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A just yet unequal European Union: a defense of moderate economic inequality*

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ABSTRACT


What does justice require concerning socio-economic distribution among citizens of the European Union? The EU should reduce cross-national economic inequalities among inhabitants of different member states, but full economic distributive equality or a European 'Difference Principle,' may not be required. Individuals' claim to more political influence over matters controlled by their own state in the quasi-federal EU may permit some economic inequality. Section 1 orients this contribution relative to arguments for a European universal income. Section 2 provides relevant features of the EU. Section 3 considers contractualist arguments against certain forms of economic *inequality*, while section 4 identifies a further argument in favour of *equal* shares of benefits of social cooperation, based on an interpretation of 'social primary goods' consistent with Rawls' theory. Section 5 argues that these reasons for economic distributive equality must be weighed against more political influence over matters controlled by the individual's sub-unit.

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1. Introduction

What extent of economic inequality is just among citizens across the European Union? One of the EU's objectives is to 'promote economic, social and territorial cohesion, and solidarity among Member States ...' (European Council, 2007). If our best justified standards of distributive justice require strongly egalitarian economic claims among compatriots, what do principles of distributive

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* The paper draws on several previous articles, and was developed while a visitor at the MacCormick study centre of the Faculty of Law, University of Edinburgh. This was most fitting, as Neil MacCormick contributed extensively to several of the central issues at stake: the normative significance of 'voluntary obligations,' and social democracy, subsidiarity and citizenship 'beyond the sovereign state.' This article has been corrected with minor changes. These changes do not impact the academic content of the article.

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justice require among Europeans? Does European distributive justice require only a minimum economic level for all, be it below subsistence level or above? Or should the EU be much more egalitarian, held to a European-wide version of Rawls' Difference Principle (Rawls, 1993b)? That is, to only allow deviations from equal shares that increase the real income and wealth of the economically worst off segment of Europeans? Yet others may hold that the conjoined multilevel institutions of the EU and the member states should reduce economic inequalities among inhabitants of different member states. But why, and how much? Should these European institutions rule out inequalities across member state borders e.g. to ensure non-domination and well-functioning institutions, but also allow some extent of economic inequality? The present article defends the latter position – moderate economic inequality.

A commitment to the equal concern and respect due to each individual is compatible with distributive standards of justice for political orders with federal features such as the EU – 'federal orders' – that allow moderate economic inequality beyond what the Difference Principle permits. The main reason is individuals' interest in some political autonomy for their sub-units – the member states of the EU – even at the cost of some economic inequality. So this position rejects familiar statist arguments against extending egalitarian concerns beyond the state. Several arguments against certain economic inequalities hold across state borders, and there may be as much interdependence or interaction among individuals in different sub-units. Individuals have an interest in being members of political communities that enjoy political autonomy over some decisions and policies, even if the result leaves the individuals somewhat worse off in terms of income and wealth than they would be under alternative, more centralized distributions of authority. This is not an unfortunate effect of a second best European order, resulting from an unfair bargain among formerly independent sovereign states with vastly different economic power.

In federal legal and political orders, the states retain some domains of domestic political autonomy while central authorities decide many other issue areas. Some level of economic inequality due to such political autonomy for sub-units is defensible in the sense of being unobjectionable on grounds of justice: Some economic inequality among the sub-units do not give rise to reasonable objections by those economically somewhat worst off. Their marginal economic loss is offset by their greater political control over matters under the control of their sub-unit.

These arguments in favour of moderate economic inequality are highly relevant when assessing responses to recent economic crises, including the Euro crisis and the Covid-19 crisis. They underscore the need to assess and accommodate claims both against economic inequality, and to local political autonomy. The diagnoses and prescriptions of the crises vary greatly. Who must bear the responsibility, and who must bear the burdens of responses to the Euro crisis? – Those who are worst hit; those who admitted states into the

Euro-zone against clear evidence that the states did not satisfy the criteria; those who are partially responsible for the (democratic) domestic responses; all other Euro-states; – or all EU member states – including those who chose not to commit to the Euro regime partly out of fears of such shocks? Insofar as different impacts of the Covid-19 pandemic in different states is due to politicians' choices ranging from health-care preparedness to lock down strategies, should other member states shoulder the – quite variable – economic costs? Regardless of the contested complex set of causes of the various crises, the implications are dire.

Consider how several plans have been proposed to alleviate the Euro crises, many of which would appear to require drastic transnational redistribution or predistribution.¹ Several authors caution that the extent and form of redistribution required in the aftermath of the Euro crisis would be so extensive and complex that it will impose implausible strains on the requisite 'solidarity' (e.g. Scharpf, 2013b). Habermas and others make functionalist or normative spill-over arguments that this requires a supranational democratic political union – or at least shared stronger fiscal and financial regulation (Schimmelfennig, 2014). We might expect similar calls in the wake of the Covid-19 crisis – and in the wake of future pan-European shocks.

1.1. Outline

The remainder of this section seeks to indicate how this contribution relates to prominent alternative standards of distributive justice for Europe, including calls for a European Basic Income. Section 2 presents features of the EU relevant for the arguments against economic inequality, and concerning federal orders. We then consider arguments in favour of equality, which I argue also hold for federal orders. Section 3 recalls some of the strongest arguments against certain forms of economic inequality, following the contractualist tradition of Rawls and Scanlon. Section 4 identifies and elaborates a further contractualist egalitarian argument in favour of a baseline of *equal* shares of benefits of social cooperation, based on a particular interpretation of 'social primary goods' consistent with Rawls' theory. It shares some features with Sangiovanni's argument from reciprocity, but is also different in important ways. Section 5 argues that these reasons for economic distributive equality, strong as they are, must still be pruned by the conflicting reasons EU citizens have to value more extensive political power, in the form of sub-unit autonomy within federal orders. Individuals' reasons for strictly equal shares of income

¹ Such as a cyclical adjustment insurance fund (proposed by the 'Tommaso Padoa-Schioppa Group' cf. Padoa Schippa, 2012), a European Marshall Plan to reduce unemployment and poverty (Scharpf, 2013a); further fiscal and economic centralization, such as in the 'Blueprint' proposals by the Commission and the Presidency of the Council (European Commission, 2012) to coordinate these sovereign decisions; a Eurozone tax for stimulus programs in particular states; or partial collectivization of national state debts.

and wealth across the federal order may be outweighed by reasons to enjoy somewhat more, equal, political influence over matters controlled by their sub-unit. Disagreements about the causes and possible remedies for the Euro crisis provide some examples. Section 6 concludes.

