

Rawls, Responsibility, and Distributive Justice

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The theory of justice pioneered by John Rawls explores a simple idea – that 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. Some are lucky to be born wealthy, or into a favorable socializing environment, or with a tendency to be charming, intelligent, persevering, and the like. These people are likely to be successful in the economic marketplace and to achieve success in other important ways over the course of their lives. However, some people are, as we say, born to lose. Distributive justice stipulates that the lucky should transfer some or all of their gains due to luck to the unlucky.

In *A Theory of Justice*, Rawls suggests how to draw a line between the misfortune that is society's responsibility and the misfortune that is not by distinguishing between deep and shallow inequalities. The former are associated with inequalities in the "basic structure" of society in this passage:

For us the primary subject of justice is the basic structure of society, or more exactly, the way in which the major social institutions distribute fundamental rights and duties and determine the division of advantages from social cooperation. By major institutions I understand the political constitution and the principal economic and social arrangements. . . . The basic structure is the primary subject of justice because its effects are so profound and present from the start. The intuitive notion here is that this structure contains various social positions and that men born into different positions have different expectations of life determined, in part, by the political system as well as by economic and social circumstances. In this way the institutions of society favor certain starting places over others. These are especially deep inequalities. Not only are they pervasive, but they affect men's initial chances in life; yet they cannot possibly be justified by an appeal to the notions of merit and

desert. It is these inequalities, presumably inevitable in the basic structure of any society, to which the principles of social justice apply.¹

Rawls's idea is appealing. Think of two persons: one born on the "right," the other on the "wrong" side of the tracks; one blessed with capable and nurturing parents, the other cursed with parents from the bottom of the barrel; one born with a genetic endowment that predisposes her to talent and fortune, the other plagued by an unfortunate genetic inheritance; one wealthy from birth, the other poor. From the start, before either child has taken a step out of the cradle, they have unequal life expectations given their initial circumstances. The contrast between basic structural inequalities and nonbasic ones does not seem exactly to coincide with the distinction between deep and shallow inequalities: Inequalities in genetic inheritance do not arise from the way that the core institutions of society are set. The important contrast here seems to be between deep inequalities among persons, those that are present from birth, in given social circumstances, and shallow inequalities that arise later as a result of processes that are influenced by voluntary choice.

As is well known, Rawls's master proposal concerning justice is that these inequalities are justifiable just in case they are set so that over time the least advantaged individuals are rendered as well off as possible. Advantage is measured in terms of an index of what Rawls calls *primary social goods*, general-purpose resources of which any rational person would prefer to have more rather than fewer. In this chapter, I assume with Rawls that the morally appropriate response to misfortune specifies distributions that tilt in favor of worst-off individuals, give priority to the worst off; the exact degree of tilt that is appropriate is an important issue, but not one this essay considers.

A complication enters when Rawls separates the primary social goods into basic liberties and the rest. The basic liberties are associated with the status of citizens in a democracy and required to be equal for all citizens. The idea of maximizing from the standpoint of the worst off is applied to the holdings of the rest of the primary social goods, and holdings of income and wealth are taken to be a rough proxy for these. Rawls then supposes that in applying his principles of justice there are two relevant social positions,

¹ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), p. 8. The objection might be raised that I am making too much of this one passage in Rawls and ignoring his more central lines of thought on responsibility. I focus on the contrast between deep and shallow inequalities because I believe it to be plausible and worth considering quite independently of its degree of centrality in Rawls's own thinking.

that of equal citizen and that determined by one's place in the distribution of wealth. Rawls proceeds to reiterate the idea that our concern should be unchosen basic structural inequalities: "Since I assume that other positions are entered into voluntarily, we need not consider the point of view of men in these positions in judging the basic structure."² What is puzzling is that the distribution of income and wealth is as much the outcome of voluntary choice as unchosen starting points. Rawls makes two suggestions for defining the worst-off class of individuals: Either take all those with the income and wealth of the typical unskilled worker or less or take all persons with less than half of the median income and wealth. This group then constitutes the worst-off group whose long-run expectation of primary social goods is the job of social justice to maximize.

When I first read these passages, I was reminded of Alfred Doolittle, the sagacious worker in George Bernard Shaw's *Pygmalion*.³ Doolittle, seeking a handout, proclaims himself to be one of the undeserving poor, whose needs are just as great as the needs of the most deserving. The least advantaged class, as defined by Rawls, is a heterogeneous group, whose members differ in characteristics that should render them differentially entitled to assistance from the better-off members of society. The point here is not, or anyway need not be, that the Alfred Doolittles of the world are morally disreputable persons who should be penalized. The point is that they are by any reasonable standard among the better-off members of society, not the worst off. A person who is very talented and possesses desirable traits such as charm and gregariousness may have a decided and steady preference for leisure over moneymaking activity and may adopt a plan of life that involves voluntary avoidance of such activity. Even though his bank-account wealth and income are low, he is living well, but Rawlsian justice lumps him together with the desperately poor who are barely able to find marginal employment. One might also suppose that some individuals with income and wealth above the average were not blessed with good fortune in the natural lotteries of talent, inherited wealth, and early socialization. These individuals simply work with above-average zeal to make the most of their opportunities, and they may also have special unchosen needs that require them to have a high income to have a decent life. It might seem that this point concerns the degree to which it is reasonable to take income and wealth as a proxy for one's index of primary social goods. Presented with this difficulty, this is

² Rawls, *A Theory of Justice*, p. 96.

³ George Bernard Shaw, *Pygmalion, A Romance in Five Acts* (Baltimore: Penguin, 1951 [originally published 1916]).

the line that Rawls has taken in response.⁴ He has proposed that we should count leisure among the primary social goods and should stipulate that anyone who enjoys voluntary unemployment be credited automatically with a larger share of primary social goods than anyone who works for a living. But the core difficulty is that, according to Rawls's own stated rationale for his principles of justice, they should compensate for otherwise unacceptable inequalities in people's unchosen circumstances, the luck of fortune that puts individuals on the right side or the wrong side of the tracks at birth. The difference principle mixes together deep and shallow inequalities promiscuously. And whatever Rawls's own views might be, surely justice requires society to distinguish the cases that Rawls lumps together and, if feasible, to treat in different ways inequalities that are beyond one's power to control and inequalities that arise from voluntary choices for which individuals can take responsibility.

