

is nothing unfair about economic inequality, provided it arises without force or fraud, through the choices people make in a market economy.

Who is right? If you think justice means maximizing happiness, you might favor wealth redistribution, on the following grounds: Suppose we take \$1 million from Bill Gates and disperse it among a hundred needy recipients, giving each of them \$10,000. Overall happiness would likely increase. Gates would scarcely miss the money, while each of the recipients would derive great happiness from the \$10,000 windfall. Their collective utility would go up more than his would go down.

30 This utilitarian logic could be extended to support quite a radical redistribution of wealth; it would tell us to transfer money from the rich to the poor until the last dollar we take from Gates hurts him as much as it helps the recipient.

This Robin Hood scenario is open to at least two objections—one from within utilitarian thinking, the other from outside it. The first objection worries that high tax rates, especially on income, reduce the incentive to work and invest, leading to a decline in productivity. If the economic pie shrinks, leaving less to redistribute, the overall level of utility might go down. So before taxing Bill Gates and Oprah Winfrey too heavily, the utilitarian would have to ask whether doing so would lead them to work less and so to earn less, eventually reducing the amount of money available for redistribution to the needy.

The second objection regards these calculations as beside the point. It argues that taxing the rich to help the poor is unjust because it violates a fundamental right. According to this objection, taking money from Gates and Winfrey without their consent, even for a good cause, is coercive. It violates their liberty to do with their money whatever they please. Those who object to redistribution on these grounds are often called "libertarians."

50 Libertarians favor unfettered markets and oppose government regulation, not in the name of economic efficiency but in the name of human freedom. Their central claim is that each of us has a fundamen-

### 3. DO WE OWN OURSELVES? / LIBERTARIANISM

Each fall, *Forbes* magazine publishes a list of the four hundred richest Americans. For over a decade, Microsoft founder Bill Gates III has topped the list, as he did in 2008, when *Forbes* estimated his net worth at \$57 billion. Other members of the club include investor Warren Buffett (ranked 2nd, with \$50 billion), the owners of Wal-Mart, the founders of Google and Amazon, assorted oilmen, hedge fund managers, media moguls, and real-estate tycoons, television talk show host Oprah Winfrey (in 155th place, with \$2.7 billion), and New York Yankees owner George Steinbrenner (tied for last place, with \$1.3 billion).<sup>1</sup>

So vast is the wealth at the top of the American economy, even in a weakened state, that being a mere billionaire is barely enough to gain admission to the Forbes 400. In fact, the richest 1 percent of Americans possess over a third of the country's wealth, more than the combined wealth of the bottom 90 percent of American families. The top 10 percent of American households take in 42 percent of all income and hold 71 percent of all wealth.<sup>2</sup>

Economic inequality is steeper in the United States than in other democracies. Some people think that such inequality is unjust, and favor taxing the rich to help the poor. Others disagree. They say there

tal right to liberty—the right to do whatever we want with the things we own, provided we respect other people's rights to do the same.

### The Minimal State

If the libertarian theory of rights is correct, then many activities of the modern state are illegitimate, and violations of liberty: Only a minimal state—one that enforces contracts, protects private property from theft, and keeps the peace—is compatible with the libertarian theory of rights. Any state that does more than this is morally unjustified.

The libertarian rejects three types of policies and laws that modern states commonly enact:

1. No Paternalism. Libertarians oppose laws to protect people from harming themselves. Seatbelt laws are a good example; so are motorcycle helmet laws. Even if riding a motorcycle without a helmet is reckless, and even if helmet laws save lives and prevent devastating injuries, libertarians argue that such laws violate the right of the individual to decide what risks to assume. As long as no third parties are harmed, and as long as motorcycle riders are responsible for their own medical bills, the state has no right to dictate what risks they may take with their bodies and lives.

2. No Morals Legislation. Libertarians oppose using the coercive force of law to promote notions of virtue or to express the moral convictions of the majority. Prostitution may be morally objectionable to many people, but that does not justify laws that prevent consenting adults from engaging in it. Majorities in some communities may disapprove of homosexuality, but that does not justify laws that deprive gay men and lesbians of the right to choose their sexual partners for themselves.