1.2. *Some preliminary clarifications*

The defense of moderately inegalitarian standards of distributive justice for the European political order is quite narrow. The normative perspective considers each individual as political equals, specified in a contractualist way, and the arguments hold for federal orders, including the European Union. There are reasons to regard some economic inequality among individuals of different sub-units as just, even though the economically worst off individuals would be economically somewhat better off with less such economic inequality.

The claim is not that the *current* inegalitarian distribution of income and wealth in Europe is just. There are striking differences in net disposable income across the states, corrected for purchasing power differences. The EU-28 has a Gini coefficient of around 0.35. This is as unequal as the most unequal of its member states (Bulgaria, Portugal and Latvia) – as compared to the Gini coefficients of Sweden, Slovenia and Slovakia of 0.24–0.28. About 30% of the overall inequality expressed by the Gini coefficient appears due to inequality between the states, the rest due to within-state inequalities (Filauro, 2018, pp. 13–14).

The present argument concerns standards of distributive justice for assessing an on-going political order with federal features. It departs from several important and familiar previous contributions which address other topics. Such other subjects include when existing states should agree to *create, join or expand* such a federal order. The relevant normative baselines for such matters may include the different economic levels among a set of pre-existing, domestically just states. Thus, concerning standards for states that create or join such a federal order, Cheneval maintains that the arguments support not a Difference Principle applied among all individuals, but rather among the sub units – the state peoples (Cheneval, 2011). Sangiovanni similarly relies on some such baseline of existing independent states when arguing that the subject matter for distributive justice for the EU is only the *added* risks and economic benefits that the EU brings to the member states and their citizens (Sangiovanni, 2013, pp. 223–228). Such baselines are typical for actual negotiations leading to federal or confederal arrangements, or when negotiating new members. For instance, smaller formally sovereign units require pay-offs and ‘constitutional’ protections to consent to a union where they risk minority status; and richer states may require safeguards against long-term redistributive mechanisms. We can expect states that can exist independently to strike harder bargains (Filippov et al., 2004, p. 315).

However, at later stages such pay-offs and safeguards may be challenged and overturned (Pinder, 1993, p. 101). One reason may be that the normative arguments shift over time, when such a political ‘federal grand bargain’ becomes part of the ‘background structure’ that frame particular interactions in an ongoing legal and political multi-level order. Our concern here are the standards of distributive justice for such a background structure with specific federal features.

Consider how this argument relates to the important normative debates concerning various proposals for European universal income – Europe-wide redistributive policy proposals to secure individuals a cash benefit. There are several interesting different alternatives (Groot & Van Der Veen, 2019; cf. Scharpf, 2019), and the present discussion is not an alternative or challenge to them. The proposals differ on important matters – such as whether the economic support should be universal and unconditional; and which level it should be set at. Should it depend on some contribution by the individual to society? Should it secure a decent, cost-of-living adjusted standard of living (as the Euro divided, Van Parijs, 2019)? – at a level that may be insufficient for survival (as the Participation income, Atkinson, 1996); or need based (as the Euro-stipendium, Schmitter & Bauer, 2001).

Each of these accounts have been subject to important, yet perhaps surmountable criticisms. The more ambitious ones may be politically unlikely and create disincentives – both for individuals to not seek gainful employment, and for states to not create real opportunities for their citizens to do so (Scharpf, 2019). Several alternatives may bear heavy administrative costs, not least to reduce suspicions of abuse (De Wispelaere & Stirton, 2007). The mere suspicion of such strategies and cheating by individuals and authorities may lead other actors to not comply, even those who would favour measures that enjoyed general compliance.

Assuming that some of the minimum income proposals may survive such challenges, they would be normatively attractive also on the present account – not least because they would seem compatible with a range of reasonable normative premises (Viehoff, 2017). However, such proposals cannot then be an exhaustive account of what European distributive justice requires. They are better seen as supplements than replacements for other welfare arrangements. And many of these proposals are interesting contributions to ‘non-ideal theory,’ as strategies to move from the present unjust European order in the direction of a more just European Union. The present account holds that more than a basic economic minimum seems required to secure European distributive justice. Indeed, there is a risk that a narrow focus on such a European Basic Income may tempt governments to erode other domestic or European policies. So on its own, such policies may hinder other important concerns including gender justice (Robeyns, 2001).

2. Some salient federal features of the European Union: economically unequal, asymmetric, permitting exit

To motivate the question about permissible economic inequalities in the EU as well as the answer pursued here, consider several aspects of the EU that it shares with other federal orders. Considered together, the member states and the EU, form a European order with some features similar to 'coming together' asymmetric federations. Formerly separate sovereign states have agreed to embed pooled legal authority over several issue areas. The structure is asymmetrical because states have decided to retain or pool different bundles of these legal powers.

Federal arrangements may be appealing in theory and practice, to allow communities to coexist and cooperate. But egalitarians may be sceptical. Many such federal orders maintain substantial economic inequality among individuals across the sub-units. There are several methodological challenges in determining the levels, trends and complex causes of such inequalities, including how to adjust for purchasing power, and how to include social transfers in kind and 'pre-distributive' provision including public education and health care (Weziak-Bialowolska & Dijkstra, 2014, p. 9). Leaving such measurement issues aside, political orders with federal elements are often characterized by a greater level of economic inequality across sub-units borders than unitary states (Beramendi, 2007; Rogers, 2016). Indeed, some hold that 'There is no escaping from a compelling truth: federalism and equality of result cannot coexist' (Wildavsky, 1984, p. 68). Such pessimism is overstated. Inegalitarian tendencies in federal orders vary in ways relevant for the EU (Linz & Stepan, 2000). For those who are in favour of more equal economic shares among EU citizens, there is bad news and good news.

Firstly, 'coming together' federations created by sovereign states united for certain limited purposes tend to have higher levels of economic inequality across sub-units than do 'holding together' federations created to keep regions together. These inequalities tend to be even greater once we include public expenditures on health care, education, unemployment protection and old age pensions. Such in-kind welfare state social transfers usually remain largely under sub-unit control in the coming together federations. So also with the EU: the joining states at the time had quite different GDPs, and differing commitment to domestic egalitarian institutions.

