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HOW THE CAMPAIGN AGAINST ECONOMIC INEQUALITY UNDERMINES POLITICAL EQUALITY

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INTRODUCTION

In contemporary political and economic debates, the "political left" has identified inequality as a central problem, while the "political right" has downplayed the problems associated with inequality and argued that the left prioritizes equality over liberty. Both perspectives err in failing to distinguish *political* equality from *economic* equality—and in failing to recognize that there is an inescapable conflict between these two conceptions of equality. The current drive to shrink economic inequality, we argue, subverts a crucial political ideal that remains to be fully realized: a government that protects the equal individual rights of all citizens.

In this paper we show that political equality is a political ideal that grew out of the Enlightenment debate over the source and nature of political authority, a debate which led the best Enlightenment thinkers to conclude that the only legitimate purpose of government is the protection of the equal rights of

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individuals. It was the ideal of political equality that formed the intellectual foundation of the creation of the United States. Political equality, however, necessarily entails dramatic economic inequality: when the government protects the equal rights of individuals, those individuals will and *should* enjoy substantially different economic outcomes. By contrast, the government can only fight economic inequality through political *inequality*: by bestowing special privileges on some and placing special burdens on others. We conclude by noting that there is an inequality crisis in the United States today, but it is a crisis of political inequality, not economic inequality.[1]

I. THE DISCOVERY OF POLITICAL EQUALITY

Our modern understanding of equality as a guiding political principle emerged during the Enlightenment. Enlightenment thinkers believed that reason was the only reliable means of gaining knowledge of the universe and that all questions therefore had to be subjected to reason's light. Notably, this led them to question political institutions (including politically-empowered religious institutions) and inquire as to the source of legitimate political authority.

At the time, political and religious leaders were widely seen as having inherent authority to rule over society, a notion best captured by the Divine Right of Kings (*jure divino*) doctrine. To hold political power was to be bestowed with special privileges that the other members of society did not enjoy. Enlightenment thinkers such as John Locke, Samuel Pufendorf, and Algernon Sidney concluded that there was no rational basis for such inherent authority. "'Tis hard to comprehend," writes Sidney, "how one man can come to be master of many, equal to himself in right, unless it be by consent or by force."[2] Yet, "[n]o right can come by conquest, unless there were a right of making that conquest, which . . . can never be on the aggressor's side."[3]

The only proper basis for society, then, was consent, and the question became: what kind of society should a rational individual consent to? Their answer was: one that is beneficial to his life. This led thinkers such as Locke to formulate the new, central principle of Enlightenment political philosophy: inalienable individual rights. Rights, in the Lockean view, define the proper sphere of the individual's free, independent action. They are protections that enable every human being to engage in self-preservation, free from compulsion by others. Human beings survive by thinking and producing; Locke concluded

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[1] These arguments are developed in greater length in DON WATKINS & YARON BROOK, EQUAL IS UNFAIR: AMERICA'S MISGUIDED FIGHT AGAINST INCOME INEQUALITY (2016) [hereinafter WATKINS & BROOK, EQUAL IS UNFAIR].
[2] ALGERNON SIDNEY, DISCOURSES CONCERNING GOVERNMENT 353 (Richard Lee ed., 1805).
[3] *Id*. at 354.

from this that each individual possesses an equal right to life, liberty, and property. In concrete terms, this meant that individuals should generally be free to hold and communicate any ideas they pleased, conduct their social relationships as they pleased, and organize their economic relationships as they pleased, so long as they did not resort to coercion against other human beings. The government's role is to safeguard that freedom.[4]

This Enlightenment perspective shaped the thinking of America's founding fathers at a deep level, and would be echoed in the United States' founding documents—most explicitly in the Declaration of Independence. In the Declaration, Jefferson presents an argument for American independence based on Lockean principles:

1. All men are created equal.
2. Each individual has equal inalienable rights, including the right to life, liberty, and the pursuit of happiness.
3. The sole just purpose of the government is to protect these rights.
4. When a government becomes the blatant violator rather than the protector of rights, individuals are entitled to overthrow the government and institute a new, rights-protecting government.[5]