3. No Redistribution of Income or Wealth. The libertarian theory of rights rules out any law that requires some people to help others, including taxation for redistribution of wealth. Desirable though it may be for the affluent to support the less fortunate—by subsidizing

their health care or housing or education—such help should be left up to the individual to undertake, not mandated by the government. According to the libertarian, redistributive taxes are a form of coercion, even theft. The state has no more right to force affluent taxpayers to support social programs for the poor than a benevolent thief has the right to steal money from a rich person and give it to the homeless.

The libertarian philosophy does not map neatly onto the political spectrum. Conservatives who favor laissez-faire economic policies often part company with libertarians on cultural issues such as school prayer, abortion, and restrictions on pornography. And many proponents of the welfare state hold libertarian views on issues such as gay rights, reproductive rights, freedom of speech, and the separation of church and state.

During the 1980s, libertarian ideas found prominent expression in the pro-market, antigovernment rhetoric of Ronald Reagan and Margaret Thatcher. As an intellectual doctrine, libertarianism emerged earlier, in opposition to the welfare state. In *The Constitution of Liberty* (1960), the Austrian-born economist-philosopher Friedrich A. Hayek (1899–1992) argued that any attempt to bring about greater economic equality was bound to be coercive and destructive of a free society.<sup>3</sup> In *Capitalism and Freedom* (1962), the American economist Milton Friedman (1912–2006) argued that many widely accepted state activities are illegitimate infringements on individual freedom: Social Security, or any mandatory, government-run retirement program, is one of his

prime examples: "If a man knowingly prefers to live for today, to use his resources for current enjoyment, deliberately choosing a penurious old age, by what right do we prevent him from doing so?" Friedman asks. We might urge such a person to save for his retirement, "but are we entitled to use coercion to prevent him from doing what he chooses to do?"<sup>4</sup>

Friedman objects to minimum wage laws on similar grounds. Government has no right to prevent employers from paying any wage, however low, that workers are prepared to accept. The government

also violates individual freedom when it makes laws against employment discrimination. If employers want to discriminate on the basis of race, religion, or any other factor, the state has no right to prevent them from doing so. In Friedman's view, "such legislation clearly involves interference with the freedom of individuals to enter into voluntary contracts with one another."<sup>5</sup>

Occupational licensing requirements also wrongly interfere with freedom of choice. If an untrained barber wants to offer his less-than-expert services to the public, and if some customers are willing to take their chances on a cheap haircut, the state has no business forbidding the transaction. Friedman extends this logic even to physicians. If I want a bargain appendectomy, I should be free to hire anyone I choose, certified or not, to do the job. While it is true that most people want assurance of their doctor's competence, the market can provide such information. Instead of relying on state licensing of doctors, Friedman suggests, patients can use private rating services such as *Consumer Reports* or the *Good Housekeeping* seal of approval.<sup>6</sup>

### Free-Market Philosophy

In *Anarchy, State and Utopia* (1974), Robert Nozick offers a philosophical defense of libertarian principles and a challenge to familiar ideas of distributive justice. He begins with the claim that individuals have rights "so strong and far-reaching" that "they raise the question of what, if anything, the state may do."<sup>7</sup> He concludes that "only a minimal state, limited to enforcing contracts and protecting people against force, theft, and fraud, is justified. Any more extensive state violates persons' rights not to be forced to do certain things, and is unjustified."<sup>7</sup>

Prominent among the things that no one should be forced to do is help other people. Taxing the rich to help the poor coerces the rich. It violates their right to do what they want with the things they own.

According to Nozick, there is nothing wrong with economic inequality as such. Simply knowing that the Forbes 400 have billions

while others are penniless doesn't enable you to conclude anything about the justice or injustice of the arrangement. Nozick rejects the idea that a just distribution consists of a certain pattern—such as equal income, or equal utility, or equal provision of basic needs. What matters is how the distribution came about.