A second important variation concerns the federations' formal or informal commitment to redistribution. The constitutions and original institutional designs may give sub-units various decision weight or even veto power over common decisions, and the constitutions may impose or withhold tasks of redistribution from central authorities. Generally, federalism and inter-regional inequality reduction seems possible and more likely if there are mechanisms of inter-regional revenue redistribution, and sufficiently centralized policy decision making (Linz & Stepan, 2000; Obinger et al., 2005). These

features are partly the result of the original objectives of the federation. Some assumed social policy responsibilities and revenue sharing (such as Austria and Germany), others not (e.g. Switzerland and the USA) (Obinger et al., 2005). Indeed, some federal orders explicitly include egalitarian distributive obligations. Germany's constitution requires '*uniformity of living conditions*' in the federal territory (1949, Art 72). At the other extreme, the US constitution does not mention any redistributive standards. Madison even claimed that the US Constitution was intentionally set up to prevent 'an equal division of property, or for any improper or wicked project' (Madison 1787/1961). The Canadian Constitution lays down an intermediate standard: it requires 'reasonably comparable levels of public services at reasonably comparable levels of taxation' (1982, Section 36/2). The EU appears to also be somewhere in the middle, since one of the EU's several objectives is 'strengthening of its economic, social and territorial cohesion. In particular, the Union shall aim at *reducing disparities* between the levels of development of the various regions and the backwardness of the least favoured regions' (European Union, 2008, Art 174, my emphasis).

Yet there are arguably at least four features that should constrain expectations for strongly egalitarian policies in the EU: institutional design, its asymmetric structure, its multiple objectives, and the legal opportunity to exit. They prompt us to address the appropriate extent of egalitarian distributive standards. Firstly, the decision procedures have explicitly been designed to curtail egalitarian redistribution. To be sure, richer EU states have long agreed to contribute to regional funds and agricultural subsidies. But the policies and distribution criteria were revised prior to the influx of poorer states after the Cold War. Fearful of later calls for egalitarian redistribution, richer states negotiated a constitutionally entrenched veto against too drastic measures. Economic equality among the expanded set of member states could not be the ultimate objective of 'solidarity ... between the Member States and between their peoples' (Treaty on European Union, 1997, art. 1). Such a goal would meet solid political opposition, given that the applicant states' GNP per capita was far below the EU average.

A second feature is the legal possibility of exit from the EU (Art 50). This further limits the political space for continual large-scale transfers away from more affluent member states, unless they are offered some other benefits in return (Stepan, 1999).

A third cause of less egalitarian policies in the EU is its asymmetric nature: different member states have tasked the EU with different objectives and powers – consider the differences among 'Euro-EU' and 'Schengen-EU.' The member states will thus correctly disagree about what the EU is 'for,' and what are the appropriate tasks of domestic governments, and hence which legal powers the EU needs in order to carry out its various objectives – including different interpretations of 'solidarity.'

A fourth reason that may restrict the egalitarian character of policies is that inter-state solidarity is only one among many tasks and constraints listed in the Treaty on European Union – including centrally market freedoms, as well as ‘economic and social progress for their peoples’ and a union ‘in which decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity ...’ and respect for the member states’ ‘national identities, inherent in their fundamental structures, political and constitutional, inclusive of regional and local self-government.’ These and other objectives require complex ‘balancing’ and tradeoffs that remain contested, both domestically and in the EU. Strictly egalitarian distribution can only be secured by centralized legislative and/or executive powers that harmonize across several sectors in light of their direct and indirect distributive implications. In effect, this would seem to require moving toward a unitary state rather than a federal order.

So the history, objectives and rules of the European legal order prompt the question of how egalitarian the distribution of income and wealth should be across member states. Are any such economic inequalities only the unfortunate effects of a second best European order, which was agreed as an unfair bargain among sovereign states with vastly different economic power? The following argument begs to differ. The justifiable distributive standards for the EU may be moderately inegalitarian. The salient features of the EU are elements of coming together federal orders, where individuals have a legitimate interest in maintaining existing domestic cultures and political institutions. The claim is not only that institutions which foster a certain extent of economic inequality are unjust but not so much as to require change. The justification instead rests on the need to accommodate individuals’ claims both to economic inequality, and to political autonomy. Some extent of economic inequality may be normatively justifiable in federal orders including the EU, and such federal orders are themselves justifiable. In the following, we first consider reasons to object to certain kinds of inequality and in favour of a baseline of economic equality, before turning to the interest in political autonomy for sub-units of a federal order.

3. Contractualist grounds for claims to equal shares

Why may the subjects of a political order claim equal economic shares, be it among compatriots of a nation state or within the EU? For our purposes, assume a contractualist normative theory. It specifies an egalitarian premise shared with many other theories. The principles of justice for institutions should secure and recognize the status of all subjected to them as somehow free and political equals. (Dworkin, 1978, Macedo, 1990; Rawls, 1971; Waldron, 1987). The contractualist theory specifies this commitment thus: Justified distributive standards should treat all in ways that could be justified to each who shares a similar motive of mutual justification (Scanlon, 1998, p. 162).

The topic of concern is the set of institutions that form the European political order. Institutions are understood as rule-governed practices. They distribute benefits and burdens among participants, both directly and indirectly. More profoundly, the institutions also shape the expectations, values and aspirations of the participating individuals. In the European political order, these institutions include both nation states as sub-units, and EU institutions that promote inter alia the four freedoms of movement within the EU of persons, goods, services and capital. These institutions combined have profound effects.

The contractualist perspective prompts us to seek principles for the rules of such institutions against which no reasonable objections can be made. One basis for reasonable rejection of some standard in favour of another would be if the former permits institutions that impose larger losses on someone, than anyone stands to gain under institutions permitted by the other standard (Scanlon, 2018). Our concern is whether there are reasons to reject federal orders in favour of requiring unitary states as a matter of justice, due to the economic inequality many federations engender. Who may object, on what grounds, to such inequality?

If existing inequalities are unjust they may give rise to justifiable feelings of inferiority and a sense of second-rate citizenship. But from a contractualist perspective it is not obvious that equal shares is the appropriate standard. It would seem an open question whether some economic inequalities may presumably survive reasonable objections. On the other hand, many liberal theories appear to take for granted that equal respect for all entails equal shares – be it of goods, opportunities, resources, or initially un-owned things (Cohen, 1989; Dworkin, 1981a, 1981b, Sen, 1980; Steiner, 1994). And Rawls' theory *Justice as Fairness* assumes as a base line equal shares of income and wealth, though its 'Difference Principle' allows exceptions insofar as inequalities benefit all (Rawls, 1971). So an important question is why and when substantive economic inequality violates the contractualist explication of the normative equality of all those living in a political order – including citizens of the EU. Consider briefly five familiar arguments against various forms of inequality.²

(a) Avoid misery

One reasonable objection to particular institutions and standards that permit them is that they regularly allow some individuals' basic vital needs, risking long-term suffering or death – while alternative institutions reliably avoid such misery. Several proposals for EU-wide universal income might be taken to address such concerns. This argument does not support equality of condition, but rather a minimum economic floor, and possibly constraints on economic

² For details, cf. Follesdal (2000), drawing on Scanlon (1997); Beitz (2001); Temkin (1995).

inequalities that would otherwise lead to unmet vital needs (Miller, 1995, p. 191; Raz, 1986).

