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What Is the Point of Equality?*

Elizabeth S. Anderson

If much recent academic work defending equality had been secretly penned by conservatives, could the results be any more embarrassing for egalitarians? Consider how much of this work leaves itself open to classic and devastating conservative criticisms. Ronald Dworkin defines equality as an “envy-free” distribution of resources.¹ This feeds the suspicion that the motive behind egalitarian policies is mere envy. Philippe Van Parijs argues that equality in conjunction with liberal neutrality among conceptions of the good requires the state to support lazy, able-bodied surfers who are unwilling to work.² This invites the charge that egalitarians support irresponsibility and encourage the slothful to be parasitic on the productive. Richard Arneson claims that equality requires that, under certain conditions, the state subsidize extremely costly religious ceremonies that its citizens feel bound to perform.³ G. A. Cohen tells us that equality requires that we compensate people for being temperamentally gloomy, or for being so incurably bored by inexpensive hobbies that they can only get fulfilling recreation from expensive diversions.⁴ These proposals bolster the objection that egalitarians are oblivious to the proper limits of state power and permit coercion of others for merely private ends. Van Parijs suggests that to fairly implement the equal right to get married, when male partners are scarce, every woman should be given

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1. Ronald Dworkin, “What Is Equality? II. Equality of Resources,” *Philosophy and Public Affairs* 10 (1981): 283–345, p. 285.

2. Philippe Van Parijs, “Why Surfers Should Be Fed: The Liberal Case for an Unconditional Basic Income,” *Philosophy and Public Affairs* 20 (1991): 101–31.

3. Richard Arneson, “Equality and Equality of Opportunity for Welfare,” in *Equality: Selected Readings*, ed. Louis Pojman and Robert Westmoreland (New York: Oxford University Press, 1997), p. 231.

4. G. A. Cohen, “On the Currency of Egalitarian Justice,” *Ethics* 99 (1989): 906–44, pp. 922–23, 930–31.

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an equal tradable share in the pool of eligible bachelors and have to bid for whole partnership rights, thus implementing a transfer of wealth from successful brides to compensate the losers in love.⁵ This supports the objection that egalitarianism, in its determination to correct perceived unfairness everywhere, invades our privacy and burdens the personal ties of love and affection that lie at the core of family life.

Those on the left have no less reason than conservatives and libertarians to be disturbed by recent trends in academic egalitarian thought. First, consider those whom recent academic egalitarians have singled out for special attention: beach bums, the lazy and irresponsible, people who can't manage to entertain themselves with simple pleasures, religious fanatics. Thomas Nagel⁶ and Gerald Cohen give us somewhat more sympathetic but also pitiable characters in taking stupid, talentless, and bitter people to be exemplary beneficiaries of egalitarian concern. What has happened to the concerns of the politically oppressed? What about inequalities of race, gender, class, and caste? Where are the victims of nationalist genocide, slavery, and ethnic subordination?

Second, the agendas defined by much recent egalitarian theorizing are too narrowly focused on the distribution of divisible, privately appropriated goods, such as income and resources, or privately enjoyed goods, such as welfare. This neglects the much broader agendas of actual egalitarian political movements. For example, gay and lesbian people seek the freedom to appear in public as who they are, without shame or fear of violence, the right to get married and enjoy benefits of marriage, to adopt and retain custody of children. The disabled have drawn attention to the ways the configuration of public spaces has excluded and marginalized them, and campaigned against demeaning stereotypes that cast them as stupid, incompetent, and pathetic. Thus, with respect to both the targets of egalitarian concern and their agendas, recent egalitarian writing seems strangely detached from existing egalitarian political movements.

What has gone wrong here? I shall argue that these problems stem from a flawed understanding of the point of equality. Recent egalitarian writing has come to be dominated by the view that the fundamental aim of equality is to compensate people for undeserved bad luck—being born with poor native endowments, bad parents, and disagreeable personalities, suffering from accidents and illness, and so forth. I shall argue that in focusing on correcting a supposed cosmic injustice, recent egalitarian writing has lost sight of the distinctively political aims of egalitarianism. The proper negative aim of egalitarian justice is not to eliminate

5. Phillippe Van Parijs, *Real Freedom for All* (Oxford: Clarendon, 1995), p. 127.

6. Thomas Nagel, "The Policy of Preference," in his *Mortal Questions* (Cambridge: Cambridge University Press, 1979), pp. 91–105.

the impact of brute luck from human affairs, but to end oppression, which by definition is socially imposed. Its proper positive aim is not to

ensure that everyone gets what they morally deserve, but to create a community in which people stand in relations of equality to others.

In this article, I will compare the implications of these two conceptions of the point of equality. The first conception, which takes the fundamental injustice to be the natural inequality in the distribution of luck, can be called “luck egalitarianism” or “equality of fortune.” I shall argue that equality of fortune fails the most fundamental test any egalitarian theory must meet: that its principles express equal respect and concern for all citizens. It fails this test in three ways. First, it excludes some citizens from enjoying the social conditions of freedom on the spurious ground that it’s their fault for losing them. It escapes this problem only at the cost of paternalism. Second, equality of fortune makes the basis for citizens’ claims on one another the fact that some are inferior to others in the worth of their lives, talents, and personal qualities. Thus, its principles express contemptuous pity for those the state stamps as sadly inferior and uphold envy as a basis for distributing goods from the lucky to the unfortunate. Such principles stigmatize the unfortunate and disrespect the fortunate by failing to show how envy can obligate them. Third, equality of fortune, in attempting to ensure that people take responsibility for their choices, makes demeaning and intrusive judgments of people’s capacities to exercise responsibility and effectively dictates to them the appropriate uses of their freedom.

The theory I shall defend can be called “democratic equality.” In seeking the construction of a community of equals, democratic equality integrates principles of distribution with the expressive demands of equal respect. Democratic equality guarantees all law-abiding citizens effective access to the social conditions of their freedom at all times. It justifies the distributions required to secure this guarantee by appealing to the obligations of citizens in a democratic state. In such a state, citizens make claims on one another in virtue of their equality, not their inferiority, to others. Because the fundamental aim of citizens in constructing a state is to secure everyone’s freedom, democratic equality’s principles of distribution neither presume to tell people how to use their opportunities nor attempt to judge how responsible people are for choices that lead to unfortunate outcomes. Instead, it avoids bankruptcy at the hands of the imprudent by limiting the range of goods provided collectively and expecting individuals to take personal responsibility for the other goods in their possession.

JUSTICE AS EQUALITY OF FORTUNE

The following passage by Richard Arneson aptly describes the conception of justice I aim to criticize: “The concern of distributive justice is to compensate individuals for misfortune. Some people are blessed with good luck, some are cursed with bad luck, and it is the responsibility of society—all of us regarded collectively—to alter the distribution of

goods and evils that arises from the jumble of lotteries that constitutes human life as we know it . . . Distributive justice stipulates that the lucky should transfer some or all of their gains due to luck to the unlucky.”⁷ This conception of justice can be traced to the work of John Rawls,⁸ and has been (I believe mistakenly) attributed to him. Equality of fortune is now one of the dominant theoretical positions among egalitarians, as evidenced by the roster of theorists who endorse it, including Richard Arneson, Gerald Cohen, Ronald Dworkin, Thomas Nagel, Eric Rakowski, and John Roemer.⁹ Philippe Van Parijs also incorporates this principle into his theory of equality of resources or assets. Luck egalitarianism relies on two moral premises: that people should be compensated for undeserved misfortunes and that the compensation should come only from that part of others’ good fortune that is undeserved.

Part of the appeal of equality of fortune comes from its apparently humanitarian impulse. When decent people see others suffer for no good reason—say, children dying from starvation—they tend to regard it as a matter of obligation that the more fortunate come to their aid. Part of its appeal comes from the force of the obviously correct claim that no one deserves their genetic endowments or other accidents of birth, such as who their parents are or where they were born. This seems to weaken claims of those blessed by their genes or social circumstances to retain all of the advantages that typically flow from such good fortune. Besides these intrinsic sources of appeal, proponents of equality of fortune have tried to build support for egalitarianism by responding to many of the formidable objections that conservatives and libertarians have made against egalitarians of the past.

Consider the following litany of objections to equality. Some critics argue that the pursuit of equality is futile. For no two people are really equal: the diversity of individuals in their talents, aims, social identities, and circumstances ensures that in achieving equality in some domain, one will inevitably create inequalities in others.¹⁰ Give people the same amount of money and the prudent will get more happiness from it than the imprudent. Recent egalitarians have effectively responded to these charges by paying close attention to the problem of defining the proper

7. Richard Arneson, “Rawls, Responsibility, and Distributive Justice,” in *Justice, Political Liberalism, and Utilitarianism: Themes from Harsanyi*, ed. Maurice Salles and John A. Weymark (Cambridge: Cambridge University Press, in press).

8. John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), pp. 100–104.

9. Thomas Nagel, *Equality and Partiality* (New York: Oxford University Press, 1991), p. 71; Eric Rakowski, *Equal Justice* (New York: Oxford University Press, 1991); John Roemer, “A Pragmatic Theory of Responsibility for the Egalitarian Planner,” in his *Egalitarian Perspectives* (Cambridge: Cambridge University Press, 1994), pp. 179–80.

10. Friedrich August von Hayek, *The Constitution of Liberty* (Chicago: University of Chicago Press, 1960), p. 87.

space in which equality is desirable. Equality is a viable goal once the space of egalitarian concern is defined and the resulting inequalities in other domains are shown to be acceptable. Other critics charge that the quest for equality is wasteful because it would rather throw away goods that can't be evenly divided than let some have more than others.¹¹ What's worse, it may call for leveling down people's talents when all cannot be lifted to the same high standards.¹² Recent egalitarians adopt a leximin criterion of equality, permitting inequalities as long as they benefit, or, more permissively, don't harm the worst off.¹³ So they don't care much about income disparities among the very prosperous. Many proponents of equality of fortune also accept a strong principle of self-ownership, and so deplore interference with people's choices to develop their talents or forced appropriation of those talents.¹⁴

Luck egalitarians have been most responsive to criticisms of equality based on ideals of desert, responsibility, and markets. Critics of equality object that egalitarians take goods away from the deserving.¹⁵ Proponents of equality of fortune reply that they take from the fortunate only that portion of their advantages that everyone acknowledges is undeserved. On the receiving side, the critics protest that egalitarianism undermines personal responsibility by guaranteeing outcomes independent of people's personal choices.¹⁶ In response, luck egalitarians have moved from an equality of outcome to an equality of opportunity conception of justice: they ask only that people start off with equal opportunities to achieve welfare or access to advantage, or that they start off with an equal share of resources.¹⁷ But they accept the justice of whatever inequalities result from adults' voluntary choices. All place great stress on the distinction between the outcomes for which an individual is responsible—that is, those that result from her voluntary choices—and the outcomes for which she is not responsible—good or bad outcomes that occur independent of her choice or of what she could have reasonably foreseen. Luck egalitarians dub this the distinction between “option luck” and “brute luck.”¹⁸

11. Joseph Raz, *The Morality of Freedom* (Oxford: Clarendon, 1986), p. 227.

12. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic, 1974), p. 229.

13. G. A. Cohen, “Incentives, Inequality, and Community,” in *Equal Freedom*, ed. Stephen Darwall (Ann Arbor: University of Michigan Press, 1995), p. 335; Van Parijs, *Real Freedom for All*, p. 5.

14. Arneson, “Equality and Equality of Opportunity for Welfare,” p. 230; Dworkin, “Equality of Resources,” pp. 311–12; Rakowski, p. 2; Van Parijs, *Real Freedom for All*, p. 25.

15. P. T. Bauer, *Equality, the Third World, and Economic Delusion* (Cambridge, Mass.: Harvard University Press, 1981).

16. Lawrence Mead, *Beyond Entitlement: The Social Obligations of Citizenship* (New York: Free Press, 1986).

17. Arneson, “Equality and Equality of Opportunity for Welfare,” p. 235.

18. Dworkin, “Equality of Resources,” p. 293.

The resulting theories of equality of fortune thus share a common core: a hybrid of capitalism and the welfare state. For the outcomes for which individuals are held responsible, luck egalitarians prescribe rugged individualism: let the distribution of goods be governed by capitalist markets and other voluntary agreements.¹⁹ This reliance on markets responds to the objection that egalitarianism does not appreciate the virtues of markets as efficient allocative mechanisms and as spaces for the exercise of freedom.²⁰ For the outcomes determined by brute luck, equality of fortune prescribes that all good fortune be equally shared and that all risks be pooled. "Good fortune" means, primarily, unproduced assets such as unimproved land, natural resources, and the income attributable to native endowments of talent. Some theorists would also include the welfare opportunities attributable to possession of unchosen favorable mental and physical traits. "Risks" mean any prospects that reduce one's welfare or resources. Luck egalitarians thus view the welfare state as a giant insurance company that insures its citizens against all forms of bad brute luck. Taxes for redistributive purposes are the moral equivalent of insurance premiums against bad luck. Welfare payments compensate people against losses traceable to bad brute luck, just like insurance policies do.

Ronald Dworkin has articulated this insurance analogy most elaborately.²¹ He argues that justice demands that the state compensate each individual for whatever brute risks they would have insured themselves against, on the assumption that all were equally likely to suffer from the risk. The state steps in to provide social insurance when private insurance for a risk is not available to all on equal and affordable terms. Where such private insurance is available, brute luck is automatically converted into option luck, for society can hold individuals responsible for purchasing insurance on their own behalf.²² In its pure form, luck egalitarianism would insist that if individuals imprudently fail to do so, no demand of justice requires society to bail them out. Most luck egalitarians recoil from this thought, however, and thus justify mandatory insurance, or other restrictions on individuals' liberty to squander their share of good fortune, on paternalistic grounds.²³

19. Cohen is the only prominent luck egalitarian to regard society's reliance on capitalist markets as an unfortunate if, in the foreseeable future, necessary compromise with justice, rather than as a vital instrument of just allocation. See Cohen, "Incentives, Inequality, and Community," p. 395. John Roemer, *Egalitarian Perspectives* (Cambridge: Cambridge University Press, 1994), supports a complex version of market socialism on distributive grounds, but these grounds do not appear sufficient to demonstrate the superiority of market socialism to, say, Van Parijs's version of capitalism.

20. See Hayek.

21. Dworkin, "Equality of Resources."

22. Rakowski, pp. 80–81.

23. Arneson, "Equality and Equality of Opportunity for Welfare," p. 239; Dworkin, "Equality of Resources," p. 295; Rakowski, p. 76.