Nozick rejects patterned theories of justice in favor of those that honor the choices people make in free markets. He argues that distributive justice depends on two requirements—justice in initial holdings and justice in transfer.<sup>8</sup>

The first asks if the resources you used to make your money were legitimately yours in the first place. (If you made a fortune selling stolen goods, you would not be entitled to the proceeds.) The second asks if you made your money either through free exchanges in the marketplace or from gifts voluntarily bestowed upon you by others. If the answer to both questions is yes, you are entitled to what you have, and the state may not take it without your consent. Provided no one starts out with ill-gotten gains, any distribution that results from a free market is just, however equal or unequal it turns out to be.

Nozick concedes that it is not easy to determine whether the initial holdings that gave rise to today's economic positions were themselves just or ill-gotten. How can we know to what extent today's distribution of income and wealth reflects illegitimate seizures of land or other assets through force, theft, or fraud generations ago? If it can be shown that those who have landed on top are the beneficiaries of past injustices—such as the enslavement of African Americans or the expropriation of Native Americans—then, according to Nozick, a case can be made for remedying the injustice through taxation, reparations, or other means. But it is important to notice that these measures are for the sake of redressing past wrongs, not for the sake of bringing about greater equality for its own sake.

Nozick illustrates the folly (as he sees it) of redistribution with a hypothetical example about the basketball great Wilt Chamberlain, whose salary in the early 1970s reached the then lofty sum of \$200,000

per season. Since Michael Jordan is the iconic basketball star of recent times, we can update Nozick's example with Jordan, who in his last year with the Chicago Bulls was paid \$31 million—more per game than Chamberlain made in a season.

#### Michael Jordan's Money

To set aside any question about initial holdings, let's imagine, Nozick suggests, that you set the initial distribution of income and wealth according to whatever pattern you consider just—a perfectly equal distribution, if you like. Now the basketball season begins. Those who want to see Michael Jordan play deposit five dollars in a box each time they buy a ticket. The proceeds in the box go to Jordan. (In real life, of course, Jordan's salary is paid by the owners, from team revenues. Nozick's simplifying assumption—that the fans pay Jordan directly—is a way of focusing on the philosophical point about voluntary exchange.)

Since many people are eager to see Jordan play, attendance is high and the box becomes full. By the end of the season, Jordan has \$31 million, far more than anyone else. As a result, the initial distribution—the one you consider just—no longer obtains. Jordan has more and others less. But the new distribution arose through wholly voluntary choices. Who has grounds for complaint? Not those who paid to see Jordan play; they freely chose to buy tickets. Not those who dislike basketball and stayed at home; they didn't spend a penny on Jordan, and are no worse off than before. Surely not Jordan; he chose to play basketball in exchange for a handsome income.<sup>9</sup>

Nozick believes this scenario illustrates two problems with patented theories of distributive justice. First, liberty upsets patterns. Anyone who believes that economic inequality is unjust will have to intervene in the free market, repeatedly and continuously, to undo the effects of the choices people make. Second, intervening in this way—taxing Jordan to support programs that help the disadvantaged—not

30 only overturns the results of voluntary transactions; it also violates Jordan's rights by taking his earnings. It forces him, in effect, to make a charitable contribution against his will.

35 What exactly is wrong with taxing Jordan's earnings? According to Nozick, the moral stakes go beyond money. At issue, he believes, is nothing less than human freedom. He reasons as follows: "Taxation of earnings from labor is on a par with forced labor."<sup>10</sup> If the state has the right to claim some portion of my earnings, it also has the right to claim some portion of my time. Instead of taking, say, 30 percent of my income, it might just as well direct me to spend 30 percent of my time working for the state. But if the state can force me to labor on its behalf, it essentially asserts a property right in me.

