The Justification and Legitimacy of the Active Welfare State
- Some Philosophical Aspects

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This thesis has two aims. The first aim is to set out an argument for social insurance in the form of compulsory income insurance in the event of sickness or unemployment, and to explore two lines of arguments for social insurance policies that are commonly associated with an active welfare state that seeks to prevent or reduce reliance on social insurance. The second aim is to outline and defend an account of legitimacy that takes moral autonomy seriously by making legitimacy partly dependent on our entrenched values and preferences.

The first aim is relevant for articles I-VI. In article I it is argued that the extent to which behavioural responses to social insurance is seen as ethically problematic, it is primarily a problem that concerns the institution rather than the morality of the individual whose behaviour is influenced by social insurance. Thus, insofar as behavioural responses to social insurance are an ethical problem, it is a problem for political philosophy rather than individual ethics. In article II an argument for social insurance in the form of compulsory income insurance in the event of sickness or unemployment is presented, viz. the argument from autonomy. It is based on a concern for the protection of our identity according to what is called a “thick” conception of the person, which holds that our identities as separate persons are constituted by our central aims and commitments. It is also argued that contrary to what has been claimed by its opponents; social insurance needs not lead to the bad risks exploiting the good risks, or be head-on in conflict with individual freedom. Article III identifies normative issues that deserve attention in relation to in relation to a general introduction of prevention policies in social insurance and market insurance. It is argued that the importance of these issues suggests that arguments and distinctions drawn from moral and political philosophy should play a more prominent role both in the debate on the shift towards an active welfare state and the use of prevention policies in market insurance. Article IV is a response to comments from Professor David Buchanan initiated by article III. Article V explores what is called the argument from autonomy for reduced compensation rates in social insurance or making compensation from such insurance conditional on different kinds of requirements such as participation in rehabilitation or vocational training. It is argued that such policies are justified if they tend to ensure an adequate level of autonomy, where autonomy is understood in the sense of a “thick” conception of personal autonomy based on Norman Daniel’s extension of the principle of fair equality of opportunity. Article VI discusses the objection that arguments pertaining to the principle of fairness often are irrelevant since the principle of fairness is based on the acceptance of the relevant benefits. It is argued that this objection from non-acceptance fails because we can – and do – accept the benefits form such institutions on a practical level and this is enough to ground obligations pertaining fairness. The implications of this argument for policies associated with the active welfare state are explored, taking a reform of the Swedish sickness insurance as an example.

The second aim is relevant for article VII. In article VII it is argued that an account of legitimacy should satisfy three conditions. The justification thesis and the legitimacy thesis are presented as accounts of justification and legitimacy respectively. It is argued that the proposed accounts satisfy these conditions. An account of political obligations is also given.

**Keywords:** Political philosophy, social justice, justification, legitimacy, welfare state, social insurance, prevention, conditionality, active welfare state.
LIST OF ARTICLES

This doctoral thesis consists of an introduction and the following seven articles:


(VI) Mikael Dubois, “Practical acceptance and Cooperative schemes”, *Submitted manuscript*.

(VII) Mikael Dubois, “Justification and Legitimacy”, *Submitted manuscript*. 
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1. Introduction

Most modern states in the industrialized parts of the world are welfare states in the sense that they provide their citizens with some level of social security. And in many welfare states different forms of social insurance play an important role in providing such social security.\(^2\) In Martin Feldstein’s words, social insurance can be characterized as “event conditioned transfers”\(^3\). That is, through their contributions, or premiums, people acquire a right to assistance in case an event of some pre-specified kind would occur. Furthermore, contrary to market insurance, social insurance is typically not actuarial in the sense that contributions on an individual level are not a function of the risk of having to seek compensation from the insurance. Among the more important kinds of social insurance are sickness insurance that replaces loss of income in the event of sickness, worker’s compensation that replaces loss of income in the event of occupational injury or sickness and unemployment insurance that replaces loss of income in the event of unemployment.

Despite its importance, social insurance remains controversial. Even in Sweden, often seen as the hallmark of the successful welfare state, the development towards compulsory social insurance with income related contributions and benefits has been fraught with political strife. For example, in 1937 Gustav Möller, minister of social affairs in the social democratic government, appointed the Social Welfare Committee with the task of reviewing the Swedish social welfare system and suggesting ways in which it could be expanded and better coordinated.\(^4\) But Möller soon came into conflict with the committee. In 1944 the committee presented its proposal for sickness insurance in the form of compulsory income insurance. According to Möller, however, the state was only justified to impose on its citizens insurance that ensures a minimum standard while it should be left to the citizen’s own discretion to cater

\(^2\) The importance of social insurance varies across different countries and it is typically difficult to make general claims about the importance and construction of social insurance systems. For example, in the Nordic countries, Belgium, France, Germany, Luxembourg and Japan social insurance – and other insurance-based support systems - plays a crucial part whereas in Australia and Canada the role of income-tested programs is considerably larger. Cf. Adema, W. and M. Ladaïque “How Expensive is the Welfare State?: Gross and Net Indicators in the OECD Social Expenditure Database (SOCX)”, OECD Social, Employment and Migration Working Papers, OECD Publishing, 92, 2009.

\(^3\) Martin Feldstein “Social Insurance”, Public Policy, 25(1), 1977, p. 82. In his report Social Insurance and Allied Services William Beveridge gives a more elaborated characterization of social insurance. According to Beveridge, the term “social insurance” implies “both that it is compulsory and that men stand together with their fellows”. But he also notes that “The term implies a pooling of risks except so far as separation of risk serves a social purpose. There may be reasons of social policy for adjusting premiums to risks, in order to give stimulus for avoidance of danger, as in the case of industrial accident and disease”. Sir William Beveridge Social Insurance and Allied Services, London: Her Majesty’s Stationary Office, 1942, p. 13 (§26).

\(^4\) Cf. Socialvårdskommitténs betänkande VI: Utrening och Förslag angående Socialvårdens Organisation m.m., Statens Offentliga Utredningar, SOU 1942:56.
for the rest. Instead, Möller advocated that the state should only ensure flat rate health insurance to provide the insured with basic security. In response, Bernhard Eriksson, the chairman of the Social Welfare Committee, argued that flat rate insurance was contrary to the “idea of justice” on which the social insurance system should be based. Underlying the disagreement between Möller and Eriksson are different views concerning which normative principles the social insurance system should be based on, and the extent to which the state may legitimately pool social risks associated with sickness and unemployment.

The differences between Möller’s and Eriksson’s views were also due to different views on the feasibility of flat rate and income related insurance. On the one hand, the members of the social welfare committee had the view that flat rate insurance would result in a compensation that is too low for those with a higher income and too high for those with a lower income, leading to moral hazard or misuse of the insurance. It was, as Johan Byttner, one of the members of the committee, put it “a desk fantasy” that it would be possible to find a compensation level that was appropriate for the whole country. Income related insurance

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5 Proposition 312 (Bihang till riksdagens protokoll 1946, 1 samlingen Nr 312), p. 136. The Social Welfare Committée was not the first committee to propose the introduction of sickness insurance in the form of compulsory income insurance. Such insurance had been proposed by the Social Insurance Committee (Socialförsäkringskommittén) already in 1919 (in fact, as early as 1910 J. J. Gibson, an engineer and liberal, had proposed sickness insurance in the form of compulsory income insurance in the parliament, but his proposal did not lead to any further discussion). However, it was the Social Welfare Committée that ultimately paved the way for the introduction of sickness insurance in the form of compulsory income insurance in 1955. But it was not a smooth path. To begin with, the committee had to oversee both the social insurance system and the social welfare system – a formidable task in itself. Since sickness insurance was seen as central to the organisation of both worker’s compensation and unemployment insurance the committee started to discuss sickness insurance. In 1944 the committee proposed sickness insurance in the form of compulsory income insurance (SOU 1944:15). By then it was clear that this proposal was fiercely opposed by the minister of social affairs, Gustav Möller, who wanted flat rate insurance along the lines of Beveridge’s proposal from 1942. The subsequent proposition to the parliament in 1946 contained two proposals – Möller’s and the committee’s. Eventually, Möller’s proposal was adopted but its implementation was postponed for financial reasons. In 1951 Möller resigned and the new minister of social affairs, Gunnar Sträng, appointed a new committee (Socialförsäkringsutredningen). The new committee quickly revived the work of the Social Welfare Committée and proposed sickness insurance in the form of compulsory income insurance (SOU 1952:39). The proposal was adopted by the parliament in 1953 and implemented in 1955. See also Peter Baldwin, The Politics of Social Solidarity – Class bases of the European welfare State 1875-1975, Cambridge: Cambridge University Press, 1990, pp. 138ff, 144ff. A final note: Möller’s opposition to income insurance is similar to Beveridge’s view on the purpose of social insurance. In Social insurance and Allied Services Beveridge writes that “Social insurance and national assistance organised by the state are designed to guarantee, on condition of service, a basic income for subsistence. The actual incomes and by consequence the normal standards of expenditure of different sections of the population differ greatly. Making provision for these higher standards is primarily the function of the individual, that is to say, it is a matter for free choice and voluntary insurance. But the state should make sure and that its measures leave room and encouragement for such voluntary insurance” (Beveridge1942, p. 121: §302).

would avoid these problems. Möller, on the other hand, claimed that for the large majority flat rate compensation would be sufficient to sustain their living standard without leading to moral hazard. Since flat rate insurance also would be less costly to administer it was preferable to income related insurance.

That social insurance, as all forms of social policy, may affect people’s behaviour has since long been a concern for politicians and policy-makers. With regard to social insurance, this has compelled policy-makers to take steps to avoid misuse and counteract moral hazard through measures such as deductibles and co-insurance. There is also a long tradition of using social policies to discipline recipients and separate those who are truly in need from pretenders by making social assistance conditional on different behavioural requirements. The most cited example is perhaps the English new poor law of 1834 and the introduction of work houses where the able bodied had to work to receive assistance, but similar measures had been taken in many European countries since at least the beginning of the 16th century inspired by the work houses of Amsterdam. Also social insurance has been used to control behaviour. For example, in the beginning of the 20th century whether the injured worker were entitled to compensation from worker’s compensation often depended on whether he (as it often was then) had been drunk or negligent when injured. Although the use of social welfare and social insurance to steer people’s behaviour was seen less favourably upon from the beginning of the 1950’s until the end of the 1970’s, in recent decades there has been a renewed interest among politicians and policy-makers to use social welfare and social insurance to influence people’s behaviour as a response to economical, demographical and social changes and the rise of new kinds of social risks. The general aim has been to restructure what has been seen as a predominantly “passive” welfare state that focuses on compensation to an “active” welfare state that focuses on giving incentives for active participation and prevention.

As Frank Vandenbroucke, one of the advocates of the shift towards an active welfare state puts it:

7 Quotation from Socialvårdskommittén’s discussion 1945-06-20 following the social minister Gustav Möller’s decision to disregard the committee’s proposal and advocate flat rate insurance. Riksarkivet: Socialvårdskommittén: Renskrivna protokoll och diskussionspromemorior, vol 3, (SE/RA/321185/A2/3).
8 Proposition 312 (Bihang till riksdagens protokoll 1946, 1 samlingen Nr 312), pp. 136f.
11 For an account of the shift towards an active welfare state, see Gösta Esping Andersen, Duncan Gallie, Anton Hemerijck and John Myles Why We Need a New Welfare State, Oxford: Oxford University Press, 2002; Håkan...
The traditional welfare state is, in a sense, predominantly a passive institution. It is only once an undesirable outcome has occurred, that the safety net is spread. It is surely much more sensible for an active state to respond to old and new risks and needs by prevention.\textsuperscript{12}

The shift towards an active welfare state raises additional questions about the justification and legitimacy of social insurance systems and the extent to which the state may legitimately influence people’s behaviour through social welfare and social insurance.

This thesis discusses the justification and legitimacy of social insurance and social insurance policies associated with the shift towards an active welfare state with the aid of concepts and arguments drawn from political philosophy and theory. It consists of seven articles and an introductory chapter.\textsuperscript{13} The introductory chapter has the following structure: In section 2 I further specify the aim and scope of the thesis. In section 3 I briefly discuss different welfare states typologies. In section 4 I discuss theories about the origins of the welfare state and justifications and criticism of social welfare systems and social insurance found in the literature. In section 5 I give a brief overview of the shift towards an active welfare state and the justifications that have been proposed in the literature and debates of insurance policies that are associated with it. In section 6 I briefly discuss some issues related to legitimacy. In section 7 I summarize the articles in the thesis and I discuss how they relate to each other and the issues that I have presented in sections 4 and 5 of this introduction. Section 8 concludes with some general remarks about further questions that this thesis generates. Section 9 contains a summary of the articles in Swedish.

\textsuperscript{12}Esping-Andersen 2002, p. x.

\textsuperscript{13}The aim of the introductory chapter is to present lines of argument that are relevant background information for the articles, but also to give the reader a broad overview of philosophical issues pertaining to the modern welfare state and its development (with particular emphasis on arguments and theories drawn from moral and political philosophy) to put the arguments set forward in this thesis in a broader context.
2. Aims and Scope

This thesis has two aims. The first aim is to set out an argument for social insurance in the form of compulsory income insurance in the event of sickness or unemployment, and to explore two lines of arguments for social insurance policies that are commonly associated with an active welfare state that seeks to prevent or reduce reliance on social insurance, viz. the argument pertaining to autonomy and the argument pertaining to fairness. The second aim is to outline and defend an account of legitimacy that takes moral autonomy seriously by making legitimacy partly dependent on our entrenched values and preferences.

The literature on the welfare state and social insurance is vast and rapidly expanding, covering many different fields and disciplines, each approaching the issues from their own direction.\(^\text{14}\) It has therefore been necessary to limit my discussion in various ways. To that effect, I have not discussed gender-issues and feminist criticism of the welfare state and its policies.\(^\text{15}\) Nor have I discussed the reasonableness of the behavioural assumptions that underlie many policies associated with the active welfare state.\(^\text{16}\) Moreover, the complexity of the welfare state and the multitude of its institutions and policies render it necessary to discuss social insurance and various policies more or less in the abstract and detached from the particular socioeconomic circumstances of different welfare states. Since to what extent the arguments I explore are successful in justifying social insurance in the form of compulsory income insurance or any specific social insurance policy associated with the active welfare state partly depends on such socio-economic circumstances, the aim has not been to justify or rebut particular policy proposals. Rather, the aim has been to present a coherent normative framework within which to assess the justification and legitimacy of actual policies or policy proposals. In particular, as I will discuss further in section 7 of this introductory chapter, this normative framework is more likely to satisfy the proposed account of legitimacy than alternative frameworks.

This said I will in the articles refer to actual or proposed policies to illustrate the relevance of my arguments for the ongoing public discussion about the welfare state and social insurance. Thus, I fully agree with Lawrence Mead and Christopher Beem when they lament the gulf between theory and policy:

\text{Cambridge: Cambridge University Press, 1998, p. 3.}\]


As theory has lost its public voice, so too has it lost its ability to address the political arena in which policy is made. Policy arguments are thus compromised and incomplete. As they confront tough choices, policy-makers could use hard-nosed analysis of what values are severed by this or that option. But to help them, political theorists must have a taste for confronting real problems, and they must know something about the actual issues.\(^\text{17}\)

To what extent I have succeeded in that ambition is left to the reader to decide.

### 3. The elusive Welfare State

Despite its significance the welfare state in many ways remains elusive. On the one hand, Amy Gutman observes “Every modern industrial state is a welfare state. None permits natural or manmade social contingencies fully to determine the life chances of its members. All have programs whose explicit purpose is to protect adults and children from the degradation and insecurity of ignorance, illness, disability, unemployment and poverty”.\(^\text{18}\) On the other hand, Goodin sees a tendency “for one’s analysis of what definitionally constitutes the “core” of the welfare state to depend crucially upon one’s analysis of how best to justify”, which leads to proponents of alternative justifications to talk past one another and to discuss something slightly different when they consider arguments for or against the welfare state.\(^\text{19}\)

To avoid confusion, in this thesis the term “welfare state” is primarily taken to refer to states that have adopted institutions devoted to what Pierre Pestieau calls social protection, i.e. both welfare (social assistance) and social insurance.\(^\text{20}\) The right to social welfare is typically means-tested and not conditional on previous contributions (although it may be conditional in other ways), whereas the right to compensation from social insurance is conditional on

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\(^\text{17}\) Lawrence Mead and Christopher Beem (eds.), *Welfare Reform and Political Theory*, New York: Russell Sage Foundation, 2005, p. 4. Robert Goodin has also emphasised the importance of both normative theory and an understanding of how policies function to assess public policies. As he puts it: “The need for some sort of normative theory to guide policy choices is also, in some sense, intuitively obvious. We need to know not only which results follow from which policies but also which results we should prefer and strive to achieve”. Robert Goodin, *Political Theory & Public Policy*, Chicago: University of Chicago Press, 1982, p. 7. Also Ronald Dworkin has argued that political philosophy must take real issues as its starting point: “It is important that the argument that ends in general philosophy should have begun in our life and experiences, because only then is it likely to have the right shape, not only finally to help us, but also finally to satisfy us that the problems we have followed into the clouds are, even intellectually, genuine not spurious.” Ronald Dworkin *Sovereign Virtue – The Theory and Practice of Equality*, Cambridge, Massachusetts: Harvard University Press, 2000, p. 4.


\(^\text{19}\) Goodin 1988, p. 5.

\(^\text{20}\) Pestieau 2006, p. 4. Pestieau also sorts various schemes that provide benefits in kind under the welfare state, such as public housing and education. Although this may be warranted, I do not discuss such schemes unless it is relevant for the aim of this thesis.
previous contributions (or premiums) or citizenship. Social insurance differs from market insurance in at least two ways. First, social insurance is typically compulsory whereas market insurance is voluntary. Second, and perhaps more importantly, social insurance is non-actuarial in the sense that for each insured compensation rates and contributions (or premiums) are not proportional to the insured risk whereas market insurance is more actuarial (the, as Shapiro points out, *raison d’etre* of commercial insurance). By being non-actuarial social insurance pools “bad” risks together with “good” risks, which means that the good risks carry part of the cost of the bad risks. In other words, social insurance redistributes between different risk-categories to the benefit of those who are among the bad risks.

The construction of social insurance differs between welfare states depending on institutional and socioeconomic preconditions. To distinguish between different constructions, a first broad distinction can be made between social insurance with income-related benefits and contributions, and social insurance with flat-rate or uniform benefits and contributions for all insured. The former is typically associated with the kind of social insurance introduced by Bismarck in Germany in the 1880’s, whereas the latter is associated with William Beveridge and his 1942 report *Social Insurance and Allied Services*.

To describe different kinds of welfare states and social insurance models scholars have also proposed more elaborated taxonomies based on the extent to which social insurance is compulsory, the conditions for eligibility and forms of administrative organization. In the following I will briefly present the taxonomies that are often referred to and discussed in the literature on the welfare state. To begin with, Richard Titmuss distinguishes between what he calls the residual model of social policy, the industrial achievement-performance model and the institutional redistributive model. The first model holds that individuals’ need should be met by the welfare state only when they cannot be met by the market or by the family. The second model gives social welfare institutions a significant role as adjuncts of the economy in holding that social needs should be met on the basis of merit, work performance and productivity. In the final model social welfare provides services outside the market based solely on the principle of need.

