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# Review Journal of Political Philosophy Vol. 12:

*Symposium on Joseph Fishkin's  
Bottlenecks*

Edited by

J. Jeremy Wisnewski

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## EDITORIAL NOTE ON THE CURRENT VOLUME

The *Review Journal of Political Philosophy* is devoted to the exploration of important contributions to our moral and political conversations. To this end, the journal will occasionally devote issues to topics and works that are of special significance.

Joseph Fishkin's *Bottlenecks: A New Theory of Equal Opportunity* (Oxford, 2014) is one such important recent work. This volume of *RJPP* is devoted to the further criticism, exploration, and elaboration of this book.

The symposium was guest edited by Chad Flanders.

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BOTTLENECKS:  
A NEW THEORY OF EQUAL OPPORTUNITY;  
A PRÉCIS

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Equal opportunity is a powerful idea, with broad appeal not only among political philosophers but among ordinary people and their political leaders. The trouble is this: the most attractive existing conceptions of equal opportunity cannot be achieved. As long as families are free to raise their children differently, no two people's opportunities will be equal. Moreover, it is impossible to disentangle anyone's abilities or talents from her background advantages and disadvantages. And in any event, different people need different opportunities, confounding most ways of defining "equal."

This book proposes an entirely new way of thinking about the project of equal opportunity, broadly conceived. Instead of focusing on the chimera of literal equalization, it argues for broadening the range of opportunities open to people at every stage in life, in part by loosening *bottlenecks* in the opportunity structure—the narrow places through which people must pass in order to pursue many life paths that open out on the other side.

A bottleneck might be a test like the SAT, a credential requirement like a college degree, or a skill like speaking English. It might be membership in a favored caste or racial group. Reducing the severity of such bottlenecks is one piece of a larger project that this book calls opportunity pluralism: building a more open and pluralistic opportunity structure in which people have more of a chance, throughout their lives, to pursue paths they choose for themselves, rather than those dictated by limited opportunities.

This book is a combination of political theory, public policy, and law. It offers a normative defense of opportunity pluralism, as compared with other ways of thinking about the project of equal opportunity. It explores how a society could make its opportunity structure more pluralistic, and

then applies this approach to a series of contemporary egalitarian policy problems: class and access to education, workplace flexibility and work/family conflict, and antidiscrimination law.

The argument unfolds in four chapters. Chapter One examines the most attractive contemporary theories of equal opportunity—especially those of John Rawls, Ronald Dworkin, and luck egalitarians. This chapter argues that these conceptions of equal opportunity all suffer from a series of related flaws. They cannot be fulfilled as long as families exist. They depend on disentangling the effects of choice or effort from the effects of circumstance in a way that is conceptually impossible. They have difficulty accounting for the concatenation of opportunities—the way the outcomes of one contest set up the starting gate of the next. And finally, they may not promote the individuality and flourishing that was the best reason to value equal opportunity in the first place. The work of this chapter is essentially critical. Its conclusion is that equal opportunity, as we usually conceive of it, is both impossible to achieve and, in some important senses, normatively unattractive. Thus, we need to reconceive equal opportunity in a fundamentally different way.

Chapter Two takes a large step backward. In order to think about *how* opportunities matter in people's lives, we need to ground any theory of equal opportunity on an understanding of human development. This chapter begins that work. The chapter tells a story of the iterative interactions between person and environment that in a sedimentary way, over time, make each of us into who we are. These interactions confound any attempt to disaggregate genetics and environment, nature and nurture. Yet they explain how we all develop our abilities and talents—and also our ambitions and goals. Understanding this iterative process illuminates why no two sets of opportunities can be precisely “equal” even in theory; why it is impossible to solve the problem of equal opportunity in childhood; and why it does not make sense to characterize equal opportunity as the state of affairs where people can rise as far as their talents and efforts permit.

