

**The Social Contract Revisited**

# Equality and Personal Responsibility in the New Social Contract

REPORT AND ANALYSIS OF THE FIFTH WORKSHOP OF  
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# Contents

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<b>Introduction</b>	2
Keynote Address: <b>Equality in an Era of Responsibility</b>	3
SESSION ONE: <b>Theory</b>	6
SESSION TWO: <b>Health</b>	10
SESSION THREE: <b>Education</b>	12
SESSION FOUR: <b>Social Risk or Personal Risk?</b>	14
<b>Conclusion</b>	18
<b>Participants</b>	20

## Introduction

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This report provides both a record and a critical assessment of the fifth workshop of the Foundation for Law, Justice and Society's programme, *The Social Contract Revisited*. The workshop, convened in Oxford from 29 April to 1 May 2009, analysed contemporary efforts to reconcile equality and personal responsibility under the new social contract.

In his inaugural address, US President Barack Obama declared the need for 'a new era of responsibility, a recognition, on the part of every American, that we have duties to ourselves, our nation, and the world, duties that we do not grudgingly accept but rather seize gladly, firm in the knowledge that there is nothing so satisfying to the spirit, so defining of our character, than giving our all to a difficult task. This is the price and the promise of citizenship'.

*In his inaugural address, US President Barack Obama declared the need for 'a new era of responsibility'*

He proceeded by asserting that, 'the time has come to reaffirm our enduring spirit; to choose our better history; to carry forward that precious gift, that noble idea, passed on from generation to generation: the God-given promise that all are equal, all are free and all deserve a chance to pursue their full measure of happiness'. In these two passages, President Obama highlights two fundamental features of the modern social contract that once seemed difficult to reconcile: equality and responsibility.

Fundamental to the social contract is the fidelity to equality. From Hobbes's state of nature to Rawls's veil of ignorance, there exists a premise of equality that underlies the construction of social and economic institutions. At the same time, the contractual element

of the social contract requires reciprocal relations between the people and the government, and amongst the people themselves. These reciprocal relations suggest that those who gain from society should give back something in return. Responsibility can be more exacting, with some commentators and officials contending that people's failure to live up to their personal responsibility relieves society of its duty to preserve equality among them. While all are entitled to equal health care, for instance, a personal decision to be careless about one's health mitigates society's duties towards that person.

This line of argument has led to an alignment of philosophical and policy positions, whereby those who view the social contract as essentially about equality find themselves at odds with those who value more highly the role of personal responsibility. Egalitarians emphasize society's duties to each person, even if one fails to take responsibility for one's actions. Supporters of personal responsibility, on the other hand, take a narrower view of equality, restricting it to situations where personal responsibility is lacking. The two positions are not necessarily incompatible, as we may infer from the observation that Ronald Dworkin recently performed for equality 'the considerable service of incorporating within it the most powerful idea in the arsenal of the anti-egalitarian right: the idea of choice and responsibility'.<sup>1</sup>

Nevertheless, the division between the two remains prominent and is significant for our assessment of the social contract. The workshop examined questions arising from this division, such as what duties we owe to each other, and the nature of their origins. In the determination of such duties, what role does personal responsibility have in practice, and what role should it have in principle?

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1. Cohen, G. A. (1989) 'On the Currency of Egalitarian Justice', *Ethics*, 99: 906, 933.

## Equality in an Era of Responsibility

Keynote Lecture by **Professor John Roemer**,  
*Professor of Political Science and Economics,*  
*Yale University*

Chair: **Denis Galligan**, *Professor of Socio-Legal  
Studies, University of Oxford*

Professor John Roemer opened the workshop by acknowledging the important work of philosophers to insert notions of responsibility into egalitarian theory over the last forty years. Interestingly, the effort to reconcile equality and responsibility has been orchestrated, to great effect, as part of a general theory of social contract. At times, as in the case of John Rawls, this is done with explicit reference to contractarian methodology. At other times, as in the case of Ronald Dworkin and Tim Scanlon, this is done less explicitly. Roemer's main argument is that the way responsibility was incorporated into egalitarian theory has led these theorists to abandon important principles of equality and to accept, in effect, inequalitarian outcomes.<sup>2</sup> The reason for this, he suggests, lies in the premise of egoistic, self-interested behaviour that underlies their models. Given this premise, the argument goes, inequalitarian consequences are only natural. If truly egalitarian results are to be pursued, the self-interested premise should at least be supplemented (if not replaced, as Roemer argues) with a conception of solidarity.

At first glance, 'luck egalitarian' theories such as those proposed by Dworkin and Rawls are as egalitarian as one could expect. Indeed, Dworkin says that Rawls's basic assumption may be contested in many ways, but 'it cannot be denied in the name of a more radical concept of equality, because none exists'.<sup>3</sup> According

to both Dworkin and Rawls, 'morally arbitrary' circumstances and endowments of individual persons, such as wealth, health, race, gender, intelligence, and so forth, must be filtered out when constructing a theory of justice. Towards this end, Rawls suggests a thought experiment, the well-known veil of ignorance. Behind the veil, people are not aware of their endowments and circumstances, and are tasked with constructing a theory of justice in this condition of ignorance. According to Rawls, people will choose social institutions that promote equality. The psychological assumptions that are critical for this conclusion are not always stated explicitly in Rawls's writing, but have been noted in numerous commentaries: equality is the result of the veil of ignorance exercise because people are assumed to be self-interested, rational, and risk-averse (or, in Roemer's version: *hyper-risk averse*).

While Dworkin does not align himself with the contractarian tradition, his thought experiment resembles the veil of ignorance in important respects.<sup>4</sup> Dworkin proposes an analogous arena for determining the foundations of justice: the hypothetical insurance market. In this market, a person is not aware of her personal circumstances or, in Dworkin's terms, her resource endowment. Each person is awarded the same amount of money, which may be used to purchase insurance against the probability that her resources will turn out to be sub-par. If they do not insure themselves properly, they have no one to blame but themselves.

But Dworkin's reliance on insurance markets for egalitarian results suffers, *pace* Roemer, from significant flaws. Roemer explains that Kenneth

2. See also Paz-Fuchs, A. (2008) *Welfare to Work: Conditional Rights in Social Policy*. Oxford: Oxford University Press, pp. 141-146.

3. Dworkin, R. (1973) 'The Original Position', *University of Chicago Law Review*, 40: 500, at 532-33.

4. For the claim that Rawls and Dworkin do not differ greatly in their proposals for a basic framework of distributional equality see Jacobs, L. (1993) 'Realizing Equal Life Prospects'. In: G. Drover and P. Kerans (eds.) *New Approaches to Welfare Theory*, pp. 49, 51. Northampton, MA: Edward Elgar.