(b) Secure non-domination

A central strand of the political theory tradition of (Neo)republicanism has focused on individuals' interest in avoiding subjection to the arbitrary will of others (Pettit, 1997; Skinner, 1998; Viehoff, 2017, p. 175, 2018). A social order is objectionable if it leaves some individuals vulnerable to the mercy of the powerful in avoidable ways. Extensive economic inequality may subject poor individuals to the arbitrary exploitative bargaining power of the richer. This is especially objectionable when economic inequality affects political control over institutions. They influence not only material outcomes, but opportunity spaces and even individuals' aspirations and preferences. This argument limits economic inequalities to ensure 'robust non-exploitability' (Viehoff, 2018). But limited economic inequality across the European order may remain, especially if important spheres of life such as education, health care or unemployment protection are insulated from markets (Walzer, 1983). However, the four market freedoms of the EU may challenge some established modes of insulating some spheres from the market. Again, several proposals for universal income would provide some such insulation, rendering individuals less susceptible to domination by potential employers (Viehoff, 2017, p. 175).

(c) Maintain fair procedures

Further limits to economic inequalities stem from our interest in control over institutions that shape our lives. In order to work properly and fair, institutions often must assume rough economic equality among participants. Thus the market freedoms of the EU may provide a more efficient allocation of goods relative to some base line only if all can afford information about alternative transactions and their consequences. Democratic rule worth respecting, both within member states and in the EU, similarly requires income and wealth to be distributed equally enough among voters to ensure information and real participation (Viehoff, 2018, p. 403). Effective political power should not rest with those whose purchasing power controls the media, the agendas of political parties, and the politicians' option sets (Dahl, 1985, p. 55). Such considerations about fair procedures constrain but do not eliminate all economic inequalities.

(d) Ensure equal opportunity

Economic inequality can hinder individuals' opportunities to pursue positions of power and privilege. This may violate their claim to what Rawls termed 'Fair

equality of opportunity' (Rawls, 1971, p. 73), or Scanlon's 'Substantive Opportunity' (Scanlon, 2018, p. 53). Individuals' likelihood to succeed in endeavours, including their aspirations and motivation, should not depend on the relative wealth and income of their family. Likewise, the likelihood of their success should arguably not depend on which sub-unit in a federation they live in. The extent of income inequality may thus indicate whether all enjoy equal opportunities. So it seems appropriate to include income inequality in the 'social scoreboard' that monitors implementation of the 2017 European Pillar of Social Rights (European Commission, 2017). However, there are flaws in this indicator. The objectionable levels of economic inequality depend on how such inequality affects the conditions for individuals' opportunities and choice. Differences in disposable income may be less objectionable in states that provide free and high-quality education, healthcare and benefits during unemployment. This makes it difficult to compare equality of opportunity across EU states. A better indicator may therefore be 'net adjusted disposable household income' (European Commission, 2010, p. 104; Stiglitz et al., 2009).

(e) Express status equality

Unequal levels of income and wealth may express status inequality, in violation of the 'recognition respect' owed all citizens as political equals (Darwall, 1977; Dillon, 1997; Fraser & Honneth, 2003). In several societies the population has come to expect equality of recognition, so that they regard even small departures from equal treatment as offensive expressions of lack of social esteem (Anderson, 1999). If authorities fail to correct such policies, they imply that some persons are of less worth than others (Fraser & Honneth, 2003). This argument seems sound, but has limited implications for economic distribution among citizens in a federal order. Firstly, which such (un)equal treatments are perceived as expressions of status (in)equality vary. Various forms of a European universal basic income might be perceived as public expressions of status equality, even though individuals' income may vary much above that minimum level. Secondly, the federal features of a political order such as the EU may reasonably affect citizens' reference groups as grounds for their self-respect. The individuals may often compare themselves to others within their sub-unit, rather than to others in the political order at large. This may reduce further any impact on individuals' self-respect of any justifiable economic inequalities across sub-units (Rawls, 1971, p. 388). However, the nature of the EU may increase the salience of broader reference groups, due to the free movement of workers. 'Guest workers' may find it harmful to their self-respect to be perceived by the host state and its citizens as migrants desperately seeking employment.

To conclude all these reasons to constrain economic inequality across member states appear to also hold in the EU, though the precise implications for permissible extents of inequality remain unspecified.

4. Claims to equal shares of products constituted by co-operation – including social primary goods

The arguments surveyed above hold against certain forms and extent of economic *inequality*. We now consider a further argument in favour of more stringently *equal* economic shares, based on individuals' contributions to uphold various social institutions including those of income and wealth. The present argument is in some ways a generalization of Aas' argument for equal shares based on how individuals constitute institutions through their compliance – including those of the EU (Aas, 2019). This section concludes by considering Sangiovanni's argument from reciprocity in contributions. There are some similarities, but the present account disputes that 'demands of distributive equality cease at the borders of states' (Sangiovanni, 2007, p. 38).

When do individuals have claims to equal shares of benefits of cooperation? I submit that this at least is plausible in cases when they have all contributed to the production of these benefits, where no one can claim prior claims to the benefits, and when no one have contributed more in ways that give rise to claims for a larger share. Such cases arise when each party's contribution cannot be easily determined, when alternative modes of cooperation would have yielded quite different distributions, and when there is no prior agreement regarding such distributions of benefits. When several individuals jointly labour to produce goods under such conditions, I submit that they have equal claims regarding these goods.³

When do individuals contribute jointly in such ways, where the contribution of each is difficult to discern? I submit that Rawls' strongly egalitarian distributive principles concerning a range of 'social primary goods' can be justified by this sort of argument.

Institutions are social practices that are typically established and maintained by the authorities' use of legal powers. But institutions are not only the creations of such legal powers, but also create those legal powers, privileges, immunities and so forth. They are constituted by the rules of practices. These legal powers exist only when the institutions exist – that is, when there are rules, that are generally complied with.

