

A moral and economic critique of the new property-owning democrats: on behalf of a Rawlsian welfare state

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Abstract Property-owning democracies combine the regulative and redistributive functions of the welfare state with the governmental aim of ensuring that wealth and capital are widely dispersed. John Rawls, political philosophy's most famous property-owning democrat, argued that property-owning democracy was one of two regime types that best realized his two principles of justice, though he was notoriously vague about how a property-owning democracy's institutions are meant to realize his principles. To compensate for this deficiency, a number of Rawlsian political philosophers have tried to add institutional and policy content to the idea. While their efforts have advanced the discussion, few have criticized the soundness of these attempts. This article attempts to fill the void. I claim that, in comparison to welfare-state capitalism, property-owning democracy is both prohibitively impractical and unjust on Rawlsian grounds. I first argue that property-owning democracy is economically ineffective. Even granting the assumptions of Rawlsian ideal theory, property-owning democracies generate bad incentives and face severe information problems in comparison to more market-friendly welfare states. Further, in nonideal theory the motivations of political officials and citizens will likely be corrupted by the temptation to abuse the awesome state power at their disposal. Second, I argue that property-owning democracy is unjust relative to welfare-state capitalism. The three principles used to defend property-owning democracy—the

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difference principle, the principle of fair equality of opportunity and the “political liberty” proviso—do not vindicate property-owning democracy and may even prohibit it. Welfare-state capitalism does much better.

Keywords John Rawls · Property-owning democracy · Welfare states · Economic justice · Ideal theory

Property-owning democracies combine the regulative and redistributive functions of the welfare state with the governmental aim of ensuring that wealth and capital are widely dispersed. John Rawls, political philosophy’s most famous property-owning democrat, argued that property-owning democracy was one of two regime types that best realized his two principles of justice (the other being liberal socialism), though he was notoriously vague about how a property-owning democracy’s institutions are meant to realize his principles. To compensate for this deficiency, a number of political philosophers have recently tried to add institutional and policy content to the idea. While their efforts have advanced the discussion, these attempts are just beginning to receive sustained criticism. This article aims to fill the void. I argue, in comparison to welfare-state capitalism, that property-owning democracy is both prohibitively ineffective and unjust. I hope to show as much on Rawlsian grounds.

Martin O’Neill and Thad Williamson have done more than anyone to develop a Rawlsian defense of property-owning democracy by outlining both the theoretical justifications for property-owning democracy and its characteristic public policies.¹ I shall focus on their work here.² I criticize these property-owning democrats on two grounds. First, property-owning democracy faces serious economic challenges. Even granting the assumptions of Rawlsian ideal theory, property-owning democracy generates bad incentives and faces severe information problems in comparison to more market-friendly welfare states. Further, in nonideal theory, the motivations of political officials and citizens can be corrupted by perverse institutional conditions. Second, property-owning democracy is *unjust*, again relative to welfare-state capitalism. Briefly, the three principles used to defend property-owning democracy—the difference principle, the principle of fair equality of opportunity and what I shall call the “political liberty” proviso—do not vindicate property-owning democracy and may even prohibit it. Familiar welfare-state capitalism performs much better.

I proceed in five parts. I begin with an outline of the distinctive features of property-owning democracy by contrasting it with welfare-state capitalism. Second, I argue that property-owning democracy is prohibitively impractical in ideal theory

¹ I cite a variety of their papers throughout, but for many of their articles, see the edited volume, O’Neill and Williamson (2012b). Through Rawls, political economic work on property-owning democracy began with economist James Meade. See Meade (1964). In this paper, I focus on the Rawlsian interpretations of the idea.

² This piece was submitted for publication prior to the appearance of the *Analyse & Kritik* symposium on property-owning democracy, so it does not directly incorporate its many insights. However, from my read of the issue, none of the defenses of POD address my concerns.

and non-ideal theory in comparison to welfare state capitalism. In Sections III and IV, I review the Rawlsian rationales for property-owning democracy and reject them. Rawls's principles of justice should lead us to reject property-owning democracy for the welfare state. I conclude in section V that the new property-owning democrats must do much more to vindicate the Rawlsian case for property-owning democracy.

1 What is property-owning democracy?

Welfare-state capitalism combines private property rights in land, labor and capital with an activist government that engages in extensive economic regulation, countercyclical policy and the provision of social insurance. While there is no one thing referred to by “the welfare state,” we can understand it in terms of these broad institutional aims. While standard uses of the term “welfare state” can pick out regimes that merely provide social safety nets, I shall use the term more broadly here, to pick out policies characteristic of presently existing welfare states.

Property-owning democracy (hereafter POD) does more. The key governmental aim that distinguishes POD from welfare-state capitalism is the attempt to broaden capital ownership “so that income returns from capital are broadly rather than narrowly distributed” thereby producing “a more equitable pre-tax distribution.”³ In other words, PODs engage in the “predistribution” of capital, setting pre-tax incomes at a more equal level from the economic start.

To be more specific, O'Neill and Williamson propose five institutional features of a POD: (i) a right to equal public education, (ii) a right to minimum income and/or the means for supporting oneself and one's family at a minimal level of social acceptability, (iii) a public system of campaign financing and explicit limitations on corporate political activity, (iv) a right of individuals to share a society's productive capital and/or wealth and (v) a collective right to sufficient productive capital to sustain viable democratic communities at the local level.⁴ Since (iv) and (v) are the focus of this essay, I shall understand PODs as recognizing and enforcing *individual capital rights* and *collective capital rights* respectively.⁵

Implementing (i)–(iii) only requires welfare state capitalism, but institutionalizing individual and collective capital rights require something more. In contrast to the welfare state, POD reforms the heart of the economy, purportedly ensuring that those individuals that justice bars from having too much wealth or market power never have it in the first place.

In contrast to state socialists, who seek to abolish markets in productive capital entirely, Rawls, O'Neill and Williamson stress that PODs have markets and a price system. But price signals are used primarily for “allocation” and not “distribution”

³ O'Neill and Williamson (2012a).

⁴ Ibid. It is unclear what “local” refers to.

⁵ See Williamson (2013) for discussion of how to guarantee these rights through constitutional amendments.

