those in *dress code*. Those who would like to enact the lifestyle of *equal-split* can point to two important sets of goods, both of which they might consider crucial to their well-being: The goods of paid work and the goods of care work. Apart from monetary income, paid employment often facilitates several other important goods, such as social recognition and community.<sup>83</sup> Care work on the other hand is valuable because it facilitates the forming of emotional bonds and the sense of being needed.<sup>84</sup> Those who prefer *equal-split* insist that enjoying *both* of these goods to some degree is crucial to their flourishing and that *equal-split* is the only lifestyle that truly provides access to both. They feel deep regret about situations where they're unable to enjoy both of these goods and their feeling of regret is such that they often report a willingness to make significant sacrifices in order to access the lifestyle of *equal-split*.<sup>85</sup>

One might worry that pointing to the value of care work and paid work is an impermissibly perfectionist way of establishing the desirability of *equal-split* subsidies. After all, citizens can reasonably disagree over the question of whether a good life should contain both care- and paid work. But my point here is not that *equal-split* lifestyles are more valuable than *specialization* lifestyles.

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<sup>83</sup> Gheaus, A., and L. Herzog, 'The Goods of Work (Other than Money!)'. *Journal of Social Philosophy*, no. 47(1) (2016); Arnold, 'The Difference Principle at Work?'

<sup>84</sup> Kimberley Brownlee, 'The Lonely Heart Breaks', *Aristotelian Society Supplementary Volume* 90, no. 1 (2016): 27–48; Harry Brighouse and Adam Swift, *Family Values: The Ethics of Parent-Child Relationships*, 2016.

<sup>85</sup> Schouten, *Liberalism, Neutrality, and the Gendered Division of Labor*, 208; Jerry A. Jacobs and Kathleen Gerson, *The Time Divide, The Family and Public Policy* (Cambridge, MA: Harvard University Press, 2004); Jenet I. Jacob et al., 'Six Critical Ingredients in Creating an Effective Workplace.', *The Psychologist-Manager Journal* 11, no. 1 (2008): 141–61.

Rather, what I'm observing is that many citizens attach great importance to *equal-split* and the interests of these citizens are set back by those who generate stigmatising social norms that make access to *equal-split* very costly. Compare this to the case of *skinniness*. Social norms that stigmatise deviations from skinniness (i.e., average body weight and overweight) are objectionable because they severely set back the interests of those who would like to deviate from the skinniness-norm. To reach this judgement it is not necessary to assume that it is better for people to have average body weight or overweight, as opposed to being skinny. It suffices to observe that the harmful effects of the skinniness-norm are strong enough to justify policies that aim at eroding this norm. In order to determine whether the external costs imposed on those who prefer *equal-split* are significant enough to justify subsidising this lifestyle we must compare them to the costs that those who prefer *specialization* incur when *equal-split* is subsidized.

Those who prefer *specialization* can invoke the value of efficiency to establish their complaint against *equal-split*-subsidies. In some cases, *specialization* can be more efficient in the sense that the monetary income gained from one full-time job is greater than the income gained from two part-time jobs. To be sure, subsidies for the lifestyle of *equal-split* wouldn't force any individual specialiser to split paid and care work equally between partners. But a society where incentives that cause a significant number of partners to take up the lifestyle of *equal-split* is one where overall less goods and services are produced and the aggregate effect of such efficiency losses across a whole economy might be significant. The specialisers can therefore complain that they live in a society that produces less material wealth than an alternative society where no *equal-split* subsidies are in place. Note that this is not a complaint about Pareto-inefficiency. The move from a society with *equal-split* subsidies in place to a society without such subsidies is not Pareto-improving because it leaves the *equal-split*-lovers worse off. But the specialisers can mount a narrower efficiency-complaint according to which they could be wealthier if they lived in a society without gender-egalitarian subsidies.

The strength of this efficiency-based complaint depends to a large extent on the overall level of wealth and technological development of a society. In very poor countries, efficiency gains are vital because they can help meet basic needs and bring about significant improvements of living standards. In rich countries, further efficiency gains aren't normally necessary to meet basic needs. What's more, social scientists disagree whether further increases in the production of goods and services in rich countries can bring about further wellbeing-improvements at all. For rich countries, it is often preferable to forgo increases in the production of goods and services in order to improve access to other goods such as the goods of care and the goods of paid employment.<sup>86</sup>

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<sup>86</sup> Rose, 'On the Value of Economic Growth'.

It bears mentioning that the interests of those who want to specialise against the grain of patriarchal norms don't align with the interests of traditional specialisers. Men who want to work as homemakers and women who want to work as breadwinners often face stigma when they pursue their preferred occupation. *Equal-split* subsidies, such as entitlements to paternal leave, normalise deviations from tradition and erode social norms that penalize deviations and therefore facilitate access to specialization that goes against the grain of patriarchal norms. Some policies that facilitate *equal-split* also facilitate specialization against the grain of social norms. At the same time, the interests of those who want to specialise against the grain of social norms don't align fully with the interests of those who prefer *equal-split*.

For example, if I am skilled at laundering and child care and enjoy these forms of work but my income-earning capacity is slight, while my wife is a cardiologist who hates housework, many deviations from an equal-split arrangement involving my doing more laundering and child care and my wife doing more paid labor and controlling more of the income from paid labor would be better for both of us.<sup>87</sup>

Beyond the *significance* of the interests affected by the choice between status quo and *equal-split* subsidies, we must consider the *number* of individuals who are adversely affected in each scenario. Some studies suggest that in western societies the number of those who prefer a lifestyle of *equal-split* is much higher than the number of those who prefer are a lifestyle of *specialization*. According to Kathleen Gerson, in the United States

[...] most want to create a flexible, egalitarian partnership with considerable room for personal autonomy. Whether reared by homemaker-breadwinning, dual-earner, or single parents, most women *and* men want a committed bond where they share both paid work and family caretaking. Three-fourths of those reared in dual-earner homes want their spouses to share breadwinning and caretaking, but so do more than two-thirds of those from traditional homes and close to nine-tenths of those with single parents. Four-fifth of the women want egalitarian relationships, but so do over two-thirds of the men.<sup>88</sup> [...] if social arrangements allowed men and women to enact their values, most would prefer to equal-split market and nonmarket work rather than specializing in one at the expense of the other.<sup>89</sup>

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<sup>87</sup> Arneson, 'Feminism and Family Justice'.

<sup>88</sup> Gerson, *The Unfinished Revolution: How a New Generation Is Reshaping Family, Work, and Gender in America*, 11.

<sup>89</sup> Gerson op. cit., 200.

In summary, specialisers generate a negative externality that harms those who would like to enact *equal-split* because the specialisers' decisions sustain and perpetuate social norms that stigmatise *equal-split*. Obstacles to accessing *equal-split* are concerning because they limit access to two important sets of goods: the goods of paid employment and the goods of care. States can remove or mitigate this externality by subsidising *equal-split* and by helping those who would like to enact *equal-split* to overcome their collective action problem and jointly move away from compliance with patriarchal norms. In rich countries, this can be done at the comparably low cost of a mild efficiency-loss.

#### 4.5 Does the externality argument show too much?

One worry about this externality argument against patriarchal social norms is that it shows too much. Externalities arise in many contexts of everyday life and it would be implausible to think that states should always intervene to help those who are adversely affected by these externalities. Consider an example offered by Andrew Mason who discusses social norms that stigmatise adults who decide not to become parents.<sup>90</sup> Those who decide not to become parents are sometimes stigmatised because of a widespread belief that being a parent is an integral part of a good life, or because of an assumption according to which there is a moral duty to contribute to society through having children. This is especially true in societies with high birth rates, where the decision not to have children is sometimes regarded as selfish or as foolish. One might think that the externality argument implies that governments should intervene to help those who suffer from the social pressure to be a parent, for example by adopting public policies that aim at reducing birth-rates. This appears to be an implausible implication.

One reason why this implausible implication doesn't follow from the externality argument is that liberal societies protect a right for would-be parents to procreate or to adopt, so that governments can't use coercive measures that prevent citizens from becoming parents to protect the interests of those who suffer from the stigma of childlessness. The interest in being free from social norms that stigmatise childlessness can't justify coercive measures that prevent citizens from becoming parents. What's more, there are many countries where the social stigma attached to childlessness is very mild, so that even non-coercive measures that aim at reducing a country's birth rate cannot be justified with appeal to the interest in being free from stigma. And even in countries where childlessness-stigma is severe, governments might be able to adopt a range of policies other than reducing birth-rates that reduce this kind of stigma. For example, governments can adopt a secular curriculum in schools that doesn't expose children to religious teachings according to which having

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<sup>90</sup> Mason, 'Equality, Personal Responsibility, and Gender Socialisation', 243.

children is a holy duty. Finally, there might be countries where childlessness-stigma is severe and where it can't be reduced without reducing birth-rates. I regard it as an open question whether some policies, such as additional family-planning classes in school or the subsidising of contraceptives are justifiable on the grounds that they help alleviate childlessness-stigma. If in any case, it is not evident that the externality argument is implausible because it licenses controversial birth control policies.

Having established that patriarchal norms are concerning because of their harmful external effects; I now turn to the more practical question of how states can help those who prefer equal-split lifestyles. In particular, I will assess the question of what role there is for policies of working time reduction in the fight against patriarchal norms.

#### 4.6 Working Time Reduction and the Gendered Division of Labour

Feminists have long contended that the gender system and its associated injustices can be overcome or redressed by implementing policies that encourage *equal-split* lifestyles.<sup>91</sup> Examples for such policies are paternity leave schemes that encourage an equal sharing of parenting between men and women and generous childcare provisions. These policies provide incentives for *equal-split* lifestyles by making it more affordable to share the tasks of parenting, care, and paid employment between partners. There is evidence that these incentives are effective in reducing the inequalities caused by the gendered division of labour.<sup>92</sup>

However, even countries that have implemented generous childcare provisions and strong incentives to share parenting tasks are still far from overcoming the harmful effects of working-time inequality between genders.<sup>93</sup> One reason for this is that the injustices resulting from the

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Annabelle Lever and Andrei Poama, eds., *The Routledge Handbook of Ethics and Public Policy*, Routledge Handbooks in Applied Ethics (Abingdon, Oxon ; New York, NY: Routledge, 2019), 293. See also Jacobs, Jerry A. and Kathleen Gerson. 2004. *The Time Divide: Work, Family, and Gender Inequality*. Cambridge, Mass.: Harvard University Press, page 65

<sup>91</sup> Gina Schouten, 'Is the Gendered Division of Labor a Problem of Distribution?', in *Oxford Studies in Political Philosophy, Volume 2*, ed. David Sobel, Peter Vallentyne, and Steven Wall (Oxford University Press, 2016), 185–206.

<sup>92</sup> Bianchi, S. M., Milkie, M., Sayer, L., and Robinson, J. (2000). "Is Anyone Doing the Housework? Trends in the Gender Division of Household Labor," *Social Forces* 79, 1: 191–234. Glass, J. (2004). "Blessing or Curse? Work-Family Policies and Mothers' Wage Growth Over Time," *Work and Occupations* 31: 367–94. Estes, S., Noonan, M., and Maume, D. (2007). "Is Work-Family Policy Use Related to the Gendered Division of Housework?" *Journal of Family and Economic Issues* 28, 4: 527–45.

