

## **Making Power Explicit: Why Liberal Egalitarians Should Take (Economic) Power Seriously**

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**Abstract:** In this paper we argue that liberal-egalitarian theorists of justice should take power, especially economic power, seriously and make it explicit. We argue that many theories of justice have left power implicit, relying on what we call the “primacy of politics” model as a background assumption. However, this model does not suffice to capture the power relations of today’s globalized world, in which the power of nation states has been reduced and material inequality has sky-rocketed. We suggest replacing it by a “political economy” model that emphasizes the possibility of self-reinforcing cycles. Doing so has direct implications for how to theorize justice, not only on the non-ideal, but also on the ideal level.

**Keywords:** distributive justice, economic power, market, state, political economy, stability

### **Introduction**

“Power” is not a term often found in liberal-egalitarian theories of justice. Usually, they deal with principles of justice (e.g., sufficiency principles or the difference principle), currencies of justice (e.g., resources, opportunities for welfare, or primary goods), and their application to specific areas (e.g., nation states or the global community of mankind). But each allocation of distributenda, such as resources or primary goods, has an impact on how power is distributed in a society. Reversely, these power relations have an impact on whether a just distribution of resources, primary goods or opportunities for welfare can be maintained. These relations to power are rarely made explicit in liberal-egalitarian theories of justice. This, we argue, is a dangerous omission. We live in a globalized world in which the power relations between states and transnational corporations have shifted. Moreover, we live in times of staggering economic inequality, which raises urgent questions about economic power. While there may be other historical circumstances in which liberal egalitarians can afford to leave questions of power implicit, in today’s world they should not do so.

It is, however, quite understandable that theorists of justice have hesitated to pick up the concept of power, unruly as it is. It is vague: its boundaries seem unclear, its character murky and ever-shifting. It is contested: there are various

conceptions of power, from different theoretical backgrounds, some, admittedly, presented in rather obscure language. And it is hard to grasp empirically: some of its forms can only be understood by drawing on counterfactuals or on notions like “what an agent would *really* want” that seem empirically inaccessible (and might smack of paternalism) (see, e.g., Ron 2008 for a discussion). Avoiding all these challenges, and opting for concepts with clearer demarcations, settled meanings, and empirically verifiability has undeniable advantages. Nonetheless, such a strategy of avoidance comes at a price. In this paper we argue that this price is too high.

Some theoretical discourses that positioned themselves at some distance from the discourse about justice have, in recent years, brought up issues of power. Neo-republicans have argued that the core of the concept of freedom is non-domination, i.e., not being subject to the arbitrary will of another (e.g., Pettit 2012; Lovett 2010). But so far, there have been few attempts to connect the neo-republican discussion to discussions of justice in the distributive sense (an exception is Lovett 2009; see also Claassen and Herzog 2019). On the methodological front, “political realists” have also brought up questions of power (for overviews, see, e.g., Stears 2007; Rossi and Sleat 2014). Inspired by the criticisms of the liberal mainstream by Williams (2005) and Geuss (2008), many realists have expressed dissatisfaction with the neglect of power as a political phenomenon; as Galston has put it, for example: “at the end of the day, coordination will require coercion or the threat of coercion” (Galston 2010: 390). But this debate has focused mostly on taking seriously the fact that *political* institutions exercise power, while not asking about other forms of power. Moreover, many of these contributions have moved onto a methodological meta-level instead of proposing conceptualizations of the relation between power and distributive justice.

In this paper, we respond to the calls to take power seriously, but without leaving the camp of theories of justice. We argue that theories can and should make power much more explicit. In particular, we argue for taking *economic* power seriously, which is often neglected in the realist and republican camps as well.<sup>1</sup> Economic power is the power exercised by economic agents such as corporations, employers, rich individual investors and creditors, based on their economic resources.<sup>2</sup> By focusing on economic power—the form of power arguably most relevant for socio-economic justice today—we abstract from various other forms of power, e.g., religious or cultural power, which would

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1. Exceptions are, for example, Machin 2013 and Rahman 2017.

2. We use the term “economic” in a non-technical sense, admitting the possibility of boundary cases in which it might be somewhat vague.

have to be added to make the approach truly multidimensional.<sup>3</sup> But the advantage of this focus is to take on a number of important questions that often fall into the cracks between different discourses. This is particularly relevant for questions at the intersection of politics and economics. Our analysis focuses on the background assumptions of theories of distributive justice with respect to economic power; similar analyses could be provided with regard to other forms of power in other social contexts.

To make this argument, we contrast two social-ontological models of the relation between the political and the economic sphere. While all models, *qua* models, abstract from many real-life complexities, they can do so in different ways, foregrounding and backgrounding different aspects of reality. What we call the “primacy of politics” model seems to be the picture that is implicit in many theories of justice. This model holds that actors with political power are able to effectively regulate the economy, without political power being undermined in turn by exercises of economic power. While capturing some important insights, it rests on a number of idealizations and abstractions that make certain forms of power invisible. More specifically, it requires a neat separation into different social spheres—roughly along the lines described by Walzer (1983)—that is not always given in reality.

We suggest replacing this model by what we call the “political economy” model. This model holds that the political and the economic realm are intertwined, so that political and economic power influence each other reciprocally. Political economy is currently making a comeback, as economists have realized that their models had blind spots (Rodrik 2015). It provides crucial insights about the relations between the sphere of markets and the sphere of politics, for example about the risk of self-reinforcing processes that can destabilize societies. So far, however, these insights have rarely been taken up by theorists of justice. While one can find a revival of the notion of power in political philosophy (e.g., Forst 2015; Jugov 2020), and an ongoing debate about the place and role of markets in a just society (e.g., Satz 2010; Sandel 2012; Claassen 2009; Dietsch 2010; Herzog 2013; Herzog 2017), the two have not been brought together. We argue that drawing on the “political economy” model offers the opportunity to develop an integrated picture.