40 Seizing the results of someone's labor is equivalent to seizing hours from him and directing him to carry on various activities. If people force you to do certain work, or unrewarded work, for a certain period of time, they decide what you are to do and what purposes your work is to serve apart from your decisions. This . . . makes them a part-owner of you; it gives them a property right in you.<sup>11</sup>

45 This line of reasoning takes us to the moral crux of the libertarian claim—the idea of self-ownership. If I own myself, I must own my labor. (If someone else could order me to work, that person would be my master, and I would be a slave.) But if I own my labor, I must be entitled to the fruits of my labor. (If someone else were entitled to my earnings, that person would own my labor and would therefore own me.) That is why, according to Nozick, taxing some of Michael Jordan's \$31 million to help the poor violates his rights. It asserts, in effect, that the state, or the community, is a part owner of him.

50 The libertarian sees a moral continuity from taxation (taking my earnings) to forced labor (taking my labor) to slavery (denying that I own myself):

Self-Ownership  
 person  
 labor  
 fruits of labor

Taking  
 slavery  
 forced labor  
 taxation

Of course, even the most steeply progressive income tax does not claim 100 percent of anyone's income. So the government does not claim to own its taxpaying citizens entirely. But Nozick maintains that it does claim to own part of us—whatever part corresponds to the portion of income we must pay to support causes beyond the minimal state.

#### Do We Own Ourselves?

When, in 1993, Michael Jordan announced his retirement from basketball, Chicago Bulls fans were bereft. He would later come out of retirement and lead the Bulls to three more championships. But suppose that, in 1993, the Chicago City Council, or, for that matter, Congress, sought to ease the distress of Chicago Bulls fans by voting to require Jordan to play basketball for one-third of the next season. Most people would consider such a law unjust, a violation of Jordan's liberty. But if Congress may not force Jordan to return to the basketball court up (for even a third of the season), by what right does it force him to give up one-third of the money he makes playing basketball?

Those who favor the redistribution of income through taxation offer various objections to the libertarian logic. Most of these objections can be answered.

#### Objection 1: Taxation is not as bad as forced labor.

If you are taxed, you can always choose to work less and pay lower taxes; but if you are forced to labor, you have no such choice.

*Libertarian reply:* Well, yes. But why should the state force you to

make that choice? Some people like watching sunsets, while others prefer activities that cost money—going to the movies, eating out, sailing on yachts, and so on. Why should people who prefer leisure be taxed less than those who prefer activities that cost money?

Consider an analogy: A thief breaks into your home, and has time to take either your \$1,000 flat-screen television or the \$1,000 in cash you have hidden in your mattress. You might hope he steals the television, because you could then choose whether or not to spend \$1,000 to replace it. If the thief stole the cash, he would leave you no such choice (assuming it's too late to return the television for a full refund). But this preference for losing the television (or working less) is beside the point; the thief (and the state) do wrong in both cases, whatever adjustments the victims might make to mitigate their losses.

#### Objection 2: The poor need the money more.

*Libertarian reply:* Maybe so. But this is a reason to persuade the affluent to support the needy through their own free choice. It does not justify forcing Jordan and Gates to give to charity. Stealing from the rich and giving to the poor is still stealing, whether it's done by Robin Hood or the state.

Consider this analogy: Just because a patient on dialysis needs one of my kidneys more than I do (assuming I have two healthy ones) doesn't mean he has a right to it. Nor may the state lay claim to one of my kidneys to help the dialysis patient, however urgent and pressing his needs may be. Why not? Because it's mine. Needs don't trump my fundamental right to do what I want with the things I own.

#### Objection 3: Michael Jordan doesn't play alone. He therefore owes a debt to those who contribute to his success.

*Libertarian reply:* It's true that Jordan's success depends on other people. Basketball is a team sport. People would not have paid \$31 million to

i watch him shoot free-throws by himself on an empty court. He could never have made all that money without teammates, coaches, trainers, referees, broadcasters, stadium maintenance workers, and so on.

5 But these people have already been paid the market value of their services. Although they make less than Jordan, they voluntarily accepted compensation for the jobs they perform. So there is no reason to suppose that Jordan owes them a portion of his earnings. And even if Jordan owes something to his teammates and coaches, it is hard to see how this debt justifies taxing his earnings to provide food stamps for the hungry or public housing for the homeless.