Today, political equality is often equated with civil rights, especially the right to vote. But that is far too narrow an understanding. Political equality should be understood as the view that no individual has the inherent authority to rule over another—that individuals are equal in their rights, and that the proper purpose of government is to protect those rights. Individuals should be treated as equal by the government: society should not be divided into castes that enjoy special privileges or that face special burdens. Political equality, then, is rightly understood as a certain perspective on political freedom. Freedom

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[4] *See generally* JOHN LOCKE, THE SECOND TREATISE OF GOVERNMENT (1704); *see also* A. JOHN SIMMONS, THE LOCKEAN THEORY OF RIGHTS (1992) (arguing that the individual has a right to life, liberty, and property, while the government's role is to protect against violence); Ayn Rand, *Man's Rights, in* THE VIRTUE OF SELFISHNESS (1964), https://campus.aynrand.org/works/1963/04/01/mans-rights (stating that a "right" is properly understood as freedom from compulsion, coercion, or interference by other men); TARA SMITH, JUDICIAL REVIEW IN AN OBJECTIVE LEGAL SYSTEM chs. 3, 4 (2015) ("[G]overnment is established an endowed with the power that it has because that power is needed to safeguard the freedom that is necessary for human well-being.").

[5] THE DECLARATION OF INDEPENDENCE paras. 1-2 (U.S. 1776).

names a particular relationship between the individual and the government: an individual is free to the extent the government secures rather than violates his rights. Political equality names the relationship between government and its citizens as a whole: individuals are politically equal when the government protects *each* individual's rights *equally*.

Voting, in this conception, is a derivative right. To create a rights-protecting government, it is vital that political leaders be *representatives*, not rulers. And therefore they must be chosen by those whom they are to represent.[6] The role of representatives is not to enact "the will of the people," as in an unlimited democracy. The government is an agent of its citizens, with delegated powers: namely, the power to protect their rights through the use of (retaliatory) physical force. This is the only power the people can delegate to the government. Since no individual has the right to violate the rights of other individuals, a group of individuals does not have the moral authority to vote to violate the rights of other individuals.[7] This explains why the founders went to great lengths to limit the power of the government. Had their only concern been to enact the will of the majority, the Constitution, with its system of checks and balances and its Bill of Rights, would have been unnecessary.

The American conception of equality as a moral and political ideal, then, refers to *political* equality. The moral force of the Civil Rights movement, for example, came in part from its appeal to this understanding of equality: the government was *not* treating blacks as equal to whites in their rights as individuals. Whites were being given special privileges, blacks were faced with special burdens, both in the sense that their rights were not being protected (as when juries would not convict whites of crimes on blacks) or were actively being violated by the government (as with segregationist laws). Justice demanded establishing their status under the law as rights-possessing human beings.

II. Political Equality and Economic Equality as Clashing Ideals

When individuals are equally free, their economic outcomes will be radically different. Some will choose to spend more and save less than others. Some will choose to go into high-pressure, high-paying fields, while others will choose more pleasant, less remunerative fields. Some people will create successful businesses, while others will struggle to hold down a low paying job. These and countless other differences entail tremendous economic inequality.

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[6] *See* Ayn Rand, *Representation Without Authorization*, *in* THE VOICE OF REASON (1990).
[7] *See* Ayn Rand, *The Nature of Government*, *in* THE VIRTUE OF SELFISHNESS (1964), https://campus.aynrand.org/works/1963/12/01/the-nature-of-government.

From the perspective of political equality, this is good.[8] Under the Enlightenment understanding, individuals flourish by living reason-guided, productive lives. The role of government is not to think and produce for its citizens, but to create a society in which each individual is *free* to think and produce, so that he can gain the benefits that come from living among other human beings while being guarded against the threats that other human beings can pose. Under such conditions, every individual *can* pursue happiness through exercising effort and ability, and will do so in different ways and to different extents.[9]

Such a system will not produce equal results. That is not the point of the system. The point is to enable individuals to flourish, and individual flourishing is not a *comparative* goal. To live a good life is not to live a better life than—or equal to—one's neighbors: to have a bigger house, a flashier car, or a more prestigious job title. It is, rather, to achieve a self-directing, self-supporting existence. Individuals flourish by pursuing and achieving a constellation of life-promoting values—a fulfilling career, intellectual growth, material wealth, deep and meaningful personal relationships—the value of which is not defined in relative terms but in terms of how much those values enhance our well-being as living organisms. When we speak of people "living up to their potential" or becoming "the best they can be," we are tacitly acknowledging that a successful life consists of the individual making the most of his own abilities, whatever they are, not of outshining others.