From this point on I shall mostly ignore the distinction between Rawls's general conception of justice, which identifies it with the maximization of the primary social goods holdings of the group in society that has the least of these goods, and the special conception, which holds only under conditions of modern society, when it becomes rational to single out the basic liberties of constitutional democracy for special priority over all other primary social goods. This complication does not matter in what follows, so Rawls's theory can be represented by the general conception.

3.1 Rawls on Deservingness and Responsibility

In an interesting discussion in *A Theory of Justice*, Rawls attacks the idea that notions of merit or deservingness should be included among the values that the principles of justice should assert as fundamental. He urges that the principle of distribution according to merit must in the end reward individuals for inherited traits for which the bearers of these favored traits can claim no credit. This point holds even for conceptions of merit that, to the naive theorist, might seem attainable equally by anybody. Rawls writes, "Even the willingness to make an effort, to try, and so to be deserving in

⁴ See John Rawls, "The Priority of the Right and Ideas of the Good," *Philosophy and Public Affairs* 17, no. 4 (Fall 1988): 251–276. Much of this discussion is incorporated in his *Political Liberalism* (New York: Columbia University Press, 1993), Lecture V. See also Philippe Van Parijs, "Why Surfers Should Be Fed: The Liberal Case for an Unconditional Basic Income," *Philosophy and Public Affairs* 20, no. 2 (Spring 1991): 101–131. Much of this discussion is incorporated in his *Real Freedom for All: What (If Anything) Can Justify Capitalism* (Oxford: Oxford University Press, 1995).

the ordinary sense is itself dependent upon happy family and social circumstances.”⁵ And again, “the effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him. The better endowed are more likely, other things equal, to strive conscientiously, and there seems to be no way to discount for their greater good fortune.”⁶ Rawls adds that notions of merit and deservingness may emerge and play a role within associations and schemes of cooperation. Within these contexts, the notions may work to motivate participants to put forward their best efforts in ways that will further the goals of the association. But the viability of this instrumental use of merit and desert has no tendency to show that the notions are fit to function as fundamental justice values.

To these considerations, Rawls adds another argument. He supposes that the best interpretation of a desert-based theory of justice would say that distribution of benefits and burdens should be set so that reward is proportional to virtue or moral worth. He then adds that the notion of moral worth is best understood as the disposition to comply fully with norms of justice, so one cannot define the notion until the norms of justice are independently defined and on hand. The idea of moral worth thus strikes him as an inherently secondary matter, logically unsuited to figure in a fundamental norm of justice: “For a society to organize itself with the aim of rewarding moral virtue as a first principle would be like having the institution of property in order to punish thieves.”⁷

However, the logical difficulty that Rawls notes does not decisively sweep deservingness values into secondary, instrumental status. The fundamental deservingness idea could be that fault forfeits first. That is, if lesser life prospects must be imposed on some, it is morally better that those whose conduct is by comparison more faulty should suffer the imposition, wherein

⁵ Rawls, *A Theory of Justice*, p. 74.

⁶ Rawls, *A Theory of Justice*, p. 312. Rawls’s rejection of deservingness and merit as fundamental moral determinants of an individual’s just share is not based on hard determinism, the claim that every event is determined by preexisting conditions according to causal laws, that human actions are events, and that being determined in this sense precludes moral responsibility. Rawls’s claim is rather epistemic. Matters for which people cannot be held responsible mix with matters for which people might be held responsible to cause outcomes in such a way that we can never reliably tell to what extent an individual is genuinely morally responsible for the outcomes of her actions. Moreover, even if in private life one sometimes can know enough to make a reasonable attribution of responsibility, at the level of public institutions, we cannot gain the information that would be needed to make reliable global judgments of individuals’ lifetime deservingness of the sort that would render the implementation of deservingness-based justice a feasible project.

⁷ Rawls, *A Theory of Justice*, p. 313.

the relevant notion of fault depends on context. In some contexts, the deserving are those who strive conscientiously, and in some contexts, the relevant conscientious striving is trying to be prudent. Here there is no vicious circularity: The idea of desert can be specified independently of the content of the requirements of justice.

As far as deservingness and responsibility are concerned, Rawls wants to walk delicately on a tightrope. He wants to deny that we should set up institutions with the aim of rewarding the deserving, but neither does he wish to deny a role to individual agency and individual responsibility within his theory of justice. After all, the distinction between deep and shallow inequalities rests on the idea that individuals sometimes make voluntary choices for which they are responsible, such that it is morally appropriate that they bear the consequences for their lives that result from these choices.

In Rawls's scheme, justice is responsible for securing a fair share of resources to individuals. That is, justice stipulates that institutions be established and sustained that will operate in conjunction with individual choices to maximize the primary social goods holdings of those with least. For those whose primary social goods holdings place them above the worst-off class, what one gets by way of primary social goods depends on how one chooses to act within these institutions. The uses that people make of their resources in their private lives are not the concern of justice. Whether one organizes one's romantic life well or poorly, for example, is not a social justice issue. Rawls also wants to hold that individuals bear responsibility for their ends, in the sense that each individual is deemed capable of affirming and, if appropriate, of revising her own conception of the good, and is responsible for the consequences for her life that flow from her embrace of one rather than another conception of the good. A conception of the good may be regarded as a set of final ends plus an account that shows how the individual final ends are coherently connected to one another and together express an idea of what is worth striving for in life or what constitutes a meaningful life. To say that an individual is responsible for her conception of the good or for her individual choices is in this context to hold that society is not obligated to compensate her for bad consequences she suffers because of having that conception or making those choices. (Nor is society authorized to take away the good fortune the individual comes to have because of her conception of the good and because of the choices she makes and transfer some of this good fortune to others who are less fortunate.) In a nutshell, the Rawlsian idea of justice is that society is obligated to provide for individuals a fair share of opportunities and resources that correct to some extent for the natural lotteries of birth and upbringing so that the expectations of the worst off are

as high as they can be made. What individuals make of their opportunities and resources, the goodness or badness of the lives they fashion for themselves guided by their own individual conceptions of the good, is their own business, not in any way the responsibility of society.