Luck egalitarians disagree with one another primarily over the space in which they advocate equality. Should egalitarians seek equality of resources or assets (Dworkin, Rakowski, Roemer), real freedom—that is, legal rights plus the means to achieve one’s ends (Van Parijs), equal opportunity for welfare (Arneson), or equal access to advantage—a mixed bag of internal capabilities, opportunities for welfare, and resources (Cohen, Nagel)? This looks like a wide diversity of views, but the central disagreement among them separates luck egalitarians into two camps: one which accepts equality of welfare as a legitimate (if not the only) object of egalitarian concern (Arneson, Cohen, Roemer, probably Nagel), and one which only equalizes resources (Dworkin, Rakowski, Van Parijs). All parties accept an analysis of an individual’s welfare in terms of the satisfaction of her informed preferences. The role of individual preferences in equality of fortune shall be a central object of my critique, so it pays to consider these differences.

Should egalitarians care whether people have equal opportunities for welfare, or only that their share of resources be equal? Resource egalitarians object to taking welfare as an equalisandum because of the problem of expensive tastes.²⁴ Some people—spoiled brats, snobs, sybarites—have preferences that are expensive to satisfy. It takes a lot more resources to satisfy them to the same degree that a modest, self-controlled person can be satisfied. If equalizing welfare or opportunities for welfare were the object of equality, then the satisfaction of self-controlled people would be held hostage to the self-indulgent. This seems unfair. Resource egalitarians argue, therefore, that people should be entitled to equal resources, but be held responsible for developing their tastes so that they can live satisfactorily within their means.

Against this view, those who believe welfare is a legitimate space of egalitarian concern offer three arguments. One is that people value resources for the welfare they bring. Shouldn’t egalitarians care about what ultimately matters to people, rather than focusing on merely instrumental goods?²⁵ Second, they argue that resource egalitarians unfairly hold people responsible for all of their preferences and for the costs of satisfying them. Although some preferences are voluntarily cultivated by individuals, many others are shaped by genetic and environmental influences beyond their control and are highly resistant to deliberate change. Moreover, an individual may not be responsible for the fact that satisfying them is so expensive. For example, an unforeseeable event may cause a dramatic shortage of a once abundant means of satisfying some taste, and thereby escalate its price. Welfarists argue that it is unfair, and inconsistent with the basic premise of luck egalitarianism, to hold people

24. Ronald Dworkin, “What Is Equality? I. Equality of Welfare,” *Philosophy and Public Affairs* 10 (1981): 228–40.

25. Arneson, “Equality and Equality of Opportunity for Welfare,” p. 237.

responsible for their involuntary, or involuntarily expensive, tastes.²⁶ Third, they argue that people with handicaps are entitled to more resources (medical treatment, guide dogs, etc.) than others, on account of their handicap, and that resource egalitarians can't accommodate this intuition. This is because being handicapped is analytically equivalent to having preferences that are involuntarily expensive to satisfy. The preference for mobility may be the same between an ambulatory and a paraplegic person, but the cost of satisfying the latter's preference is much higher, although not by the choice of the paraplegic person. The paraplegic has an involuntarily expensive taste for mobility. If resource egalitarians accept the liberal requirement that theories of justice must be neutral among competing conceptions of the good, they cannot discriminate between involuntarily expensive tastes for mobility on the part of the handicapped and involuntarily expensive tastes for rare champagne on the part of gourmets.²⁷

I shall consider the first and third defenses of welfarism later in this article. The second defense is open to the following reply by resource egalitarians. Justice demands that the claims that people are entitled to make on others should be sensitive not only to the benefits expected on the part of the claimants but to the burdens these claims place on others. These burdens are measured by the opportunity costs of the resources devoted to meeting them, which are a function of the preferences of others for the same resources. For egalitarian purposes, the value of a bundle of external resources should thus be determined not by how much welfare the owner can get from it, but by the price it would fetch in a perfectly competitive market if everyone could bid for it and all enjoyed the same monetary assets.²⁸

The importance of this reply is that it shows how even resource egalitarians give subjective preferences a central role to play in the measurement of equality. For the value of resources is measured by the market prices they would command in a hypothetical auction, and these prices are a function of everyone's subjective preferences for those resources. Everyone is said to have an equal bundle of resources when the distribution of resources is envy-free: no one prefers someone else's bundle of resources to their own. Resource egalitarians agree that unproduced external resources should be distributed equally in this envy-free sense and that such a distribution is identical to what would be achieved in a perfectly competitive auction open to everyone, if everyone had equal information, talents, bidding skills, and cash available for bidding.²⁹ The difference between resource egalitarians and welfare egalitarians thus does

26. *Ibid.*, pp. 230–31; Cohen, "On the Currency of Egalitarian Justice," pp. 522–23.

27. Richard Arneson, "Liberalism, Distributive Subjectivism, and Equal Opportunity for Welfare," *Philosophy and Public Affairs* 19 (1990): 158–94, pp. 185–87, 190–91.

28. Dworkin, "Equality of Resources," pp. 285–89.

29. *Ibid.*, 285–89; Rakowski, p. 69; Van Parijs, *Real Freedom for All*, p. 51.

not consist in whether the measure of equality is based on subjective preferences. They differ only in that for welfare egalitarians, the claims a person makes are dependent on her tastes, whereas for resource egalitarians, they are a function of everyone's tastes.

The different conceptions of equality of fortune differ in many details which I cannot cover here. I have sketched what I take to be the crucial differences among them. My aim, however, has been to identify the features these conceptions of justice share, for I want to show that these features reflect a fundamentally flawed conception of justice. In the next two sections, I shall present a series of cases in which luck egalitarianism generates injustice. Not every version of equality of fortune is vulnerable to each counterexample; but each version is vulnerable to one or more counterexamples in each section.

THE VICTIMS OF BAD OPTION LUCK

The state, says Ronald Dworkin, should treat each of its citizens with equal respect and concern.³⁰ Virtually all egalitarians accept this formula, but rarely have they analyzed it. Instead, they invoke the formula, then propose their favored principle of egalitarian distribution as an interpretation of it, without providing an argument proving that their principle really does express equal respect and concern for all citizens. In this section, I will argue that the reasons luck egalitarians offer for refusing to come to the aid of the victims of bad option luck express a failure to treat these unfortunates with equal respect and concern. In the next section, I will argue that the reasons luck egalitarians offer for coming to the aid of the victims of bad brute luck express disrespect for them.

Luck egalitarians say that, assuming everyone had equal opportunity to run a particular risk, any outcomes due to voluntary choices whose consequences could reasonably be foreseen by the agent should be born or enjoyed by the agent. The inequalities they generate neither give rise to redistributive claims on others if the outcome is bad, nor are subject to redistributive taxation if the outcome is good.³¹ This, at least, is the doctrine in its hard-line form. Let us start with Rakowski's version of equality of fortune, since his sticks most closely to the hard line.

Consider an uninsured driver who negligently makes an illegal turn that causes an accident with another car. Witnesses call the police, reporting who is at fault; the police transmit this information to emergency medical technicians. When they arrive at the scene and find that the driver at fault is uninsured, they leave him to die by the side of the road. According to Rakowski's doctrine, this action is just, for they have no obligation to give him emergency care. No doubt, there are sound policy

30. Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1977), pp. 272–73.

31. Rakowski, pp. 74–75.

reasons for not making snap judgments of personal responsibility at the scene of an emergency. The best policy is to rescue everyone and sort questions of fault out later. But this is of no help to the luck egalitarian. There is the uninsured driver, hooked up to a respirator, fighting for his life. A judicial hearing has found him at fault for the accident. According to Rakowski, the faulty driver has no claim of justice to continued medical care. Call this the problem of *abandonment of negligent victims*.

If the faulty driver survives, but is disabled as a result, society has no obligation to accommodate his disability. Arneson joins Rakowski on this point.³² It follows that the post office must let the guide dogs of the congenitally blind guide their owners through the building, but it can with justice turn away the guide dogs of faulty drivers who lost their sight in a car accident. No doubt it would be too costly for the state to administer such a discriminatory system. But this administrative consideration is irrelevant to the question of whether luck egalitarianism identifies the right standard of what *justice* requires. Call this the problem of *discrimination among the disabled*.

Luck egalitarians abandon even prudent people to their fates when the risks they run turn sour. "If a citizen of a large and geographically diverse nation like the United States builds his house in a flood plain, or near the San Andreas fault, or in the heart of tornado country, then the risk of flood, earthquake, or crushing winds is one he chooses to bear, since those risks could be all but eliminated by living elsewhere."³³ We must not forget the threat of hurricanes devastating the Gulf and East Coasts. Shall all Americans be expected to crowd into Utah, say, to be entitled to federal disaster relief?³⁴ Rakowski's view effectively limits disaster relief to only those citizens who reside in certain portions of the country. Call this the problem of *geographical discrimination among citizens*.

Consider next the case of workers in dangerous occupations. Police officers, firefighters, members of the armed forces, farmers, fishers, and miners suffer from significantly higher than average risks of injury and death at work. But these are "exemplary instances of option luck" and hence can generate no claims to publicly subsidized medical care or aid to dependents if an accident occurs.³⁵ Rakowski would have to allow that people *drafted* into the armed forces would be entitled to veterans' disability payments. However, his doctrine implies that patri-

32. Arneson, "Liberalism, Distributive Subjectivism, and Equal Opportunity for Welfare," p. 187.

33. Rakowski, p. 79.

34. Rakowski allows that, in areas that suffer from no more than average risk of natural disaster, "any losses resulting from whatever risk was a necessary concomitant to the ownership of property essential to live a moderately satisfying life" would be fully compensable, "as instances of bad brute luck." But once private insurance becomes available, brute luck converts to option luck and uninsured parties are on their own again (p. 80).

35. *Ibid.*, p. 79.

otic volunteers, having run the risks of battle by choice, could justly be required to pay for their rehabilitation themselves. Call this the problem of *occupational discrimination*.

Dependent caretakers and their children face special problems under equality of fortune. Many people who care for dependents—children, the ill and infirm—command no market wage for discharging their obligations to those who cannot take care of themselves, and lack the time and flexibility to earn a decent wage. For this reason, dependent caretakers, who are almost all women, tend to be either financially dependent on a wage earner, dependent on welfare payments, or extremely poor. Women's financial dependence on a male wage earner results in their systematic vulnerability to exploitation, violence, and domination.³⁶ But Rakowski's doctrine implies that this poverty and resulting subordination is by choice and therefore generates no claims of justice on others. It is a "lifestyle," perhaps taken up from deep conviction but precisely for that reason not something that can be pursued at the expense of those who don't share their "zeal" or "belief" that one owes duties of care to family members.³⁷ If women don't want to be subject to such poverty and vulnerability, they shouldn't choose to have children.

Nor do children have any claim to assistance from anyone but their parents. From the point of view of everyone else, they are an unwelcome intrusion, who would reduce the fair shares of natural resources to which the first comers are entitled were they allowed to lay a claim to such shares independently of their claim to their parents' shares. "It is . . . unjust to declare . . . that because two people decide to have a child . . . *everyone* is required to share their resources with the new arrival, and to the same extent as its parents. With what right can two people force all the rest, through deliberate behavior rather than bad brute luck, to settle for less than their fair shares after resources have been divided justly?"³⁸ The desire to procreate is just another expensive taste, which resource egalitarians need not subsidize.

Rakowski's view is, certainly, on the harsh end among luck egalitarians. Most luck egalitarians would consider the time at which a person enters society as irrelevant to their claim to their fair share of the bounties of nature. Children are not responsible either for their parents' lack of wealth or for their parents' decision to reproduce. Thus it is a matter of bad brute luck, requiring compensation, if their parents lack the means to give them their fair share. But the women who devote themselves to caring for children are another story. Since women are not on average less talented than men, but choose to develop and exercise

36. Susan Moller Okin, *Justice, Gender, and the Family* (New York: Basic, 1989), pp. 134–69.

37. Rakowski, p. 109.

38. *Ibid.*, p. 153.

talents that command little or no market wage, it is not clear whether luck egalitarians have any basis for remedying the injustices that attend their dependence on male wage earners. Call this the problem of *vulnerability of dependent caretakers*.

On Rakowski's hard-line version of equality of fortune, once people risk and lose their fair share of natural wealth, they have no claims against others to stop their free fall into misery and destitution. Equality of fortune imposes no constraints on the structure of opportunities generated by free markets. Nothing would prevent people, even those whose gambles were prudent but who suffered from bad option luck, from subjection to debt peonage, sweatshops, or other forms of exploitation. The inequalities and suffering permitted by this view are unlimited. Call these the problems of *exploitation* and the *lack of a safety net*.

Rakowski could insist that private or public insurance be made available to all to prevent such conditions. Then it would be the fault of individuals who failed to purchase such insurance that they were so destitute and vulnerable to exploitation. But justice does not permit the exploitation or abandonment of anyone, even the imprudent. Moreover, a person's failure to keep up with all of the insurance payments needed to protect herself against innumerable catastrophes need not reflect imprudence. If her option luck is particularly bad, she may not be able to pay for all that insurance and still provide for her family's basic needs. Under these conditions, it is perfectly rational, and indeed morally obligatory, to serve the family's urgent needs over its speculative needs—for example, to drop some insurance in order to pay for food. Call this the problem of the *abandonment of the prudent*.

Rakowski's version of equality of fortune treats the victims of bad option luck most harshly. His distributive rules are considerably more harsh than even those found in the United States, which does not ration health care on the basis of fault, protects all the disabled from discrimination, provides federal disaster relief to all residents of the country, requires employers to provide worker disability plans, provides veterans' benefits and at least temporary welfare for impoverished families with dependent children, requires minimum wages, and forbids slavery, debt peonage, and at least some kinds of sweatshop exploitation. Do other luck egalitarians do a better job than Rakowski in shielding the victims of bad option luck from the worst fates? Dworkin's theory offers no better protection than Rakowski's against predatory practices in the free market, once people have lost their fair share of resources through bad option luck. Nor would it help dependent caretakers, or people who are disabled as a result of choices they made.

