

Freedom without equality? Reinventing a floating balance of both.

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Abstract:

This draft for further research attempts to navigate the longstanding tension between freedom, equality, and inequality in normative political theory. There is an undeniable gap between the ideals of numerical (absolute) equality—embodied in constitutions—and the realities of obscene social inequalities throughout the world. The conceptualization of freedom and equality as binary opposites (in “real socialism” as well as in current Neo-Liberalism) exacerbates and perpetuates the divide between the aspirations of “modern” numerical equality on the one hand and social justice on the other. At first sight the modern understanding of numerical equality as an absolute seems to supersede the antique construction of relational, proportional equality. This is true to some extent but also the main problem. The gross inequalities and injustices that result from globalization, Neo-Liberal policies, and the reduction of equality to arithmetic, numerical understanding are both causes and consequences of this conceptual understanding of freedom and equality as binary opposites. Our conclusion is to outline a new concept of justice by balancing freedom and equality.

The concept of a floating (Clausewitz) and developing (Hegel) balance, which we view as a possible solution, is exemplified by the economic cycles in the footsteps of Kondratieff, hegemonic cycles, or a sinus curve with a slowly enhancing x-axis. Another illuminating example is the inseparability of the poles of a magnet, which Hegel was emphasizing. Although John Rawls already tried to conceptualize justice as a relation of equal rights of freedom and (moderate) social inequality, his approach heavily suffers from the liberal and modern reduction of equality to a mere numerical concept (in his veil of ignorance). The inevitable consequence of this understanding is his explicit primacy of freedom above equality. In the face of the social inequalities worldwide, we propose to revive the discourse about relational equality as a human right in opposition to mere numerical equality and in contrast to the primacy of freedom in the Western discourse. In our view, there is no primacy of freedom above numerical equality, but also not to the reverse (real socialism in the USSR). Instead, we conceptualize justice as an inseparable pair of scales of freedom and equality.

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I. The glory and pitfalls of absolute, numerical equality – the reversal of the struggle for freedom in new oppression

Hannah Arendt (2006) famously argued that the American Revolution was so successful mainly because it had been restricted to the political realm. In contrast, all the following revolutions resulted in civil wars, new dictatorships, not to mention the classical totalitarian systems and movements (National Socialists and Stalinism), mainly because of the attempt to extend the revolution to society. Except for the revolutionary years 1989-91, she seems to be still right when assessing the Arab rebellion of the Arab spring. By taking a closer look at her argument, it becomes imminently apparent what is at stake. In the political realm and particularly with the right to vote, we find absolute equality: all have the same rights to vote, all have the same amount of voting – one man, one woman, one vote. So, Hannah Arendt, in the end, argued that absolute equality has to be restricted to the political realm, to the legal system, and finally to the participants of a market economy. Furthermore, she is right in assuming that such a kind of absolute equality has to be restricted to certain spheres within the community – if we extend such a kind of absolute, numerical equality to other spheres, this approach leads often to oppression. Furthermore, Hannah Arendt is entirely correct in assuming that the fight of the Parisian Sansculottes for the freedom of all was perverted into the fight for the freedom solely of the Sansculottes (Arendt 2006).

It is explainable in times of revolution, and especially the subsequent counter-revolution, defenders of the revolution finally defend solely their freedom and equality. Nevertheless, the problem runs much more profound. In reducing equality to an absolute numerical form and restricting such a conceptualization to different community spheres, a theoretical schism is born: a binary code of freedom and equality with freedom taking the lead above equality.

What does equality in the modern Western discourse mean? Since our birth, we are all equal as newborn babies regardless of the color of our skin, a subject Barack Obama emphasized, quoting Nelson Mandela as a reaction to the events of Charlottesville. Hannah Arendt based the concept of equality on the possibility of a new beginning, despite all kinds of violence, suffering, and even with "Auschwitz," on "being born" (Arendt, 2006). We are also equal concerning our mortality, an approach Carl Schmitt emphasized indirectly in his political theory (Herberg-Rothe and Son, 2018). Furthermore, we are equal in front of the court and relation to legislation; we all

have the same rights. Additionally, we have equal rights as voters in democracy as already mentioned: one man, one woman, and one vote. To conclude, we all share the same human rights. We could label this form a “mathematical” or “numerical” equality because there are no differences, and everyone is equal like the “natural numbers.”