In order to develop this integrated picture, we paint with a broad brush, consciously neglecting some of the intricacies of different theoretical approaches. We hope that our method is justified by the fact that it makes visible a number of questions that can all too easily get lost between the cracks of

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3. For reasons of space, we do not provide an explicit discussion of the power dimensions of gender and race, which are intertwined with the economic power relations we discuss (for example, the ways in which markets are naturalized often implicitly presuppose autonomous agents without duties of care, and neglect questions of discrimination).

different theoretical discourses. One major implication of our political economy model for theories of justice, we claim, is that it reconceives the debate between non-ideal and ideal theory. Instead of relegating power-issues to the stage of non-ideal theory, as is normally done, we will argue that they should be taken into account at the stage of ideal theorizing itself.

In the next section, we draw on the debate about power, suggest a working definition of power, and show how it relates to distributive justice. The third section presents the “primacy of politics” model and discusses its implications for how to think about power, which seems to fit with the way in which many theories of justice have implicitly dealt with power so far. As an alternative, in the fourth section we present the “political economy” model, focusing in particular on the role of feedback loops between different forms of power. In the fifth section, we discuss some implications for theorizing justice, also responding to the objection that our arguments only matter for non-ideal, but not for ideal theory. We conclude by suggesting that the “political economy” model also provides a way of understanding, in a reflective manner, the role of liberal-egalitarian theories of justice in today’s societies.

### **Power and Distributive Justice**

Theories of distributive justice often operate in a “who gets what?” mode: they develop principles for why certain individuals or groups should receive certain amounts of certain goods. This is an interpretation of “distributive justice,” which coheres well with everyday notions of everyone getting “their due.” It also means that one needs to agree on the *currency* of justice: what is it that gets distributed according to the suggested principle? A theory of distributive justice should be able, at least in principle, to operationalize its currency of justice into something (e.g., money, goods, or services) the distribution of which can be realized in practice. But what about distribuenda that seem clearly relevant to justice, but that are difficult to operationalize? What Arnold has called the “workability test” (Arnold 2012: 97) holds that if distribuenda cannot be directly distributed, then it must be possible to distribute their “social bases” and one should focus on these.

“Power” is hardly ever listed as a distribuendum in theories of justice, and the problem of operationalizability provides a possible explanation for why this might be so. In Rawls’s *Theory of Justice*, for example, it is mentioned from time to time,<sup>4</sup> but it is not made an explicit issue as a primary good (except indirectly in “powers and prerogatives of offices and positions of respon-

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4. E.g., Rawls 1999: 47: “Now by an institution I shall understand a public system of rules which defines offices and positions with their rights and duties, powers and immunities, and the like.”

sibility and authority”). In order to understand how power relates to theories of distributive justice—that of Rawls and also many others—it is helpful to briefly turn to the debate about the nature of power, which stands in curious disconnect from theories of distributive justice (for summaries, see, e.g., Dowding 2011; Clegg and Haugaard 2009; Scott 2001; Allen 2016).

One point of contention between theorists of power was the divide between defenders of “power over” and of “power to,” which has now largely been decided in favor of “power to” as the logically prior concept (see, e.g., Morriss 2007: xiii). Analyzing “power to” enables us to understand the phenomenon of “power over,” which is ubiquitous in social life. A related debate runs between agential or “dyadic” and structural conceptions of power, where the former focus on direct relations between pairs of agents, whereas the latter focus on social structures and the positions of differential power they create between agents or groups of agents (see, e.g., Rahman 2016). As will become clear, both dimensions are relevant to our purposes, but we consider structural power the more basic phenomenon (Claassen and Herzog 2019).

In a broadly Weberian tradition,<sup>5</sup> and following similar suggestions by Allen (1999) and Lukes (2005), we suggest understanding power as *being in a position to impose one’s will on others*. Power can have various preconditions, central among which is the possession of resources, and it is an opportunity concept or a “capacity” (cf. e.g., Morriss 2007: 19). Structure and agency both play a role: social structures generate power by providing (individual or collective) agents with *positions* from within which they can impose their will on others; the reduction of power to “diadic” relations between two agents overlooks this important point (cf. similarly Wartenberg 1990, chap. 7; Laborde 2010; Jugov 2020: 8 ff.; Thompson 2013a, 2013b). For example, a position from within which one can coordinate with agents with similar interests provides one with more power than one in which agents with similar interests to one’s own are scattered and one faces a collective action problem.<sup>6</sup>

When imposing one’s will on others, this can happen against the other agent’s will, but power can also exist and be exercised when there is no resistance.<sup>7</sup> It is not even necessary to *intend* to exercise power in order to exercise it: when one is in a position of power, others may anticipate how one would react and adapt their behavior, a phenomenon Morriss has called “passive power” (2007: chap. 13).

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5. Weber’s famous definition holds that social power is ‘the probability that one actor within a social relationship will be in a position to carry out his own will despite resistance’ (Weber 1968, I: 53).

6. We thank an anonymous reviewer for pushing us to make this point explicit.

7. Scott, for example, holds that ‘power always involves resistance’ (Scott 2001: 25) but this has counter-intuitive implications: if subjects stop resisting, power disappears (cf. also Dowding 2003: 313).