Arrow's theory of the functioning of insurance markets shows that an egalitarian result (transfer from the more endowed to the less endowed) will occur only if all denizens are sufficiently risk-averse, just as they were under Rawls's veil of ignorance. If they are not risk-averse, however, the result will be a perverse one: the less endowed will transfer their limited funds to the more endowed.

Whether successful or not, Dworkin's attempt to address questions of equality can be commended for encompassing matters of personal responsibility, which he achieves through his important distinction between 'option luck' and 'brute luck'. Option luck is grounded in responsibility. When brute luck hits, no responsibility can be attributed, because no responsibility could have been assumed. Calamities of such nature (harm by lightning is the common example) should not be carried by an individual:

*We distinguish, for a thousand reasons, between what part of our fate is open to assignments of responsibility, because it is the upshot of someone's choice, and what part is ineligible for any such assignment because it is the work not of people but of nature or brute luck.<sup>5</sup>*

Whilst the issue of responsibility is not treated so directly in Rawls's writings, he does emphasize that because citizens are free, they are regarded as capable of taking responsibility for their own ends, and this affects how their claims are assessed.<sup>6</sup> The problem that both Rawls and Dworkin ignore, however, is that the 'cut' between choice and circumstances, between endowment and responsibility, is not as clear as they would like it to be. Some preferences, as Roemer notes (following Richard Arneson and G. A. Cohen), are affected by circumstances. Some people's inferior endowments, in other words, cause them to make unfortunate, or irresponsible, choices.

More to the point, the distribution of effort and the ability to assume responsibility, correlated as it may be to socio-economic status, is itself to be seen as a circumstance.

Roemer suggests an analytic approach to this puzzle, by partitioning the set of circumstances into a finite number of elements, which he calls *types*. A type, suggests Roemer, is a set of people with similar circumstances. The relevant circumstances may well be a matter of some debate, but characteristics will plausibly include parental income, parental education, and family type, for example. Equality of opportunity will be achieved by taking into account the effort of an individual *within* a particular type. Comparison of effort between types will be assessed by their rank within their respective type.

Roemer's suggestion is not only illuminating, but also offers the rare promise of being relatively straightforward to implement in practice. For this reason, the examples he uses to illustrate his theory, concerning health and education policy, are somewhat disappointing. The analysis leads to an unsurprising conclusion (if an egalitarian goal is assumed) that more funds need to be invested in institutions that cater for less privileged (according to type) individuals. Significantly more interesting (and relevant for present purposes) are the implications for a true, micro-assessment of personal responsibility (and personal merit). Whilst these implications are mentioned when discussing the possible caveats for the theory, it may be more productive for our purposes to bring these to the fore.

As Roemer notes, there is a strong connection between his approach and affirmative action rationales, as implemented in the University of California and the University of Texas. The theory provides a conceptual and structural platform for the controversial policy. Affirmative action, as its supporters have often argued, is a methodical implementation of assessing people equally, differing from the simple, meritocratic approach by taking into account personal circumstances.

5. Dworkin, R. (2000) *Sovereign Virtue*. Cambridge, MA: Harvard University Press, p. 287.

6. Rawls, J. (1985) 'Justice as Fairness: Political Not Metaphysical', *Philosophy and Public Affairs*, 14: 223, 243.

For this reason, Roemer's caveat to his own approach seems unnecessarily broad. Casually moving from personal responsibility to personal merit, he suggests a distinction between recruitment criteria for training and education, where equal opportunity principles should apply, and recruitment criteria in professions and occupations, where he 'would stress merit'. There are two main objections to this caveat: first, Roemer's examples of equality in the field of professional basketball and surgeons seem either facetious or overly narrow, or both. It is unnecessary to generalize from these two examples. Many high-skilled professions (consider family doctors, engineers, hi-tech professionals, public officials, and even academics) do not have the same characteristics of basketball players and surgeons, and thus could easily be the subject of equal-opportunity principles.

Second, and more generally, it is somewhat unfortunate that Roemer distinguishes cases where equal-opportunity principles apply from cases that should be judged on the basis of merit, since in so doing, he dilutes a particular strength of the theory: the effectiveness with which it prompts us to reassess the true meaning and implications of meritocracy. Comparison across types is, as noted, an implementation of equality, and does not stand in tension with it. Candidates (for training, education, or professions) should be judged, as a matter of equality and merit, according to their ranking within their type. This new proposal may stimulate a reversal of the current trend that presents a very particular form of meritocracy as the governing principle. Indeed, Brian Barry, to whom Roemer dedicated his lecture, reminds us that it was Michael Young's *The Rise of Meritocracy* (1958) that first introduced the term, in a pejorative sense, as an expression of dystopian governance. By 2001, Young was dismayed to find that his concept was being turned on its head, both in the United States and in the United Kingdom in the rhetoric of Tony Blair. Young was sufficiently provoked to write an article entitled 'Down with Meritocracy!', published in the Guardian, in which he spells out the perils of meritocracy:

*If they believe, as more and more of them are encouraged to, that their advancement comes from their own merits, they can feel they deserve whatever they can get. They can be insufferably smug, much more so than the people who knew they had achieved advancement not on their own merit but because they were ... the beneficiaries of nepotism. The newcomers can actually believe they have morality on their side. ... As a result, general inequality has been more grievous with every year that passes.<sup>7</sup>*

*This new proposal may stimulate a reversal of the current trend that presents a very particular form of meritocracy as the governing principle*

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7. Young, M. (2001) 'Down with Meritocracy', *The Guardian*, 29 June 2001. Available at: <http://www.guardian.co.uk/politics/2001/jun/29/comment> > Last accessed 27 July 2009.

## SESSION ONE:

## Theory

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**Professor Robert Goodin**, *Department of Philosophy, Australian National University:*

'Responsibility and Inequality'

**Professor Peter Vincent-Jones**, *Law Faculty, Leeds University:* 'Individual Responsibility and Relationality'

**Professor Julian LeGrand**, *Titmuss Professor of Social Policy, London School of Economics:*

'Paternalism and Welfare'

Chair: **Professor Fred D'Agostino**, *Faculty of Arts, University of Queensland, Australia*

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The first session provided the theoretical structure for the analysis of questions of equality and personal responsibility within the context of the social contract. Robert Goodin and Peter Vincent-Jones addressed the advantages and perils that lie at the heart of social contract rhetoric, structure, and implementation. Their conclusions are similar insofar as they agree that the current implementation of social contract ideology and mechanisms, especially with respect to welfare relief in the United States, Britain, and Australia, does not live up to the ideals of fair reciprocity and enhancement of individual autonomy. Instead, it is used in a manner that increases social exclusion, sanctions the most vulnerable, and permits the government to draw back from its obligations.