In *The Three Worlds of Welfare Capitalism*, Gösta Esping-Andersen famously distinguishes between the liberal, the corporatist and the social democratic welfare state. In

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22 This has led some authors to dispute that social insurance is insurance at all. Cf. Eveline M. Burns, *Social Security and Public Policy*, New York: McGraw-Hill Book Company INC, 1956, pp. 33ff.
the liberal welfare state, assistance is means-tested, transfers and social insurance are modest and benefits cater mainly to low-income dependents. Entitlement rules are often strict and associated with stigma to uphold traditional liberal work ethic. In the corporatist welfare state, the aim is primarily to preserve status and status differentials, and entitlements are attached to class and status in the sense that there is little redistribution between risks or low- and high-incomes. In the social democratic welfare state, equality is promoted by universalistic services and benefits and a universal social insurance scheme where compensation is based on earnings.24

Finally, in their taxonomy of different social insurance models Joakim Palme and Walter Korpi distinguish between the targeted, the voluntary state subsidized, the corporatist, the basic security and the encompassing models. In the targeted model, eligibility is based on a means-test and those who fall below some poverty line are entitled to support in proportion to how low below that line they have fallen. In the voluntary state-subsidised model, mutual benefit-societies and other providers of voluntary insurance are subsidised by tax-money to encourage individuals to purchase insurance. In the corporatist model, insurance is compulsory and eligibility for benefits is based on contributions and membership in an occupational category. Separate social insurance schemes are created for different occupations and there is no or little risk pooling between different occupational sectors. In the basic security model, eligibility is based on contributions or citizenship. Social insurance is compulsory for all salaried employees, the contributions and the benefits are flat-rate and modest to leave room for high income groups to purchase supplementary insurance for their income protection. Finally, in the encompassing model insurance is compulsory and eligibility is based on contributions and citizenship. Since contributions and benefits are proportional to income, the insured are provided with income protection. Social insurance according to the encompassing model reduces the demand for supplementary insurance and has the potential of encompassing all citizens within the same program.25

The different taxonomies are partly overlapping at the same time as they emphasise different aspects of the construction of social insurance or social security.26 For example, what

25 Walter Korpi and Joakim Palme, “The Paradox of Redistribution and Strategies of Equality: Welfare State Institutions, Inequality, and Poverty in the western Countries” *American Sociological Review*, 63(5), 1998, pp. 667ff. Korpi and Palme distinguishes between two variants of the basic security model: one where eligibility is based on residence or citizenship and one where eligibility is based on contributions by the insured and/or the employer. Since the former variant is primarily of interest for the purposes of this thesis I do not further discuss the latter variant.
26 For a feminist critique of these taxonomies, see Diane Sainsbury “Women’s and Men’s Social Rights: Gendering Dimensions of the Welfare State” in Sainsbury 1994.
Esping-Andersen calls the social democratic welfare regime is typically associated with what Korpi and Palme calls the encompassing social insurance model and what Esping-Andersen calls the liberal welfare regime is typically associated with what Korpi and Palme calls the basic security model. There is also a geographic dimension to the welfare regimes and social insurance models identified by the different taxonomies. Anglo-Saxon countries are typically examples of what Esping-Andersen calls the liberal welfare regime, whereas the countries in continental Europe are examples of the corporatist welfare regime and the Scandinavian countries including the Netherlands are examples of the social democratic welfare regime. In this thesis I will in article II defend social insurance in the form of compulsory income insurance, which best corresponds to the encompassing social insurance model and the social democratic welfare regime.

4. The Justification of the Welfare State and Social Insurance

In this section I present a brief overview of theories explaining the origin and emergence of the welfare state (or different kinds of welfare states) and I discuss some of the more influential justifications of the welfare state and social insurance suggested in the philosophical literature.

4.1 Origins of the welfare state

On a general level the emergence of the welfare state is typically explained as a response to the shift from a predominantly agrarian economy to a capitalistic economy and the development of the modern employment relation and a labour market in which labour is bought and sold.\(^27\) As Karl Polanyi argues in *The Great Transformation*, social protectionism is a reaction – or a counter movement - to the transformation of society that took place through the industrial revolution and the social dislocation imposed by the unrestrained free market.\(^28\) The welfare state could thus be seen as a new solution to the old problem of providing social security, which in the agrarian economy was primarily provided through patriarchal structures and through guilds and associations.\(^29\)


\(^{29}\) This is also recognised by the second Swedish committee on workers’ insurance (Nya Arbetarförsäkringskommittén) when it is pointed out in the committee’s final report that although workers’ situation has improved in many respects, their economical situation is less secure due to the risks associated with new ways of production and to the weakening of the relation between employers and employees. Nya Arbetarförsäkringskommitténs Betänkande: I – Utlåtande och förslag. Stockholm, 1893, p. 25.
But such a general explanation does not explain why in modern welfare states social protection is primarily given through state institutions, as opposed to market solutions, or why different welfare states have adopted different social welfare systems and social insurance models. As to the first question, economical theories have explained the emergence of the welfare state and social insurance as a rational economical response various market failures. In particular, social insurance typically insures risks that are difficult to insure in a market due to informational asymmetries that lead to the problems of adverse selection and moral hazard. Social insurance is also commonly concerned with risks that are notoriously difficult to estimate or that affect a large number of insured once they materialize (such as catastrophic risks). Social insurance can thus be seen as a response to the failure of the market to solve the problem of social protection.

As to the second question, scholars from different disciplines have presented a wide variety of explanations why different welfare states have adopted different kinds of social welfare systems or social insurance models. Esping-Andersen, for example, has argued for what has been called the power theory, which explains the emergence of the social democratic welfare regime in terms of a strong social democratic movement that has succeeded in defending and promoting the interests of the working class. As he puts it when he has analysed the impact of different factors on welfare state characteristics, “The analyses leave little doubt that left-party power is decisive for de-commodification, full employment efforts, and general social democratization”. Although the power theory has gained much supported, it is not without objections. One objection is that it has difficulties in explaining the emergence of a strong welfare state in countries such as the Netherlands where social democracy has been weak. Another objection is that it ignores that also within strong social democratic parties there may be different views about the proper construction of the welfare systems.

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30 Nicholas Barr, “Economic Theory and the Welfare State: Survey and Interpretation”, *Journal of Economic Literature*, 30(2), 1992. However, Barr contends that to the extent that the traditional market failures support welfare state institutions at all they justify only a residual welfare state with means tested benefits (Barr 1992, p. 749).

31 Of course, which solutions are feasible is in itself a normative question. Also market solutions that tend to leave large segments of the population without insurance protection can be “feasible” in the sense that they are economically stable. The point I make is simply that the market has been unable to provide social protection in the form of insurance that many of those who would need such protection can afford.


33 Baldwin 1990, p. 137.

state and social insurance system. One example of such a difference is the conflict between Gustav Möller and the Social Welfare Committee referred to in the introduction.

Partly in opposition to Esping-Andersen and the power theory, Peter Baldwin has argued in his book on social politics on Europe between 1875-1975 that the development of different welfare states should be explained in terms of the relative strength and interests of the members in different risk categories. Briefly, whenever the members in those risk categories that have stood to gain from a more solidaristic welfare state have had within their power to influence its development, the welfare state has expanded in that direction. Once a certain group has made its influence on social decisions, it has also influenced the subsequent development of the welfare state (a phenomenon commonly referred to as path-dependency).\(^{35}\) This explanation differs from Marxist theories and Esping-Andersen’s power theory by not ascribing the development of the welfare state to the influence and interests of some particular group or class. Rather, throughout its development, different groups or classes have been in the position that it has been in their interest to promote a more solidaristic welfare state. As Baldwin points out when he has lamented the fact that social policy seldom stirs the passions of the general public; “The battles behind the welfare state lay bare the structure and conflicts of modern society. Ongoing disputes among groups for redistributive advantage, contests over solidarity, force a constant renegotiation of the social contract”.\(^ {36}\)

Another important explanation of why different welfare states have adopted different solutions to solve the problem of providing social security is what has been called path dependence. Path dependence is the phenomenon that institutional choices at an early stage of the development of the welfare state tend to influence which choices are feasible at a later stage in the development of the welfare state and social insurance systems. This influence takes place through different kinds of mechanisms, such as the formation of various interest groups that defend status quo and policy learning which tend to make politicians and policy-makers to lean on existing policy frameworks.\(^{37}\) Early institutional choices also influence the availability of administrative resources, and hence which future policies and institutional solutions are feasible.\(^{38}\) Peter Johansson has for instance emphasised the importance of policy

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\(^{35}\) Baldwin 1990, pp. 289-292.

\(^{36}\) Baldwin 1990, p. 1. Lamenting that the welfare state and social policy seldom stir up much passion among the general public may no longer be warranted. To the contrary, perhaps as a consequence of rapid economical and social change, during the last two decades the general public has turned their interest to discuss the issues underlying the often rather technical and dry language of various policies and social insurance schemes.


\(^{38}\) The importance of administrative resources and institutional capacity has been discussed by Theda Skocpol. See Pierson 1994, p. 36f.
feedback and path dependence as explanations of the lack of changes of the Swedish sickness insurance during the first half of the 20th century when the sickness insurance was organised in the form of voluntary sickness funds although there were several proposals for sickness insurance in the form of compulsory income insurance.  

4.2 Ethical aspects on social insurance

Although theories about the development of the welfare state contribute to our understanding of contemporary welfare states and social insurance systems they do not answer the normative question how the welfare state or social insurance system should be constructed. Or, as Robert Goodin puts it, we can always ask: “were we constructing our social institutions de novo, would we have good moral grounds for including a welfare state with these particular characteristics among them?”.

In a discussion about the normative foundation of social insurance in the form of compulsory income insurance, there are two questions that are often raised:

(1) Who should have the right to compensation from social insurance?

(2) Is social insurance in the form of compulsory income insurance justified and/or legitimate?

The first question pertains to the extent to which social insurance should compensate those with a high income or whether social insurance should compensate those who are able but unwilling to make a productive contribution to society. This raises issues such as whether the welfare state should be universal or residual, whether the compensation should be flat rate or income related and to what extent compensation form social insurance should be conditional on the satisfaction of certain requirements. At the same time, the first question is based on the assumption that there is some common fund to distribute in the form of compensation from social insurance. It is this assumption that the second question puts on the table by asking whether the state is justified in withholding part of our income to provide us with social insurance in the form of income insurance. Hence, since many of the answers to


41 The latter issue will be further discussed below in section 5.
the first question depend on the answers to the second question, I take the latter to be prior to the former.

Underlying the second question is the assumption that it is part of a liberal democratic state with market economy that we have a presumptive right to our income, and that whether the state may legitimately withhold part of our income to provide us with income insurance ultimately depends on the reasons that justify social insurance in the form of compulsory income insurance and the underlying conception of legitimacy. Now, it can be objected that whether social insurance in the form of compulsory income insurance is justified must be addressed in the light of the correct comprehensive theory of social justice. This also raises the question if there is any room for social insurance. For example, in the light of a strict egalitarian theory of social justice everyone would as a matter of justice become entitled to the same level of social resources, which arguably would render social insurance superfluous.

Nevertheless, I think there are good reasons for providing arguments for social insurance in the form of compulsory income insurance that do not explicitly rely on any particular comprehensive theory of social justice. The first reason is that there is no emerging consensus about what is the correct comprehensive theory of social justice. Since social insurance and the construction of the welfare state raise pressing issues, in particular following the social and economical developments that have taken place during recent decades, it would be unfeasible to begin a discussion about the normative considerations that justify different social insurance models and welfare state regimes with a discussion about the correct comprehensive theory of social justice. This takes us to the second reason. Given the controversies about which theory of social justice is the correct theory it would rather seem a strength of the articles in this thesis if they provide arguments for social insurance and policies associated with the active welfare state that do not rely on any explicit comprehensive theory of social justice since this makes it more likely that the proposed arguments may be endorsed by proponents of competing theories of social justice. The final reason is that even the correct comprehensive theory of social justice may fail to justify social insurance in the form of compulsory income insurance, in which case further arguments are required to support such insurance. In this thesis I set out to provide arguments that are not explicitly based on any particular comprehensive theory of social justice for social insurance in the form of compulsory income insurance in the events of unemployment or sickness in article II.

In the following I begin by discussing argument for social welfare in general that have been put forward in the literature on the welfare state, thereafter I discuss arguments that
specifically pertains to social insurance. I conclude section 4 by discussing arguments against the welfare state that have been influential in the literature on the welfare state.

4.3 Justifying social welfare

In a discussion about the justification of social insurance it is fruitful to begin with an overview of different arguments for social welfare since such arguments are often appealed to when giving arguments for social insurance even if, as I should also argue in this section, arguments for social welfare generally fail to justify social insurance. Social welfare ensures a social minimum or some minimal level of subsistence for those unable to earn their living. Different justifications of social welfare have been suggested in the philosophical literature. A first set of arguments which have been highly influential in the political debate on the welfare state and social welfare is based on the notions of social rights (or welfare rights) and social citizenship outlined by T. H. Marshall in his influential 1950 lectures *Citizenship and Social Class*. Marshall distinguishes between civil rights (which include liberty of the person, freedom of speech, the right to own property and conclude valid contracts), political rights (which include the right to participate in the exercise of political power) and social rights (which range from the right to some social minimum to the right to “live the life of a civilised being according to the standards prevailing in the society”).

He then argues that civil rights became associated with the notion of citizenship during the 18th century whereas political rights became associated with citizenship during the 19th century and social rights during the 20th century. This development is primarily a development towards increasing equality in the sense that broader segments of the population acquire equal rights signifying their status as equal citizens. Marshall emphasises the importance of the social services to ensure equal status of citizenship:

> The extension of the social services is not primarily a means of equalising incomes. In some cases it may, in others it may not. /---/ What matters is that there is a general enrichment of the concrete substance of civilised life, a general reduction of risk and insecurity, an equalisation between the more and the less fortunate at all levels – between the healthy and the sick, the employed and the unemployed, the old and the active, the bachelor and the father of a large family. Equalisation is not so much between classes as between individuals within a

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population which is now treated for this purpose as though it were one class. Equality of status is more important than equality of income.\textsuperscript{43}

That is, regardless of which social class we belong to social services ensure that we have equal status once we need to rely on such services. Marshall also goes on to emphasise the importance of institutions that serve all citizens and that we have common experiences of such institutions.\textsuperscript{44}

Marshall’s discussion of social rights and social citizenship has had a strong influence on the theoretical basis of the development of the (at least the European) welfare states since the 1950’s and on political thought in general. Desmond King and Jeremy Waldron have outlined three arguments for linking social welfare and citizenship based on Marshall’s notion of social citizenship.\textsuperscript{45} The first argument is the empirical claim that the provision of a social minimum is required to promote the existence and exercise of other citizenship rights. There are two formulations of this argument. In its first formulation the argument is that too large socio-economic inequalities reduce social solidarity and mutual trust, which in turn leads to instability and corruption making a well-ordered society impossible. In its second formulation the argument is that we require some minimal resources in order to be able to participate effectively in social and political life. The relation between social rights and effective participation can be spelled out in two different ways. On the first account, social rights are required to ensure the worth of political rights through the satisfaction of needs that are essential for the exercise of political rights. As Plant et al put it, social rights “provide a good deal of essential means to the exercise of traditional rights”.\textsuperscript{46} On the second account, social rights ensure the satisfaction of needs that are essential for individuals to effectively functioning as autonomous agents that can develop their capacity for deliberative reflection.

\textsuperscript{43} Marshall and Bottomore 1992, p. 33.  
\textsuperscript{44} Marshall and Bottomore 1992, p. 33.  
\textsuperscript{45} Desmond King and Jeremy Waldron, “Citizenship, Social Citizenship and the Defence of Welfare Provision”, \textit{British Journal of Political Science}, 18(4), 1988, pp. 415-443. As King’s and Waldron’s discussion shows, it is not obvious how Marshall conceives of the relations between social rights and citizenship or why social rights are needed to ensure equal status. 
\textsuperscript{46} Raymond Plant, Harry Lesser and Peter Taylor-Gooby, \textit{Political philosophy and social welfare – essays on the normative foundation of welfare provision}, London: Routledge & Kegan Paul, 1980, p. 79. Also Shapiro discusses the link between social rights and negative rights. Shapiro 2007, p. 26. Although this line of argument is commonly taken by defenders of social rights, everyone is not all that impressed. Peter Jones, for example, as objected that such a justification of social rights (or welfare rights as he says) is unpersuasive because this is not why welfare goods and services matter to people or why they should matter. In his words: “for most people welfare goods matter for the immediate impact they have on the quality of their lives and not because of their instrumental importance for their civil and political rights. Probably nobody but political philosophers would have thought otherwise”. Peter Jones, “Universal Principles and Particular Claims: From Welfare Rights to Welfare States”, in Alan Ware and Robert Goodin (eds.) \textit{Needs and Welfare}, London: SAGE Publications, 1990, p. 41.
and that are free from unregulated interferences and influences from others. Again, the point has been put by Plant et al, arguing that “if there are necessary conditions of moral actions [i.e. of individuals being autonomous agents], irrespective of particular moral codes, there will be some things that must classed as needs whatever one’s moral position”.\(^{47}\) However, it is important to note that this argument may go in two directions: On the one hand it can be taken to show that the provision of a social minimum is warranted. On the other hand it can also be taken to show that only those in certain socio-economic positions are able to become full citizens, as did Edmund Burke who thought that only those with landed property could be citizens. The first argument is therefore conditional: if we accept the arguments for civil and political rights associated with traditional notions of citizenship then we have strong reasons to endorse social rights and the notion of social citizenship.\(^{48}\)

The second argument for the importance of social rights and social citizenship is that having certain social rights is constitutive of the general understanding of citizenship in most contemporary welfare states. Since this is so, people think of themselves and plan their lives based on the understanding that they have such rights in virtue of their citizenship. To dismantle social welfare systems that are associated with social rights would thus amount to an attack on people’s sense of what it is to live in their society and their sense of citizenship. Moreover, the way people run their lives is bound up with expectations of social security. Dismantling welfare system would affect such expectations and lead to the loss of the sense of living in a community.\(^{49}\)

The final argument is based on a Rawlsian conception of membership according to which a person is a member of a society if and only if the design of its basic institutions fairly reflects a concern for his or her interests along with the interests of everyone else. Since we would not be willing to accept an economic system or a system of property unless there was some protection against poverty and destitution in the form of a social minimum, we could only be members in a society that provide such protection. Consequently, basic welfare provision is a prerequisite for citizenship in a society.\(^{50}\)

\(^{47}\) Plant et al, 1980, p. 51. See also Shapiro 2007, p. 26. In their article King and Waldron point to Plato’s and Aristotle’s beliefs that poverty and back-breaking labour blocks and interferes with our capacity for deliberative reflection that is necessarily required by a genuine concern for justice. King and Waldron, 1988, p. 428.

\(^{48}\) King and Waldron 1988, pp. 425ff. Their discussion of Burke is on p. 430 and in note 43 on the same page.

\(^{49}\) King and Waldron 1988, p. 431ff.

\(^{50}\) King and Waldron 1988, pp. 436ff. Jeremy Waldron presents a similar argument in his article Welfare and the Images of Charity where he claims that the welfare state can be seen as an institutionalized charity. He argues that property rules should be such that they permit seizure of property to alleviate specifically pressing needs and that consequently it cannot be argued that compulsory charity violates property rights if it is required to alleviate such needs. Jeremy Waldron “Welfare and the Images of Charity”, The Philosophical Quarterly, 36(145), 1986, pp. 463-482. That property rights may be void in the face of pressing needs is an idea defended by Thomas
Despite their significance for discussions about the welfare state and human rights, social rights nevertheless remain controversial – not the least the incorporation of social rights among the human rights. One objection to the notion of social rights is that unlike political rights, social rights are not correlated with duties in the way that those who fail to respect those duties are morally blameworthy for their failure. For example, freedom of speech is correlated with the duty not to try to prevent others from expressing their views and if we do we are morally blameworthy (as long as there are no other compelling reasons why we should prevent them from expressing their views). But social rights do not ground any corresponding duty for others to ensure that we may enjoy our social rights. That is, Anne’s right to a social minimum does not correlate with a duty for Jones to ensure that she does not fall below that social minimum. Hence, social rights are imperfect in the sense that they are not directed against any particular person. And since imperfect rights cannot imply any specific duty on anyone there are no social rights or right to a social minimum. In reply to this objection, Plant et al argue that a social right to X is not associated with a duty for any particular individual to see to it that X, but rather a duty to support governments and institutions that seek to bring about X. That is, Jones may not have a duty to directly ensure that Anne does not fall below some social minimum but he has a duty to support institutions that Anne does not fall below it. Social rights therefore give us a duty to endorse welfare state institutions that meet the basic needs for physical health and autonomy, which justifies institutions that ensure that individuals’ basic needs are met by providing them with access to social welfare.