*Objection 4: Jordan is not really being taxed without his consent. As a citizen of a democracy, he has a voice in making the tax laws to which he is subject.*

*Libertarian reply:* Democratic consent is not enough. Suppose Jordan voted against the tax law, but it passed anyway. Wouldn't the IRS still insist that he pay? It certainly would. You might argue that by living in this society, Jordan gives his consent (at least implicitly) to abide by the majority's will and obey the laws. But does this mean that simply by living here as citizens, we write the majority a blank check, and consent in advance to all laws, however unjust?

70 If so, the majority may tax the minority, even confiscate its wealth and property, against its will. What then becomes of individual rights? If democratic consent justifies the taking of property, does it also justify the taking of liberty? May the majority deprive me of freedom of speech and of religion, claiming that, as a democratic citizen, I have already given my consent to whatever it decides?

75 The libertarian has a ready response to each of the first four objections. But a further objection is less easy to dismiss:

*Objection 5: Jordan is lucky.*

He is fortunate to possess the talent to excel at basketball, and lucky to live in a society that prizes the ability to soar through the air and put a ball through a hoop. No matter how hard he has worked to develop his skills, Jordan cannot claim credit for his natural gifts, or for living at a time when basketball is popular and richly rewarded. These things are not his doing. So it cannot be said that he is morally entitled to keep all the money his talents reap. The community does him no injustice by taxing his earnings for the public good.

35 *Libertarian reply:* This objection questions whether Jordan's talents are really his. But this line of argument is potentially dangerous. If Jordan is not entitled to the benefits that result from the exercise of his talents, then he doesn't really own them. And if he doesn't own his talents and skills, then he doesn't really own himself. But if Jordan doesn't own himself, who does? Are you sure you want to attribute to the political community a property right in its citizens?

The notion of self-ownership is appealing, especially for those who seek a strong foundation for individual rights. The idea that I belong to myself, not to the state or political community, is one way of explaining why it is wrong to sacrifice my rights for the welfare of others. Recall our reluctance to push the heavy man off the bridge to block a runaway trolley. Don't we hesitate to push him because we recognize that his life belongs to him? Had the heavy man jumped to his death to save the workers on the track, few would object. It is, after all, his life.

45 But his life is not for us to take and use, even for a good cause. The same can be said of the unfortunate cabin boy. Had Parker chosen to sacrifice his life to save his starving shipmates, most people would say he had a right to do so. But his mates had no right to help themselves to a life that did not belong to them.

Many who reject laissez-faire economics invoke the idea of self-ownership in other domains. This may explain the persisting appeal of libertarian ideas, even for people who are sympathetic to the welfare state. Consider the way self-ownership figures in arguments about reproductive freedom, sexual morality, and privacy rights. Government should not ban contraceptives or abortion, it is often said, because women should be free to decide what to do with their own bodies. The law should not punish adultery, prostitution, or homosexuality, many argue, because consenting adults should be free to choose their sexual partners for themselves. Some favor markets in kidneys for transplantation on the grounds that I own my own body, and should therefore be free to sell my body parts. Some extend this principle to defend a right to assisted suicide. Since I own my own life, I should be free to end it if I wish, and to enlist a willing physician (or anyone else) to assist. The state has no right to prevent me from using my body or disposing of my life as I please.

The idea that we own ourselves figures in many arguments for freedom of choice. If I own my body, my life, and my person, I should be free to do whatever I want with them (provided I don't harm others).

20 Despite the appeal of this idea, its full implications are not easy to embrace.

If you are tempted by libertarian principles and want to see how far you would take them, consider these cases:

### *Selling kidneys*

Most countries ban the buying and selling of organs for transplantation. In the United States, people may donate one of their kidneys but not sell it on the open market. But some people argue that such laws should be changed. They point out that thousands of people die each year waiting for kidney transplants—and that the supply would be increased if there existed a free market for kidneys. They also argue that

30 people in need of money should be free to sell their kidneys if they wish.