They differ, however, in the assessment of the social contract's potential, if employed honestly and properly. To be precise, Goodin does acknowledge that it may indeed be the case that the social contract's role in the disempowerment of the most vulnerable may be a 'perversion of [the] cherished ideal'. However, as a policy (rather than as a philosophical) matter, the issue is moot. The current interpretation is now firmly installed in public discourse, and the 'language of social contract is

simply no longer available for a kinder, gentler application to social welfare'.

This conclusion leads Goodin to surmise that scholars should be careful of what they say within the earshot of policymakers. This view was taken up more generally during the workshop, as participants engaged with the complexities surrounding the fact that when ideal-type suggestions are transformed into policy, they are often reinterpreted, and lead to very problematic consequences.

Peter Vincent-Jones seems somewhat more optimistic in this regard, in effect accepting Stuart White's prescription for the deployment of a contractual rationale as one that governs state and citizen interaction. Since White outlined his approach in an earlier workshop, a brief reminder will suffice. In essence, White and Vincent-Jones suggest that, where the state cannot guarantee fairness and reciprocity, 'the pretence of contract in government policy should be abandoned'. Fairness and reciprocity can only be achieved by guaranteeing a decent share of the social product; state responsibility for promoting productive participation; equitable treatment of forms of participation; and the universal application of reciprocity.

In other words, contractual ties, and the corresponding requirement for personal responsibility, may be imposed only when the demands of equality are satisfied. But these demands each require further elucidation. Guaranteeing 'a decent share of the social product' would mean promoting a significantly different social and economic policy, one that would limit economic disparities. State responsibility for promoting productive participation would require increased government involvement in the labour market, regulating terms of employment and serving as employer of last resort in times of high unemployment. And the universal application of responsibility would entail placing the same demands on the rich as we do on the

poor. If these preconditions are met, then a contractual relationship may enhance autonomy, respect for the individual, and personal choice.

Vincent-Jones suggests that these are 'threshold requirements' for contractual mechanisms. But he goes on to describe how governments do not live up to *their* reciprocal obligations such as providing training, tailoring services, improving skills, and addressing barriers to employability. He also notes the lack of adequate safeguards to prevent illegitimate or disproportionate use of sanctions. Against this reality, the threshold requirements as stated are not likely to be realized in the near future. The differences between Vincent-Jones's approach and Goodin's skeptical assessment, therefore, are largely theoretical. Indeed, both reach the conclusion that the current structure of contractual welfare regimes leads to harsh treatment of the most vulnerable recipients.

Though not necessarily described by the authors in these terms, Goodin and Vincent-Jones distinguish between three levels of social contract: the macro-level, the intermediate level, and the micro-level. At the macro-level we find the philosophical, rhetorical, and symbolic uses of the social contract. Philosophically, the social contract suggests a focus on agency rather than structure; on individual rights and responsibilities rather than on collective responsibility and solidarity. Rights themselves, it is argued, become contractual, *dependent* on personal responsibility.<sup>8</sup> Rhetorically, it is no coincidence that welfare reform in the United States and Britain was framed with the central motif of the contract ('Contract with America' and 'A New Contract for Welfare', respectively), with the accompanying connotations of reciprocal, mutual obligations.

The intermediate level of the social contract refers to the institutional dimension. Here, Goodin reminds us of the British post-War settlement between capital and labour and the agreements between social partners in Sweden and Germany. This dimension

*White and Vincent-Jones suggest that, where the state cannot guarantee fairness and reciprocity, 'the pretence of contract in government policy should be abandoned'*

emphasizes the fair reciprocity at the structural level and, as was discussed in Hugh Collins's opening lecture of the previous workshop, has important implications for the concrete policy decisions that are made. In addition, serious attention should be given to policies that outsource and privatize social services, especially since the justification is couched in the contractual terminology that Vincent-Jones refers to, including the ability to isolate the key aspects of the relationship from the wider context (discreteness) and to improve the planning of future eventualities (presentiation).

At the micro-level, the social contract concerns the implementation of reciprocity. Here, Goodin notes, welfare payments are conditional on labour. Taking a cue from the commercial contract, the execution of the reciprocal (i.e. citizen's) obligation must take place in the same time frame as the welfare payment. This framework, it is noted, differs significantly from the social insurance model that is apparent in the cases of pensions (pay now, receive later) or student fees (receive now, pay later). Vincent-Jones, in particular, focuses on micro-level contracts, which he terms 'social control' contracts. Though the paradigm example for social control contracts is found in the field of welfare (in Britain, the Jobseeker's Agreement), the mechanism now applies also to home-school agreements and youth offender acts, under the School Standards and Framework Act and the Youth Justice and Criminal Evidence Act 1999, respectively. The fact that individuals are required to sign the 'contract' suggests an interesting link between the macro-, intermediate, and micro-levels. On the face of it, the contractual apparatus is, indeed, only a 'tangible manifestation'<sup>9</sup> of contractual welfare.

8. Paz-Fuchs, A. (2008) *Welfare to Work: Conditional Rights in Social Policy*. Oxford: Oxford University Press; Cox, R. (1998) 'The Consequences of Welfare Reform', *Journal of Social Policy*, 27: 1.

9. Lundy, L. (2000) 'From Welfare to Work? Social Security and Unemployment'. In: N. Harris (ed.) *Social Security Law in Context*, pp. 291, 304. Oxford: Oxford University Press.

The signing of the document may be strictly symbolic, but it is unwise to ignore this aspects of the process. The consensual element is suspect at best, and commentators have suggested that the 'contract' is more akin to a 'blackmail threat that benefit will be denied if the unilateral document is not signed'.<sup>10</sup> The relationship between the claimant and the authority is a hierarchical one, and the sanctions for 'breach of contract' are administrative, not commercial. As such, the obligations that are placed on beneficiaries are framed within a rhetoric of mutual obligation which provides a veil for the reality of 'illiberal processes ... which are arbitrary, oppressive or one-sided in character'.<sup>11</sup>

Goodin identifies a helpful distinction insofar as an analysis of responsibility is concerned: the distinction between blame responsibility and task responsibility. Blame responsibility is backwards-looking, and asks who is responsible for this state of affairs. Task responsibility is forward-looking, and asks who should be required to remedy the situation.