Hobbes and John Locke. Hobbes for example maintains that in case our self-preservation requires it we have the right to seize what we need: “When a man is destitute of food, or other thing necessary for his life, and cannot preserve himself any other way, but by some fact against the law; as if in a great famine he take the food by force, or stealth, which he cannot obtaine form money nor charity...he is totally excused...” Thomas Hobbes, Leviathan, Richard Tuck (ed.) Cambridge: Cambridge University Press, 1996 [1651], p. 208 (Ch. 27). Locke in his first treatise argues that “But we know that God hath not left one man so to the mercy of another, that he may starve him if he please; God the Lord and Father of all, has given no one of his children such a Property, in his peculiar Portion of the things in this World, but that he has given his needy brother a Right to the surplusage of his Goods; so that it cannot be justly be denied him, when his pressing Wants call for it” and “As Justice gives every man a title to the product of his honest industry, and the fair acquisitions of his ancestors descended to him; so charity gives every man a title to so much out of another’s plenty as will keep him from extreme want, where he has no means to subsist otherwise”. John Locke Two Treatises of Government, Peter Laslett (ed.), Cambridge: Cambridge University Press, 1988 [1689], I, §42 (p. 170).

51 Plant et al discusses Maurice Cranston’s critique (1973) of social rights (or welfare rights) at some length. Briefly, Cranston argues that social rights cannot be human rights since social rights fail to pass three tests for human rights, i.e. practicability, paramount importance and universality. Plant et al argue that Cranston’s arguments fail for each test. Plant et al 1980, pp. 73ff.
52 Plant et al. 1980, p. 81.
53 Plant et al 1980, p. 82. Jones (1990) has for example argued that appeals to social rights demands much more than we ordinary associate with the welfare state by giving us a duty to support institutions that ensure social rights also in other countries than our own, see Jones 1990, p. 41.
Social welfare could also be justified without reference to social rights. In *Political Theory and Social Policy* Albert Weale argues that social policy should ultimately be concerned with autonomy. According to Weale, “all persons are entitled to respect as deliberative and purposive agents capable of formulating their own projects, and that as part of this respect there is a governmental obligation to bring into being or preserve the conditions in which this autonomy can be realized”.\(^{54}\) Among the conditions for autonomy is included freedom from the prospect of economical deprivation, education, legal and political freedom.\(^{55}\) Although a social minimum is not enough to secure what Weale refers to as the conditions of autonomy, it certainly seems to be a necessary part of any such attempt. Consequently, social welfare that ensures a social minimum is justified because it is part of what is required to secure the conditions of autonomy.

Autonomy could also be formulated in terms of what Amartya Sen calls capabilities and functionings. On this view, what kind of life an individual leads can be seen as a combination of her doings and beings, which can be called her functionings. The set of functionings that an individual can achieve is her capability: “the capability of a person corresponds to the freedom that a person has to lead one kind of life rather than another”.\(^{56}\) To the extent that it is a matter of justice that individuals have equal, or at least some minimal, capability to exercise certain functions it is also a matter of justice that they are provided with the goods and services that are required to achieve such a capability.\(^{57}\) Consequently, the provision of a social minimum is justified to the extent it is among the goods and services that are required to ensure the minimum level of capability.

Another kind of argument for social welfare pertains to the prevention of exploitation. For example, in *Reasons for Welfare* Robert Goodin argues that “those who depend upon particular others for satisfaction of their basic needs are rendered, by that dependency, susceptible to exploitation by those upon whom they depend. It is the risk of exploitation of such dependencies that justifies public provision – and public provision of a distinctively welfare state form – for those basic needs”.\(^{58}\) Goodin emphasises the importance of public


\(^{55}\) Weale 1983, pp. 59f. In ch. 7 Weale develops an account of social rights that is largely based on the importance he aspins to autonomy.


\(^{57}\) Cf. Amartya Sen “Capability and Well-being” in Sen and Nussbaum (eds), 1993, pp. 41f; Martha Nussbaum “Non-relative Virtues” in Sen and Nussbaum (eds), 1993, p. 265. The notions of capability and functionings have also the advantage of being of practical relevance in measuring poverty and inequality as they and similar notions have been employed in studies and surveys pertaining to such measurements. Cf. Robert Erikson “Descriptions of Inequality; The Swedish Approach to Welfare Research” in Sen and Nussbaum (eds), 1993.

\(^{58}\) Goodin 1988, p. 121.
provision because it is only public institutions that could be sufficiently nondiscretionary and thereby safeguard those who are dependent upon its services from further exploitation. In this way the welfare state secures the sort of minimal independence that is required for individuals to participate in the market and quasi-market sectors of society.\textsuperscript{59}

Communitarian philosophers have argued for provision of social welfare on the basis of need or equality. In \textit{Spheres of Justice}, Michael Walzer presents a pluralistic theory of distributive justice that holds that goods should be distributed according to the principles of need, desert and free exchange, depending on the social meanings of the relevant good: “If we understand what it is, what it means to those for whom it is a good, we understand how, by whom and for what reasons it ought to be distributed”.\textsuperscript{60} As to social welfare, Walzer claims that “distributive justice in the sphere of welfare and security has twofold meaning: it refers, first, to the recognition of need and, second, to the recognition of membership”.\textsuperscript{61} What is to count as a need that is relevant for the concerns of the welfare state is determined by prevailing social norms and practices. Since these are constantly renegotiated, what are the relevant needs is a question that must settled by the relevant community.\textsuperscript{62} Thus, Walzer argues “that every political community must attend to the needs of its members as they collectively understands those needs; that the goods that are distributed must be distributed in proportion to need; and that distribution must recognize and uphold the underlying equality of membership”.\textsuperscript{63} The implications of these arguments on a more practical level depend on the contingencies of the particular society. For example, in his discussion of health care in the US, Walzer argues for an expanded American welfare state where everyone has access to adequate health care on equal terms although he stresses that his arguments do not determine any appropriate level of provision, or institutional arrangement a priori.\textsuperscript{64}

In \textit{Principles of Social Justice} David Miller argues for a pluralistic understanding of justice, but instead of identifying different principles of justice on the basis of the social meanings of different goods Miller turns to “modes of human relationships”, distinguishing between solidaristic community, instrumental association and citizenship.\textsuperscript{65} Each mode is associated with different principles of justice. The provision of social welfare falls under the mode of citizenship, which is primarily regulated by the principle of equality: “the status of

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\textsuperscript{59} Goodin 1988, p. 183.
\textsuperscript{61} Walzer 1983, p. 78.
\textsuperscript{62} Walzer 1983, p. 83.
\textsuperscript{63} Walzer 1983, p. 84.
\textsuperscript{64} Walzer 1983, pp. 90f.
citizen is an equal status: each person enjoys the same set of liberties and rights, rights to personal protection, political participation, and the various services that the political community provides for its members.” 66 To ensure equal membership, citizens who lack the necessary resources to play their part as full members in their community have a just claim to have those resources provided. Consequently, individuals have a right to medical aid, housing and income support as these may be regarded as needs from the perspective of citizenship. 67

However, for various reasons, these general justifications of social welfare fail to justify social insurance in the form of compulsory income insurance. To begin with, as Shapiro points out, appeals to social rights (or welfare rights) fail to justify social insurance in the form of income insurance because access to some appropriate level of social minimum through social welfare is adequate to meet the needs that social rights claim must be met. Arguments pertaining to social rights are thus designed merely to justify means-tested benefits or social welfare. 68 Neither do appeals to autonomy justify social insurance in the form of compulsory income insurance. Although income maintenance arguably may have beneficial effects on the autonomy of some insured through what Esping-Andersen calls de-commodofication, these effects are typically not sufficient to justify the infringements on autonomy from compulsion and hence to justify compulsory income insurance. As to arguments pertaining to exploitation, it is likewise not obvious that more extensive social protection than the provision of a social minimum through social welfare is required to protect us from exploitation. In fact, Goodin notes himself that arguments pertaining to exploitation fail to move us beyond the minimal welfare state and justify more social welfare programs in the form of social insurance. 69 Finally, Walzer’s and Miller’s arguments depend on prevailing attitudes towards income maintenance and individual responsibility and whether these endorse social insurance in the form of income insurance. But again, experience suggests that neither do we require income insurance to be full members of society or to ensure equal citizenship. Their arguments thus also fail to justify social insurance in the form of compulsory income insurance.

4.4 Justifying social insurance
In many welfare states most social transactions take place in some kind of social insurance that compensates for loss of income in the event of contingencies such as unemployment or

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67 Miller 1999, p. 31.
68 Shapiro 2007, p. 27.
69 Goodin 1988, pp. 368f.
sickness. However, as Brian Barry notes in 1990 given the importance of social insurance and income protection in most modern welfare states, “All this is makes it very strange that, with a very few exceptions, British and US philosophers who have written about the justification of the welfare state have in fact produced justification of the poor law”. Although there are philosophers who have discussed social insurance before 1990, most notable Ronald Dworkin in his articles on equality, and several others have taken up the issue since then, it is still true that philosophers have seldom turned specifically to discuss the justification of social insurance in the form of compulsory income insurance. What can be the reason for this lack of interest for social insurance and income maintenance? I think Shapiro points to one important explanation when he notes that “social insurance programs are not means and needs tested: they apply to all and their benefits go way beyond the provision of goods and services that supply the most urgent needs”. Since social insurance in the form of compulsory income insurance is not (at least primarily) concerned with urgent or basic needs and often go far beyond what could be considered a fair social minimum, it is typically not seen as a requirement of justice.

Nevertheless, a few philosophers have turned to discuss social insurance that goes beyond the provision of a mere social minimum and that is based on previous contributions as opposed to being means-tested. To begin with, one kind of arguments perceives social insurance as a response to what Donald Moon refers to as Hegel’s dilemma. In The Philosophy of Right, Hegel observes that market economy appears to produce poverty alongside wealth. But in his discussion of how to remedy this poverty he remarks that:

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70 The importance of social insurance varies across different countries and it is typically difficult to make general claims about the importance and construction of social insurance systems. For example, in the Nordic countries, Belgium, France, Germany, Luxembourg and Japan social insurance and other insurance-based support systems - plays a crucial part whereas in Australia and Canada the role of income-tested programs is considerably larger. Cf. Adema, W. and M. Ladaïque (2009), “How Expensive is the Welfare State?: Gross and Net Indicators in the OECD Social Expenditure Database (SOCX)”, OECD Social, Employment and Migration Working Papers, No. 92, OECD Publishing.

71 Brian Barry “The Welfare State versus the Relief of Poverty” in Robert Goodin and Alan Ware (eds.) Needs and Welfare, Sage Publications, London, 1990, p. 74. The poor law primarily aims at providing a social minimum below which individuals should not be allowed to fall.


73 Shapiro 2007, p. 27.

If the direct burden [of support] were to fall on the wealthier class, or if direct means were available in other public institutions /---/ to maintain the increasingly impoverished mass at its normal standard of living, the livelihood would be ensured without the mediation of work; this would be contrary to the principle of civil society and the feeling of self-sufficiency and honour among its individual members. Alternatively, their livelihood may be mediated by work /---/ which would increase the volume of production; but it is precisely in overproduction and the lack of a proportionate number of consumers who are themselves productive that the evil consists /---/.\(^{75}\)

The dilemma is that in a market economy individuals are conceived of as autonomous agents who earn their own living based on their own choices and deliberations in the market. At the same time, the market also tends to deprive some individuals—through no fault of their own—of the means for their survival. Since the principles of the market society are freedom and exchange between equivalents, full membership in society requires individuals to earn their living through their activities on the market. Consequently, mere redistribution to the poor would undermine their full membership in society and their dignity and self-respect.\(^{76}\)

A first approach to solving Hegel’s dilemma is the appeal to social rights. In the words of Richard Titmuss, when he looks back on the development of the British welfare state:

There should be no sense of inferiority, pauperism, shame or stigma in the use of a public provided service; no attribution that one was being or becoming a ‘public burden’. Hence the emphasis on the social rights of all citizens to use or not to use as responsible people the services made available by the community in respect of certain needs which the private market and the family were unable or unwilling to provide universally.\(^{77}\)

Plant et al adopts a similarly optimistic view on the prospect of solving the dilemma by appealing to social rights:

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\(^{76}\) Moon 1988, p. 29.

The idea that there is a right of unreciprocated recipience is a profoundly anti-capitalist one, and if there is a defensible view of welfare provision to be presented in these terms [social rights or right to welfare] then stigma would become and an educational rather than a theoretical problem.78

However, as I have argued above, social rights fail to justify social insurance in the form of compulsory income insurance. Neither do they solve Hegel’s dilemma. Moon distinguishes between self-esteem and self-respect and he argues that the latter amounts to living up to some standards. Because self-respect evokes the notion of excellence in living up to the standards, it is better captured in a language of duties rather than rights. Self-respect is an achievement that cannot be sufficiently guaranteed by rights, although rights may ensure the necessary conditions for the achievement of self-respect. Thus, in a society where the prevalent standards compel us to be independent and earn our living through the market, social rights are inadequate to protect and promote our self-respect.79

Moon argues instead that only social insurance program to meet a wide range of needs and contingencies, together with economic management and universal provision of certain services, are adequate to provide social protection without harming individuals’ self-respect. Social insurance does not lead to stigma because entitlement to compensation is based on a principle of reciprocity in the sense that we earn our entitlement through our contributions.80 Hence, to solve Hegel’s dilemma we must endorse social insurance rather than social welfare. A similar argument was also put forward by the Swedish Social Welfare Committee referred to in the beginning of this introduction. In 1944, for instance, the committee argued that insurance is preferable to means-tested programs because only social insurance would “give the individuals that are in need of assistance a feeling of satisfaction knowing that they by contributing [to the insurance] have acquired the right to assistance (original emphasis)” 81

In Utilitarianism as a Public Philosophy, Robert Goodin gives another justification of social insurance. Goodin argues that it is of vital importance both to us and society that we are able to form and sustain long-term commitments. Insofar as this requires rough stability of our earnings over time, that value will best be served by social insurance programs that provide us

78 Plant et al 1980, p. 53.
79 Moon 1988, pp. 33ff.
80 Moon 1988, pp. 44, 46.
81 Statens Offentliga Utredningar: Socialvårdskommitténs betänkande VII: Utredning och Förslag angående Lag om Allmän Sjukförsäkring, SOU 1944:15, p. 117. This argument is also put forward when the committee presents the principles it will take as a starting-point for its overview of the Swedish social welfare system. See SOU 1942:56.
with income insurance, at least during temporary interruptions of our income.\textsuperscript{82} We also tend to underestimate our need for insurance while our life plans tend to be more or less intertwined.\textsuperscript{83} Together, these considerations justify social insurance in the form of compulsory income insurance.\textsuperscript{84}

Since social insurance per definition is concerned with risks and uncertainty about the future it could also be justified by arguments referring to what we would or should decide or agree on in situations where we have no or little information about our future characteristics or resources. To begin with, it could be argued that as a matter of fact we all face sufficient uncertainty about the future to make it in our interest to endorse social insurance. In fact, appeals to uncertainty about the future have shown to be compelling arguments for the expansion of social insurance programs. For example, the rapid development of the British welfare state after the end of the Second World War has been explained by the risks all social classes were exposed to during the war.\textsuperscript{85} And the rapid expansion of the welfare state during the “Golden Era” following the end of WW2, not the least in the form of social insurance schemes, could be explained by the fact that larger segments of the population have become exposed to risks that threaten their social position.\textsuperscript{86} As Goodin et al point out:

...the risk of poverty and the need for government assistance to alleviate it is widespread across the population. Certainly, the risk of poverty is not uniform: some people are clearly more at risk of pre-government poverty than others. But the proportion of people who fall into poverty at some time or another are surprisingly high, even among the most privileged groups in society.\textsuperscript{87}

It could also be argued that we have normative reasons to disregard our individual characteristic and that we in such a hypothetical situation have reasons to endorse social

\textsuperscript{82} Goodin 1995, p. 210. The chapter on social insurance and earnings-related benefits is equivalent to Goodin’s article of 1990 referred to above.

\textsuperscript{83} Goodin 1995, pp. 203ff.

\textsuperscript{84} For a discussion of Goodin’s argument, see Elizabeth Anderson’s reply in \emph{Compensatory Justice}. Anderson argues that Goodin is too parsimonious, i.e. that he too much seeks to restrict the number of principles or values on which he rests his arguments. Anderson claims that this is unwarranted as there are several other principles that also support the same conclusion and that these also should be taken into account. Elizabeth Anderson “Compensation within the limits of reliance alone” in John W. Chapman (ed) \emph{Compensatory Justice} NOMOS XXXIII (Yearbook of the American Society for Political and Legal Philosophy), New York and London: New York University Press, 1991.


\textsuperscript{86} Esping-Andersen et al. 2002, pp. 2ff.

\textsuperscript{87} Goodin et al 1999, p. 164. See also ibid p. 8 and footnote 15 with reference.
insurance in the form of compulsory income insurance. This strategy has been pursued by philosophers writing in a broad social contract tradition, such as Ronald Dworkin and John Rawls.

In *Sovereign Virtue*, Dworkin presents a liberal egalitarian theory that holds that everyone should be treated with equal concern. In Dworkin’s words:

> Equal concern is the sovereign virtue of political community – without it government is only tyranny – and when a nation’s wealth is very unequally distributed, as the wealth of even very prosperous nations now is, then its equal concern is suspect.  

Dworkin argues that equal concern implies equality of resources, where resources are broadly conceived of as everything that may be privately owned, including physical and mental powers. As an ingenious device to determine when there is equality of resources, Dworkin presents the idea of a hypothetical auction and a hypothetical insurance market. Briefly, a certain distribution of resources is equal if it would have resulted from a hypothetical auction in which individuals with an equal amount of money bid on different bundles of resources (including the amount of work it takes to earn or achieve the resources) and no individual prefers someone else’s bundle to his own (the last condition is what Dworkin calls “the envy test”). However, equality of resources must also be maintained in the face of different forms of luck. Dworkin distinguishes between option luck and brute luck. Option luck is a matter of how deliberated and calculated risks fall out. For example, if one looses in a gamble one has suffered from bad option luck since it is optional to gamble. If one wins one has “suffered” from good option luck. Brute luck is a matter of how risks fall out that are not in that sense calculated risks. Having a congenital disability or becoming unemployed because of structural changes of the economy are examples of bad brute luck. Unexpectedly finding a treasure dug down in one’s backyard is an example of good brute luck. Because of the effects of brute luck, an initially equal distribution may over time become unequal and fail to pass the envy test. To prevent this, Dworkin introduces the idea of a hypothetical insurance market that

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89 Dworkin 2000, pp. 65 & 79.
91 Dworkin 2000, pp. 73f.
gives individuals the opportunity to take part of their money to buy insurance against brute luck before the auction starts. Thus, before the auction starts individuals may choose between insurance policies against the effects of brute luck that are commonly offered on a competitive insurance market. Since in that situation their relative positions have not been influenced by option luck or brute luck they all face equal odds. Therefore, Dworkin argues, individuals would buy the amount of insurance the average individual would buy.\footnote{Dworkin 2000, pp. 77f.} Since social insurance in the form of a non-actuarial income insurance in the event of sickness or unemployment would be a proper way to institutionalize what the average individual presumably would want to buy in the hypothetical insurance market, such insurance is justified by reference to the hypothetical insurance market.\footnote{Dworkin 2000, p. 80. See also pp. 99ff. It is important to keep the notion of the hypothetical insurance market separate from social insurance and keep in mind that the hypothetical insurance market is a theoretical construction which is supposed to provide an argument for social insurance.} In particular, Dworking argues that because income has diminishing marginal utility individuals in the hypothetical insurance market would buy insurance policies with a proportionally higher premium for higher benefit levels, which justifies the financing of social insurance through progressive income taxes.\footnote{Dworkin 2000, pp. 100f.} Dworkin’s argument thus justifies social insurance by appealing to what we would have chosen in the hypothetical insurance market. Although Dworkin has not explicitly framed the hypothetical insurance market in terms of a social contract, it nevertheless follows the same structure by compelling us to take a few steps away from our current position and disregard the influences of option luck and brute luck.