(Rawls 1971, p. 273).⁶ The extent of markets is also limited, as PODs have extensive public sectors to provide public goods that would otherwise be underprovided. Nonetheless, while the POD-state will heavily regulate and control the market, PODs would still allow people to choose their careers and jobs, save for those whose existence relies on large concentrations of capital. Further, competitive markets will help to ensure that economic power is decentralized.

Rawls thought that POD requires enormous regulatory bodies, or additional “branches” of government.⁷ Rawls defended a four-branch system of economic control, including “allocation,” “stabilization,” “transfer,” and “distribution” branches. The function of the branches is as follows:

- (a) *The Allocation Branch* keeps prices competitive, prevents formation of “unreasonable” market power, identifies and corrects market inefficiencies through taxes, subsidies and the redefinition of property rights (p. 244).
- (b) *The Stabilization Branch* brings about full employment and protects free choice of occupation along with deploying financial resources to increase aggregate demand when necessary.
- (c) *The Transfer Branch* generates and distributes the social minimum by taking all needs into account and giving them the right weight with respect to other claims. A competitive price system gives no consideration to needs and “therefore it cannot be the sole device of distribution.”
- (d) *The Distribution Branch* preserves approximate justice in distributive shares through taxes and redefining property titles. It imposes great inheritance and gift taxes, along with restricting rights of bequest. It taxes to achieve a certain distribution of wealth and to raise the revenue required to impose justice (p. 245).

Rawls argues that the branches will routinely require that “social resources ... be released to the government” (p. 278). The form “release” takes will become significant below.

Note that welfare states contain many of the same branches, but with more restrictive functions. In a welfare state, the allocation branch will not prevent the formation of “unreasonable” market power, but will correct for market inefficiencies, whereas the distribution and transfer branches will simply ensure that social safety nets are adequately funded through redistributive taxation. The function of the stabilization branch is similar under both regime types, though welfare state capitalism will tend to realize stabilization, transfer and distribution functions through less coercive means, perhaps by relying largely on redistributive taxation and Keynesian fiscal and monetary stimulus, while forgoing the deliberate transfer of capital stock.

Williamson furthers fleshes out the functions of a POD by distinguishing between three forms of capital that must be more widely distributed: residential capital, cash and stock

⁶ I will discuss whether this distinction is viable below.

⁷ It is less clear whether O’Neill and Williamson would endorse these bodies, but they endorse the basic functions of the bodies in any case.

(together representing the scope of individual capital rights). To ensure the dispersion of residential or real-estate holdings, Williamson argues that the government should subsidize home mortgage lending and provide grants for down payments. To distribute cash, the government should ensure that households at the bottom of the wealth distribution have at least \$100,000 in wealth. The government should also provide people with savings, perhaps through a one-time lump sum derived from a fund of inheritance taxes. Of course, we can't guarantee that all persons have the same savings, as this would "immediately create perverse incentives as well as a fiscal sinkhole." Instead, the government could require people to see a government financial adviser before they could invest in short-term stocks or liquefy their holdings (Williamson 2009, p. 443).

To implement collective capital rights, that is, to help the economy better sustain local democratic bodies, both O'Neill and Williamson argue that the workplace should be largely democratic (O'Neill 2009, pp. 33–42). Workers will not only govern their own terms of employment but may be given part of the task of monitoring and enforcing workplace regulations and, perhaps, non-tradable coupons for fixed stock ownership. Or a government institution could hold the stock for them. We can see then that POD is democratic in two senses: it protects equal civil and political liberties via a representative democracy and it protects worker control of the workplace.

To sharpen the contrast with the welfare state, we should focus on the unique ways in which PODs intervene into the economy. Initially it seems obvious that imposing a POD on otherwise normal persons will require constant (if justified) interference with their lives. While Williamson is sensitive to this concern, he disagrees:

Once the background institutions for allocating property are established, the system should operate of its own accord to produce a less concentrated, far wider distribution of property, with no "interference" in the everyday operations of the economy required beyond that present in the existing system of periodic taxation (Williamson 2009, p. 449).

To his credit, Williamson recognizes that the transition from welfare-state capitalism to POD "would require, probably in quite a substantial degree, redistribution of assets accumulated under the 'old' rules defining property rights and taxation" (Ibid.). So while the transition might (justifiably) require enormous amounts of coercion, the system once established would not. A POD will somehow reach a social equilibrium, preventing deviation towards welfare-state capitalism, laissez-faire and command socialism. Otherwise, significant coercion would be required to keep POD institutions in place. It is not clear why POD is a social equilibrium, but O'Neill has argued that POD will stabilize through the promotion of democratic participation in the workplace, which will in turn give citizens a more democratic "character" that they can use to construct stable institutions. O'Neill admits that this is an empirical claim that would require substantial research to establish (O'Neill 2009, p. 47). In lieu of such evidence, we cannot take for granted that POD will settle into a social equilibrium that would substantially reduce the need for constant interference. For our purposes, then, we should assume that POD states must interfere much more in the economy than traditional welfare states, since we have little reason to think otherwise. To accept O'Neill's conjecture is tantamount to assuming away a huge range of economic challenges in maintaining POD institutions.

2 Economic challenges for property-owning democracy

Before evaluating the specifically Rawlsian arguments for POD, I want to present several serious economic challenges for POD economies, ones present but much milder in welfare states. The problems I raise, so far as I can tell, are both rudimentary and completely ignored in the POD literature in political philosophy. These problems should worry Rawlsians for two reasons: one, Rawlsians presumably hope that PODs will be economically productive and so benefit all social classes, especially the least well off. If for no other reason, a productive economy is required to produce sufficient primary goods and to generate innovation to improve the quality of education, healthcare, military defense and other services over time. Second, the economic incentives generated by PODs bear on their justice as regime types. If PODs have weak economies and incentivize political corruption, they will fail to realize Rawlsian principles vis-à-vis welfare-state capitalism.

One new direction I wish to push the debate is to demonstrate that the most important economic problems for PODs occur *even in ideal theory*. There are additional problems in nonideal theory, but even in ideal theory PODs face a variety of problems. So I begin with a few points about the ideal theory/nonideal theory distinction.

2.1 POD in ideal and nonideal theory

Recall that for Rawls, just regime types like property-owning democracy are selected under the assumption of *strict compliance* where members of a well-ordered society are assumed to comply with the dictates of just institutions in virtue of their possession of a normally effective sense of justice. They will comply with institutions that implement justice as fairness even if doing so is not in their short-term interest. However, even in ideal theory, compliance and motivation are scarce resources because different principles of justice will generate different degrees of support and compliance. In other words, some principles of justice and regime types can violate the “strains of commitment” by exceeding “the capacity of human nature” (Rawls 1971, p. 176).