<sup>93</sup> Inequality and Power LSE Commission on Gender, „Confronting Gender Inequality“, 2015, <http://www.lse.ac.uk/gender/research/Gender-Inequality-and-Power-Commission>; World Bank. 2012. *World Development Report 2012 : Gender Equality and Development*. World Bank. <https://openknowledge.worldbank.org/handle/10986/4391> Harry Brighouse and Erik Olin Wright, 'Strong Gender Egalitarianism', *Politics & Society* 36, no. 3 (2008): 360–72. *Gender Equality and Development*,



gender system are difficult to address because they are rooted in a long history of oppression and inequality between men and women and are thus deeply entrenched in institutions and in individuals' imaginations. The failure to overcome the gender system through policies like childcare provision suggests that these may not be enough. Arguably, it is necessary to accompany these policies with further incentives and or with more coercive measures.

One promising way of making further progress is to reduce the average amount of time people spend on the job and to promote the availability and quality of part-time work.<sup>94</sup> Proponents of reduced working time have argued that this would tackle the gendered distribution of labour in three ways.<sup>95</sup> First, it might cause more women who are currently homemakers to enter the labour market because if the average work week was reduced, it would be easier to combine paid work with care and housework responsibilities. Second, working time reductions would make it more difficult for men to use long work hours as a means of advancing their careers. In an economy where average working time is reduced, men and women compete on a more equal footing because men's willingness to work particularly long hours becomes less decisive a factor in job competitions. Imagine an economy where the average workweek is 25 hours. In this economy, displaying a willingness to work full-time or more than full-time is less costly for everyone and therefore does less work in setting apart those who have this willingness from those who don't. We can expect that as a result of this, women will find it easier to compete for desirable positions. Third, if the average work week was reduced, more men would find it attractive to engage in care and household tasks. If full-time employment consumes a smaller share of everyone's time, those who pursue full-time work will find it easier to also engage in some housework and care work. Currently the gender system places expectations on men to work long hours. Without these expectations, men would arguably find it easier to dedicate a larger share of their time to care and household work. And if average working time was reduced, the opportunity cost for men to take up a share of housework and care work would go down. Reducing opportunity costs for care work is of course not sufficient to guarantee that men will pick up a larger share of care work. But it is arguably a necessary condition that can be complemented with further incentives such as generous paternal leave schemes. Together, these three effects help erode social norms that nudge women into the role of housekeepers and men into the role of breadwinners because they make non-compliance with these norms less costly.

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<sup>94</sup> Messenger, Lee, and McCann, *Working Time Around the World: Trends in Working Hours, Laws, and Policies in a Global Comparative Perspective.*, 148.

<sup>95</sup> Compare: Stan De Spiegelaere and Agnieszka Piasna, *The why and how of working time reduction*, European Trade Union Institute, 2017; When Time Isn't Money: The Case for Working Time Reduction <https://www.greeneuropeanjournal.eu/when-time-isnt-money-the-case-for-working-time-reduction/>

By way of further illustration, let's see what impact working time reduction policies have on the case of *Greta and Lukas*. After the intervention, *career* involves significantly less time devoted to paid employment. This makes *career*, which used to consist of working long hours in the labour market, less distinct from *equal-split*. It reduces incentives to choose *career* ahead of *equal-split* because *career* is now less dramatically different from *equal-split* with regards to the rewards it offers. *Equal-split* still differs from *career* in that on top of working part-time in the labour market, individuals also take on care and housework responsibilities. For Lukas, *career* is now less attractive because he could no longer use very long work hours as a means for obtaining well-paid and or influential positions.

Another implication of the intervention might be that Greta will be able to choose from a larger number of potential partners with whom her preferred choice of *equal-split* would be compatible. As a larger number of workers chooses *equal-split* over *career*, a larger number of individuals with whom to combine this type of lifestyle will be available to Greta.

To the proposal of tackling the gendered distribution of labour in this way, one might object that in order to achieve the desired effect of making *equal-split* and *career* sufficiently similar in terms of how much working-time they require, policies of working time reduction would have to be very drastic. This is potentially problematic because drastic labour market interventions are likely to have several side effects, some of which may be undesirable. For example, we can imagine that limiting the amount of time that people can spend on the job will *greatly* reduce efficiency e.g., because it can force employers to hire two part-time workers in place of one full-time worker, which in turn is more expensive because it involves additional administrative costs and social security costs.

Compare the concern around the drastic effects of reduced working time to a similar concern that is sometimes voiced about the proposal to introduce a generous universal basic income. Some economists complain that such a policy will have many far-reaching effects, some of which are very difficult to foresee.<sup>96</sup> Note that the force of this complaint is limited in that it doesn't make claims about the desirability of effects. But even so, depending on how much we value the status quo, it might be reasonable to be risk-averse and prefer little or no change over drastic and unpredictable change.

One way of mitigating the force of this concern is to point out that a basic income need not be implemented overnight. Instead, we might want to take a more gradualist approach where the size

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<sup>96</sup> See for example Anna Coote and Edanur Yazici, *Universal Basic Income - A Report for Unions*, Public Services International, New Economics Foundation

of the income is gradually increased so that effects can be observed and adjustments can be made depending on what types of effects the policy creates. Something similar is true for changes in working time. Reductions can be introduced step by step in order to rule out sudden unexpected changes. Moreover, working time reductions need not exclusively be achieved through coercive means such as maximum work hours legislation that arguably cause plenty of unexpected effects. Instead, incentives whose effects might be easier to anticipate can be used to complement these policies and to achieve some of the reductions in working time that are needed to tackle the gendered distribution of labour.

One especially promising way of incentivising reductions in average working-time is to subsidise part-time work. As I pointed out earlier, part-time jobs are less attractive than fulltime jobs in most countries in that they offer less pay, inferior working conditions, etc. However, this need not be the case. Policy makers can employ several measures to improve the status of part-time work. We can speculate that subsidising part-time work would also lead to a reduction in average working-time because there are many workers who would reduce their working-time if they could or who would reduce their working-time if doing so was more attractive. Some scholars propose that in order to achieve justice between genders, “All jobs should be available on a part-time basis without adverse career impacts.”<sup>97</sup> In the Netherlands, a set of policies along the lines of this proposal have been implemented over the last three decades.

“In 1993, a law removed hours-related thresholds for entitlements to the minimum wage and holiday allowance. In 1996, legislation prohibited all discrimination between employees based on working hours, and thus guaranteed equal treatment in terms of wages, holiday pay, bonuses, training and other entitlements.<sup>98</sup> In 2000, another act introduced a right for employees to request an increase or decrease of their working hours.<sup>99</sup> Employers need to justify refusals. All these measures strengthened the position of part-time workers and stimulated people to opt for such jobs.”<sup>100</sup>

Empirical evidence suggests that these policies are effective in incentivising part-time work. In the Netherlands, close to 40% of workers work part-time. The corresponding EU average lies below 20%.<sup>101</sup> Two other figures are interesting in this context. First, average working time in the

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<sup>97</sup> LSE Commission on Gender op. cit. p.6; Okin, *Justice, Gender, and the Family* Ch.8.

<sup>98</sup> Jean-Yves Boulin and International Labour Office, eds., *Decent Working Time: New Trends, New Issues* (Geneva: International Labour Office, 2006).

<sup>99</sup> Jelle Visser et al., ‘The Netherlands: From Atypicality to Typicality’, ed. Silvana Sciarra, Paul Davies, and Mark Freedland (Cambridge: Cambridge University Press, 2004), 190–223.

<sup>100</sup> Spiegelaere and Piasna, *The Why and the How of Working Time Reduction*, 61.

<sup>101</sup> Visser et al., ‘The Netherlands: From Atypicality to Typicality’.

Netherlands also lies below the EU average.<sup>102</sup> Second, the Netherlands is one of the most gender-egalitarian countries in the European Union.<sup>103</sup> To be sure, this incidence might be due to many reasons other than attractive conditions for part-time work. But it certainly suggests that the idea of a causal link between attractive part-time work and gender equality is worth taking seriously.

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<sup>102</sup> This is according to the 2018 statistics of Eurostat: <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/DDN-20180125-1>

<sup>103</sup> European Institute for Gender Equality, *Gender Equality Index 2017: Measuring Gender Equality in the European Union* (Luxembourg: Publications Office of the European Union, 2017).

## 5. Free Time Across the Life Course<sup>1</sup>

My aim in the previous chapter has been to show how considerations of gender equality and objectionable externalities support demands for reduced working time. In chapters two and three I explained that there are big differences between current states of affairs, where competitive pressures drive up average working time, and counterfactual states of affairs, where no such competitive pressures exist. But there is also an *intrapersonal* reason for why people can lack free time that is often overlooked – that is, a reason that has to do with how free time is distributed across different stages *within* people’s lives.<sup>2</sup> In the following chapter I turn my attention to this issue.

In industrialized countries, citizens typically enjoy a very large amount of free time towards the end of their lives, when they are retired, but it is much more costly for people to access free time during the middle part of their lives.<sup>3</sup> To illustrate, workers are often reluctant to interrupt their careers because re-entering the job market after a lengthy break from work can be very costly. This intrapersonal discrepancy between a time-scarce middle age and a time-rich old age provides another reason for why so many people in industrialized countries are pressured for time.

The fact that middle-aged people face high costs in accessing free time is by no means natural or unavoidable. States can choose between different regulatory regimes that expand or reduce citizens’ opportunities to access free time at different life-stages. At one end of this spectrum are conceivable regimes that incentivize citizens to work as much as possible during middle age, in order to retire as early as possible. Under such regimes people might have an average work week of 70 hours and an average retirement age of 50. We can refer to a regime that tends towards this extreme of

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<sup>1</sup> Large parts of this chapter have been published in the form of an article: Malte Jauch, ‘Free Time Across the Life Course’, *Political Studies*, 2021.

<sup>2</sup> Philosophers have also engaged with the question of whether everyone in society ought to enjoy more free time than they currently do. In other words, they have engaged with the *counterfactual* question of whether justice requires everyone to work less. See for example Cohen, *Karl Marx’s Theory of History* Ch. 11. I have taken the helpful distinction between interpersonal, counterfactual, and intrapersonal distributions of free time from Tom Parr, ‘Work Hours and Free Time’, unpublished manuscript.

<sup>3</sup> Katherine Weisshaar, ‘From Opt Out to Blocked Out: The Challenges for Labor Market Re-Entry after Family-Related Employment Lapses’, *American Sociological Review* 83, no. 1 (2018): 34–60; Stefan Eriksson and Dan-Olof Rooth, ‘Do Employers Use Unemployment as a Sorting Criterion When Hiring? Evidence from a Field Experiment’, *American Economic Review* 104, no. 3 (2014): 1014–39; John M. Nunley et al., ‘The Effects of Unemployment and Underemployment on Employment Opportunities: Results from a Correspondence Audit of the Labor Market for College Graduates’, *ILR Review* 70, no. 3 (2017): 642–69; David S. Pedulla, ‘Penalized or Protected? Gender and the Consequences of Nonstandard and Mismatched Employment Histories’, *American Sociological Review* 81, no. 2 (2016): 262–89; Eurostat, *Time Use at Different Stages of Life: Results from 13 European Countries* (Luxembourg: Office for Official Publications of the European Communities, 2003).

possible distributions of free time across the life-course as a *postponement* regime because it incentivises citizens to postpone their enjoyment of free time until they're retired.<sup>4</sup> At the other end of the spectrum are conceivable regimes that incentivize the middle-aged to enjoy as much free time as possible, although this means that they must continue to carry out *some* work until they're quite old. An example would be a regime with an average work week of 25 hours and an average retirement age of 75. Let's refer to a regime that tends towards this pattern as a *frontloading* regime because it leads citizens to 'consume' a large part of their lifetime share of free time when they're still relatively young.