3.2 The Canonical Moment Version of Rawlsian Justice

This synthesis of mutual obligation and individual responsibility sounds attractively liberal, but collapses under examination. One cannot regard people's income as fixed beyond their power to control; the employment and self-employment decisions that individuals make reflect their values, aims, and choices as well as their initial unchosen assets and the ensemble of circumstances fixed by the actions of others. One possible way to reinstate the line between deep and shallow inequalities within Rawls's system would be to adopt the simplifying device of a canonical moment at which individuals enter adulthood and are deemed fully responsible for their choices and for the further socialization and values-altering regimes they undergo. The canonical moment version of the Rawlsian difference principle would then require that at the onset of adulthood each individual be provided a fair share of primary social goods (other than basic liberties, whose distribution is to be equal). This fair share will be such as to maximize the long-run sustainable potential expected level of primary social goods of the class of individuals whose potential for acquiring primary social goods is least. In other words, on this conception, justice requires not the maximization of the expected level of primary social goods over the course of one's life of those who are worst off in this respect, but rather the maximization of the expected level of primary social goods that the worst off could anticipate if each of them chose the plan of life of those available that would provide the highest expected level of primary social goods.⁸

A regime that satisfied the canonical moment version of the difference principle would be identifying the deep or basic structural inequalities with

⁸ There is an unclarity in this formulation that emerges once one notes that each individual's choice of the plan of life that is most prudent depends on what other individuals are rationally anticipated to be choosing. In forming a prudent life plan, the individual needs to anticipate not what others if ideally rational and well informed would choose, but what they will actually choose. It is not prudent for me to seek to date Ted if I know in advance that he will not seek to date me, even if I also know that if he were ideally prudent he would be willing to date me. For decisions in the economic sphere, we can finesse this difficulty by supposing that the individual reasonably expects to be making choices in a competitive environment in which the choices she makes will not have a significant impact on what others are anticipated to choose.

the inequalities in the potential for primary social goods acquisition that individuals face at the onset of adulthood, these being identified with unchosen inequalities in circumstances the just regulation of which is the primary subject of justice. The justifying idea would be that when any inequalities in the expected lifetime level of primary social goods that individuals could reach if they tried worked to maximize the expected potential level of the worst off over the long run, then and only then are those inequalities morally justified. Since compensation for the disadvantages that one suffers is set by the expected level of primary goods one could acquire rather than by the level one actually reaches, society is not in the position of compensating individuals for the consequences that fall on themselves as a result of their free and voluntary choices. This version of a just political regime does not seek to eliminate the influence of luck on the quality of lives that individuals reach. The initial basic structural inequalities that aroused our concern were not inequalities in guaranteed lifetime wealth and income levels. Being born in fortunate or unfortunate circumstances does not guarantee one a fortunate or an unfortunate life, just a greater or lesser prospect of such.

This revised Rawlsian doctrine on social justice is close in spirit to the “equality of resources” proposal espoused by Ronald Dworkin.⁹ Dworkin proposes equalizing shares of resources and Rawls proposes maximin resource shares, but this difference may not signify any serious moral disagreement because Dworkin limits himself to interpreting the ideal of equality and does not address the issue of how much weight in policy making to assign equality when it conflicts with other moral values. Dworkin could then affirm a Rawlsian maximin principle without retracting any of his assertions about the ideal of equality of resources. Rawls’s view that the primary subject of justice is the way the basic structure of society distributes initial inequalities, with its implicit contrast between deep and shallow inequalities, bears significant similarity to Dworkin’s contrast between option and brute luck and his identification of justifiable inequalities with those that arise because of option luck rather than brute luck given fair initial conditions. His initial formulation of equality of resources stipulates that equality of resources obtains among persons when each starts with a share of resources dictated by a theoretical equal auction and any subsequent inequalities in their resource holdings arise through option luck.

Dworkinian *option luck* is chance that affects a person’s life through gambles that the person either deliberately chooses or could have chosen. *Brute*

⁹ Ronald Dworkin, “What Is Equality? Part 2: Equality of Resources,” *Philosophy and Public Affairs* 10 (Fall, 1981): 283–345.

luck is chance that befalls a person without any mediation of choice. Being harmed by a chance event against which there was no possibility of purchasing insurance or taking protective measures would be an instance of brute luck. But where insurance is available, the decision to purchase it or not transforms the chance event into option luck, and even if one does not advert to the possibility of purchasing insurance and make a deliberate choice, still, one could have done so, and this circumstance suffices to change brute luck to option luck. Because option luck is present in virtually all choices made by adults, I described the canonical moment version of Rawls's general conception of justice as close in spirit to Dworkin's ideal of equality of resources, which incorporates the norm that the outcomes of brute but not option luck should be equalized.

3.3 Responsibility for Voluntary Choices is Problematic

The proposed fusion of Rawls and Dworkin on distributive justice is an unstable doctrine. It combines the ideas that distributive justice requires compensating individuals for their unchosen talent deficiencies and that distributive justice forbids compensating individuals for the outcomes of their free and voluntary choices provided that these choices proceed from a fair prior distribution of resources. In a slogan, the proposal is that individuals should be held responsible for their choices but not for their unchosen circumstances in which choices are made. The problem is that prominent among individuals' deficiencies in talents are deficiencies in their choice-making and choice-following abilities. Consider a decision problem in which complex reasoning is required to reach a prudent decision. Two individuals may strive equally conscientiously to arrive at a prudent choice, but one has been favored with better reasoning ability and succeeds while the other fails. Or suppose instead that the decision problem is easily solved by both individuals, but it requires heroic willpower to carry out the decision, and one individual is blessed with far greater executive abilities than the other and successfully implements the chosen decision, while the other succumbs to what is for him nearly irresistible temptation. In both cases, unchosen talent differences bring about an outcome in which the talented individual is well off and the untalented individual is badly off. In such cases, the norm that justice requires compensation for unchosen differences in talent and forbids compensation for differences in well-being that arise from the quality of individual choices yields contradictory recommendations for and against compensation.