Van Parijs would guarantee everyone the maximum unconditional basic income that could be sustained in a society. If this income were significant, it would certainly help dependent caretakers, the disabled

and involuntarily unemployed, and anyone else down on their luck.³⁹ However, Van Parijs concedes that the size of this income might be very low, even zero.⁴⁰ The chief difficulty with his proposal is that his basic income would be awarded to all unconditionally, regardless of whether they were able or performing socially useful work. Lazy, able-bodied surfers would be just as entitled to that income as dependent caretakers or the disabled. In order to offer an incentive for people to work and thereby provide the tax revenue to fund a basic income, there would have to be a substantial gap between the basic income and the wage provided by the lowest paid unskilled job. Such a low basic income might be satisfactory to footloose beach bums, who might be happy camping on the beach. But it would hardly be enough for struggling parents, the involuntarily unemployed, or the disabled, who have special expenses. Were the guaranteed basic income tied to a requirement that able-bodied people engage in socially useful work, it could be raised to a much higher level. Van Parijs's proposal effectively indulges the tastes of the lazy and irresponsible at the expense of others who need assistance.⁴¹

Arneson proposes that everyone be guaranteed equal opportunity for welfare. Upon reaching adulthood, everyone should face a range of choices such that the sum of expected utilities for each equally accessible life history is equal to the sum of utilities that any other person faces in their possible life histories. Once these opportunities are guaranteed, people's fates are determined by their choices and option luck.⁴² Like Dworkin's and Rakowski's theories, Arneson's theory guarantees equality, indeed even a minimally decent life, only *ex ante*, before one has made any adult choices. This is small comfort to the person who led a cautious and prudent life, but still fell victim to extremely bad option luck.⁴³ Arneson might reply by incorporating into people's prospective decision-trees their preferences for facing (or not having to face) certain options at each moment in time. However, this could undermine personal responsibility altogether by allowing people to rule out even minor losses consequent upon whatever choices they may make.⁴⁴ In addition, we have seen that Arneson would not require accommodation of people who are disabled by their own fault. Dependent caretakers also would not get much help from Arneson. As Roemer says, explaining Arneson's and Cohen's position, "Society should not compensate people for their

39. Van Parijs, "Why Surfers Should Be Fed," p. 131.

40. Van Parijs, *Real Freedom for All*, p. 76.

41. Brian M. Barry, "Equality, Yes, Basic Income, No," in *Arguing for Basic Income*, ed. Philippe Van Parijs (New York: Verso, 1992), p. 138.

42. Arneson, "Equality and Equality of Opportunity for Welfare."

43. John Roemer, *Theories of Distributive Justice* (Cambridge, Mass.: Harvard University Press, 1996), p. 270.

44. Rakowski, p. 47.

choice of [a more altruistic, self-sacrificing] path because it owes people no compensation on account of their moral views.”⁴⁵ People who want to avoid the vulnerabilities that attend dependent caretaking must therefore decide to care only for themselves. This is egalitarianism for egoists alone. One wonders how children and the infirm are to be cared for, with a system that offers so little protection to their caretakers against poverty and domination.

Cohen’s and Roemer’s theories are the only ones to question the structure of opportunities generated by markets in response to people’s choices. Cohen argues that equality demands equality of access to advantage, and defines advantage to include not just welfare but freedom from exploitation or subjection to unfair bargains.⁴⁶ Roemer’s version of market socialism, in which households would share equally in the returns to capital through a universal grant, would also prevent the worst outcomes generated by *laissez faire* capitalism, such as debt peonage and sweatshop labor. However, as theorists from the marxist tradition, they focus on the exploitation of wage laborers to the exclusion of non-wage-earning dependent caretakers.⁴⁷

What do luck egalitarians say in response to these problems? None recognize the sexist implications of assimilating the performance of moral obligations to care for dependents to the class of voluntarily expensive tastes. Most are sensitive to the fact that an egalitarian view that guarantees equality only *ex ante*, before adults start making choices for themselves, and makes no provision for people after that, will in fact generate substantial inequalities in people’s fates as they lead their lives, to the point where the worst off will often be extremely badly off. They assume that the prudent will prevent such fates by taking advantage of the availability of private (or, where needed, public) insurance. All agree, then, that the chief difficulty for luck egalitarians is how to insure against the wretchedness of the imprudent.

Arneson has considered this problem most deeply within the terms of luck egalitarianism. He argues that it is sometimes unfair to hold people responsible for the degree to which they are responsible agents. The capacities needed for responsible choice—foresight, perseverance, calculative ability, strength of will, self-confidence—are partly a function of genetic endowments and partly of the good fortune of having decent parents. Thus, the imprudent are entitled to special paternalistic protection by society against their poor choices. This might involve, for example, mandatory contributions to a pension plan to provide for old age.⁴⁸ The other luck egalitarians agree that pure equality of fortune

45. Roemer, *Theories of Distributive Justice*, p. 270.

46. Cohen, “On the Currency of Egalitarian Justice,” p. 908.

47. John Roemer, “The Morality and Efficiency of Market Socialism,” *Ethics* 102 (1992): 448–64.

48. Arneson, “Equality and Equality of Opportunity for Welfare,” p. 239.

might have to be modified by a significant dose of paternalistic intervention, to save the imprudent from the worst consequences of their choices. However, in their view, *only* paternalistic reasons can justify making mandatory the various universal social insurance programs characteristic of modern welfare states: social security, health and disability insurance, disaster relief, and so forth. *Only* paternalistic reasons justify meting out individuals' basic income grant on a monthly basis, rather than in a lump sum upon coming of age.⁴⁹ Call this the problem of *paternalism*.

Let us pause to consider whether these policies express respect for citizens. Luck egalitarians tell the victims of very bad option luck that, having chosen to run their risks, they deserve their misfortune, so society need not secure them against destitution and exploitation. Yet a society that permits its members to sink to such depths, due to entirely reasonable (and, for dependent caretakers, even obligatory) choices, hardly treats them with respect. Even the imprudent don't deserve such fates. Luck egalitarians do entertain modifications of their harsh system, but only on paternalistic grounds. In adopting mandatory social insurance schemes for the reasons they offer, luck egalitarians are effectively telling citizens that they are too stupid to run their lives, so Big Brother will have to tell them what to do. It is hard to see how citizens could be expected to accept such reasoning and still retain their self-respect.

Against these objections, one might argue as follows.⁵⁰ First, given their concern that no one suffer undeserved misfortune, luck egalitarians ought to be able to argue that some outcomes are so awful that no one deserves to suffer them, not even the imprudent. Negligent drivers don't deserve to die from a denial of health care. Second, paternalism can be an honest and compelling rationale for legislation. For example, it is no great insult for a state to pass laws requiring the use of seat belts, so long as the law is democratically passed. Self-respecting people can endorse some paternalistic laws as simply protecting themselves from their own thoughtlessness.

I accept the spirit of these arguments. But they suggest desiderata for egalitarian theory that move us away from equality of fortune. The first argument points to the need to distinguish between goods that society guarantees to all citizens and goods that may be entirely lost without generating any claims to compensation. This is not simply a matter of defining minimum guaranteed aggregate levels of welfare or property endowments. A negligent driver might suffer far more from the death of

49. Van Parijs, *Real Freedom for All*, p. 47; Richard Arneson, "Is Socialism Dead? A Comment on Market Socialism and Basic Income Capitalism," *Ethics* 102 (1992): 485–511, p. 510.

50. Amy Gutmann made these points in her public comments on an earlier version of this article, delivered at the thirty-first annual Philosophy Colloquium at Chapel Hill, N.C.

her son in a car accident she caused than from denial of rehabilitative surgery to her injured leg. Society owes her no compensation for the worse suffering, even if it brings her below some threshold of welfare, but ought not to deprive her of health care, even if she would not drop below that level without it. Egalitarians must try to secure certain *kinds* of goods for people. This thought goes against the spirit of equality of fortune, which aims for comprehensive indemnification of people against undeserved losses of all kinds within the general space of equality they specify (welfare or resources). Arneson's argument for the indistinguishability of the needs of the handicapped from the desires of anyone with involuntarily expensive tastes illustrates this.

The second argument raises the question of how to justify liberty-limiting laws that aim to provide benefits to those whose liberty is limited. Seat belt laws are fine, but represent an insignificant case, because the liberty they limit is trifling. When the liberty being limited is significant, as in the case of mandatory participation in a social insurance scheme, citizens are owed a more dignified explanation than that Big Brother knows better than they do where their interests lie. It is a desideratum of egalitarian theory that it be capable of supplying such an explanation.

THE VICTIMS OF BAD BRUTE LUCK

Consider now the victims of bad brute luck: those born with serious genetic or congenital handicaps, or who become significantly disabled due to childhood neglect, illness, or accidents for which they cannot be held responsible. Luck egalitarians assimilate to this category those who have little native talent and those whose talents do not command much market value. Van Parijs would also include in this group anyone who is dissatisfied with their other native endowments, whether of nonpecuniary talents, beauty and other physical features, or of agreeable personality traits.⁵¹ Cohen and Arneson would add, also, those people who have involuntarily expensive tastes or chronically depressed psychic states.⁵² Equality of fortune says that such victims of bad brute luck are entitled to compensation for their defective internal assets and internal states.

Where luck egalitarians tend to be either harsh or paternalistic toward the victims of bad option luck, they seem compassionate toward the victims of bad brute luck. The chief appeal of equality of fortune to those of an egalitarian bent lies in this appearance of humanitarianism. Equality of fortune says that no one should have to suffer from undeserved misfortune and that priority in distribution should be given to those who are blamelessly worst off. I shall argue here that the appearance of humanitarianism is belied by the doctrine of equality of fortune in two ways.

51. Van Parijs, *Real Freedom for All*, p. 68.

52. Arneson, "Liberalism, Distributive Subjectivism, and Equal Opportunity for Welfare"; Cohen, "On the Currency of Egalitarian Justice," pp. 930–31.

First, its rules for determining who shall be included among the blamelessly worst off fail to express concern for everyone who is worst off. Second, the reasons it offers for granting aid to the worst off are deeply disrespectful of those to whom the aid is directed.

When is a deficit in internal assets so bad as to require compensation? One doesn't want anyone with any trivial personal dissatisfaction, such as having bad hair, to be entitled to compensation. Dworkin argues that the people who should be compensated for defects in internal assets are those who would have purchased insurance against their having the defect if they were behind a veil of ignorance and did not know whether they would have that defect. It follows, uncharitably, that people who have an extremely rare but severe disability could be ineligible for special aid just because the chances of anyone suffering from it were so minute that it was *ex ante* rational for people not to purchase insurance against it. The proposal discriminates between people with rare and common disabilities.⁵³ In addition, Dworkin's proposal would treat two people with the same disability differently, depending on their tastes.⁵⁴ A risk-averse blind person could be entitled to aid denied to a risk-loving blind person, on the grounds that the latter probably would not have insured against being blind, given the probabilities. These are further cases of discrimination among the disabled.

Dworkin's criterion of compensable disability, since it depends on people's individualized preferences for insurance, also falls prey to the problem of *expensive tastes*.⁵⁵ Suppose a vain person would get hysterical over the prospect of being genetically determined to have a hooked nose. A person's anxiety over this prospect might be enough to make it rational for her to take out insurance for plastic surgery before knowing how her nose would turn out. It is hard to see how such a preference could create an obligation on the part of society to pay for her plastic surgery. Moreover, many people don't see hooked noses as such a bad thing, and many of these people have hooked noses: they would rightly feel insulted if society treating having a hooked nose as such a grievous defect that it was entitled to compensation.

To avoid being held hostage to expensive, idiosyncratic, and frivolous tastes, Van Parijs, following Ackerman,⁵⁶ has proposed that the class of people whose internal asset deficiencies are entitled to compensation be determined by the principle of *undominated diversity*. The idea is to arrive at an objective criterion of disability to which everyone would assent, given the great heterogeneity in internal assets and in tastes for them. Consider the total internal assets of person A. If there exists a

53. Rakowski, p. 99.

54. Van Parijs, *Real Freedom for All*, p. 70.

55. *Ibid.*

56. Bruce Ackerman, *Social Justice in the Liberal State* (New Haven, Conn.: Yale University Press, 1980), pp. 115–21.

person B such that *everyone* would prefer having B's total set of internal assets to having A's, then A's diversity of assets is *dominated* by B's. A is then considered so wretched that no one thinks any of his internal assets is valuable enough to make up for his internal defects to the extent of making his assets at least equal to B's. This condition seems bad enough to warrant compensation, from anyone's point of view. The amount of compensation is set to the point at which for any B, at least one person prefers A's set of internal and external assets to B's.

Against the criterion of undominated diversity, one could complain that if an odd religious sect considered the severely disabled blessed because closer to God on account of their disabilities, then none of the disabled would be entitled to special aid, even those who rejected the religion. Van Parijs finds this example far-fetched: only those who have a real appreciation of the disadvantages of having the disability, and whose preferences are intelligible to the wider public, should have their preferences count in the test. But a real case is ready to hand: most people who identify as members of the Deaf community do not believe that being Deaf is such a grievous defect that there is any hearing person whose abilities are preferable to theirs. Van Parijs bites the bullet at this point, and says that if this is so, then the deaf are not entitled to any special aid, whether they identify as part of the Deaf community or not. In their own judgment, they find their abilities to be satisfactory without the aid, so why provide it to them?⁵⁷

A similar problem afflicts welfarist egalitarian theories such as Arneson's. Cohen objects that in Arneson's view, if Tiny Tim would still be happy without his wheelchair and sullen Scrooge would be consoled by having the money it costs, then Tim should have to give up his wheelchair to Scrooge.⁵⁸ The trouble is that these theories, in relying on subjective evaluations, and in aggregating over different dimensions of well-being, allow private satisfactions to count as making up for publicly imposed disadvantages. If people find happiness in their lives despite being oppressed by others, this hardly justifies continuing the oppression. Similarly, would it be all right to compensate for natural inequalities, such as being born ugly, by means of social advantages, such as getting preferential hiring over the beautiful?⁵⁹ Call this the problem of *using private (dis)satisfaction to justify public oppression*. It suggests a further desideratum of egalitarian theory, that the form of remedy it supplies match the type of injustice it addresses.

So far I have stressed the injustices equality of fortune inflicts upon those excluded from aid. Consider now those whom equality of fortune

57. Van Parijs, *Real Freedom for All*, p. 77.

58. Cohen, "On the Currency of Egalitarian Justice," pp. 917–18.

59. Thomas Pogge, "Three Problems with Contractarian-Consequentialist Ways of Assessing Social Institutions," in *The Just Society*, ed. Ellen Frankel Paul, Fred Miller, Jr., and Jeffrey Paul (Cambridge: Cambridge University Press, 1995), pp. 247–48.

singles out as the exemplary beneficiaries of aid. Consider Thomas Nagel's view: "When racial and sexual injustice have been reduced, we shall still be left with the great injustice of the smart and the dumb, who are so differently rewarded for comparable effort. . . . Perhaps someone will discover a way to reduce the socially produced inequalities (especially the economic ones) between the intelligent and the unintelligent, the talented and the untalented, or even the beautiful and the ugly."⁶⁰ What do luck egalitarians have to say to those cursed by such defects in their internal assets? Suppose their compensation checks arrived in the mail along with a letter signed by the State Equality Board explaining the reasons for their compensation. Imagine what these letters would say.