In the case of welfare beneficiaries, whose condition is often attributed to their choices, they are consequently regarded as being responsible for alleviating their own misfortune. But even if the first part of the syllogism is accepted (and there are serious reasons to reject it), it is quite possible to suggest that the individual should not be charged with remedying her own situation, perhaps because she is not best placed to do so. Goodin suggests an example that helps clarify the distinction between the two kinds of responsibility. Imagine an accident between a reckless driver and a prudent driver. The assignment of (blame) responsibility of the reckless driver and the prudent driver is clear. But to what extent should this determine the task responsibility? Should the doctors address the wounds of the prudent driver with any more determination than the injuries of the reckless driver even if, for instance,

the injuries of the former are negligible, while those of the latter are significant? Our intuition here, Goodin rightly suggests, would lead us to a different conclusion than the one offered by current welfare policy. That being said, it may well be the case that health policy is following welfare policy in the importance attached to personal (blame) responsibility, as I will discuss in more detail in due course.

The extent of the connection between blame and task responsibility is helpful to use when distinguishing the different social control contracts discussed by Vincent-Jones. Whereas youth offender contracts, rehabilitation contracts, and parenting contracts are triggered by breach of criminal law or suspicion of involvement in criminal or anti-social behaviour, and serve as an alternative to much more punitive measures such as imprisonment, by contrast, Jobseeker's Agreements and home-school agreements apply to classes of citizens, welfare claimants and parents of school children, with no specific reference to any wrongdoing. If blame is assigned, it is done in perfunctory fashion, as if their status as recipients of public benefits attests to their blame-worthiness.

Regarding the matter of blame responsibility, it is often the case that the blame-worthiness of recipients of welfare, for example, is based on facts that are simply stipulated, and not proven. Indeed, perhaps the precise degree of attributable blame can never be properly determined. Tocqueville memorably expressed his frustration at policies that presumes to detect 'nuances that separate unmerited misfortune from an adversity produced by vice'.<sup>12</sup> If this determination is to be at all possible at an empirical (as opposed to ideological) level, clearly much more work needs to be done.

Secondly, it is often the case that blame responsibility is assigned simply because an individual made a *choice*. Examples of such choices that lead to the assignment of blame include using drugs, leaving school, leaving a job, getting

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10. Fullbrook, J. (1995) 'The Jobseeker's Act 1995', *Industrial Law Journal*, 24: 395, 400.

11. Freedland, M. and King, D. (2003) 'Contractual Governance and Illiberal Contracts: Some Problems of Contractualism as an Instrument of Behaviour Management by Agencies of Government', *Cambridge Journal of Economics*, 27: 465.

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12. de Tocqueville, A. (1997) *Memoirs on Pauperism* (1835 rptnt Dee, Chicago, 1997, tran. S. Dreshcer), p. 56.

pregnant, and so forth. But the fact that we can attribute responsibility to the individual because a choice has been made does not mean that she acted irresponsibly. As Susan Hurley argues:

*What makes a view correct as a view of responsibility does not necessarily make it appropriate to use as a filter on the currency of distributive justice. This may not be the right way to give responsibility a role in distributive justice or in egalitarianism in particular.*<sup>13</sup>

Moreover, society may decide that individuals should not be burdened with costs of certain choices, because these choices are so fundamental to our individual development and autonomy that the decision should be supported, *whatever the choice may be*. The range of choices that this idea applies to may be wide or narrow, but it is useful to bear in mind the relevant fundamental rights – to work (or not to work), to raise a family, to move and change residence – when considering which choices should be exempt from a censorious assessment of (task) responsibility, and thus to a mitigation of the right to equal treatment.

So, if the contractual, consensual paradigm to enforcing responsibility should be abandoned, would it be possible to restructure the argument and to claim that the justification for enforcing responsibility lies not in order to achieve mutuality, but rather to improve the lives of the beneficiaries: in other words, paternalism. Goodin rightly refers to Larry Mead as ‘one of the workfare’s most assiduous proponents worldwide’, whilst recognizing that Mead’s central justification for ‘welfare employment’ is a paternalistic one. He views the poor as ‘dutiful but defeated’, naturally inclined to work but exposed to a system that leads to a ‘degradation of the character of the laboring class’.<sup>14</sup> If this is indeed the case, paternalism is more easily justifiable.

Julian LeGrand suggests that the only justification for paternalistic intervention is when the intervention is intended to further the individual’s good, and to address a failure of judgement by the individual. Several distinctions are offered, and important for present purposes is the distinction between means-related paternalism and ends-related paternalism. Means-related paternalism is justified when the individual and intervener agree on the ends, but there are reasons to believe that the individual has failed to choose an avenue that will lead to that end. The need to save for pensions is a popular example: people think it necessary to have enough funds to live on after they retire, but due to myopia, fail to save today for tomorrow. A paternalist policy, such as one that creates a default (or even mandatory) mechanism for savings, may thus be justified under these terms. Ends-related paternalism, however, which suggests that the individual has failed to establish her ‘true’, ultimate goals, cannot be justified.

It could be argued, however, that when put into practice, this distinction becomes less apparent. In essence, the distinction between ends and means rests on the level of abstraction. Take the matter of smoking, which surfaced repeatedly during the workshop: if the ‘end’ is defined as ‘being healthy’, then it is quite plausible that the individual and the government authority will not disagree. The disagreement will be on the means, and intervention may be justified because, in continuing to smoke, the individual blatantly fails to assess the risks to her health. However, assume that the individual argues that smoking *is* her ultimate goal, or somewhat less facetiously, that she harbours a rebellious slant and enjoys engaging in activities that are socially frowned upon. Here, paternalism intervenes with her ends, not with her means. We may return to the example of work: if the ends are to be defined as ‘leading a productive, satisfying life’, then Mead’s claim gains weight – the state is merely intervening to facilitate the connection between means (paid work) and ends (fulfilling life). But if the *ends* are defined as ‘being part of the paid labour market’, the individual may reasonably claim that she does not share those ends, but rather wishes to spend her days raising her children. There seems to be no clear litmus test to distinguish between the two.

13. Hurley, S. (2003) *Justice, Luck and Knowledge*. Cambridge, MA: Harvard University Press, p. 228.

14. Mead, L. (1997) ‘Welfare Employment’. In: L. Mead (ed.) *The New Paternalism*, p. 39. Washington DC: Brookings.

## SESSION TWO:

## Health

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**Alexander Cappelen**, *Norwegian School of Economics and Business Administration*:

'Neutrality and Equality in Health Care'

**Professor Daniel Wikler**, *Harvard Medical School*:

'Personal Responsibility for Health'

Chair: **Professor Neil Gilbert**, *University of California at Berkeley*

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The second session investigated whether it is fair to use the personal responsibility of patients for their health as a rationing criterion in healthcare. Alexander Cappelen and Daniel Wikler discussed the practical and ethical characteristics of health care systems with special reference to the allocation of limited resources, potentially unlimited costs of treatment, and the basic right to equal health care.