From the perspective of individual flourishing, economic inequality per se is neither good nor bad. Economic inequality refers simply to a gap between people's income or wealth, and gaps in and of themselves have no bearing on an individual's well-being. Inequality can grow because entrepreneurs have grown rich creating amazing products and services or because political insiders have lined their pockets with subsidies and other special privileges from the government. Inequality can shrink because those at the top have become worse off or because those at the bottom have become better off.[10] If our concern is individual flourishing, gaps in economic outcomes are irrelevant. What matters

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[8] *See* MICHAEL ZUCKERT, THE NATURAL RIGHTS REPUBLIC 21 (1996) ("It should also be apparent that the Declaration's proclamation of human equality is not a mandate for equality of condition. Inequalities of wealth, for instance, do not of themselves violate the principle of equality contained in the Declaration. Whatever merit this more egalitarian standard may have, it can not claim the authority of the Declaration.").

[9] *See* Onkar Ghate, The Morality of Freedom, Lecture at the Ayn Rand Institute (Oct. 1, 2015) (transcript available at https://campus.aynrand.org/campus/globals/transcripts/the-morality-of-freedom).

[10] Economic inequality can also grow or shrink for entirely neutral reasons, such as shifting demographics.

is whether an individual pursues his happiness in ways that leave others free to pursue theirs (namely, enriching himself through production and voluntary trade) or whether an individual seeks to rob and exploit others (as through theft, fraud, or government privilege-seeking).

Unfortunately, much of the language we use to talk about economic inequality suggests that one person's gain *necessarily* comes at other people's expense. If, for instance, statistics show that the gap between the top one percent income earners and the bottom ninety-nine percent of income earners has increased over ten years, it will often be described as "the rich have taken a bigger share of society's gains."[11] The implication is that "the one percent" are enriching themselves at the expense of "the ninety-nine percent." Such phraseology, however, reflects two deeply false assumptions about wealth, which we refer to as "the fixed-pie fallacy" and "the group-pie fallacy."

The fixed-pie fallacy treats economic success as if it was a fixed-sum game, in which there is only so much wealth to go around. If so, then the existence of inequality amounts to proof that someone has gained at someone else's expense. Arguing that "the riches accruing to the top have come at the *expense* of those down below," economist Joseph Stiglitz writes:

> One can think of what's been happening in terms of slices of a pie. If the pie were equally divided, everyone would get a slice of the same size, so the top [one] percent would get [one] percent of the pie. In fact, they get a very big slice, about a fifth of the entire pie. But that means everyone gets a smaller slice.[12]

What the fixed-pie fallacy ignores is the fact of *production.* If people are constantly creating more wealth, causing the pie to grow, then one person's gain doesn't have to come at anyone else's expense. It is obviously possible to get richer at other people's expense, as through theft, but a rise in inequality per se does not give us any reason to suspect that someone has been robbed or exploited or is even worse off. If the incomes of the poorest Americans doubled while the incomes of the richest Americans tripled, that would dramatically increase inequality even though every single person would be better off. Income and wealth gaps tell us nothing about the well-being of individuals.

The "group-pie fallacy" treats wealth as, in effect, a social pie that is created by "society as a whole," which then has to be divided up fairly. What qualifies as fair? In their book *The Winner Take All Society,* economists Robert Frank and Philip Cook begin their discussion of economic inequality with the

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[11] Ryan Messmore, *Justice, Inequality, and the Poor*, 10 NAT'L AFF. 115(2012), http://www.nationalaffairs.com/doclib/20111220_Messmore_Indiv.pdf.
[12] JOSEPH E. STIGLITZ, THE PRICE OF INEQUALITY 8 (2013).

following thought experiment: "[i]magine that you and two friends have been told that an anonymous benefactor has donated three hundred thousand dollars to divide among you. How would you split it? If you are like most people, you would immediately propose an equal division—one hundred thousand dollars per person."[13] In their view, if wealth belongs to the group as a whole, then absent other considerations, fairness demands it be divided up equally. It would be unfair for some members to arbitrarily take a larger share of the group's wealth.