Principles and regimes can exceed the capacity of human nature in two ways: (i) cognitively and (ii) motivationally. First, principles and regimes can ask too much of citizens’ cognitive capacities if the formation and maintenance of economic institutions requires more information than they can gather or use effectively. I put this point first because it has gone largely unnoticed that citizens of a well-ordered society in ideal theory face informational limitations. Second, principles and regimes can ask citizens to sacrifice too much of their personal good for the sake of justice. To illustrate, recall that Part III of *A Theory of Justice* argues that people have sufficient reason to comply with their sense of justice even if doing so sometimes reduces their ability to realize their conception of the good.⁸ So a regime type could fail to be just if it makes so many moral demands of citizens that they have little room to pursue their own projects and values. Members of a well-ordered society aren’t superhuman, nor are

⁸ Ibid., pp. 496–505 explain how compliance with justice is an important good that restrains psychologically developed persons from pursuing their other aims.

they prepared to lay down their conception of the good to comply with a putatively just regime.

Nonideal theory relaxes strict compliance, but in different ways on different matters.⁹ The form of nonideal theory relevant for our purposes takes account of failures to comply with the duties associated with justice as fairness, for both citizens and political officials. I shall raise workability problems for POD in both ideal and nonideal theory, but note that the problems I raise in nonideal theory hold *in addition to* problems in ideal theory. For this reason, I begin my criticism of the workability of POD with ideal theory and then move to nonideal theory.

Note that the arguments here remain comparative. The workability problems that PODs face are ones largely or often avoided by welfare-state capitalism.

2.2 Incentive and information problems

I identify two classes of economic problems for PODs, specifically failures to efficiently produce primary goods:

Incentive problems: citizens lack incentive to produce efficient outcomes.

Information problems: citizens lack the information to produce efficient outcomes.

These problems arise from the systematic, bureaucratic distribution of capital goods and capital stock, along with the normal effects of such distribution on the market process, including deliberate alterations of prices and business practices.

Let me stress that I do not need to rely heavily on empirical work here, just on some forms of economic theory, and this for two reasons: (a) in this subsection I am working largely within ideal theory, like POD's proponents, and (b) we have never had a POD, so it is hard to know what empirical work to appeal to. That said, the features of economic theory I draw on are subject to empirical verification in principle, if in practice the necessary data is hard to come by.

2.3 Incentive problems for an ideal POD

The first incentive problem for an ideal POD is that it *reduces the incentive to create and accumulate capital*. First, everyone in a POD knows that capital accumulation has legal limits as dictated by whichever POD bureaucracy tracks and modifies capital accumulation across an entire society. As a result, effective capital accumulators will only seek to accumulate capital up to the point where doing so exceeds the legal maximum. PODs effectively tell capital producers to stop producing capital that they would produce if they could own and operate it.¹⁰

⁹ For a taxonomy of Rawls's forms of ideal and nonideal theory, see Simmons (2010).

¹⁰ I assume here, I think fairly, that most capital owners are in it largely for the money. Perhaps in a POD, people will try to accumulate capital that will be confiscated later for other reasons, but no such reasons are cited by POD advocates. Roemer (2013) provides reason to think that certain CEOs of huge corporations aren't in it solely for the money but status and prestige. But this at most applies to a tiny handful of capital owners.

What's worse, the positive externality created by the accumulation of capital, namely the signaling generated by the presence of a few successful capital accumulators in a particular area of the economy, is distorted. Much like consumer prices, profits are relative informational signals—they tell entrepreneurs how to redirect their resources to increase profits. If these profit-signals are significantly blunted by a POD bureaucracy's distribution of capital, there will be less incentive to engage in the activities that create the relevant signals.¹¹ To put it another way, capital accumulation signals unmet demand, meaning opportunities to obtain large profits in some markets.¹² Over time more firms will enter those markets, lowering the rate of profit and the price of goods, along with increasing the supply of those goods. In this way, capital will flow into parts of the economy where it is most needed. POD administrators interfere with this process. Consequently, capital will not be allocated to its most efficient uses.¹³

A natural reply is that capital recipients will do something useful with the capital they are given. But the question is whether the recipients will, statistically, produce more efficiently than those from whom capital is confiscated. Markets tend to draw relatively more effective producers to sectors with high profit margins, and PODs block that process. PODs thus tend to take capital from those who are better producers and give it to those who are less effective.¹⁴ So it is hard to see how the new uses of capital will balance out these disincentive effects. What's worse, PODs face transfer costs. So far I have assumed that redistributions are costless, but we know this is false. Moving capital around will inevitably waste part of the capital stock.

Another set of disincentives applies to the recipients of state funds: the marginal benefits of working decrease for a great many people. Few surprises here: to the extent that the state provides citizens with unconditional funds, say through savings, checks, and services, to that extent those citizens can avoid working to acquire them. Thus, the productivity that would be generated by citizens who would otherwise have to work for these goods will be lost. A POD might provide a twenty-five year old with all of the following: free public education through graduate school, a \$100,000 savings account awarded at adulthood, public housing, a permanent stock holding in the company that offers him his first job and a guaranteed, unconditional minimum income. *Surely* these people will be less productive workers if they receive all these goodies for free and are taught that they are owed them as a matter of justice. This is not to say that any pre-or-redistribution from haves to have-nots will generally create disincentive effects but rather that *at this margin* of distribution there will be significant disincentive effects. Welfare

¹¹ For classic discussions of the informational function of prices see Hayek (1945) and Kirzner (1973).

¹² Save in cases where capital is acquired through rent seeking, or there are high barriers to entry. I thank ES for this point.

¹³ I thank GP for this point.