To the disabled: Your defective native endowments or current disabilities, alas, make your life less worth living than the lives of normal people. To compensate for this misfortune, we, the able ones, will give you extra resources, enough to make the worth of living your life good enough that at least *one* person out there thinks it is comparable to someone else's life.

To the stupid and untalented: Unfortunately, other people don't value what little you have to offer in the system of production. Your talents are too meager to command much market value. Because of the misfortune that you were born so poorly endowed with talents, we productive ones will make it up to you: we'll let you share in the bounty of what we have produced with our vastly superior and highly valued abilities.

To the ugly and socially awkward: How sad that you are so repulsive to people around you that no one wants to be your friend or lifetime companion. We won't make it up to you by being your friend or your marriage partner—we have our own freedom of association to exercise—but you can console yourself in your miserable loneliness by consuming these material goods that we, the beautiful and charming ones, will provide. And who knows? Maybe you won't be such a loser in love once potential dates see how rich you are.

Could a self-respecting citizen fail to be insulted by such messages? How dare the state pass judgment on its citizens' worth as workers and lovers! Furthermore, to require citizens to display evidence of personal inferiority in order to get aid from the state is to reduce them to groveling for support. Nor is it the state's business to pass judgment on the worth of the qualities of citizens that they exercise or display in their private affairs. Even if everyone thought that A was so ugly or socially unappealing that they preferred socially attractive B's personal qualities, it is none of the state's business to attach an official stamp of recognition on such private judgments. If it is humiliating to be widely regarded by one's

60. Nagel, "The Policy of Preference," p. 105.

associates as a social clod, think how much more degrading it would be for the state to raise such private judgments to the status of publicly recognized opinions, accepted as true for purposes of administering justice. Equality of fortune *disparages the internally disadvantaged* and *raises private disdain to the status of officially recognized truth*.

Let us not think that the problem here lies only in the consequences of sending the insulting notes along with the compensatory checks. Of course, actually sending such notes would only add insult to injury. Even if such notes were not sent, general knowledge of the grounds upon which citizens laid claim to special aid would be stigmatizing. A consequentialist might therefore recommend that the State Equality Board conduct its investigations in secrecy and shroud its reasonings in euphemism and dissimulation. It is hard to see how the board could gather the information it needed to implement luck egalitarian principles without branding some of its citizens as inferior. How could one tell whether someone's state were so pitiable that everyone preferred someone else's internal assets to hers without taking a poll? Yet such objections to government house utilitarianism, however formidable, do not get to the core of the problem with equality of fortune.

Whether it communicates its reasons for aid or not, equality of fortune bases its distributive principles on considerations that can only express *pity* for its supposed beneficiaries. Look back at the reasons offered for distributing extra resources to the handicapped and those low in talent or personal appeal: in each case, it is some relative deficiency or defect in their persons or their lives. People lay claim to the resources of egalitarian redistribution in virtue of their inferiority to others, not in virtue of their equality to others. Pity is incompatible with respecting the dignity of others. To base rewards on considerations of pity is to fail to follow principles of distributive justice that express equal respect for all citizens. Luck egalitarianism therefore violates the fundamental expressive requirement of any sound egalitarian theory.⁶¹

One might argue that the concern expressed by equality of fortune is simple humanitarian compassion, not contemptuous pity. We must be clear about the difference. Compassion is based on an awareness of suffering, an intrinsic condition of a person. Pity, by contrast, is aroused by a comparison of the observer's condition with the condition of the object

61. This is a concern with what attitudes the theory expresses, not with the consequences of expressing those attitudes. Self-respecting citizens would reject a society based on principles that treat them as inferiors, even if the principles are kept secret. Government house utilitarianism is thus no solution. Nor is it a satisfactory defense of equality of fortune to recommend that society adopt more generous distributive policies than the theory requires so as to avoid insulting people. The question is not whether to deviate from what justice requires so as to avoid bad consequences. It is whether a theory of justice based on contemptuous pity for its supposed beneficiaries satisfies the egalitarian requirement that justice must be founded on equal respect for persons.

of pity. Its characteristic judgment is not “she is badly off” but “she is worse off than me.” When the conditions being compared are internal states in which people take pride, pity’s thought is “she is sadly inferior to me.” Compassion and pity can both move a person to act benevolently, but only pity is condescending.

In virtue of their distinct cognitive bases, humanitarian compassion and pity motivate action on different principles. Compassion does not yield egalitarian principles of distribution: it aims to relieve suffering, not to equalize it. Once people have been relieved of suffering and neediness, compassion generates no further impetus toward equality of condition.⁶² Furthermore, compassion seeks to relieve suffering wherever it exists, without passing moral judgment on those who suffer. International humanitarian organizations such as the Red Cross offer aid to all the victims of war, including even the aggressors. By contrast, equality of fortune seeks to equalize assets even when people are not actually suffering from internal deficits, but merely get fewer advantages from them than others get from theirs. And it restricts its sympathy to those who are blamelessly disadvantaged. Equality of fortune therefore does not express compassion. It focuses not on the absolute misery of a person’s condition but on the gap between least and most fortunate. Thus, among the more fortunate who are moved by equality of fortune, it evokes the pathos of distance, a consciousness of the benefactors’ own superiority to the objects of their compassion. This is pity.

If pity is the attitude the more fortunate express toward the less fortunate when they adopt luck egalitarianism as their principle of action, what is the attitude the less fortunate express toward the more fortunate when they make claims in accordance with the theory? The resourcist luck egalitarians are explicit on this point: it is envy. Their criterion of an equal distribution of resources is an envy-free distribution: one which is such that no one wants anyone else’s bundle of resources.⁶³ The two attitudes are well-suited to each other: the most generous attitude the envied could appropriately have toward the envious is pity. While this makes equality of fortune emotionally consistent, it hardly justifies the theory. Envy’s thought is “I want what you have.” It is hard to see how such wants can generate *obligations* on the part of the envied. To even offer one’s own envy as a reason to the envied to satisfy one’s desire is profoundly disrespectful.

Luck egalitarianism thus fails to express concern for those excluded from aid, and fails to express respect for those included among its beneficiaries as well as for those expected to pay for its benefits. It fails the most fundamental tests any egalitarian theory must meet.

62. Raz, *The Morality of Freedom*, p. 242.

63. Dworkin, “Equality of Resources,” p. 285; Rakowski, pp. 65–66; Van Parijs, *Real Freedom for All*, p. 51.

THE ILLS OF LUCK EGALITARIANISM: A DIAGNOSIS

We have seen that equality of fortune underwrites a hybrid institutional scheme: free markets, to govern the distribution of goods attributable to factors for which individuals are responsible, and the welfare state, to govern the distribution of goods attributable to factors beyond the individual's control. Equality of fortune can thus be seen as an attempt to combine the best of capitalism and socialism. Its free market aspects promote efficiency, freedom of choice, "consumers' sovereignty," and individual responsibility. Its socialist aspects give everyone a fair start in life and protect the innocent against bad brute luck. Equality of fortune could be seen as a doctrine to which socialists might naturally gravitate, after learning the lessons of the follies of comprehensive centralized state economic planning and the considerable virtues of market allocations. By incorporating a very large role for market decisions within their institutional arrangements, luck egalitarians might appear to have disarmed the traditional conservative and libertarian critiques of egalitarianism.

But the counterintuitive judgments that luck egalitarians pass on the cases discussed above suggest a more dismal judgment: equality of fortune appears to give us some of the worst aspects of capitalism and socialism. Egalitarianism ought to reflect a generous, humane, cosmopolitan vision of a society that recognizes individuals as equals in all their diversity. It should promote institutional arrangements that enable the diversity of people's talents, aspirations, roles, and cultures to benefit everyone and to be recognized as mutually beneficial. Instead, the hybrid of capitalism and socialism envisioned by luck egalitarians reflects the mean-spirited, contemptuous, parochial vision of a society that represents human diversity hierarchically, moralistically contrasting the responsible and irresponsible, the innately superior and the innately inferior, the independent and the dependent. It offers no aid to those it labels irresponsible, and humiliating aid to those it labels innately inferior. It gives us the cramped vision of the Poor Laws, where unfortunates breathe words of supplication and submit to the humiliating moral judgments of the state.

How could luck egalitarians go so wrong? Consider first the ways equality of fortune invites problems in the ways it relies on market decisions. It offers a very inadequate safety net for the victims of bad option luck. This reflects the fact that equality of fortune is essentially a "starting-gate theory": as long as people enjoy fair shares at the start of life, it does not much concern itself with the suffering and subjection generated by people's voluntary agreements in free markets.⁶⁴ The fact that these evils are the product of voluntary choices hardly justifies them: free

64. Dworkin denies that his is a "starting-gate theory," but only because he would allocate compensation for unequal talents over the course of a lifetime ("Equality of Resources," pp. 309–11).

choice within a set of options does not justify the set of options itself. In focusing on correcting the supposed injustices of nature, luck egalitarians have forgotten that the primary subject of justice is the institutional arrangements that generate people's opportunities over time.

Some luck egalitarians, most notably Dworkin, also use market decisions to provide guidance on appropriate state allocations at the start of life. The guiding idea here is that individual autonomy is protected by "consumers' sovereignty." Thus, Dworkin suggests that the market prices people actually pay for insurance against bodily injury might be used as a guide for the state's awards of compensation for people who are blamelessly injured in the same ways.⁶⁵ But actual market prices for insurance reflect two factors irrelevant to determining the compensation the state might owe to the involuntarily injured: the need to keep compensation extremely low to reduce the moral hazard for nonfatal injuries (high compensation might tempt people to risk greater injuries), and the fact that people insure only against the costs of injury that the state does not already indemnify them against (e.g., workplace disability, public accommodations for the disabled).

Dworkin's resort to the hypothetical insurance purchases of people who don't know their abilities suffers from a larger problem: he never explains why such hypothetical market choices have any relevance at all to determining what citizens owe one another. Since these choices were not, in fact, made, the failure to reflect them in state allocations violates no one's actual autonomous choices. Individuals' market choices vary according to their tastes. But what one is obligated to do for others is not, in general, determined either by one's own or even by the beneficiaries' tastes. We have seen that such taste relativity licenses discrimination against citizens with rare disabilities and against risk-loving citizens. But even if certain people are willing to take risks with themselves, it doesn't follow that they give up their claim on fellow citizens to provide them with the same social insurance benefits against *involuntarily* caused disabilities to which their risk-averse fellows are entitled. Moreover, even if everyone would rationally purchase some insurance for themselves—say, for plastic surgery to correct minor defects in appearance—this fact is hardly sufficient to generate an *obligation* for society to pay for it. If everyone wants it, they could of course vote to include plastic surgery in a national health-care plan. But if they voted not to include it and leave everyone to purchase such insurance from their private resources, it is hard to see how any citizen could have a complaint of justice against the decision of the voters. It is one thing for everyone to decide that something is worth purchasing for their private consumption, quite another to decide that citizens acting collectively are obligated to socialize the costs of providing it to everyone. I conclude that *people's real or hypothetical market choices offer no guidance whatsoever to what citizens are obligated to pro-*

65. *Ibid.*, p. 299.

vide to one another on a collective basis. This suggests another desideratum for egalitarian theory: it must supply principles for collective willing—that is, for what citizens should will together, not just for what each can will individually.

Now consider the ways luck egalitarianism invites problems in the ways it relies on socialist principles. Equality of fortune tells us that no one should suffer from undeserved misfortune. To implement its principles, the state must make judgments of moral desert or responsibility in assigning outcomes to brute or option luck. To determine whether a smoker who picked up the habit while a soldier shall get state-funded medical treatment for lung cancer, other people must judge whether he should have shown stronger resolve against smoking, given the social pressures he faced from peers and advertisers while serving in the army, the anxiety-reducing benefits of smoking in the highly stressful situation of combat, the opportunities he was offered to overcome his habit after the war, and so forth.⁶⁶

F. A. Hayek has identified the central problem with such merit-based systems of reward: in order to lay a claim to some important benefit, people are forced to obey other people's judgments of what uses they should have made of their opportunities, rather than following their own judgments.⁶⁷ Such a system requires the state to make grossly intrusive, moralizing judgments of individual's choices. Equality of fortune thus *interferes with citizens' privacy and liberty*. Furthermore, as Arneson and Roemer make clear, such judgments require the state to determine how much responsibility each citizen was capable of exercising in each case. But it is disrespectful for the state to pass judgment on how much people are responsible for their expensive tastes or their imprudent choices.⁶⁸

66. What if someone runs a health risk that only increases her already significant chance of illness? Let scientific studies apportion the risks of illness due to involuntary causes (e.g., faulty genes) and voluntary causes (e.g. eating a fatty diet), and discount the resources contributed to care for the ill by the proportion to which their risk was one they ran voluntarily (Rakowski, p. 75). Roemer accepts this logic, but insists that people's responsibility for their conditions should be discounted by unchosen sociological as well as genetic influences. Thus, if two people with lung cancer smoke the median number of years for their sociological type (determined by sex, race, class, occupation, parents' smoking habits, etc.), then they are entitled, other things equal, to equal indemnification against the costs of their cancer, even if one smoked for eight years and the other for twenty-five years (Roemer, "A Pragmatic Theory of Responsibility for the Egalitarian Planner," p. 183). His intuition is that people who exercise comparable degrees of responsibility, adjusted to make up for the different social influences on their behavior, should be entitled to equal degrees of compensation against the costs of their behavior. Roemer does not consider the expressive implications of the state assuming that different classes of citizens should be held to different standards of responsible behavior.

67. Hayek, pp. 95–97.

68. Christine Korsgaard, "Commentary on G. A. Cohen and Amartya Sen," in *The Quality of Life*, ed. Martha Nussbaum and Amartya Sen (Oxford: Clarendon, 1993), p. 61.

Furthermore, equality of fortune would not really promote personal responsibility in the way that it claims. To be sure, it denies compensatory rewards to people who are judged responsible for their bad fortune. But this gives individuals an *incentive to deny personal responsibility for their problems*, and to represent their situation as one in which they were helpless before uncontrollable forces. Better social conditions for fostering the spread of a passive, whining victim's mentality could hardly be constructed. They allow citizens to lay claim to such goods as basic medical benefits only at the cost of making an undignified spectacle of themselves. Moreover, it is easier to construct a sob story recounting one's undeserved misfortunes than it is to engage in productive work that is valued by others. In giving people an incentive to channel their self-seeking energies in the former rather than the latter direction, equality of fortune generates a huge *deadweight loss* to society.