Dworkin’s appeal to a hypothetical auction and insurance market has been subject to various objections. To begin with, Moon has argued that the tax-transfer scheme Dworkin argues for fails to provide any solution to the problem that he sets out to solve, i.e. to ensure equal self-respect by ensuring equality of resources. Briefly, Dworkin thinks of individuals’ talents as part of their resources. This means that the untalented have fewer resources than the talented and that they therefore are entitled to compensation effectuated through a tax-transfer system or a welfare state. But, Moon argues, a tax-transfer system does not solve the problem of ensuring equal self-respect since compensation to the less talented would not make them have more self-respect when they compare themselves to the more talented. Thus, Dworkin has a too narrow conception of the person that makes him think that a tax-transfer system may solve the problem of ensuring equal self-respect and sense of worth.\footnote{Moon 1988, pp. 39ff.} However, this objection is primarily directed against Dworkin’s argument for compensation that aims at off-setting
various forms of physical or mental impairment and it misses the argument for social insurance. Another objection, directed directly against Dworkin’s argument for social insurance, is that when he spells out an argument for unemployment insurance he argues that the social insurance system should be based on the amount of insurance that the average member would have purchased in a hypothetical insurance market where the risks of various contingencies are equal.\textsuperscript{96} As he argues in the case of unemployment insurance:

But we might nevertheless capitalize on the imaginary exercise [the hypothetical insurance market] by asking what unemployment insurance people with a representative mixture of the tastes and ambitions most Americans have (we need not assume that everyone who is representative has the same tastes and ambitions) would buy if the they had the wealth that is average among us and were acting prudently.\textsuperscript{97}

But whether this argument succeeds in justifying social insurance as general income insurance depends on the distribution of income and the degree of economic inequality. For example, in a society with large differences between individuals’ incomes those with an income higher than the average would not be covered by social insurance since the state would only be justified in imposing the amount of insurance that an individual with an average income would buy. Given certain distributions of income this might leave many without protection from social insurance. A final objection is that Dworkin assumes that because individuals in the hypothetical insurance market would buy a certain insurance the state is justified in providing such insurance on a compulsory basis. However, although we accept that Dworkin is right in his claims about what individuals would buy in the hypothetical insurance market, we may still consistently reject the claim that the state is therefore justified in providing such insurance. For example, we may accept that in a given situation individuals ought to stick to their promises to behave in a certain way without therefore being committed to the claim that the state is justified in making individuals to keep their promises. Further arguments are needed to claim that the state is justified in providing social insurance than the argument that individuals would buy such insurance in the hypothetical insurance market, but Dworkin does not give any such arguments.

\textsuperscript{96} Dworkin 2000, pp. 77f, 80.
\textsuperscript{97} Dworkin 2000, p. 333.
Although Rawls does not explicitly discuss social insurance, the normative framework he presents in *A Theory of Justice* is often referred to in discussions about the normative foundations of the welfare state and social welfare systems. For example, Roger Paden has argued in his article *Social Security, Social Insurance and Social Justice* that income insurance is justified within a Rawlsian framework. Paden presents no less than three arguments why the parties in the original position should endorse social insurance. The first argument is that social insurance would ease the strains of commitment and hence facilitate institutions that aim at effectuating the difference principle. Now, social insurance may ease the strains of commitments in three different ways. To begin with, social insurance programs are effective in reducing poverty by reducing the need for social welfare benefits. Less need for social welfare arguably reduces the strains of commitments because fewer resources are then required for social welfare payments. Next, since compensation from social insurance is “earned” through previous contributions (or premiums) benefits from social insurance do not cause the same level of strain as similar levels of welfare benefits. Finally, since also the non-poor have a stake in social insurance programs they tend to bring people together around a common interest. As Paden puts it, rather than straining the community social insurance may help making society into the “cooperative venture” Rawls ideally believe it should be. The second argument is that given the importance of individuals’ life plans the parties would have an interest in providing insurance for the life plans of the individuals they represent. One way to do this is to ensure that goods are made available in such a way that they are able to complete their life plans and not merely maximize their fair share of goods. And the best way to ensure this is through a social insurance system. The last argument is that social insurance would give individuals incentives to work harder by allowing the accumulation of wealth, providing lifetime security by insuring stability at each stage of life and by producing a community of mutual respect and minimal strain. This, in turn, would create additional incentives for all people to work harder, which would make more resources available for social welfare while decreasing the overall need for social welfare and permit an increase in the social minimum to the benefit of the worst-off.

However, the first argument is open to Cohen’s objection that in a well-ordered society, individuals should be guided by a sense of justice and recognition of the principles of

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This would mean that there should be no need to ease the “strains of commitments” and consequently no need for social insurance (at least not for that reason). The second and third arguments are open to the objection that they fail to justify one kind of social insurance model rather than another since it is not obvious which model best insures individuals’ life plans or give incentives to work harder without further arguments. As to the third argument, it could be objected that it treats hard-working individuals merely as a means and therefore fails to respect their integrity. Such a justification would also give those working hard little reason to endorse encompassing social insurance that pools everyone into the same risk-pool once they have become aware of its underlying justification.

Nevertheless, given the importance assigned to Rawls’ theory of justice it might be asked whether it could provide a justification of social insurance in the form of compulsory income insurance. There seems to be two further lines of arguments that could be pursued: appealing to equal worth of liberty or appealing to the difference principle. As to the first, Rawls observes that “the inability to take advantage of one’s rights and opportunities as a result of ignorance, and a lack of means generally is sometimes counted among the constraints definitive of liberty”. But this, Rawls argues, does not limit individuals’ liberties as such, although it affects their worth which depends on individuals’ capacity to promote their ends within the limits that their liberties give them. The end of social justice is therefore to ensure that the basic structure is arranged “to maximize the worth to the least advantaged of the complete scheme of equal liberty shared by all”. To the extent that social insurance is required to ensure the equal worth of liberties such insurance is justified. This leads to the question whether such insurance is required to ensure the worth of individual liberties? Since it might plausibly be claimed that individuals who are not covered by social insurance would be less prone to take risks that are associated with the exercise of their rights and liberties, for example challenging their employers or participating in potentially harmful political activities, it could perhaps be argued that to a certain extent social insurance is required. But again, as I argued in section 4.2.2, it is doubtful whether social insurance in the form of compulsory income insurance is required to ensure the equal worth of our rights and liberties.

Turning to the second line of argument, there are two ways in which the difference principle could justify social insurance. Firstly, since economic security is required for the execution of most life plans it could be argued that economic security is to be seen as a
primary social good. As a primary social good, economic security is to be distributed according to the difference principle. This warrants the provision of economic security to the worst-off in the form of an extensive social minimum. Now, in its general form the difference principle is not merely concerned with the worst-off group: “in a basic structure with n relevant representatives, maximize the welfare of the worst-off representative man; second, for equal welfare of the worst-off representative, maximize the welfare of the second worst-off representative man, and so on until the last case, which is, for equal welfare of all the preceding n-1 representatives, maximize the welfare of the best-off representative man”.\textsuperscript{103} Rawls calls this the “lexical difference principle”. Thus, once economic security is ensured for the nth and worst-off group, the lexical difference principle requires that economic security is ensured for the n-1 group and so forth. To the extent that economic security is a primary social good and that social insurance ensures economic security, such insurance is justified by the lexical difference principle.

However, this conclusion is contradicted by Rawls subsequent discussion of different branches of society. Rawls distinguishes between five branches into which the government could be divided: the allocation branch, the stabilization branch, the transfer branch, the distribution branch and the exchange branch.\textsuperscript{104} The task of the transfer branch is to uphold the appropriate social minimum. But, Rawls argues, once the transfer branch has ensured that individuals have a suitable social minimum “it may be perfectly fair that the rest of [individuals’] total income be settled by the price system, assuming that it is moderately efficient and free from monopolistic restrictions, and unreasonable externalities have been eliminated”.\textsuperscript{105} Since social insurance commonly ensures the stability of individuals’ incomes above the social minimum, this suggests that social insurance for the better off may not be the concern of the transfer branch and hence not subject to the difference principle. Rather, insofar as state-run social insurance is required because of various forms of market failures, it would be part of the exchange branch that “works with the principle of efficiency and institutes, in effect, a special trading body that arranges for the public goods and services where the market mechanism breaks down”.\textsuperscript{106} What institutions should be part of the exchange branch depends on what individuals unanimously could agree on. As Rawls puts it: “There is no more justification for using the state apparatus to compel some citizens to pay for

\begin{footnotesize}
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  \item[\textsuperscript{103}] Rawls 1999, p. 72. Although Rawls thinks that the more general formulation of the difference principle in the lexical difference principle is seldom relevant because whenever there are benefits to the better off groups these will also in some way benefit the worst off group and hence be warranted by the difference principle.
  \item[\textsuperscript{104}] Rawls 1999, pp. 243f.
  \item[\textsuperscript{105}] Rawls 1999, p. 245.
  \item[\textsuperscript{106}] Rawls 1999, p. 250.
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unwanted benefits that others desire than there is to force them to reimburse them for their private expenses. /---/ those who want further public expenditures of various kinds are to use the exchange branch to see whether the requisite taxes could be agreed to”.\textsuperscript{107} The difference principle does not justify social insurance in the form of compulsory income insurance.

Furthermore, Dworkin has mounted three objections against Rawls’ difference principle as a general argument for welfare and social insurance. The first objection is that the concept of the worst-off group is too maleable to generate any detailed welfare scheme because it is likely to make a rather significant difference in applying the difference principle to the welfare problem how wide the segment of the population that belongs to the worst-off group is taken to be. For example, measures to improve the prospects of the worst of decile of the population may injure those of the lowest quintile. The difference principle, however, does not offer any advice as how to solve such conflicts. The second objection is that the difference principle fails to take into account choice and conduct in the proper way. Thus, Dworkin argues, the difference principle may justify welfare schemes that support those who choose not to work or make any productive contribution to society. The third objection is that the difference principle is only concerned with those who are worst-off and ignores the impact on those who still have more.\textsuperscript{108} Although Rawls has adjusted his theory in response to the second kind of objections by including leisure among the primary social goods, and the lexical difference principle together with the argument I explore below partly answer the third objection, Dworkin nevertheless points to some of the difficulties that must be solved for a justification of welfare system and social insurance based on the difference principle. At the same time, it is not obvious that they can be solved within a Rawlsian framework.

A second way in which appeals to the difference principle may justify social insurance in the form of compulsory income insurance is to observe that welfare states that benefit the non-poor also tend to be more generous towards the poor because making social welfare systems that benefit the non-poor part of the welfare state increases the political acceptance of social welfare systems targeting the poor.\textsuperscript{109} This has been supported by Goodin et al, who conclude in their survey of the performance of different welfare state regimes that the social democratic welfare regime is far better than the liberal welfare regime in reducing poverty.\textsuperscript{110}

\textsuperscript{107} Rawls 1999, p. 250.
\textsuperscript{108} Dworkin 2000, pp. 330f.
\textsuperscript{110} Goodin et al 1999, ch. 8. For a classical treatment of the welfare state and the non-poor, see Robert Goodin and Julian Le Grand, \textit{Not Only the Poor – The Middle Class and the Welfare State}, London: Allen & Unwin, 1987. Recently Richard Wilkinson and Kate Pickett have argued that more equal societies also benefit those who are better-off. For example, they found that in more equal societies also the better-off faced lower risks of
To the extent that welfare states that benefit the non-poor through extensive social insurance programs are more generous towards the worst off, it could thus be argued that the difference principle justifies social insurance. But, once again, it could also be objected that in a well-ordered society where individuals have acquired a sense of justice social insurance should not be required to ensure benefits for the worst-off. It is therefore not obvious that Rawls’ theory can accommodate the claim that extensive social insurance in the form of compulsory income insurance is required for the support of the non-poor for welfare systems that benefit the poor.

Richard Krouse and Michael McPherson have also discussed what implications Rawls’ theory of justice may have for the welfare state. They challenge the received view that Rawls theory justifies what could be called welfare state capitalism, which “accepts severe class inequalities in the distribution of physical and human capital, and seeks to the consequent disparities in market outcomes through redistributive tax and transfer programs”. Instead, they argue that if the fair value of political liberty and fair equality of opportunity is to be maintained the basic structure of society must prevent excessive accumulation of property and wealth. This could only be achieved within a property-owning democracy that aims at reducing inequality in the underlying distribution of property and wealth and greater equality in opportunities to invest in human capital so that the market generates smaller inequalities to begin with. In other words, Rawls should envisage a society whose economy is dominated by independents and artisans. Krouse et al also argue, first, that even in a property-owning democracy more redistribution than Rawls allows is needed to ensure fair value of liberty and equal opportunity and, second, that the difference principle is inadequate to justify redistribution to those with differential basic needs. As to the first point, Rawls favours a proportional to a progressive tax on income. But, as Krouse et al observes, this preference rests on empirical assumptions that we have no good reasons to embrace. More specifically, Rawls seems either to assume that given fair equality of opportunity all wage differentials are justified by the difference principle, which is implausible, or inequalities in the distribution in various health problems. Richard Wilkinson and Kate Pickett, The Spirit Level – Why Equality is Better for Everyone, London: Penguin Books, 2009), pp. 35, 176ff, passim. However, although such findings support institutions that contribute to a more egalitarian society, particular individuals among the better-off may still argue that the beneficial effects are shown on an aggregated level and that they would be better off without such institutions. Thus, Wilkinson and Pickett’s findings do not support the claim that particular individuals among the better-off have reasons to endorse more egalitarian institutions, only that they as a group have reasons to endorse such institutions. Moreover, a hard-core libertarian may still argue that although more equality is beneficial in terms of various health-benefits these are not enough to offset the restrictions on individual liberty associated with a more egalitarian society.

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112 Krouse et al, pp. 84, 87ff, 91.
natural talent and market luck will not be so great as to disrupt an otherwise approximately just pre-tax distribution, which is controversial. Rawls also assumes that progressive taxation will have adverse effects on incentives, but this is also a rather controversial assumption; in particular if the pre-tax distribution is not just. Since other, more plausible assumptions would warrant progressive income taxation Rawls should also prefer progressive taxation to proportional taxation.\footnote{Krouse et al 1988, p. 97. With proportional taxation I mean that the tax-rate is flat.} As to the second point, the difference principle requires that the long-run expectations of the worst-off are maximized. But this does not justify the targeting of social provision to those with special needs. For example, it does not justify the provision of medical care or income support for those who, over the long run, are not among the worst-off.\footnote{Krouse et al 1988, pp. 98f.} Therefore, also under the ideal conditions of a property-owning democracy Rawls’ theory is inadequate to justify the redistribution that is required to maintain fair value of liberty and fair equality of opportunity. It is also inadequate to justify the provision of income support and medical care through social insurance. This leads to the conclusion that, perhaps surprisingly, there seems to be less support for social insurance in Rawls’ theory of justice than might be thought.\footnote{In the restatement of his theory of justice Rawls acknowledges Krouse’s and McPherson’s critic. Although Rawls does not want to claim that his Justice as Fairness supports property-owning democracy rather than welfare-state capitalism since whether this is the case depends on society’s historical circumstances and political thought and practice, it seems that he looks more favorably on property owning-democracy. John Rawls \textit{Justice as Fairness – A Restatement}, Massachusetts: The Belknap Press of Harvard University Press, 2001, pp. 135ff., (in particular pp. 139f).}

4.5 Criticism of the welfare state

The development of the modern welfare states has been full with frictions and political opposition. In the following I will briefly discuss different kinds of criticism against the welfare state. The purpose of this discussion is to put the subsequent discussion of the active welfare state and the arguments in article II, V and VI in a broader context.

The criticism against the welfare state has focused on rights and liberties, incentives to what has been seen as immoral behaviour or economic efficiency. To begin with, libertarians have argued that the welfare state and its redistributive mechanisms are incompatible with rights – in particular property rights. For example, in \textit{Anarchy State and Utopia} Robert Nozick argues that redistribution violates our property rights by depriving us of our rightfully owned income. As he famously puts it, “taxation from earnings of labour is on a par with
forced labour”.¹¹⁷ Other libertarians, such as Friedrich Hayek, have argued that the welfare state is problematic not so much because of its purpose to relieve poverty and distress but because the way it does that threatens our individual freedom and leads back to “socialism and its coercive and essentially arbitrary methods”.¹¹⁸ A similar line of criticism is pursued by Daniel Shapiro in his book *Is the Welfare state justified?*, where he argues that market insurance could achieve all the goals of the welfare state with higher efficiency and with less infringements of our individual freedom.¹¹⁹

Another line of criticism is taken by Charles Murray in his seminal book *Losing Ground – American Social Policy 1950-1980*. There he argues that generous social welfare systems contribute to, rather than alleviate, various forms of social problems such as family breakup, teen pregnancies and unemployment.¹²⁰ Hence, even if the welfare state and transfers to the needy may alleviate need for the moment, it also encourages dysfunctional lifestyles, which in the long run exacerbates the social problems the welfare state is supposed to solve. According to Murray, this has negative consequences both on an individual and on a societal level.

From the point of view of economics, critics have argued that the welfare state leads to inefficiencies and reduction in economical output, which in turn leads to overall loss of welfare.¹²¹ In particular, generous social welfare benefits and high replacement rates in social insurance reduce the supply of labour force, which reduces economical efficiency and leads to losses in production. For example, in his discussion of the Swedish welfare state and the background of the economical crises in the early 1990’s, Jonas Agell has argued that it can be explained by the fact that “some parts of the welfare state had expanded to the point where they risked impose significant deadweight losses”.¹²² But the effects of the welfare state on overall economical performance are controversial. As argued by Anthony B. Atkinson, when

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¹¹⁷ Robert Nozick, *Anarchy, State and Utopia*, New York: Basic Books, 1974, p. 169. For an interesting argument to the contrary, see Michael Davis “Nozick’s Argument for the Legitimacy of the Welfare State”, *Ethics*, 97(3), 1987, pp 576-594. Briefly, Davis’ argument is that those who choose not to join a more extensive welfare state (outsiders) will nevertheless benefit from the security produced by such a state – in particular in the form of an increase in the value of their properties. But then, the outsiders take advantage of those who have chosen to form the welfare state (insiders). Hence, unless the outsiders hand back to the insiders what they have gained from the welfare state, the latter has the right to take it from the former. It is therefore more rational for the outsiders to become insiders.


¹¹⁹ Shapiro 2007.


the effects of transfer systems on overall economical performance are measured it is important to include the functions provided by the welfare state. Once this is done, the claimed negative effects from the welfare state and transfer systems on economical performance will be substantially mitigated.\textsuperscript{123} Nevertheless, much of the criticism that social insurance reduces economical efficiency has served as the impetus for the shift towards what has been called the active welfare state. It is to the discussion of the notion of the active welfare state I turn in the next section.

5. The active welfare state
In this section I give some background to what has been called the “active welfare state” and I briefly discuss arguments for and against policies that are associated with the shift towards the active welfare state. The purpose of this section is to give a background to the discussion of social insurance policies associated with the active welfare state.