¹⁴ Note here that I'm assuming there's no massive market failure in the creation and distribution of capital—as far as I am aware, none POD advocates have claimed that there is.

states will suffer similar problems to the extent that they engage in redistribution, but they redistribute much less, so disincentive problems are less severe.¹⁵

Three replies suggest themselves. First, O'Neill and Williamson could argue that the property-owning democratic governments are sufficiently able, in ideal conditions, to spend the redistributed income in socially productive ways, counteracting the disincentives I point to. It seems obvious to me, at least, that offering people \$100,000 for free might not be that sort of social investment. A second reply concedes that *redistribution* has disincentive effects and that by avoiding the need for redistribution by preventing inequality in the first place, predistribution actually counters growth disincentives.¹⁶ The difficulty is that even O'Neill and Williamson admit that "predistribution" requires all kinds of redistribution, so it is not clear how they propose to avoid disincentive effects.¹⁷ Finally, one could argue that by freeing people from the worries of financial ruin, they would be willing to engage in more creative risks, which would in turn have positive spillover effects for the productivity of the economy as a whole. But welfare states already provide safety nets, investment in public education and bankruptcy and limited liability law. It is hard to believe that offering people, say, an additional \$100,000 would increase economically beneficial risk-taking sufficient to counteract disincentive effects given what welfare states already have in place.

A third set of disincentive effects is even more obvious. PODs will block all sorts of market exchanges. Thus, insofar as these exchanges would benefit both parties, creating consumer and producer surplus, PODs prevent citizens from generating these benefits.¹⁸ This is a general point about restrictions on market transactions but it is especially acute for PODs because they block free exchanges en masse through enormous regulation of the economy. A POD-proponent could try to argue that the economic benefits of a POD will outweigh these costs. Perhaps they could point to effective public investment or even negative externalities produced by these market exchanges. But POD-proponents have provided no argument for either position. Welfare states can invest in education and correct for negative externalities, and do so more "cleanly" by interfering less with market transactions.

A fourth set of incentive problems arise from the creation of worker owned and operated firms. The standard worries about worked-operated firms are twofold: underemployment and underinvestment relative to capitalist operated firms. In mainstream neoclassical economic theory, worker cooperatives have a disincentive to hire more employees when their capital stock expands because a new worker will divide their shares and therefore reduce their value. So, while in the long run it may be in the interest of workers to hire more people, in the short-run they will have to divide their shares and so reap fewer benefits from them.¹⁹ A capitalist boss does not

¹⁵ Even so, many have argued that welfare state redistribution slows economic growth for similar reasons. For a brief review, see Goodin and Schmidtz (1998, pp. 60–79).

¹⁶ For some evidence on this issue, see Alesina and Rodrik (1994).

¹⁷ Narveson (2013) raises some similar worries about how to distinguish predistribution and redistribution.

¹⁸ This point is familiar from simple introductory economic textbooks. See Mankiw (2011, Chap. 8).

¹⁹ For modeling and data to this effect, see the classic work of Vanek (1970). Vanek finds that employees tend to maximize their shares rather than profits.

face this disincentive because adding an additional worker does not reduce his stock and/or income. To see the underinvestment problem, consider that worker cooperatives will have workers at different stages of life. Middle-aged workers will have an incentive to invest in the company so as to expand the value of their holdings. But younger workers face a disincentive to invest because typically worker cooperatives in socialist or left economic theory do not allow the sale or exchange of shares to non-workers. If the cooperative did not impose these restraints, shares would quickly move into the hands of non-workers and the cooperative would cease to exist even if the firm survived. So if younger workers would like to be able to change jobs, they will prefer to receive income than to invest in their non-transferrable shares. A similar story holds for older workers. Older workers nearing retirement will prefer a stream of income to investment, as their time horizon is far shorter.^{20,21} Capitalist bosses do not face these disincentives as they typically have an interest in increasing the capital stock of their firm.

Now, there is some empirical evidence that for some real-world firms with partial worker ownership and operation, these effects either do not show up or are negated by other positive effects.²² But these firms all allow for types of capital transfer that workplace democrats often seek to prohibit. For instance, for firms where workers own most of the capital stock, they are free to trade it under certain conditions.

If I endorsed POD, I would likely reply to these incentive problems as follows. All PODs aim to increase the number of capital owners relative to society's capital stock. If capital redistribution is successful, the economy will have more capital producers, both by having more firms, and more worker ownership of those firms. A broader distribution of capital has a great many economic advantages. First, it increases the diversity of market actors, which may generate thus far unacknowledged innovations. Further, more diverse markets are less prone to disruption if a single firm goes out of business. In other words, there are a number of "dynamic effects" generated by PODs that I have failed to take into account.

For these replies to succeed, however, we need reason to think that these "dynamic effects" are sufficient to outweigh the more concrete economic costs I have cited relative to welfare-state capitalism. Unfortunately for POD advocates, we have little reason to think as much. For instance, if a wider dispersion of capital would be that much more productive, why haven't markets already converged on such a distribution? One could point to regulations that favor larger concentrations of capital, but we could remedy these concentrations by repealing the relevant regulations. POD advocates do better to argue that most capital markets under welfare state capitalism are market failures in the economist's sense, in that they fail to realize a large number of feasible Pareto improvements. But this reply would

²⁰ For a model of underinvestment effects, see the classic Ward (1958). For a review of classic models and empirical evidence, see Dow (2003).

²¹ Note that standard proposals for workplace democracy prevent people from divesting their capital stock into income when they leave the firm, so those who leave face a substantial economic loss. For standard models, see fts. X and X+1.

²² See the introduction to and articles in the recent edited collection, see Kruse et al. (2011). These effects could include fewer principal-agent problems or less rent seeking.

require supplying an economic model where market failure occurs in welfare states but not in PODs and I cannot detect any attempt among property-owning democrats to provide such a model.

2.4 Information problems for an ideal POD

PODs have an extensive bureaucratic apparatus that is charged with extraordinary tasks, such as making specific numerical judgments about appropriate price-levels, wage-levels, stock distributions, and the like.²³ And they must do so without the information available to market actors, namely that provided by a free and functioning market. While POD advocates like to claim that they advocate a free market to allow for the allocation of goods and services, what they describe is a state that constantly intervenes in the market. After all, what are all of these incredibly large and powerful bureaucracies *for* if not to interfere with the market process?

To see how intervention distorts and misrepresents market signals, let's contrast a POD with a capitalist society that merely redistributes wealth via a negative income tax. In the latter case, markets will suffer from few distortions given that there is (a) only one major redirecting force (the negative income tax), and (b) the force is predictable so firms can adjust their production schedules around it. As we add POD-bureaucracies, multiple forces begin to interact, constantly readjusting and redirecting the market process. POD-bureaucracies block exchanges that signal profit opportunities. They take over industries to increase the provision of public goods but lack the requisite profit and loss accounting faced by ordinary firms who rely almost entirely on sales rather than government funding. PODs block capital exchanges through regulations and monitor profit levels to stop excessive capital accumulation, preventing profit signals from reallocating capital as the economy develops. They prevent the transfer of capital stock from workers to capitalists to maintain workplace democracy, and in doing so prevent others from determining whether such exchanges are in their economic best interest.