To illustrate the distinction between *postponement* and *frontloading* tendencies, consider the regulatory regimes of Japan and the Netherlands. Japan's economy encourages workers to postpone the enjoyment of free time until old age.<sup>5</sup> It does this for example by rewarding workers who don't interrupt their career with wage-increases – a practice that is often referred to as 'seniority-based pay'.<sup>6</sup> Beyond that, Japan's pension system makes it attractive (and in many cases mandatory) to retire early. Japanese workers thus work on average 1680 hours per year and retire on average at age 63.<sup>7</sup> In the Netherlands, by contrast, workers have a right to decrease their working time and employers must justify the refusal of requests to reduce working time. What's more, discrimination between workers based on work hours is prohibited, so that those who opt for part-time work are guaranteed equal treatment with regards to wages and other benefits. Meanwhile, a high legal age of retirement incentivises Dutch workers to not retire early.<sup>8</sup> As a result, average working time during middle age is much lower in the Netherlands than in Japan, at 1433 hours per year, and

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<sup>4</sup> Note that by a "postponement regime" I do not mean a regime of postponing retirement, but a regime of postponing the consumption of free-time.

<sup>5</sup> Recently, the Japanese government signalled that it wants to increase the average age of retirement. Tetsushi Kajimoto, 'Retiring Late: As Pensions Underwhelm, More Japanese Opt to Prolong Employment', *Reuters Business News*, 4 October 2019, <https://www.reuters.com/article/us-japan-economy-retirement/retiring-late-as-pensions-underwhelm-more-japanese-opt-to-prolong-employment-idUSKCN1RM0GP>.

<sup>6</sup> What's more, pay in Japan is largely 'input-based', which means that workers are rewarded for spending a lot of time at the workplace, even if this doesn't lead to a proportionate increase in productivity. Hiroshi Ono, 'Why Do the Japanese Work Long Hours? Sociological Perspectives on Long Working Hours in Japan', *Japan Labor Issues* 2, no. 5 (n.d.): 35–49.

<sup>7</sup> OECD Labour Force Statistics, 'Average Annual Hours Actually Worked per Worker', 2019, <https://stats.oecd.org/index.aspx?DataSetCode=ANHRS>; OECD, *Working Better With Age*, Ageing and Employment Policies (OECD, 2019), <https://doi.org/10.1787/c4d4f66a-en>.

<sup>8</sup> Late retirement can also be incentivised in other ways, for example through sanctioning firms that require older employees to retire early against their will. Some countries, such as Spain and Poland, prohibit compulsory retirement and others, such as Italy and Japan, permit this practice. There is also evidence that increasing pay and improving the quality of jobs make it more likely that workers retire later. Patrick Pilipiec, Wim Groot, and Milena Pavlova, 'The Analysis of Predictors of Retirement Preferences over Time', *Journal of Population Ageing*, 2020.

workers retire later at the average age of 67.<sup>9</sup> The Netherlands are thus closer to the *frontloading* end of the spectrum, whereas Japan is closer to *postponement*.<sup>10</sup>

The existence of a variety of free time regimes raises the thus far unexplored question of whether some points on the spectrum between *frontloading* and *postponement* are preferable to others, morally speaking. How should a just society structure the costs that individuals face when they want to access free time at middle and old age? My main claim is that justice requires contemporary societies, all of which have regimes that are relatively close to *postponement*, to move to a point that is closer to *frontloading*. This means that the distribution of opportunities to access free time at different life-stages in the Netherlands is preferable to that of Japan. Beyond that, I claim that even countries like the Netherlands should move further towards *frontloading* and make access to free time during middle age less costly, although this comes at the cost of further increases in the age of retirement. Even the Netherlands is still too close to the *postponement* end of the spectrum.

My argument proceeds as follows. Section 5.1 explains why we should be concerned about regimes that incentivise people to postpone the enjoyment of much of their free time until old age. Section 5.2 argues against three seemingly attractive principles that explain why it matters how resources such as free-time are distributed across the life-course, and that help determine how costly access to free time at different life-stages should be. Section 5.3 argues that the design of a regulatory framework that affects the costs of accessing free time should mimic the outcome of an idealised decision-situation, where prudent individuals behind a partial veil of ignorance choose between different types of protections to access free time at different life-stages. I claim that prudent persons would choose policies that make access to free time cheaper for the middle-aged and more costly for the old-aged i.e., a framework that is much closer to *frontloading* than those that currently exist. Sections 5.4, 5.5, and 5.6 respond to objections that can be raised against the hypothetical choice approach introduced in section 5.3.

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<sup>9</sup> Boulin and International Labour Office, *Decent Working Time*; European Commission, 'Employment, Social Affairs & Inclusion: Netherlands - Retirement Pension', 2020, <https://ec.europa.eu/social/main.jsp?catId=1122&langId=en&intPageId=4993>.

<sup>10</sup> There might be other explanations for these time-use differences between Japan and the Netherlands. For example, social norms that stigmatise leaving one's workplace early are more widespread in Japan than in the Netherlands. I don't deny the existence of such cultural explanations. For my argument it suffices to assume that regulatory regimes have *some* effect on how much free time workers access at different stages of their lives. What's more, social norms and cultural differences don't exist independently of public policy. Governments can pass legislation that affects social norms. For example, taking time off work to care for children might be less stigmatised in countries where legal entitlements and subsidies to do this exist because such entitlements normalise care work and the associated career-interruptions. Wielers, Rudi & Raven, Dennis. (2009). 'Part-Time Work and Work Norms in the Netherlands'. *European Sociological Review*. 29.

Let me make some preliminary notes before I proceed with the main argument of this chapter. First, it is important to distinguish between two interpretations of the claim that societies should move closer towards the *frontloading*-end of the spectrum of access to free time across the life course. One possible interpretation of this claim is that justice requires forcing citizens to enjoy more free time earlier in life. Another interpretation is that justice requires giving citizens *opportunities* to enjoy more free time earlier in life. It is this second interpretation that I have in mind when I use the term *frontloading*. I will elaborate on this important distinction in Section 2. Second, I will frequently refer to two different age groups – the middle-aged and the old. For the purpose of my discussion, I define everyone between the age of 25 and 65 as ‘middle-aged’ and everyone above the age of 65 as ‘old’.<sup>11</sup>

## 5.1 Free Time: Too Much, Too Late

The abundance of free-time that retirement brings at old age promises to compensate people for some of the hardships they incur during the middle-part of life, when they are economically productive. But for several reasons, this promise of free time that awaits us after our work-life is a cruel joke.

First, there is a significant number of people who don’t reach the age of retirement because they die prematurely. “In 2017, there were 56 million deaths globally” and 27% among them “were between 50 and 69 years old”<sup>12</sup> Most of these victims of premature death didn’t reach retirement and the few among them who did reach retirement enjoyed very little of it, in comparison with the many years they spent working. In rich countries, the number of people who die prematurely is lower than the global average, but not by much. In Germany, the share of those who are between 50 and 69 years old when they die lies at 18% and in the United States, it lies at 26%.<sup>13</sup> Many of these individuals who die early work a lot, but premature death deprives them of the free time they were expecting to enjoy during retirement.

What makes the fate of these individuals even more regrettable is that many of them are already disadvantaged during their lifetime. Among those who die early, the least-advantaged are overrepresented, so that early death exacerbates a misfortune that many have already been suffering during their lifetime. In other words, the poor and otherwise disadvantaged have shorter lives. An extensive literature documents that those of lower socioeconomic status are much more likely to

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<sup>11</sup> This definition is somewhat arbitrary but this isn’t problematic because its purpose is only to provide a rough schematic distinction between the old and the middle-aged.

<sup>12</sup> Hannah Ritchie (2018), ‘Causes of Death’. Published online at OurWorldInData.org. Retrieved from: <https://ourworldindata.org/causes-of-death>, last accessed on 24.01.2021

<sup>13</sup> Ritchie (2018) op.cit.



die early.<sup>14</sup> To illustrate, among men in Norway, those who belong to the richest 1% live on average 14 years longer than those who belong to the poorest 1%. Among women in Norway, this difference is 8 years.<sup>15</sup> Among all disadvantages suffered by the poor, their shorter life expectancy might be the greatest and the one that most urgently calls for remediation. It is therefore striking that the poor, who are most in need of compensation for their unfortunate situation, are least likely to enjoy the rewards of retirement.

Second, among those who reach the age of retirement, there are many whose physical and mental health has deteriorated, so that they are less capable of enjoying their free time. Just like premature death, ill-health at old age doesn't strike people at random but occurs more often among the disadvantaged, for example because of hazardous working conditions or other kinds of stressors to which people of lower socioeconomic status are more heavily exposed. According to Crimmins *et al*, "People who have less education and who are poorer are more likely to experience earlier disease onset, loss of functioning, and physical impairment."<sup>16</sup> In other words, the poor age earlier, which makes it more difficult for them to enjoy their free time when they are old.

Third, some of those who are healthy when they retire have relatives or friends who die prematurely. This reduces the value of the retirees' free time because the loved ones they hoped to share that free time with are no longer around. For example, Bronnie Ware tells the story of John, whose wife Margaret passes away shortly after he retires. Toward the end of his life, after having lived through retirement without his wife, John says: "I worked too damn hard and now I am a lonely, dying man."<sup>17</sup> John's retirement was much less valuable to him than it would have been if Margaret hadn't died prematurely. Again, it bears emphasizing that the chances of losing a loved one or a relative are much higher for those of low socioeconomic status. This is because those from lower income brackets are more likely to marry someone who also occupies a low income bracket, which as we saw increases one's risk of dying prematurely.<sup>18</sup> As a result, the risk of having

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<sup>14</sup> Aaron Antonovsky, 'Social Class, Life Expectancy and Overall Mortality', *The Milbank Memorial Fund Quarterly* 45, no. 2 (1967): 31; Michael Marmot, *The Status Syndrome: How Your Social Standing Affects Our Health and Longevity*, 1. Holt paperbacks ed (New York, NY: Holt, 2005); Richard G. Wilkinson and Kate Pickett, *The Spirit Level*, vol. Book, Whole (London: Penguin Books, 2010); Anne Case and Angus Deaton, *Deaths of Despair and the Future of Capitalism* (Princeton: Princeton University Press, 2020). Dan Lewer et al., 'Premature Mortality Attributable to Socioeconomic Inequality in England between 2003 and 2018: An Observational Study', *The Lancet Public Health* 5, no. 1 (2020): 33–41.

<sup>15</sup> Jonas Minet Kinge et al., 'Association of Household Income With Life Expectancy and Cause-Specific Mortality in Norway, 2005–2015', *JAMA* 321, no. 19 (2019): 1916–25.

<sup>16</sup> E. M. Crimmins, J. K. Kim, and T. E. Seeman, 'Poverty and Biological Risk: The Earlier "Aging" of the Poor', *The Journals of Gerontology Series A: Biological Sciences and Medical Sciences* 64A, no. 2 (2009): 286–92.

<sup>17</sup> Ware, *The Top Five Regrets of the Dying* Chapter 2.