But wealth is not actually a pie belonging to the nation as a whole. It consists of particular values created by particular individuals and belonging to those particular individuals. The fact that wealth creation often occurs through cooperation by groups of individuals doesn't change that fact. At every step of the productive process, contractual rights specify who has a rightful claim to the wealth involved. It follows that wealth is not distributed by society: it is produced and traded by the people who create it. To distribute it requires society to first seize it from the people who created it.

Thus, Frank and Cook's analogy is completely inappropriate. Because wealth is created by individuals, there is no presumption that people should end up with "equal shares." A better analogy is a farmers market. If Joe sells seventy oranges he has grown, and Sally sells thirty oranges she has grown, Joe hasn't "grabbed a bigger piece" of the farmers market pie. He has simply created more wealth than Sally, and his larger income has left Sally no worse off. It is wrong to accuse Joe of taking seventy percent of "the farmers market's wealth."

In a market economy, an individual's income reflects the amount of economic value he creates—and individuals produce very different amounts of economic value. A bestselling author, for example, creates a product that millions of people are willing to pay, say, ten dollars for. The author becomes a millionaire, the net worth of the buyers goes down a tiny amount, and inequality increases—even though everyone is better off. The author's riches don't come at the expense of readers, nor do they come at the expense of less successful authors. Less successful authors make less money, not because they have been robbed or exploited by more popular authors, but because book buyers value their work less. The same holds true for every other producer: to the extent that people's income and wealth emerge from voluntary decisions rather than coercion (private or public), economic inequality reflects differences in the valuation people place on goods and services—not, as the inequality critics imply, the victimization of the less well-off.

To think clearly about the justness or unjustness of economic outcomes requires jettisoning the entire concept of "economic inequality." Thinking in terms of relative income differences obscures crucial distinctions regarding

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[13] ROBERT H. FRANK & PHILIP J. COOK, THE WINNER-TAKE-ALL SOCIETY vii (1995).

how people acquired their income and wealth and what the effects are on the lives of flesh-and-blood individuals. It thus encourages us to put wealth-creating entrepreneurs into the same moral category as wealth-destroying criminals and political favor-seekers—to treat Amazon's Jeff Bezos as in some sense the moral equal of Bernie Madoff or the executives at Solyndra. In fact, economic gaps, no matter how large, are morally irrelevant if they emerge from free production and voluntary trade. And reducing gaps is morally toxic if it results from siphoning wealth away from those who create it.[14]

If economic inequality necessarily emerges from political equality, then it is also true that the only way for the government to fight economic inequality is by abandoning political equality as its governing ideal. The only way for the government to equalize economic outcomes is for it to give some people (the financially unsuccessful) special privileges (e.g. welfare state handouts, a minimum wage, etc.) and to saddle others (the financially successful) with special burdens (e.g., the progressive income tax, inheritance taxes, etc.). There is no such thing as being in favor of equality because different conceptions of equality conflict. A society may choose political equality as its governing ideal or it may choose economic equality—but it cannot have both.

III. TODAY'S INEQUALITY CRISIS

The inequality critics claim that the American Dream of unlimited opportunity is fading as the result of rising economic inequality. They argue that the government, far from fighting economic inequality, is helping foster it and that Americans are enjoying less economic progress and less economic mobility than in the past as a result.[15]

Although we think the inequality critics paint an overly negative picture of contemporary America, we also believe that there is an inequality crisis in the United States today. But it is a crisis of *political* inequality, not economic inequality. Today the government has an unprecedented amount of arbitrary power, which it uses to dole out special privileges to some and to impose special penalties and burdens on others. In our book *Equal Is Unfair:*

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[14] We object to the concept of "equality of opportunity" for similar reasons, although the phrase has been used by some thinkers to mean roughly what we mean by "political equality." *See* WATKINS & BROOK, EQUAL IS UNFAIR, *supra* note 1, at 78–81.