*The fear that communicable diseases will spread if individuals fail to immunize provided grounds for sanctioning irresponsible actions.*

Daniel Wikler noted that the luck egalitarian intuition, which suggests equalizing only those matters outside an individual's control, was prevalent in public health writings as early as the 1970s. The fear that communicable diseases will spread if individuals fail to immunize provided rational grounds for sanctioning individuals that behave irresponsibly.

This approach shifted with the rise of the conservative agenda in the 1980s and the public acceptance of the 'personal responsibility' narrative, which led to the view that if societies could develop policies that would show individuals how to lead healthy lives, there is

justification to penalize the recalcitrant individuals who will not adhere to the advice. Similarly, Cappelen notes that three of the four top risk factors contributing to the burden of disease can be attributed to an unhealthy lifestyle. The advancement in our understanding of the causes for diseases has thus led to changes in public perception: a majority of Americans, for example, now think that it is fair to ask individuals leading unhealthy lifestyles to pay higher premiums for health insurance than individuals who lead healthy lifestyles. Cappelen takes issue with this approach, and introduces two constraints on the inclusion of personal responsibility considerations in health care: equality and neutrality.

When discussing the constraints imposed by equality, Cappelen aligns himself with luck egalitarians, by arguing that inequalities that have their origins in circumstances outside an individual's control should be eliminated. By extension, individual behaviour that may lead to bad health should be taken into account. This can be achieved in one of two fashions. In one scenario, doctors would be obliged to give all individuals equal treatment, but individuals who did not maintain a healthy lifestyle will be held accountable through payment of heavier insurance premiums or co-payments for treatments. A second possibility would be to shape the health policy to give less priority to diseases that, to a large extent, are a result of personal choices and more to diseases that are outside individual control.

This suggestion seems rational and fair. But Cappelen's example of dental health provides a good insight into the limits of the approach. Dental health is commonly viewed as related, to a large extent, with dental hygiene. This provides a good reason for governments to leave dental care to the provision of the market, for if individuals can limit the cost of dental care by brushing and flossing regularly, it is prudent policy to give them incentives to do so. However, equally significant for dental health is childhood diet, which is heavily influenced by factors that go beyond individual choice, but which the market and

the state can be held responsible for, such as the vigorous marketing of junk foods with little or no nutritional value, governmental regulation to enforce healthy food in school cafeterias, and certain subsidies (e.g., for corn farmers) that lead to the production of cheap, unhealthy produce (corn syrup).

Policies that sanction individuals for matters that they have limited control over demonstrate a particular type of faulty reasoning known as 'attribution mistake', whereby individuals often have an exaggerated perception of how much control they have over their own behaviour, when in fact, in Wikler's words, willpower is 'virtually worthless'. A more positive alternative to these policies might be to distribute information and to protect individuals from temptation through sanctions placed on corporations.

A second constraint on the attribution of personal responsibility is the principle of neutrality. The main worry here is that, under the guise of fairness, governments target specific behaviours (especially tobacco consumption, alcohol abuse, unsafe sex, and obesity) that may have as much to do with moralism as with the enhancement of a healthier lifestyle. Cappelen notes that excessive exercise may have detrimental health consequences that are comparable to sub-par exercise, but penalizing the former is not even considered. One may be rightly cautious, then, where this line of reasoning may eventually lead. If people leading manifestly unhealthy lifestyles can be penalized, why shouldn't we penalize people who lead 'normal' lifestyles (with respect to health) but *can do more* (take daily walks, do yoga, eat less red meat, etc.)? At some point, it would seem, personal autonomy must be given precedence over social engineering by the state.

Though Cappelen does not mention these issues explicitly, his policy proposal does address these concerns. In a manner very similar to Roemer's 'types', Cappelen introduces the concept of a 'responsibility group', comprising people who are equal in certain characteristics (e.g. smoking, exercise). The principle of neutrality demands that there should be no redistribution between responsibility groups. To give a simple example: if society comprises only people who

smoke and those who don't smoke, each group should cover the costs of their behaviour. Wary of the problems that result when doctors are burdened with the duty to offer disparate treatment to individuals who lead different lifestyles, Cappelen proposes creating a distance between the treatment and the cost. This is done, for example, by levying a tax on smokers that would cover exactly the health care costs that derive from their smoking. In addition to sparing the medical profession the responsibility of inquiring into personal life patterns, the proposal has the advantage of placing the costs of health care on the individuals in the relevant responsibility group, irrespective of the *actual* costs incurred by their behaviour. In other words, healthy smokers are treated identically to unhealthy smokers, but differently from (healthy or unhealthy) nonsmokers.

This solution, however, evades only some of the problems. First, smoking (along with alcohol abuse) is a relatively easy case in point. The analogy to other forms of unhealthy lifestyle (obesity, lack of exercise) is more difficult, because there is no immediate good to tax. Second, the proposal suggests a narrowing of the social contract according to responsibility groups. This leads to a third objection: by focusing on personal responsibility we risk ignoring the responsibility that other social actors should hold. Returning to the example of smoking, the litigation against tobacco companies and the public debate that followed, brought to light the aggressive, and sometimes illegal, techniques that were employed by the companies themselves, by marketing companies, and most importantly – the government.

Cappelen insists that his proposal does not rely on moral judgements regarding the behaviour in question, but 'is only concerned with how the costs should be distributed'. However, costs are a practical and symbolic signal from society to individuals that their behaviour is either condoned or rejected. A further problem with the emphasis on cost is that it could have peculiar results. Research may show that smoking reduces social expenditure, since smokers die earlier and quicker, thus imposing a smaller burden on health care and pension systems. Should this mean that smokers be rewarded, or should the aim be to discourage behaviour that harms citizens, regardless of the cost?

## SESSION THREE:

## Education

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**Professor Yuli Tamir**, *Tel-Aviv University and former Israeli Minister of Education*: 'Equality and Responsibility in Education'

**Attorney David Sciarra**, *Executive Director of the Education Law Center*: 'Opportunity to Learn and the Social Contract in Education'

Chair: **Professor Carole Pateman**, *Department of Political Science, UCLA*

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The third panel focused on equality and personal responsibility in the field of education. Education is a key factor in guaranteeing equal opportunity for citizens. A comprehensive state-school system leads only part of the way towards a truly equal-opportunity society. Children's commitment to their studies, family support, and community environment are also important factors in the levels of achievement. Egalitarians add that, in assessing children's achievements, we should take account of the relative advantages and disadvantages the child was subject to during their school years. Others propose the assignment of differential funding to schools in less advantaged communities as a way of providing a fair foundation for a system of meritocracy.