<sup>18</sup> Helen E. Fisher, *Anatomy of Love: A Natural History of Mating, Marriage, and Why We Stray* (New York: W. W. Norton & Company, 2017) Ch. 2.

a less valuable retirement because of losing one's partner or one's relative is much higher for those who belong to the group of the least advantaged.

Fourth, among those who expect to reach old age in good health with their loved ones by their side, there are some who would prefer to carry out some amount of work when they are old in order to be able to work less intensely during the middle part of their lives. In other words, they would like to redistribute some of the free time that becomes available through retirement at old age to the middle part of their lives. 'Frontloading' some of one's retirement in this way can be attractive for several reasons. Some people simply prefer to work less intensely at each point in time although this means that they will have to retire later. Others want to spend a lot of time on non-work activities that must be carried out before reaching old age. For example, the raising of a family can't normally be postponed to old age, especially for women, and those who want to engage intensely in such 'middle-age-exclusive' activities can find it attractive to retire later in order to have more free time during middle age. What's more, there are some activities that can in principle be postponed to old age but that are more rewarding when carried out during middle age because they involve a degree of investment in skills. For example, it is often more rewarding to learn to speak a foreign language or to play a musical instrument while we're still relatively young because this allows us to enjoy using those skills during a longer part of our lives. Lastly, there are some activities that aren't more *rewarding* but more *enjoyable* when carried out during middle age. An example of this may be the climbing of mountains, which becomes more difficult as physical strength declines with old age.

These four considerations highlight a need to scrutinise regimes that incentivise postponement. In particular, the question arises whether within the existing range of regimes in force, *frontloading* isn't in fact preferable to *postponement*, morally speaking. Is there a principled way to answer this question – that is, to identify morally better and worse ways of enabling certain patterns of free-time across the life course?

## 5.2 Temporal Parts Equality, Pure Lifetime Equality, and Free Bargaining

One explanation for why it matters how much free time is available to us at different life-stages is that principles of distributive justice apply to different temporal parts of life, so that whether someone enjoys fair access to free time must be evaluated separately for each stage of life.<sup>19</sup> The idea underlying all versions of this 'temporal parts view' is that each stage of life has independent

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<sup>19</sup> Compare Paul Bou-Habib, 'Distributive Justice, Dignity, and the Lifetime View', *Social Theory and Practice* 37 (2011): 287; Dennis McKerlie, *Justice between the Young and the Old*, Oxford Ethics Series (New York, N.Y.: Oxford University Press, 2013).

importance when it comes to determining citizens' entitlements to resources, capabilities or whatever the relevant metric of distributive justice is. Independent importance means that my entitlement to resources at one stage of life – let's say old age – is independent of how many resources I enjoy during other stages of life. According to the temporal parts view we should determine my entitlement to resources at old age independently of whether I was resource-rich or resource-poor during earlier stages in life.

Imagine for example that we're interested in the question of how to interpret the requirement that everyone be equal in capabilities. On one understanding of the temporal parts view, we must ensure that the amount of capabilities I enjoy during a given stage of life – say, during my youth - is equal to the amount of capabilities that everyone else enjoys during their youth. The same applies to all other life-stages: the middle part of one person's life mustn't contain more capabilities than the middle part of someone else's life, etc. This is the *corresponding segments* interpretation of the temporal parts view, because it says we must compare the temporal part of one person's life with the corresponding temporal part in other people's lives. On another interpretation of the temporal parts view, we must compare the simultaneous stages of our lives. Coming back to the capability example, this would mean that the stage of life that I currently live through (say, middle age) must contain as many capabilities as the stage of life that everyone else currently lives through, i.e. the youths of people who are currently younger than me and the old ages of people who currently older than me. This is the *simultaneous segments* interpretation of the temporal parts view.

The temporal parts view faces two problems. The first problem concerns the possibility of *compensation* between different parts of a life and the second problem concerns *responsibility*: the idea that individuals should sometimes be held liable for their decisions. Sometimes, individuals who have fewer resources at one point in time can be compensated for this lack of resources by providing them with more resources at a different point in time.<sup>20</sup> Imagine for example that your employer allows every employee to take one day of their choice off from work during one week. Your colleague chooses to take Tuesday off and you choose to take Thursday off. The fact that your colleague enjoys more free time than you on Tuesday isn't unfair to you because you get to enjoy the same amount of free time on a different day. In other words, your free time on Thursday compensates you for the lack of free time on Tuesday. The temporal parts view implausibly holds that your lack of free time on Tuesday is morally concerning independently of what happens during the other days.

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<sup>20</sup> McKerlie, *Justice between the Young and the Old* Ch. 2; Bou-Habib, 'Distributive Justice, Dignity, and the Lifetime View', 290.

The idea that temporal parts have independent weight when we assess individuals' entitlements to free time might seem less absurd when we consider larger periods of time. Consider the idea that an abundance of free time during middle age can compensate for a lack of free time during young age. We might think that compensation isn't possible here because there is something distinctly valuable to leisure activities that are typical for young age. Imagine someone who doesn't enjoy a lot of free time or 'fool around' during her youth because she's obsessed with solving an important mathematical problem and devotes all her time to this endeavour. As a result, she enjoys deep insights into mathematics when she's middle aged. One might think that there is something distinctly regrettable about missing out on 'fooling around' during one's youth and that this can't be made good by one's enjoying knowledge or other goods at a different life stage.<sup>21</sup> Or imagine a person who misses out on climbing mountains during middle age and then discovers that she can't make up for that when she's old because her fitness has declined in the meantime. These examples suggest that it might not be possible to compensate someone for having missed out on a valuable activity at an earlier stage in life.

This defence of the temporal parts view misunderstands the concept of compensation. It mistakenly assumes that compensation is impossible when some activity can't be postponed to a different life-stage. However, individuals can be compensated for having missed out on an experience during an earlier life-stage even if they can't repeat this same experience at a later life-stage. Imagine that I give you an orange. Tomorrow, you can compensate me by giving back an orange. But if I like apples, you can also compensate me for the loss of an orange by giving me an apple. Likewise, the person who sacrifices her youth in studying mathematics, can be compensated for that loss even if she doesn't get to repeat the activities upon which she missed out in her youth. The upshot of these considerations is that the temporal parts view is implausible because it can't accommodate our intuition that having more valuable opportunities during one life-stage can sometimes compensate for having less valuable opportunities experience during another life-stage.

The second problem that the temporal parts view faces is that it can't accommodate the intuition that individuals should sometimes be held liable for their decisions.<sup>22</sup> To illustrate, imagine two persons A and B. A decides to enjoy a lot of free time during middle age and saves little for old age. B works a lot during middle age so that she can enjoy plenty of free time during retirement. At old age, B has much more free time than A. The temporal parts view insists that we must compare B's time-affluence at old age with A's time-poverty at old age independently of what

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<sup>21</sup> Patrick Tomlin, 'Saplings or Caterpillars? Trying to Understand Children's Wellbeing', *Journal of Applied Philosophy* 35, no. S1 (2018): 29–46. Gheaus, Anca. (2015). Unfinished Adults and Defective Children: On the Nature and Value of Childhood. *Journal of Ethics & Social Philosophy*. 9. 1-21.

<sup>22</sup> Bou-Habib, 'Distributive Justice, Dignity, and the Lifetime View', 288f.

happened during other stages in life. This seems wrong because B’s time affluence results exclusively from sacrifices she made during middle age.

So, while the temporal parts view has implications that support the main claim of this chapter – namely that we should oppose inequalities in the amount of free time that we enjoy during middle age and during old age –the view itself is implausible.<sup>23</sup>

This leads us to an alternative approach according to which we must compare the amounts of resources that individuals enjoy over their whole lifetimes. According to one version of this view, it doesn’t matter how resources are distributed across life-stages as long as individuals enjoy an equal amount of resources over their whole lifetime. From this perspective, we should worry about only interpersonal issues of distribution, where one person’s lifetime share of free time is greater or smaller than someone else’s lifetime share. Let’s refer to this as the *pure lifetime view*.<sup>24</sup> This approach is appealing because it can accommodate our intuitions that individuals can be compensated and that individuals should sometimes be held responsible for decisions that affect the amount of free time (or other resources) they enjoy at different stages of their lives.<sup>25</sup>

The pure lifetime view is indifferent about how free time is distributed *within* each individual’s life. Consider the following two allocations of free time over the lives of A and B.

	Young Age	Middle Age	Old Age
A	3	3	3
B	4	1	4

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<sup>23</sup> The temporal parts view would be much more plausible if there were no or only little psychological continuity over the course of our lives. Psychological continuity means that the self is stable over time: the person I am today is not fundamentally different from the person I was ten years ago. If we believe that there is no psychological continuity, that is if our life contains several different selves, then it would be more plausible to think that each of these different selves is entitled to enjoying an equal share of resources. Here I set aside discussions of this topic and assume that psychological continuity is normally true - at least over periods of life that exclude very young and very old age.

<sup>24</sup> Note that the pure lifetime and the temporal parts view can accommodate different kinds of distributive principles. For example, if we believe in equality of welfare, the pure lifetime recommends distributing free time and other resources in a way that makes the amount of well-being an individual enjoys over the course of her whole lifetime as large as the amount of well-being everyone else enjoys over their whole life. If we believe in equality of capabilities, then it requires that resources be distributed in a way that ensures that everyone enjoys as many capabilities over their whole life as everyone else, etc.

<sup>25</sup> Compare Bou-Habib, ‘Distributive Justice, Dignity, and the Lifetime View’, 288–90.

A and B enjoy the same amount of free time over the course of their lifetime. This meets the pure lifetime view's requirement that individuals be equal in their free-time-endowments over their whole lives. But we might think that the way in which free time is distributed *within* each individual's life raises further questions of justice. For example, we might worry about the fact that B suffers from time poverty during middle age and that her society, indifferent to her plight, leaves her to spend all her waking hours at work.

It thus appears to be the case that a society where everyone enjoys the same amount of resources over their whole lifetime can still be unjust in several ways. A plausible theory of justice should be able to make judgements not only about interpersonal but also about intrapersonal questions of distribution. For example, it should be able to answer the question of whether a just society should come to the aid of B when she suffers from time poverty at middle age. The pure lifetime view is not satisfactory because it doesn't offer such intrapersonal judgments. However, as I will show in section 5.3, it can be amended in ways that enable it to evaluate intrapersonal distributions.

Before that, it is worth pausing to ask why we shouldn't endorse a seemingly more straightforward way of determining the costs that individuals should face when trying to access free time, where workers and employers are allowed to freely bargain for working-time and retirement arrangements that suit their individual preferences. According to this 'free bargaining approach', decisions about how to structure the costs of access to free time are best left to individual choice within the context of a free labour market. Those workers who find it risky or otherwise unattractive to postpone the enjoyment of most of their free time to old age can bargain for contracts that involve retiring later, in order to work less during middle age. Those who prefer working more intensively during middle-age in order to retire sooner can strike agreements with their employers that facilitate this option. Just as we allow individuals to decide how many apples, oranges, and other consumer goods they consume at various stages of their life, so too perhaps we should allow individuals to decide how much free time they 'consume' at various stages of their lives.

Free bargaining is appealing because it doesn't impose controversial time-use patterns that at least some citizens will reject because they don't fit their personal preferences and life plans. As I mentioned in the introduction, I am committed to the idea that governments should ensure that citizens have opportunities to frontload free time if they wish to do so – rather than forcing everyone to work less during middle age. The free bargaining approach fits well with this opportunity-focused interpretation of *frontloading*. To illustrate why the imposing of time-use patterns is problematic, consider the following scenario.