While some earlier commentators on power, e.g., Dahl (1957), had focused on actual events, a famous criticism by Bachrach and Baratz (1962) pointed out that *non*-decisions can also be the result of power relations. Lukes (1974, 2005) called such control over the agenda of decisions the “second face” of power. He also introduced a “third face,” that of shaping the preferences of other individuals (see similarly Forst’s [2015] notion of “noumenal power,” which also includes shaping other people’s *beliefs*). Sometimes, the “third face” of power altogether *constitutes* agents, as Foucault’s emphasis on the “productive” character of power made clear (e.g., Foucault 1995; see also Thompson 2013b, 2018).<sup>8</sup> Such power can be exercised without infringing legal rights or changing the distribution of resources. Its amorphous character makes it difficult to theorize; nonetheless, some of the most socially relevant and interesting phenomena arise from the interaction between legal rights, the distribution of resources, and ideological power, so one should not neglect it.

Many phenomena of power arise from the *interrelation* of various factors: formal institutions, the distribution of resources, and other factors, e.g., social norms or personal charisma. Not all of these factors can be “redistributed” in any straightforward sense. If at all, they can only be influenced by changing *other* structures, for example by blocking exchanges that would translate privileges from one sphere into another (Walzer 1983).

But in liberal-egalitarian theories of justice, there often seems to be an assumption that from a normative perspective, all that matters is the distribution of these other factors that *can* be explicitly distributed. Or to put it differently: if one distinguishes between formal institutions and the allocation of distribuenda (e.g., resources) they create on the one hand, and the constellations of power that flow from such an institutions-cum-distribution scheme on the other hand, then the assumption seems to have been that if the former is normatively justified, this justification carries over to the latter. In such an approach, power is left implicit. But as we will argue in more detail below, there can be complexly intertwined, self-reinforcing processes that put just distributions at risk in the middle and long term. These provide arguments for rethinking which distributions we actually consider just. In what follows, we focus on economic power for making this case.

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8. In the debate about power, some authors have rejected the idea that such phenomena should count as power; Barry, for example, instead calls them “influence” (Barry 2002: 165). We acknowledge that they raise difficult methodological questions (see, e.g., Ron 2008), but nonetheless think that they belong to the concept of “power.”

## The “Primacy of Politics” Model and Its Blind Spots

When one thinks about the role of economic power in society, one influential model is what we call the “primacy of politics” model, following a time-honored slogan from social democracy (for an analysis see Berman 2006). In rough outlines, it looks as follows.

The state has a monopoly of power, and when push comes to shove, physical force can be used to enforce the political will of the community (but there are also complex checks and balances to prevent the abuse of that power). When it comes to the allocation of rights, resources, or other distribuenda, we can distinguish two mechanisms: sometimes, political power is used to decide *directly* about distributive outcomes, for example by allocating a budget to an institution. Often, however, a second mechanism is used: the role of political power is to create institutions (especially by setting the rules of the economic game), and thereby to *indirectly* influence outcomes, for example by allowing individuals, as consumers, to decide where to spend their dollars (Buchanan 1954). Examples of these rules include property rights, cartel and monopoly regulations, the kinds of contracts that are permitted, the rules of bankruptcy, and many other, seemingly technical regulations that shape the structure of markets and their outcomes (see, e.g., Reich 2015).

This model contains an important truth: markets, as free exchanges of goods and services, do not fall from heaven, but need to be created by those in positions of political power in the first place.<sup>9</sup> Political institutions are also needed to make sure there are no negative externalities or other deviations from the textbook model of markets that would undermine their efficiency. Thus, markets are “legally constructed,” as Pistor (2013) put it with regard to financial markets: they presuppose political power.

Theories of distributive justice typically assume that political agents *can* shape markets in certain ways, thereby bringing about the desired outcomes. A crucial question for our present purposes, however, is whether the “primacy of politics” is postulated as a normative ideal—or whether it is *assumed* as a stylized description of social reality. The “primacy of politics” model, as we use the term, conflates these two issues by *both* postulating the “primacy of politics” as an ideal, but *also*, though often implicitly, presupposing it as a description of reality.

Political realists have accused liberal egalitarians of lacking a theory of political power, i.e., of having neglected the way in which political power is ultimately based on “coercion or the threat of coercion” (Galston 2010: 390;

9. We do not deny that sometimes markets can exist in the absence of regulation (e.g., the unregulated virtual spaces on the dark net, which function without government oversight); but these generally remain restricted in scope, as exchanges are risky in the absence of clear and robust sanctioning mechanisms.

on the realist debate see also Stears 2007; Rossi and Sleat 2014). But it is not so clear whether this characterization is sufficiently precise. Admittedly, liberal egalitarians may not have focused very much on the dirty underside of how political power is actually exercised. Rather, they had an extremely optimistic view of political power, in the sense that they assumed that it could always be exercised in neat ways, authorized by clear chains of legitimation and without any forms of abuse or corruption.

Moreover, and crucial for our topic: they assumed that it could be exercised *against those who have economic power*. State institutions, according to this model, are always sufficiently powerful to set the rules of the game, even against powerful vested interests. The state cannot overrule the laws of supply and demand, but it can, for example, overrule the cries of protest of large corporations when imposing its chosen tax rate. The possibility that economic power might obstruct the implementation of principles of justice was thereby implicitly rejected. This suggested a technocratic picture, in which the greatest challenge is to fine-tune the regulatory framework such that justice is optimally realized. To put it polemically: it suggested a mechanistic picture with imperatives along the lines of “Move this lever in the tax system by 4,9 degrees in order to reach the optimum position for the worst off.”

Where is economic power in this picture, or rather: why is it not made an issue? A first thing to note is that insofar as political theorists took over models of markets from economists, this might not exactly have suggested power as a central category. As Lukes recently put it, economists “have little, and usually nothing, to say about the concept of power, about what power is, and how to study it” (Lukes 2016: 17). Maybe the main reason for this is that economists, even though also having models of monopolies, cartels, etc., often seem to assume that markets are fully competitive. In fully competitive markets, market participants can always switch to another party for exchanging goods and services, so if someone attempts to impose their will on them, they can simply leave.<sup>10</sup> Many political theorists seem to have adopted more or less the same picture of the market as a sphere of voluntary transactions, in which power only plays a minor role.