This conclusion might seem too hasty. After all, a canonical moment distributive principle can specify that the fair initial shares of resources that individuals are given should be adjusted to reflect differences in their talents, including their choice-making and choice-following talents. The individuals then proceed to make their own choices and plan their lives as they please, but *ex hypothesi* compensation has already been made at the start that appropriately offsets their disabilities that affect their choices. However, in general, it will not be the case that the appropriate protection for individuals with choice-making deficiencies can be determined in advance of their actual choices. Consider that any adjustment made in the initial stake of resources that a canonical moment theory of justice assigns the individual might be swamped immediately by a bad decision of that individual: Following the initial “fair” distribution, the individual engages in high-stakes gambling with a poor betting strategy and predictably loses her entire resource stake. Or suppose that immediately following the initial “fair” distribution of resources, the unfortunately endowed individual makes a mistake in judgment for which she cannot reasonably be held blameworthy and proceeds to ride a motorcycle at excessive speed on a deserted road and suffers an expectable bad accident, which leaves her subsequent life prospects gravely diminished. Adequate compensation for choice-making and choice-following talent deficits will sometimes have to take the form either of paternalistic restriction of people’s liberty in contexts where disastrous choices are predictable or *ex post* compensation to restore individuals’ life prospects following choice-inflicted personal disaster (or some mix of restriction and amelioration).

Where do these criticisms of canonical moment views leave us? It may seem that we have come full circle. I began by invoking and endorsing Rawls’s idea that the primary subject of justice is the basic structure of society regarded as engendering inequalities that do not arise from individual voluntary choice, for which individuals may be held responsible. I then criticized Rawls’s difference principle for its failure to distinguish inequalities due to individual choices from inequalities due to circumstances and to treat these two kinds of inequality differently. This criticism prompted a reformulation of the Rawlsian difference principle, the canonical moment difference principle, which does respect a sharp distinction between what arises from individual voluntary choice and what arises from unchosen circumstances. The canonical moment difference principle has important affinities with Ronald Dworkin’s approach to distributive justice. But the distinction between inequalities arising from choice and inequalities arising

from unchosen circumstances turns out to be confused because unchosen circumstances include each individual's talent endowment, and among one's talents is the ability to make and implement good choices in formulating a conception of the good and in devising a plan of life. Is the original difference principle then vindicated after all? My answer is: No.

Consider a simple stylized example. Smith and Jones have identical native talents and equally favorable childhood socialization experiences. Over the course of their lives, Smith chooses a life plan that gives her an expectation of a high level of income and other resources over the course of her life, whereas Jones chooses a life plan that gives her an expectation of a much lower resource level, which happens to place her among the Rawlsian worst-off class. The Rawlsian difference principle will recommend institutions such as a tax and transfer policy, which redistributes resources from a group that includes Smith to a group that includes Jones. But Jones has freely decided to pursue life goals that do not involve maximizing her resource holdings, either because given her values, prudence does not lead her to choose this form of maximization or because she chooses to pursue life goals other than those dictated by prudence (for example, she may choose to sacrifice her earnings prospects in favor of service to a worthy cause). In either case, the transfers recommended by the difference principle are unfair. The conclusion to be drawn from the discussion to this point is that neither the difference principle nor the canonical moment difference principle adequately incorporates responsiveness to individual responsibility in the theory of distributive justice.

3.4 Responsibility for Ends Reconsidered

Pressing on the thought that individuals are not reasonably held responsible for their talents, which are available to them owing to circumstances beyond their control, leads to the idea that in some cases it is wrong to hold individuals responsible for bad outcomes they suffer that are the consequence of their inept choices of fundamental life aims, for this incompetence may have arisen inexorably from circumstances beyond the individual's power to control. This latter thought sounds vaguely menacing. It is opposed by the plausible liberal idea that each individual is responsible for the quality of the fundamental aims that she affirms and for the consequences for the quality of her life that flow from her embrace of these aims and her pursuit of a plan of life based on them. The doctrine of responsibility for ends has the implication, which many find attractive, that even in principle, much less in practice, justice does not call for resource provision to individuals

for the purpose of compensating them for their tastes, should their tastes happen to be expensive. If one individual is satisfied with popcorn and beer and another has a refined sensibility that is satisfied only with plover's eggs and prephyloxera claret, the doctrine of responsibility for ends holds that the person with expensive tastes has no claim for extra compensation by appeal to distributive justice principles.

The idea that each citizen must take responsibility for her final ends and for the plan of life she follows is closely linked to Rawls's decision to measure the condition of individuals for purposes of distributive justice by their resource holdings as measured by an index of primary social goods. Rawls articulates the rationale for primary social goods as follows:

Justice as fairness [i.e., Rawls's doctrine] . . . does not look behind the use which persons make of the rights and opportunities available to them in order to measure, much less to maximize, the satisfactions they achieve. Nor does it try to evaluate the relative merits of different conceptions of the good. Instead, it is assumed that the members of society are rational persons able to adjust their conceptions of the good to their situation.¹⁰

The notion of rationality alluded to here is a range property: As long as one meets a minimal threshold of rationality, one is considered rational – period – and variations in rational capacity above the threshold do not dictate different treatment of different individuals in a Rawlsian scheme as far as the doctrine of responsibility for ends is concerned. The rough idea is that if one is nonfeebleminded and noncrazy, the soundness of one's conception of the good and the viability of one's plan of life are not questioned.