5.1 Background\textsuperscript{124}
Contrary to the “passive” welfare state, the “active” welfare state responds to new risks and needs by giving incentives that prevent the need for social assistance or compensation from social insurance. Underlying the construction of an active welfare state is the observation that social welfare systems and social insurance tend to influence people’s behaviour. This is not a new insight. The effects of poverty relief on recipients’ moral character and their willingness to contribute to society have been a long-standing concern for policy-makers and tax payers. In Europe poverty and begging became associated with social problems, political unrest and social stigma during the 16\textsuperscript{th} century in the wake of the sometimes violent economical, social and religious changes that then took place. This stood in contrast to the medieval view that poverty and begging provided those more affluent with the opportunity to show charity and benevolence as good Christians.\textsuperscript{125} The changing view on poverty and begging was associated with changes in the view on the good life. Luther and the reformation emphasised work and the active, ordinary, life as a way to salvation rather than the (medeval) life in contemplation and prayer.\textsuperscript{126} To control poverty and begging, during the 16 and 17\textsuperscript{th} centuries many

\textsuperscript{124} This background is far from exhaustive and should merely be seen as a brief introduction to the current discussion about the active, as opposed to the passive, welfare state.
\textsuperscript{125} Unger 1996, pp. 21f.
\textsuperscript{126} Unger 1996, p. 22. For a discussion about Luther and the reformation in relation to the view of the good life, see Taylor 1989 ch. 13.
European states adopted policies that could be seen as a new approach to poverty and social policy. By instituting workhouses where the poor were confined to work for their daily bread the authorities could mitigate the problems associated with poverty and begging while providing expanding industries and manufactures with cheap labor.\footnote{127} One argument behind such institutions was that working would help the poor to develop their character and help them to become useful members of society.\footnote{128} Another argument was provided by writers within the natural law tradition, who argued that everyone had a duty to themselves and others to become useful members to their society. For example, in his book \textit{On the Duty of Man and Citizen}, Samuel Pufendorf argues that:

\begin{quote}
For man is not born for himself alone; the end for which he has been endowed by his Creator with such excellent gifts is that he may celebrate His glory and be a fit member of human society. He is therefore bound so to conduct himself as not to permit the Creator’s gifts to perish for lack of use, and to contribute what he can to human society. So, by analogy, though a person’s ignorance is his own shame and loss, yet the master is right to flog the pupil who neglects to learn such skills as his capacity allows.\footnote{129}
\end{quote}

The aim of much social policy up until late 19\textsuperscript{th} century was to ensure that those who could make a productive contribution to their society and become “useful members”. For us today, this orientation towards work and discipline is perhaps most famously exemplified in the 1834 amendment of the English poor-law that made explicit the ambition to make relief so unattractive that no one would apply for relief except in conditions of extreme necessity.\footnote{130}

As is well-known, also insurance tends to influence people’s behaviour. All insurance reduces the costs of certain outcomes to those who are insured, which gives them weaker incentives to take precautionary measures to avoid those outcomes. In the insurance literature this is commonly discussed under the heading of “moral hazard”. To counteract moral hazard,
insurers typically introduce deductibles or coinsurance that shifts part of the cost back to the insured.\textsuperscript{131} Such an approach to accident reduction has been extensively discussed by Guido Calabresi in his seminal book \textit{The Costs of Accidents}. Calabresi distinguishes between specific deterrence, or the approach in which it is collectively decided with which degree people should be allowed to engage in any given activity, who should be allowed to engage in it and how, and general deterrence, in which it is left to the market to determine the degree to which, and how, it is desirable that people engage in any given activity given its costs.\textsuperscript{132}

General deterrence is achieved through allocating the cost of accidents in such a way as to achieve an optimal mixture between what is often called primary and secondary prevention, i.e. through an optimal mixture between the reduction of the number and severity of accidents and the mitigation of the consequences of accidents once they have occurred.\textsuperscript{133} Deductibles, co-insurance and risk differentiation are ways in which an insurance system can achieve general deterrence by allocating part of the cost of accidents on those who have it within their control to decide to what degree and how they engage in various activities. Insurance systems can thus be constructed in ways that counteract the general tendency to “moral hazard” and give incentives that on an aggregated level tend to reduce the costs of certain kinds of accidents.

The idea that insurance systems can be constructed in ways that tend to promote or deter certain kinds of behaviour has guided much discussion about social insurance and encouraged policy-makers to construct social insurance with the intention to enforce particular norms and moral standards and to promote particular kinds of behaviour. For example, the historian Anders Berge has shown how the Swedish social insurance system during the first half of the 20\textsuperscript{th} century was used to enforce moral standards by making eligibility and compensation rates conditional on certain kinds of behaviour. In exchange for “good” behaviour the insured was entitled to compensation from the social insurance system whereas “bad” behaviour

\textsuperscript{131} For a classical account of moral hazard, see Kenneth Arrow “Uncertainty and the welfare Economics of Medical Care”, \textit{The American Economic Review}, 53(2), 1963, pp. 941-973. Arrows article gave rise to a fierce debate, see Mark. V. Pauly “The Economics of Moral hazard: Comment”, \textit{The American Economic Review}, 58(3), 1968, pp. 531-537 and Kenneth Arrow “The Economics of moral hazard: Further Comment”, \textit{The American Economic Review}, 58(3), 1968, pp. 537-538. In his comment Pauly argued that moral hazard – for example using more health insurance because the insurer pays – need not be a sign of immorality but rational economic behaviour. Arrow, in his reply to Pauly, argued that immorality and rational economic behaviour is not mutually exclusive behaviour and that individuals may have moral reasons to restrain themselves.


could result in no or reduced compensation.\textsuperscript{134} In this way the social insurance system could enforce norms and moral standards concerning acceptable behaviour and responsibility.\textsuperscript{135} For example, between 1946 and 1952 it was stated in the Swedish pension system that alcoholics were not entitled to pensions, and in the Swedish worker’s compensation of 1916 it was stated that workers who were injured because of negligence or drunkenness should only be entitled to reduced compensation.\textsuperscript{136}

During the decades following the end of WW2 many Western countries experienced an unprecedented economical growth and a rapid expansion of the welfare state. Poverty and social problems were increasingly seen as the result of structural factors rather than deficiencies in the morality or character of those who were in the need of social assistance. At the same time, the welfare state became increasingly associated with the notions of social citizenship and social rights. On a policy level, this led to more generous benefit levels and less reliance on conditionality.\textsuperscript{137}

However, in recent decades the welfare state has come to face new challenges. Globalization has opened up new opportunities and markets at the same times as competition between regions and countries has increased, pressing for lower taxes and labour costs. Technological development and the increasing importance of the white-collar sector have led to major changes in the social risk structure and the relative position of different groups. The economy has become increasingly knowledge-intensive with higher demands on flexibility and lifelong learning. Demographical and social changes have also increased the pressure on the welfare state. People tend to live longer at the same time as they work less.\textsuperscript{138} And

\begin{footnotesize}
\begin{itemize}
\item\textsuperscript{134} Berg 1995, pp. 20ff.
\item\textsuperscript{135} Berg 1995, pp. 125ff.
\item\textsuperscript{136} Berg 1995, pp. 67ff, \textit{passim}. Whether workers who were injured because they were negligent or drunk has subsequently been fiercely debated. Proponents have argued that it would be contrary to justice if also those who are responsible for their injuries, for example by disregarding safety-measures and other precautions, were to be compensated on equal terms with those who are not responsible for their injuries. Opponents to reduced compensation have argued that it is the responsibility of the employer to ensure that workers comply with safety measures and that reduced compensation would primarily affect innocent parties such as dependent wives and children. They have also argued that reduced compensation is arbitrary since it should be the negligence of safety-measures that should be punished and not the bad luck to suffer injuries as a result of such neglect. Despite these objections, the Social Welfare Committee opted for the possibility of reduced compensation for workers whose injuries were caused by their negligence because of the effect on prevention and the preservation of the sense of justice. For an overview of the debate, see Socialvardskommittéens Betänkande XIX: Utredning och Förslag angående Yrkesskadeförsäkringsslag mm, Statens Offentliga Utredningar (SOU) 1951:25, pp. 282ff (in particular p. 295).
\item\textsuperscript{137} Mead 1986, pp. 54f. Mead calls this trend the “sociological approach”. See also Junestav 2004, Ch. 5 – in particular pp. 178ff.; Jenny Andersson \textit{Mellan tillväxt och trygghet – idéer om produktiv socialpolitik i socialdemokratisk ideologi under efterkrigstiden}, Acta Universitatis Upsaliensis, Uppsala Studies in Economic History 67, 2003, pp. 61f.
\item\textsuperscript{138} Esping-Andersen et al., 2002, pp. 2ff. Giuliano Bonoli identifies several New Social Risks related to recent socioeconomic changes. Those are (i) risks associated with reconciling work and family life, (ii) single
\end{itemize}
\end{footnotesize}
changes in people’s lifestyle choices and habits have increased the threat from various health risks such as obesity.\textsuperscript{139}

In response to these challenges politicians and policy-makers have turned to construct social welfare and social insurance policies with the aim of activating people and preventing reliance on social welfare and social insurance. For example, in Sweden this has led to increased reliance on active labour market policies in unemployment insurance, and in a recent reform of the Swedish sickness insurance it is required that those who have relied on the insurance for 180 days accept any employment unless it is unfeasible for medical reasons.\textsuperscript{140} In the UK Tony Blair’s New Labour, which came to power in 1997, has adopted different policies in order to make more people work and to reduce poverty. The New Deal for Young People, for example, makes social assistance for unemployed youths between 18 and 24 conditional on supervised job-search and participation in education or training programs.\textsuperscript{141} In the US, the adoption of Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996 has led to several policy changes. In particular, the Aid to Families with Dependent Children (AFDC) was radically recast in the form of Temporary Assistance to Needy Families (TANF) with tougher work requirements and the express aim of promoting marriage.\textsuperscript{142} Also on a European level there has been a general shift towards more active welfare states. At the European Council of Essen in 1994 five priority objectives were identified: investments in vocational training and lifelong learning, increasing the employment intensity of economic growth through flexible employment and wage restraint, reduction in non-labour costs, improvements in active labour market policies and targeted measures to help the long-term unemployed. This paved the way for the inclusion of a special Employment Chapter in the 1997 Amsterdam Treaty, officially raising employment to the status of a common European concern. The breakthrough for a common European shift towards activation came at the Lisbon summit in 2000 where it was concluded that “The

\textsuperscript{139}Cf. The World Health Report 2002 where it is stated that “Most of the risk factors discussed in this report are strongly related to patterns of living, and particularly to consumption - where it can be a case of either too much or too little”. World Health Organisation (WHO): \textit{Reducing Risk and Promoting Healthy Life}, The World Health Report, 2002, p. 9.

\textsuperscript{140}Regeringen’s Proposition 2007/08:136, En reformerad sjukskrivningsprocess för ökad återgång i arbete; Johansson et al 2007.

\textsuperscript{141}Mead et al 2005, pp. 26ff.

Union has today set itself a new strategic goal for the next decade: to become the most competitive and dynamic knowledge-based economy in the world, capable of sustainable economic growth with more and better jobs and greater social cohesion”.\textsuperscript{143} It was recognised that “Investing in people and developing an active and dynamic welfare state will be crucial both to Europe’s place in the knowledge economy and for ensuring that the emergence of this new economy does not compound the existing social problems of unemployment, social exclusion and poverty”.\textsuperscript{144} In order to help member states to reach these goals the Open Method of Co-ordination (OMC) was launched to provide policy-makers with inspirations from “best practices” abroad and the opportunity to share policy experiences and practices.\textsuperscript{145} Although the aim has not been to formulate a common European social policy, many member states have come to adopt similar strategies. The 2007 Joint Report on Social Protection and Social Inclusion concluded that “Member states are increasingly focusing on ‘active inclusion’ to strengthen social integration. There is a clear trend towards making benefits more strictly conditional on active availability for work and improving incentives through tax and benefit reform”.\textsuperscript{146}

5.2 Justifying the active welfare state
The shift towards the active welfare state has not been uncontroversial and arguments both for and against recent developments have been widely discussed by scholars from different disciplines as well as by politicians and the general public. In a way, this might seem perplexing. It would seem that everyone could agree with Claus Offe when he writes that:

\begin{quote}
Generally speaking, the kind of social intervention most typical of the welfare state is always “too late”, and hence ex post facto measures are more costly and less effective than a more “causal” type of intervention would allow them to be. This is a generally recognised dilemma of social policy making; the standard answer is the recommendation to adopt more ‘preventive’ strategies.\textsuperscript{147}
\end{quote}

\textsuperscript{143} Presidency Conclusions: Lisbon European Council 23 and 24 March 2000, §5.
\textsuperscript{144} Presidency Conclusions: Lisbon European Council 23 and 24 March 2000, §24.
\textsuperscript{145} Esping-Andersen et al 20002, pp. 207ff.
\textsuperscript{146} European Commission: Joint report on Social Protection and Social Inclusion, 2007, p. 9.
\textsuperscript{147} Claus Offe “Some Contradictions of the Modern Welfare State”, in Person and Castles (eds.), 2006, p. 72. With “causal type of intervention” Offe presumably refers to interventions that target the causes behind reliance on welfare and social insurance.
If policies associated with the active welfare state prevent social exclusion and reliance on social welfare or social insurance, why are such policies still controversial? I think that one important explanation is that the shift towards the active welfare state is inherently normative in two importance senses. First, the welfare state does not merely provide protection against social risks and relieve poverty. Its organisation and policies also embody normative expectations on how people should behave and structure their relations. For example, from a Feminist perspective it has been argued that the welfare state reinforces traditional gender structures and what has been called the breadwinner model according to which it is the husband’s responsibility to earn a living and provide for the family whereas it is the wife’s responsibility to take care of the household and the children. Likewise, the active welfare state has mainly become associated with norms pertaining to active participation in society and risk-taking. To begin with the former, the active welfare state emphasises the importance of activation and social inclusion as opposed to social exclusion. According to Burchardt et al “an individual is socially excluded if (a) he or she is geographically resident in a society and (b) he or she does not participate in the normal activities of citizens in that society”. Among the “normal activities” are being engaged in productive activity (i.e. paid labour) and being able to consume at least up to some minimum level goods and services which are considered normal for the society as well as engaging in social interaction with friends and family and so on.

On a policy level, however, social exclusion has become synonymous with unemployment or being unattractive on the labour market, and the shift towards the active welfare state has primarily promoted a strong work ethos according to which everyone has a moral obligation to contribute to society through productive labour. For example, in recent decades the OECD has strived to reform benefit policies targeting disabled persons. Among the policies that have been discussed is the introduction of new obligations for disabled people to make an effort to contribute to society and an emphasis on mutual obligations. As Peter Whiteford, the principal administrator of the OECD’s Directorate of Employment, Labour and Social Affairs puts it: “Emphasising activation and the mutual obligations of both society and the disabled person moves disability closer to the underlying logic of


150 Burchardt et al 1999, p. 231.
unemployment programmes, which expect an active contribution and effort from beneficiaries”.  

Parallel to this emphasis on work ethos the active welfare state also reflects changing perspectives on risks and people’s responsibility for the risks to which they are exposed. Commentators such as Ulrich Beck have argued that we are now living in a “risk society” where society itself produces risks and benefits. This means that people’s life experience is characterized by their exposure to and successful management of risk. Consequently, the central preoccupation of the risk society is not distribution of wealth or welfare, but with the distribution of risk in terms of who manufactures the risks and on whom they fall. The shift towards an active welfare state should thus be understood in the context of both an increased concern with activation, economic efficiency and with individualized risk-management.  

The shift towards the active welfare state is also normative in a second sense that it should ideally be justified by arguments drawn from moral and political philosophy. In the following I will therefore briefly discuss the justifications of policies associated with the shift towards the active welfare state that have been suggested in the philosophical literature. To the extent that philosophers have discussed such policies, they have mainly discussed policies that make entitlement to social assistance or compensation from social insurance conditional on different kinds of work requirements or activation in the form of participation in education or vocational training programs (commonly called “workfare”). Proponents of workfare policies have either argued that such policies are justified by their beneficial consequences, either in general or for those who are subject to them, or that workfare policies are justified by reference to rights and obligations based on citizenship or reciprocity. With the purpose of providing a background to articles V and VI where I explore arguments based on consequences and reciprocity respectively, I will in the following some of the more influential arguments in the debate on the active welfare state.

154 For a discussion about the appropriateness of the term ”workfare” and similar policies, see Jörg Michael Dostal “The Workfare Illusion: re-examining the concept and the British Case”, Social policy and Administration, 42(1), 2008, pp. 19-42.
155 Nanna Kildal identifies five kinds of arguments for workfare policies that have been voiced in the Norwegian debate. These are (i) arguments pertaining to work and economic growth, (ii) arguments pertaining to work and social integration, (iii) arguments pertaining to work and the development of competence, (iv) arguments pertaining to the benefits of work and (v) arguments pertaining to reciprocity between rights and duties. Nanna Kildal “Justification of Workfare: Norwegian Case”, Critical Social Policy, 19(3), 1999, pp. 353-370. In the typology presented here the first four kinds of arguments are contrasted with the last kind of argument as the former pertain to consequences whereas the latter pertains to rights and obligations.
To begin with arguments based on consequences, Lawrence Mead has in several books and articles defended workfare policies on the grounds that they address underlying behaviour problems and lack of competence among the poor, which Mead sees as the major cause of poverty and social problems. Mead gives mainly two arguments for workfare policies that make entitlement to social welfare conditional on the acceptance of work. The first argument is based on a conception of equality that holds that equality is not as much a question about entitlement as a question about activity and the fulfilment of obligations. According to such a conception of equality, to be equal people must at least make an effort to participate in society and fulfil common social obligations of citizenship such as work and pay taxes. Workfare policies and functional requirements are justified because they ensure that welfare recipients fulfil their obligations of citizenship and thereby are able to participate in society as equals.\(^{156}\)

The second argument, which Mead mainly has put forward in the book *The New Paternalism*, is that workfare policies also benefit the poor because they help them to acquire the competence that is needed to lift them out of poverty and improve their living standard.\(^{157}\) As most welfare recipients want to work and not working causes them shame and discouragement, work enforcement is necessary to close the gap between intentions and behaviour.\(^{158}\) At the same time, Mead is also aware of the limitations of workfare policies and work enforcement. In particular, such policies could be harmful if they target those who are only temporarily in difficulties. The argument from competence is also less forceful when it

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156 Mead 1986, pp. 237ff. Mead’s “relational conception of equality” is similar to that advocated by Elizabeth Anderson in her seminal article *What is the point of equality?* There, Anderson advocates what she calls “democratic equality” that “guarantees all law abiding citizens effective access to the social conditions of their freedom at all times” (p. 289). Anderson interprets this in terms of Amartya Sen’s notion of capabilities and functionings, i.e. people have more freedom the greater the range of effectively accessible, significantly different opportunities they have for functioning or leading their life in ways they value most - where having effective access to a level of functioning means that “people can achieve that functioning by deploying means already at their disposal, not that functioning is unconditionally guaranteed without any effort on their own part” (p. 318). When people have such effective access to the social conditions of their freedom they are equal in both a negative sense and in a positive sense. They are equal in the negative sense that factors such as ethnicity, inherited social status, gender or genes do not limit their freedom and they are equal in the positive sense that they are all regarded as competent adults that are equally moral agents with the power to develop and exercise moral responsibility, to cooperate with others and shape and fulfil a conception of their good (p. 312). Elizabeth Anderson “What is the Point of Equality?”, *Ethics*, 109(2), 1999, pp. 287-337.

157 Mead 1997, pp. 23ff. Mead is not that very specific about what this competence would consist in. A hint is given in *Beyond Entitlement* where Mead writes that “Since the early 1960’s /---/ most of the long-term unemployed have been unmarried men, youths or women, not older men or heads of households. What they have needed most was training in the basic skills and attitudes needed to hold any job, such as literacy and punctuality, not advanced skills”. Mead 1986, p. 24.

comes to beneficiaries of social insurance programs since they typically have a work history and the required competence.\textsuperscript{159}

It has also been argued that workfare policies are justified because of the benefits that are claimed to flow from working. This argument comes in different versions. A first version emphasizes the benefit of being economically independent and to earn one’s own living.\textsuperscript{160} But, as Nanna Kildal has pointed out, economic independence is a diffuse concept. In modern complex societies we are all dependent on services from the wider society.\textsuperscript{161} Earning one’s living need not therefore constitute such a drastic increase in some abstract notion of “independence”. Moreover, employees need not be more independent than recipients of social welfare or beneficiaries of social insurance as the relative degree of independence depends on the terms of the employment contract and the terms of social assistance or social insurance respectively.