Chapter Three proposes a new way of thinking about equal opportunity: *opportunity pluralism*. The idea is this. Instead of literally attempting to equalize opportunities, we ought to work to broaden the ranges of opportunities open to people, at all stages in life, to pursue paths that lead to human flourishing. To achieve this, this chapter argues that we ought to loosen the *bottlenecks* in the opportunity structure: the narrow places through which people must pass in order to reach a wide range of paths that open out on the other side. The chapter argues that we ought to build a society with a wide plurality of values, in which many of the goods

people value are not positional goods, and where there are many competing sources of authority over both the opportunity structure and questions of value. This is opportunity pluralism; the chapter develops the idea through a series of examples that illustrate that some concern about opportunity pluralism is already present in both political theory and law.

Chapter Four demonstrates that opportunity pluralism can help us see new dimensions of, and identify new proposals to ameliorate, three especially difficult contemporary egalitarian policy problems. Sections of the chapter cover (a) class and access to education, (b) workplace flexibility and work/family conflict, and (c) antidiscrimination law, particularly employment discrimination law. In all of these areas, it is possible to build a more open and porous opportunity structure in part by ameliorating bottlenecks.



# BOTTLENECKS TO FLOURISHING AND THE “ROAD LESS TRAVELLED” IN POLITICAL PHILOSOPHY

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What’s wrong with inequality? Inequality is a social ill because of the damage it does to human flourishing. Unequal distribution of wealth can have the effect that some people are poorly housed, badly nourished, ill-educated, uncultured or unhappy, among other things. In other words, inequality leaves some less “well off” than others. When we seek to make people more equal our concern is not just resources or property, but how people fare under one distribution or another. We care about inequality because of its effect on people and we lose interest in problems of inequality if the putatively unequal are doing equally well in their quality of life.<sup>2</sup> Ultimately, the answer to the question, “equality of what?” is some conception of flourishing, since whatever policies we adopt, it is flourishing, or well-being, that we hope will be more equal as a result of our endeavours.

Flourishing is not, however, the focus of most egalitarian theories. Egalitarians tend to avoid ideas such as living well or the good life, focussing on goods, income or resources – on the instruments of flourishing, not flourishing itself. This is because most contemporary egalitarians are in some sense liberal neutralists, uneasy with the idea of prescribing how to live. They insist that the state should be agnostic on questions of the good, restricted to distributing the means to flourishing – that is, for John Rawls, primary goods, or for Ronald Dworkin, resources – rather than tackling flourishing itself.

Consider Rawls, who contends that society’s “basic structure” should centre on the distribution of primary goods, those resources individuals need to pursue their projects and goals, whatever they may be. For Rawls, the exact nature of those projects and goals is not within the purview of political decision-making, or even political theorising. Questions of well-being are relegated to the personal domain, congruent with state neutrality about the good. Under conditions of fair equality of opportunity, once

goods (which include non-material goods) are allocated according to a just principle of distribution, whether people flourish or not is taken to be a matter of their own responsibility; as Rawls puts it, "it is assumed that the members of society are rational persons able to adjust their conceptions of the good to their situation."<sup>3</sup>

It is worth noting that before the "neutralist turn" of postwar political philosophy, egalitarians assumed that the task of the equal society was not just to increase the wealth of the worst off, but to help the disadvantaged live more worthwhile lives. This is particularly evident in the socialist tradition: Marx's critique of inequality is also a critique of alienation and alienation, at least in Marx's sense, is an inherently perfectionist concept. It refers, not just to the unfairness of economic hardship, but the distortion in values wrought by such hardship, making implicit appeal to the idea of the proper form life should take. Thus Marx's case against capitalism centred on, for example, how money made for the "overturning of individualities,"<sup>4</sup> its affront to the "nobility of man,"<sup>5</sup> and the way in which its relations of private property make people "stupid and one-sided."<sup>6</sup> For Marx, economic inequality is wrong because it degrades human beings, robs them of dignity, self-determination, the ability to develop their capacities. The term degradation is illuminating, at once embodying both egalitarian and perfectionist elements.

For a long time liberals, too, assumed that society should seek to improve human well-being. It is usually thought that neutralism began with Mill and his harm principle, but that risks distorting the strong perfectionist argument of *On Liberty*, where the "cultivation of individuality" emerges as society's ultimate aim.<sup>7</sup> The idea that society should seek to enable individuals to live well continued to animate liberalism after Mill, in the writings of L.T. Hobhouse, who developed ideas about a common culture,<sup>8</sup> and R.H. Tawney, who affirmed a concern for "the perfecting of the individual" in social policy.<sup>9</sup> Thus when the British welfare state was born, its chief architect, the Labour economist William Beveridge, conceived its task as such things as the amelioration of "squalor" and the elimination of "idleness," rather than simply increasing the income or resources of the worst-off.