What's more, the need for administrative law to maintain the right distribution of capital will require considerable regulatory flexibility, meaning that consumers and producers will have an unstable economic environment, and so have a harder time predicting which purchases and sales make economic sense. This is why F. A. Hayek approved of a social minimum but strongly resisted a state that would regulate the economy through administration-made law.²⁴ Markets are information systems and extensive regulatory states impoverish the amount and quality of information available. This generalization holds even if the government does not own or operate firms. Administrative tinkering dumbs-down the informational system that is the market process.

These information-based arguments illustrate a general concern about the Rawlsian attempt to separate the "allocative" and "distributive" function of prices. Rawlsians want the benefits of efficient market allocations without producing

²³ They need not fix price and wage levels, but rather delineate an efficient and just range.

²⁴ Compare Hayek (1979, p. 55) with Hayek (1973, pp. 134–136).

unattractive distributive outcomes, such as excessive income inequality. However, income inequality itself is a market signal, as those who make money in a particular economic sector will grow relatively wealthier than others, signaling that there is money to be made in that field. POD advocates believe in a government that regulates in just the right ways to ensure that productive resources go to the same (or related) places they would if the relevant regulations and controls didn't exist. How is this to be done? How are the bureaucracies to know what to do? What prices to set? What profits to limit?

Of course, welfare states engage in many of these same regulations. If so, why think the informational problems are unique to PODs? The answer is that welfare states usually do not attempt to monitor and control the capital stock as deliberately and intricately as PODs. Accordingly, distortionary effects are considerably reduced. POD-advocates will probably respond by trying to make the POD-ideal more flexible. Perhaps POD, for instance, does not require the massive bureaucracies that Rawls endorsed. Perhaps instead we could restrict the state to pursuing the least distortionary means towards achieving the wide distribution and wide operation of productive capital. But what would these methods be? Williamson and O'Neill give us little help here.

To realize individual and collective capital rights, then, a society will need a powerful government that will invariably be constrained by information problems *even in ideal theory*. And unlike incentive problems, we cannot simply demand that people comply with regulatory law. Informational problems make it difficult for even properly motivated people to determine how to act. Strict compliance does not increase access to economic information.

2.5 Problems in nonideal theory

Nonideal theory relaxes strict compliance and so permits both ordinary citizens and officials to break the law and violate their duties given a variety of untoward reasons and motivations. Citizens and officials may distort the legal process.

We begin our analysis of a nonideal POD with the incentive and information problems that plague ideal PODs. But now all the problems recorded by public choice economists can be used to question POD's workability.²⁵ Administrators often have an incentive to alter prices or distribute holdings in ways that benefit their friends and allies. Political leaders can order administrators to engage in popular but destructive policies that sacrifice long-term gains for the short-run benefit of winning elections. Individuals can lobby politicians to provide them with pork-barrel benefits that aren't worth the social cost.²⁶ These familiar criticisms, I want to emphasize, are fair game. Rawls, O'Neill and Williamson claim that even in ideal theory, capitalist societies allow firms to misbehave by coopting the political

²⁵ Some classic works of public choice are Black (1958) and Buchanan and Tullock (1962). Public choice concerns have been analyzed in social science for over 50 years, yet go unmentioned in POD defenses.

²⁶ For a review of rent-seeking models of regulation and the political process, see Sects. 15.2 and 15.3 of Mueller (2003).

process. If powerful interests can control and corrupt government in ideal welfare states, they can in nonideal PODs.

Given the extraordinary power that Rawls, Williamson and O'Neill must assign federal bureaucracies, the incentives for regulatory capture are enormous.²⁷ A state powerful enough to realize individual and collective capital rights is worth staffing with friendly regulators, as the state could potentially destroy an individual or group's economic livelihood through regulation and redistribution. For instance, suppose that Reba, a businesswoman, has accumulated just enough capital to come under the scrutiny of a POD bureaucracy. She is now subject to monitoring. Perhaps Reba's workers have complained to administrators that they have too small a share of the business owner's capital stock, or perhaps a competitor has tipped off a friendly regulator that Reba has been making new capital stock purchases. In both cases, she has a powerful incentive to resist the regulation in any number of ways, perhaps by supporting her friends as appointments to local regulatory boards. Alternatively, she could join an otherwise legitimate lobbying organization and push its activities in her direction or she could use her non-monetary influence and energy to elect politicians friendly to her views.²⁸

A critic might claim that the new social motivations and norms that citizens acquire in a POD will make rent-seeking behavior manageable. For example, we already see that social expectations and norms restrict government corruption in some advanced democracies. Nordic nations have relatively large governments, but relatively little corruption. In a property-owning democracy, given that people will have a number of new or strengthened moral motivations, these social norms might be easier to enforce via our ordinary moral practices. Accordingly, POD political cultures will be able to restrain standard forms of rent-seeking behavior. The problem with this "social norms" reply is that it can be used to restrain rent-seeking behavior under other regime types. After all, Nordic states aren't PODs, they're welfare states with extensive free markets, many of which are freer than markets in the United States.²⁹ In some ways, then, the social norms reply works against PODs, since if social norms can be used to reduce corruption and rent-seeking in welfare states, we have even less reason to move to POD. So I think it is fair to say that, even with a social norms reply, rent-seeking problems will be significantly worse in PODs than welfare states, given the far greater concentration of state power. POD defenders must resist by arguing that social restraints against rent-seeking will be more prevalent in PODs than welfare states, but they have never offered such an argument.

²⁷ For a classic discussion of regulatory capture models, see Stigler (1971).

²⁸ Note that this point is not contradicted by the claim that in a POD there will be far more businesses and business owners, such that social coordination between them to influence politics will be weakened. Regulatory capture can happen gradually through the accumulation of local fragments of government. This process is most famously described in Olson (1971).