[15] *See generally* PAUL KRUGMAN, THE CONSCIENCE OF A LIBERAL (2009); ROBERT B. REICH, BEYOND OUTRAGE (2012); HEDRICK SMITH, WHO STOLE THE AMERICAN DREAM? (2012); THOMAS FRANK, WHAT'S THE MATTER WITH KANSAS? (2004); THOMAS BYRNE EDSALL, THE NEW POLITICS OF INEQUALITY (1984) (arguing that corporate interests have influenced Washington by benefiting the rich at the expense of the poor and causing crippling income inequality).

America's Misguided Fight Against Income Inequality, we catalog scores of ways in which the government treats individuals unequally and argue that this is what explains the disturbing decline of opportunity in America.[16] Here, we touch on just a few examples.

Much has been written in recent years about the phenomenon of cronyism, in which politically influential insiders are able to gain special favors from the government at the expense of other Americans. Perhaps the most notorious example is the bailouts of banks, auto companies, and insurance giant AIG during the Financial Crisis.[17] But cronyism extends far beyond bailouts: it includes government-granted monopolies, subsidies, loan guarantees, favorable tax treatment, tariffs, regulations that favor some companies or harm competitors, and much more. All of these special favors are win/lose. Government-granted monopolies mean higher prices and fewer choices for buyers, and a lack of opportunity for competitors; bailouts mean that taxpayers are forced to save a company that is going under, and competitors are denied the opportunity to take advantage of that failure; subsidies mean that the government taxes money from some people in order to give it away to favored businesses, putting competitors at an unfair disadvantage; and so on.

Cronyism, however, is not properly understood as favors to business: it is simply another name for the government privilege-granting that myriad groups engage in. Entitlement programs, such as Social Security and Medicare, are government privileges, in which wealth is redistributed from the young to the old, as are welfare programs that transfer wealth to the less well-off.[18] Whatever form they take, and whichever constituency they are intended to benefit, government privileges involve the state using force to provide some with unearned benefits at the expense of others. This is precisely what political equality rules out.

Turning to ways in which the government restricts opportunity through special burdens: virtually all activities of the regulatory-welfare state play a role in making it more difficult for some individuals to pursue happiness and success. A stark example is the minimum wage, which makes it illegal for an individual to work if he cannot find someone willing to pay him the mandated minimum. Effectively, it treats the least skilled workers as a caste of economic "untouchables," who, unlike more skilled workers, do not have the right to decide for themselves what employment arrangements are to their advantage.

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[16] *See* WATKINS & BROOK, EQUAL IS UNFAIR, *supra* note 1, at 117–53.
[17] Jonathan Wesiman, *U.S. Declares Bank and Auto Bailouts Over, and Profitable*, N.Y. TIMES (Dec. 19, 2014), https://nyti.ms/2jClNiL.
[18] *See* DON WATKINS, ROOSEVELTCARE: HOW SOCIAL SECURITY IS SABOTAGING THE LAND OF SELF-RELIANCE 115 (2014), https://ari.aynrand.org/~/media/pdf/rooseveltcare.ashx.

There is a similar situation surrounding occupational licensing laws. These laws create a guild system that protects some incumbents from competition by forcibly preventing others from entering a field, regardless of their qualifications and skill, unless they undergo expensive and time-consuming trials—a burden that often falls on those who can least afford it. Probably the most destructive form of political inequality is in the field of education. Starting in the mid-nineteenth century, the government virtually monopolized the field of primary education, but has largely defaulted on its obligation to educate, subjecting millions of children to substandard and sometimes dangerous schools that only the affluent can afford to flee.[19]

Many of the government's restrictions on opportunity come in the form of driving up the cost of living through taxes, subsidies, and regulations. While this restricts opportunity for everyone, it imposes a particularly harsh burden on those trying to rise from the bottom. The reason U.S. health care is so expensive, for example, is mainly because government intervention has subsidized demand for medical care (e.g., Medicare, Medicaid, SCHIP, ObamaCare) while restricting its supply (e.g., certificate of need laws, a draconian FDA approvals process).[20] Basic economics teaches that this will lead to exorbitant prices.[21] Nor is health care the only example of how the government drives up living costs. Zoning laws and other building restrictions have raised the price of housing in many parts of the country;[22] energy regulations, such as ethanol mandates, have raised the cost of energy;[23] pro-union laws raise the price of union-produced goods;[24] minimum wage laws, in addition to pricing some workers out of the labor market, drive up costs as well.[25] All of this amounts to a significant burden that makes it harder for Americans—especially poor Americans—to set aside savings, pay for education or job training, accept jobs that pay less today but offer greater opportunities tomorrow, or move to an area of the country with better employment prospects: in other words, to do the things that traditionally are associated with upward mobility.