³ Scanlon notes that this argument is weak:

the force of appeals ... depends on a prior claim that as participants in a co-operative scheme the individuals in question have equal claim to the fruits of this co-operation. This is an appealing moral idea, but a controversial one to serve as the starting point for an argument in support of a particular conception of justice. (Scanlon, 1988, p. 12)

My account seeks to make the premise less controversial.

Consider the legal powers of political voting, property or money. These exist only as social practices, regulated by rules that define voting, ownership or legal tender (Coleman, 1990, p. 119; Searle, 1995, p. 28; Viehoff, 2017, p. 172). An individual *owns* something – indeed, this claim can be made sense of – only insofar as, and because, there are rules of acquisition and ownership that are publicly known and generally complied with by participants in the institution of property. Her property depends on others regulating their actions according to such public rules.

Legal powers are thus products of co-operation that only exist insofar as these institutions are maintained by several others who abide by the rules. General compliance with the rules constitutes the legal powers.

When we ask the question how such institutions should contribute to allocate property and other legal powers, I submit that the conditions mentioned above apply, in favour of claims that everyone has a *prima facie* equal claim. No one can easily be said to have contributed more in relevant ways, the practices could have been otherwise with different distributive consequences, and no one can claim prior claims to the benefits. Recall that a wide range of individuals participate in creating these legal powers. They include not only those who toil to create certain material goods, but also those who refrain from taking what the rules identify as others' property, or who accept it in exchange. They all cooperate in maintaining the practices defining property.

What about arguments that there are some individuals who have special claims – such as those who have toiled with the expectation that they would own the results that they deserve? In response, such claims seem to address a question different than that of what sort of distribution of benefits such practices should engender. Our concern is how institutions should allocate legal powers, in light of how they in turn shape what counts as desert, and indeed which shape individuals' expectations (Cf. Aas, 2019). In addition, their effort-based claims and even their motivation are to some extent endogenous to the institutions, and hence irrelevant for arguments about how the institutions should allocate such goods, expectations and motivations. A further objection to granting some individuals special claims due to the larger marginal added value of their contributions compared to others is that the contribution of everyone in the form of general compliance is a necessary condition. Without this contribution in place, there are no values to distribute, and attempts to identify anyone's marginal value due to their efforts and talents are misguided (Sen, 1985, pp. 15–16; Kutz, 2021; cf. Taylor, 2011, p. 171).

I submit that this argument for equal shares apply to legal powers generally – including both political control over institutions they live under, and income and wealth.

Indeed, this argument provides support for Rawls' very egalitarian principles for Social Primary Goods (Follesdal, 1991; Rawls, 1999). He defines these as political and civil rights, and equality of opportunity and income and wealth.

On the account given here, they are precisely legal powers, immunities and so forth which exist as aspects of practices generally complied with. The Social Primary Goods are, Rawls says:

... mainly features of institutions, that is, basic rights and liberties, institutional opportunities, and prerogatives of office and position, along with income and wealth (Rawls, 1988).

This brief summary of various claims to equal economic shares indicate that most of them are limited. The upshot appears to be that the best arguments serve to rule out *certain* inequalities that maintain misery, domination or serve to render procedures unfair. However, institutions should also engender equal shares of what Rawls calls social primary goods, including income and wealth, among those who comply with these practices. Some hold that such cooperation only occurs within states, or at least that there is a difference in kind rather than in degree of the cooperation among compatriots compared to that of foreigners. Consider now Sangiovanni's account.

4.1. Beyond reciprocity-based internationalism among states

Compare this argument for equal shares to Sangiovanni's innovative theory of distributive justice for the EU, based on what he terms 'reciprocity-based internationalism:'

demands of social justice are understood as demands for fairness in the distribution of the benefits and burdens generated by our joint production of collective goods. By contributing to the generation of such goods, we gain a stake in a fair share of the benefits made possible by them and an obligation to shoulder a fair share of the associated burdens. (Sangiovanni, 2013, p. 220)

The salient contributions include compliance with private law and taxation, 'to the reproduction and maintenance of the basic collective goods constitutive of the state' (Sangiovanni, 2007, p. 28).

So far, the two accounts agree. However, Sangiovanni holds that the nature of cooperation within and between state borders is so different as to make a normative difference:

principles of solidarity for the EU will be less demanding than those for the state level, in virtue of the more mediated and less comprehensive nature of the collective goods provided at the EU level. While of course the EU is also sustained by our compliance, trust, resources, and participation, the range of areas over which it has authority is comparatively narrow. (p. 223)

Distributive justice within the EU is therefore limited to areas where the EU's free movement of persons, goods, services and capital, and the European Monetary Union create new benefits and risks for the states' ability to deliver benefits to their constituencies (pp. 225–228). Economic inequalities across states independent of EU collaboration are beyond Sangiovanni's conception of EU

distributive justice. There are at least two weaknesses of this argument where the present account differs: the impact of EU cooperation, and the baseline of sovereign states.

Sangiovanni argues that European citizens do not provide the same range of collective goods as do compatriots:

European citizens rely *to a far greater extent* on the contributions, participation, influence of their fellow residents and citizens than they on the contributions, participation and influence of EU citizens and residents generally. (Sangiovanni, 2013, p. 229, my emphasis)

Sangiovanni points to the fact that the EU civil service is small, and the EU has neither much powers of the sword or of the purse (p. 229). However, international or regional rules do not matter *less* simply because they matter in different, more indirect ways. The budget and number of officials say little about the impact on domestic institutions of EU regulations. Consider, for instance, the drastic effects of the 27 judges and 11 Advocates General of the Court of Justice of the European Union on the European political order and on the lives of Europeans.

Sangiovanni's subject matter for distributive justice are only the new benefits and risks of the several shared institutions and rules. However, I submit that the form of interdependence among residents of the EU is so pervasive and complex, with profound direct and indirect effects, that it is impossible to isolate and compare the marginal relative benefits and risks of EU integration amidst domestic and international rules and interaction.⁴ A list of such risks (Sangiovanni, 2013, pp. 225–227) is not enough to identify the extent of claims individuals have against each other. Consider how difficult it is to determine the effects of agricultural subsidies, combined with the four freedoms, and a common currency, in complex interaction with rules of global economic integration which affect both states' ability and their willingness to protect their citizens against external shocks (Ruggie, 2003).

One conclusion is that it is difficult to identify the benefits and burdens of European reciprocity, over and above the creation of goods among compatriots within each European state. However, a second challenge to this account questions why independent states should be accepted as the base line, across which there are not claims of distributive justice based on reciprocity.