This may sound attractively liberal, but the consequence should be noted: If one assumes that at least to some extent and in some cases one can make objective determinations that some people's fundamental aims and life plans are defective and ruinous for their lives, the principled refusal to use this information as a basis for social policy will lead a Rawlsian just society to treat the predictably blighted lives of some of its least fortunate members as a matter beyond the scope of justice and not a legitimate social concern. This is individualism with a vengeance.

The claim then is that the principled refusal to look behind the uses that people make of their opportunities and liberties to see what quality of life they reach is unfair at least to those who predictably and through no fault of their own end up with avoidably unfortunate lives. I next consider several objections against this claim.

¹⁰ Rawls, *A Theory of Justice*, p. 94.

Objection 1. One could avoid this individualism-with-a-vengeance result by setting the threshold of minimal rationality very high, but then much of social policy will be treated by principles of justice that are not Rawls's and one wants to know the content of these principles. At any rate, there is still the difficulty that by means of the threshold one is treating as an either/or a morally relevant factor that varies by degree.

Objection 2. Defending Rawls's doctrine of responsibility for ends, Norman Daniels writes that if individuals egregiously fail to be rational in their choice of fundamental life aims, the appropriate response by society is to provide medical care that will restore the individual's capacity for choice.¹¹ In this way, responsibility for ends is upheld: Individuals are responsible for their choices of final ends, provided they have a threshold capacity for choice, and if they lack the capacity, the just society owes them aid to restore the capacity, not compensation that restores them to some putatively fair level of satisfaction of their rational ends.

However, notice that there are moral costs to the resolve to stand by responsibility for ends come what may. First, providing aid that attempts to rehabilitate rational faculties may be in some cases an inefficient means of helping the individual attain a better quality of life understood as degree of fulfillment of choiceworthy ends. Insistence on responsibility for ends then means we help a badly off person less rather than more. Second, the Daniels version of responsibility for ends holds to be beyond the purview of social justice differences in the quality of the final ends that individuals affirm, no matter how large the differences, provided that the individuals are above the threshold standard of rationality. In some of these cases, the individuals with worse ends will have arrived at their ends by a process not reasonably deemed within their power to control. Inborn or socially acquired excessive susceptibility to cultural cues and insufficient reasoning power may be the factors that determine the differences in the quality of individual ends, not any blameworthy negligence or recklessness on the part of the choosing individuals. In this range of cases, the Rawls–Daniels position turns a blind eye to significant differences in life prospects among

¹¹ Norman Daniels, "Equality of What: Welfare, Resources, or Capabilities?" *Philosophy and Phenomenological Research* 50, Supplement (Fall, 1990): 273–296. A similar point is asserted by Christine Korsgaard in "Commentary on Amartya Sen's 'Capability and Well-Being'" and Gerald Cohen's "Equality of What? On Welfare, Goods, and Capabilities," in *The Quality of Life*, ed. by Martha Nussbaum and Amartya Sen (Oxford: Oxford University Press, 1993), pp. 54–61.

individuals that cannot reasonably be deemed the responsibility of the individuals themselves. In practice, perhaps often little can be done to ameliorate these discrepancies, but in principle, the theory of justice (I claim) should register them.

Objection 3. An alternative response is to query an assumption that is implicit in the individualism-with-a-vengeance worry: That society as a whole can reach sufficient agreement on reasonable final ends to be able to base public policy on substantive claims about the good. One might hold that Rawls's primary reason for restricting the interpersonal comparisons for the theory of justice to differences in people's holdings of primary social goods is a sensible skepticism that society-wide reasonable agreement on worthwhile human ends and a correct conception of the good is possible. If the members of a diverse democracy cannot agree on the good, then something like the primary goods idea must be accepted.¹²

I doubt that the denial of the possibility of any reasonable agreement about what goals are worthy of pursuit, hence a blanket denial of interpersonal comparisons beyond comparisons of different person's holdings of income and other primary social goods, is consistent with any insistence that distributive justice requires compensation for disadvantage. If we really are faced with incommensurability of the good, such that we have no basis at all for asserting that a sick, destitute, and illiterate individual with few primary social goods is likely to be leading a worse life than a healthy, wealthy, and well-educated individual blessed with many primary social goods, then on what basis do we claim that redistribution between the worse off and better-off person (as rated by the primary goods measure) is appropriate? After all, it would be fetishistic to care about lack of means unless lack of means can be known to bring about a lack of opportunity to achieve

¹² On the difficulty or perhaps impossibility of making interpersonal comparisons of well-being that can be employed in principles that determine the requirements of justice, Rawls's thinking appears to undergo evolution. In *A Theory of Justice*, he writes of the difficulties that afflict the making of interpersonal comparisons, "I do not assume, though, that a satisfactory solution to these problems is impossible." Rawls sees the issue of interpersonal comparison as bound up with the merits of utilitarianism as a theory of justice and observes that "the real difficulties with utilitarianism lie elsewhere." These quotations are from *A Theory of Justice*, p. 91. But in a later essay Rawls makes the basis of interpersonal comparisons central. See Rawls, "Social Unity and Primary Goods," in *Utilitarianism and Beyond*, ed. by Amartya Sen and Bernard Williams (Cambridge: Cambridge University Press, 1982), pp. 159–185. A version of this same idea is crucial to the argument in Rawls, *Political Liberalism*.

worthwhile ends. Incommensurability implies agnosticism about what constitutes fair shares.

Even if two individuals happen to adopt exactly the same final ends, and they have unequal holdings of primary social goods, it is problematic to hold that it is morally important to get more primary social goods into the hands of those who have lesser shares. For one thing, for all that has been specified so far, it could be the case that the individual with a lesser amount of primary social goods might have a greater amount of nonprimary goods, so she can attain a higher level of satisfaction of her final ends than the person with the same final ends and more primary social goods. Why care about a subset of the means that people have to achieve their final goals? A second point to note is that if sets of final ends are incommensurable, then if the individual with fewer primary social goods had chosen a different conception of the good with a different and more easily satisfiable set of final ends, there would then be no basis for claiming that the one has a lesser prospect of attaining a satisfactory quality of life than the other – even if it were granted that if two persons have identical final ends and one has more primary social goods, the one with more primary social goods has a greater prospect of fulfilling these final ends. If sets of final ends are incommensurable, then the individual with lesser primary goods has it within her power by choosing a new set of final ends to bring it about that she does not have a lesser prospect of achieving a good life than the person with more such goods. Why care that someone has lesser means than another to achieve a shared set of goals if there is nothing especially normatively attractive about the pursuit of that set of goals as opposed to many others?