However, could it be that reducing equality to such numerical equality is the cause of a far-reaching problem in our time? We find such numerical equality in all constitutions in the Western world, such as in the Charter of the UN and even in the founding documents of nearly all states throughout the globe. Nevertheless, at the same time, we were witnesses that in 2015 only 62 people had owned as much property as 3,6 billion did – and already in 2016, this number was even reduced to only six people having such an amount of property as the estimated half of the world populace did.² In Germany the development is to a two-third society, worldwide to one-third world society. We are not only facing the “rise of the other” (Zakaria, 2008), but also the “decline of the other” (Herberg-Rothe).³ According to Robert Kaplan, the world had plunged into an extreme bifurcation in which a part of the globe (an estimated one-third) is “inhabited by Hegel’s and Fukuyama’s Last Man, healthy, well-fed, and pampered by technology. The other, larger part is inhabited by Hobbes’s First Man, condemned to a life that is poor, nasty, brutish, and short” (Kaplan, 2000, p. 60). This polarization (Khanna 2016) and obscene inequality contributes to a process in which the oppressed, excluded and miserable of the world does not turn against their oppressors, but against other oppressed, excluded, and miserable in the name of nationalistic, ethnic, tribal (James, 2006) populist and even racist ideologies characterized by thinking in categories of “We against the Rest” (Herberg-Rothe and Son, 2018).

The end of the Cold War marked the victory of the United States and the democratic West over the Soviet Union and the seemingly despotic East and the triumph of freedom above equality

² In our view, the problem is not the actual amount of property, which counts. However, the gap between the highest and the lowest share of the property, which on one side introduces fear in the wealthier parts of the populace and disinterest in anything on the side of the poor; concerning the influence of mass-emotions see Moisi 2010.

³ Just see the statistics of Oxfam, which are not as such disputed: <https://www.oxfam.org/en/even-it/5-shocking-facts-about-extreme-global-inequality-and-how-even-it-davos>; last accessed 9.8.2018, 18.26; even the consulting company McKinsey is acknowledging that in neoliberalism the inequality gap has widened as wage growth slows while the rich get richer; URL: <https://www.mckinsey.com/business-functions/strategy-and-corporate-finance/our-insights/a-new-look-at-how-corporations-impact-the-economy-and-households#>; last access: 09.06 2021, 6.42 pm.

(Diner, 2015). Inherent to real socialism, the glaring lack of freedom was the very reason for its collapse. Conversely, however, one argues that integral to natural capitalism is a lack of equality to live a life in dignity, which we could label as equality of dignity or equivalence. The liberal understanding sees individual rights as the central precondition for the equality of the people. However, Rousseau already warned in his *Discourses sur L'inégalité* that unlimited development of individual liberty leads to intolerable inequality. The civilizational ideal of equal human rights might become an abstract and ineffective norm (Rousseau, 2014).⁴ We can already observe this tendency in the struggles for liberation and democracy in the so-called Arab Spring, having degenerated into a cycle of failed states, civil wars, new dictatorships, contributing to the rise of extreme Salafism and fostering the power struggle between Iran and Saudi Arabia. In this combination, the danger of new religious wars between Shiites and Sunnis is ever-present. This development is not restricted to the recent developments in the Arab or Islamic "culture" but could be witnessed after World War I. In nearly all states and empires that lost the war, democratic revolutions emerged initially and were all transformed into minor civil wars, finally resulting in new authoritarian rules, dictatorships, or even in the most prominent totalitarian Stalinism as well as Nazism.

The historical consequence of the primacy of freedom in the liberation struggle resulted in a new kind of oppression in the name of freedom and liberty. Jean-Francois Lyotard invented the term and concept of post-modernity, emphasizing the enthusiastic struggle for the liberation of the colonized people resulted in new dictatorships (see the discussion in Herberg-Rothe and Son 2018). We usually also take into account just one side of developments in the Western world. For example, we idealize the positive sides and condemn the negative ones arguing they have nothing in common with Western modernity. Some critics of the West take the opposite opinion. They are convinced values of the West are of little importance in the light of their real politics, while replacing them with some ideologies of the past, such as nationalism (Putin, Xi, Trump, Erdogan), religion (IS, Salafism, Saudi-Wahhabism), ethnicity (White power, radical Hinduism), or masculinity.

⁴ The essay is probably best characterized as a conjectural history of anthropological account of how the development of private property alongside human sentiments and desire for distinction leads to establishing an unequal society in which members in power use the laws and institutions to exploit those without power.

The question arises how it is possible that the West could accept terrible social inequality emphasizing at the same time the absolute numerical equality in our constitutions, in the political, and in the justice system? Our thesis is that this binary code of absolute equality in the political and judicial realm and almost absolute social inequality is precisely the problem. How can we preserve democracy and human rights in the face of social inequality rising to such an amount was inconceivable for Arendt?