In promoting such an unhappy combination of capitalist and socialist institutions, equality of fortune succeeds not in establishing a society of equals, but only in reproducing the stigmatizing regime of the Poor Laws, in which citizens lay claim to aid from the state only on condition that they accept inferior status. Poor Law thinking pervades the reasoning of luck egalitarians. This is most evident in their distinction between the deserving and the undeserving disadvantaged—between those who are not responsible for their misfortune and those who are. Like the Poor Law regime, it abandons those disadvantaged through their own choices to their miserable fates, and defines the deserving disadvantaged in terms of their innate inferiority of talent, intelligence, ability, or social appeal.

Moreover, in classifying those who devote the bulk of their energies to caring for dependents with those who have a voluntarily expensive taste for charity, equality of fortune *assumes atomistic egoism and self-sufficiency as the norm for human beings*. It promises equality only to those who tend only to their own self-interest, who avoid entering into relationships with others that might generate obligations to engage in dependent caretaking, and who therefore can manage to take care of themselves though their own wage earning, without having to depend on market-generated income provided by anyone else. But such a norm for human beings cannot be universalized. Long periods of dependency on others' caretaking are a normal and inevitable part of everyone's life cycle. It is therefore an indispensable condition of the continuation of human society that many adults devote a great deal of their time to such caretaking, however poorly such work may be remunerated in the market. And this, in turn, entails some dependency of caretakers on income generated by others. Equality of fortune, in representing the dependency of caretakers as voluntary deviance from a falsely universalized androcentric norm, ends up justifying the subordination of women to male wage earners and the stigmatization of dependent caretaking relative to self-sufficient wage earning. A more perfect reproduction of Poor

Law thinking, including its sexism and its conflation of responsible work with market wage-earning, could hardly be imagined.⁶⁹

WHAT IS THE POINT OF EQUALITY?

There must be a better way to conceive of the point of equality. To do so, it is helpful to recall how egalitarian political movements have historically conceived of their aims. What have been the inegalitarian systems that they have opposed? Inegalitarianism asserted the justice or necessity of basing social order on a hierarchy of human beings, ranked according to intrinsic worth. Inequality referred not so much to distributions of goods as to relations between superior and inferior persons. Those of superior rank were thought entitled to inflict violence on inferiors, to exclude or segregate them from social life, to treat them with contempt, to force them to obey, work without reciprocation, and abandon their own cultures. These are what Iris Young has identified as the faces of oppression: marginalization, status hierarchy, domination, exploitation, and cultural imperialism.⁷⁰ Such unequal social relations generate, and were thought to justify, inequalities in the distribution of freedoms, resources, and welfare. This is the core of inegalitarian ideologies of racism, sexism, nationalism, caste, class, and eugenics.

Egalitarian political movements oppose such hierarchies. They assert the equal moral worth of persons. This assertion does not mean that all have equal virtue or talent. Negatively, the claim repudiates distinctions of moral worth based on birth or social identity—on family membership, inherited social status, race, ethnicity, gender, or genes. There are no natural slaves, plebeians, or aristocrats. Positively, the claim asserts that all competent adults are equally moral agents: everyone equally has the power to develop and exercise moral responsibility, to cooperate with others according to principles of justice, to shape and fulfill a conception of their good.⁷¹

69. Iris Marion Young, "Mothers, Citizenship, and Independence: A Critique of Pure Family Values," *Ethics* 105 (1995): 535–56, makes a similar critique, unconnected to luck egalitarianism, of contemporary welfare reform movements. Van Parijs's version of luck egalitarianism might seem to escape from Poor Law thinking because it promises an unconditional income to everyone, regardless of whether they work for a wage. However, as noted above, even his view implicitly takes the tastes of the egoistic adult without caretaking responsibilities as the norm. For the gap between the minimum wage and the unconditional income will be set by the incentives needed to bring the marginal footloose egoist into the labor market. The fate of non-wage-earning dependent caretakers will thus depend on the labor/leisure trade-offs of beach bums, rather than on their own needs. The more attached to leisure the beach bum is, the lower must the unconditional income be.

70. Iris Marion Young, *Justice and the Politics of Difference* (Princeton, N.J.: Princeton University Press, 1990).

71. John Rawls, "Kantian Constructivism in Moral Theory," *Journal of Philosophy* 77 (1980): 515–72, p. 525. The use of 'equally' to modify 'moral agents' might seem otiose: why not just say that all competent adults are moral agents? Egalitarians deny a hierarchy of types of moral agency—e.g., any theory that says there is a lower type of human only

Egalitarians base claims to social and political equality on the fact of universal moral equality. These claims also have a negative and a positive aspect. Negatively, egalitarians seek to abolish oppression—that is, forms of social relationship by which some people dominate, exploit, marginalize, demean, and inflict violence upon others. Diversities in socially ascribed identities, distinct roles in the division of labor, or differences in personal traits, whether these be neutral biological and psychological differences, valuable talents and virtues, or unfortunate disabilities and infirmities, never justify the unequal social relations listed above. Nothing can justify treating people in these ways, except just punishment for crimes and defense against violence. Positively, egalitarians seek a social order in which persons stand in relations of equality. They seek to live together in a democratic community, as opposed to a hierarchical one. Democracy is here understood as collective self-determination by means of open discussion among equals, in accordance with rules acceptable to all. To stand as an equal before others in discussion means that one is entitled to participate, that others recognize an obligation to listen respectfully and respond to one's arguments, that no one need bow and scrape before others or represent themselves as inferior to others as a condition of having their claim heard.⁷²

Contrast this democratic conception of equality with equality of fortune. First, democratic equality aims to abolish socially created oppression. Equality of fortune aims to correct what it takes to be injustices generated by the natural order. Second, democratic equality is what I shall call a relational theory of equality: it views equality as a social relationship. Equality of fortune is a distributive theory of equality: it conceives of equality as a pattern of distribution. Thus, equality of fortune regards two people as equal so long as they enjoy equal amounts of some distributable good—income, resources, opportunities for welfare, and so forth. Social relationships are largely seen as instrumental to generating such patterns of distribution. By contrast, democratic equality regards two people as equal when each accepts the obligation to justify their actions by principles acceptable to the other, and in which they take mutual consultation, reciprocation, and recognition for granted. Certain patterns in the distribution of goods may be instrumental to

able to follow moral commands issued by others and a higher type able to issue or discover moral commands for themselves.

72. Elizabeth Anderson, "The Democratic University: The Role of Justice in the Production of Knowledge," *Social Philosophy and Policy* 12 (1995): 186–219. Does this requirement mean that we must always listen patiently to those who have proven themselves to be stupid, cranky, or dishonest? No. It means (1) that everyone must be granted the initial benefit of the doubt, (2) a person can be ignored or excluded from discussion only on demonstrated grounds of communicative incompetence or unwillingness to engage in fair discussion, and (3) reasonable opportunities must be available to the excluded to demonstrate their communicative competence and thereby win back a place in the conversation.

securing such relationships, follow from them, or even be constitutive of them. But democratic egalitarians are fundamentally concerned with the relationships within which goods are distributed, not only with the distribution of goods themselves. This implies, third, that democratic equality is sensitive to the need to integrate the demands of equal recognition with those of equal distribution.⁷³ Goods must be distributed according to principles and processes that express respect for all. People must not be required to grovel or demean themselves before others as a condition of laying claim to their share of goods. The basis for people's claims to distributed goods is that they are equals, not inferiors, to others.

This gives us a rough conception of equality. How do we derive principles of justice from it? Our investigation of equality of fortune has not been completely fruitless: from its failures, we have gleaned some desiderata for egalitarian principles. First, such principles must identify certain goods to which all citizens must have effective access over the course of their whole lives. Some goods are more important from an egalitarian point of view than others, within whatever space of equality is identified as of particular concern for egalitarians. And starting-gate theories, or any other principles that allow law-abiding citizens to lose access to adequate levels of these goods, are unacceptable. Second, egalitarians should be able to justify such guarantees of lifetime accessibility without resorting to paternalism. Third, egalitarian principles should offer remedies that match the type of injustice being corrected. Private satisfactions cannot make up for public oppression. Fourth, egalitarian principles should uphold the responsibility of individuals for their own lives without passing demeaning and intrusive judgments on their capacities for exercising responsibility or on how well they have used their freedoms. Finally, such principles should be possible objects of collective willing. They should be capable of supplying sufficient reasons for citizens acting together to collectively guarantee the particular goods of concern to egalitarians.

Let us take up the last desideratum first. The determination of what can or must be collectively willed has been the traditional task of social contract theory. In liberal democratic versions of social contract theory, the fundamental aim of the state is to secure the liberty of its members. Since the democratic state is nothing more than citizens acting collectively, it follows that the fundamental obligation of citizens to one another is to secure the social conditions of everyone's freedom.⁷⁴ Because

73. Nancy Fraser, "From Redistribution to Recognition? Dilemmas of Justice in a 'Postsocialist' Age," in her *Justice Interruptus* (New York: Routledge, 1997), pp. 11–39; Axel Honneth, *The Struggle for Recognition*, trans. Joel Anderson (Cambridge: Polity Press, 1995).

74. Korsgaard.

libertarians also embrace this formula, it might be thought to lead to inegalitarian implications. Instead of repudiating this formula, democratic equality interprets it. It claims that the social condition of living a free life is that one stand in relations of equality with others.

This claim might seem paradoxical, given the prevailing view that represents equality and freedom as conflicting ideals. We can see how it is true by considering the oppressive relationships that social equality negates. Equals are not subject to arbitrary violence or physical coercion by others. Choice unconstrained by arbitrary physical coercion is one of the fundamental conditions of freedom. Equals are not marginalized by others. They are therefore free to participate in politics and the major institutions of civil society. Equals are not dominated by others; they do not live at the mercy of others' wills. This means that they govern their lives by their own wills, which is freedom. Equals are not exploited by others. This means they are free to secure the fair value of their labor. Equals are not subject to cultural imperialism: they are free to practice their own culture, subject to the constraint of respecting everyone else. To live in an egalitarian community, then, is to be free from oppression to participate in and enjoy the goods of society, and to participate in democratic self-government.

Egalitarians thus differ from libertarians in advocating a more expansive understanding of the social conditions of freedom. Importantly, they view private relations of domination, even those entered into by consent or contract, as violations of individual freedom. Libertarians tend to identify freedom with formal, negative freedom: enjoying the legal right to do what one wants without having to ask anyone else's permission and without interference from others. This definition of freedom neglects the importance of having the means to do what one wants. In addition, the definition implicitly assumes that, given the material means and internal capacity to do what one wants, the absence of interference from others is all one needs to do what one wants. This ignores the fact that most of the things people want to do require participation in social activities, and hence communication and interaction with others. One cannot do these things if others make one an outcast. A libertarian might argue that freedom of association entails the right of people to refuse to associate with others on any grounds. Yet, a society embodying such an unconditional right hardly needs physical coercion to force others to obey the wishes of those with the power to exclude others from participation in social life. The same point applies to a society in which property is so unequally distributed that some adults live in abject dependence on others, and so live at the mercy of others. Societies that permit the creation of outcasts and subordinate classes can be as repressive as any despotic regime.

EQUALITY IN THE SPACE OF FREEDOM: A CAPABILITIES APPROACH

Amartya Sen has proposed a better way to understand freedom. Consider the states of being and doing that constitute a person's well-being: a person can be healthy, well-nourished, physically fit, literate, an active participant in community life, mobile, happy, respected, confident, and so forth. A person may also care about other states of being and doing that reflect her autonomous ends: she may want to be outgoing, to raise children, practice medicine, play soccer, make love, and so forth. Call such states *functionings*. A person's *capabilities* consist of the sets of functionings she can achieve, given the personal, material, and social resources available to her. Capabilities measure not actually achieved functionings, but a person's freedom to achieve valued functionings. A person enjoys more freedom the greater the range of effectively accessible, significantly different opportunities she has for functioning or leading her life in ways she values most.⁷⁵ We can understand the egalitarian aim to secure for everyone the social conditions of their freedom in terms of capabilities. Following Sen, I say that egalitarians should seek equality for all in the space of capabilities.

Sen's capability egalitarianism leaves open a large question, however. *Which* capabilities does society have an obligation to equalize? Some people care about playing cards well, others about enjoying luxury vacations in Tahiti. Must egalitarians, in the name of equal freedom, offer free card-playing lessons and state subsidized vacations in exotic lands? Surely there are limits to which capabilities citizens are obligated to provide one another. We should heed our first desideratum, to identify particular goods within the space of equality that are of special egalitarian concern.

Reflection on the negative and positive aims of egalitarianism helps us meet this requirement. Negatively, people are entitled to whatever capabilities are necessary to enable them to avoid or escape entanglement in oppressive social relationships. Positively, they are entitled to the capabilities necessary for functioning as an equal citizen in a democratic state. While the negative and positive aims of egalitarianism overlap to a large extent, they are not identical. If functioning as an equal citizen were all that egalitarians cared about, they could not object to forced clitoridectomy, by which men control women's sexuality in private relations. But egalitarians also aim at abolishing private relations of domination, and therefore support the functionings needed for individual sexual autonomy. If having the capabilities needed to avoid oppression were all that mattered, then egalitarians would not oppose discrimina-

75. Amartya Sen, *Inequality Reexamined* (Cambridge, Mass.: Harvard University Press, 1992), pp. 39–42, 49.

tion among the relatively privileged—for example, the glass ceiling for female executives. But egalitarians also aim at enabling all citizens to stand as equals to one another in civil society, and this requires that careers be open to talents.

Democratic equality thus aims for equality across a wide range of capabilities. But it does not support comprehensive equality in the space of capabilities. Being a poor card player does not make one oppressed. More precisely, the social order can and should be arranged so that one's skill at cards does not determine one's status in civil society. Nor is being a good card player necessary for functioning as a citizen. Society therefore has no obligation to provide free card lessons to citizens. Democratic equality satisfies the first desideratum of egalitarian theory.

Consider further the capabilities that democratic equality does guarantee to citizens. Let us focus on the capabilities necessary for functioning as an equal citizen. Citizenship involves functioning not only as a political agent—voting, engaging in political speech, petitioning government, and so forth—but participating as an equal in civil society. Civil society is the sphere of social life that is open to the general public and is not part of the state bureaucracy, in charge of the administration of laws. Its institutions include public streets and parks, public accommodations such as restaurants, shops, theaters, buses and airlines, communications systems such as broadcasting, telephones, and the Internet, public libraries, hospitals, schools, and so forth. Enterprises engaged in production for the market are also part of civil society, because they sell their products to any customer and draw their employees from the general public. One of the important achievements of the civil rights movement was to vindicate an understanding of citizenship that includes the right to participate as an equal in civil society as well as in government affairs. A group that is excluded from or segregated within the institutions of civil society, or subject to discrimination on the basis of ascribed social identities by institutions in civil society, has been relegated to second-class citizenship, even if its members enjoy all of their political rights.