A second version emphasizes the importance of work and workplace attachment for social belonging and social relations.\textsuperscript{162} But to what extent workfare policies promote such relations depends on which kinds of work they promote. In particular, to the extent that workfare policies promote low-pay and low-skill work that are performed in isolation from other employees there is little to gain in terms of social relations.\textsuperscript{163}

A third version emphasizes the importance of work for people’s self-respect. The argument is that since norms of self-sufficiency and economic independence are central values in modern societies, those who fail to earn their own living and become dependent on others experience a sense of failure and humiliation that undermine their self-respect. But it is not certain that workfare policies are not more harmful to self-respect than relying on social welfare or social insurance - in particular as those who rely on social insurance have acquired a right to compensation through their contributions.\textsuperscript{164}

\textsuperscript{159} Mead 1997, p. 26.
\textsuperscript{160} This has been an important argument in recent Swedish parliamentary debates on changes in the Swedish sickness insurance that were adopted in 2008. For example, in the parliamentary debate in 2008 the conservative politician (moderata) Gunnar Axén argued that the reform would enable people to care for themselves. Riksdagens protokoll 2008-06-05, Sjukförsäkring och Folkhälsovård, anf. 68.
\textsuperscript{161} Kildal 1999, p. 361.
\textsuperscript{164} Kildal 1999, p. 361. Kildal refers to Donald Moon and his discussion of social insurance in Gutman 1988 (see section 4.2.2 above).
A final version of the argument that workfare policies are justified because of the benefits flowing from work emphasizes that work may be a way to self-realization and the development of the talents and powers of the employees. But, once again, whether work is a means to self-realization depends on the kind of work workfare policies tend to promote.\textsuperscript{165}

Another set of arguments pertains to the promotion of social inclusion or the prevention of social exclusion. These arguments have been particularly important on a policy level as the prevention of social exclusion and promotion of social inclusion has been included among the strategic goals of the EU and member states have subsequently adopted national programs to promote social inclusion and prevent social exclusion.\textsuperscript{166} Despite this, the concepts of social inclusion and social exclusion remain surprisingly controversial and elusive – in particular as social exclusion often has come to be synonymous with exclusion from the labour market.\textsuperscript{167} Moreover, from a normative point of view it is not obvious that social exclusion in the sense of non-participation in “the normal activities of citizens in that society” is normatively objectionable.\textsuperscript{168} Plausibly, this depends on why those who are claimed to be socially excluded do not participate in such activities. If they are unable to so participate because of discrimination, lack of basic skills, health problems or because of other socioeconomic factors beyond their control it would arguably be normatively problematic because they lack an adequate level of autonomy or capabilities. On this reading, social exclusion is normatively problematic because it is based on a normatively objectionable lack of autonomy. But people can also choose not to participate in normal activities of citizens in their society. In that case social exclusion cannot be claimed to be normatively objectionable because of lack of autonomy.

Perhaps it could be argued that on a general level voluntary non-participation in the normal activities of citizens in a society is normatively objectionable because it threatens social cohesion. But social cohesion is a vague concept. It is also questionable whether an appeal to social cohesion is feasible in a liberal democratic society that claims to be neutral in

\textsuperscript{165} Kildal 1999, p. 361.
\textsuperscript{166} Cf. Sweden’s Strategy report for social protection and social inclusion 2008-2010. Ministry of Health and Social Affairs.
\textsuperscript{167} In the parliamentary debate on the reform of the Swedish sickness insurance in 2008 the majority of the arguments from the proponents of the reform referred to social inclusion or social exclusion (Swedish “utanförskap”). Source: Riksdagens protokoll 2008-06-05, Sjukförsäkring och Folkhälspolitik, anf. 65-190. During the debate the term social exclusion was questioned only once, by Gunvor Ericsson from the Green Party (miljöpartiet). Ericsson wondered who was socially excluded and objected to the way the term was used. In particular to the fact that also those who were absent from work for a few days were included among the socially excluded. (anf. 137). In a subsequent reply, the conservative Mats Nilsson (moderaterna) maintained that discussing the terminology was not the most important thing to do when they were to combat social exclusion (anf. 138).
\textsuperscript{168} Burchardt et al 1999, p. 230.
the sense that its policies are not based on the relative worth of different ways of life. After all, it is a defining feature of a liberal democratic society we have the right to withdraw from society as long as we do not harm others. On a more limited level, however, it might be argued that non-participation in productive activities is normatively objectionable, even if those who chose not to participate are economically independent, because everyone has an obligation to make a productive contribution to society according to his or her ability. But, once again, which duties citizens in a liberal democratic society have is a controversial issue. A more limited claim would be that participants in a cooperative scheme that have benefited from the cooperation of other participants have an obligation from reciprocity to similarly cooperate. Since society could be seen as a cooperative scheme all citizens (or members in a society) have an obligation to do their part. But this raises further questions about the nature of society and to what extent everyone benefits from being a member in society. Perhaps the very rich and the very healthy could claim that although they clearly benefit from being members in a society, they do not clearly benefit from being member in any particular society. They could therefore claim that they have not benefited from being member in their society since it is always possible that they would benefit more from living in another society. In either way, these remarks suggest that arguments pertaining to social exclusion or social inclusion are not sufficient to justify workfare policies. Further arguments as to why (different forms of) social exclusion is normatively objectionable must be given.

This leads to the second kind of influential arguments pertaining to rights and obligations. To begin with, one line of argument holds that citizenship is associated with both rights and duties that citizens owe to each other in virtue of being citizens. For example, although T. H. Marshall argued that citizenship in the 20th century is associated with social rights, he also argued that “If citizenship is involved in the defence of rights, the corresponding duties of citizenship cannot be ignored” - noting that “Of paramount importance is the duty to work, but the effect of one man’s labour on the well-being of the whole is so small so we think that we do not do much harm in failing it”.

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170 This is for example famously argued by John Rawls in his Theory of Justice. Rawls 1999, pp. xv, 4, passim.
171 Bottomore et al 1992, pp. 41 and 45-46. Marshall’s claim is here reminiscent of Pufendorf and the natural law theorists’ defence of the duty to become a useful member to society and make a productive contribution, although Marshall of course does not appeal to natural law or the commands of God, nor does he recommend that those who fail to develop their talents and do not make a productive contribution to their society should be flogged.
The idea that people have a duty to contribute to society can also be defended on the basis of reciprocity. As an example, Stuart White has defended what he calls Fair Reciprocity in his book *The Civic Minimum*. Fair Reciprocity demands that the institutions that govern economic life be structured to satisfy a number of what White calls core commitments or the civic minimum. These commitments are (i) non-immesiration, which means that no citizen should suffer brute luck poverty in income or in her capability for well-being, (ii) market security, which means that each citizen should enjoy adequate protection against market vulnerability and exploitation, (iii) work as challenge, which means that each citizen should have an adequate opportunity for self-realization in work, (iv) Minimized class division, which means that inequalities in education opportunities and initial access to wealth are reduced to a reasonable minimum and (v) non discrimination, which means that every citizen is protected from discrimination on the basis of morally arbitrary characteristics in areas like employment and education. Once a society satisfies these commitments each citizen has an obligation to make a decent productive contribution in proportion to ability to society in return for claiming the share of the social product that is available to him or her under economic institutions that satisfy conditions (i)-(v).

White discusses three arguments why reciprocity matters. The first, and in White’s view the strongest argument, is that reciprocity embodies an ethos of mutual respect. That is, as a matter of dignity other citizens have the right to expect that everyone makes an effort to make a productive contribution. Those who fail to make such an effort treat others in an offensive instrumental way, i.e. they exploit others and thereby fail to show them respect.

The second argument is that a concern for reciprocity is a concern for equality of opportunity. The idea is that reciprocity will equalize opportunity for or access to different kinds of advantage. For example, Marx famously argued that all should work so that all can have equal access to free time.

The third argument is instrumental: as a matter of fact people care about reciprocity and tend to oppose institutions that they think violate reciprocity. Since widespread opposition would weaken the effectiveness and stability of institutions, which in turn could undermine

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172 To what extent this is a separate argument from the previous is an open question. However, it does not prima facie seem unreasonable to hold that it considerations pertaining to reciprocity are different from considerations pertaining to citizenship, even if reciprocity may also also play an important part in explaining why citizenship entails a duty to make a productive contribution to society.

173 White 2003, pp. 90f. See also ibid p. 59.

174 White 2003, pp. 59 and 91.

175 White 2003, pp. 62f.

176 White 2003, p. 67.
the effective pursuit of valuable social goals, institutions should respect reciprocity-based expectations.\textsuperscript{177}

Now, in the light of these arguments it could be argued that workfare is justified because it enforces the obligation to make a productive contribution that is based on the notion of reciprocity. However, White also defends a broader notion of what it takes to satisfy the obligation to make a productive contribution which he calls civic labour: “roughly speaking, labour that provides significance services for, or on the behalf of, the wider community”.\textsuperscript{178} Civic labour is thus a broader notion than merely labour force participation or paid employment as it also includes care work, such as parenting or caring for relatives, and other beneficial activities.\textsuperscript{179} Consequently, fair reciprocity justifies policies that promote a wider range of participation rather than the more narrow policy of workfare.

5.3 Criticism of the active welfare state

Although much has been written about the active welfare state and the alleged benefits and novelty of a shift towards a new “active” - as opposed to an old “passive” - welfare state, policies associated with this shift have also been widely criticised from a number of perspectives. A first line of criticism is that there is nothing new with policies associated with the active welfare state. Instead, the alleged shift simply signifies the return of the old right and a return to the policies of the old poor law.\textsuperscript{180} To what extent policies that have been implemented in recent years and that are typically associated with the active welfare state signify something qualitatively new compared to older policies is partly an empirical question. It is also likely that such policies are more of a novelty in some countries and less in others.\textsuperscript{181} But also a brief look at the history of welfare states suggests that similar policies have been discussed or implemented previously. For example, in discussing social insurance Beveridge notes that “there may be reasons to of social policy for adjusting premiums to risks, in order to give a stimulus for avoidance of danger, as in the case of industrial accident and disease”.\textsuperscript{182} And when Bernhard Eriksson, the chairman of the Swedish Social Welfare

\textsuperscript{177} White 2003, pp. 74f.
\textsuperscript{178} White 2003, p. 98.
\textsuperscript{179} White 2003, pp. 108ff.
\textsuperscript{180} Johansson et al 2007; For an overview of criticism of workfare policies and other policies associated with the shift towards an active welfare state, see Anthony Giddens The Third Way and its Critics, Cambridge: Polity Press, 2000.
\textsuperscript{181} It has been suggested that policies associated with the active welfare state is more of a novelty in Anglo-Saxon countries and in the south of Europe whereas they have always been art of the Nordic welfare states. Cf. Giddens 2000; Johansson et al 2007; Pestieau, 2006, pp. 47ff.
\textsuperscript{182} Beveridge 1942, p. 13 (§26).
Committee, referred to above, discusses social policy in 1944 his formulations are not far from those of Vandenbroucke when he complained that the current poverty relief “in a too large extent has been characterized by a passive payment of support” and he hoped that the new system under discussion would become “an active social assistance system”. To what extent there is anything qualitatively new about policies typically associated with the active welfare state is, however, of less importance. It does not make the normative issues raised by such policies more or less pressing (although it may be instructive for the discussion of the active welfare state to know that similar policies and arguments have been raised previously in history).

A second line of normative criticism is that making entitlement to social welfare conditional on the satisfaction of work-requirements (or even any requirement other than the need for assistance) threatens equality of citizenship. For example, Carole Pateman has argued that denying individuals social assistance in times of need threatens their ability to participate in social and political life – which ultimately threatens their status as equal citizens. Instead, she argues for the introduction of an unconditional basic income in the form of regular payment of a sum of money by a government to each adult citizen with no conditions attached. As she puts it: “While there are few people who are now opposed to universal suffrage, there is widespread reluctance to see a decent living standard as an analogous democratic right. If vote is essential for participation in collective self-government, a decent standard of life is essential for individual self-government and participation in social life more generally.”

A similar criticism is voiced by Desmond King when he argues that workfare is incompatible with respect for the recipients of welfare as fellow members of the political community because it is not possible to enforce an effort to work of the behalf of recipients without undermining the values and practices that sustain equal citizenship and democratic institutions. Thus, compulsion becomes an expression of state power that stigmatizes recipients and increases their alienation and sense of exclusion. In particular, compulsion threatens equal citizenship because participants in workfare are treated differently from

184 Carole Pateman “Another Way Forward: Welfare, Social Reproduction and a Basic Income”, in Mead et al 2005, p. 50. Pateman is particularly concerned with the importance of basic income for the support of mothers with dependent children. See also section 4.2.1 of this introduction for a discussion about the relation between social welfare and citizenship.
185 Desmond King “Making People Work - Democratic Consequences of Workfare”, in Mead et al 2005, p. 73.
participants in other state-administered benefit programs. The attitudes towards those who are forced to accept mandatory work are also likely to encourage the view of welfare recipients as second-class supplicants, which will be particularly damaging when the need for social welfare coincides with other factors such as ethnicity and being a member on an already disadvantaged minority. Finally, King argues that since the administrators of workfare programs must monitor individuals’ behaviour such programs will increase the level of discretion and undermine the rule of law and the equal respect that should be given to all citizens. Since those who are not on social welfare are not subject to similar treatment, workfare ultimately threatens equal citizenship.

Pateman’s and King’s criticism is primarily directed against those who emphasise the close relation between citizen’s rights and obligations. In reply, proponents of increased reliance on conditionality in social policy have again emphasised the obligations and duties of citizenship. For example, William Galston has argued that the conception of citizenship underlying recent welfare reforms is not new. Instead, it simply refers back to an idea of conditional citizenship according to which citizenship is “an ensemble of rights, privileges and immunities, some of which may stand forfeited or restricted without restricting the rest”. Thus, Galston argues, depending on context and circumstances conditionality may concern some aspects of citizenship but not others. This clears the way for a normative conception of citizenship according to which citizenship is an ensemble of burdens and benefits involving both performance and reciprocity. Based on a survey of current practices in the US, Galston concludes that the notion of conditional citizenship embodies the expectation that citizens do their part in upholding the rule of law and do their part in generating resources, which makes workfare compatible with citizenship. At the same time, Galston also notes that “ought implies can”, and that society must therefore provide the social circumstances within which individuals can do their part. Helping individuals do their part may also require opportunities to develop talent in the form of education and training opportunities - as well as the background conditions that help individuals develop core intellectual and social competences. Similarly, as discussed above in section 5.2, Lawrence Mead has argued that citizenship entails obligations as well as rights and that this must be expressed in social policy...
to ensure the legitimacy of the welfare state and the equal respect of recipients of social welfare.192

Also those who are more sceptical about the introduction of workfare policies have argued that social rights need not be incompatible with increased reliance on conditionality. One example is Stuart White who has argued that social rights need not imply an unconditional entitlement to a social minimum but rather reasonable access to such a minimum, which gives room for making social welfare conditional on the satisfaction of certain requirements.193 A similar argument was made by the economist Eli Heckscher in a Swedish expert report on unemployment from 1928. There, Heckscher argues that it does not follow from the fact that people have a right to support from the unemployment insurance that the support must be given unconditionally to the unemployed. The purpose of the insurance is achieved if people know that they have the right to support if they fulfil certain requirements that are within their capacity to fulfil.194 It would then seem that conditionality is not incompatible (at least not in any obvious way) with the requirements of equal citizenship nor with the fact that people acquire a right to compensation from insurance through their contributions (or premiums).195

A third line of criticism contends that policies such as workfare or policies aiming at health promotion violate the liberal democratic ideal of the neutral and non-perfectionist state because such policies emphasise certain ways of life or conceptions of the human good at the expense of others.196 But, to begin with, it is not uncontroversial that neutrality or non-perfectionism is a liberal democratic virtue. Philosophers such as Joseph Raz has argued that the neutral state is either not desirable or a fiction.197 Moreover, following Raz a distinction can be made between neutrality as the exclusion of ideals and neutrality as no-influence in the sense that state policies do not affect the likelihood that citizens adopt one conception of the good or one way of life rather than another.198 As is often pointed out, neutrality in the latter

193 White 2003, pp. 137f.
195 Ultimately, whether rights can be made conditional in such a way depends on whether conditionality can be accommodated by the underlying theory of rights.
196 Cf. White 2005, pp. 89f.
197 Joseph Raz, The Morality of Freedom, Oxford: Oxford University Press, 1986, p. 113 and Part Four. Raz advocates what he calls perfectionist moral pluralism that “asserts the existence of a multitude of incompatible but morally valuable forms of life” and which it is the task of the state to promote at the same time as the state should take steps to eradicate or curtail conceptions of the good that are worthless and demeaning (ibid p. 133).
sense is impossible since all policies are likely to have at least some influence on people’s conceptions of the good and, in addition, neither is such an ideal desirable since it is the purpose of the state to ensure certain outcomes rather than others. This leaves the former sense of neutrality, exclusion of ideals. But it is not obvious that policies promoting work or health must be justified by arguments pertaining to the relative worth of different ways of life or conceptions of the good. Instead, such policies could be justified by arguments pertaining to overall social justice or reciprocity.

A fourth line of criticism is that policies associated with the active welfare state primarily tend to affect already vulnerable groups such as the sick, women, children and minorities, thereby consolidating existing inequalities and patterns of disadvantage. In particular, making entitlement to social welfare or social insurance conditional on acceptance of work or other measures to promote paid employment weakens the general bargain position of those who are poor in assets such as education or inheritance. As Claus Offe notes “the claim for welfare payments to the poor is everywhere made conditional on their conformity to standards of behaviour which the better-to-do strata of the population are perfectly free to violate.” But to what extent it is a normative concern that some groups tend to be more affected by policies associated with active welfare state depends on the underlying conception of justice and the prevailing circumstances in the society in which the policies are implemented. Arguably, the more equal the opportunities, the less objectionable that some groups are more affected than others by increased reliance on conditionality. Moreover, as also Mead points out when he argues that workfare policies promote individuals competence, it might be in the interest of those who are subject to such policies to be given adequate incentives so that they can escape poverty and distress or make healthier lifestyle choices.