Equality, meaning that the dignity of all people is valued, has nothing to do with actual historical socialism but is a fundamental human right of which our forerunners have fought very hard for. To be clear at the outset: We do not want to exchange freedom and liberty by absolute equality. Such an approach would finally lead to a kind of socialism we have experienced in the past in the October revolution, later on in the USSR and its satellites (Herberg-Rothe and Son, 2018). On the contrary, we think that we have to balance freedom resp* liberty and equality, because both taken as something absolute, tend to transcend into oppression. Suppose Arendt's critique fitted the extension of numerical equality to society, today we have to acknowledge that freedom without equality leads to oppression just in the name of freedom.

II. Negative and Positive Freedom

In the modern Western discourse, we find a deeply rooted primacy of freedom and liberty even higher than equality. Although equality is often referred to in all constitutions and charters, at the same time, we accept extreme social inequalities. The reason for such a development is the reduction of equality to an absolute numeric or only "basic" (Waldron 2017) understanding of equality – an idea which was rooted in the struggle against any authoritarian rule and the division of the society into estates which could not be transcended, and which hindered the development of the individual and his freedom.

However, if all differences between people in society are just attributed to their freedom, liberty as a human right takes its course against absolute and numerical equality. The point is that there are two very different kinds of freedom in the history of ideas: negative freedom in the sense of being independent of the influence of anyone's free will, even the necessities of a system, and positive freedom in the term of self-determination, self-development, and self-transgression (Berlin, 2002).

It is by no means adequate in limiting freedom by not taking away the freedom of others, as Kant (1797) is highlighting.⁵ Exercising freedom by expecting others to do the same forbids any kind of direct oppression, so to say, abolishes any kind of slavery and servitude. How can one solve such a problem when the two sides try to gain the same advantage, the same country, or the same goods? With Kant's proposition, freedom on both sides is restricted by the freedom of the other to get hold of the same things. This simple conflict reveals the whole problem. If both were free in acquiring identical goods, freedom would be no solution in distributing the same goods to different people. To put it bluntly: Kant's concept of freedom is the right to fight against dictatorships, aristocratic rule, and slavery. However, the problems in our world are caused by the fact that most people do not have the same fair starting conditions not only to live in dignity but even in surviving. A baby girl who just at this moment you are reading, has been born on the streets in India or the Congo, is not forbidden becoming a billionaire by law – but will neither become a billionaire nor is she granted to live a life in dignity. Kant had already been revoked by a theoretician long before his time: In Hobbes's approach, unrestricted freedom leads to civil wars – something we are witnessing today in the exercise of “our” freedom and liberty throughout the world. Based on Hobbes's conceptualization, one can argue against Kant's proposition saying that freedom is not restricted when the freedom of others only restricts it – just the opposite is true: If my freedom is restricted by the freedom of others claiming the same subject, the inevitable consequence is the dissolution of the social fabric of the society or the corruption of our value system in the form that equality, freedom, and liberty are limited to only our rights. Contrary to Kant, freedom and liberty can only be restricted according to the *equality* as their human right, sustaining a balance between freedom/liberty and equality.

The “negative” concept of freedom and liberty (being independent of any other arbitrary will) always shows its strength in the fight against direct oppression, regardless of whether it might be contra to an aristocratic society, against dictatorships or “real socialism” such as the USSR and its satellites. The differentiation already put forward between negative and positive freedom originated from Kant, being developed further by Isaiah Berlin and highlighted by

⁵ Allgemeines Prinzip des Rechts; „Eine jede Handlung ist recht, die oder nach deren Maxime die Freiheit der Willkür eines jeden mit jedermanns Freiheit nach einem allgemeinen Gesetze zusammen bestehen kann etc.«

Hannah Arendt. Isaiah Berlin envisioned the possibility of a conflict between both forms of freedom and formulated a warning for the twenty-first century when at the end of his life, he made the following proposition:

“My point is that some values clash: the ends pursued by human beings are all generated by our common nature, but their pursuit has to be to some degree controlled - liberty and the pursuit of happiness, I repeat, may not be fully compatible with each other, nor are liberty, equality, and fraternity.” (Berlin, 2014) If they are incompatible with one another, we must avoid that they are transformed into a new binary code.

What Isaiah Berlin wants to highlight is the problem that freedom resp. liberty and equality cannot be achieved simultaneously as an absolute because they are, to a certain extent, incompatible with one another. If we view one of them as an ultimate, we must neglect the other one. Instead of introducing a binary code in the form of a priority of the one side over the other as it was in the case in real socialism with equality and in natural capitalism with freedom (consequently, Waldron views equality just as a secondary right; Waldron 2017), we suggest an approach in which both remain in an unresolvable, but positive tension. This is, in our view, not a contradiction but a kind of balance, a form of mediation.