4.2. Sovereignty as a global social primary good

Several accounts, including Sangiovanni's, maintain that cooperation across sovereign states – even in the European Union – is so different from cooperation among compatriots that claims to equal shares fail. I shall suggest that the

⁴ Several authors on global justice make similar points – Beitz (1979), Pogge (1994), Lichtenberg (1981), O'Neill (1996), and cf. Miller (1995, pp. 104–105); Abizadeh, 2007.

contributions of all in upholding the system of sovereign states – inside and outside the EU – challenge this dichotomy and the distributive implications said to follow.

Sangiovanni maintains that

Equality applies only in circumstances in which we share in the *reproduction of a legal-political authority* that is ultimately responsible for protecting us from physical attack and sustaining a stable system of property rights and entitlements. The Slovenian government neither provides her with security against physical attack nor protects and delineates her property rights and entitlements. So there is no requirement to equalize the distribution of benefits and burdens among Italians and Slovenians. (Sangiovanni, 2007, p. 35, my emphasis)

Consider our international system of sovereign states. The states enjoy formal powers of external sovereignty: States are not subject to many decision-making bodies without their consent. And they are generally immune from forcible intervention by other states. These rules and practices of external sovereignty constitute states, as a global social primary good in the sense sketched above. These benefits exist only insofar as there is general compliance by various actors with certain rules. Sovereignty is a bundle of practices regulated by public rules:

if in fact we find that there exists among states a given form of international authority, the sovereignty of states is to that extent limited, and it has just that extent which the rules allow. Hence we can only know which states are sovereign, and what the extent of their sovereignty is, when we know what the rules are [...] There is no way of knowing what sovereignty states have, till we know what the forms of international law are and whether they are mere empty forms. (Crawford, 2012, p. 122; Hart, 1994, pp. 223–224; cf. Waldron, 2011, p. 328)

On this view, sovereignty is a global social primary good, the benefits and burdens of which all those who contribute to its creation have *prima facie* equal claims to (Follesdal, 1991). Now to be sure, someone who enjoys their property within a state can only do so insofar as other inhabitants of the state respect the rules of ownership. However, such enjoyment also depends on foreigners and their states respecting the sovereignty of the state. To be sure, the contributions of non-citizens and their agents who respect states' immunities are *different* from the contributions of citizens in the co-production of goods. But it is not easy to disentangle the relative marginal value of these different contributions. For the system of states, the global social primary good of sovereignty would appear to be another case where it seems misguided to look for the marginal value added by a *sine qua non* for the production (Sen, 1985, pp. 15–16).

This is a challenge to Sangiovanni's claim that European citizens rely to a *far greater extent* on the contributions of compatriots than on others in the EU (Sangiovanni, 2013, p. 229). Note that the importance of regional and international institutions is not diminished by the fact that much may also depend on

the quality of the domestic institutions (Risse, 2005, pp. 356–379). In an inter-related system, power and influence is not a 0-sum game. Indeed, unelected and incompetent elites may often remain in power because international law grants them access to international markets for weapons, loans and natural resources (Wenar, 2016). These and other legal powers are constituted by the international rules upheld by other governments and actors (Pogge, 2008).

To conclude this comparison with Sangiovanni's view: The implications of this account for distributive justice for the European Union would seem to extend the egalitarian claims among EU citizens, even beyond Sangiovanni's arguments. EU citizens have a high level of interdependence wrought by several shared institutions with profound direct and indirect effects – including sovereignty.

The strength of these arguments for economic equality among Europeans notwithstanding, in a political order with federal features, such claims to equal economic shares are not decisive. The reason is that individuals will arguably prefer more political power – another social primary good constituted by general compliance with rules. When more political power is secured by a multi-level political order, this has greater value even for the economically worse off than some increase in economic goods for them. We turn to consider that argument now.

5. Reasons to value sub-unit autonomy – priority of more political self-governance over strict economic equality

We now turn to consider why even such strong claims to equal shares of income and wealth may be set aside, namely for the sake of another central interest of individuals: political self-governance. Individuals have reason to prefer some sub-unit political autonomy even at some economic cost to themselves.

The previous section argued that a robust claim to equal shares of income and wealth is based on individuals' contribution to the existence of these legal powers by their compliance with the rules. These legal powers include not only money, but also political rights in the form of legal powers, privileges and immunities. Such benefits should hence also be shared equally among those creating them. In some cases, including federal political orders, individuals may enjoy more political control they have reason to value if some of those political rights are placed with sub-units – be it in a constitution or in a treaty. In the following I explore some reason why individuals can reasonably prefer protection and furtherance of some of their interests in political control within such a non-unitary political order, over a more unified and economically more equalized political order. Furthermore, individuals arguably have no reasonable complaints against such federal orders. Those who stand to benefit economically by

a more centralized political order – the poorest in a federal order – have somewhat less income and wealth, but enjoy more political control over various issues, and hence have no weighty grounds to object.

Contractualist reasoning seeks to assess the legitimacy of such split authority by a hypothetical contract between representatives of joining nations or states, deciding on the terms of their federation without knowing which nation or people they represent (Cheneval, 2011; Norman, 1994). These approaches may appear to reify social groups and their interests, rather than adhering to normative individualism, insofar as they appeal to other values than the interests of individuals. However, this argument does not rest on such premises. In the context of familiar Rawlsian arguments: Individuals' interest in 'a fully adequate scheme of equal basic liberties' including the fair value of political liberties (The Liberty Principle) takes lexical priority over principles for the distribution of economic benefits – including the Difference Principle (Rawls, 1993b). In our context: individuals have reason to prefer a more adequate scheme of political rights secured by some sub-unit autonomy, even at the expense of some income and wealth – within limits.

We consider the likely effects for individuals – benefits and burdens, risks and opportunities – of alternate allocations of authority. Some federal orders are argued to solve some problems better than unitary governments. Such tasks vary among the federal orders, but may include securing peace among the sub-units, strengthen their common defenses, or to better cater for and protect individuals' and member states' autonomy – compared to a strong centralized state. The latter arguments apply where individuals' interests and preferences cluster within sub-units of the political order according to parameters such as geography, resources, tastes or values. The EU treaties recognize this value of protecting diversity: the Preamble notes that the states seek 'to deepen the solidarity between their peoples while respecting their history, their culture and their traditions,' in a legal order where 'decisions are taken as closely as possible to the citizen in accordance with the principle of subsidiarity.' Indeed, the Union shall 'respect its rich cultural and linguistic diversity, and shall ensure that Europe's cultural heritage is safeguarded and enhanced' (Art 3) and respect the national identities (Art 4).