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[19] *See generally* ANDREW J. COULSON, MARKET EDUCATION: THE UNKNOWN HISTORY (1999).
[20] John Cochrane, *After the ACA: Freeing the Market for Health Care*, GRUMPY ECONOMIST (Oct. 19, 2012), http://johnhcochrane.blogspot.com/2012/10/after-aca-freeing-market-for-health-care.html.
[21] *See* WATKINS & BROOK, EQUAL IS UNFAIR, *supra* note 1, at 134-38.
[22] Sanford Ikeda & Emily Hamilton, *How Land-Use Regulation Undermines Affordable Housing*, MERCATUS CENTER (Nov. 4, 2015), https://www.mercatus.org/expert_commentary/four-regulations-increase-housing-costs.
[23] INSTITUTE FOR ENERGY RESEARCH, ENERGY REGULATION IN THE STATES: A WAKE-UP CALL 23 (2010), http://instituteforenergyresearch.org/media/pdf/statereport.pdf.
[24] Christina D. Romer, *The Business of the Minimum Wage*, N.Y. TIMES (Mar. 2, 2013), https://nyti.ms/2jSvird.
[25] THOMAS SOWELL, BASIC ECONOMICS 172-75 (2004).

It is important to emphasize that poor Americans are not the only ones who are harmed by these restrictions on opportunity. The weight of political inequality falls on the backs of every American who wants to rise through his own effort and ability—including the entrepreneurs and business leaders whose activities drive economic progress.

We do not believe that the country has stagnated over the last four decades, as many inequality critics claim.[26] But we do believe that progress has slowed, and the reasons are straightforward. Namely, the burden of the regulatory-welfare state has undermined the source of economic progress: rising productivity driven by capital accumulation and innovation.

A system of political equality entails a laissez-faire approach to economics: individuals are free to produce and trade voluntarily, without interference by the government.[27] This allows innovation to flourish, raising productivity and, with it, the standard of living of every productive individual in the economy. Historically, no country has ever been completely free, but what we see when we look at history and around the globe today is that the freer a country is, the more economic progress it enjoys, and the less free a country is, the less economic progress it enjoys.[28] In the last few decades alone, global poverty has fallen from forty percent to fourteen percent, driven mainly by increasing economic freedom in China and India.[29] Economic freedom liberates the individual so that he can create new inventions, new businesses, new ways of doing business, and profit as the result of his effort.

Political inequality threatens that process. By allowing the government to control people's choices and confiscate their wealth, it constrains the process of capital accumulation and innovation.[30] The government-created taxicab monopoly allowed taxis to stagnate until Uber came along—and today some governments are banning ridesharing companies like Uber in order to prop up taxicab monopolies.[31] Government restrictions designed to serve the environ-

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[26] *See* WATKINS & BROOK, EQUAL IS UNFAIR, *supra* note 1, at 38–48.
[27] *Id*. at 99-107; YARON BROOK & DON WATKINS, FREE MARKET REVOLUTION: HOW AYN RAND'S IDEAS CAN END BIG GOVERNMENT 16–99 (2012); Ayn Rand, *What Is Capitalism?*, *in* CAPITALISM: THE UNKNOWN IDEAL 27-33 (1967), https://campus.aynrand.org/works/1965/11/01/what-is-capitalism/page1.
[28] *See* FRASIER INSTITUTE, ECONOMIC FREEDOM OF THE WORLD 23-24, https://object.cato.org/sites/cato.org/files/pubs/efw/efw2016/efw-2016-chapter-1.pdf.
[29] ANDREW DEATON, THE GREAT ESCAPE: HEALTH, WEALTH, AND THE ORIGINS OF INEQUALITY 41-46 (2013).
[30] *See* John Cochrane, *Economic Growth*, THE GRUMPY ECONOMIST (Oct. 26, 2015), http://johnhcochrane.blogspot.com/2015/10/economic-growth.html.
[31] Gabriella Lovas, *Hungary's Government Considers Banning Uber*, BLOOMBERG (Feb. 10, 2016), https://www.bloomberg.com/news/articles/2016-02-10/hungary-s-government-mulls-banning-uber-mobile-application.