III. Inequality as an aim in Neo-Liberalism

Following up the initial question relating to Hannah Arendt's thesis about the political realm, we have to ask how democracy and human rights can be preserved in the face of social inequality in an extraordinary dimension. Let us take a closer look into some of the ideas of the currently still predominant Neo-Liberalism. The reason is that in this ideology, social inequality is a means of achieving more wealth. Nevertheless, as it sets no limits to social inequality, it can be used as legitimacy to even obscene inequalities (Stiglitz 2013).

We argue that spreading a specific approach to economic thinking, having its roots in the first half of the 20th century, in which Walter Lippmann's trendsetting book “An Inquiry into the Principals of the Good Society” (1937) and followed Friedrich August von Hayek's “The Road to Serfdom” (1944) resulted in Neo-Liberalism as an ideology.⁶ During the Cold War period, the

⁶ Here, we would like to emphasize that our approach is not characterized by the assumption that there is a direct line and dependency from ideologies to political action; perhaps ideologies are more important to

Neo-Liberal proponents gained more and more headway in establishing a worldwide system. With the support of Milton Friedman and his “Chicago Boys,” the first attempt of establishing a pure Neo-Liberal economic system took place in Chile under the military dictatorship of General Pinochet in the 1970s. In the last decade of the Cold War, Neo-Liberal architects like Margaret Thatcher and Ronald Reagan began to enforce the new economic model. Since the end of the Cold War, the latest development was that Neo-Liberalism became THE hegemonic economic system as capitalism could de jure spread unhindered worldwide, and Neo-Liberalism could continue its way of becoming the dominating faith system of capitalism. The critical message in this sense is the following: This process is not just limited to an economic dimension itself – Neo-Liberalism contains a general trend towards an extensive economization of society.

When we talk about global inequality in times of Neo-Liberalism, we refer to two other main developments: To this day, inequality between the Global North and South still exists. Whereas the total amount of poverty has declined, as seen in the World Bank's report (2016), there is still a considerable gap between those countries making profit out of the global economy and those that serve as cheap production or commodity areas. The second development materializes within the countries that are to a greater extent confronted with the Neo-Liberal project. In this meaning, the societies turn into fragmented communities, where the “losers of globalization” are threatened by long-term unemployment, a life of poverty, social and economic degeneration (Butterwegge, 2007, p. 211).

We witness a nationwide and drastic dissatisfaction of the peoples, fears, and anger, the feelings of marginalization, helplessness, insecurity, and injustice. After three decades of intense worldwide Neo-Liberalism, the result significantly intensified social inequalities, polarization, and fragmentation of societies (if not the entire world society), not to mention a global financial crisis in 2008 caused by escalating casino capitalism and the policy of a powerful global finance elite!

Remarkably, the outlined situation does not provoke the oppressed, excluded, and disadvantaged population, making them turn against their oppressors and their exploitation. These people tend to sympathize with ideological alternatives, either to more triumphant (right-) populist movements and parties or are attracted by radical/fundamental religious groups such as the Islamic

explain why we are not resisting obscene inequalities as long as they seem to be “necessarily”; for a structural explanation of the social inequalities in our time, see Piketty.

State. The result is an increase in polarization and violence and even more ongoing wars and religious-ideological disputes (in the Arabic world and parts of Africa).

Europe is not exempted from the trend towards obscene social inequality. We likewise find a polarization between rich and poor, those with good starting conditions and others having hardly any chances of prosperity, those included and those who feel excluded. The fact that Europe has escaped so far from populist parties coming into administrative power might be due to the remnants of the welfare state. Regarding that, at least a minimum financial security remains and restricts the Neo-Liberal trend. In contrast, in the United States, a flawless populist could achieve the highest office. The people voted, stuck in their misery, fear, and insecurity for an assumed alternative to the Neo-Liberal establishment⁷, but mainly against other excluded of society whom they made responsible for their misery. This leads us to the central critique of Neo-Liberalism, a system that caused fundamental societal oddness, whose impact as an ideology was highlighted above. The central critique is that Neo-Liberalism contains social inequality as part of its fundamental theory. Capitalism of this kind emphasizes the strongest/fittest (parts of society) and uses inequality as a purpose (Heitmeyer, 2001, p. 500).