These egalitarians were unperturbed by the fact that well-being is not as amenable to quantification as the money that might help procure it, or that society should play a role in shaping the choices and plans of life of its citizens. Moreover, their theories belied a sense in which the ultimate goal, equal well-being, is not wholly achievable. Given attitudinal differences and human diversity more generally, even the best egalitarian perfectionist policies would not be able to ensure that some do not do better than others.

The more enterprising or the more cheerful will likely enjoy better lives, even to a limited extent, at least in the sense that their lives are the better for being cheerful and enterprising, than their more glum or unimaginative co-citizens. However, it remains that flourishing, well-being, how people live, are best considered the target of egalitarian concern, what we should eyeball in trying to figure out how much we have achieved our egalitarian goals, and that unequal flourishing or well-being is what is to be remedied. The answer to the question of what it is we are trying to make more equal, is flourishing, an answer that was, it appears, commonsensical for egalitarians until Rawls.

Joseph Fishkin's excellent new book, *Bottlenecks: A New Theory of Equal Opportunity*,<sup>10</sup> makes explicit that human flourishing is relevant to discussions of equality. Fishkin proposes that political philosophers reorient their egalitarian argument to focus on how opportunities may be restructured in order to "increase the range of opportunity open to people... to pursue different paths that lead to human flourishing" (p. 1). For Fishkin, this means considering the ways in which people face obstacles to success, in particular, systemic disadvantages along class, race or gender lines. Such obstacles are dubbed bottlenecks, things that constrain persons' opportunities "relative to those of others"(p. 143). The task for egalitarians, he argues, is to investigate how best to realise "opportunity pluralism," a "plurality of paths leading to valued roles and goods" (p. 146).

Fishkin's approach is in many ways eminently practical, and his book abounds with sensible proposals such as eliminating arbitrary credential requirements, rethinking the relation between childcare and professional obligations, redesigning educational planning and ensuring that society provides its citizens with many "second chances" at success. As such, the book might seem to be on the side of the "real world" divide in debates among political philosophers about their discipline's relation to practice and theory, or what G.A. Cohen termed "rules of regulation" as opposed to "principles of justice."<sup>11</sup> For Cohen, a division of labour between theorists who focus on principles of justice, and theorists who concern themselves with matters of implementation is fine, so long as the sphere of implementation, with all its tradeoffs and compromises, is not permitted to infect the sphere of principle. Otherwise, we risk setting our sights too low, and settling for limited and modest goals in our egalitarian philosophies and projects.

However, Fishkin's analysis suggests a way of transcending this distinction between the principled and the practical. In particular, the book's rich discussion of individual character casts doubt on the crude

“talent plus effort” model of human endeavours and suggests we should understand personhood in terms of a dynamic process in which nurture and nature are mutually constitutive. Indeed, the book’s radical commitment to what is sometimes called the “social constitution of the self”<sup>12</sup> indicates that influential normative positions (such as luck egalitarianism), that seek to isolate choices for which individuals should be held responsible, in contrast to those choices that are beyond their control, look so fundamentally misconceived as to be problematic even as ideals.

There is much to admire here; Fishkin’s analysis is original, insightful, persuasive – wise even. Fishkin’s proposal that we take account of the complexity of people’s paths in life, and the diverse influences of community, accidents of geography, family background and last (and perhaps least), raw talent, is valuable. The argument’s focus on people’s occupations and pursuits rather than income or resources is a refreshing contribution to debates about equality. It is therefore paradoxical that the concept of human flourishing, what seems so crucial to this innovative approach, plays a problematic role. Flourishing is invoked throughout the book, but it gets a rather ambivalent endorsement, in a short, almost postscript-like discussion late in the argument. There Fishkin rules out what he terms “perfect neutrality among different conceptions of the good,” opting instead for what he calls “a thin, minimal conception of human flourishing.” He also says that flourishing does not mean the satisfaction of “everyone’s existing preferences” – there are, after all, “terrible” paths that lead to “bad lives” (p. 187).