I submit that the arguments canvassed below justify why a multi-level federal order may sometimes provide a more adequate bundle of such political rights to secure individuals' interests than a centralized political order – and that such considerations may enjoy priority over marginal increases in income and wealth.

(a) Secure fit and responsiveness to local circumstances and expectations

To allocate some legal authority to sub-units may provide a better match between policies and the local conditions and the inhabitants' preferences

and expectations – be it for modes of commercialization or public provision of certain cultural goods. Some forms of sub-unit autonomy increase the responsiveness of institutions to each affected person's interests. The sub-unit citizens – including their poor – will have more or even exclusive voting power on these issues.

There is a risk that centralized authorities and laws fail to accommodate such local peculiarities. Thus a sub-unit may use its political power to create 'internalities' and 'club goods' for their citizens, who unlike the larger population prefer these goods, and are willing to carry the burdens of their production (Oates, 1972; Olson, 1969).

Note that this case for sub-unit autonomy holds only in some circumstances. The topics must be those where local fit matters for individuals' interests – even more than a marginal increase in income and wealth. So this constrains the permissible inequality among sub-units, since their opportunity set must not suffer due to relative lack of resources – be it for health care or education. And this argument holds among individuals in a sub-unit with shared circumstances – be they resources, values or existing institutions. Those similarly affected are more likely to comprehend the need and room for common policies. But 'internal minorities' are at risk. Such sub-unit autonomy should not systematically disadvantage minorities within the sub-unit. If members of such minorities also are the sub-unit poor, they would arguably have reason to prefer more centralized decisions over more local autonomy.

But added immunity and political power over some such issues can be more important for the sub-unit poor, their life plans and expectations, than controlling somewhat more economic resources – as would by hypothesis be available in a unitary political order. Even the relatively poor may prefer somewhat more authority to shape institutions to fit the local circumstances better, over a marginal increase in the economic resources to use *within* institutions that are less well suited.

(b) The value of choice as expressing our own preferences and identity

One further reason to value sub-unit autonomy stems from our interest in being able to collectively shape the institutions that in turn affect our lives. This may have several justifications, such as a more (neo)Republican recognition of a collective realization of individual autonomy, or the value of having institutions be the outcome of our own values and beliefs – even if somewhat flawed implementations of somewhat mistaken beliefs (Stilz, 2016, p. 101). The real ability to influence one's institutions, as a political equal, is an expression of one's own identity and membership in a community of others as equals, who share some such values (De Schutter, 2011; Rawls & Parijs, 2003; Scanlon, 1988, p. 200). There is arguably room in contractualism for both such (neo)Republican arguments and for circumscribed ethnocultural nationalism

such as expressed in the Lisbon Treaty, that values adhering to one's 'culture' or 'identity' and 'to sustain it for generations' (Gans, 2008, p. 20; Hooghe & Marks, 2003, p. 240).

(c) Avoid domination

Federal arrangements may help reduce or prevent at least three forms of domination of concern. The population of a sub-unit has an interest in legal immunities that protect against interference from a larger political order, especially when the preferences of the sub-unit members diverge from those of the citizenry at large (Althusius, 1995; Hueglin, 1999). Such a division of political agendas reduces sub-unit citizens' vulnerability to the views of outsiders – be it ill will in the larger population, incompetence or insufficient attention.

A second form of domination that local autonomy may help protect against concerns risks that some populations impose externalities on the rest of the citizenry. To allocate out some political authority among sub-units reduces this risk. In particular, there is a risk that some sub-units take unwarranted economic risks or reduce taxation, if their authorities know that the rest of the citizenry will be forced to bail them out (Rodden, 2006). The complex and contested diagnoses of the Euro crisis provides example. Some argue that the domestic governments and their citizens must take main responsibility, lest the taxpaying middle classes of richer states would seem to have plausible complaints: they should not be the only ones to shoulder solidarity, whilst richer yet non-tax paying citizens of the crisis states free-ride. Some ideas for mechanisms may be drawn from other federal orders. In the German Federal Republic, the *Länder* have some redistributive obligations among themselves. This engenders debates about why rich *Länder* should subsidize poorer *Länder* that refuse to reform their industries. So an important issue is what range of outcomes and policies the sub-unit population should be responsible for in the sense that they should bear the full economic burden of their collective choices. One way to reduce such risks is the Canadian mechanism for redistribution across provinces and territories. It seeks to alleviate disparities in their ability to generate tax revenues, but not to compensate differences among the provinces and territories in the level of taxation they actually chose. The result of this protection against domination may be some extent of *de facto* economic and social inequality across the sub-units.

A third form of domination which federal orders may alleviate occurs within a sub-unit. Its population may value ways that a federal order can reduce the risk of a local authoritarian leader violating human rights. Thus, the EU has mechanisms in place to monitor and pressure member states that breach the Union's values such as democracy, the rule of law and human rights (Art 7).

(d) Reduce resources used on decision-making

A final reason for federal features is to reduce the responsibilities of decision-making for individuals. When there are large local variations in circumstances or preferences, responsive decisions require more information and deliberation, drawing on local experts as necessary. This imposes added burdens on the outsiders and central authorities, whose efforts may be better spent on other tasks. By allocating authority to sub-units for decisions that largely affect individuals within that sub-unit, others are spared those burdens. Indeed, it seems reasonable that some reduction in responsibility is worth paying for: The sub-unit poor may benefit overall, even though they by hypothesis are left at a somewhat lower economic level within the federal order. Note that this argument supports sub-unit autonomy only for certain issue areas and under certain conditions. The individuals of the sub-unit must be able to make fair decisions through functioning democratic procedures against an acceptable allocation of background resources, and so forth. Furthermore, supplemental mechanisms for central intervention and support must presumably provide added safeguards.

The arguments presented above identify benefits for citizens that arise from some extent of sub-unit immunity and autonomy in federal orders. Granted, some poorest members of some sub-unit will by hypotheses be economically somewhat worse off than the worst off in a more unified political order. But that negative impact is not decisive. Recall that such economic inequality is constrained, since it must still avoid misery and domination, not challenge fair procedures or fair equality of opportunity, and not affect other individuals outside that sub-unit. Furthermore, the arguments indicate that individuals, also the economically worse off, wield more valuable political influence within a multilevel order, due to more control over the sub-unit agenda, legislation and policies than they would have within a unitary more centralized political order. Individuals political rights thus gain in value within a federal order, even for those left somewhat economically worse off than they would be under a unitary political order. So the economic negative impact is not the basis of a reasonable objection.