Objection 4. According to Rawls, the primary social goods idea relies on the assumption that individuals are “able to adjust their conceptions of the good to their situation.”¹³ If an individual is allotted a fair share of resources, it is up to her to adjust her life choices to achieve decent life prospects. But this adjustment process encompasses two different processes, only one of which is usefully described in the language of choice. Given a set of fundamental personal values, a person may choose a plan of life, a revisable set of goals that one then pursues in order to achieve one’s values to the fullest possible extent. We expect that a person’s life plan should adjust to the present and expectable circumstances of one’s life. If I am a very poor peasant, my reasonable life plan may be

¹³ Rawls, *A Theory of Justice*, p. 94.

limited to trying to keep my family alive so it can continue in the next generation. But it is not at all obvious that the individual's conception of the good, of what is valuable and choiceworthy in human life, should adjust to circumstances in this way. Why would my poverty affect the value of creating and appreciating great art and music? The idea of adjusting one's ends to one's circumstances makes sense only to the extent that what is at issue is the choice of a plan of life regarded as means to fulfill one's fundamental values. An individual's conception of values may be affected by his circumstances, but to think of one's values as formed by one's idiosyncratic circumstances is to think of them as partial and distorted: insofar as being a peasant or a professor has given me access to some of the goods of life and not others, I should recognize my limited experience in forming my conception of the good life and try to offset it.

Of course idiosyncratic circumstances may favorably affect one's choice of values. But when this occurs, the circumstances are either working to improve the reasons and evidence on the basis of which one comes to affirm particular values or to improve one's abilities reasonably to incorporate evidence and reasons into one's reflections about values. What I am claiming does not make sense is the idea that having one rather than another set of limited experiences – eating fish but not fowl, reading books but not playing sports – can give one a better basis for making comparative assessments.

One chooses a plan of life, but not one's values, which are formed by belief and judgment. I can choose to engage in reflection, which may affect belief and judgment. I may engage in deliberation carefully or carelessly and be responsible for the degree of care taken as far as this lies within my power to control. But if I reflect, I cannot choose what conclusions I will be led to by reasons, and if I could so choose, the process of reflection would not be rational, controlled by the weight of reasons. There is a decisively passive aspect to the process of responding to reasons in forming beliefs. I cannot be responsible for my values in the way I am responsible for my choices.

3.5 Joint Responsibility on the Part of Individual and Society for Individual Ends

This discussion on responsibility for ends to this point might prompt the following response: We admit that it is not reasonable to hold individuals responsible for what does not lie within their control, and as an extension of

this principle, it is not reasonable to hold two individuals equally responsible for what lies easily and costlessly within the control of the one and barely, at excruciating personal cost, within the control of the other. We then amend responsibility for ends as follows: Each individual should be held responsible for his choice of final ends insofar as this choice lies within his control. Moreover, the more difficult and costly it would be for a particular person to make a choice, the less one is fully responsible for that choice. But we affirm responsibility for ends subject to this proviso.

This last formulation also looks to be overly suspect and rigid. Imagine that Smith and Jones could have chosen their final ends differently and better, and it would not have been impossible or difficult for them to have done so. By the account just sketched, they are responsible for their choice of ends. Does this preclude the assumption of responsibility by society for the quality of the ends embraced by its members? Certainly it is possible that under the circumstances as sketched, the society could have altered the choice-forming environment in ways that would have increased the prospects of reasonable choice by Smith and Jones. In *On Liberty*, John Stuart Mill defends his proposed liberty principle, among other reasons, on the ground that a society that respects this principle will thereby provide an environment that is conducive to intelligent deliberation about goals and choice of life plans.¹⁴ Here the metaphor of a division of responsibility between individual and society introduced by Rawls is potentially misleading.¹⁵ That an individual in a particular context is responsible for her self-affecting choices in the sense that society will not compensate her for deficits in her well-being that result from those choices does not preclude the possibility that society is responsible for undertaking measures that will alter the environment in which choices are made that will predictably improve their quality. Moreover, if society fails to fulfill this obligation, it may incur an obligation to compensate those who suffer from this failure. This means that individuals might be responsible for their ends in the sense that the quality of the ends chosen lay within their power to control; yet, society might be responsible for compensating individuals for resultant low well-being because if society had done what it should, the deficient ends actually chosen would never have been selected.

¹⁴ John Stuart Mill, *On Liberty*, ed. Elizabeth Rapaport (Indianapolis, IN: Natchett, 1978 [originally published 1859]), Chapter 3.

¹⁵ The notion of a division of responsibility between individual and society is advanced in Rawls, "Social Unity and Primary Goods," p. 170.

3.6 Effectively Equivalent Options

Suppose that Smith and Jones face crucial life decisions with large consequences for their expected well-being over the course of their lives. Each has available a prudent course of action that would guarantee a satisfactory outcome. To arrive at the prudent decision, one must solve a mathematical problem, which Jones can solve easily and which Smith can solve only by dint of great and costly effort that strains his faculties to the limit. Smith must reject many tempting options that would yield nice payoffs in the short run and disastrous payoffs in the long run to select the prudent option, whereas Jones faces no such tempting bad offers. Having made the prudent choice, Smith can carry it out only with great difficulty, and Jones can do it easily. To simplify, imagine that we can aggregate the factors that render prudent choice and action difficult or easy and painful or pleasant into a single scale of painful difficulty. We can then say that two agents facing different arrays of options have *equivalent* options if the well-being each would gain by acting perfectly prudently is the same and *effectively equivalent* options if making and implementing this perfectly prudent choice would be equally painful and difficult for each. One suggestion then is that individuals can reasonably be held responsible for their choices among options by comparison with the choices of other individuals who faced effectively equivalent options. Another suggestion is that to the extent that the difficulty and pain of making the prudent choice exceeds a level deemed tolerable, the individual's responsibility is mitigated in case she chooses and acts imprudently. In other words, we hold an individual responsible for doing as well as could reasonably be expected in her circumstances, given the value of the options available to her and the difficulty and pain of making and implementing the choice to do what she ought, given her circumstances.