So, to be capable of functioning as an equal citizen involves not just the ability to effectively exercise specifically political rights, but also to participate in the various activities of civil society more broadly, including participation in the economy. And functioning in these ways presupposes functioning as a human being. Consider, then, three aspects of individual functioning: as a human being, as a participant in a system of cooperative production, and as a citizen of a democratic state. To be capable of functioning as a human being requires effective access to the means of sustaining one's biological existence—food, shelter, clothing, medical care—and access to the basic conditions of human agency—knowledge of one's circumstances and options, the ability to deliberate

about means and ends, the psychological conditions of autonomy, including the self-confidence to think and judge for oneself, freedom of thought and movement. To be capable of functioning as an equal participant in a system of cooperative production requires effective access to the means of production, access to the education needed to develop one's talents, freedom of occupational choice, the right to make contracts and enter into cooperative agreements with others, the right to receive fair value for one's labor, and recognition by others of one's productive contributions. To be capable of functioning as a citizen requires rights to political participation, such as freedom of speech and the franchise, and also effective access to the goods and relationships of civil society. This entails freedom of association, access to public spaces such as roads, parks, and public accommodations including public transportation, the postal service, and telecommunications. This also entails the social conditions of being accepted by others, such as the ability to appear in public without shame, and not being ascribed outcast status. The freedom to form relationships in civil society also requires effective access to private spaces, since many such relationships can only function when protected from the scrutiny and intrusions of others. Homelessness—that is, having only public dwelling—is a condition of profound unfreedom.

Three points should be made about the structure of egalitarian guarantees in the space of freedom or capabilities. First, democratic equality guarantees not actual levels of functioning, but effective access to those levels. Individuals are free to choose to function at a lower level than they are guaranteed. For example, they might choose to join a religious group that discourages political participation. Moreover, democratic equality can make access to certain functionings—those requiring an income—conditional upon working for them, provided that citizens have effective access to those conditions—they are physically capable of performing the work, doing so is consistent with their other duties, they can find a job, and so forth. Effective access to a level of functioning means that people can achieve that functioning by deploying means already at their disposal, not that the functioning is unconditionally guaranteed without any effort on their own part. Thus, democratic equality is consistent with constructing the incentive systems needed for a modern economy to support the production needed to support egalitarian guarantees in the first place.

Second, democratic equality guarantees not effective access to equal levels of functioning but effective access to levels of functioning sufficient to stand as an equal in society. For some functionings, equal citizenship requires equal levels. For example, each citizen is entitled to the same number of votes in an election as everyone else. But for other functionings, standing as an equal does not require equal levels of function-

ing. To be capable of standing as an equal in civil society requires literacy. But in the U.S. context, it does not require literacy in any language other than English, nor the ability to interpret obscure works of literary theory. Democratic equality does not object if not everyone knows a foreign language, and only a few have a Ph.D.-level training in literature. In other countries, multilingual literacy might be required for equal standing.

Third, democratic equality guarantees effective access to a package of capabilities sufficient for standing as an equal over the course of an entire life. It is not a starting-gate theory, in which people could lose their access to equal standing through bad option luck. Access to the egalitarian capabilities is also market-inalienable: contracts whereby individuals irrevocably transfer their fundamental freedoms to others are null and void.⁷⁶ The rationale for establishing such inalienable rights might seem difficult to grasp from the point of view of the rights holder. Why shouldn't she be free to trade some of her egalitarian-guaranteed freedoms for other goods that she prefers? Isn't it paternalistic to deny her the freedom to trade?

We can avoid this thought by considering the point of view of the obligation holder. The counterpart to an individual's inalienable right to the social conditions of her freedom is the unconditional obligation of others to respect her dignity or moral equality. Kant would put the point as follows: every individual has a worth or dignity that is not conditional upon anyone's desires or preferences, not even the individual's own desires. This implies that there are some things one may never do to other people, such as to enslave them, even if one has their permission or consent. Contracts into slavery or servitude are therefore invalid. In basing inalienable rights on what others are obligated to do rather than on the rights bearer's own subjective interests, democratic equality satisfies the second desideratum of egalitarian theory: to justify lifetime guarantees without resorting to paternalism.

One advantage of the capabilities approach to equality is that it allows us to analyze injustices in regard to other matters besides the distribution of resources and other divisible goods. One's capabilities are a function not just of one's fixed personal traits and divisible resources, but of one's mutable traits, social relations and norms, and the structure of opportunities, public goods, and public spaces. Egalitarian political movements have never lost sight of the whole range of targets of egalitarian assessment. For example, feminists work to overcome the internal obstacles to choice—self-abnegation, lack of confidence, and low self-esteem—that women often face from internalizing norms of femininity.

76. Margaret Radin, "Market Inalienability," *Harvard Law Review* 100 (1987): 1849–1937. A person might have to forfeit some of her market inalienable freedoms, however, if she is convicted of a serious crime.

Gays and lesbians seek the ability to publicly reveal their identities without shame or fear, which requires significant changes in social relations of contempt and hostility, and changes in norms of gender and sexuality. The disabled aim to reconfigure public spaces to make them accessible and adapt work situations to their needs, so that they can participate in productive activity. No mere redistribution of divisible resources can secure the freedoms these groups seek.

Of course, democratic equality is also concerned with the distribution of divisible resources. It requires that everyone have effective access to enough resources to avoid being oppressed by others and to function as an equal in civil society. What counts as “enough” varies with cultural norms, the natural environment, and individual circumstance. For example, cultural norms and climate influence what kind of clothing one needs to be able to appear in public without shame and with adequate protection from the elements. Individual circumstances, such as disabilities, influence how much resources one needs to function as an equal. People without use of their legs may need more resources—wheelchairs, specially adapted vans—to achieve mobility comparable to that of ambulatory persons. Equality in the space of capabilities may therefore demand an unequal division of resources to accommodate the disabled.⁷⁷ What citizens ultimately owe one another is the social conditions of the freedoms people need to function as equal citizens. Because of differences in their internal capacities and social situations, people are not equally able to convert resources into capabilities for functioning. They are therefore entitled to different amounts of resources so they can enjoy freedom as equals.

Suppose we abstract from the fact that people have different internal physical and mental capabilities. Would democratic equality demand that external resources be divided equally from the start, as equality of fortune holds? There is no reason to think so. The capabilities relevant to functioning as a human being, as a participant in the system of social cooperation, and as an equal citizen do not include all functionings or all levels of functioning. To function as a human being, one needs adequate nutrition. To eat without being relegated to a subhuman status, one needs access to sources of nutrition besides pet food or the dumpster. But to be able to function as a dignified human being, one does not need the quantity or quality of food intake of a gourmet. Democratic equality therefore requires that everyone have effective access to adequate nutrition, as well as sources of nutrition that one’s society considers dignified—fit for consumption in social gatherings. It does not require that everyone have the resources needed for an equal opportunity to

77. Sen, *Inequality Reexamined*, pp. 79–84.

function as a gourmet. It therefore does not require criteria for equality of resources that depend on the morally dubious idea that the distribution of resources should be sensitive to considerations of envy.

PARTICIPATION AS AN EQUAL IN A SYSTEM OF COOPERATIVE PRODUCTION

So far we have considered what citizens are obligated to provide one another. But how are such things to be produced, and by what means and principles shall they be distributed? In stressing the concept of obligation, democratic equality heads off the thought that in an egalitarian society everyone somehow could have a right to receive goods without anyone having an obligation to produce them. Democratic equality seeks equality in the capability or effective freedom to achieve functionings that are part of citizenship, broadly construed. For those capable of working and with access to jobs, the actual achievement of these functionings is, in the normal case, conditional on participating in the productive system. Contrary to Van Parijs's view, citizens do not owe one another the real freedom to function as beach bums. Most able-bodied citizens, then, will get access to the divisible resources they need to function by earning a wage or some equivalent compensation due to them on account of their filling some role in the division of labor.

In deciding principles for a just division of labor and a just division of the fruits of that labor, workers are to regard the economy as a system of cooperative, joint production.⁷⁸ I want to contrast this image of joint production with the more familiar image that invites us to regard the economy as if it were a system of self-sufficient Robinson Crusoes, producing everything all by themselves until the point of trade. By "joint production," I mean that people regard every product of the economy as jointly produced by everyone working together. From the point of view of justice, the attempt, independent of moral principles, to credit specific bits of output to specific bits of input by specific individuals represents an arbitrary cut in the causal web that in fact makes everyone's productive contribution dependent on what everyone else is doing. Each worker's capacity to labor depends on a vast array of inputs produced by other people—food, schooling, parenting, and the like. It even depends

78. I shift from talk of "citizens" to talk of "workers" in part because the moral implications of regarding the economy as a system of cooperative production cross international boundaries. As the economy becomes global, we are all implicated in an international division of labor subject to assessment from an egalitarian point of view. We have obligations not only to the citizens of our country but to our fellow workers, who are now found in virtually every part of the globe. We also have global humanitarian obligations to everyone, considered simply as human beings—to relieve famine and disease, avoid fomenting or facilitating aggressive warfare, and the like. Alas, I do not have the space to consider the international implications of democratic equality.

on workers in the recreation and entertainment industries, since enjoyment of leisure activities helps restore energy and enthusiasm for work. In addition, the productivity of a worker in a specific role depends not only on her own efforts, but on other people performing their roles in the division of labor. Michael Jordan could not make so many baskets if no one kept the basketball court swept clean. Millions of people could not even get to work if public transportation workers went on strike. The comprehensiveness of the division of labor in a modern economy implies that no one produces everything, or indeed anything, they consume by their own efforts alone. In regarding the division of labor as a comprehensive system of joint production, workers and consumers regard themselves as collectively commissioning everyone else to perform their chosen role in the economy. In performing their role in an efficient division of labor, each worker is regarded as an agent for the people who consume their products and for the other workers who, in being thereby relieved from performing that role, become free to devote their talents to more productive activities.

In regarding the economy as a cooperative venture, workers accept the demand of what G. A. Cohen has defined as the principle of interpersonal justification:⁷⁹ any consideration offered as a reason for a policy must serve to justify that policy when uttered by anyone to anyone else who participates in the economy as a worker or a consumer. The principles that govern the division of labor and the assignment of particular benefits to the performance of roles in the division of labor must be acceptable to everyone in this sense. To see how interpersonal justification works within the context of the economy considered as a system of cooperative, joint production, consider three of the cases equality of fortune gets wrong: disability compensation for workers in dangerous occupations, federal disaster relief, and dependent caretakers with their children.

Rakowski argues that workers who choose particularly dangerous occupations, such as farming, fishing, mining, forestry, firefighting, and policing, have no claims to medical care, rehabilitation, or compensation if they are injured on the job.⁸⁰ Since they engage in these occupations by choice, any bad fortune they suffer on the job is a form of option luck, the consequences of which must be born by the worker alone. Cohen's test invites us to consider how persuasive this argument is, when uttered to the disabled workers by the consumers who eat the food, use the metal and wood, and enjoy the protection from fire and crime that these workers provide. These consumers are not free to disclaim all responsibility for the bad luck that befalls workers in dangerous occupations. For they commissioned these workers to perform those dangerous tasks on their

79. Cohen, "Incentives, Inequality, and Community," p. 348.

80. Rakowski, p. 79.

own behalf. The workers were acting as agents for the consumers of their labor. It cannot be just to designate a work role in the division of labor that entails such risks and then assign a package of benefits to performance in the role that fails, given the risks, to secure the social conditions of freedom to those who occupy the role. The principle “let us be served by occupations so inadequately compensated that those in them shall lack the means necessary to secure their freedom, given the risks and conditions of their work” cannot survive the test of interpersonal justification.

Similar reflections apply to those who choose to live and work in areas prone to particularly severe natural disasters, such as residents near the San Andreas fault. Rakowski argues that such residents should be excluded from federal disaster relief because they live there by choice.⁸¹ But they live there because other citizens have, through their demand for California products, commissioned them to exploit the natural resources in California. To deny them federal disaster relief is to invoke the rejected principle above. Economists may object that, on balance, it may not be efficient to continue production in a particular region, and that disaster relief, in subsidizing the costs of living in disaster-prone regions, perpetuates a costly error. However, if, on balance, citizens decide that a region should be designated uninhabitable, because the costs of relief are too high, the proper response is not to leave its residents in the lurch but to designate their relief toward helping them relocate. Citizens are not to be deprived of basic capabilities on account of where they live.⁸²

The case of non-wage-earning dependent caretakers and children might seem to fall outside the purview of society as system of cooperation. But this is to confuse the economy with the market sector.⁸³ Non-wage-earning dependent caretakers contribute to production in at least three ways. First, most engage in household production—cleaning, cooking, and so forth—which services, if not performed, would have to be hired out. Second, they raise the future workers of the economy and help rehabilitate the sick and injured ones so they can return to work. Third, in discharging the obligations everyone has to dependents, considered as human beings, and the obligations all family members have toward their

81. *Ibid.*

82. What about rich people who build their vacation homes in disaster-prone areas? They haven't been commissioned by others to live there, nor does it seem fair to force taxpayers to insure their luxurious estates. Democratic equality cannot allow even unproductive citizens to lose everything, but it does not indemnify them against all their losses either. It only guarantees sufficient relief to get them back on their feet, not to shod them in luxurious footwear. If even this relief seems too expensive, an egalitarian state can forbid people from inhabiting disaster-prone areas, or tax people who do to cover the excess costs of disaster relief. What it may not do is let them live there at their own risk and then abandon them in their hour of need. Such action treats even the imprudent with impermissible contempt.