To take a prominent and extremely influential example: Rawls explicitly stated that “a system of markets decentralizes the exercise of economic power” (1999: 241), and saw it as the task of the “allocative branch” of government to “keep the price system workably competitive and to prevent the formation of unreasonable market power” (1999: 244). While maybe not reduced to zero, economic power seems a negligible factor, and “Individual house-

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10. As Taylor (2013) points out, this is why fully competitive markets may be looked upon favorably by republicans who focus on freedom as non-domination. But this perspective neglects many of the problems we discuss below.

holds and firms are free to make their decisions independently, subject to the general conditions of the economy” (ibid.). Other theorists in what Freeman (2011) has called the “high liberal tradition,” have conceptualized markets in a similar way; a particularly obvious example can be found in the way in which Dworkin’s (2000: chap. II) account of luck egalitarianism relies on a picture of insurance markets that seem to work without any friction and in a fully competitive mode.

Many real-life markets, however, are less-than-fully competitive, and there *is* market power in them, especially if anti-trust legislation does not prevent such power from emerging. To provide just one empirical example: research by Vitali et al. (2011) has shown that transnational corporations are controlled by a relatively small network of owners. Accordingly, these are, to a considerable degree, in a position to impose their will on others. But despite a wide acknowledgment by economists that most markets are somewhere in between fully competitive and fully monopolistic, in much work the simplifying assumption that markets are fully competitive remains in place, making such concentrations of power invisible.<sup>11</sup>

It is also worth noting that even markets that are competitive in a technical sense can have equilibrium points that put certain parties in positions of power over others. This holds, in particular, for labor markets, which are marred by a number of features that typically create an imbalance of power between employers and employees.<sup>12</sup> The classic problem is that in capitalist societies, workers often have no independent source of income, because they do not possess access to capital. In these situations, they depend on finding employment, and while they might be able to exit from specific contracts, many of them cannot exit from the category of employment contracts altogether.<sup>13</sup> Another way of describing this phenomenon is to say that the “opportunity costs” for not getting a deal are too high for them.<sup>14</sup> In this case, as in many others, there

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11. The explanation for why this is so may be partly technical (when one abstracts the issue away, this renders things easier to analyze), partly ideological (having to do with the role of economists in policy advice). The factors mentioned at the end of this section (academic specialization, post-war embedded liberalism) also may play a role. We will here remain agnostic about the relative truth in all these explanations.

12. We do not discuss, for reasons of space, how the following phenomena could be described as “market failures”; this depends on what kind of market one assumes as reference point and how one describes it. Nor do we claim that our list of forms of power in markets is exhaustive.

13. Of course sometimes they do, and then they can start a new business, go back to school, stay at home and live off their partner’s income, etc. Note that it is not just the market, but also state regulation, which will influence how easy or difficult such exit is. For example, in a system of employer-related health care benefits, workers are tied to their employers for this essential good. The choice of health care system is made by the state.

14. Cf. Pasardi 2012: 625, who draws on “social exchange theory” (e.g., Baldwin 1980).

is also a *temporal asymmetry*. Workers need to eat and hence need a regular income, whereas capitalists can survive without them for some time. Often, the possession of money helps bridge such short-term squeezes. This is one of the reasons for why the sheer possession of unequal resources can introduce unequal power into markets. If one side lacks attractive exit options and means for enduring prolonged negotiations, this gives the other side more bargaining power.<sup>15</sup> Although formally equal, those who are more desperate to get a deal are likely to end up with a lower share of benefits (Christiano 2016; cf. also Thompson's (2018) notion of "extractive domination").<sup>16</sup>

In addition to power that arises directly from the structure of markets, there are the many ways in which Lukes's "third face" of power plays a role in markets. Many economic models—and, by implication, all accounts in political theory that implicitly or explicitly rely on these models—assume full rationality and fixed preferences, which is why these forms of power are invisible for them. For example, they cannot capture the way in which advertisement can "pollute" individuals' preferences, making them consume items out of short-term cravings (George 2001). The power exercised over individuals' beliefs and preferences is often part of a complex *mélange* that can hardly be captured by the dichotomy between voluntariness and coercion.

While one may find Rousseau's lament that modern man lives only in the eyes of others (1997) exaggerated, one should acknowledge that consumption patterns have a cultural index, and that there can be considerable pressure on individuals to adapt in order to avoid social exclusion. This can, in turn, have an impact on other power structures. For example, if an employee thinks that she has to maintain a certain standard of living to remain a "decent" member of society, and she knows that other jobs would be less well paid than her current job, this increases the power her boss has over her. Simply saying that she

15. Another phenomenon of power in labour markets is what Bowles and Gintis (e.g., 1993: 82ff.) have described as power on the "short side" of a market, i.e., the side that has the lower amount of open spots. This is endemic in labor markets, whether because of the "reserve army" of workers in classic Marxist terms, or because of "endogenous enforcement." Bowles and Gintis (1993) use the term "endogenous enforcement" to describe the problem that some contracts cannot be fully enforced by the legal system, for example because it is too costly to gather all relevant evidence. Employers therefore "endogenize" the problem of compliance by paying workers slightly higher wages, which raises the opportunity costs of non-compliance because workers might lose their jobs. "Contingent renewal" (ibid., 80) becomes the mechanism of enforcement; it implies that employers have power over employees.
16. Rawls acknowledges the existence of such forms of power, as can be seen in the following quote: "The determination of wages by existing institutions also represents, in effect, a particular weighting of these claims. This weighting, however, is normally influenced by the demands of different social interests and so *by relative positions of power and influence*" (Rawls 1999: 31, emphasis added). But he does not draw a systematic connection from the acknowledgment of market power to his principles of justice.

would also be able to cover her basic physiological needs with a lower income, and that her boss therefore has no power over her, would be psychologically and sociologically naïve.