5.1. Not non-ideal theory, not lexical priority of sub-unit autonomy

To clarify this argument, consider two issues that might confuse a charitable reader.⁵ This is not mainly an argument in ‘non-ideal’ theory. And this does not claim lexical priority of more political rights to the complete detriment of income and wealth.

⁵ I am grateful to an anonymous reviewer for prompting these clarifications.

It might at first glance appear that these arguments in favour of some sub-unit autonomy are largely within 'non-ideal theory': Political immunity and competence are mainly useful countermeasures against risks that some other actors fail to do their part by engaging in domination or by creating externalities. In response, I submit that the arguments are mostly part of 'ideal theory,' at least in the sense of principles and stable institutions which are just and generally complied with (Robeyns, 2008, p. 347). With the exception of the rules sanctioning intervention by central authorities when sub-units violate human rights etc, the arguments are not primarily concerned with rules or institutions for when others do not abide by just rules – one central issue of non-ideal theory (Rawls, 1971, pp. 8, 21; Valentini, 2012).

Most of the arguments concern the circumstances of ideal theory. One reason for this focus is that it is only when institutions are generally complied with that we can say that the social primary goods exist.

To be sure, institutions must be set up to prevent and deter non-compliance. But this is also required as part of ideal theory, and stems from the need to have corrective mechanisms that reduce general suspicions among participants of non-compliance. The focus on how to handle risks and mishaps is due to the commitment to justify institutions to all – including those likely to lose out. Institutions create new arenas and tools of domination and externalities, and our standards to assess such institutions must also be responsive to objections based on such endogenously created new burdens borne by individuals.

Consider now the nature of priority this account grants sub-unit autonomy over some claims to income and wealth. Some readers may take this to be a case of Rawlsian 'lexi(cographi)cal priority of the principle of liberty of the other principles of justice as fairness' (Rawls, 1971). Such claims were met with early criticism (Arneson, 1999; Barry, 1973; Hart, 1975), leading to changes in Rawls' account. Consider Arneson's concern, that lexical priority is too strong: In our setting, it would give priority to a minute gain in sub-unit autonomy over any reduction in economic inequality (Arneson, 1999, p. 82). Instead of claiming that value A has lexical priority over value B, he suggests that 'A may have priority over value B, priority of some strong type, but of a lesser strength than lexical priority' (p. 83).

In response, first as a matter of interpretation of Rawls-style theories, note that the issue is not one of ordering values, but of principles regarding the distribution of social primary goods, on the condition that social conditions ensure that basic needs and wants are met (Rawls, 1971, p. 476). Furthermore, Rawls' revised view adjusted the lexical priority from the 'most extensive total system of equal basic liberties' (Rawls, 1971, pp. 302–303), to secure a 'fully adequate scheme of equal basic liberties' (e.g. Rawls, 1993a, p. 292).

Secondly, the arguments to value sub-unit autonomy do not claim lexical priority over the claims to reduce inequalities canvassed in Section 3. More precisely: there is no claim that marginal enhancements of the interests that justify

such autonomy always outweigh increases in the interests in avoiding misery, non-domination, equality of opportunity or status equality. The argument is more limited: that there are reasons also for those who stand to suffer some economic disadvantage from a baseline of equal shares, to prefer some more such political autonomy as long as those interests are secured. So, insofar as the Rawlsian framework is applied, the claim is that a more fully adequate scheme of political rights will sometimes be one with some sub-unit autonomy, even at the loss of some marginal economic equality.

6. Conclusion

The arguments presented have sought to provide a contractualist defense of moderate economic inequality among individuals in different sub-units of a political order with federal features such as the EU. Europeans have strong claims that their shared institutions should limit economic inequality among individuals living in different member states. Indeed, they also have reasons to claim as a base line equal shares of income and wealth. However, such claims to equal economic shares are not decisive. Individuals also have good reason to prefer some scope for political autonomy of their member state, to ensure well-informed shaping of their institutions and policies to local circumstances. Important constraints on economic inequality across member states remain: it should not misery, spill over into domination, threaten fair procedures or equal opportunity, or challenges states equality. When some political autonomy for sub-units is secured by a multi-level political order, this has greater value, even for the economically worse off, than some increase in economic goods for them. The justification rests on the need to accommodate individuals' claims both to economic equality, and to political autonomy. Some such economic inequality does not give rise to reasonable complaints even from those with the worse economic situation, since their scope of political autonomy would otherwise be smaller.

The upshot of the arguments in favour of some economic inequality presented here must not be overstated, neither with regard to the European Union nor elsewhere. The current economic inequality across EU member states appears to violate several if not all of the reasons against certain levels of inequality canvassed above, such as to prevent misery and domination, securing fair procedures and equality of opportunity. Consider that in 2017, 22.4% of the EU population were at risk of poverty or social exclusion (–60% of the median disposable income) after social transfers. However, these levels varied widely among member states: from 12.2% in Czechia to 38.9% in Bulgaria (Eurostat online data code t2020_50). In particular, it appears that much of the present unjust economic inequality in the EU is due to within-state regional inequality (European Commission, 2010).

The arguments presented here support a more moderate claim, that the sub-units of a federal order such as the states of the EU may maintain somewhat unequal standards of living as a matter of justice. That is: some such moderate inequalities may be compatible with the equal respect of all, for the sake of sub-unit autonomy. Rawls-inspired arguments for equal shares of income and wealth based on the nature of these goods as legal powers notwithstanding, several arguments support principles that require less egalitarian distribution based on reasons to value political autonomy of sub-units of a federal legal and political order. No affected individual, even those economically worst off, can reasonably complain by holding that the economically worst off in a centralized EU would have a higher level of income including social transfers. Such economic gains would come at the cost of reduced political control for those individuals over the sub-unit's institutions and policies.

These reflections pose several challenges to federal orders in general, and to the EU in particular. One important task is to secure real equality of opportunity across states with drastically different systems of in kind social provision of such urgent services as education, health care and income replacement guarantees during illness and old age – where each institutional arrangement may be just. A second is who should determine the scope of appropriate sub-unit autonomy, and how.

The arguments offered here support existing policies to combat and reduce economic inequality in the EU – possibly supporting some versions of a European universal or basic income. More attention to the reasons why economic inequality is often objectionable may motivate and guide our choice of indicators and reforms to combat the unjustified present economic inequality – in the EU and elsewhere.

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