*Barcelona*: imagine that the administration of Barcelona is convinced that it is best for citizens to work in the morning and to enjoy leisure in the afternoon. Motivated by this conviction, the administration penalises the use beaches in the morning, say by charging a fee for accessing them, and subsidises the use beaches in the afternoon, for example by providing free sun umbrellas and Mojitos.

This kind of policy is objectionable because it can't be justified to those who have good reasons for wanting to relax in the morning and work in the afternoon. Similarly, we might worry that promoting long-term time-use patterns such as *postponement* or *frontloading* will necessarily conflict with the reasonable life plans of some citizens. For this reason, it is tempting to conclude that states shouldn't pass legislation that facilitates access to free time at particular life-stages, but instead that it should allow each individual to negotiate agreements that suit their particular preferences.

There are two main concerns with this free bargaining approach: a fairness concern and an efficiency concern. The fairness concern is that many workers have only little bargaining power, so that they can't negotiate for contracts that accommodate their free-time-preferences. Those who own neither wealth nor productive means are in a much weaker bargaining position, and will often have to agree to contracts that are unfair to them. Members of the working class, for instance, normally depend on market income for their subsistence and must eventually agree to *some* work-contract, even if it specifies bad working conditions, whilst employers can often afford to wait and withhold their offers, which gives them superior bargaining power. Apart from material wealth, workers' bargaining power is also affected by how attractive their skills are to employers. Some individuals have skills that are in high demand in the labour market, whilst others have skills that are barely sought-after. Those with highly sought-after skills will be able to bargain for favourable working conditions. In particular, they'll be able to specify working conditions that fit their free-time-use preferences to a much higher degree than the less skilled, who will find it hard to convince their employers to design schedules that are compatible with their life plans. Consider the following example.

*Jacob* is 50 years old and lives in a society where the legal retirement age is set at 65 years. He would prefer to retire later, say at age 69, in order to be able to work less now, so that he can pursue important life goals that require more free time than he currently has. His employer doesn't agree to this amendment of his contract. What's more, Jacob's skills aren't sought-after in the labour market, so he can't find another job that better suits his preferences. As a result, he is less able to pursue some of his life goals.

Workers like Jacob, whose labour can easily be replaced by other workers (or by machines), will also find it hard to bargain for other ways of accessing free time, such as sabbatical years or long paternity leave.

A proponent of the free bargaining approach might object that this concern about inequalities in wealth and skills doesn't tell against free bargaining. Rather, it tells against unjust inequalities that skew the results of free bargaining. Imagine a society where material resources are distributed fairly, so that workers and employers can negotiate contracts on a more equal footing. In this society, everyone would have fairer opportunities to bargain for contracts that facilitate their preferred way of accessing free time at different points in life. It is much less obvious why free bargaining isn't an appropriate solution to the problem of free time allocation across life-stages in such an idealized scenario.

This gets us only so far, however, because there is the remaining difficulty that skills, unlike material resources, can't easily be redistributed between individuals.<sup>26</sup> Still, it might be possible to address the problem that many workers lack marketable skills by using progressive taxation to redistribute wealth from the talented to the untalented. Redistributing money enhances the bargaining power of the less-skilled because it allows low-skilled workers to accumulate savings which enables them, in turn, to quit a job that doesn't suit their free time preferences.<sup>27</sup>

Redistributing money goes a long way in improving free-time-opportunities of low-skilled workers but it's not enough. A society without a regulatory framework for work contract negotiations would have to ensure that all workers, without exception, have enough bargaining power to get contracts that are fair to them. But it would be very costly to ensure that *everyone's* work contracts are fair without defining a set of rules and regulations that apply to everyone. A state that relies solely on free bargaining to distribute access to free time must find ways of a) identifying which individuals lack bargaining power and b) enhancing these persons' bargaining power, as it were 'one by one' without issuing general laws and regulations. This is likely to be quite expensive. Alternatively, states can provide an institutional framework that sets parameters and boundaries to the negotiation of work-contracts. Such a general framework helps address the issue of fairness because it can specify certain free time protections that all workers in a society must enjoy.

Apart from the fairness concern, there is also an efficiency concern about free bargaining. Free bargaining involves large transaction costs. To understand this concern, imagine a society without a regulatory framework for work-contracts. In this society, all factors that affect workers' access to

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<sup>26</sup> Dworkin, *Sovereign Virtue*, 83–85.

<sup>27</sup> Van Parijs and Vanderborght, *Basic Income* Ch. 1.



free time are negotiated from scratch each time a worker and an employer enter a contract. The negotiating parties would have to find agreement on a vast number of issues, starting from worker's basic rights and entitlements to the definition of a retirement scheme, etc. In a pure 'free bargaining society', there would be no pre-existing health and safety regulation and no rights to sick leave, to paid leave or to refuse excessive overtime work, because all of these issues would be settled through individual negotiation. In a modern complex economy, where workers constantly enter and quit contracts, these negotiations would generate very large transaction costs that would undermine the economic viability of many businesses. Bargaining between workers and employers is much more efficient when it can use as a point of departure a base of relatively uncontroversial pre-existing terms and conditions, specified by the state.

In summary, free bargaining can't achieve justice in access to free time and states must therefore provide some institutional framework to facilitate negotiations in the labour market. This in turn raises the question of how this framework should be designed. After all, states must specify what exactly counts as excessive overtime work, how many days of vacation workers should minimally enjoy, etc. By the same token, all industrialized countries may wish to specify a legal retirement age that encourages some ways of accessing public pension benefits and discourages others.<sup>28</sup> Some countries, such as for example Turkey, Luxembourg, and Slovenia incentivise citizens to retire early by defining a low legal retirement age that requires workers to quit the job market roughly at the age of 60.<sup>29</sup> In these countries, citizens normally enjoy a lot of free time when they're old. Countries like Iceland and Norway incentivise their citizens to retire much later, at the age of 67.<sup>30</sup> At the same time, Iceland and Norway are among the countries with the lowest average annual hours

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<sup>28</sup> There is also an important gender-dimension to the question of how institutional frameworks should affect the costs individuals face when accessing free time at different life-stages. It is conceivable for example that some policies that expand access to free time during middle age, such as for example paternity leave entitlements, are preferable to others because they have the additional advantage of advancing gender equality. Apart from their effect on gender equality, policies like paternity leave might also be appealing for the simple reason that some people would prefer to access free time through paternity leave rather than through sabbatical leave or other policies.

<sup>29</sup> OECD, *Pensions at a Glance 2017: OECD and G20 Indicators*, 2017, 93, [https://doi.org/10.1787/pension\\_glance-2017-en](https://doi.org/10.1787/pension_glance-2017-en) last accessed 24.01.2021.

<sup>30</sup> OECD, 93 op cit. There are also big differences regarding the extent to which states penalise deviations from the legal retirement age. Sometimes workers decide to retire before having reached the legal age of retirement and states often penalize such deviations by reducing workers' pension benefits by a certain percentage for each year of early retirement. The severity of this disincentive for early retirement varies greatly between countries. For example, Germany reduces early retirees' pension benefits by a much larger margin than Austria. In a similar fashion states can penalise or incentivise work at old age, for example by allowing workers who have passed the legal retirement age to top up their retirement benefits with their market income. Bernard Casey, 'Incentives and Disincentives to Early and Late Retirement', Ageing Working Papers (OECD, 1997), 19, <https://www.oecd.org/els/public-pensions/2428694.pdf>; Hila Axelrad, 'Early Retirement and Late Retirement: Comparative Analysis of 20 European Countries', *International Journal of Sociology* 48, no. 3 (2018): 231–50.

worked per worker in the world.<sup>31</sup> This variety of regimes raises the question of whether some ways of distributing access to free across individuals' lives are preferable to others. Is there a principled way of identifying morally desirable 'free-time-guarantees' that protect opportunities to access free time at different life-stages?

### 5.3 Hypothetical Choice

A principled approach that determines how much *frontloading* is desirable is necessary because opportunities to access free time during middle age can't be expanded *gratis*. If it were possible to provide everyone with the option to enjoy more free time during middle age without imposing any costs, then this would be obviously desirable because – other things equal – it is better for individuals to have a larger set of options from which to choose. Policies that expand our opportunities during one stage of life without foreclosing opportunities at other stages of life don't require special justification.

However, policies that protect access to free time during middle age are costly in the sense that they affect the opportunity-range we enjoy at old age. Consider the example of a legal entitlement to sabbatical leave. A society that protects a right to sabbatical leave might be economically less productive than a society that doesn't protect this right. This might be because employers must regularly find substitutes for those who are on sabbatical leave, which in turn generates costs related to advertising jobs, hiring new employees, transferring knowledge to these new employees, etc. What's more, employees that spend a prolonged time outside the labour market might miss out on important developments in their professional field, so that they must catch up on knowledge and skills when they resume their jobs. We can expect that employers would pass these costs onto employees. So we must ask ourselves whether workers would nevertheless prefer to live in a society that protects a right to sabbatical leave. Given that expanding individuals' access to free time during middle age is costly, how might *frontloading* policies such as the right to sabbatical leave be justifiable? Which point on the *frontloading-postponement* spectrum would a just society occupy?

Recall that free bargaining appeared to be an attractive solution because it seemed to allow individuals to access free time in accordance with their preferences and life plans. This preference-sensitivity makes the free bargaining approach anti-perfectionist: it doesn't rely on controversial assumptions about what allocation of free time over the life-course is best for human flourishing. I now want to propose that we adopt an alternative approach to identifying a just free time regime that retains the anti-perfectionist character of free bargaining but that avoids its problems. This

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<sup>31</sup> OECD Labour Force Statistics, 'Average Annual Hours Actually Worked per Worker' <https://stats.oecd.org/index.aspx?DataSetCode=ANHRS>, last accessed 24.01.2021.

approach asks what outcome would emerge from an idealised decision-situation, where prudent individuals behind a partial veil of ignorance choose policies that regulate access to free time. It uses the outcome of this decision-situation to identify a desirable free time regime. Different versions of this approach have been developed by political theorists in order to address other questions of social justice, such as, for example the just distribution of health care between citizens in different age groups and the just design of pension systems.<sup>32</sup> My aim, here, is not to elaborate and defend the theoretical details of any one version of this approach but to provide a general outline of it and to show that it is a potentially promising way of identifying a just regime for distributing opportunities for free time over the life-course.<sup>33</sup>

To understand what the prudent choice approach involves, we must unpack the notion of prudent choice and also understand what it means for prudent choosers to be ‘ideally situated’. The goal of a prudent individual is to allocate resources to the different stages of her life in a way that makes her life as good as possible, as judged by her own ambitions and values. In most cases, a prudent person wouldn’t make one stage of her life better at the expense of making her lifetime as a whole much worse. For example, it would be imprudent to enjoy too much free time early in life, say in our thirties, when we’re most able to be economically productive. A person who enjoys too much free time during her thirties might later go through great hardship because she hasn’t generated enough savings to sustain herself in old age; this might make her life go much worse as a whole.