If—and this is a large if—the “primacy of politics” is given, such forms of economic power can be minimized by a wise design of the rules of the system: for example by strong anti-trust legislation, by the enforcement of employee rights, or by legal structures that allow unions or consumer organizations to create counter-power to the power of corporations.

Importantly, economic power can be self-sustaining or self-reinforcing: (one form of) economic power can allow agents to attain a greater share of the surplus in exchanges, and these additional resources can give them additional economic power (of the same form or in different forms). Whether or not this happens often crucially depends on whether economic power can spill over into other spheres, such as the political sphere, the legal sphere, or the sphere of culture and education. The “primacy of politics” model simply does not address any such questions about self-reinforcing dynamics within or between social spheres. Questions about, for example, the robustness of the legal system would not be covered directly by distributive principles—a legitimate theoretical move, but one that takes crucial real-life questions out of the picture.

Given all these deficits, one might in fact wonder why the “primacy of politics” model has been so influential. One reason may be the simple fact of the academic division of labor: the “primacy of politics” model allows separating *economic* from *political* questions and treating each in a separate discipline. For addressing some questions this may make sense—but the danger is that it leads to reifying the underlying social ontology into consisting of “a market,” to be regulated by “a state.”

A deeper reason might be the historical background of a specific historical period, namely the “Golden 30s” after WWII, in which the relation between the political systems of nation-states and their economic spheres was indeed relatively clear-cut (see similarly O’Neill 2017: 360). In the era of “embedded liberalism” (Ruggie 1982), the “primacy of politics” was relatively firmly in place, so that political scientists and political philosophers did not have to worry too much about interferences by economic power. Reversely, given that the political framework was stable, economists did not have to worry so much about the political background of markets, but could focus on their internal mechanisms. But it hardly seems a constellation that can be taken as the natural state of affairs. In today’s globalized world, it seems unsatisfactory to rely on such a framework. If one makes economic power explicit, questions about the interrelation between it and other forms of power come to the fore—and in today’s world, these are questions that urgently need to be addressed.

## The “Political Economy” Model

In what other way can one conceptualize the social ontology of the economic sphere, the power relations in it, and the relation to other social spheres, as a background for theorizing justice? What is needed is an *integrated* perspective, which takes the interrelations between different mechanisms into account, thereby acknowledging the fact that we live in one ecosystem of politico-economic power structures. Depending on how the power relations in this ecosystem play out, there *can* be a relatively independent political sphere, and there *can* be an economic sphere that is maintained by political structures and allowed to operate relatively undisturbed, as a competitive market. But this is only one of many possibilities, and it is a historical achievement to have “created” competitive markets by freeing the most important goods—land, labor and capital—from the social relations in which they had historically been embedded (Polanyi 1944).<sup>17</sup>

Such a perspective has been offered by political economy, a branch of theorizing that goes back at least to Adam Smith (1976 [1776]), and which has seen a revival in recent years (see, e.g., Acemoglu and Robinson 2012 or Stiglitz 2013; for an overview of recent literature, see Rausser et al. 2011: chap. I), based on earlier work in the “public choice” tradition (most notably Buchanan and Tullock 1962. See also, for example, Brennan and Buchanan 1985, Olson 1993, Buchanan and Congleton 1998, or Holcombe 2018). This perspective offers a fruitful model for those who are interested in giving normative theorizing a more realistic foundation.<sup>18</sup> It uses a broad account of institutions, similar to North’s definition of institutions as “the rules of the game in society or, more formally, . . . the humanly devised constraints that shape human interaction” (North 1990: 3). These institutions shape the social spaces within which humans act; they determine who gets what, and also who has what power. The relation between power and institutions is twofold. One can usefully distinguish between power exercised *within* a given institutional framework, and power that is exercised to *shape* this framework. To take a simple example: a parliamentarian applies a rule of parliament by casting her vote on a specific issue; she can also vote (under the current voting rules) to change tomorrow’s voting rules.

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17. The realization of anything coming close to the description of the familiar “primacy of politics” model, therefore, can best be seen as a special case, and the “political economy model” is the overarching framework, which explains when such a situation can arise and why.

18. To be sure, this model also picks out certain aspects of social reality and abstracts from others, just as other models do. Our argument is not that this model is less abstract, but rather that that it is more adequate for the purposes of political theorists.

Hence, critics seem right to object that the institutionalist picture suffers from a problem of circularity. For if the distribution of power depends on institutions, the reverse is also true: institutions are shaped by (amongst other things) exercises of power. This is correct—but this property is not a bug, but a feature of the perspective we suggest, because mechanisms of power are in fact often self-reinforcing. However, this holds both for legitimate power and normatively justifiable institutions, and for ones that are problematic from a normative perspective.

Within the economic sphere, economic power can lead to more resources, which can lead to more economic power. Similarly, in the interrelations between economic and political power, economic power can lead to political power, which can lead to more resources, which can lead to more economic power, which can lead to more power in other spheres, etc. But there can also be counter-movements: reducing power in one area can help prevent it from seeping into other areas. This leads to a different kind of cycle, in which imbalances of power are kept in check.