*Responsibility should be viewed 'as an outcome rather than as a precondition for education'*

Yuli Tamir and David Sciarra provided academic and field level insights into the efforts governments can and should make to enhance equal opportunities in education, where and how much funds should be distributed, and to what extent students should be

held responsible for their failure to take advantage of opportunities offered to them.

Both participants agreed that a child's right to education is fundamental. Legally, the right to education is recognized by the constitutions of 142 countries and several international documents. Moreover, this right or, in David Sciarra's words, a child's 'opportunity to learn', does not conflict with society's interest. In fact, when the child fulfils her potential, society benefits as well. A similar philosophy leads Tamir to suggest that 'each and every member of the political community must understand that she cannot be an uninterested passive player but [should be] an engaged and responsible member of a team'. The grounds for this approach lie in 'benevolent self-interest', or the view that by acting in a way that benefits the community, this will ultimately benefit the individual. She acknowledges, however, that this view is somewhat naïve, and that in reality society will have to make hard choices between strengthening communal ties and enhancing equality.

In order to address effectively the issue of personal responsibility in the field of education, we must first interrogate the notion that it is appropriate to regard children as responsible for their own failure(s). Generally speaking, children are excluded from the discourse of responsibility, since they have yet to develop the capabilities and moral intuitions that are a precondition for assuming responsibility. As Tamir notes, responsibility should be viewed 'as an outcome rather than as a precondition for education'. This insight concords well with Roemer's observation that the capacity to act responsibly is not evenly distributed, and so irresponsible choices should be judged with caution.

Those who wish to burden children with responsibility understand this, and often turn to those who can, morally, bear the burden: the child's

parents. Here, then, is where the tension lies, because equality demands ensuring that children will not suffer from their parents' ill choices and that their opportunities will be on par with each other. And so, the social contract for education has three main players: the state, the parent, and the child.

Both Tamir and Sciarra refer to President Obama's inaugural address, where he noted that parental responsibility does not end with the duty to send a child to school. Parents are asked to take an active role in their child's life, and in their child's education. They should act in that way not because the law demands that they do so, and not because a vague sense of social obligation prescribes such behaviour. Instead, they should act in a responsible way towards their children because families play an important role in the structure of society, in its social contract. The collapse of the social contract is often seen as a consequence of the collapse of the institution of the family. Society, therefore, has an interest in strengthening these social bonds. But instead of expecting to realize this goal through law or on the basis of an overly optimistic view of society and human nature, Tamir embraces an intermediate notion of care, one that is, she acknowledges, quite conservative in its basic values, since it preserves the class structure rather than serving to undermine it. But if the social contract is based, *inter alia*, on concentric circles of care, the family is a fundamental building block in its structure.

This does not mean, however, that the entire burden should be shouldered by parents, or that equality has no role in education policy. Quite the opposite is true. It is now abundantly clear, for example, that children who are raised by families from a higher

socio-economic stratum and who have more years of higher education will perform better in school.

Sciarra and Tamir both suggest a solution that is intuitively just, proposing that each actor should play his part to the best of his abilities. Hence, parents should take advantage of the opportunities afforded to them, and the state should compensate for different starting points by investing more resources in lower class families, schools, and neighbourhoods, so as to equalize opportunities. But there are two obstacles to realizing this state of affairs. First, to what extent are these roles interdependent? In other words, what is the sanction for parents who do not fulfill their responsibilities? Is the state, then, entitled to pull back its own investment?

The second point is closely related. As Tamir and Sciarra observe, middle-class parents are quick to make the claim that the state, in favouring lower class families, has broken the social contract with *them*. They live up to expectations, invest in their children, but are still 'rewarded' with a smaller percentage of the social funds when compared to parents who are less successful as parents and, therefore, as citizens. This insight, which stems from years of policy experience, also bears on the practicality of Roemer's suggestion to invest much more in poorer, or less educated, families. Similarly, Sciarra's critique of the American Standards movement for not putting in place adequate resources that will enable some children from reaching the expected standards, also suggests the need to do more for those who start off with less. The justification may well be sound, but the political reality may prove to be too great an obstacle.

## SESSION FOUR:

## Social Risk or Personal Risk?

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**Professor Michele Landis Dauber**, *Stanford Law School*: 'We Lost Our All'

**Professor Bo Rothstein**, *Gotheberg University, Sweden*: 'Social Risk and Institutional Trust'

Chair: **Professor Matthew Diller**, *Cardozo School of Law*

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One motivation for the establishment of the welfare state was the mitigation of risk upon the loss of income due to retirement, unemployment, disability, widowhood, and so on. Public and private institutions were established to address that risk, but without absolving people from their own responsibility to work and to contribute to the social insurance pool.

Today that social fabric is unravelling. A massive transfer of economic risk to families and individual persons is taking place. This *Great Risk Shift* has been characterized as the 'defining feature of American economy', and it is quite possible that the analysis applies to other liberal-capitalist economies as well. It has been aptly termed 'The Personal Responsibility Crusade'.<sup>15</sup>

Speakers in this panel addressed the matter of risk from different perspectives. Michele Landis Dauber's analysis of 529 letters (out of the hundreds of thousands) written to Eleanor Roosevelt during the time of the Great Depression showed how perceptions of risk were internalized in a formative era of the social contract and how individual persons behave as a result of being subject to forces beyond their control.

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15. Hacker, J. (2006) *The Great Risk Shift: the Assault on American Jobs, Families, Health and Retirement*. Oxford: Oxford University Press.

Bo Rothstein provided an analysis of social risks, how they are materialized, and how they may be reduced. Rothstein's thesis shows how the expansion of corruption undermines social trust, a necessary element for the functioning of the social contract.

Dauber's analysis of the letters to Eleanor Roosevelt is part of a larger project that investigates governmental disaster relief. The importance of this endeavor for current purpose is of significant interest, since disaster strikes all citizens alike: rich and poor, prudent and reckless, sophisticated and less sophisticated. It thus serves as a universal testing ground, which students of the social contract can draw on in investigation of other layers of the welfare state. When treating victims of disaster (be it natural disaster, terror attack, disease, etc.), all are deserving of assistance. There can be no personal responsibility for its aftermath. For this reason, it becomes clear why President Roosevelt took to referring to the Great Depression as an 'economic earthquake', sending writers, photographers, and journalists to capture the frailty of its victims and to rouse sympathy for their predicament.

Dauber's research is not the first to examine letters to Roosevelt. However, somewhat surprisingly, she is the first to question their veracity. Comparing the letters with detailed information she found for 267 of the writers in the sample, she concludes that a significant number of them did not reveal the complete story behind their requests. Dauber refuses, however, to judge these writers harshly. Instead, she finds the gap between the report and the reality to reflect 'the moral economy of the time'. Those writing the letters tried to target the narrative that will make a claim for assistance a successful one.