A fifth line of criticism, directed against the importance many policies attach to paid employment, is that individuals could make contributions that are meaningful both to themselves and society in other ways than through paid employment. Thus, also those who are in favour of increased reliance on conditionality recognises the importance of giving room for individuals’ wishes and desires, as well as talents and ambitions, in deciding how they are to meet obligations to make a productive contribution – as is captured by White’s notion of

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199 White 2005, pp. 89ff.
civic labour and Galston’s arguments that education and training also must count as meeting such obligations.\textsuperscript{202}

Another line of criticism is based on Bob Jessop’s claim that a transition from a Keynesian Welfare State (KWS) to a Schumpeterian Workfare State (SWS) is currently taking place. The KWS is directed at the promotion of full employment in a relatively closed national economy, primarily through demand side management, and the generalization of norms of mass consumption through welfare rights and various forms of collective consumption.\textsuperscript{203} This stands in contrast to the SWS, which is directed at the promotion of product, organisational and market innovation, the enhancement of structural competitiveness of open economies mainly through supply side intervention and the subordination of social policy to the demands of labour market flexibility and structural competitiveness.\textsuperscript{204} Jessop argues that the shift from KWS to SWS is driven by four trends in the global economy. For example, the rise of new technologies has promoted economic expansion, which has made the state’s role, among other things, to promote innovative capacities and technical competence.\textsuperscript{205} There has also been a paradigm shift from a Fordist growth model based on mass production, economies of scale and mass consumption to a Post Fordist growth model oriented towards flexible production, innovation, scope economies and more rapidly changing and differentiated patterns of consumption. As Jessop puts it, “What is at stake today in international competition is the ability to switch quickly and easily among innovative products and processes with each new product offering better functional qualities and improved efficiency in production”.\textsuperscript{206} The central claim is that the shift from the KWS to the SWS is explained by the fact that the SWS is better suited than the KWS to promote and consolidate the Post-Fordist economic order.\textsuperscript{207} Hence, these economical trends have prompted a major reorientation of social policy away from redistributive concerns based on

\textsuperscript{202} White 2003 and Galston 2005. Similar arguments have also been given by Hertley et al when they argue that broader forms of workfare that recognises other ways of contributing other than paid employment might be justified by reference of capabilities and rights. Dean Hartley, Jean-Michel Bonvin, Pascale Vielle and Nicolas Farvaque “Developing Capabilities and Rights in Welfare-to-Work Policies”, European Societies, 7(1), 2005.
\textsuperscript{203} Jessop 1993, p. 9. Jessop’s notion of a shift from a KWS to a SWS has been used to analyse current developments. For example, Jacob Torfing has used Jessop’s notion of the shift from a KWS to SWS as a theoretical point of departure for his analysis of the development of the Danish welfare state. Jacob Torfing “Workfare with welfare: recent reforms of the Danish welfare state”, Journal of European Social Policy, 9(5), 1999.
\textsuperscript{204} Jessop 1993, p. 9.
\textsuperscript{205} Jessop 1993, pp. 12f.
\textsuperscript{206} Jessop 1993, pp. 14f.
\textsuperscript{207} Jessop 1993, p. 12. Jessop acknowledges that although this claim seems justified on definitional grounds, a less tautological answer must await specification of various forms of SWS and empirical assessment of the viability of these different forms in specific economies and conjunctures (ibid, p. 27). In fact, Jessop presents three forms of SWS: (i) the Neo-liberal, (ii) the Neo-corporatist and (iii) the Neo-statist (ibid pp. 29ff).
expanding welfare rights in a nation-state towards more productivist and cost-saving concerns in an open economy.\textsuperscript{208}

Although Jessop’s thesis is descriptive and he does not purport to assess the shift from the KWS to the SWS from a normative point of view, claims to the effect that the active welfare state signifies a change of system, as opposed to being an adjustment of existing policies to changing circumstances, have nevertheless been appealed to by critics of the current development. In particular, they have argued that the shift towards the SWS will lead to social injustice together with increased income-gaps and the creation of a permanent underclass trapped in low-skilled and low-pay jobs.\textsuperscript{209}

The shift towards the SWS can also be contrasted with proposals for another radical policy that has increasingly attracted interest in recent decades, i.e. the introduction of a universal basic income (UBI). A universal basic income guarantees every adult a substantial and regular income that is unconditional, that is, there are no behavioural requirements that must be satisfied for entitlement to a basic income. Philosophers such as Phillipe van Parijs has in several books and articles argued for a universal basic income, and the introduction of a basic income has also been on the agenda of some political parties (although it has never gained enough political support to be a realistic possibility).\textsuperscript{210} Proponents of a UBI have mainly pursued either of two lines of arguments. They have either argued that UBI is better than alternative conditional welfare systems in promoting individuals’ autonomy. As van Parijs puts it, a UBI gives real freedom for all.\textsuperscript{211} Or they have also argued that a UBI is justified as a means to distribute what they call external assets. Briefly, external assets are assets that are not the product of the labour or contributions of any now living generation. Typical examples of such assets are natural resources and structures that we inherit from earlier generations, such as existing infrastructure and social institutions. But proponents of a UBI have also argued that what they call job assets are among the external assets and those assets should be distributed equally. The idea is that given the assumption that individuals

\textsuperscript{208} Jessop 1993, p. 17.
\textsuperscript{209} This line of criticism was also raised in the parliamentary discussion about changes in the Swedish sickness insurance in 2008. The leftist politician Liselott Olsson (vänsterpartiet) argued that the reform was yet another step towards the development of a low-salary market. Riksdagens protokoll 2008-06-05, Sjukförsäkring och Folkhälsopolitik, anf. 66. See also the criticism that has earlier been raised by Sheldon Wolin against the changes of the welfare state in the US and Britain during the 1980’s. Wolin argues that the welfare state has become all the more repressive and unpredictable because of the interplay between a volatile international political economy and a rigidified bureaucratic structure of decision making. Sheldon S Wolin, “Democracy and the welfare State: The Political and Theoretical Connections between Staatsrason and Wohlfartstaatsrason”, Political Theory, 15(4), 1987, pp. 495f.
\textsuperscript{211} Van Parijs 1995.
have equal endowments of internal resources (such as knowledge and skills – or at least the ability to acquire roughly the same knowledge and skills), there is no reason for an unequal distribution of external assets such as job assets. And a UBI is a way to ensure that also those who miss out on any job asset receives some of the benefits from such assets.\footnote{Van Parijs 1995. See also Simon Birnbaum Just Distribution – Rawlsian Liberalism and the Politics of Basic Income, Stockholm Studies in Politics 122, Stockholm, 2008, pp. 132ff; White 2003, pp. 155ff.}

However, to what extent a UBI is a viable alternative or complement to existing social welfare systems and social insurance is controversial. To begin with, it is not obvious that a UBI is better than alternatives such as “learnfare” or “participation income” in promoting individuals’ autonomy.\footnote{Cf. Carey Oppenheim “Enabling Participation? – New Labour’s Welfare-to-work Policies”, in Stuart White (ed.) New Labour – The progressive future? Palgrave Publishers LTD, Hampshire, 2001, pp. 85ff} Ultimately, this is an empirical claim that needs further support. Moreover, neither is it obvious that there are such things as external assets nor, even if there are, whether they are enough to finance a UBI on the required level. Finally, and perhaps more seriously, to the extent that people tend to adjust their consumption levels and lifestyles to their income, and hence form their social identities based on their income level, a UBI would be insufficient to provide the required level of social security and stability. Hence, instead of being an alternative to social welfare systems and social insurance a UBI would preferably be a complement.\footnote{This has for example been pursued by Simon Birnbaum. See Birnbaum 2008, pp. 189ff.}

6. Legitimacy

The basis for the legitimacy of the state and its institutions is a long-standing issue in political philosophy. In this section I will briefly discuss some distinctions within the philosophical debate on legitimacy and how the account I present in article VII relates to these distinctions.

John Simmons distinguishes between two broad traditions in how philosophers have thought about the relation between justification and legitimacy, one tradition originating in the writings of Locke and the other tradition originating in the writings of Kant. According to the Lockean tradition legitimacy is based on consent. Thus, a state is legitimate to the extent that its subjects have consented to it by consenting to its laws or its institutions, or as Locke puts it in his second treatise, “no one can be put out of his estate, and subject to the political power of another, without his own consent”.\footnote{John Locke ([1689], 1988) Two Treatises of Government. Peter Laslett (ed) Cambridge Texts in the History of Political thought, Cambridge: Cambridge University Press, p. 330 (sec 95).} According to the Kantian tradition legitimacy is based on justifications that appeal to reasons that the subjects can reasonably be expected to
To quote Rawls, who writes in the Kantian tradition, “our exercise of political power is proper and hence justifiable only when it is exercised in accordance with a constitution the essentials of which all citizens may reasonable be expected to endorse in the light of the principles and ideals acceptable to them as reasonable and rational. This is the liberal principle of legitimacy”.

The two traditions have different implications when it comes to the relation between justification and legitimacy. To begin with, according to the Lockean tradition justification and legitimacy remain distinct concepts in the sense that a state may be justified without necessarily being legitimate. I take it that Locke would argue that even if there are good reasons that justify the existence of some particular institution, this does not imply that we who may benefit from it has any special obligations towards that institution or that institution has some special rights over us (such as demanding that we comply with its rules). Such obligations and such rights are based on a particular kind of interaction between the institution (or rather its representatives) and those who may benefit from it. Only if the latter consent to subjugating themselves to the relevant rules in order to obtain the relevant benefits is such rights and obligations generated. This stands in contrast to the Kantian tradition, according to which every state or institution that is justified is also legitimate. For example, in his liberal principle of legitimacy Rawls grounds both the justification and the legitimacy of a state or an institution on claims about what it would be reasonable for us to accept.

Another implication is that according to the Lockean tradition whether a state is justified may vary between its different subjects in the sense that a state may be justified with regard to one subject A but not to another subject B depending on whether they have consented to it, whereas according to the Kantian tradition the fact that a state is legitimate implies that it is legitimate with regard to all its subjects since its legitimacy is based on what it is reasonable for all its subjects to accept.

Another implication is that in the Lockean tradition legitimacy also grounds what is commonly referred to as political obligations, most notably the obligation to comply with the law or the relevant rules of the state or the institution to which one has consented. This stands in contrast to the Kantian tradition, in which the basis for political obligations cannot be found in an account of the grounds for legitimacy. Rawls for example grounds political obligations in a natural duty of justice to support just institutions.

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216 Simmons 2001, pp. 135f.
218 Rawls 1999.
The account of legitimacy I present in article VII largely follows the Lockean tradition in thinking about legitimacy. To begin with, it keeps justification and legitimacy conceptually distinct. The reason for this is that, at least according to how I think about legitimacy, the fact that a state or an institution is legitimate typically adds something to the moral qualities of that state or that institution. Moreover, the account I present in article VII also allows that an institution may be legitimate with regard to a person A while not being legitimate with regard to another person B. This invites the objection that the account I present fails to give clear guidance whether a state or an institution is legitimate tout court, which is often what we want know when we discuss the legitimacy of states or institutions. The reply to this objection is that a distinction must be made between legitimacy as a matter between an institution and its various subjects (or a state and its various subjects) and legitimacy all things considered. Although we often are more interested in the latter, the answer to the question whether a state is legitimate all things considered depends on the extent to which it is legitimate with regard to its various subjects. Finally, according to the account I present in article VII legitimacy also grounds political obligations in the sense that an explanation of the basis for political obligation must also include the proposed account of legitimacy.

7. This thesis
In this section I briefly summarize the seven articles and I discuss how they relate to each other. The purpose is to put the arguments in the articles in a wider context and discuss how they relate to previous arguments in the philosophical literature.

7.1 Overview of the articles.
Article I
Individuals tend to change their behaviour as a response to insurance. Such behavioural responses to insurance are commonly seen as ethically and morally problematic. This is especially true of effects on behaviour from social insurance. These effects have been seen as an ethical problem, associated with irresponsibility, fraud and an immoral character. This article discusses the relevance of four different types of reasons for claims that behavioural responses to social insurance are immoral. These reasons are (1) independent reasons (2) contract related reasons (3) reasons related to fraud and (4) reasons related to justice. I argue that reasons related to justice are most relevant, but that this type of reasons does not render

Note that the phrase “depends on” is not intended to mean that it is simply a matter about whether a state or an institution is legitimate with regard to a majority of its subjects. I discuss this matter in article VII.
the individual morally blameworthy. Hence, insofar as behavioural responses to social insurance are an ethical problem it is a problem that concerns the institution, i.e. what incentives social insurance exhibits, rather than the individual, i.e. the morality of the individual responding to it. Insofar as behavioural responses to social insurance are an ethical problem it is a problem for political philosophy rather than individual ethics.

**Article II**
This article presents an argument for compulsory insurance that compensates for loss of income in the event of sickness or unemployment. The argument is based on a concern for the protection of our identity according to what is called a “thick” conception of the person which holds that our identities as separate persons are constituted by our ends and commitments. It is also argued that contrary to what has been claimed by opponents of social insurance such insurance need not lead to exploitation by benefitting those whom insurers would consider as bad risks at the expense of those whom insurers would consider as good risks and or be head-on in conflict with individual freedom.

**Article III**
In recent decades prevention policies, i.e. insurance policies constructed to give incentives to investments in prevention and thereby reduce reliance on insurance, have been much discussed both with regard to different kinds of market insurance and, albeit primarily within a European context and in relation to an ongoing discussion about the need for a shift towards an “active” welfare state, with regard to social insurance. The present contribution identifies normative issues that deserve attention in relation to a general introduction of prevention policies in market insurance and social insurance. It is argued that the importance of these normative issues suggests that arguments and distinctions drawn from moral and political philosophy should play a more prominent role both in the debate on the shift towards an active welfare state and the use of prevention policies in market insurance.

**Article IV**
Article III initiated a comment from David Buchanan, professor in Community health education at the University of Massachusetts, and article IV is a reply to that comment.²²⁰ The

²²⁰ David Buchanan, “Should people with unhealthy lifestyles pay higher health insurance premiums?”, *Journal of Primary Prevention*, 32, 2011. The topics that are raised in article III and in the subsequent exchange of
article discusses the differences in health expenditures in the US and in Europe. In response to Buchanan’s claim that Rawls theory of justice has not much influence in Europe, it is argued that Rawls’ theory of justice on the contrary has had a rather substantial influence on European thought and policy-making. In particular, Rawls’ contention that natural abilities and talents should be seen as the result of a “natural lottery” and hence arbitrary from a normative point of view has been influential on the European discussion about the welfare state and its policies.

In addressing the question to what extent those with unhealthy life style choices should pay higher health insurance premiums, it is argued that this depends on where the “responsibility cut” is drawn between those choices for which people can be held responsible and those choices for which they are not held responsible. By reference to Thomas Nagel’s distinction between constitution luck and luck in circumstances it is argued that where to draw the responsibility cut, in turn, depends on the underlying notion of agency. Finally, Buchanan suggests, by reference to Daniels and Sabin, that choices about rationing in health care can be solved by using reasons that are transparent and public in the sense that everyone can accept them. In response it is argued that although Daniels and Sabin suggests an interesting way in which to deal with rationing in health care, the notion of public reasons is not uncontroversial and in an increasingly pluralistic society it is not obvious that such problems can be solved by reasons everyone accepts.

Article V
In recent decades politicians and policy-makers have emphasised the need to shift from a “passive” to an “active” welfare state. This has resulted in policies that reduce compensation rates in social insurance or make compensation conditional on different requirements such as participation in rehabilitation or vocational training. Article V argues that such policies are justified if they tend to ensure an adequate level of personal autonomy. To that effect, a “thick” conception of personal autonomy is spelled out based on Norman Daniels’ extension of the principle of fair equality of opportunity. Some objections to policies limiting entitlement to social insurance are discussed. It is argued that although the objections fail to show that limited entitlement to social insurance is always unjustified, they identify considerations that must be taken into account for an overall assessment of such policies.

comments are also discussed in the editorial of the issue in which they were published. Kenneth R McLeroy and Monica L. Wendel, “Health or equity?”, Journal of Primary Prevention, 32, 2011.
Article VI

In his discussion of cooperative schemes and the principle of fairness John Simmons makes a distinction between a general and a more limited principle of fairness, where only the latter is based on the acceptance of the relevant benefits. Simmons argues that the latter version of the principle is vulnerable to the objection from non-acceptance, which renders the principle far more limited than its proponents are taken to accept. In this article it is argued that the objection from non-acceptance fails since we can – and in many cases do – accept benefits from cooperative schemes on a practical level and such acceptance is sufficient to ground obligations pertaining to fairness. The implications of this argument for social insurance policies associated with the shift towards what has been called an “active” welfare state are explored, and it is discussed to which extent such reforms may be justified by obligations grounded in social insurance as a cooperative scheme, taking a reform of the Swedish sickness insurance as an example.

Article VII

Legitimacy is a central and controversial concept in political philosophy. In this article it is argued that an account of legitimacy should satisfy three conditions; (i) keep justification and legitimacy conceptually distinct, (ii) ground political obligations in the account of legitimacy and (iii) take moral autonomy seriously by making our higher-order preferences and values part of any judgement about the legitimacy of such directives (and in a derived sense, the institutions that issue the directives). Thereafter what is called the justification thesis and the legitimacy thesis are defended as accounts of justification and legitimacy respectively, and it is argued that the legitimacy thesis satisfies the relevant conditions. Most notably, the legitimacy thesis makes legitimacy conceptually distinct from justification at the same time as it takes the liberal concern for moral autonomy seriously. An account of political obligations that is based on the proposed account of legitimacy is also given.

7.2 The articles in context

Articles I - VII correspond in different ways to the two aims of this thesis. To repeat, the two aims are (i) to set out an argument for social insurance in the form of compulsory income insurance in the event of sickness or unemployment, and to explore two lines of arguments for social insurance policies that are commonly associated with an active welfare state that seeks to prevent or reduce reliance on social insurance, viz. the argument pertaining to autonomy and the argument pertaining to fairness, and (ii) to outline and defend an account of
legitimacy that takes moral autonomy seriously by making legitimacy partly dependent on our entrenched values and preferences.

The first aim – or rather set of aims – is realized in articles I – VI. The arguments in those articles are put forward on an applied level with the aim of exploring different aspects of social insurance and social insurance policies associated with the shift towards the “active” welfare state discussed in section 5 above. As a preliminary to this, it is argued in article I that to the extent that behavioural responses to social insurance are problematic, it is primarily a problem that concerns the construction of the insurance and the incentives it gives rather than a problem that concerns the morality of those who respond to incentives given by social insurance (which is not to claim that individual morality is of no relevance or that abuse of welfare systems does not occur).

In article II, I present a justification of social insurance in the form of compulsory income insurance which roughly corresponds to what Korpi and Palme call encompassing insurance and that is associated with what Esping-Anderson calls the social democratic welfare regime. The argument is based on what I call the “thick” conception of the person that holds that our identities as separate persons are constituted by our central aspirations and attachments. This is a conception of the person that has been defended by communitarians such as Michael Sandel (others that have defended such a thick conception of the person are Charles Taylor and Alasdair MacIntyre). As I point out in the article, apart from providing a plausible basis for an argument for social insurance in the form of compulsory income insurance, an argument based on the thick conception of the person also relates to the concern of preserving individuals’ living standard or social position, which has been frequently referred to in governmental reports and political debates on social insurance – especially within a European context. Now, I take this to be a particularly attractive feature of the

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222 To fully validate the claim that securing individuals’ living standard and social position has been an important concern throughout the development of the modern welfare state would require extensive empirical research that is beyond the scope of this thesis. Nevertheless, apart from the quotes in article II, in the following I will provide some further support for this claim. To begin with, in their overview of reasons for earnings-related social programs Goodin et al discuss two reasons pertaining to social position and identity. The first reason is that “Earning-related benefits essentially preserve people’s position in the social structure. Insofar as social status is a function of income, social programs which ensure high replacement rates when ordinary income streams are interrupted in effect guarantee that those interruptions to ordinary earnings will not upset the existent social order”. The second reason is that earnings-related programs prevent people from having to revise more than strictly necessary the basic plans and projects that constitute their lives (Goodin et al 1999, p. 33; see also Esping-Andersen 1990, p. 24). (In fact, the argument in article II could be seen as an elaboration of these reasons). Next, Baldwin has characterized the development of the European welfare state as a struggle between risk categories that at different times have been able to shape the welfare state institutions in proportion to their
proposed argument in the light of the account of legitimacy that is spelled out in article VII. Given that an argument based on the thick conception of the person is a plausible articulation of such a concern, which I think it is, and concerns in political debates tend to relate to concerns that are widespread among the general public, the proposed argument is also likely to be accepted by the general public. This, in turn, increases the likelihood that the arguments in article II will satisfy the account of legitimacy that I spell out in article VII by giving us reasons to endorse social insurance in the form of compulsory income insurance that we acknowledge in the light of our higher-order preferences and values.

In article III, I turn to discuss insurance policies that have been associated with the shift towards the active welfare state by reviewing normative issues raised by such a shift. I also point to some empirical evidence that such policies sometimes have the intended effects. Of the ethical issues discussed in article III, I turn to discuss two different kinds of justifications of policies associated with the shift towards the active welfare state in article V and VI.
Thus, in article V I discuss the argument from autonomy, i.e. that limited entitlement to compensation from social insurance is justified if it promotes personal autonomy. For that purpose I spell out a “thick” conception of personal autonomy that in important respects fits that of the thick conception of the person from article II. In particular, with reference to the important of what social psychologists call social identity and group affiliation for our individual identities as separate persons, the thick conception of autonomy relates to the recognition of the importance of such attachments for our identities as separate persons. Now, the thick conception of autonomy grounds an argument that in important respects differs from similar arguments in the literature. By spelling out a notion of personal autonomy that involve our ability to become member in different social groups, the argument goes beyond Lawrence Mead’s argument based on competence discussed in section 5.2 in the sense that whereas what Mead calls competence primarily is a question for those who have not established themselves in the labour market, the proposed notion of personal autonomy is also relevant for those who are established on the labour market. But, as is pointed out in the article, the argument from autonomy also puts a limit to which policies are justified. In particular, policies that have no positive effect on or harm individuals’ autonomy are not justified. Since what harms or benefits people’s autonomy is an empirical question the argument from autonomy is conditional: If limiting entitlement to compensation form social insurance prevents harm to individuals’ autonomy then such policies are justified.