The picture that emerges from these considerations is one of either positive or negative feedback cycles. In a positive cycle, which one might call “the progressive cycle,” power differentials are kept in check: unequal power in the economy—which is often based simply on inequalities in material resources—is contained by political power, which sets the rules of the game in ways that prevent economic power positions from becoming so exorbitant that they might in turn influence political power. Political democracy and the market economy are kept in an equilibrium in which power on neither side can become overwhelming.<sup>19</sup> Of course, other institutions and social spheres are also part of the picture: the legal system, the educational system, the media, the broader culture, etc. Together, they create structures in which unequal power can be contained and equal rights can be defended. What the political economy perspective emphasizes is the *interaction* of these different spheres.

The negative cycle, in contrast, is one in which power differentials in one sphere reinforce power differentials in other spheres. The basic features of this “feudal cycle” are already explained in Adam Smith’s analysis of feudalism: if political power can be used to improve one’s economic position and vice versa, power will be concentrated in the hands of a small elite, and neither open markets nor more egalitarian political structures can develop (Smith 1976: Book III). These self-reinforcing mechanisms, and more generally speaking, questions about economic power, can rarely be found in contemporary political theory; even many theories of power are at such a high level of abstraction

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19. Cf. similarly Rahman 2016, who argues for a limitation of economic power through instruments of direct democracy. In his 2017 book, Rahman draws on New Deal era thinkers for describing how the economic power of financial institutions could be curbed.

that they require several steps of translation into more concrete terms before they can be applied to such questions.

An exception can be found in an exchange between theorists of power about the role of capitalists, especially large corporations, in democracies. Barry (2002) had argued that capitalists have power over democratic processes because they can block certain decisions, and politicians anticipate this.<sup>20</sup> Dowding (2003, see also 2017) responded by arguing that they often do not even need to *exercise* their power—they benefit from “systemic luck,” and get what they want “without trying” (ibid., 306). Empirical work confirms that picture. For example, during the Great Financial Crisis of 2007–2008, one crucial question concerned the question of whether governments could force banks to be recapitalized or not. Culpepper and Reinke (2014) show that structural power, based on the central role banks have for some national economies, rather than intentional actions directly aimed at influencing politics, can best explain the different reactions of governments concerning the recapitalization of banks. Relatedly, Bell and Hindmore (2015: esp. chap. 7) show that in the US and the UK—in contrast to Canada and Australia—banks had taken on extreme risks before the crisis, and governments hastened to their rescue when they got into trouble. As Hindmore and McGeechan (2013) argued, however, the banks “too big to fail” position was in turn the result of their previous efforts to attain this position. Different structural relations between financial institutions and governments in different countries, not so much the visible amount of lobbying etc., determined these outcomes.

A good way to understand such processes of political capture by economically powerful actors is through the concept of “rent-seeking” (first described in Tullock 1967). It describes the way in which economically powerful agents twist the rules of the economic game in order to benefit economically, for example by seeking subsidies, or by lobbying for weaker regulation, which then allows them to impose negative externalities on others.<sup>21</sup> This concept builds on the approach of an influential strand of work in political economy, that of constitutional political economy (see, notably, Buchanan and Tullock 1962: part IV; Brennan and Buchanan 1985; Buchanan and Congleton 1998; Holcombe 2018).

“Rent seeking” is not only a theoretical possibility, but the social reality in many countries. As Reich (2015), for example, analyses with regard to the US, numerous ways in which the “rules of the game” have been changed in recent years have been initiated by those with economic power, for their own

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20. Christiano (2010) argued that capitalists have a duty not to exercise this power, but in saying this, he accepted that they possess it.

21. Some authors use the term “regulatory capture” differently; we here run them together because the point of “regulatory capture” usually is to extract rents.

benefit. If those with more economic power can gain more political power than the rest of the population—a phenomenon for which political scientists have found empirical evidence (e.g., Gilens and Page 2014)—the whole system enters a slippery slope. The more it moves into this direction, the more difficult it becomes to resist re-feudalisation, and it is likely that not only economic, but also other liberties will be eroded in the long term.

From the work on rent seeking and the empirical analyses that show its empirical reality, one can draw different normative conclusions, going into quite different directions.<sup>22</sup> The first—the road taken by most authors in the constitutional choice tradition—is to be skeptical of “big government.” The less there is “up for grabs,” the fewer opportunities there are for special interests groups to capture state institutions for their own benefit. As Holcombe, for example, recently put it in an extensive discussion of “political capitalism” (2018: 249): “If the problem is elite abuse of government power, the obvious remedy is to reduce the power of government, which would reduce the power of the elite to use government for their benefit.”

But there is also another possibility, which is to emphasize the need for more democratic control to protect against special interest groups, and in particular against the influx of economic power.<sup>23</sup> Here one can think, for example, of the legal rules around campaign finances. From this perspective, it is a fundamental question how much economic equality is compatible with democratic and legal equality in the long run (see also below).

Which of these roads one prefers certainly also depends on other elements of one’s set of beliefs, both normative and descriptive. This is not the place to argue for one version or the other, but it is worth noting that what we here see is a dispute between libertarian and liberal-egalitarian camps that concerns not so much the most basic normative principles that different commentators hold, but rather empirically grounded estimates about how likely it is that certain institutional patterns can be stabilized, and which strategies are necessary or sufficient to prevent the regression into a self-reinforcing form of feudalism in which a small elite holds both political and economic power in its hands, at the cost of the rest of society.

To be sure, real-life politico-economic processes are far more complex than the two self-reinforcing cycles we have here described. Contingent constellations, e.g., the personal chemistry between politicians and/or business leaders, can play an important role. Path dependencies are likely: once a certain set of institutions is in place, other institutions will often develop in com-

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22. Combined strategies are also possible, depending on institutional settings and different spheres of government.