In an interview with the German newspaper "Wirtschaftswoche," Hayek spoke bluntly about the Neo-liberal's value system: He highlights social inequality in his view is not at all unfortunate but rather pleasant. He describes inequality as something simply necessary (Hayek, 1981, pp. 37-38). In addition, he defines the fundamentals of Neo-Liberalism as "Dethronement of politics" (1981). He refers first to the importance of protecting freedom at all costs (against state control and the affiliated exertion of political pressure). The Neo-Liberal advocates see even seriously increased inequality as the fundamental prerequisite for more economic growth and their project's progress. One of the renowned Neo-Liberalism critiques in Germany, Christoph Butterwegge (2007, p. 212), detects in this logic a perfidious turnaround of the initial intentions of Smith's inquiry (reproduced 2013) into the wealth of nations in the current precarious worldwide situation. Real capitalism of our times – Neo-Liberalism – sees inequality as a necessity for the functioning of the system. Emphasizing this statement: The more inequality, the better the system works. The hard-working, successful, and productive parts of society (or

⁷ Here the word establishment is used in its original sense and not as a populist swearword to win even more disappointed and querulous voters.

better the economy) deserve their wealth, status, and their visible advantage to the rest (the part of the society seen as not as strong or less ambitious). The purposeful production of inequality sets a fatal cycle in motion that leads towards the current tense global situation and contributes to several intra-societal conflicts.⁸

The market alone is the regulating mechanism of development- and decision-making processes within a society dominated by Neo-Liberalism and, as such, not at all politics. This brings us closer to the relationship of Neo-Liberalism and Democracy. The understanding of democracy in the Neo-Liberal theory is, so to say, different. Principles like equality or self-determination that are prominent in the classical understanding of democracy are rejected (Lösch, 2007, p. 221). Neo-Liberalism strives for a capitalist system without any borders set by the welfare state (Butterwegge & Lösch & Ptak, 2007, p. 11) and even the state as such, to shape, enforce and legitimate a society dominated only by the market economy (Ptak, 2007, p. 23). By now, there are precarious trends recognizable, where others than the political legitimated decision-makers dictate the factual political and societal direction (e.g., the extraordinary strong automotive lobby with VW, BMW, and Mercedes in Germany or big global players in the finance sector like the investment company BlackRock).

Neo-Liberalism adopts democracy only apparently as its own. The elementary democratic goals (protection of fundamental and civic rights and the respect for human rights) cannot be realized comprehensively anymore. Democracy cannot defend itself against Neo-Liberalism if political decision-makers do not oppose the Neo-Liberal expansion zeal determinedly to all parts of society. The dramatic increase of inequality subsides with the state's failure as the authority of societal compensation and adjustment as Neo-Liberalism eliminates the state as an institution that is mediating the conflicts in society. To put it to the core: Whereas in classical economic liberalism the state has the task to protect and guarantee the functioning of the market economy, in Neo-Liberalism the state has to submit to the market system.

⁸ Our discussion of Neo-Liberalism here is not about this conceptualization and its history, which would require a separate article. Nevertheless, we want to highlight that in Neo-Liberalism, social inequality is a means for achieving more wealth. Therefore we argue that there must be a flexible but specific limit to social inequality in order to achieve this goal, whereas excessive inequality is counterproductive; concerning Neo-Liberalism see Tim Scanlon's *The diversity of objections to inequality*; concerning the intellectual history of neoliberalism see Daniel Stedman Jones, *Masters of the Universe*, Angus Burgin, *The Great Persuasion and Nicholas Wapshott*; Keynes Hayek: *The clash that defined modern economics. We do not discuss inequality as such as these thinkers, only unchecked and unbalanced excessive social inequality.*

As already mentioned, inequality at a moderate level must not necessarily be seen wrong as such. In a modern understanding, it also contributes to a just society, in which performance, better qualification, higher responsibility, etc., are honored. The principle of allowing differences, used as in the theory of social market economy, is a remarkably positive one when such a kind of differentiation leads to the well-being of the majority of people in need. However, Neo-Liberalism adopts a difference intensifying inequality to the point of a very critical dimension. The current amount of social inequality attacks our system of values, endangering essential democracy and destroying the social fabric of societies.

Even if we consider a “healthy” level of inequality to be a valuable instrument for a functioning market society, what became the Neo-Liberal reality has nothing to do with such an ideal. Butterwegge emphasizes that Neo-Liberalism implies an antisocial state of a system in which inequality is embedded in society as its driving mechanism. Consequently, we witness a division between poor and rich alike in times of feudalism. A certain amount of social equalization through the welfare state and a minimum of social security is not guaranteed anymore. (2007, p. 218) The typical prerequisites nowadays are flexibility, performance, competitiveness, etc. - in general, we see total domination of individualism within Neo-Liberalism leading to the disintegration of society. In the one part of the world, primarily in the Global South, we observe the decline of entire population groups. In contrast, in other parts of the world, we witness fragmented societies in liquid modernity (Bauman, 2000) and increasing tendencies towards radical (religious) ideologies, violence, and war.