83. Marilyn Waring, *If Women Counted* (San Francisco: HarperCollins, 1990).

dependent kin, they relieve others of such responsibility and thereby free them to participate in the market economy. Fathers would not be so productive in the market if the non-wage-earning or part-time working mothers of their children did not relieve them of so much of their responsibility to engage in direct caretaking.⁸⁴ The principle “let us assign others to discharge our caretaking obligations to dependents, and attach such meager benefits to performance in this role that these caretakers live at our mercy” cannot survive interpersonal justification, either. Dependent caretakers are entitled to enough of a share of their partner’s income that they are not vulnerable to domination and exploitation within the relationship. This principle supports Okin’s proposal that paychecks be split between husband and wife.⁸⁵ If this is not sufficient to eliminate caretakers’ vulnerability in domestic partnership, a case can be made for socializing some of the costs of dependent care through a child-care (or elder-care) subsidy, as is common in western Europe. Ultimately, full equality may not be achievable simply through the redistribution of material resources. Equality may require a change in social norms, by which men as well as women would be expected to share in caretaking responsibilities.⁸⁶

Against the proposal to socialize the costs of dependent care, Rakowski insists that children are entitled only to resources from their parents, not from others. Even if they will provide benefits to others when they grow up and participate in the economy, it is unjust to make people pay for benefits they never asked for, and in any event most of those benefits will accrue to other family members.⁸⁷ If the economy consisted of isolated, economically self-sufficient family groups, as in a primitive hunter-gatherer society, one could see Rakowski’s point. But in a society with an extensive division of labor, his assumptions make no sense. As long as one doesn’t plan to commit suicide once the next generation enters the workforce, one can’t help but demand the labor services of future generations. Moreover, most of what people produce in a market economy is consumed by non-family members. In regarding the whole society as a system of cooperation that jointly produces the economy’s entire output, democratic equality acknowledges everyone’s profound mutual dependency in modern society. It rejects the atomistic norm of individual self-sufficiency as based on a failure to recognize the dependency of wage earners on the work of those whose labor is not for sale. In adjusting entitlements to account for the fact that adults have moral responsibilities to take care of dependents, democratic equality also

84. Joan Williams, “Is Coverture Dead?” *Georgetown Law Journal* 82 (1994): 2227–90, p. 2227.

85. Okin, pp. 180–82.

86. Nancy Fraser, “After the Family Wage: A Postindustrial Thought Experiment,” in her *Justice Interruptus*, pp. 41–66.

87. Rakowski, p. 153.

rejects equality of fortune's reduction of moral obligations to expensive tastes and its consequent guarantee of equality only to egoists. Democratic equality says that no one should be reduced to an inferior status because they fulfill obligations to care for others.

The conception of society as a system of cooperation provides a safety net through which even the imprudent are never forced to fall. It provides that no role in the productive system shall be assigned such inadequate benefits that, given the risks and requirements of the job, people could be deprived of the social conditions of their freedom because they have fulfilled its requirements. Society may not define work roles that amount to peonage or servitude, nor, if it can avoid it, pay them so little that an able-bodied person working full time would still lack basic capabilities.⁸⁸ One mechanism for achieving a decent minimum would be a minimum wage. A minimum wage need not raise unemployment if low-wage workers are given sufficient training to make them more productive or if the higher wage induces employers to supply their workers with productivity-enhancing tools. Benefits could also be attached to work by other means, such as socially provided disability and old age pension schemes, and tax credits for earned income. Democratic equality also favors a qualified entitlement to work on the part of willing, able-bodied adults. Unemployment insurance is a poor substitute for work, given the central importance of participation in productive activity to living life as an equal in civil society. So is "workfare," if, as is typically the case in the United States, it means forcing people to engage in make-work for aid while depriving them of the dignity of a real job with a real wage.

It is instructive to consider what democratic equality says to those with low talents. Equality of fortune would offer compensation to those with low talents, precisely because their innate inferiority makes their labor so relatively worthless to others, as judged by the market. Democratic equality calls into question the very idea that inferior native endowments have much to do with observed income inequalities in capitalist economies. The biggest fortunes are made not by those who work but by those who own the means of production. Even among wage workers, most of the differences are due to the fact that society has invested far more in developing some people's talents than others and that it puts very unequal amounts of capital at the disposal of each worker. Productivity attaches mainly to work roles, not to individuals. Democratic

88. It might be thought that poor societies cannot afford even basic capabilities for all workers. However, Sen's studies of the standard of living in India and China show that even extremely poor societies can supply an impressive set of basic capabilities—decent nutrition, health, literacy, and the like—to all of their members, if they apply themselves to the task. See, e.g., Amartya Sen, *Commodities and Capabilities* (Amsterdam: North-Holland, 1985).

equality deals with these facts by stressing the importance of educating the less advantaged and by offering firms incentives to increase the productivity of low-wage jobs through capital investment.

Moreover, in regarding society as a system of cooperation, democratic equality has a less demeaning rationale than equality of fortune for state interventions designed to raise the wages of low-wage workers. Society need not try to make the impossible and insulting judgment of whether low-wage workers are there by choice or by the fact that their meagre native endowments prevent them from getting better work. Instead, it focuses on appreciation for the roles that low-wage workers fill. In performing routine, low-skill tasks, these workers free other people to make more productive uses of their talents. Those occupying more productive roles owe much of their productivity to the fact that those occupying less productive roles have freed them from the need to spend their time on low-skill tasks. Fancy corporate executives could not cut so many lucrative deals if they had to answer their own telephone calls. Such reflections express appreciation for the ways that everyone benefits from the diversity of talents and roles in society. They also undermine the thought that workers at the top make a lopsided contribution to the social product and thereby help motivate a conception of reciprocity that would squeeze the gap between the highest- and lowest-paid workers.

Would democratic equality support a wage-squeezing policy as demanding as Rawls's difference principle? This would forbid all income inequalities that do not improve the incomes of the worst off.⁸⁹ In giving absolute priority to the worst off, the difference principle might require considerable sacrifices in the lower middle ranks for trifling gains at the lowest levels. Democratic equality would urge a less demanding form of reciprocity. Once all citizens enjoy a decent set of freedoms, sufficient for functioning as an equal in society, income inequalities beyond that point do not seem so troubling in themselves. The degree of acceptable income inequality would depend in part on how easy it was to convert income into status inequality—differences in the social bases of self-respect, influence over elections, and the like. The stronger the barriers against commodifying social status, political influence, and the like, the more acceptable are significant income inequalities.⁹⁰ The moral status of free market allocations is strengthened the more carefully defined is the domain in which these allocations have free rein.

DEMOCRATIC EQUALITY, PERSONAL RESPONSIBILITY, AND PATERNALISM

Democratic equality guarantees effective access to the social conditions of freedom to all citizens, regardless of how imprudently they conduct

89. Rawls, *A Theory of Justice*, pp. 75–78.

90. Michael Walzer, *Spheres of Justice* (New York: Basic, 1983); Mickey Kaus, *The End of Equality* (New York: Basic, 1992).

their lives. It does not deprive negligent or self-destructive citizens of necessary medical care. It does not discriminate among the disabled depending on how much they can be held responsible for their disability. Under democratic equality, citizens refrain from making intrusive, moralizing judgments about how people ought to have used the opportunities open to them or about how capable they were of exercising personal responsibility. It need not make such judgements, because it does not condition citizen's enjoyment of their capabilities on whether they use them responsibly. The sole exception to this principle concerns criminal conduct. Only the commission of a crime can justify taking away a person's basic liberties and status as an equal in civil society. Even convicted criminals, however, retain their status as equal human beings, and so are still entitled to basic human functionings such as adequate nutrition, shelter, and medical care.

One might object to democratic equality on the grounds that all these guarantees invite personal irresponsibility, just as critics of equality have long suspected. If people are going to be bailed out of the situations they get into because of their own imprudence, then why act prudently? Egalitarians must face up to the need to uphold personal responsibility, if only to avoid bankrupting the state. There are two general strategies for doing so. One is to insure only against certain causes of loss: to distinguish between the losses for which people are responsible and those for which they are not, and to indemnify individuals only against the latter. This is the approach of luck egalitarianism, which leads to Poor Law thinking, and intrusive and disrespectful judgments of individuals. The second strategy is to insure only against the losses of certain types of goods: to distinguish between guaranteed and unguaranteed types of goods within the space of egalitarian concern, and to insure individuals only against the loss of the former. This is the approach of democratic equality.

Democratic equality does not indemnify individuals against all losses due to their imprudent conduct. It only guarantees a set of capabilities necessary to functioning as a free and equal citizen and avoiding oppression. Individuals must bear many other losses on their own. For example, a person who smokes would be entitled to treatment for resulting lung cancer, regardless of their degree of responsibility for smoking. But she would not be entitled to compensation for the loss of enjoyment of life brought about by her confinement in the hospital and reduced lung capacity, for the dread she feels upon contemplating her mortality, or for the reproach of her relatives who disapprove of her lifestyle. Individuals thus have plenty to lose from their irresponsible conduct, and therefore have an incentive to behave prudently. Luck egalitarianism can't take advantage of this incentive structure, because it indemnifies individuals against the loss of all kinds of goods (kinds of resources or sources of welfare) within its space of egalitarian concern. It therefore must resort

to moral judgments about the cause of loss in order to promote individual responsibility.

Democratic equality has two further strategies for promoting individual responsibility. First, it offers equality in the space of capabilities, which is to say opportunities or freedoms. Individuals still have to exercise responsible agency to achieve most of the functionings effective access to which society guarantees. In the typical case of an able-bodied adult, for instance, access to a decent income would be conditioned on responsible performance of one's duties in one's job, assuming a job was available.

Second, most of the freedoms that democratic equality guarantees are prerequisites to exercising responsible agency. Responsible agency requires real options, awareness of these options, deliberative skills, and the self-respect needed to trust one's own judgment. Democratic equality guarantees the education needed to know and deliberate about one's options, and the social bases of self-respect. Moreover, people will do almost anything to secure what they need to survive. In ensuring effective access to the means of subsistence through legitimate routes, democratic equality prevents the criminal behavior that would be spurred by a society that let people fall below subsistence or that deprived people of dignified legitimate means of subsistence. It also avoids the powerful incentives to deny personal responsibility that are built into equality of fortune, because it ensures that people will always have legitimate means at their disposal to get access to their basic capabilities, without having to resort to deception about their role in getting into their predicament.

It might be objected that democratic equality, in guaranteeing such goods as medical care to all, still requires an objectionable subsidy of irresponsible behavior. Why should prudent nonsmokers have to pay more for universal health insurance, because so many fools choose to smoke? If the costs of some particularly dangerous activity are high, and if the activity is not performed in one's capacity as a participant in the productive system, then justice permits a tax on that activity to cover the extra costs of medical care for those injured by engaging in it. A tax on each pack of cigarettes, adjusted to cover the medical costs of treating smokers, would force smokers to absorb the extra costs of their behavior.

If it is just to force smokers to absorb these costs *ex ante*, why isn't it equally just to force them to absorb these costs *ex post*, as some luck egalitarians hold? Roemer's plan does this, by discounting the medical subsidy people are entitled to according to their degree of personal responsibility.⁹¹ Besides entangling the state in intrusive moralizing judgments of personal responsibility, Roemer's plan leaves people vulnerable to

91. Roemer, "A Pragmatic Theory of Responsibility for the Egalitarian Planner," pp. 179–96.

such a deprivation of their capabilities that they cannot function as an equal. This is unjust. By making smokers pay for the costs of their behavior *ex ante*, democratic equality preserves their freedom and equality over the course of their whole lives.

It might be objected that democratic equality, in guaranteeing a specific set of capabilities to citizens, paternalistically violates the freedom of citizens and violates the requirement of liberal neutrality among conceptions of the good. Suppose a smoker would prefer to have cheaper cigarettes than to be provided medical care? Shouldn't citizens be free to choose what goods they prefer to have? Thus, citizens should be entitled to the welfare equivalent of medical care and not be forced to consume medical care at the cost of other things they might prefer. This line of thought supports equality in the space of opportunities for welfare, rather than in capabilities for equal citizenship.

These objections fail to appreciate the distinction between what people want and what other people are obligated to give them. The basic duty of citizens, acting through the state, is not to make everyone happy but to secure the conditions of everyone's freedom. In securing for citizens only the capabilities they need to function as equal citizens, the state is not declaring that these capabilities are more important for individual happiness than some others that they might prefer. It leaves individuals free to decide for themselves how useful or important are the goods that the state guarantees to them. It guarantees certain capabilities to citizens not because these are the most important ones as judged from the standpoint of the best conception of the good but because these are the ones citizens are obligated to provide one another in common.

But why can't any given citizen waive his right to guaranteed health care, in return for its welfare equivalent? Citizens can, with justice, refuse to provide what any individual regards as the welfare equivalent of health care. As Thomas Scanlon has stressed, the fact that someone would rather have help in building a temple to his god than to be decently fed does not generate a greater claim on others to subsidize his temple than to ensure his access to adequate nutrition.⁹² Furthermore, the obligation to provide health care is unconditional and can't be rescinded, even with the permission of the person to whom the obligation is owed. We are not permitted to abandon people dying by the side of the road, just because they gave us permission to deny them emergency medical care.⁹³

One might object that democratic equality fails to respect neutrality among competing conceptions of the good. Some citizens will find the

92. Thomas Scanlon, "Preference and Urgency," *Journal of Philosophy* 72 (1975): 655–69, pp. 659–60.

93. This point is entirely distinct from the right to refuse medical care. It is one thing for an individual to exercise the right to refuse medical care when offered, quite another for others to refuse to offer medical care when needed.

capability sets guaranteed them far more useful than others. For example, those whose conception of the good involves widespread participation in civil society will find their good more fully secured by democratic equality than those who prefer to lead their lives in insular religious cults. Democratic equality is therefore biased in favor of certain conceptions of the good.

This objection misunderstands the point of neutrality. As Rawls has stressed, given the fact the people hold conflicting conceptions of the good, liberal states need some basis for judging claims of justice that does not rest on partisan views of the good. The point of view of citizens acting collectively—the political point of view—does not claim authority in virtue of promoting the objectively best or most important goods but in virtue of being a possible object of collective willing. Neutral goods are the goods we can reasonably agree to collectively provide, given the fact of pluralism.⁹⁴ Thus, the capabilities citizens need to function as equals in civil society count as neutral goods for purposes of justice not because everyone finds these capabilities equally valuable, but because reasonable people can recognize that these form a legitimate basis for making moral claims on one another.⁹⁵ By contrast, reasonable persons need not recognize the desire to build a temple to their god as a legitimate basis for a claim to public subsidy. A person who does not worship that god could reasonably object to the state taxing her to subsidize someone else's involuntarily expensive religious desires.

Consider now what equality of fortune and democratic equality have to say to the person who decides, prudently or imprudently, not to purchase health insurance for himself. According to equality of fortune, there are two options. One is to allow the person to decline health insurance and abandon him if he needs emergency care. The other is to tell him, "You are too stupid to run you own life. Therefore, we will force you to purchase health insurance, because we know better than you what is for your own good." Democratic equality passes no judgment on whether it would be prudent or imprudent for any given individual to purchase health insurance. It tells the person who would not purchase insurance for himself: "You have a moral worth that no one can disregard. We recognize this worth in your inalienable right to our aid in an emergency. You are free to refuse this aid once we offer it. But this freedom does not absolve you of the obligation to come to the aid of others when their health needs are urgent. Since this is an obligation we all owe to our fellow citizens, everyone shall be taxed for this good, which we shall provide to everyone. This is part of your rightful claim as an equal

94. John Rawls, *Political Liberalism* (New York: Columbia University Press, 1993).

95. Peter De Marneffe, "Liberalism, Liberty, and Neutrality," *Philosophy and Public Affairs* 19 (1990): 253–74, pp. 255–58.

citizen.” Which rationale for providing health insurance better expresses respect for its recipients?