²⁹ See the 2014 Index of Economic Freedom http://thf_media.s3.amazonaws.com/2014/pdf/Index2014_Highlights.pdf, where Denmark ranks above the United States and the Netherlands, Sweden, and Finland only rank below the US due to their high tax rates and high rates of government spending. On nearly all metrics of market freedom, Nordic countries have freer national and international markets.

Before concluding this section, I should address the concern that arguments favoring welfare-state capitalism over POD favor laissez-faire capitalism over welfare-state capitalism. It is true that *some* my arguments tell in favor of laissez faire. For instance, welfare-state capitalism may be more subject to rent-seeking and regulatory distortions than laissez-faire. But these concerns are surely not strong enough to show that welfare-state capitalism is prohibitively inefficient. Further, other criticisms will not apply at all, such as my concerns about capital ceilings and workplace democracy.

I should also note that the concerns I raise here are not based on the assumption that Rawlsian economies require constant economic growth. Rawls plainly denies this, as he inclines towards a no-growth economy.³⁰ But Rawls's principles nonetheless require a high degree of economic efficiency to satisfy the difference principle and the principle of just savings. At the least, an economy must grow enough to do the following: replace worn-out capital stock, save for future generations, expand the choice of occupations, implement a safety net and generate innovation. Focusing on innovation alone, a well-ordered society must innovate enough to effectively expand social programs, improve regulatory bodies, prevent environmental damage and potential environmental catastrophes, improve military technology vis-à-vis other nations and increase the effectiveness of medical technology and public education. Even if the economy does not grow, quite a lot of economic efficiency is required. The arguments advanced here imply that welfare-state capitalism will do much better providing the aforementioned goods and services.

3 Assessing the Rawlsian arguments for property-owning democracy

Now I turn to criticize the arguments new property-owning democrats use to defend POD. The economic challenges will help identify flaws in these arguments.

Recall that Rawls thought welfare-state capitalism is *unjust*. According to Williamson and O'Neill, Rawls held that,

[T]he architecture of welfare-state capitalism ... enthroned the disproportionate political power of the rich and militated against a shared sense among citizens that they are bound in a common enterprise, which operates in accordance with fair rules and respects the basic interests of all. (O'Neill and Williamson 2012a)

Consequently, the political economy of a just nation must be organized with the explicit legal goal of "either sharing or else widely distributing wealth and capital" (Ibid.). Justice requires that wealth and capital be distributed extremely widely among citizens. The arguments for POD, therefore, need to vindicate two claims: (a) that welfare-state capitalism is unjust and (b) that POD is just.

To establish these claims, I focus on the Rawlsian arguments for the economic institutions that distinguish PODs from welfare states. These are the right of

³⁰ Rawls (2001, pp. 63, 159).

individuals to share a society's productive capital and/or wealth and a collective right to sufficient productive capital to sustain viable democratic communities at the local level. I have called these individual capital rights and collective capital rights.

Obviously the fundamental argument for POD is that it best institutionalizes Rawls's principles of justice, which I reproduce here:

Liberty Principle: Each person has the same infeasible claim to a fully adequate scheme of equal basic liberties, which scheme is compatible with the same scheme of liberties for all.

Second Principle: Social and economic inequalities are to satisfy two conditions:

Fair Equality of Opportunity Principle: they [the inequalities] are to be attached to offices and positions open to all under conditions of fair equality of opportunity.

Difference Principle: they [the inequalities] are to be to the greatest benefit of the least-advantaged members of society. (Rawls 2001, p. 42–43)

Importantly, in *Political Liberalism*, Rawls adds a condition to the Liberty Principle: “and in this scheme, the equal political liberties, and only those liberties, are to be guaranteed their fair value” (Rawls 2005, p. 5). This political liberty “proviso” is also critical to the case for POD.³¹

In *Justice as Fairness*, Rawls appeals to three considerations to justify POD and condemn welfare state capitalism. He claims that the welfare state,

... rejects the fair value of the political liberties (the political liberty proviso), and while it has some concern for equality of opportunity (the fair equality of opportunity condition), the policies necessary to achieve that are not followed. It permits very large inequalities in the ownership of real property (productive assets and natural resources) so that the control of the economy and much of political life rests in few hands... [It also recognizes no] principle of reciprocity to regulate economic and social inequalities (the difference principle condition) (Rawls 2001, p. 137–138).

Rawls thus thinks there are three reasons to endorse POD and reject the welfare state: unlike welfare states, PODs realize the political liberty proviso, the principle of fair equality of opportunity and the difference principle.³² Let's review these arguments in reverse order.

³¹ O'Neill has constructed an argument that a right to economic democracy, as embodied in (v), could justifiably be treated as a first-principle liberty. See O'Neill (2009, pp. 32–42). That said, O'Neill and Williamson recognize that Rawls stresses the political liberty proviso rationale for POD in *Political Liberalism*. See O'Neill and Williamson (2009, esp pp. 4–5).

³² Freeman (2013) holds that in light of the weaknesses of these arguments, we should understand Rawls's critique of welfare-state capitalism as based on his association of welfare-state capitalism with restricted utilitarianism. On Freeman's view, Rawls's association between the two views led him to overlook a contractualist defense of the welfare state. This interpretation of Rawls is, in my view, uncharitable. It assumes that Rawls did not realize that the defense of the welfare state could be separated from the utilitarian foundation often offered on its behalf.

3.1 Difference principle arguments for POD

Readers may suspect that the case for POD is based primarily on the difference principle. After all, if inequalities must work to the greatest advantage of the least advantaged group, surely a great many people must have access to productive capital, both in capital holdings (such as real estate, stock and savings) and in capital decision-making (such as workplace democracy). So the least advantaged must be guaranteed access to capital of both types. Furthermore, given that people dislike being taxed, direct redistribution might be unpopular. As a result, it is important to organize the economy for “predistribution” where wealth is equitably distributed at the beginning of each economic period.

O’Neill has developed two arguments along these lines (O’Neill 2012, pp. 84–87). The first difference principle argument runs as follows:

The aim of the kind of radical socioeconomic reorganization characteristic of property-owning democracy ... is to realize the value of equality through *ex ante* compression of objectionable economic inequalities. A property-owning democracy aims to do this through the organization of economic life in a way that reduces the likelihood of social domination or of loss of status. Therefore, satisfaction of the difference principle, when viewed as ranging *not only* over income, but also over wealth in productive capital, as well as over the social primary goods of (a) the powers and prerogatives of offices and positions of authority and responsibility, and (b) the social bases of self-respect, plausibly mandates a move toward greater dispersal of control over productive resources (p. 89).