Prudent choosers must be ideally situated in the sense that they don’t have complete knowledge about themselves and their circumstances. There are two reasons for imposing this knowledge constraint. The first reason is that this can help identify what is prudent. To understand this, imagine a chooser who knows her age at the time she makes a choice about how to spread free time across her life. This person might imprudently allocate a lot of free-time-opportunities to her current stage of life because she is too short-sighted to appreciate fully the importance of free time at stages of life that lie far in the future. The second reason for why choosers shouldn’t have complete information about themselves is that this could distort their decision-making in morally objectionable ways. For example, if a person knows that she is in excellent health and that her

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<sup>32</sup> Bidadanure, J. (forthcoming 2021) *Justice Across Ages: Treating Young and Old as Equals*. Oxford: Oxford University Press.

<sup>33</sup> For two prominent examples of how prudential reasoning can be employed to settle questions of justice between age groups, see Daniels, ‘Justice between Age Groups: Am I My Parents’ Keeper?’, Dworkin, *Sovereign Virtue* Ch. 8. Approaches that use hypothetical prudential choice to solve (intrapersonal) questions of distributive justice face a number of well-known objections, such as the charge that substantive normative convictions can be smuggled into the theory under the guise of purportedly neutral considerations of prudence. I don’t have enough space to address these objections here. For replies to some of these objections see Ronald Dworkin, ‘Sovereign Virtue Revisited’, *Ethics* 113, no. 1 (2002): 106–43.

genes will allow her to live up to very old age, then she has an incentive to choose a regulatory framework that provides favourable conditions for the long-lived. Basing a regulatory regime on this choice would be unfair to those who die prematurely. In order to avoid biases of this kind, we must devise a ‘veil of ignorance’ that hides information from the prudent chooser about certain of her morally arbitrary characteristics.

We can specify the knowledge constraint further by imagining that individuals don’t have information about their income earning capacity. This is important because if choosers knew for example that they will earn a very high wage, then they might devise free time protections that are beneficial only for high-income earners, who can meet their basic needs with fewer hours of work than the less-skilled (who instead must work long hours in order to make ends meet). Next, we assume that our prudent choosers know their preferences and life goals, as well as what types of activities and projects they can typically realise during the different stages of their lives. This will help make the regulatory regime they select preference-sensitive.<sup>34</sup> What’s more, choosers know about people’s *average* lifespan and the distribution life-lengths across society but they don’t know up to what age, they, as individuals, are going to live.

Having observed these ideal choice conditions, we can now turn to the question of how prudent individuals would design a regulatory framework that protects access to free time during middle- and old age.<sup>35</sup> To do this, we can survey different strategies of accessing free time that choosers might employ. One possibility is that prudent choosers would opt for a regulatory framework whose sole aim it is to boost their financial income, so that they can always use money to buy more free time when they need it.<sup>36</sup> In other words, individuals might not care about devising free time protections because they hope to be able to convert money into free time whenever they need it. This would be an appealing strategy because if successful, it would offer more flexibility than general free time protections that apply equally to everyone. However, as I explained in Section 1.1, it is not always possible to convert money into free time. Consider the example of an employee whose lack of marketable skills forces him to work 60 hours per week. This employee certainly has

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<sup>34</sup> As I noted previously, preference-sensitivity is attractive because it helps avoid perfectionism. Someone might object that there is an easier way to avoid perfectionism: We can hide from choosers their conception of the good. Individuals who don’t know their conception of the good will choose a strategy that maximises their possession of primary goods, i.e. goods that help advance a great variety of life-goals. This way of avoiding perfectionism is problematic because it faces the well-known ‘index problem’. We don’t know how much value individuals would assign to different primary goods when they compare their relative importance. As a result, approaches that hide from individuals their conception of the good might yield results that are insufficiently determinate to guide public policy.

<sup>35</sup> I set aside the question of how much access to free time prudent individuals would protect for young age.

<sup>36</sup> Rose, ‘Money Does Not Guarantee Time: Discretionary Time as a Distinct Object of Distributive Justice’.

an interest in choosing policies that boost his income. But imagine furthermore that his job is only available on a ‘take it or leave it’ basis, so that he can’t adjust his working time to say 40 hours per week. This gives him reason to also care about policies that protect access to free time.<sup>37</sup>

We should therefore consider other regimes that prudent choosers might select in the ideal choice situation. Consider first an extreme version of a *postponement* regime – i.e. a regime in which people work as much as possible during middle age in order to retire very early. This regime would involve long weekly work hours, short vacations, and weak legal protections for workers’ ability to reduce working time if they wish to do so. Some individuals may well prefer this regime, given their life plans. These individuals may want to protect only enough free time during middle age to recover from the burdens they undertake in working and to carry out other essential activities such as eating and sleeping. As I explained in the introduction, amongst currently existing regimes, Japan approximates extreme *postponement* more than other countries.

Would extreme *postponement* be selected in the ideal choice situation? For some individuals, *postponement* can be very rewarding. Imagine someone who is fortunate enough to have most of her important life goals related to, or identical with, the content of her job – for example, an artist who enjoys painting and who can live off the sale of her paintings. This person might think that she hardly needs any free time protections because she is realising her life goals through her work. The most rational thing for her to do may be to spend almost all of her middle age working as a painter, thereby realizing her life goals and creating generous savings for old age. To her, it would feel like a waste to have available more than the minimal protections offered by *postponement* because she doesn’t need much free time.

Remember, however, that our artist doesn’t know how great her income earning capacity as a painter will be. The ‘veil of ignorance’ hides from the artist information about whether there will be members of her society who are going to buy her paintings. She must therefore consider the possibility of pursuing painting as a hobby while working on a job to earn money for her subsistence. What’s more, she might not be able or willing to delay the pursuit of her passion for painting until the age of retirement. In light of these considerations, it seems plausible that even someone whose work is largely aligned with her life goals would choose more than the minimal

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<sup>37</sup> As I mentioned previously, the boosting of wages normally increases workers’ bargaining power vis-à-vis their employers. One might think that this increase in bargaining power is by itself enough to enable workers to turn down, say 60-hours contracts and to force employers to specify 40-hours contracts instead. But the additional bargaining power derived from higher wages isn’t always enough to outweigh the employers’ interest in specifying contracts that involve very long work hours. Especially in situations where labour supply exceeds demand (i.e., when there is non-voluntary unemployment), employers might still find it preferable to turn down job candidates who ‘only’ want to work 40 hours.

protections of free-time in middle-age that *postponement* offers because otherwise they would still risk being unable to realise important life goals that require free time and that can only be pursued during middle age. This is even more true, of course, for people whose work is not largely aligned with their life goals, such as for example construction line workers who regard their repetitive work as unfulfilling.

What about people whose conception of the good involves engaging in a lot of paid work? These people differ from the artist in that they don't value work intrinsically, i.e. because of the activities it involves, but instrumentally, because it increases their income and thus their capacity to buy consumer items. Imagine an extreme case of such an income-lover who prefers work over all other activities. Even this person would choose more generous protections of free time during middle age than those provided by *postponement* because she must be alive to the possibility that her conception of the good will change over the course of her lifetime.<sup>38</sup> We can imagine for example that our income-lover, who spends most of her waking hours on the job, discovers at some point that she also wants to raise a family. The institutional setup of a society guided by the strategy of *postponement* would make it very costly for her to adjust her work schedule to accommodate her newly discovered desire to be a parent. A prudent person would value the opportunity of being able to realize such a change, even though she might end up not making use of the opportunity.

We can contrast extreme *postponement* with another extreme strategy that consists of enjoying as much free time as possible during middle age – the strategy of extreme *frontloading*. Two of the considerations I introduced in section 5.1 might speak in favour of maximizing the availability of free time during middle age. First, middle-aged individuals normally have a significantly wider opportunity set than the elderly. Physical and mental health decline with old age, thereby limiting the range of activities that the elderly can pursue. Individuals might want to expand access to free time during middle age in order to be able to choose between a wider range of activities. Imagine a person whose favourite activities include diving and raising children. Knowing that these activities won't be available to her at old age, this person might want to pursue them intensely during middle age, while she's still capable to do so. Additionally, as I mentioned before, one and the same activity might be less burdensome and therefore more enjoyable for someone of middle age than for someone who is old. Imagine someone who likes hosting barbecue parties and horseback riding. She might still be capable of engaging in these activities when she's old but it'll be much more

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<sup>38</sup> Paul Bou-Habib, 'Parental Subsidies: The Argument from Insurance', *Politics, Philosophy & Economics* 12, no. 2 (2013): 205; Daniels, 'Justice between Age Groups: Am I My Parents' Keeper?', 531.

burdensome for her to do so. This provides another reason to maximise access to free time during middle age.

The second consideration that counts in favour of *frontloading* has to do with the difficulty that not everyone lives until old age. Individuals who opt for *postponement* know that if they die before reaching the age of retirement, they will not have had enough time to realise some of their life goals during middle age. Given the fact that the risk of early death can eventuate at any moment, individuals might find it attractive to enjoy as much free time as possible while they're still middle-aged. To illustrate this, consider the following example.

*Betty and Rufus:* In one world, Betty and Rufus both pursue the strategy of *postponement*. Betty dies shortly before she reaches retirement age and Rufus lives through retirement until very old age. In another world, Betty and Rufus pursue a *frontloading* strategy. In this world too, Betty dies before she reaches retirement and Rufus lives until very old age.

There is a sense in which the early death suffered by Betty in the first world constitutes a greater disadvantage because she doesn't get to enjoy the later reward for her efforts during middle age. Frontloading the enjoyment of free time partly compensates those who die prematurely for their bad fortune.<sup>39</sup> Individuals must also be aware of the risk that early death affects persons who are important to them. Recall the case of John and Margaret, where John regrets having postponed too much of his free time because the early death of his wife Margaret severely impugns his ability to enjoy his free time. There are also instances of bad luck that are less severe than early death but that nevertheless make it attractive to enjoy a lot of free time early in life. For example, the prudent chooser might be concerned about disability or painful illnesses that sometimes come with old age and that make it more difficult to enjoy one's free time.

But there is also an important consideration that counts against *frontloading*. Workers must use their ability to be economically productive during middle age in order to create enough savings for old age (or in order to contribute to an intergenerational pension scheme), when they are less able or unable to earn income. Prudent persons would at least generate minimally enough savings for subsistence at old age.<sup>40</sup> What's more, they must avoid the risk that time poverty and an obligation

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<sup>39</sup> Marc Fleurbaey, Marie-Louise Leroux, and Gregory Ponthiere, 'Compensating the Dead', *Journal of Mathematical Economics* 51 (2014): 28–41.

<sup>40</sup> This is only true in societies where individuals don't receive a basic income. In a society where everyone receives a basic income, individuals might decide against generating savings for old age. We can also imagine societies where only the elderly receive a basic income, independently of whether or not they engage in economically productive activities during earlier stages of their life. This would also incentivize people to refrain from generating savings for old age. But assuming such a context would amount to assuming what I intend to show, namely that justice requires expanding access to free time for the middle-aged, although the middle-aged must generate savings for old age.

to work a lot at old age makes their life as a whole worse than it could have been if they had generated enough savings during middle age.

We must conclude then, that prudent choosers would neither opt for extreme *postponement* that involves lots of work during middle age and no work during old age, nor would they choose extreme *frontloading* that involves minimising time spent on work during middle age. Instead, they would choose an *intermediate* solution that enables middle-aged persons to pursue life goals other than paid work before reaching old age.