The account starts to flounder, however, when it comes to how we are to actually further human flourishing. On Fishkin’s bottleneck view, “a pluralistic opportunity structure” will do the trick in enabling people to flourish (p. 197). But simply tackling, as he puts it, the “narrow spaces through which people must pass if they hope to reach a wide range of opportunities that fan out on the other side” (p. 1), is little use, of course, if we take no interest in what in fact lies on the other side, what the opportunities are for. Increasing the range of opportunities to include more opportunities for bad lives would be no gain for flourishing. In what seems a sleight of hand, Fishkin invokes Mill and argues that autonomy is a crucial component of human well-being, and so opening up choices will enable flourishing lives, forgetting, it seems, his earlier remark about how people can choose paths that turn out to undermine their flourishing.

Autonomy is undoubtedly an important feature of human well-being. Having the ability and the opportunity to choose how to live is an important feature of a flourishing existence. However, living well involves not just making choices, but making good choices: choosing ways of

living that do indeed enable one to flourish. And thus the society that seeks to enable human beings to live flourishing lives, and moreover, which tries to render flourishing more equal, cannot simply remove obstacles to our choices. Society will also have to consider how it might encourage valuable ways of living and discourage the valueless. At the very least, it will need policies that are perfectionist in order to pinpoint which bottlenecks impede flourishing and which do not. This need not entail a unitary view of flourishing; Fishkin is right that pluralism is crucial. There are many, diverse and incommensurable ways we might flourish. But the reason for pluralism is not, at bottom, as Fishkin contends, “because people disagree” (pp. 131-2), but rather because the good takes many diverse forms. People’s disagreement is but an indication of the fact of the diversity of human goods.

It is not just that the anti-bottleneck view is insufficient to ensure that human beings flourish. It is that without a common commitment to which opportunities we ought to encourage, and which we ought to discourage, the whole project of eliminating bottlenecks cannot get off the ground. Fishkin at one point remarks that bottlenecks that restrict access to “self-destructive paths” are not to be remedied. Indeed, Fishkin, the intellectual born of intellectual parents, as he charmingly admits, shows his not-so-minimal perfectionist hand when he doubts the value of the opportunities faced by “rural youth” who enjoy “close connections with their communities” but whose “horizons and aspirations are limited” (p. 218) conjuring up Marx’s remark about rescuing people from the “idiocy of rural life.”<sup>13</sup> We may or may not agree with Marx (and Fishkin) here, but judgements about value are unavoidable; it is thus crucial that we engage in them in a way that is open, accountable and pluralist, rather than purporting to be concerned only with choice, yet smuggling in our intellectual prejudices under cover.

The book’s insightful argument about the complex social formation of aptitude and effort is significantly related to the concept of flourishing. Fishkin cites approvingly what Rawls has termed the ‘Aristotelian Principle.’ Rawls eschews perfectionism in his political philosophy, but he has insightful things to say about the pursuit of perfection: “as a person’s capacities increase over time... and as he trains these capacities and learns how to exercise them, he will in due course come to prefer the more complex activities that he can now engage in which call upon his newly realized abilities.”<sup>14</sup> Fishkin cites this idea in his illuminating discussion of people’s acquisition of talents and capacities and the obstacles to that acquisition, but he does not follow up the implications of this for people’s plans of life. Thus his acute example of Mesopotamian Sarah – in which

we cannot even contend she has an aptitude for mathematics in the absence of a context which permits its development – Fishkin demonstrates that without the proper context, there is a lack of, not just aptitude for certain pursuits, but the inclination which is a crucial catalyst for aptitude (pp. 104-5). It is very difficult to treat the matter of talent and its cultivation in neutralist terms.