O’Neill’s first argument, then, holds that POD helps to realize the value of equality. In fact, O’Neill thinks the value of equality provides Rawls with his “best reasons” to endorse POD (p. 93). POD realizes the value of equality by focusing on the *ex-ante* distribution of capital. *Ex-post* redistribution, which characterizes welfare-state capitalism, won’t resolve inequalities of wealth and status. For when capital holdings are significantly unequal, employers and capital-rich citizens can control access to both government offices and private positions of authority in the marketplace. Further, they can control and dominate employees and the capital-poor, reducing the marginalized citizen’s sense of self-respect. Welfare states do not focus on equalizing capital holdings, so they do not prevent capital inequalities from leading to violations of the difference principle. So if we care about equality, we have to care about the distribution of capital, not just the distribution of income. And this leads us to endorse POD.

O’Neill’s also advances a “democracy equality argument” that the difference principle requires workplace democracy, which corresponds to POD’s protection of collective capital rights. This argument stresses that primary goods include not just income and wealth but “powers and prerogatives of offices and positions of authority and responsibility” and the social bases of self-respect (Rawls 2001, pp. 58–59). While income and wealth inequalities can be addressed by welfare-state capitalism, *ex post* redistribution “will tend to undermine social status and self-respect, and would do nothing to address inequalities of power as they play out in the structure of

productive relations” (O’Neill 2009, p. 48). Ex-post redistribution embarrasses recipients, as they often feel that they are not full contributors to their society, and it breeds resentment among those whose holdings are redistributed. For this reason, the least well off in welfare-state capitalism will tend to feel alienated from their society (Rawls 2001, p. 51). If the difference principle structures social and economic institutions, then the least well-off individual must have the right to control the shape of her economic life beyond increasing her income shares. Collective capital rights will provide her with a greater sense of accomplishment vis-à-vis her fellow citizens because she will have the power to actively manage her productive relations with others. O’Neill: “only by making sure that the ex-ante structure of the economy is such as to broadly distribute control over productive resources, therefore, can we ensure that all citizens are able to have this ‘lively sense’ of their own agency” (O’Neill 2009, p. 50). Welfare states cannot realize this form of equality.

The key to both difference principle arguments is that the goods distributed by Rawlsian principles include positions of power and responsibility and the social bases of self-respect. The difference principle only permits inequalities in these goods if they maximize the position of the least advantaged in terms of their overall holdings of primary goods. But welfare states permit inequalities in these goods that arguably do not maximize the position of the least advantaged with respect to positions of power and the social bases of self-respect. PODs, in contrast, maximize the position of the least-advantaged.

One obvious challenge to these difference principle-based arguments in general is that Rawls downplays them in *Political Liberalism*, since he admits that a society can be reasonably if not fully just even if the political conception of justice does not include the difference principle (Rawls 2005, p. xlvii). I think this is because Rawls believes the difference principle is not essential to our shared understanding of liberal democracy, in contrast to the political liberty proviso (Ibid.). I suspect, however, that O’Neill will reply that if the difference principle is a true principle of justice, we still have powerful reason to support property-owning democracy. So I will set this concern aside.

I have a number of general concerns about both arguments. First, they are both based on psychological claims about the bases of self-respect that seem highly speculative. Perhaps in some cases employees, say, would respect themselves more and receive more respect from others if they were partial owners of their workplace. But then again, maybe not. Plenty of people have a healthy sense of self-respect apart from their jobs, say based on the other social roles they play and the relationships they have throughout the course of their lives. Or perhaps their sense of self-respect has more to do with the skill they exercise in their jobs, such as computer programming or graphic design, where having a boss matters relatively less. Finally, note that workplace democracy does not abolish hierarchy or give everyone a position of authority; it merely gives them shares and votes, which are very different matters. Employees could be deprived of self-respect by their bosses *or* by their fellow workers. Maximizing the participation rights and social bases of self-respect available to the least advantaged is a messy empirical matter, so it’s not at all clear what the difference principle requires in this case. Given that these arguments amount to little more than hand-waiving, it is hard to justify giving the state the authority to monitor capital stocks to a degree sufficient to realize and protect individual and collective capital rights.

My second worry arises from the observation that primary goods potentially compete with one another. For instance, given their economic shortcomings, PODs may have a hard time maximizing each person's share of wealth and income. For the sake of argument, let's grant that PODs are the best guarantors of the social bases of self-respect. In this case, we have a trade-off problem: should individuals prefer relatively more self-respect under a POD or relatively more wealth and income under a welfare state? Consider that workers might prefer to give up their workplace management rights to receive a higher income from another firm. In which case is the worker's basket of primary goods greater? It's hard to tell, even if we could figure out how to trade-off management rights with income shares.

My third worry concerns the absolute size of the baskets of primary goods associated with PODs and welfare states. Due to incentive and information problems, PODs will produce a smaller basket of primary goods than welfare states. They will reduce a society's level of income and wealth and, consequently, they will probably reduce the number and variety of firms in an economy. Thus, the availability and variety of jobs will be more restricted, and with it the free choice of occupation will be reduced. This includes the opportunity to own and operate one's own business. Notice that these problems are *considerably* compounded if we consider growth rates. If welfare states grow even marginally faster than PODs, then huge wealth differences will appear within a single generation.

The general worry I have about difference principle arguments for POD is that their success depends on empirical claims that Rawlsians have to my knowledge never defended. Other than O'Neill and Williamson, they've hardly tried.

3.2 Fair equality of opportunity arguments for POD

The fair equality of opportunity case for POD is that individual and collective rights to productive capital are required to guarantee fair equality of opportunity to acquire and use primary goods, including capital itself. Again, the welfare state does not go far enough.

First, an equal opportunity to achieve better life outcomes will require that all persons have access to capital goods, such that they can start their own businesses, freeing themselves from the thumb of capitalists.³³ Further, dispersion of capital will keep the rich and powerful from denying opportunities to the least well-off by prohibiting small capital owners from combining or selling their capital to a small group of large capital holders. Similarly, democratic workplace rights disperse capital by decentralizing capital control. If people are to have a genuine right to own and operate capital, then surely we should give workers a greater share of capital, including in workplaces where someone else fronted the capital and took on all the necessary risk.³⁴

³³ Though the POD could confiscate their capital whenever it likes so long as the officials that exercise such capricious power are democratically elected.