23. See for example Olson (1993) on the need for democratic control to maintain the conditions for security of property and contract in the long run.

plementarity to the existing ones.<sup>24</sup> And sometimes, different processes that go into different directions can take place at the same time, leading to complex settings in which there can be strange alliances, and timing can be critical (cf. also Geuss 2008: 31ff. on the importance of “Kairos”). Savvy politicians and activists, but of course also savvy business people and corporate lobbyists, are well aware of these facts. Theorists of distributive justice should incorporate them into their thinking as well.

### Theoretical Implications, Ideal and Non-Ideal

As we have argued earlier, mechanisms of economic power only make rare appearances in theories of distributive justice. Sometimes power is simply neglected, i.e., not made an issue at all. In other cases—maybe more often—certain constellations of power are simply assumed (one might also say “reified”), because it is taken for granted that the state can impose its principle of justice even on the most powerful economic agents, along the lines of the “primacy of politics” model. Today, this is highly questionable.<sup>25</sup> This is why we need to make power explicit when theorizing justice—and this holds both for the level of “ideal” and the level of “non-ideal” theory.

Rawls, in his *Theory of Justice*, on rare occasions sounds like he was aware of the political economy perspective, for example when he points out that certain “levies and regulations” are meant, among other things, “to prevent concentrations of power detrimental to the fair value of political liberty and fair equality of opportunity” (1999: 245), and that progressive taxation can help to “forestall accumulations of property and power likely to undermine” the institutions that “preserve the justice of the basic structure” (1999: 246). In a curious side-note, he delegates questions about how to prevent “inequities in the economic and social system” from undermining “political equality” to “political sociology,” holding that his theory is one “of justice” and not “of

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24. This is emphasized in the research on “varieties of capitalism” (see in particular Hall and Soskice 2001).

25. Another form of reifying power, which we also find questionable, is to naturalize *economic laws*, as if institutions could not make any difference to them. Such a line can sometimes be found among commentators inspired by Marxism, who see political structures as nothing but the superstructure of economic power relations, or by scholars who see historical laws as impossible to resist (e.g., recently Van Bavel (2016)). The problem can be illustrated by the recent debate about Piketty’s (2014) *Capital in the 21st Century*, in which he argued for the existence of a “law” of capitalism, namely that “ $r > g$ ,” i.e., capital returns are higher than growth rates. As some commentators (e.g., Galbraith 2014) pointed out, this “law” depends on institutions, especially property rights and taxation. By arguing for a global capital tax, Piketty himself also deviated from a deterministic view: he seemed to assume that there can, in principle, be the political will to impose such a tax on capital.

the political system.”<sup>26</sup> Other theorists, notably G.A. Cohen (e.g., 1997), have gone even further in arguing that “justice” and “political systems” are entirely different things. But can we really separate the two so clearly?

It might be said, along Rawlsian lines and in terms that have recently been much debated, that power is only relevant for “non-ideal theory,” in the sense of the *transition* towards a more just society (e.g., Valentini 2012). Our emphasis on the current state of inequality and on the globalized economy might be understood as saying that economic power is important *now*, because we are in a very non-ideal situation indeed. But according to this response, it would *not* be necessary to think about economic power—or indeed other forms of power, for example religious power, which we have here bracketed—when thinking about an ideally just society. The latter question is sometimes understood as being *only* about principles, and not at all about institutions.

But this move is highly debatable. Theories of distributive justice of the Rawlsian and post-Rawlsian kind take a *certain* distribution of power—which above we have characterized as the “primacy of politics” model—as given, thereby absolutizing a rather specific historical situation. Every conception of an ideally just society is, by implication, also a theory about the distribution of power in it. The question thus is whether the power relations are self-stabilizing or self-undermining—and this question cannot be answered in isolation from questions of “who gets what?,” because distributive outcomes have too massive an impact on how power is allocated. Therefore, power matters not only “on the way” towards justice, as it were—it matters for ideally just societies as well. At a minimum, it is a side-constraint on theories of distributive justice that they must be stable in the long run, i.e., they must not produce outcomes that lead to self-reinforcing, destabilizing dynamics. In other words: justice should be stable in the face of power differences, which implies that these differences, and the potential effects they can have, may have to be limited.<sup>27</sup>

What are the more concrete implications of the political economy perspective on distributive questions of justice? One issue stands out: the question of how much inequality one can admit along *one* dimension if this might lead to unequal power, which could lead to self-undermining processes, either within the same sphere or by spilling over into other spheres. If one wants to hold on to an egalitarian position in one social sphere—whether an equal political say in democratic politics, or equality before the law, or certain forms of equality (of opportunity) in the economic sphere—one should not ignore power dif-

26. For further analysis of the separation between normative principles and empirical assumptions in Rawls, see Claassen 2016.

27. In that sense, considerations of power have a structurally similar function to the Rawlsian notion of stability. But the latter runs along rather different lines: it concerns the stability of the overlapping consensus and the socialization of individuals in a way that stabilizes that consensus (see esp. Rawls 1999: chap. 76).

ferentials in other spheres, and the ways in which unequal power can bleed from one sphere into another (see also Stiglitz 2013). Sometimes reducing the resources that can be “up for grabs” can also be a strategy—as outlined earlier in the context of rent seeking—for preventing spillovers of power between spheres.

These considerations are particularly relevant if one assumes that there can be tipping points at which structures that had previously been stable unravel very quickly. For example, once certain oligopolistic or monopolistic structures have been entrenched, it can be very difficult to break them up; but this might nonetheless be necessary for returning the system to a more equitable path.