mentalist lobby have made it all but impossible to engage in large scale development projects. ObamaCare's tax on medical device manufacturers' revenues depletes the research and development budgets that fund tomorrow's discoveries.[32] Minimum wage laws limit business models that rely on low-cost labor. Antitrust laws punish superlative competitors, and cause innovators to hesitate to enter new markets. Sarbanes-Oxley has imposed draconian burdens on public companies, arguably contributing to a dramatic reduction in IPOs and thereby limiting how fast some companies can grow.[33] Dodd-Frank has made it much harder to start a financial company, and government regulators have restricted the ability of existing financial institutions to lend, further inhibiting growth.[34] The list is truly endless. The mystery is not so much why economic growth has languished but how it remains as high as it is.

One of the tragic consequences of political inequality is that, by undermining economic progress, it *does* turn the economy into a fixed-sum game. For one person to win, others have to lose. One person's government favor comes at another's expense, and since genuine economic production becomes more and more difficult, favor seeking becomes the main way that individuals and businesses try to get ahead.

Having seen the way in which political inequality entails, in practice, a litany of government privileges and burdens, we can now see the flaw in the common claim that there is no conflict between political and economic equality[35]—that, on the contrary, economic inequality undermines political equality because "the rich" can allegedly use their financial resources to gain undue influence over political decision-makers.[36]

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[32] Internal Revenue Service, *Medical Device Excise Tax: Frequently Asked Questions* (2016), https://www.irs.gov/uac/medical-device-excise-tax-frequently-asked-questions.

[33] Marvin Dumon, *How the Sarbanes-Oxley Era Affected IPOs*, INVESTOPEDIA (Aug. 15, 2014), http://www.investopedia.com/articles/financial-theory/09/how-sox-affected-ipos.asp. *See generally* 15 U.S.C. § 7241 (providing the civil provisions of the Sarbanes-Oxley Act); 18 U.S.C. § 1350 (providing the criminal provisions of the Sarbanes-Oxley Act).

[34] Cochrane, *supra* note 30.

[35] Clement Fatovic, in CLEMENT FATOVIC, AMERICA'S FOUNDING AND THE STRUGGLE OVER ECONOMIC INEQUALITY 2-7 (2015), asserts that the founding fathers regarded economic inequality as a threat to political inequality. Although his conclusion is overstated, it is true that some of the founders saw economic power as a potential threat to political freedom, and saw some role for government in preventing the concentration of economic power. We regard this as an inconsistency, albeit an understandable one. Recall that prior to the development of capitalism great wealth was virtually always tied to political power. Moreover, because the government was never fully separated from economics, as would follow from a consistent application of political equality, there were always opportunities for economic power to buy political power. Nevertheless, the conclusion that depriving people of justly earned fortunes is necessary to safeguard liberty was and is an error.

[36] This rationale is used by inequality critics to justify constraining the freedom of Americans to use their wealth to promote their political views: by "equalizing speech," we can allegedly

There is no question that when the government exercises control over the economy, money can buy political influence. Big political donations and well-funded lobbyists can grease the wheels of Washington and shape who gets favorable political treatment, whether it be subsidies, bailouts, or favorable tax and regulatory treatment.[37] The original sin, however, is not to be found in individuals and organizations using their financial resources to influence the government, but in a government that has an enormous amount of arbitrary power to dispense special privileges and burdens.

Under a system of political equality, it is likely that there would be some jockeying for influence; we can imagine, for instance, that companies who have an interest in how the government defines intellectual property rights might seek to shape how such laws are written. What we would not see is companies and industries built around lobbying for special favors or spending tens and hundreds of millions of dollars lobbying in self-protection. The government would have no power to redistribute wealth, protect companies from competitors, bail out failed companies, or interfere with voluntary economic relationships. It is only under a system of political inequality that it can be profitable to spend millions in an attempt to influence the political system, since politicians and bureaucrats have a virtually unlimited power to dispense favors and punishments.