Thus not just aptitude, but plans of life depend crucially on a social context that nurtures and encourages their adoption. It is perfectly consistent with Mill's insistence on human self-development that we attend to the social context to foster, not all opportunities for all conceivable pursuits, but those opportunities for valuable and worthwhile ways of living. The debate about choice, therefore, must take account of this modest 'social thesis' wherein persons are inevitably influenced by their environment. The idea of responsiveness to reasons, at the heart of our ideal of autonomy, involves a conception of the person with grounds for choice outside the self; the choosing self is not pure will, but a being responsive to considerations adduced by critically reflecting on external sources of information, ideas and values. The tastes of friends, the values of parents and those with authority or influence, formative experiences in one's life, superficial factors such as the symbolic value of a pursuit, all contribute to choices about how to live.<sup>15</sup>

In market societies, many of these factors are the effect of advertising, packaging or 'imaging,' and do not aid choices made on the basis of good reasons. Moreover, market actors who influence choices are only minimally held to public account or democratic control. Indeed, the market, touted for supporting the neutralism of the liberal state because its exchanges are conducted according to the supposedly contentless measure of profitability, in fact makes for quite significant consequences for the kinds of values one can pursue. And the effects are often deleterious for human flourishing. Thus it is particularly damning of neutralist positions that they continue to evoke the 'marketplace of ideas' in making their case.

The promotion of flourishing need not mean forcing it upon people, unless one considers any action by the state, financed by compulsory taxation, as coercive. Egalitarian perfectionists have long declaimed coercion. Indeed, one of the grounds for criticising capitalism among nineteenth century socialists was its coercive aspect. A good example is the position of William Morris, the Victorian decorator-cum-socialist whose egalitarianism grew out of an aesthetic revolt, who lamented: "while you live, you will see all round you people engaged in making others live lives which are not their own."<sup>16</sup> We only know what the good is in light of reasons. Choosing the putatively good without understanding

why is a poor basis for making choices and it will also diminish our choice-making capacity in the long term. Objectivism about value, so central to perfectionism, thus gives us grounds to be uneasy about the diminishing of choice since our capacity to choose must be exercised in order to live well.

Nonetheless, if flourishing is our aim, we will need to liberate ourselves from the characteristically American wariness of state regulation with which Fishkin, surprisingly, seems burdened. Fishkin admits that “real markets” are not necessarily up to the job of ensuring that individuals have paths to flourishing, but he expresses a naïve faith in the capacity of unfettered entrepreneurs to take on the task, suggesting that when such individuals “strike out on their own” they thereby expand the range of paths “available for others to follow” (p. 154). But if we are to ensure that self-made men and women create Millian ‘experiments in living’ from which others might benefit, our political community will need to take a stand on the nature of flourishing and not leave this to the vagaries of market forces. This is not to install a Philosopher King, but to look to democratically elected representatives to consider how to “allow people to pursue the goals and activities that add up to a flourishing life” (p. 23). This could be done, not just by economic strategies like a basic income, but also by drawing on the expertise and knowledge of the community through a plurality of bodies and agencies to make possible access to flourishing. Many levels of government would need to be engaged, with tools such as state education policy, national subsidies for the arts (for both their production and access to their enjoyment), or municipal policies that preserve heritage architecture and maintain parks and libraries. Public education, in particular, is a key example of a way to eliminate bottlenecks by opening up possibilities to all, regardless of circumstance and social condition, and it is difficult to see how questions of curriculum, school clubs, field trips, extracurricular activities, etc., can be approached without recourse to perfectionist considerations.

I think Fishkin knows this. Indeed, we all do. We live in societies that, contra much liberal neutralist theories, behave in various perfectionist ways. Liberal states tax harmful substances like alcohol and subsidise and protect sources of value, like public education, the arts, green spaces, or historic buildings. That certain pursuits, be they the cloister, video game parlours, or strip clubs are threatened with extinction does not cause us to rush to ensure that these opportunities remain available. Our societies, with our permission, pick and choose which pursuits to enable, which bottlenecks to remove, and they adduce perfectionist grounds for doing so.

It is a missed opportunity for egalitarians to forswear these kinds of policy ventures when they so clearly have scope for egalitarian aims.