I don't take this approach to responsibility to raise the free will issue. Even if one assumes that individuals have free will to make choices, the agent's native traits and talents influence the choices available to her in given circumstances and the difficulty and cost of determining and making the best choice. If, however, determinism holds, then either soft determinism obtains, in which case the suggested analysis still applies, or hard determinism obtains, in which case all questions of responsibility are moot.

However, another worry presses for attention.¹⁶ It might be supposed that making the assumption that all members of society are fully rational agents

¹⁶ I thank Wayne Martin and Philip Kitcher for pressing this concern.

expresses a normative commitment to treat all human beings as persons worthy of respect. This claim does not have the status of a weak empirical presumption to be adjusted continuously case by case in the light of the available evidence. We give up this claim only when forced to do so by confrontation with disabling mental illness or feeble-mindedness. Short of that, we express respect for persons by treating every member of society as a fully rational agent, capable of appreciating and understanding the import of good reasons and capable of being moved to action by good reasons. Any other attitude denies respect for persons and licenses the treatment of individuals as objects to be manipulated in the service of ends that we suppose to be worthy but which the manipulated beings may not share.¹⁷

Various issues are surfacing here, most of which I must let sink back to the bottom of the pond. For present purposes, I simply want to register where I begin to disagree with the reflections of the previous paragraph. The problem starts with the slogan of “respect for persons.” Whatever respect for persons entails, if the idea is to be acceptable it can require neither the denial of known empirical facts nor the treatment of people as though what’s true were not true. People do differ in their capacities to appreciate reasons and in their susceptibility to be moved by them. These differences matter in everyday affairs, not just in the neighborhood of extremes of pathology. Often the pertinent facts are highly uncertain, and in virtue of the pervasive uncertainty, the choice of policy for coping with the variability in rationality across persons must be tentative and cautious. But if you know that I am incompetent in certain ways in some domain of policy making, it would not be disrespectful to take measures to cope with my incompetence, and perhaps to insulate me from decision-making responsibility in this domain, when policy choice is consequential for the well-being of other persons or myself. (I note that no elitist policy conclusions flow immediately from the remarks at this level of abstraction. Bentham’s enthusiasm for Panopticon managerialism needs to be tempered by Mill’s sober doubts concerning *quis custodiet custodiet?* among other questions.)

3.7 Are We Responsible At Most for What Lies Within Our Control?

In this chapter, my starting point is the limiting principle that we should be held responsible at most for what lies within our power to control. I then

¹⁷ This paragraph is an attempt to construe remarks in Rawls, *Political Liberalism*, pp. 178–187, esp. pp. 184–186. For an account of the moral import of Kant’s analyses of rational agency and human freedom, see Henry E. Allison, *Kant’s Theory of Freedom* (Cambridge: Cambridge University Press, 1990); see esp. chapter 6.

amend this principle by noting that even if it lies within my power to secure an outcome, it may barely be within my power, so even if I could and should secure it, it may be unreasonable to hold me responsible for failing to secure it. In contrast, securing a similar outcome of similar importance may be easy for you, so if we both succeed in bringing the good outcome about, I should get more credit than you; if we both fail, I should be blamed less than you; and if one of us succeeds and the other fails, how much credit and blame should be assigned depends on which of us succeeded and which failed.

This account might be resisted at the outset by the denial that one should be held responsible at most only for what lies within one's power to control. In many situations, individuals assume responsibility for the quality of outcomes that may vary depending on factors beyond their power to control. In these scenarios, there is evidently voluntary control at one remove. But we might also envisage an assignment of responsibility for outcomes imposed on people without any mediation of voluntary choice. For example, a society might adopt a no-fault compensation scheme for automobile accidents. Under this scheme, everyone must purchase auto accident insurance, and when accidents occur, compensation is paid from the insurance fund to those who suffer losses, regardless of the faultiness of their conduct. Suppose the no-fault scheme is in place, and Smith and Jones, both dead drunk, recklessly cause an expensive accident. Responsibility for these losses is borne by all the members of society who are required to purchase the insurance, which pays for the costs that Smith and Jones incur. Here there is responsibility for outcomes beyond the responsible agent's power to control, and this responsibility is not incurred by voluntary choice. Whether this is fair depends on the system as a whole and its consequences for people's lives as it operates over time. One might insist that you cannot validly object to the scheme just by reciting the slogan, "No responsibility for outcomes that are beyond the individual's power to control."

To sort out these concerns, we must distinguish different senses in which an individual might be said to be responsible for the quality of some outcome. One might be responsible for an outcome in the sense of liable to praise or blame, reward or punishment, depending on the quality of the outcome. I take it that we should only be held responsible at most for what lies within our power to control. The no-fault insurance example does not challenge this claim.

An individual might be said to be responsible to some extent for an outcome just in case one will be required to pay some of its costs if the outcome falls below some threshold level of quality. One is fully responsible for negative outcomes if one is to bear all of the costs. (One might be

responsible for positive outcomes as well, in which case one shares the gains.) Responsibility in this sense of liability to pay costs might sensibly be divorced from control.