The Polish-British sociologist Zygmunt Bauman (2016) put this problem in a nutshell by drawing a comparison to the slogan of the French Revolution, “*Liberté, Egalité, Fraternité*”. According to the advocates of this time, each element could only be realized if all three firmly stayed together and become like one body with different organs. The logic was the following: “Liberté could yield Fraternité solely in company with Egalité; cut off that medium/mediating postulate from the triad – and Liberté will most likely lead to inequality, and in effect to division and mutual enmity and strife, instead of unity and solidarity. Only the triad in its entirety is capable of securing a peaceful and so thriving society, well-integrated and imbued with the spirit of cooperation.” (Bauman, 2016, p. 9) Equality is, therefore, necessary as a mediating element of this triad in Bauman’s approach. What he is encompassing is nothing less than a balance between freedom and equality.

IV. Beyond John Rawls

Before discussing John Rawls's conception of distributive justice, we need to make a reference to Kant in order to shed light on the greatness and limits of absolute or numeric equality. Since Descartes, modern Western rationality could be characterized by an attempt to supplant the whole, the good, the just, and the right through rational methodologies (Herberg-Rothe and Son 2018). Kant was no exception when he developed in his writings a justification of norms and values which could be legitimated solely by rational methodologies. It was also no accident that, with the victory of the liberal West against Stalinism and Communism, Kant experienced an unrivaled intellectual rebirth at the end of the twentieth century. In his categorical imperative, Kant does not make any proposition about what is good, right, and just, but just developed test criteria to prove whether any possible principle could be generalized for all people without exception and self-contradiction. Kant's conceptualization has its natural strengths in legitimizing moral norms, human rights, and concepts of dignity as the basis for modern philosophies. With the categorical imperative defined as an absolute, unconditional requirement that must be obeyed in all circumstances and is justified as an end, it was possible to condemn and delegitimize slavery and oppression and justify emancipation. It is easy to validate this claim with the example of, for instance, suicide. Suicide is immoral because if it becomes a requirement that everyone would have to obey, there will be no more humans on the earth.

Kant's approach can be best described as generalizing the individual by rational methodology. He is supplanting the idea of the *whole* (of the community) through *every* individual. We do not want to question this approach totally, because, with it, we can justify equality as a human right against any oppression. However, this principle is not sufficient for moral considerations. With the categorical imperative, we cannot legitimize positive in-equality in the sense that individuals should not be treated as a number but differently. For example, with the categorical imperative, we cannot treat women differently to facilitate their emancipation, nor handicapped people in order to live a life in dignity, introduce children's rights, and so on. Granting these parts of the special populace rights would be immoral from the categorical imperative's viewpoint (Herberg-Rothe and Son 2018). In order to transcend Kant's categorical imperative in this way, we need to go beyond numeric equality – and to transcend John Rawls, who was a Kantian thinker by heart.

The world has dramatically changed since John Rawls wrote his “A Theory of Justice” (1971) in the early seventies of the last century. During his time, he attempted to give reason to the assumption that moderate inequality could be justified if it serves the good of the less wealthy part of the populace. Nevertheless, he based his concept on the assumption of absolute numerical equality in his concept of the veil of ignorance. His theory could be characterized by the former difference between the Western Federal Republic of Germany and the communistic Eastern German Democratic Republic. Although the former was characterized by a more significant amount of social inequality than the latter one, the people in the Federal Republic of Germany were better educated, more free, and healthy – a difference that finally led to the fall of the Berlin Wall. The consequence of this comparison was Rawls's difference principle, assuming that social inequality could be legitimized if the maximum of the possible minimums for the less fortunate people was achieved. His maximum-minimum principle is based on the illusion that we can construct a mathematical solution to the problems of distributive justice, which would be similar to the equal right to vote constitutes democracy.⁹

However, nowadays, the world, as a whole, is characterized by obscene social inequality. Even within Western societies, we find such a polarization between the rich and the poor, the educated and the "sub-proletarians", those included and those excluded. Furthermore, if they are not already excluded, the fear of being degraded has occupied the middle classes' thinking and soul. Although we assume that a moderate inequality is necessary for economic competition and prosperity and that this moderate kind of inequality is the inevitable and necessary outcome of freedom, the current amount of social inequality is corrupting our value systems, endangering democracy and the social fabric of our society. Such social inequalities might even be justified with the difference principle of Rawls if the lesser fortunate people live on a small but higher level than without social inequality. Nevertheless, the problem is not in all cases the amount of property as such, but the impression of a widening gap. Nowadays, social cohesion in most Global North countries is endangered by the threat of social inequality and are leading to thinking of “We against the Rest” (Herberg-Rothe and Son, 2018).