The charming cover to Fishkin's book, with its many pathways, illustrates this well. The little stick people do not seem to be making their way to opium dens or meth labs, dog fights or lap dancing. They are travelling along paths to flourishing. It is high time political philosophers liberated themselves from the unfortunate neutralist baggage of Rawlsian liberalism and acknowledged how the concept of flourishing undergirds much progressive social policy and urban planning. If we are to get rid of bottlenecks to equality, as Fishkin so persuasively argues, we need to develop an approach that dares to take control of the market, the social conditions for living well, beyond mere expansion of choice. Yes, let's eliminate bottlenecks, but while we're at it, let's also get rid of the remnants of that persistent philosophical bottleneck on the subject of flourishing that impedes egalitarian debate.

## Notes

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<sup>1</sup> I am grateful to Chad Flanders and Joey Fishkin and my fellow panelists at the Midwest Political Science Association Meeting in April 2014 for the opportunity to engage with Joey's book and present these ideas, and for the stimulating discussion that ensued. Thank you also to the members of the Political Philosophy Reading Group at Queen's University and David Bakhurst for providing helpful comments.

<sup>2</sup> I am following Derek Parfit in his insistence that distributive justice must be premised on a person-affecting claim. See "Equality or Priority?," reprinted in Matthew Clayton & Andrew Williams, *The Ideal of Equality* (London: Macmillan, 2000), 103-6.

<sup>3</sup> John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), 94.

<sup>4</sup> Karl Marx, "Economic and Philosophic Manuscripts," in Robert Tucker, ed., *The Marx-Engels Reader* (New York: Norton, 1978), 105.

<sup>5</sup> *Ibid.*, 100.

<sup>6</sup> *Ibid.*, 87.

<sup>7</sup> John Stuart Mill, *On Liberty* (Toronto: MacMillan, 1966), 82. Kwame Anthony Appiah, *The Ethics of Identity* (Princeton: Princeton University Press, 2005), 27.

<sup>8</sup> L. T. Hobhouse, *Liberalism* (Oxford: Oxford University Press, 1964), 67.

<sup>9</sup> *Ibid.*, 114. Harold Laski also stresses the idea of the good life in his egalitarian argument made during the Great Depression, when he criticizes an emphasis on "material acquisition" that "fails to make response to those spiritual springs of discontent" in which "the masses" find their time is "void of the sense of creativeness or power." Harold Laski, *Democracy in Crisis* (London: George, Allen and Unwin, 1933), 265.

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<sup>10</sup> Joseph Fishkin, *Bottlenecks: A New Theory of Equal Opportunity* (New York: Oxford University Press, 2014). All page references will be in parentheses in the body of the text.

<sup>11</sup> G.A. Cohen, *Rescuing Justice and Equality* (Cambridge, Mass.: Harvard University Press, 2008), 8.

<sup>12</sup> Conceptions of the social constitution of the self are many and various. For a discussion of some exemplars, see the collection of essays, David Bakhurst and Christine Sypnowich, eds., *The Social Self* (London: Sage, 1995).

<sup>13</sup> Karl Marx and Friedrich Engels, “The Communist Manifesto,” in Robert Tucker, ed., *The Marx-Engels Reader* (New York: Norton, 1978), 477. See the interesting debate about how the standard English versions of the Manifesto involve a mistranslation of the German original:

<http://monthlyreview.org/2003/10/01/3735>

<sup>14</sup> Rawls, *A Theory of Justice*, 375.

<sup>15</sup> I explore this in “A New Approach to Equality,” in Daniel Weinstock and Roberto Merrill, eds., *Political Neutrality: A Re-Evaluation* (London: Palgrave Macmillan, 2014). See also “Cosmopolitans, Cosmopolitanism and Human Flourishing,” in Gillian Brock and Harry Brighouse, eds., *The Political Philosophy of Cosmopolitanism* (Cambridge: Cambridge University Press, 2005).

<sup>16</sup> William Morris, *News from Nowhere* (New York: Penguin, 1984), 147.