One argument for permitting the buying and selling of kidneys rests on the libertarian notion of self-ownership: If I own my own body, I should be free to sell my body parts as I please. As Nozick writes, "The central core of the notion of a property right in X . . . is the right to determine what shall be done with X."<sup>12</sup> But few advocates of organ sales actually embrace the full libertarian logic.

Here's why: Most proponents of markets in kidneys emphasize the moral importance of saving lives, and the fact that most people who donate one of their kidneys can manage with the other one. But if you believe that your body and life are your property, neither of these considerations really matters. If you own yourself, your right to use your body as you please is reason enough to let you sell your body parts. The lives you save or the good you do is beside the point.

45 To see how this is so, imagine two atypical cases:

First, suppose the prospective buyer of your spare kidney is perfectly healthy. He is offering you (or more likely a peasant in the developing world) \$8,000 for a kidney, not because he desperately needs an organ transplant but because he is an eccentric art dealer who sells human organs to affluent clients as coffee table conversation pieces. Should people be allowed to buy and sell kidneys for this purpose? If you believe that we own ourselves, you would be hard pressed to say no. What matters is not the purpose but the right to dispose of our property as we please. Of course, you might abhor the frivolous use of body parts and favor organ sales for life-saving purposes only. But if you held this view, your defense of the market would not rest on libertarian premises. You would concede that we do not have an unlimited property right in our bodies.

60 Consider a second case. Suppose a subsistence farmer in an Indian village wants more than anything else in the world to send his child to college. To raise the money, he sells his spare kidney to an affluent

1 American in need of a transplant. A few years later, as the farmer's  
 5 second child approaches college age, another buyer comes to his vil-  
 lage and offers a handsome price for his second kidney. Should he be  
 free to sell that one, too, even if going without a kidney would kill him?  
 10 If the moral case for organ sales rests on the notion of self-ownership,  
 the answer must be yes. It would be odd to think that the farmer  
 owns one of his kidneys but not the other. Some might object that no  
 one should be induced to give up his life for money. But if we own our  
 bodies and lives, then the farmer has every right to sell his second kid-  
 15 ney, even if this amounts to selling his life. (The scenario is not wholly  
 hypothetical. In the 1990s, a California prison inmate wanted to do-  
 nate a second kidney to his daughter. The ethics board of the hospital  
 refused.)

It is possible, of course, to permit only those organ sales that save  
 lives and that do not imperil the life of the seller. But such a policy  
 20 would not rest on the principle of self-ownership. If we truly own our  
 bodies and lives, it should be up to us to decide whether to sell our  
 body parts, for what purposes, and at what risk to ourselves.

#### *Assisted suicide*

25 In 2007, Dr. Jack Kevorkian, age seventy-nine, emerged from a Michi-  
 gan prison having served eight years for administering lethal drugs to  
 terminally ill patients who wanted to die. As a condition of his parole,  
 he agreed not to assist any more patients in committing suicide. Dur-  
 30 ing the 1990s, Dr. Kevorkian (who became known as "Dr. Death")  
 campaigned for laws allowing assisted suicide and practiced what he  
 preached, helping 130 people end their lives. He was charged, tried,  
 and convicted of second-degree murder only after he gave the CBS  
 television program *60 Minutes* a video that showed him in action, giv-  
 35 ing a lethal injection to a man suffering from Lou Gehrig's disease.<sup>13</sup>

Assisted suicide is illegal in Michigan, Dr. Kevorkian's home state,  
 40 and in every other state except Oregon and Washington. Many coun-

tries prohibit assisted suicide, and only a few (most famously the Neth-  
 erlands) expressly permit it.

At first glance, the argument for assisted suicide seems a textbook  
 application of libertarian philosophy. For the libertarian, laws banning  
 35 assisted suicide are unjust, for the following reason: If my life belongs  
 to me, I should be free to give it up. And if I enter into a voluntary  
 agreement with someone to help me die, the state has no right to  
 interfere.