Overwhelmingly, the stories that are told are stories of loss (97%) and not of need (3%). The subtext of the claim is clear: the writer was part of a middle-class family, an upstanding citizen, and then disaster hit. It is a narrative that seeks to place the writer as part of those 'deserving' assistance, distinct from the undeserving. Another detail that stands out in the rich analysis is that a sizeable majority of the writers (82%) were women, and many of them elided the truth regarding the role of the man in the household, since if he is present, his failure to provide for his family demands explanation, in the eyes of many of the writers. They therefore decline to mention his existence, compose stories of divorce and job loss, or attribute illnesses that did not exist, or that are quite exaggerated. Unsurprisingly, the fact that the woman does not contribute to the economy of the household does not necessitate explanation. She is expected to care for the children and the husband, and to maintain a proper household. Contemporary welfare discourse views matters very differently, of course. We find, then, how the concept of 'personal responsibility' is tied to social expectations and is thus highly contingent. On the one hand, it is encouraging to consider that the social contract is constantly evolving, and does not ossify over time. On the other hand, it also serves as a warning for those who embrace contemporary moral norms as eternal truths.

Another insight that derives from Dauber's research concerns the matter of risk directly. The letters, and the analysis, reveal a struggle to situate certain events and circumstances as a matter of social, rather than personal, failure. The ongoing economic calamity today should give similar pause before attributing personal blame to those who failed to plan ahead with necessary prudence. Even more importantly, it suggests that we employ caution before viewing economic failures that are less dramatic than the Great Depression, but are far more enduring (e.g. homelessness, the pension deficit), as more akin to disaster than a result of personal failure. Just as choice should not always lead to personal responsibility, neither should an

analysis that has the advantage of hindsight always equate blame with foreseeability.

Bo Rothstein, in his paper, suggests not only that social risks and institutional trust are an important element in the structure of the social contract, but that disparity in these factors explain the disparity in generosity among welfare states. Common explanations for such variations such as cultural traits, homogeneity, religious beliefs, and the size of the country and population are not deemed to be sufficiently convincing. In their place, Rothstein introduces the 'Quality of Government' factor.

The task of mapping welfare states, however, immediately encounters a serious obstacle. How is it possible to assess their generosity, when their objectives range from increasing equality to redressing severe poverty and handling social risks? The divergence, however, is less problematic than may initially appear. Welfare state analysis shows that systems focusing on social insurance tend to be more redistributive and to cater better for low-income individuals than systems that are meant to be redistributive (and, of course, more generous than 'residual' welfare states that only alleviate extreme poverty). The attitude towards risk, the extent that the state defines certain risks as 'social', and the readiness to cater for the consequences, are all important attributes in welfare state analysis.

*The ongoing economic calamity today should give similar pause before attributing personal blame to those who failed to plan ahead with necessary prudence.*

And this is the crux of Rothstein's argument: 'for wage-earners and their representatives to turn to the state for solving their demand for protection against social risks, they have to have a high degree of confidence in "their" state'. The converse reality

is manifested in a vicious circle: individuals refuse to pay (high) taxes because the government is viewed as corrupt and fails to deliver basic services, with the consequence that government institutions do not have the necessary funds to improve their delivery of services.

This issue is pertinent because, in a market economy, where people depend on employment for their livelihood, the risk of unemployment, sickness, or disability could lead to significant material consequences. These are, in other words, serious risks. Should these risks be handled by the state? The answer given by citizens of different countries depends, to a large extent, on their belief that the system will run in a competent manner. This question of trust is crucial, since citizens have to believe that the system, in their hour of need, will award them assistance in accordance with their expectations. In addition, the procedural aspects (transparency, nondiscrimination, right to appeal) are just as important.

A more sensitive issue is that of overuse and abuse. Rothstein notes that citizens do not like 'freeloaders', and resent feeling as if they are the only side living up to their end of the bargain. In support of his position, he cites John Rawls, who wrote: '[People] may suspect that some are not doing their part, and so they may be tempted not to do theirs. The general awareness of these temptations may eventually cause the scheme to break down'.<sup>16</sup>

The threat of breakdown, it should be noted, is often used in reference to the social contract; the collapse of the ability to work together, in solidarity; to express empathy; and to act in a manner that alleviates the burden of a fellow citizen. And so, if abuse is such a significant threat, it should indeed be dealt with vigorously.

The story, however, is somewhat more complex. First, the abuse and corruption noted here is not a failure on the part of the government (at least, not initially). Instead, it is the 'corruption' of fellow individuals. If the government fails, in such cases, it is a failure to eradicate fraud. But what is the extent of the fraud? More importantly, what is the extent of the fraud in comparison to that prevalent in other, non-welfare related systems (e.g. banking, private insurance, stock markets)? It is quite probable that we will never have the full extent of the data necessary to answer such a question. And so, perhaps, enhancing trust would require a government to act as if eradication of fraud is high on its agenda, as seems to be the case currently. Indeed, the British White Paper on fraud was the lengthiest of all white papers on welfare reform. It celebrated an 'enhanced sense of responsibility that lies at the heart of the new welfare contract, with people not only taking more personal responsibility ... but also more collective responsibility for policing the new system and preventing fraud'.<sup>17</sup>

But to what extent is fraud an objective phenomenon? We've already seen that the extent of welfare fraud cannot be scientifically assessed, let alone in comparison to other forms of fraud. But there is a more troubling vicious circle that we enter when vigorously combating fraud. It may well be the case that the public effort to target fraud will leave the impression that a significant portion of welfare beneficiaries *are* fraudsters, thus leading to an erosion in the support for the welfare system in general.

The place where abuse is more centrally tied to government action is the administration of the programme. Theda Skocpol's discussion of nineteenth century pensions for war veterans shows that the more complex the system and the more discretion is given to its administrators, the more opportunities there are for corruption and clientelism. Moreover, the lasting effect of

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16. Rawls, J. (1971) *A Theory of Justice*. Cambridge, MA: Harvard University Press, p. 240.

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17. See Department of Social Security (1997) *Beating Fraud is Everyone's Business* (Cm 4012), Ch. 11, Para. 6.

this experience, *pace* Skocpol, was crucial for the (lack of) development of the American welfare state. In effect, it led to its political delegitimization: 'the party-based "corruption" that many US reformers associated with the implementation of Civil War pensions prompted them to argue that the United States could not administer any new social spending programs efficiently or honestly'.<sup>18</sup> In an effort to avoid this precise delegitimization, Rothstein explains, Swedish social reformers decided to move away from targeted social policies and towards universal ones, thus creating a positive feedback mechanism: less opportunity for fraud, corruption, and clientelism would mean more support for the system, for its preservation, and its enhancement.