# PERFECTIONISM, PIES AND THE POLITICS OF JOB QUALIFICATIONS

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As I sat outside my four year old son's Saturday enrichment math class reading Joey Fishkin's new book, *Bottlenecks: A New Theory of Equal Opportunity*,<sup>1</sup> I was struck by just how much seemed wise, important and right in it. At the start, Fishkin makes the case for certain foundational premises, namely: 1. It is impossible to truly equalize opportunities; 2. Inequalities of opportunities compound over time; and 3. A just society must think about equality of opportunity not, or at least not only, in a context specific way, but across contexts and across time. These core insights set the stage for Fishkin's new theory of equal opportunity—his antibottleneck theory of opportunity pluralism. The goal, in short, is to open up more opportunities for more people thereby transforming both individual lives and society more generally, making the former more fulfilling and the latter more fair.

The book is careful, comprehensive and truly visionary. It is a paradigm-shifting contribution to our theories of equal opportunity which will, hopefully, have public policy shifting impact as well. What follows then is not a critique of the book, but instead several points on which I would love to engage with Fishkin more fully. In short, I divide my comments into three areas though there is significant flow among the three: 1. Perfectionism; 2. Pies; and 3. Qualifications.

## 1. Perfectionism

In the beginning chapters of the book, Fishkin presents the most standard conceptions of equal opportunity—formal equality of opportunity, fair equality of opportunity, luck egalitarianism and Dwokinian equality of resources. He then quite deftly makes clear that all of these theories, are not only practically impossible to achieve but, more deeply, actually impossible to fully conceive of as a matter of pure theory. What does it

mean, for example, to treat those with equal talents and abilities the same when there is no logical point at which to assess what one's talents and abilities truly are?

Fishkin does not want to equalize opportunities in any traditional sense. His goal is broader and more ambitious. He wants to give people the broadest array of valuable life options possible. Equality of opportunity under Fishkin's theory is not just about neutral resource allocation, it is about encouraging valuable capacity formation and pluralistic opportunities across people's life spans so as to give them a varied range of life paths and options. As I was reading through the early chapters of the book, I was struck by just how perfectionist Fishkin's theory was.

I was pleased then, in chapter 3, when Fishkin too acknowledged the perfectionist nature of his theory. Perfectionist theories, it seems to me, often elicit a kind of viscerally negative reaction from political theorists in the United States. I remember when my former Ph.D. adviser, the late Susan Moller Okin, told a large audience that one of her graduate students, me, was trying to convince her that her theories of gender equality were in fact perfectionist rather than liberal. Someone from the audience shouted out that she should fight back, and not concede that her goals were anything other than liberal equality extended to include women.

I salute Fishkin for acknowledging the perfectionism in his own theory, but contend that it is broader than he suggests and perhaps not so weak. Consider the example Fishkin gives in Chapter 4 of a bottleneck that the law should be more attentive to—namely appearance discrimination. (p. 240). It seems difficult to fully understand why the bottleneck of appearance should be broken down without a fairly rich perfectionism that goes beyond the goal of basic capacity formation. As Fishkin notes, appearance requirements for a wide range of jobs are both legitimate and mutable. Beauty does enhance job performance for a wide range of jobs and beauty is, increasingly, something which people buy, not simply something they are born with. The reason to target appearance requirements is not then because of their severity and arbitrariness but because of a belief that individuals should simply not be asked to meet them.

The danger of appearance requirements, which importantly fall more often and more heavily on women, is that they reinforce—for individual women and for those interacting with them—the idea that women are valuable and valued primarily for their looks. This emphasis on appearance then encourages women to prioritize beauty over other forms of personal development. Challenging this hierarchy seems, of course, distinctly right to me. It is better to develop one's intellectual skills and/or

physical agency than to focus one's time and energy on improving one's status as gaze object. Yet this conception of human flourishing—and the rejection of appearance requirements that flows from it—seems deeply rather than weekly perfectionist.

## 2. Pies

Next, I'd like to talk about opportunity pies and the difference between zero sum and positive sum opportunities. Fishkin would like to target bottlenecks blocking access to both types of opportunities, yet the justifications for doing so are importantly different. More explicit differentiation of the two kinds of bottlenecks would then help to clarify the range of motivations and goals underlying the broader theory.

Some opportunities really are zero sum. Consider, for example, hiring for entry level law school professor positions. In any given year, there are only a limited number of spots. For many people graduating from law school, these are desirable positions, but there is a clear bottleneck blocking access—only graduates from approximately five law schools are generally considered.