40 But the case for permitting assisted suicide does not necessarily  
 depend on the idea that we own ourselves, or that our lives belong to  
 us. Many who favor assisted suicide do not invoke property rights, but  
 argue in the name of dignity and compassion. They say that terminally  
 ill patients who are suffering greatly should be able to hasten their  
 deaths, rather than linger in excruciating pain. Even those who believe  
 45 we have a general duty to preserve human life may conclude that, at a  
 certain point, the claims of compassion outweigh our duty to carry on.

With terminally ill patients, the libertarian rationale for assisted  
 suicide is hard to disentangle from the compassion rationale. To assess  
 the moral force of the self-ownership idea, consider a case of assisted  
 50 suicide that does not involve a terminally ill patient. It is, admittedly, a  
 weird case. But its weirdness allows us to assess the libertarian logic on  
 its own, unclouded by considerations of dignity and compassion.

#### *Consensual cannibalism*

In 2001, a strange encounter took place in the German village of Ro-  
 tenburg. Bernd-Jurgen Brandes, a forty-three-year-old software engi-  
 55 neer, responded to an Internet ad seeking someone willing to be killed  
 and eaten. The ad had been posted by Armin Meiwes, forty-two, a  
 computer technician. Meiwes was offering no monetary compensa-  
 tion, only the experience itself. Some two hundred people replied to  
 the ad. Four traveled to Meiwes's farmhouse for an interview, but de-  
 60 cided they were not interested. But when Brandes met with Meiwes



and considered his proposal over coffee, he gave his consent. Meiwes proceeded to kill his guest, carve up the corpse, and store it in plastic bags in his freezer. By the time he was arrested, the "Cannibal of Rothenburg" had consumed over forty pounds of his willing victim, cooking some of him in olive oil and garlic.<sup>14</sup>

When Meiwes was brought to trial, the lurid case fascinated the public and confounded the court. Germany has no law against cannibalism. The perpetrator could not be convicted of murder, the defense maintained, because the victim was a willing participant in his own death. Meiwes's lawyer argued that his client could be guilty only of "killing on request," a form of assisted suicide that carries a maximum five-year sentence. The court attempted to resolve the conundrum by convicting Meiwes of manslaughter and sentencing him to eight and a half years in prison.<sup>15</sup> But two years later, an appeals court overturned the conviction as too lenient, and sentenced Meiwes to life in prison.<sup>16</sup> In a bizarre denouement to the sordid tale, the cannibal killer has reportedly become a vegetarian in prison, on the grounds that factory farming is inhumane.<sup>17</sup>

Cannibalism between consenting adults poses the ultimate test for the libertarian principle of self-ownership and the idea of justice that follows from it. It is an extreme form of assisted suicide. Since it has nothing to do with relieving the pain of a terminally ill patient, it can be justified only on the grounds that we own our bodies and lives, and may do with them what we please. If the libertarian claim is right, banning consensual cannibalism is unjust, a violation of the right to liberty. The state may no more punish Armin Meiwes than it may tax Bill Gates and Michael Jordan to help the poor.

#### 4. HURDLED HELP / MARKETS AND MORALS

**Many of our most heated debates** about justice involve the role of markets: Is the free market fair? Are there some goods that money can't buy—or shouldn't? If so, what are these goods, and what's wrong with buying and selling them?

The case for free markets typically rests on two claims—one about freedom, the other about welfare. The first is the libertarian case for markets. It says that letting people engage in voluntary exchanges respects their freedom; laws that interfere with the free market violate individual liberty. The second is the utilitarian argument for markets. It says that free markets promote the general welfare; when two people make a deal, both gain. As long as their deal makes them better off without hurting anyone else, it must increase overall utility.

Market skeptics question these claims. They argue that market choices are not always as free as they may seem. And they argue that certain goods and social practices are corrupted or degraded if bought and sold for money.

In this chapter, we'll consider the morality of paying people to perform two very different kinds of work—fighting wars and bearing children. Thinking through the rights and wrongs of markets in these contested cases will help us clarify the differences among leading theories of justice.