⁹ Just in order to highlight the difference to Rawls, we can exemplify our conception as the sphere between two similar functions whose relation remains unchanged and the achievements at the end of one spectrum led to the proportional rise of the other. In contrast, today, the gap between them is exponentially rising.

Already John Rawls himself corrected his widely discussed “Theory of Justice” from 1972, which places primacy on liberty although he took into account the principle of difference, in the case that such a kind of differentiation leads to the well-being of impoverished people (which, in fact, is a theory of social market economy). In his late works, he envisioned (relative) equality as a corrective to unlimited liberty. The hidden difference is that in his earlier works, Rawls sticks to the principle of generalizing the desires and interests solely of the individual trying to build a just society by reducing equality to only the original conditions and the mathematical maximum-minimum principal. Controversial to this, in his latest writings, he puts emphasis on the republican ideal of the whole community, not being generated by the democratic majority of the particular interests.¹⁰

Our primary assumption is that we have to exchange numerical equality by introducing a relational approach. The reason is being able to understand numerical equality as a special relationship but not vice versa. Even if we accepted social inequality to the point that the wealthier parts of society own a hundred more than the less prosperous in property or income, this would be by far a more humane relationship than in current world society. If you would like to transcend your amount of income and property, it would only be possible if the less wealthy parts of the populace rise in a proportional relation. Contrary to setting numerical limits, such an understanding of equality as a relation and proportion not excluding the elites are gaining and striving for more income, privileges, and so forth, would establish a relationship that could not be overextended.

In order to achieve such a relation, we suggest an equal proportion of rewards for our efforts. We solely need to transform the current exponential rise of the wealthier part of the populace by two linear functions, both being related to one another. The current exponential rise is no longer one of “the more, the more”-proportion, but a polarization in which the differences no longer attributes to your efforts.

¹⁰ compare Rawls 1971 with Rawls 2001 and 2005; the attempt of the double-movement to find out what is common to all humans and afterward generalize it as a normative goal has been proven desperately wrong (a method which is grounded in Kant’s categorical imperative). This method tried to exchange the whole through the general in the form of a succession of the natural numbers. These approaches are just different with relation to the emphasis they put on various aspects of this process: Habermas (1985) is emphasizing the method (the discourse and the idealized discourse community), Kant the problem of what is common to all humans (reason and rationality), Adorno and Honneth the aim (recognition, whose advanced function is grounded in a utopian society); for details see Herberg-Rothe and Son, 2018.

The problem with Rawls's maximum-minimum principle is that it only took into account the amount of property with the consequence that even terrible and obscene inequality could be justified if the less fortunate gain a minimum more income and property. Therefore, we need to supplement his maximum-minimum principle by the minimum-maximum principle viewing their relationship as a function in which the rich get richer depends on your efforts as well as the rise of the poorer part of the populace. At first sight, Rawls's conception is comparable to the social-market economy as we have had in Germany in the seventies of the last century, the classics of the welfare state. A closer look might reveal that his approach is more related to the liberal understanding of democracy. Founded on our absolute and numerical equality as voters, in Rawls theory we are free to distinguish ourselves from others in the political, economic, and social realm. All other kinds of equality in these other spheres are excluded. By inventing a relation or, more precisely, a function, we introduce a kind of essential reciprocity that fundamentally constitutes society. Without such a proportional relation, the societies even in the Western world are falling apart – not only those of the non-Western world. The crisis of Neo-Liberalism is returning from the margins to the center.

The amount of social inequality we must accept may still be disputed, and we may need to acknowledge that there will be struggles and quarrels about the actual amount. The decisive introduction beyond Rawls is to exchange an only outwardly ideal of absolute equality on which inequality is built upon without any conceptual limit by a relation and even function between the maximum-minimum-principle and the minimum-maximum-principle. In other words: liberty and freedom are not limited by the freedom of others to strive for similar aims and goods (Kant), but by the inalienable human right of being equal to live a life in dignity (and vice versa, equality is limited by the right of distinguishing yourself from others - as we understand freedom in the footsteps of Arendt).