³⁴ Though in modern economies, it is rare that people take on all the risk themselves, due to limited liability and shareholder arrangements.

Unfortunately, fair equality of opportunity arguments for POD are rarely worked out in much more detail than this. Arguably the welfare state goes a long way towards ensuring fair equality of opportunity given its commitment to the provision of public education and the regulation of the effects of wealth on the political process. O'Neill fully admits this point (O'Neill 2012, pp. 84–87). It's just not clear why we *must* go further than the welfare state based on fair equality of opportunity.

In fact, PODs will probably not provide fair and equal opportunities over the long run. A POD state simply has little incentive to guarantee that everyone has adequate opportunities and arguably has too little information to do so, even were it willing. The POD-state will be so busy managing the economy based on impoverished information and incompetent administrators that we have little reason to believe it can effectively meet system-wide goals like ensuring that all people have fair opportunities. Of course, PODs may provide fair and equal opportunities based on the functions they share with welfare states, but we have reason to think that PODs will be *worse* than welfare states due to POD's constant intervention into the economy with all the confusion, regulatory capture, and error in tow.

What's worse, a state as massive as a POD will create power inequalities between government workers and everyone else. A common inequality of power in communist nations arose between communist party members of the government and all others. Even in welfare states like France, government insiders are better protected economically than outsiders.³⁵ We can expect a related phenomenon in property-owning democracies. POD bureaucrats have extraordinary regulatory power. Accordingly, their opportunities for advancement, power, income, education and the like will be relatively greater. Even if we grant that PODs will reduce inequality of opportunity between the private rich and the private poor, it will increase inequality of opportunity between public and private workers. The Rawlsian ideal theorists will undoubtedly complain that I have forgotten that the motivations of persons in a POD will change in ways that will lead them to avoid rent-seeking in ideal theory, but thus far they have said little about why this process is psychologically realistic. And in any case, the problems surely apply in nonideal theory.

3.3 Political liberty arguments for POD

The political liberty proviso is arguably Rawls's main moral foundation for POD. In *Justice as Fairness*, Rawls argues that welfare-state capitalism is vulnerable to political domination by the rich. In contrast, POD,

... avoids this, not by the redistribution of income to those with less at the end of each period ... but rather by ensuring the widespread ownership of assets and human capital (that is, education and trained skills) at the beginning of each period, all this against a background of fair equality of opportunity. The intent is not simply to assist those who lose out through accident or misfortune (although that must be done), but rather to put all citizens in a position to

³⁵ I thank Eric Schliesser for this point.

manage their own affairs on a footing of a suitable degree of social and economic equality (Rawls 2001, p. 139).

We need “asset-based” policies to satisfy the political liberty proviso. Redistributive systems reduce the power of the rich, but they do not eliminate it. Thus we cannot simply take from the rich; instead, we must keep anyone from getting too (relatively) rich in the first place. Otherwise, the rich can coopt the political process and undermine the fair value of the political liberties.

The problem for the political liberty argument, as O’Neill notes, is that welfare states already limit corporate financing of political campaigns, engage in progressive taxation and provide equal access to public services (especially education). These policies will go a long way towards guaranteeing the integrity of the democratic process (O’Neill 2012, pp. 81–84). Welfare-state capitalism can “insulate” the political sphere from the economic sphere (p. 82). So the political liberty argument may not vindicate POD over welfare-state capitalism. As O’Neill admits, “with regard to the protection of the fair value of the political liberties, it would seem that the argument for preferring POD over [welfare-state capitalism] is to some degree incomplete” (p. 84).

In fact, PODs will arguably fail to effectively protect political liberties. As we have seen, the incentive to capture a POD’s incredibly powerful regulatory bodies will lead to domination by special interest groups and lobbyists. For instance, if a small capital owner has to worry about massive federal bureaucracies breaking up her business and forking her capital over to her workers (or anyone else for that matter), she has a strong incentive to try to alter policy.³⁶ What’s more, powerful state administrators will need the capacity to substantially redirect human behavior, which will create severe political inequalities. Consequently, bureaucrats will have awesome power to dominate and control non-bureaucrats. Again, just imagine the amount of power a bureaucrat would have to have to monitor and control the capital stock in a POD. As soon as capital owners hit a threshold of accumulated capital, the state can swoop in and coerce them in various ways. Much of this is true even in ideal theory.

What’s more, one can mount a plausible argument that a POD state is too powerful to effectively protect basic liberties in general. A property-owning democracy has never existed. Our only real experience with statewide coercive dispersion of capital to create democratic workplaces is in Tito’s Yugoslavia and a handful of other authoritarian regimes. In contrast, liberal welfare states have done an excellent job protecting basic liberal liberties, as well as protecting extensive private property rights in capital. In fact, there is good evidence that the protection of basic liberties and property rights are highly correlated (Gaus 2011, pp. 511–521). Consequently, we have little reason to think that a state that could have its way with capital owners would be an effective rights protector. PODs have too much power to encroach on liberties and too many temptations to do so.

One could argue that these encroachments will not happen at the level of ideal theory. To be sure, in ideal theory such abuses will happen less. A defender of POD

³⁶ Again, see Sects. 15.2 and 15.3 of Mueller (2003).

could reply that we have no evidence to think that a POD *would* violate first principle liberties. But I submit that the traditional liberal concern with the use of coercion, shared by Rawls, puts the onus of justification on POD-people. We need good reason to think that a state powerful enough to disperse capital will safeguard liberty despite the fact that states with such power have rarely used it for liberal ends.

4 Against property-owning democracy

The point of this piece has been to subject property-owning democrats to critical scrutiny. Thus far, property-owning democrats have failed to engage many basic economic concerns about their view. While Rawls appealed to a variety of economic models in his writings, he never consulted models that would demonstrate any significant flaws for the economic effectiveness of property-owning democracy. Contemporary property-owning democrats have unfortunately followed him in this, even though economics has advanced tremendously since *A Theory of Justice* was published. This failure to engage rudimentary criticisms must change. We need to know more about how POD institutions will function if we are to determine that they can realize Rawlsian justice even to the same extent as the welfare state. We need even stronger arguments to determine that welfare state capitalism is unjust, as Rawlsians often claim.

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