In article VI I respond to an objection against the principle of fairness, an objection which I call the objection from non-acceptance and which is commonly taken to exclude the principle of fairness as a basis for political obligations. Having argued that this objection fails, I suggest that social insurance could be seen as a cooperative venture and that considerations pertaining to fairness may justify policies associated with the shift towards the active welfare state taking a recent reform of the Swedish sickness insurance as an example. I also discuss several empirical issues that must be dealt with in order to spell out a full argument for concrete policy proposals based on the argument that social insurance grounds fairness obligations.

Together, the arguments in articles II, V, and VI outline a normative framework within which social insurance and social insurance policies associated with the shift towards the active welfare state can be assessed. Before I proceed to explain how the second aim fits with the first aim, I briefly point out that there is a potential tension between the arguments in article II and the arguments in articles V and VI in the sense that the arguments in article II emphasise the importance of the preservation of our social identities whereas the arguments in
articles V and VI emphasise the importance of flexibility and obligations to contribute to the social insurance system, which justifies policies that may challenge our social identities (for example by justifying policies that compel us to move to another town if that is needed to find employment although this would lead us to adjust our social identity). However, that there is such a potential tension need not be an objection to the arguments set forward in this thesis, but rather a reflexion of the inherent tension in an “active” welfare state between the ambition to provide social security and to provide incentives that prevent the need to rely on social security. Moreover, the extent of this tension depends among other things on the “responsibility cut” between events and outcomes for which we may be held responsible and those for which we are not responsible. Where to draw the responsibility cut is, in turn, a further question to which I do not think there is any clear answer. Instead, the responsibility cut must be drawn based both on prevailing views on agency and which factors we take to be within individuals’ control, and for what decisions individuals should be held responsible.\footnote{As Calabresi points out in relation to his discussion of specific deterrence, which activities should carry their costs is ultimately a moral question. He gives the example of attending church; even if church-going was associated with a high frequency of accidents (perhaps traffic injuries), churchgoers may nevertheless be charged less than the usual rate for injuries caused by going to church. Calabresi 1970, p. 101. Although Calabresi discusses this in relation to specific deterrence, the decisions about which activities should carry their own accidents costs are no less normative in relation to general deterrence. For example, it is equally normative to decide that smokers or people who are obese should pay a higher premium in health insurance.}

That is, even if a certain lifestyle choice is within individuals’ control, it is a further question whether they should be held responsible for choosing that lifestyle. This, in turn, plausibly depends on the prevalence and importance of such choices in individuals’ lives and identities.

The second aim is realized in article VII in which what I call the justification thesis and legitimacy thesis are proposed as formal accounts of justification and legitimacy respectively. As I also point out in the article, the legitimacy thesis is controversial and the proposed account differs in many respects from previous accounts of legitimacy in the philosophical literature. Nevertheless, for reasons I discuss in the final section of the article, we have reason to endorse the account of legitimacy expressed by the legitimacy thesis. One particularly important reason, which has bearing on the question of the legitimacy of welfare state institutions in general and social insurance in particular, is that a general compliance with welfare state policies and directives is a prerequisite for their efficiency and whether they will be able to achieve their purposes. This, in turn, has consequences for the extent to which those who are subject to the directives of welfare state institutions will acknowledge that they have compelling reasons to comply with them. It is therefore of paramount importance that the reasons that warrant the existence of welfare state institutions and welfare policies are such
that it is likely that they are acknowledged by those who are subject to such institutions or policies.

The account of legitimacy set forth in article VII is also relevant for the discussion in articles II and V. In article II it was left an open question where to set “the ceiling” of the compensation rate, i.e. the maximum benefit that anyone may receive from the insurance, and in article V it was left an open question with what probability a given policy must promote our autonomy in order to be justified. Now, I think it is difficult to find decisive arguments that everyone will accept for a certain ceiling in the insurance (should it for example be SEK 33 000/month or SEK 27 400/month?), or a certain probability with which a given policy must promote people’s autonomy to be justified.\textsuperscript{224} Instead, whether we accept a certain ceiling depends on our views about what adjustments in peoples’ lifestyles are reasonable as a response to loss of income because of sickness or unemployment (even if we endorse compensation that is income-related and not flat-rate). And whether we accept a certain probability depends on our attitudes towards risk and probability. Such views and attitudes are largely dependent on social norms and attitudes that we have been exposed to during our life-span, and consequently in a sense part of our higher-order preferences and values. Thus, the account of legitimacy defended in article VII provides a framework within which to settle questions and issues that cannot be settled with decisive arguments.

8. Further issues

The welfare state and the shift towards an active welfare state raise many empirical and normative questions that have bearing broader issues such as citizenship, the justification and legitimacy of state institutions, distributive justice and responsibility. It is therefore not surprising if articles I-VII raise several issues that I have not dealt with or only dealt with briefly. In the following I will merely point to some of the issues that I have not been able to deal with in this thesis but nevertheless deserve further attention.

To begin with, among the ethical issues discussed in article III I have not further discussed the extent to which it is warranted to hold individuals responsible for the consequences of their lifestyle choices or failures to comply with requirements such as safety-measures at work. This question has bearing on a number of issues. First, there is the question of where to draw the “responsibility cut”, i.e. the line between factors that are within our control and factors that are beyond our control. As is briefly discussed in article V, there may

\textsuperscript{224} The ceiling in the Swedish sickness insurance for 2014 is set to 27 750 SEK/month.
not be any clear set of outcomes that is within our control in the sense that the choices we make leading to these outcomes are free from influences that are beyond our control. Instead, where to draw the responsibility cut may not be determined as much by which factors or choices are within or beyond our control as which choices or factors we have reason to consider as being within or beyond our control given our idea of agency. On this view, questions about responsibility are partly questions about agency and how we conceive of ourselves as autonomous agents. This leads to the question how we do – and should – think of ourselves as agents and the consequences this have for the extent to which we can be claimed to be responsible for the various choices we make in life.

Responsibility is also linked to a second question about the role of causality in the allocation of responsibility. This has been extensively dealt with by legal scholars such as Hart and Honoré and in economics by Shavell and others (see article III for references). As is pointed out in article III, the extent to which causal responsibility is not necessary for the allocation of liability (or economical responsibility) or moral responsibility the scope for giving incentives through insurance policies become wider because of the possibility to extent liability also to those cases where causal relations are impossible to establish on an individual level but only on a group level. Whether causal relations can be left out of allocations of liability is a normative issue that deserves special treatment in relation to different kinds of welfare policies.

The account of legitimacy discussed in article VII highlights several empirical and normative questions that ought to be further investigated to ensure the legitimacy of welfare state institutions and their policies. A first set of questions pertains to which arguments and reasons people in fact are prone to acknowledge in the light of their higher-order preferences and values. These questions concern attitudes towards welfare state policies in general and social insurance policies in particular. Arguably, this also raises questions about the forms in which decisions are communicated and the administration and procedures to manage different kinds of policies aiming at activation and social inclusion.

The second set of questions pertains to the thick conception of the person and identity. To begin with, there is the empirical question of people think of themselves and their own identity and to which extent social affiliations and aspirations are part of individuals’ identities as separate persons. But there are also the normative questions which weight should be accorded to such affiliations and commitments. This brings forth questions about the importance of identity in a liberal society and the inherent tension between a society that on the one hand strive to ensure autonomy through civil- and political rights and liberties while
on the other hand aiming at social security and respect for the separateness of persons. In a broader perspective, these issues have bearing on questions about culture, identity and multiculturalism. Bringing in issues pertaining to identity through the thick conception of the person arguably makes things less neat – at the same time as it perhaps make political theory and political philosophy more relevant to our everyday experiences and more to the point in characterising the conflicts we actually face in an increasingly pluralistic and dynamic society. At this point, however, we have come far beyond the questions relating to the welfare state and social insurance that have been the topic of this thesis.

9. Sammanfattning på svenska
De flesta moderna stater i den industrialiserade delen av världen är välfärdsstater i den bemärkelsen att de säkerställer att deras medborgare åtnjuter social trygghet. I många välfärdsstater spelar olika slags socialförsäkringar en central roll i att säkerställa en social trygghet. Som ekonomen Martin Feldstein har uttryck det kan socialförsäkringar ses som transfereringar som är betingade av att vissa specifika händelser inträffar. Sjukförsäkring som ersätter förlorad arbetsinkomst vid oförmåga att arbeta på grund av sjukdom, arbetsskadeförsäkring som ersätter förlorad inkomst på grund av arbetsskada och arbetslöshetsförsäkring som ersätter förlorad inkomst vid arbetslöshet är centrala socialförsäkringar i många välfärdsstater.

Trots att socialförsäkringar är centrala i trygghetssystem i många av dagens välfärdsstater är de också kontroversiella och reser en rad normativa frågor kring hur de bör vara utformade, vilka som ska ha rätt till att omfattas av försäkringarna, vilka som ska ha rätt till ersättning och på vilka grunder, hur stor ersättningen skall vara och hur ersättningen ska utformas över tid. Socialförsäkringar, som alla slags sociala trygghetssystem, kan också påverka hur de som omfattas av socialförsäkringarna beter sig, vilket länge har varit en fråga för politiker de tjänstemän och försäkringsexperter som utformar socialförsäkringarna. När det gäller socialförsäkringar har dessa på olika sätt utformats för att delvis motverka missbruk av försäkringarna och det som inom försäkringsväsendet kallas för moral hazard, d.v.s. att de försäkrade ändrar sitt beteende och ökar sitt risktagande på grund av att de är försäkrade, exempelvis genom olika former av självrisker i försäkringen.

Sedan 1990-talet har intresset för att påverka de försäkrades beteende genom utformningen av socialförsäkringar ökat bland politiker och de tjänstemän som utformar

socialförsäkringarna. Det generella syftet har varit att förvandla en företrädsvis ”passiv” välfärdsstat som främst fokuserar på kompensation till en mera ”aktiv” välfärdsstat som främst fokuserar på att ge de försäkrade drivkrafter till beteenden som förebygger eller minskar behovet av kompensation från socialförsäkringarna. Frank Vandenbroucke, en av de mera ihärdiga företrädarna för ett skifte mot en mera aktiv välfärdsstat, uttrycker det:


Ett skifte mot en mera aktiv välfärdsstat reser ytterligare frågor kring de normativa grunderna för socialförsäkringar och deras legitimitet, och kring i vilken utsträckning det är legitimit för staten att påverka beteenden genom social välfärd och socialförsäkringar.

I den här avhandlingen diskuterar jag de normativa grunderna för socialförsäkringar i form av inkomstbortfallsförsäkringar och socialförsäkringspolicys som är associerade med en aktiv välfärdsstat med hjälp av begrepp och argument hämtade från politisk filosofi. Avhandlingen har två syften. Det första syftet är att lägga fram och försvara ett argument för socialförsäkringar som obligatoriska inkomstbortfallsförsäkringar vid arbetslöshet eller vid arbetsoförmåga på grund av sjukdom, och att diskutera två slags argument för försäkringspolicys som är vanligen förknippade med en aktiv välfärdsstat med fokus på prevention och åtgärder som minskar behovet att söka ersättning från socialförsäkringar, i.e. autonomiargumentet och rättviseargumentet. Det andra syftet är att presentera och försvara en analys av legitimitet där legitimitet grundas på de värderingar och preferenser som är centrala för oss.

Avhandlingen består av en längre introduktion och sju artiklar. I det följande ges en kort redogörelse för innehållet i artiklarna som ingår i avhandlingen.

**Artikel I**

Försäkrade tenderer att ändra sitt beteende som en effekt av att vara försäkrade. Sådana förändringar i beteende som en effekt att vara försäkrad ses oftast som ett etiskt och moraliskt

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Artikel II
I artikel II presenterar jag ett argument för obligatoriska inkomstbortfallsförsäkringar i händelse av arbetslöshet eller arbetsoförmåga på grund av sjukdom. Argumentet utgår från att det är viktigt att slå vakt om vår identitet utifrån ett ”tjockt” personbegrepp enligt vilket vår identitet som en separat person är konstituerad av våra (centrala) strävanden och åtaganden, exempelvis mot familjemedlemmar och vänner. Tvärt emot vad moständare till socialförsäkringar ofta har gjort gällande argumenterar jag för att socialförsäkringar inte leder till att de som försäkringsgivare på en försäkringsmarknad skulle anse vara ”dåliga” risker med en hög risk för skada exploaterar de som försäkringsgivare skulle anse vara ”goda” risker med en låg risk för skada genom att ensidigt gynna de förra på bekostnad av de senare. Vidare argumenterar jag för att socialförsäkringar inte heller behöver stå i skarp konflikt med den enskildes individuella frihet oavsett om man utgår från ett positivt frihetsbegrepp eller ett negativ frihetsbegrepp.

Artikel III
Under de senaste decennierna har försäkringspolicys som syftar till att ge dem som är försäkrade drivkrafter till beteenden som förebygger behovet att nyttja försäkringen diskuterats både när det gäller kommersiella försäkringar och, om än kanske främst i Västeuropa, när det gäller socialförsäkringar som en del i diskussionen kring ett skifte mot en
mera aktiv välfärdsstat som syftar till att ge drivkrafter som förebygger ett behov att söka ersättning från de allmänna trygghetssystemen. I artikel III identifierar jag en rad normativa frågor som bör uppmärksammas i samband med att förebyggande försäkringspolicys blir allt vanligare inom både kommersiell försäkring och socialförsäkringar. Jag argumenterar för att betydelsen av dessa normativa frågor pekar på att argument och distinktioner från moralfilosofi och politisk filosofi bör spela en större roll i diskussioner kring en ökad användning av förebyggande försäkringspolicys inom socialförsäkringar och inom kommersiell försäkring.

**Artikel IV**


När jag diskuterar I vilken utsträckning personer med ohälsosamma livsstilar ska betala högre premier till sjukvårdsförsäkringar, argumenterar jag att denna fråga beror på var gränsen för ansvar dras mellan de val för vilka individer kan hållas ansvariga och de val för vilka de inte kan hållas ansvariga. Utifrån Thomas Nagels distinktion mellan konstitutionell tur och tur med omständigheter, argumenterar jag att var gränsen går mellan val för vilka individer kan hållas ansvariga och de val för vilka de inte kan hållas ansvariga beror på vilken uppfattning om vad som utmärker en beslutskapabel moralisk agent.

Till sist, Buchanan argumenterar för att beslut kring resurstilldelning inom hälso- och sjukvården kan fattas utifrån Daniels och Sabins förslag att sådana beslut bör utgå ifrån på argument som är transparenta och allmänna i den bemärkelsen det är rimligt för alla att acceptera argumenten. Som svar till Buchanan argumenterar jag att även om Daniels och Sabins förslag är intressant för att lösa resursfördelning inom hälso- och sjukvården, är tanken att det finns argument som är allmänna i den bemärkelsen att det är rimligt för alla att acceptera argumenten kontroversiell. Inte minst är det inte självklart att det finns sådana
allmänna argument i ett allt mer värdepluralistiskt samhälle där individer omfattar värderingar som inte sällan står i strid mot varandra.

Artikel V

Under de senaste decennierna har politiker och tjänstemän som utformar socialförsäkringar betonat vikten av ett skifte från en ”passiv” till en mer ”aktiv” välfärdsstat. Det har resulterat i ”aktiv” försäkringspolicy med lägre ersättningsnivåer och ökade inslag av villkorad ersättning där den försäkrade måste acceptera olika åtgärder för att få rätt till ersättning, som att delta i rehabiliteringsinsatser eller arbetsmarknadsutbildningar. I artikel V argumenterar jag att sådana försäkringspolicys kan vara rättfärdigade om de säkerställer att de försäkrade får en tillräcklig nivå av autonomi. Argumentet bygger på ett ”tjockt” autonomibegrepp som utgår från Norman Daniels utvidgning av principen om rättvist lika möjligheter. Jag diskuterar några prominenta invändningar mot ”aktiv” försäkringspolicy. Även om invändningarna inte lyckas visa att ”aktiv” försäkringspolicys är orättfärdigade, pekar invändningarna på överväganden som måste beaktas i en övergripande utvärdering av ”aktiv” försäkringspolicy.

Artikel VI

I sin diskussion av institutioner som bygger på samarbete och principen om rättvisa skiljer John Simmons mellan en general princip om rättvisa och en begränsad princip om rättvisa, där den senare bygger på att de varor eller tjänster som samarbetet ger upphov till accepteras av dem som deltar i samarbetet och tar del av dessa varor och tjänster. Simmons argumenterar att den senare versionen av principen om rättvisa är öppen för invändningen att de som tar del av varor och tjänster som generas av institutioner som bygger på samarbete i många fall inte har något val om de accepterar dessa varor och tjänster, vilket gör att tillämpningen av den begränsade principen om rättvisa blir betydligt mer begränsad än vad dess förespråkare gör gällande. I artikeln argumenterar jag att denna invändning inte håller då vi kan acceptera, och i de flesta fall faktiskt accepterar de varor och tjänster som generas av institutioner som bygger på samarbete på en praktisk nivå, och att ett accepterande på en praktisk nivå är tillräckligt som grund för de skyldigheter som är förknippade med ett accepterande av de varor och tjänster som kommer av institutioner som bygger på samarbete. Jag diskuterar implikationerna av detta i förhållande till socialförsäkringar och försäkringspolicys som är förknippade med ett skifte mot en mera ”aktiv” välfärdsstat, och i vilken utsträckning sådana försäkringspolicys kan rättfärdigas med utgångspunkt från de skyldigheter som principen om

**Artikel VII**

Legitimitet är ett kontroversiellt begrepp inom politisk filosofi. I den här artikeln argumenterar jag att en analys av legitimitet bör uppfylla tre villkor, nämligen att den bör (i) hålla rättfärdigande och legitimitet begreppsligt åtskiljda, (ii) förklara hur legitimitet utgör en grund för politiska skyldigheter och (iii) utgå från det värde vi vanligen tillskriver vår autonomi och kapacitet att forma värderingar och preferenser som vi anser vara centrala för oss och vår uppfattning om oss själva genom att analysen av legitimitet utgår från dessa slags värden och preferenser. Därefter presenterar jag det jag kallar för rättfärdigandetesen och legitimitetstesen som analyser av begreppen rättfärdigande och legitimitet, och jag argumenterar att de analyser jag presenterar uppfyller de villkor jag har ställt upp.

Enligt rättfärdigandetesen är en institution rättfärdigad om, och endast om, (i) det finns normativa skäl som motiverar institutionens existens och (ii) dessa skäl är i de flesta situationer i vilka institutionens direktiv riktas till enskilda individer tillräckliga för att ge dessa övervägande normativa skäl att följa direktiven. Enligt legitimitetstesen är ett direktiv D från en institution X legitim i en situation S med avseende på en person A om, och endast om, (i) X är rättfärdigad, (ii) de normativa skäl som rättfärdigar X är normativt tillräckliga för A att följa D i S och (iii) A erkänner i ljuset av de värderingar och preferenser som är centrala för honom eller henne att de skäl som rättfärdigar X ger honom eller henne normativt övervägande skäl att följa D i S. Legitimitetstesen innebär att legitimitet primärt är ett begrepp som är relevant för enskilda direktiv och med avseende på de enskilda personer som direktiven gäller. Legitimiteten hos en institution, i sin tur, är en funktion av legitimitetens hos dess enskilda direktiv. Jag visar också hur våra så kallade politiska skyldigheter att följa regler och direktiv som är legitima kan ges en grund i legitimitetstesen.
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