Certainly, one could break down this bottleneck and require law schools to look at graduates from other schools. However, given the scarcity of jobs relative to interested law school graduates, eliminating this bottleneck will simply result in another weeding device. If 90% of applicants are going to be excluded from these jobs regardless of what weeding mechanism is used—and we care about individuals only as individuals and not as representatives of socially salient groups--then it is not clear to me why we should care which mechanism is used.

We might care that X rather than Y gets the job in question because we think that X deserves the job more on some measure of desert or would do a better job at it. However, as Fishkin persuasively shows, measures of desert and merit are fraught and subject to challenge. Moreover, as a matter of social justice—rather than efficiency--there seems to me no good reason to prefer X over Y in a zero sum game other than a concern about groups.

Consider, for example, Title IX's effort to break down the bottleneck blocking women's access to college varsity athletic positions by requiring that such positions be distributed to women and men in proportion to their numbers in the undergraduate population. We care that women are given access to varsity athletic positions not just because we think that athletic participation is good for individual women—such participation would be equally good for the individual men who would otherwise win these

spots—but because we think that having women in such positions will: 1. encourage younger girls to participate in valuable athletic activities through the power of role modeling, 2. increase the social perception of girls and women as active, strong autonomous agents, and 3. improve the overall social equality of the sexes. I find it difficult to understand why one would care about bottlenecks in any zero sum opportunity context without similar concerns about group status, role modeling and social hierarchy.

Of course, not all opportunities are zero sum, and the job market as a whole is not. What is perhaps most exciting about Fishkin's theory is the possibility that by eliminating bottlenecks, particularly those blocking access to developmental opportunities, the sum of all opportunities could actually increase. Eliminating bottlenecks might make it possible for individuals to develop new skills and aptitudes such that even if they do not win certain zero sum positions, they can create their own new opportunities. Certainly, Fishkin sees this potential. Indeed, in the book's conclusion Fishkin says: "When we find ways to restructure opportunities so that not everyone needs to push their way through the same bottlenecks, or so that those who cannot make it through have other potential paths open to them, the effect need not be zero-sum but can be positive sum." (p. 257)

It is this latter possibility that I think is the most transformative aspect of Fishkin's theory of opportunity pluralism. Yet it is not clear to me, in a world full of bottlenecks and of limited resources, where to start our attack and how to determine which bottlenecks should be our first targets. The severity of a bottleneck in and of itself does not seem to tell us much about how transformative its elimination would be. What then are our criteria for choosing what to target and where to start?

### 3. Qualifications

Finally, I want to say a brief word about job qualifications. Fishkin is certainly right that even legitimate bottlenecks—for example those that measure actual job qualifications—should not necessarily get a free pass. They might still be appropriately subject to challenge if their exclusionary effects are severe. Fishkin presents legitimacy and severity as two different continuums both of which must be considered in deciding which bottlenecks are most in need of amelioration.

I suspect, however, that determinations about legitimacy are not in fact wholly distinct from determinations about severity. That is, the more people who are excluded by a particular job requirement, the more likely

we are to scrutinize the requirement closely and say that it is not actually necessary for the job at issue—the job, we might say, can be reconfigured in such a way as to maintain its core mission while eliminating the challenged qualification requirement. Indeed just as Fishkin challenges whether there is really any there there when it comes to traditional models of equal opportunity, I question whether there is really any there there with respect to the vast majority of job qualifications. It is not that this insight fundamentally changes Fishkin’s analysis of bottlenecks, it merely reinforces Fishkin’s point that no bottleneck should be immune from inspection and problematizes any effort to use qualification legitimacy per se as a reason for not subjecting any particular bottleneck to challenge. Moreover, it returns me to my prior question. I am fully on board with Fishkin’s theory of opportunity pluralism—so where do we start? How do we determine which bottlenecks are most appropriately and urgently in need of challenge?

## Notes

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<sup>1</sup> Joseph Fishkin, *Bottlenecks: A New Theory of Equal Opportunity* (New York: Oxford University Press, 2014). All page references will be in parentheses in the body of the text.