V. Conclusion: Justice as a pair of scales between freedom and equality

Therefore, as a supplement to numerical equality, we introduce proportionality and reversed proportionality concerning equality as a kind of relationality. Proportionality could be described as the relation: the more-the more, whereas reversed proportionality could be characterized as follows: the more income and property you have, the less you need financial assistance from the community. Aristotle has already posited the solution by arguing that justice

is embodied in the principle of treating “what is equal as equal and what is unequal as unequal.” Nevertheless, he put inappropriate emphasis on the proportionality of merits explained by an aristocratic approach, or that of a meritocracy as Zhang WeiWei is currently envisioning it as an alternative to democracy. Although we must consider the limits of Aristotle’s reduction of proportionality to a linear relation (the more merits you have acquired, the more rewards you deserve) and his aristocratic exclusion of reversed proportionality, his account is still of paramount importance compared to the reduction of equality to a numerical concept. Additionally, we must consider both sentences simultaneously; otherwise, we just would legitimize inequalities. In all instances, we have to balance contrasting approaches in order to build a just society based on equality and freedom, resp. liberty. Such a balance is embodied in the conception of “the scales of justice.” On the contrary, the most influential modern accounts of justice emphasize individual rights protecting freedom or simple numerical equality rather than relational equality (MacKerlie, 2001, p. 119). Based on this differentiation, we can distinguish many variations that are nonetheless all based on the following definition:

Justice is the floating balance of equality and liberty/freedom understood as distinguishing yourself from others, balancing a contrasting pair. We can differentiate Aristotle’s approach as a floating balance of both principles by taking relationality in various aspects into account, for example, concerning time and space. Following this proposition, this includes the possibility of treating someone positively at the moment in an unequal manner in order to enable him a life in which he will be regarded as an equal in the future. The consequence leads to a differentiation of this floating (Clausewitz) and developing (Hegel) balance in at least the following propositions:

1. Negative freedom = not being influenced by any ones’ arbitrary will; not being a slave; not being oppressed, and so forth (Kant)
2. Positive freedom = self-determination in the sense of being able to distinguish yourself from others as a way of the progressive development of the individual as well as humankind (Hegel, Berlin, and Arendt)
3. Negative (absolute) equality = being equal in a numeric kind; this proposition encompasses
 - a. a kind of “state of ants” (North Korea), which we must reject, but
 - b. as well as having the same rights, votes, and so forth (human rights).

4. Positive equality = being equally valued despite all differences (tolerance)
5. We can also differentiate a positive and a damaging inequality:
 - a. Hostile inequality = oppression, slavery.
 - b. Positive inequality = treating people unequally to enable them to pursue a life of dignity in the future (disabled persons, children's rights, women's rights).

Therefore, a just society is based on the floating balance of these five propositions: Negative freedom, positive freedom, negative equality in some instances, positive equality, and positive inequality. In short: Based on the concept of a balance between freedom as the right to distinguish yourself from others and the fundamental equality of all of us as human beings, we outline the proposition that freedom is not restricted by the freedom of others, as Kant maintained, but by the non-dissolvable equality and vice versa.

In all of these cases, we have to take into consideration that relationality is not meant as a kind of relativity. Such a floating equilibrium in relationality is the only way of avoiding the trap of thinking that Western political discourse has already been able to inaugurate absolute equality, absolute freedom, and being blind to such absolute numerical equality is inherently leading to the exclusion and even destruction of all those who do not fit into this proposition (see the critique of Western modernity in Herberg-Rothe and Son 2018).

The consequence is that we have to review the foundations of our thinking. Kant and Locke (reproduced 1993) were wrong. Equality can neither be reduced to a final form as found in real socialism nor as a numerical encounter, such as Kant's categorical imperative. We neither want to question nor highlight only numerical equality as such, but we are emphasizing that it is not sufficient in a profoundly unequal globalized world, whose amount of inequality has reached an unimaginable peak. We aim to propose relational equality to integrate people and cultures rather than reduce it to numerical equality corrupting the values of ourselves.¹¹ It is not accidental but a characteristic feature that justice since very early times has been symbolized by the scales of justice, out of our viewpoint by the balance of liberty/freedom and equality. Liberty and freedom without equality lead to oppression in their name, just as equality without liberty and

¹¹ It still astonishes that in the most recent achievements of the neuro-biologist sciences, emphasis is placed on the value of cooperation and combination for the development of our brain, whereas in economics, we still find the myth of sole competition as the reason for our wealth in the market economy.

freedom produces oppression, too. When real socialism went down to history and rightly because of the fundamental and glaring lack of freedom, natural capitalism has produced such an amount of social inequality that we have to accept one conclusion: In the face of the social inequalities throughout the world, we must recognize that we cannot establish our societies on freedom and liberty alone¹²; instead, a floating balance of them with equality is needed to build a just society.

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¹² Even Axel Honneth, as well as Jacques Ranciere, in their attempt to revive critical theory, are mainly repeating the theoretical spat between freedom and equality; see Honneth and Ranciere 2016.

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