This insight is consistent with empirical findings according to which many workers complain about a lack of work-life balance and report always feeling rushed.<sup>41</sup> Many would like to reduce their work hours, even if this results in reduced income.<sup>42</sup> As I explained previously, countries today are all relatively close to the *postponement* end of the spectrum. Even in the Netherlands, many workers express preferences for a slower transition into retirement and for reduced work hours before retirement. More specifically, 22% of men aged between 51 and 65 in the Netherlands currently work part-time and 57% of men “would like to reduce their work hours and take some form of gradual retirement, but for some reason are not able to do this.”<sup>43</sup> Many more women of the same age group already work part-time but among those women who work full-time an overwhelming majority of 90% also wants to transition to part-time.<sup>44</sup> What’s more, there is a sizeable number of people in the Netherlands who die before they reach old age. 19,4% of everyone who died in 2017 in the Netherlands was aged between 50 and 69.<sup>45</sup> A prudent chooser who knows this fact but doesn’t know her life expectancy would count it as a weighty reason to move closer to an *intermediate* free time distribution over the life course.

A regulatory framework that facilitates an *intermediate* solution would redistribute opportunities to access free time from the old to the middle-aged, for example through long vacations, shortened work weeks or through the option for workers to take several sabbatical years over the course of their work life. In order to make these additional opportunities for free time available, the average working time of those of old age must be increased, for example through raising the age of retirement.

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<sup>41</sup> L. Thornthwaite, ‘Working Time and Work-Family Balance: A Review of Employees’ Preferences’, *Asia Pacific Journal of Human Resources* 42, no. 2 (2004): 166–84; M. Joseph Sirgy and Dong-Jin Lee, ‘Work-Life Balance: An Integrative Review’, *Applied Research in Quality of Life* 13, no. 1 (2018): 229–54; Hamermesh, *Spending Time* Ch. 3.

<sup>42</sup> Golden and Gebreselassie, ‘Overemployment Mismatches: The Preference for Fewer Work Hours’.

<sup>43</sup> Tunga Kantarci and Arthur Van Soest, ‘Gradual Retirement: Preferences and Limitations’, *De Economist* 156, no. 2 (2008): 132.

<sup>44</sup> Kantarci and Van Soest, op.cit.,132.

<sup>45</sup> Ritchie (2018) op.cit.



## 5.4 Why do we observe so much postponement?

Let me now consider an objection to the case I have made for more *frontloading*. If, as I have argued, more *frontloading* than is currently implemented across industrialised countries, is the most prudent regime, then one might ask why it is that no country is currently implementing it? Why is it that so many people don't do what would be prudent, namely work less during middle age and more during old age? Doesn't the fact that *postponement*-lifestyles are so common show that this is what people really prefer?

In fact, there are several reasons for why the prevalence of *postponement*-lifestyles might not reflect people's actual preferences. First, unjustly low wages make it unavoidable for many that they must work long hours *both* during middle age *and* old age. The least-advantaged often don't enjoy the luxury of deciding at which stage of life they want to access most free time because their situation forces them to work long hours throughout their whole life. What's more, the least-advantaged are often unable to plan how they want to distribute free time across their lives because they work in precarious jobs that they can lose at any moment, so that long-term planning becomes impossible.<sup>46</sup>

Second, we can speculate that there are many who would decide to frontload more free time if there weren't such powerful incentives to postpone the enjoyment of free time. Currently observable time-use patterns only reveal information about what people prefer under the given institutional setup. But if my argument is correct, most people would choose to swap the current regulatory framework for an alternative framework that facilitates an *intermediate* free time distribution, if this option to swap frameworks were available.

Third, as I have argued in chapter 2, there are many workers who decide not to reduce their average monthly working time because they are trapped in collective action problems that make it very costly for them to reduce their working time.

Fourth, there is a number of fortunate individuals whose decision to work a lot during middle age isn't the result of poverty, unwelcome incentives, or collective action problems. These individuals decide to postpone the enjoyment of their free time because they are convinced that this strategy is best for them. However, some of them later regret that decision. Recall the case of John, who, reflecting on his previous choices, says "I worked too damn hard and now I am a lonely, dying man."<sup>47</sup> It might be that such retrospective judgments about the value of our life-plans are more

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<sup>46</sup> Arne L. Kalleberg, *Precarious Lives: Job Insecurity and Well-Being in Rich Democracies* (Cambridge, UK; Medford, MA: Polity Press, 2018) Ch. 1&6; Hernan Cuervo and Jenny Chesters, 'The [Im]Possibility of Planning a Future: How Prolonged Precarious Employment during Transitions Affects the Lives of Young Australians', *Labour & Industry* 29, no. 4 (2019): 295–312.

<sup>47</sup> Ware, *The Top Five Regrets of the Dying* Chapter 2.

accurate than judgements that are made earlier in life, when the outcomes of risks like premature death have not yet eventuated. It is psychologically difficult to take the risk of dying prematurely or of losing one's loved ones into consideration when we make decisions about how to plan our lives and this should make us cautious about taking the preferences of '*postponement-lovers*' at face value.

Fifth, and related to the previous point, there are some who might prefer postponement but only because of severe psychological biases. For example, they might they seriously overestimate their own life expectancy, not realising their chances of dying young.

Lastly, while there are some individuals whose decision to work a lot during middle age isn't the result of poverty, unwelcome incentives, or collective action problems and who *don't* come to regret this decision, we should not assume that this group of individuals constitutes the *majority* of persons in society. Thus, while *postponement* might be widespread, only few people may genuinely endorse this way of allocating free time across the life-course. For most people, *postponement* gives them their free time when its too late.

## 5.5 The Early Death Objection

Another concern about the hypothetical choice approach is that it doesn't go far enough in redistributing opportunities for free time from the elderly to the middle-aged. In particular, one might think that the problem of early death should lead states to adopt the more extreme *frontloading* strategy, which requires much larger expansions of free time for the middle-aged. To understand this possible implication of the 'early death problem' we must note a) that it's often impossible to know which individuals will suffer an early death and b) that once someone has died, we can no longer compensate her for this instance of bad brute luck.<sup>48</sup> Recall furthermore that those who die early will often belong to the group of the least advantaged. On the one hand, this is because premature death deprives people of future years of life that would have been valuable to them and to others.<sup>49</sup> On the other hand, those who die early often already belonged to the group of the least advantaged *before* the fate of death aggravated their situation. In most countries, the rich live much longer than the poor, so that the short-lived are often extremely disadvantaged.<sup>50</sup>

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<sup>48</sup> Fleurbaey, Leroux, and Ponthiere, 'Compensating the Dead', 28.

<sup>49</sup> I assume that it is bad to die early for this reason (and perhaps for other reasons), setting aside discussion of arguments to the effect that death isn't bad or harmful.

<sup>50</sup> See for example Antonovsky, 'Social Class, Life Expectancy and Overall Mortality'; Marmot, *The Status Syndrome*; Wilkinson and Pickett, *The Spirit Level; Explaining Divergent Levels of Longevity in High-Income Countries* (Washington, D.C.: National Academies Press, 2011), <https://doi.org/10.17226/13089>; Case and Deaton, *Deaths of Despair and the Future of Capitalism*.

As I just said, once someone has died, she can no longer be compensated for her bad fortune.<sup>51</sup> But there is a way in which the badness of premature death can be mitigated by making more free time available to everyone early in life. Consider the following example. In one world, persons A and B both pursue the strategy of *postponement*. A dies shortly before she reaches retirement age and B lives through retirement until very old age. In another world, A and B pursue a *frontloading* strategy. In this world too, A dies before she reaches retirement and B lives until very old age. There's a sense in which the early death suffered by A in the first world constitutes a greater unfairness because A doesn't get to enjoy the reward for her efforts. States that help citizens to pursue a *frontloading* strategy effectively compensate short-lived individuals for the 'disadvantage' of early death.<sup>52</sup> Given the fact that those who die early are extremely disadvantaged, states might have reasons to undertake great efforts to improve their situation before they die. One way in which their situation can be improved is to make free time available to them. The upshot of these considerations then might be that public policy modelled on prudent choice recommends redistributing too little free time to earlier life-stages.

In order to understand whether this critique of the hypothetical choice approach is justified, it is helpful to observe that hypothetical choices are taken *ex ante*, i.e., before risks like early death have played out. The above-sketched argument from compensating for early death judges individuals' fates from an *ex post* perspective, that is it evaluates individuals' level of advantage after the risk of early death has eventuated. In this sense, the early death problem is an instance of the broader question of whether the demands of liberal egalitarian conceptions of justice should be understood to apply before or after the outcomes of individual decisions under conditions of risk or uncertainty have played out.

For an illustration of these two understandings of when equality should obtain, imagine two car drivers who face the same risk of suffering an accident. Both are equally risk-averse, have equal resource endowments and purchase the same level of insurance cover. One of them suffers an accident that leaves her permanently disabled.<sup>53</sup> Assume that the disabled person regards herself as much worse off than the able-bodied person because even the most generous insurance indemnity

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<sup>51</sup> Some philosophers disagree, claiming that there can be posthumous compensation. While I don't want to rule out that this might be possible, I don't want my argument to depend on such a controversial claim.

<sup>52</sup> One might think that the right response to this type of unfairness must be to fight the occurrence of early death rather than trying to compensate those who die at young age. In response to this we should point out that while it is obviously true that states ought to reduce the occurrence of premature death it is impossible to eliminate the occurrence of *all* premature deaths. Even in a nearly just society, where health and longevity differences that go back to social class are eradicated, at least some people will still die prematurely, for example in traffic accidents or because of genetic diseases. The unfairness suffered by these individuals could be somewhat mitigated through *ex ante* compensation.

<sup>53</sup> A similar example is offered in Dworkin, *Sovereign Virtue*, 67.

can't fully compensate her for the loss of some capabilities. This raises the question of whether justice requires redistributing resources from the able-bodied to the disabled person.

If we understand the demands of equality to apply only to the choice situation prior to the accident, then we must conclude that no objectionable inequality between the two persons in the example exists. However, if we insist that equality must pertain *ex-post*, then the situation of the disabled person calls for further interventions to improve her plight.<sup>54</sup> Within the context of Ronald Dworkin's theory of equality of resources, this would mean transferring resources from the able-bodied to the disabled person until a point is reached where the disabled person no longer envies the able-bodied person, i.e. where she doesn't prefer the bundle of personal and impersonal resources of the able-bodied person to her own bundle of resources.

This leads to the intuitively implausible consequence that we should provide the disabled person with a fantastically expensive 'rescue policy' that 'levels down' the able-bodied person and diverts resources from her until we reach "a state of mutually shared misery".<sup>55</sup> In the context of access to free time and the early death problem, *ex-post* equality would require transferring enormous amounts of resources from the old to the young, up to a point where the old are so badly off that they're indifferent between dying early or growing old.

There are two reasons to think that the demands of equality are best understood to pertain *ex ante*, rather than *ex post*. First, levelling down is incompatible with the fundamental egalitarian commitment that states must pay equal concern to all citizens.<sup>56</sup> Worsening the situation of the old, even when this doesn't help anyone else, would amount to treating the old with less concern than others. Second, the adopting of rescue policies to improve the plight of those who die early upsets people's autonomy. In order to fund rescue policies, states would have to collect a lot of revenue in taxes, thereby withdrawing funding from projects such as education or basic infrastructure that even the beneficiaries of rescue policies deem more important than the improvement of their situation.<sup>57</sup> In doing so, states would impose on citizens a distributive pattern that they can't endorse and override their express preferences against rescue policies.