THE DISABLED, THE UGLY, AND OTHER VICTIMS OF BAD LUCK

According to democratic equality, the distribution of nature’s good or bad fortune is neither just nor unjust. Considered in itself, nothing in this distribution calls for any correction by society. No claims to compensation can be generated by nature’s effects alone. This may seem an unduly harsh doctrine. Does it not leave the congenitally disabled, ugly, and stupid out in the cold, even though they do not deserve their sorry fates?

Democratic equality says no. Although the distribution of natural assets is not a matter of justice, what people do in response to this distribution is.⁹⁶ People may not make the possession of a disability, repugnant appearance, or low intelligence the occasion for excluding people from civil society, dominating them, beating them up, or otherwise oppressing them. In a liberal democratic state, all citizens are entitled to the social conditions of their freedom and standing as equals in civil society, regardless of handicap, physical appearance, or intelligence.⁹⁷ Moreover, these conditions are sensitive to variations in people’s circumstances, including their disabilities. People who can’t walk are entitled to accommodation in civil society: to wheelchairs, ramps on public buildings, and so forth. However, these conditions are not sensitive to variations in people’s tastes. Everyone has an entitlement to the same package of capabilities, whatever else they may have, and regardless of what they would prefer to have. Thus, if a person who needs a wheelchair to get around has an involuntarily expensive taste for engaging in particular religious rituals, and would prefer having this taste satisfied to having a wheelchair, democratic equality does not substitute a subsidy for her rituals for the wheelchair. For individuals need to be able to move around civil society to have equal standing as citizens, but they do not need to be able to worship in particularly expensive ways in order to function as equals.

Richard Arneson objects to this distinction between disabled people and people with involuntarily expensive tastes. For disabilities are just another kind of involuntarily expensive taste. It’s not the disabled individual’s fault that it costs more for her to get around in a wheelchair than it takes ambulatory people to make the same journey. Once we see that it is the involuntariness of the costs of her tastes that entitles her to special subsidy, one must allow people with other involuntarily expensive tastes to

96. Rawls, *A Theory of Justice*, p. 102.

97. Some exceptions would have to be made for those so severely mentally disabled or insane that they cannot function as agents. In addition, children are entitled not immediately to all of the freedoms of adults, but to the social conditions for the development of their capacities to function as free and equal citizens.

make equal claims on behalf of their preferences. Arneson claims that only an illegitimate perfectionist doctrine—the claim that mobility is intrinsically more important than worship—can support discrimination between the disabled and those with other involuntarily expensive tastes.⁹⁸

Democratic equality takes no stand on what goods individuals should value more, when they are thinking only of their own interests. It provides the social conditions for equal citizenship, and not the conditions for equal ability to fulfill the demands of one's gods, because citizens are obligated to provide the first and are not obligated to provide the second. Arneson argues that capabilities are diverse, and the resources available to provide them scarce. Some trade-offs among capabilities must therefore be accepted. Some index is therefore needed to rank the importance of different capabilities. If one rejects perfectionist doctrines, the only basis for constructing an index of capabilities is subjective, based on the importance to the individual of having that capability.⁹⁹

Against Arneson, democratic equality follows Scanlon in insisting that the weight that a citizen's claim has on others depends solely on the content of her interest and not on the importance she places on it in her own conception of the good.¹⁰⁰ In some cases, the weight of an interest can be determined by considering its impact on a person's standing as an equal in society. Some deprivations of capabilities express greater disrespect than others, in ways any reasonable person can recognize. From a public point of view, it is more disrespectful to deny a person in a wheelchair access to the public schools than it is to deny her access to an amusement park ride that only accommodates the walking. This is true even if she'd rather go through the Fun House than learn how to read. In other cases, where the concepts of equal standing and respect don't yield a determinate answer to how capabilities should be ranked, the ranking may legitimately be left up to democratic legislation. Even here, voters are not to ask themselves what priorities they give to different capabilities for citizenship in their private choices, but what priorities they want the state to assign to these different capabilities, given that these goods shall be provided in common. The answers to the questions are likely to diverge, if only because many capabilities are more valuable to others than to their possessors. Most people gain much more from other people's freedom of speech than from their own.¹⁰¹

It might be argued that democratic equality is still too harsh to those who are disabled through bad brute luck. It would not compensate them for all of the miseries they face. For example, democratic equality would

98. Arneson, "Liberalism, Distributive Subjectivism, and Equal Opportunity for Welfare," pp. 159, 187, 190–94.

99. Arneson, "Equality and Equality of Opportunity for Welfare," pp. 236–37.

100. Scanlon, p. 659.

101. Joseph Raz, "Rights and Individual Well-Being," in his *Ethics in the Public Domain* (Oxford: Clarendon, 1994), pp. 52–55.

ensure that the deaf have equal access to civil society, but not that they be compensated for the loss of the pleasures of hearing itself. Yet the lives of the deaf are less happy for lacking these pleasures, and should be compensated on that account.

It is useful to ask what the deaf demand on their own account, in the name of justice. Do they bemoan the misery of not being able to hear, and demand compensation for this lack? On the contrary: like the disabled more generally, they resent being cast as poster children for the abled to pity, because they do not want to have to cast their claims as appeals to the condescending benevolence of kindly patrons. Many deaf people identify as part of a separate Deaf community that repudiates the intrinsic choiceworthiness of hearing itself. They insist that sign language is just as valuable a form of communication as is speech and that the other goods obtainable through hearing, such as appreciation of music, are dispensable parts of any conception of good. One needn't pass judgment on the intrinsic choiceworthiness of hearing to appreciate the rhetorical uses of denying it: the Deaf want to cut the hearing down to size, to purge the arrogant assumption of the hearing that the lives of the Deaf are somehow less worth living. They want to make claims on the hearing in a manner that expresses the dignity they see in their lives and community, rather than in a manner that appeals to pity for their condition.¹⁰² They do this by denying that their condition, considered in itself, is anything to be pitied.

Equality of fortune, despite the fact that it considers the treatment of the disabled as a core case, has difficulty with such ideas. This is due to the fact that it relies on subjective measures of welfare or of the worth of personal assets. Subjective measures invite all the wrong thoughts on the part of the abled. Van Parijs's criterion of undominated diversity allows the disabled to make claims of justice regarding their disability only if everyone regards their condition as so wretched that everyone would prefer being someone else. This test asks the abled to take the horror they feel upon imagining that they had a disability as their reason for compensating the disabled. To regard the condition of the disabled as intrinsically horrible is insulting to the disabled people who lead their lives with dignity. Arneson's criterion of equal opportunity for welfare implies that as long as the disabled have equal chances for happiness, they have no claims to special accommodation. Survey research shows that the disabled experience the same range of happiness as the abled.¹⁰³ Thus, by Arneson's criterion, it is all right to exclude the disabled from public life because they are happy enough without being included.

102. Owen Wrigley, *The Politics of Deafness* (Washington, D.C.: Gallaudet University Press, 1996), discusses the potentials and problems of reconceiving disability (being deaf) as community (being Deaf) after the manner of identity politics.

103. Anita Silvers, "Reconciling Equality to Difference: Caring (f) or Justice for People with Disabilities," *Hypatia* 10 (1995): 30–55, p. 54, n. 9.

Subjective measures of people's condition generate either pity for the disabled or reluctance to consider their claims of justice. The way to escape this dilemma is to take seriously what the disabled are actually complaining about. They do not ask that they be compensated for the disability itself. Rather, they ask that the social disadvantages others impose on them for having the disability be removed. "The inequality of people mobilizing in wheelchairs . . . manifests itself not in the inability to walk but in exclusion from bathrooms, theaters, transportation, places of work, [and] life-saving medical treatment."¹⁰⁴ Democratic equality can handle this distinction. It demands, for instance, that the disabled have good enough access to public accommodations that they can function as equals in civil society. To be capable of functioning as an equal does not require that one's access be equally fast, comfortable, or convenient, or that one get equal subjective utility from using public accommodations. There may be no way to achieve this. But the fact that, with current technology, it takes an extra minute to get into city hall does not compromise one's standing as an equal citizen.

Democratic equality thus supports the use of objective tests of unjust disadvantage. Such tests fit the claims of justice that the disabled make on their own behalf. For example, what the Deaf find objectionable is not that they can't hear, but that everyone else has rigged the means of communication in ways that leave them out of the conversation. One can detect this injustice without investigating anyone's preferences or subjective states. The test for a satisfactory remedy is equally objective. The Americans with Disabilities Act, for example, embodies an objective standard of accommodation. "Rather than speculating on how the *subjective personal response* of unimpaired agents would be transformed by the onset of physical or mental impairment, this standard calls for projecting how *objective social practice* would be transformed were unimpaired functioning so *atypical* as to be of merely marginal importance for social policy."¹⁰⁵ The act asks us to imagine how communications in civil society would be arranged if nearly everyone were deaf, and then try to offer to the deaf arrangements approximating this.

The objective standards of injustice and remedy proposed by democratic equality have several advantages over those proposed by equality of fortune. They match the remedy to the injustice: if the injustice is exclusion, the remedy is inclusion. Democratic equality does not attempt to use private satisfactions to justify public oppression. Objective standards do not insultingly represent the disabled as deserving aid because of their pitiful internal condition. They locate the unjust disadvantage of disability in the way others treat the disabled. Democratic equality also does not assimilate the disabled to the situation of those suffering from

104. *Ibid.*, p. 48.

105. *Ibid.*, p. 49.

involuntarily expensive tastes. Having a disability is not like being so spoiled that one can't help wanting expensive toys.

Should other victims of bad brute luck be treated like the handicapped? Equality of fortune thinks so—it extends its concern to the ugly, the stupid, and the untalented as well. Democratic equality does not pass judgment on the worth of people's native endowments, and so has nothing special to say to the stupid and the untalented. Instead, it focuses on the productive roles that people occupy, in recognition of the fact that society attaches economic benefits to performance in a role rather than to the possession of talent in itself. Democratic equality requires that sufficient benefits be attached to performance in every role that all workers can function as equals in society. Talent brings noneconomic advantages as well, such as the admiration of others. Democratic equality finds no injustice in this advantage, because one doesn't need to be admired to be able to function as an equal citizen. As justice requires, most residents of modern democracies live in a state of civilization where the attainment of honor is not a condition of enjoying basic freedoms. In places where this is not so, such as certain tough inner-city neighborhoods, it is clear that the injustice lies not in the fact that some individuals are unfortunately born with lower native endowments of courage, but that the social order is arranged so that only those willing to display uncommonly high degrees of ruthlessness can enjoy personal security.

What about the ugly? Are they not entitled to compensation for their repugnant appearance, which makes them so unwelcome in social settings? Some luck egalitarians would view this bad luck as calling for a remedy, perhaps in the form of publicly subsidized plastic surgery. Democratic equality refuses to publicly endorse the demeaning private judgments of appearance which are the basis of such claims to compensation. Instead, it asks whether the norms based on such judgments are oppressive. Consider a birth defect, affecting only a person's appearance, that is considered so abhorrent by current social norms that people tend to shun those who have it. Since the capability to participate in civil society as an equal citizen is a fundamental freedom, egalitarians demand that some remedy be provided for this. But the remedy need not consist in plastic surgery that corrects the defect. An alternative would be to persuade everyone to adopt new norms of acceptable physical appearance, so that people with the birth "defect" were no longer treated as pariahs. This is not to call for the abolition of norms of beauty altogether. The norms need only be flexible enough to deem the person an acceptable presence in civil society. They need not entitle such a person to claim equal beauty to others, since successful functioning as a contestant in a beauty pageant, or as a hot prospect for a Saturday night date, are not among the capabilities one needs to function as an equal citizen.

By directing attention to oppressive social norms of beauty, democratic equality avoids the disparaging scrutiny of the ugly through the

lens of the oppressive norms themselves. This lets us see that the injustice lies not in the natural misfortune of the ugly but in the social fact that people shun others on account of their appearance. To change the person rather than the norm insultingly suggests that the defect lies in the person rather than in society. Other things equal, then, democratic equality prefers altering social norms to redistributing material resources in response to the disadvantages faced by the unsightly. Of course, other things are often not equal. It may be very difficult and costly to change prevailing norms of beauty that cruelly dictate who cannot appear in public without provoking shock and rejection. The liberal state can't do too much in this regard without overstepping its proper bounds; thus, this task must be delegated mainly to egalitarian social movements, which vary in their abilities to transform social norms. Under these conditions the better option may well be to supply the plastic surgery. Democratic equality, in focusing on equality as a social relationship, rather than simply as a pattern of distribution, at least enables us to see that we have a choice between redistributing material resources and changing other aspects of society to meet the demands of equality.

DEMOCRATIC EQUALITY AND THE OBLIGATIONS OF CITIZENS

Democratic equality refocuses egalitarian theorizing in several ways. It conceives of justice as a matter of obligations that are not defined by the satisfaction of subjective preferences. This ensures that people's rights do not depend on arbitrary variations in individual tastes and that people may not claim rights without accepting corresponding obligations to others. Democratic equality applies judgments of justice to human arrangements, not to the natural order. This helps us see that people, not nature, are responsible for turning the natural diversity of human beings into oppressive hierarchies. It locates unjust deficiencies in the social order rather than in people's innate endowments. Instead of lamenting the human diversity of talents and trying to make up for what is represented as innate deficiencies in talent, democratic equality offers a way of conceiving and harnessing human diversity so that it benefits everyone and is recognized as doing so. Democratic equality conceives of equality as a relationship among people rather than merely as a pattern in the distribution of divisible goods. This helps us see how egalitarians can take other features of society besides the distribution of goods, such as social norms, as subject to critical scrutiny. It lets us see how injustices may be better remedied by changing social norms and the structure of public goods than by redistributing resources. And it allows us to integrate the demands of equal distribution and equal respect, ensuring that the principles by which we distribute goods, however equal resulting patterns may be, do not in fact express contemptuous pity for the beneficiaries of egalitarian concern. Democratic equality thus offers a superior way to understand the expressive demands of justice—the

demand to act only on principles that express respect for everyone. Finally, in refocusing academic egalitarian theorizing, democratic equality holds out the promise of reestablishing connections with actually existing egalitarian movements. It is not a moral accident that beach bums and people who find themselves slaves to their expensive hobbies are not organizing to make claims of justice on behalf of their lifestyles. Nor is it irrelevant that the disabled are repudiating forms of charity that appeal to pity for their condition and are struggling for respect from others, not just handouts. Democratic equality helps articulate the demands of genuine egalitarian movements in a framework that offers some hope of broader appeal.