Furthermore, fighting economic inequality will do nothing to promote political equality in a system where political equality is absent. It is a mistake to think of a system of political inequality as one in which "the rich" buy government favors through financial expenditures.[38] First of all, there is no such thing as "the rich," if that means an economic class with a shared set of beliefs, values, and interests. What did a visionary CEO like Steve Jobs have in common with a con man like Bernie Madoff besides the fact that both had a lot of money? What do the right-leaning Koch brothers have in common with the left-leaning George Soros? What does an innovator like Amazon's Jeff Bezos have in common with the political favor-seeking CEO of GE, Jeffrey Immelt? The highest earning individuals are a diverse group of men and

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equalize political influence. Our colleague Steve Simpson criticizes this perspective in STEVE SIMPSON, DEFENDING FREE SPEECH 95-106 (2016). It is also important to note that those who make this argument inevitably use "political equality" to mean something like "equal political influence" rather than the equal protection of individual rights.

[37] It is also true that much of the money that floods into Washington from business is really protection money. The government's enormous power over business means that a company that refuses to play the Washington game can find itself hampered by crippling taxes and regulations—as, for example, happened to Microsoft in the 1990s. *See* WATKINS & BROOK, EQUAL IS UNFAIR, *supra* note 1, at 151–52.

[38] *Id.* at 169-73; Ayn Rand, *The Pull Peddlers*, *in* CAPITALISM: THE UNKNOWN IDEAL 184–90 (1967), https://campus.aynrand.org/works/1962/09/01/the-pull-peddlers.

women with different beliefs, motives, virtues, faults, and achievements. It is wrong to treat them as a unified "class." Moreover, it is not only the wealthy who are able to exercise influence over the government. Political inequality unleashes pressure group warfare. Pressure groups of all types form to seek out special favors: bankers lobby for regulations that protect them from competition, the elderly lobby for larger Social Security checks, the poor lobby for larger welfare checks, unions lobby for laws that protect union workers, solar and wind companies lobby for "green" subsidies, taxi drivers lobby for protections from ride-sharing companies, and on and on it goes. It is myopic to focus on Gini coefficients, as if the solution to pressure group warfare were to make sure that all groups had equal war chests.

The key to ensuring political equality is to rein in the power of the government—not to take away the wealth and freedom of individuals. The claim by inequality critics that they are concerned with political inequality is revealed to be disingenuous precisely because they do not seek to limit the power of the government to dispense special favors and punishments. Rather, they seek to alter the mix of who is favored and who is punished. Although they denounce special favors directed at the affluent, it is not the special favors they object to, but the fact that those special favors benefit the affluent rather than the less affluent.

We have only scratched the surface of the ways in which political inequality has led to less economic progress, less economic mobility, and the growing sense that the American economy is less fair. Fairness, we stress, does not mean that everyone makes the same (or even roughly the same) amount of money. Rather, fairness requires that people get what they earn as the result of production and voluntary trade. We believe that this is the understanding of fairness most Americans accept (albeit inchoately), and that if we return to a system of political equality, the economic inequality that emerges will be seen as reflecting something good: the fact that some individuals are magnificently creative, innovative, and productive.[39]

CONCLUSION

We have stressed that the ideal of political equality follows from a particular political standard of value: individual rights. A just society is one that respects the equal rights of individuals, giving each the maximum ability to make the most of his own life. This leads, in aggregate, to unmatched economic progress and economic mobility.

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[39] *See* WATKINS & BROOK, EQUAL IS UNFAIR, *supra* note 1, at 185–206 (2016); Ayn Rand, *An Untitled Letter*, *in* PHILOSOPHY: WHO NEEDS IT (1982), https://campus.aynrand.org/works/1973/01/01/an-untitled-letter.

But such a system inevitably and *properly* leads to enormous differences in economic condition among individuals. These differences reflect the different capacities and circumstances individuals face, and—above all—the different *choices* that individuals make. The only way to erase—or even curtail—those differences is for the government to treat individuals unequally: to provide special privileges to some and to place special burdens on others. Thus, there is no such thing as a social system devoted to equality, because a society that chooses economic equality as a goal has automatically rejected political equality as an ideal.