To conclude, the demands of equality don't require redistributing more free time from the old to the middle-aged than recommended by the hypothetical choice approach and therefore states don't have to promote the extreme *frontloading* strategy.

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<sup>54</sup> Marc Fleurbaey, 'Equal Opportunity or Equal Social Outcome?', *Economics and Philosophy* 11, no. 1 (1995): 25–55.

<sup>55</sup> Michael Otsuka, 'Luck, Insurance, and Equality', *Ethics* 113, no. 1 (2002): 46.

<sup>56</sup> Dworkin, 'Sovereign Virtue Revisited', 124.

<sup>57</sup> Dworkin op. cit., 124.

## 5.6 The Hardship Objection

Up to now I have ignored an important difficulty that arises once we consider the fact that resources like free time might be more valuable to us when we're young than when we're old. As Dennis McKerlie explains,

[...] prudence will only save for old age if the sacrifice that such saving requires early in life is less than the eventual gain when the resources are used during old age. In the case of the very old, illness and declining powers make it difficult for them to use resources to improve their lives. So resources given to them might well produce less of the goods of life than if they were used by younger people, even if the younger people were much better off. Since prudence cares about maximizing the total lifetime score of well-being, this is another reason to scant extreme old age.<sup>58</sup>

A prudent person who deliberates how much free time she should assign to the different stages of her life might find it attractive to assign a lot of free time to young and middle age even if this means that she'll have to work a lot and suffer hardship when she's old. This is because she knows that she'll be less able to enjoy leisure activities when her faculties decline at old age. What's more, this incentive to "scant extreme old age" is further aggravated once we include the possibility of early death in our considerations of prudential choice. The possibility of early death can incentivize prudent choosers to allocate very little free time to the stage of very old life and as a result, the elderly might suffer hardships that we intuitively think are unjust.

To understand why this might be the case, consider an example provided by Dennis McKerlie who asks us to imagine a situation where a prudential chooser must allocate resources to different safety deposit boxes, whereby each box represents a year of the chooser's life.<sup>59</sup> The chooser knows that upon each birthday, she'll be able to open the safety deposit box that corresponds to this year of her life. For example, on her 80<sup>th</sup> birthday she'll access the resources that she allocated to the box that corresponds to this year. If she dies in her 79<sup>th</sup> year, the resources in the 80-years-box and all subsequent boxes will be lost. This setup makes it rational for her to allocate little resources to very old age. However, if she turns out to be exceptionally long-lived, she'll have to put up with very

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<sup>58</sup> McKerlie, *Justice between the Young and the Old*, 160.

<sup>59</sup> McKerlie op. cit., 42f.

little resources.<sup>60</sup> In other words, she'll face a situation of hardship that we intuitively think requires alleviation.<sup>61</sup>

This critique applies to the hypothetical choice approach because this approach relies on the idea of prudent individuals, who allocate resources in a way that makes their life as good as possible. The objection from hardship also highlights the above-mentioned problem that approaches to justice between age groups that are exclusively concerned with whole-lives-equality are implausible because they allow individuals to suffer hardship as long as the lives of those who suffer hardships aren't worse overall than the lives of those who don't suffer hardships.

One way of remedying this troubling implication is to restrict or complement pure lifetime views with a requirement that individuals – at each moment in their lives – must have sufficient resources to protect their dignity. This solution is proposed by Paul Bou-Habib, who understands dignity as an intrinsic value that persons possess and that derives from an internal capacity for autonomy. By 'internal capacity for autonomy', Bou-Habib means a number of psychological faculties that make it possible for a person to appreciate value and to design and adjust her life plans in accordance with that appreciation of value. What's more, for a person to have dignity, it is not enough that she possesses the internal capacity for autonomy at *one* specific point or during *one* specific stage of her life but at *each* stage of her life.

According to Bou-Habib, we can regard our dignity as protected if either of two conditions is satisfied. First, our dignity is protected if we can endorse our life plan. A person who endorses her life plan can look at a difficult or burdensome situation in her life as something that is worth going through or worth putting up with, given her life plan as a whole. To illustrate, consider a person who worked rather little during middle age in order to have enough free time to raise several children and travel the world. As a result, she receives a small pension that only covers basic necessities. Despite that, she endorses her life plan because she values having accumulated memories and experiences from her travel activity and because she values being surrounded by a large family.

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<sup>60</sup> Along similar lines, Paul Bou-Habib explains that an implication of the hypothetical insurance approach might be that "[...] there should be no entitlement on the part of citizens to receive support during a particular phase of hardship so long as the alternative entitlement they could thereby enjoy would improve their whole lives more, and even if that alternative entitlement weren't necessary to alleviate hardship. [...] It is quite possible, for example, that some people's ambitions would not lead them to provide enough insurance for their very old age, say in the form of adequate long-term care, and yet, despite that fact, we would still believe, I submit, that we are obligated to alleviate the conditions they would have to endure without such care. The ambition-sensitive approach therefore fails to adequately accommodate the hardship consideration." Bou-Habib, 'Distributive Justice, Dignity, and the Lifetime View', 292, 296.

<sup>61</sup> Bidanure, J. 2016. "Making Sense of Age-Group Justice: A Time for Relational Equality?" *Philosophy, Politics & Economics* 15(3) 234–260

Contrast this with someone who regrets having chosen a particular life plan in light of living through a difficult situation that results from this life plan. Imagine someone who made very little savings for old age because she spent most of her income on buying pieces of contemporary art and because she spent most of her free time on studying contemporary art. Later she comes to realise that these activities weren't valuable and regrets that she's too poor to pursue other activities that she now considers more valuable. This person's dignity isn't protected.

The second condition that is by itself sufficient to protect dignity is that a person has a "decent set of opportunities to engage in valuable activities at each particular stage of life".<sup>62</sup> If a person wants to change her life plan, for example because her current life plan imposes unbearable hardship, she must have a set of valuable alternative options from which to choose. The availability of these options is sufficient to protect her dignity. For example, the disenchanted contemporary art lover must be provided with opportunities to amend the life plan she now regrets.

Note that restricting the pure lifetime view in this way doesn't only require alleviating hardship at old age but that all stages of life. "[...] what matters, for our autonomy, is that our lives are endorsed as they are lived, and that we continuously affirm our plans of life as we pass through all the stages of our lives."<sup>63</sup>

In summary, the requirement that our dignity must be protected at each stage of our lives imposes a constraint on the hypothetical choice approach that attempts to allocate resources in a way that maximizes the quality of a person's life as a whole. Dignity can require limitations of individuals' liberty to pursue their ambitions in order to ensure that a set of valuable options is always available to them. This amendment makes the hypothetical choice approach more plausible and allows us to use it as a guide to distributive justice between generations.

Important implications for how free time ought to be distributed across different life-stages follow. To understand these implications, consider an example offered by Norman Daniels.

Olga is a figure skater who has invested very heavily in the development of certain talents and skills while neglecting others. She has ignored the development of critical social skills, acquired only the narrowest education, and led an austere, even grim, childhood and youth. If she achieves wealth and fame in her career— becomes a star of the Ice Capades— then

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<sup>62</sup> Bou-Habib, 'Distributive Justice, Dignity, and the Lifetime View', 304.

<sup>63</sup> Bou-Habib, *op.cit.* 303.

she may feel the gamble has paid off. Later stages of her life will reap benefits from the sacrifices of earlier stages.<sup>64</sup>

An institutional setup modelled after the kind of choices Olga would make, wouldn't insist that individuals must always have a set of valuable options among which they can choose. It would leave persons like Olga to suffer hardship that result from their own choices. The dignity constraint prohibits such institutional arrangements. For example, a society committed to protecting everyone's dignity might oblige young persons to acquire more than just "the narrowest education" and protect entitlements to annual leave even for those who'd rather have no vacation at all.

In summary, this chapter has identified an intrapersonal reason for instituting policies, such as for example the right to sabbatical leave, that expand access to free time for the middle-aged. It thereby provides additional support for the proposal to regulate work hours and expand access to free time that motivates this dissertation.

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<sup>64</sup> Daniels, 'Justice between Age Groups: Am I My Parents' Keeper?', 502.



## Conclusion

Widespread complaints about excessive work hours, time poverty, stress, and burnout make it urgent to understand what justice in access to free time requires. Yet, existing liberal egalitarian approaches don't offer satisfactory answers to the question of how much free-time-protection citizens should ideally enjoy. According to Julie Rose, who currently offers the most sophisticated framework to think about this problem, social justice requires protecting at least the freedom to work no more than 8 hours per day.<sup>1</sup> It is unclear whether her approach supports more radical demands, such as the 4-day work week, the 6-hours work day, or the right to periodic sabbatical leave. Those who support these radical demands often appeal to controversial perfectionist ideas about the importance of free time for human flourishing to justify their position. My aim in this dissertation has been to explain why those committed to liberalism and anti-perfectionism can also get on board with these demands. Grasshoppers face a number of morally objectionable obstacles when they attempt to access free time and justice requires removing these obstacles. Chapters 2 to 5 offer thus far overlooked reasons to be concerned about the fate of grasshoppers in our societies. Taken together, these considerations make a strong case for expanding access to free time by implementing policies such as the right to work no more than four days per week.

Rather than summarise my arguments, I will conclude by pointing to some interesting problems that my analysis leaves unaddressed and that warrant further research. As I mentioned in the introduction, my focus in this dissertation has been on the *quantity* of free time to which citizens have access. I largely set aside questions about *control over* free time and working time. Recent trends emphasize the importance of finding out how much control over free time and working time workers would have in a just society. New technologies are changing how we work and how we perceive the difference between working time and free time. For example, many workplaces are being digitalized and the platform economy creates more flexible work. Novel technology makes it easier for employers to hire workers 'on demand', that is without announcing schedules in advance and without guaranteeing stable long-term employment. This in turn makes it more difficult for workers to plan ahead and to schedule activities in their free time. Furthermore, we should expect the coronavirus pandemic to accelerate many of these changes because much work that used to be carried out in offices has been turned into digitalized remote work as a result of the pandemic.

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<sup>1</sup>. Rose, *Free Time*, 128.

Many complain about ‘precarious’ jobs that involve unpredictable schedules and little employment stability but it is difficult to explain why this is morally objectionable. For example, recent findings suggest that precarious work is not detrimental to workers’ health and life-satisfaction.<sup>2</sup> What’s more, some jobs, such as those of Hollywood stars, offer little control over schedules and little employment stability but are nevertheless attractive. Finally, many precarious jobs might not exist at all if employers were required to offer them on a basis of stable, long-term employment. This gives rise to a puzzle. Intuitively, precarious work seems problematic but it doesn’t produce obviously objectionable outcomes. I have not engaged with this puzzle in my dissertation but I hope to address this and other questions relating to working time and technological change in future work.

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<sup>2</sup> Joseph Choonara, *Insecurity, Precarious Work And Labour Markets: Challenging The Orthodoxy* (Cham: Palgrave Macmillan, 2020); Inga Laß and Mark Wooden, ‘Trends in the Prevalence of Non-Standard Employment in Australia’, *Journal of Industrial Relations* 62, no. 1 (2020): 3–32; Lawrence F. Katz and Alan B. Krueger, ‘The Rise and Nature of Alternative Work Arrangements in the United States, 1995–2015’, *ILR Review* 72, no. 2 (2019): 382–416.

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