It should be noted, however, that the focus on quality of government as an explanation and predictor of welfare attributes is not limited to members of the OECD. Indeed, the theory's strongest asset is its ability to 'travel'; to apply to countries from Latin America to sub-Saharan Africa, as well as to Europe and North America. A second, more concrete strength of the theory is the link between the strength of the social contract and the rule of law. If further country-based research supports the thesis, then it will be a unique contribution for those interested in the strong links between law and society.

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18. Skocpol, T. (1992) *Protecting Soldiers and Mothers*. Cambridge, MA: Harvard University Press, p. 59.

## Conclusion

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The classic ideas of equality and personal responsibility have been perceived as fundamentally antagonistic notions. Personal responsibility is seen as being concerned primarily with the individual, releasing the state from the need to alleviate his or her condition or simply to assist the individual to improve his or her lifestyle or life chances. Equality, on the other hand, directs attention towards the state, suggesting that social and economic background conditions are the paramount determinants of the individual's condition, and they should therefore be the focus of attention. Moreover, the requirements of equality, strictly understood, do not permit consideration of personal behaviour as relevant for entitlement to public services, such as income support, health, and education.

*In recent years, we are witnessing an expansion of the middle ground; an effort to reconcile ... equality and personal responsibility.*

Proponents of both these political and philosophical paradigms have been in opposition for several generations, if not for several centuries. But in recent years, we are witnessing an expansion of the middle ground; an effort to reconcile these two notions. The emerging thesis, in (semi-progressive) political discourse, political and legal philosophy, and social policy, has sought to determine the proper balance between equality and personal responsibility. Many writers (and this was reflected in this workshop) propose that the state should be responsible for alleviating background inequality, but that, once this obligation is fulfilled, the individual is charged with walking through the doors that have been opened.

As papers in this workshop clearly show, this position may be too simplistic, and open to challenge on various levels: theoretical, ideological, and practical. Bob Goodin and Peter Vincent-Jones take issue, on different levels of abstraction, with the prevalence of 'social control contracts' and the policies that underlie them.

These have become a prevalent and powerful policy tool in the United Kingdom, the United States, and Australia, to name but a few. These contracts, in placing recipients under a degree of duress, serve as an effective policy measure by which governments relieve themselves of the burden of helping those most in need.

So, one possible interpretation of recent political convergence to the middle ground between equality and personal responsibility is that it is merely a cynical move on behalf of government to renege on its obligation to promote equality. It is interesting that those engaged in the specific fields of health, education, and assessment of risk, are not as willing to reach that conclusion. What they do try, however, is to seek the proper meeting point between equality and personal responsibility, to seek, if you will, the acceptable 'terms of the contract'.

This is very difficult, however, for two main reasons. First, assuming that state obligations are preconditions for personal responsibility, what happens to personal responsibility when these preconditions are not met? Is there no personal responsibility to be demanded? Second, as both Yuli Tamir and Alexander Cappelen demonstrate, social and economic conditions are highly interrelated: income is a significant determinant in maintaining a healthy lifestyle, and a mother's education is the strongest determinant in the child's prospects of educational achievements (and, incidentally, poverty). So what range of equality are we to expect before personal responsibility is demanded? If we add to the equation matters of corruption and rule of law, as Bo Rothstein would suggest, we are left with a complex picture indeed.

The final, and perhaps most pressing question, concerns the consequences of irresponsible behaviour. Is the irresponsible individual required to pay more (as in the case of health) or is s/he left to manage on his/her own? This question of risk has become crucially relevant following the economic crisis, and demands our attention. As Michele Landis Dauber observes: 'If getting some help depends on having no part in bringing on your own troubles, well, that is a pretty hard standard for anyone

to meet'. Indeed, her research could not be timelier in providing a historical perspective from a particularly instructive period of the twentieth century. Her analysis of letters to Eleanor Roosevelt during the Depression begs us to rethink our predisposition towards personal fault and economic disaster, the puritan emphasis on honesty, so eagerly embraced by the legal system, and in the final analysis, the distinctions between deserving and undeserving poor.

## Participants

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**John Adams**, Chairman of the Board of Trustees, The Foundation for Law, Justice and Society

**Fred D'Agostino**, Associate Dean, University of Queensland, Australia

**Alexander Cappelen**, Professor of Economics, Norwegian School of Economics and Business Administration

**Matthew Diller**, Dean Designate and Professor of Law, Cardozo School of Law, New York

**Denis Galligan**, Professor of Socio-Legal Studies, Oxford University, and Member of the Board of Trustees, The Foundation for Law, Justice and Society

**Neil Gilbert**, Chernin Professor of Social Welfare, University of California at Berkeley

**Robert Goodin**, Distinguished Professor of Philosophy, Australian National University

**Michele Landis Dauber**, Professor of Law and Sociologist, Stanford Law School

**Julian LeGrand**, Professor of Social Policy, London School of Economics and Political Science, and former Senior Policy Advisor to the Prime Minister

**Carole Pateman**, Distinguished Professor of Political Science, UCLA

**Amir Paz-Fuchs**, Programme Director, *The Social Contract Revisited* programme, FLJS

**John Roemer**, Stout Professor of Political Science and Economics, Yale University

**Bo Rothstein**, Professor of Political Science, Gothenberg University, Sweden

**David Sciarra**, Executive Director, Education Law Center, New Jersey

**Yuli Tamir**, Professor of Political Philosophy, Tel-Aviv University, Israel, and former Israeli Minister of Education

**Peter Vincent-Jones**, Professor of Law, University of Leeds

**Daniel Wikler**, Professor of Ethics and Population Health, Harvard Medical School



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## The Social Contract Revisited

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The aim of the Foundation's programme, *The Social Contract Revisited*, is to establish the theoretical and institutional underpinnings that characterize the reciprocal rights and obligations amongst citizens and between the citizens and the state in modern liberal society. Through publication of the findings of such study, the Foundation will enrich both the theoretical and the policy debate concerning some of the most fundamental issues facing modern Western societies.

**Amir Paz-Fuchs** is Programme Director for *The Social Contract Revisited* programme. As a lawyer, he worked as the head of the Centre for the Rights of the Unemployed, giving *pro bono* legal counselling to unemployed Israelis and Palestinians in matters of social security and labour rights. His doctoral thesis at Oxford has now been published under the title, *Welfare to Work: Conditional Rights in Social Policy* (Oxford University Press, 2008). Amir teaches labour law and jurisprudence at the Ono College of Law, Israel. He is currently Academic Director of a project on the limits of privatization for the Van Leer Institute in Jerusalem, and continues his *pro bono* work with several human rights organizations.

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