A second implication is that theorists of justice need to be more explicit about the concrete mechanisms by which resources can be transferred *across* different social spheres—which can be imagined, roughly, along the lines described by Walzer (1983), without endorsing his normative perspective. A given distribution of income and wealth, for example, is not the same if in Situation A it can be used strictly only to buy consumption goods, whereas in Situation B, it can be used to buy better legal protection or better education for one’s children. Theories of justice and proposals for institutional design need to anticipate such questions, and be realistic about the possibilities of preventing inequality in one realm from causing inequality in another. This is a point that many theorists of distributive justice would probably accept, especially if they are not purely resourcist. But it is rarely made explicit, and its implications are not discussed. An exception is Machin (2013), who recently argued that the super-rich should have to choose between giving up some of their wealth or forfeiting some of their political rights.

Last but not least, when analyzing the conditions of domestic justice from a perspective that makes power explicit, one is automatically led to take the realities of globalization seriously. Ronzoni (2009) has argued that one important question for global justice is whether or not it creates conditions under which domestic justice can be maintained. Today, this is hardly the case, and there are several areas in which we can see obvious problems: the lack of coordination in tax law (e.g., Dietsch 2015), or the unconditional acceptance of private property rights across national borders (Wenar 2015). While these issues may appear to be at some distance from questions about distributive justice, we cannot completely abstract from them. In fact, it is precisely when we think about an ideally just future state of society—and not just about problems in the here and now—that we would want to make sure that our distributive theories, and the implicit assumptions on which they are based, do not overlook such issues.

## Conclusion: Theorizing against a Background of Power

In this paper, we have argued that theories of distributive justice should be more explicit about the notion of power, especially economic power. Every distributive outcome, whether of resources, primary goods, opportunities for welfare or any other currency, is also an input for the overall power relations in a society. Often, this dimension has remained implicit. By making it explicit, one can get a clearer picture of the relation between different forms of power, as we have here demonstrated with regard to economic and political power. We have suggested replacing the “primacy of politics” model with its highly demanding, and today rather unrealistic, assumptions by a “political economy” model that takes positive and negative self-reinforcing tendencies seriously.

The perspective we suggest implies that an important task for theorists—to be executed in collaboration with empirical social scientists<sup>28</sup>—is to develop a better understanding of the various manifestations of power in the contemporary world. Not all of these are equally hard to change. Some problems are glaringly obvious, such as direct channels for money to buy political power (Christiano 2012). Others are more difficult to understand, and it is more difficult to come up with potential solutions. For example, if one does not want to abolish large firms, which have undeniable advantages in terms of efficiency, how can their power be curbed?<sup>29</sup> Might we have to accept tradeoffs between the quality of products (provided by transnational companies) and the quality of our democracies (negatively affected by the power of these companies), and if so, how should we find the most defensible compromise? And don’t family structures as we know them (including inheritance) also create problematic power differentials that need to be held in check?<sup>30</sup> But how can this be done without in turn giving too much power to the state? And what is maybe the most difficult question of all: how can mechanisms of power that work on individuals’ beliefs and preferences be held in check?

In studying these questions, what matters are not only “big” institutional questions, but also seemingly technical and sometimes hidden mechanisms, for example details in legal codes such as the regulation of the press. For those who care about holding power in check, the struggles around such institutional

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28. The empirical literature can help to understand mechanisms through which power is translated from one sphere to another, but also throw light on the broad variety of institutional possibilities that are, in principle, available. For example, Ostrom’s work on the commons (e.g., 1990) shows how communities can implement systems of rules for governing shared resources. Pistor’s work on the legal construction of financial markets (2013; 2017) shows how financial products are shaped by legal possibilities and which problems of power this creates, thereby opening up questions about alternative legal frameworks.

29. See, e.g., Ciepley’s reflections (2013) on how the set of rights and duties ascribed to corporations could be readjusted.

30. Cf. e.g., Green (2016) on the dangers of “plutocracy.”

details can be important levers. It is worth locating, analyzing, and explaining such mechanisms and providing arguments for why they should be dealt with in one way or another from a perspective of justice.

At this point, we can move onto a meta-level, and situate the very act of normative theorizing within the picture we have sketched. Theorizing about alternative institutional frameworks—whether about large-scale alternatives or smaller, gradual changes—is itself a form of exercising power, or of countering other forms of power: the kind of power that acts on people’s beliefs and preferences. It works against reifying existing institutions, by pointing out how different things could be, and it develops proposals for alternative institutional possibilities. In this way, political theorists can contribute, together with many others such as artists, writers, and activists, to shifts in the ideological landscape that will hopefully help catalyze broader changes. They can do so, for example, by changing the feasibility constraints created by certain ideologies (Herzog 2015), or by pointing out how much the institutional reality deviates from the values officially embodied in constitutions and political speeches. The claim that certain power structures are unavoidable, that “there is no alternative,” as Thatcher had famously put it, is itself an exercise of power, which aims at undercutting proposals to change institutions. It deserves to be countered by a resolute denial, backed up by examples of institutional reforms that have indeed brought progress with regard to justice.

At the most abstract level, our picture thus also offers the possibility of reflexively capturing the role of normative theorizing. It can have a performative effect in which it makes the principles or values that it theorizes more likely to come about. While theorists can never fully predict whether or how this will happen—their messages might, after all, also become completely distorted and abused for political purposes they do not share—it does not seem too much to require some level of reflexive awareness about one’s own role from theorists who emphasize the importance of power relations. Theorists should be able to answer questions about whether their approaches support “the powers that be,” or whether they contribute, directly or indirectly, to a critical scrutiny of existing power relations that seem problematic. Such reflexive awareness should be part of what it means to be a theorist, whether one works on “big” foundational questions about values and principles or on “smaller” questions that might nonetheless be of great practical importance for justice.<sup>31</sup>

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