Any theory of distributive justice which holds that society – all of us taken together – is obligated to compensate individuals for misfortune with a view to assuring everyone a fair share of opportunity for a good life necessarily assigns individuals responsibility in the cost-sharing sense for outcomes that are beyond their power to control. If a childhood disease epidemic places many individuals at a disadvantage unless they receive help that compensates for the disabling residue of the disease, then justice may dictate that the rest of us are obligated to provide this help, which means that we are responsible for sharing the costs of outcomes of disease that are clearly beyond our (i.e., the taxpayers') power to control.

The obligation of society to share the costs and benefits of good and bad luck by providing fair shares of opportunity to all corresponds to a right of each individual to receive a fair share of opportunities. My claim about personal responsibility as a determinant of fair shares to this point has been that one's fair share of opportunities is the share that would give one a fair share of human good or well-being if one used one's opportunities as prudently as could reasonably be expected, given one's unchosen circumstances and personal traits and talents. If one has received a fair share in this sense, deficits in well-being that arise from deficiencies in the way one has lived do not trigger further obligations on the part of society to compensate the individual so as to erase on the deficits. Personal responsibility sets limits to morally desirable equalizing compensation done in the name of distributive justice.

The objection to this account is that we might conceive of ideas of personal responsibility merely as means to achieve other justice values. Viewed as a means in this way, a norm of responsibility might fail to respect the idea that one should be held responsible at most for what lies within one's power to control. To revert to the no-fault insurance scheme, one might justify an assignment of responsibilities to individuals beyond what lies within their power to control by the morally desirable consequences that the assignment brings about. To see matters in this way is to see the assignment of responsibility as political, not metaphysical.

The objection misfires. At least, the possibility of treating responsibility assignments as means to further goals does not at all preclude viewing aspects of responsibility assignments as intrinsically morally desirable. That responsibility assignments have instrumental value does not render them mere means. Once individuals have received a fair share of opportunities, it is morally better, other things being equal, that those who are truly responsible

for faulty conduct that renders themselves or other persons (who have not consented to share these losses) worse off should pay for the consequences of such conduct. Of course, there may be costs to tailoring individual fortune to the quality of responsibility of their conduct, and sometimes these costs will outweigh the moral desirability of tailoring. This consideration has no power to undermine the claim that it is morally desirable for its own sake that fine-grained judgments of individual responsibility should affect what society owes the individual by way of opportunity provision over her life course.

The no-fault insurance scheme proposal illustrates the point. Perhaps the adoption of this scheme generates savings in administrative costs, which render everyone better off than they would be under alternative feasible schemes. This in no way denies that it is intrinsically more fair that if individuals harm themselves by faulty conduct and if a fine-grained theory of responsibility does not excuse their conduct but holds them fully accountable for it, the individuals themselves, and no one else, should absorb the costs of the harm. The assignment of responsibility in the sense of liability to bear costs is evidently both a means to other justice values and a way of apportioning responsibility fairly. A full theory of justice must give guidance on how we should balance these different fairness values when they conflict in particular cases.

3.8 The Hybrid Proposal

Suppose we resurrect the canonical moment idea and combine it with a standard of interpersonal comparison that looks beyond resource provision to the quality of life that individuals are enabled to achieve by given resources. The hybrid proposal is the opportunity for well-being conception.¹⁸ According to it, two individuals enjoy the same opportunity for well-being just in case, at the onset of adulthood, resources have been allotted so that each faces an array of effectively equivalent life options in the sense that if each chooses as prudently as could reasonably be expected, each would have the same lifetime expectation of well-being.¹⁹ (The notion of *well-being* here is a placeholder for whatever theory of human good is best.) This suggestion

¹⁸ This is the view I advanced in "Equality and Equal Opportunity for Welfare," *Philosophical Studies* 56 (May 1989): 77–93.

¹⁹ Equal opportunity for welfare so defined cannot always be implemented, as Marc Fleurbaey notes in "Equal Opportunity or Equal Social Outcome?" *Economics and Philosophy* 11 (1995): 25–55. When equal opportunity for welfare cannot be fully implemented, we need a measure that allows us to say, given two distributions of opportunities across a set of persons, which distribution comes closer to implementing this ideal.

is not subject to the two objections that plagued Rawls's view: That we are holding individuals responsible for matters beyond their power to control, and that we are misfocusing attention on resource holdings rather than on the extent to which an individual's resource holdings enable her to achieve a tolerable prospect of a good life.

The hybrid proposal resolves the problem of expensive tastes as follows: A distinction is made between an expensive taste that arises in a way that is reasonably held to be the responsibility of the individual who acquires the taste and expensive tastes for which it is not reasonable to hold the individual responsible. In principle, the latter are compensable. The expensive tastes problem also strongly suggests that mere satisfaction of an individual's basic preferences as such need not contribute much if anything to the choiceworthiness of her life. To some, popcorn and beer and plover's eggs and fine claret might appear equally to be frivolities. The individual's preferences, expensive or cheap, might not track what is reasonably deemed good for that person. The response to this aspect of the problem would explore the theory of the good. If the best account of human well-being does not identify it with satisfaction of actual preferences, then an oblique reply to the expensive tastes problem is available. The issue for distributive justice is not whether the person is enabled by his resource share to satisfy his tastes, be they expensive or cheap. The issue is whether the individual's resource share in the context of society's overall dealings with the individual provide her with a fair opportunity to achieve a good, valuable, choiceworthy life.

Does this hybrid position successfully integrate the considerations that unraveled the Rawls–Dworkin approach to individual responsibility within distributive justice?

3.9 Bert's Case

No. No doubt the hybrid proposal on responsibility contains multiple errors, but two are flagrant.²⁰ One error is that this approach to responsibility is too

²⁰ Good critical discussions of the hybrid proposal are in John E. Roemer, *Theories of Distributive Justice* (Cambridge: Cambridge University Press, 1996), chapter 8; Norman Daniels, "Equality of What? Welfare, Resources, or Capabilities?"; Thomas Christiano, "Difficulties with the Principle of Equal Opportunity for Welfare," *Philosophical Studies* 62, no. 2 (May, 1991): 179–185; Eric Rakowski, *Equal Justice* (Oxford: Oxford University Press, 1991), pp. 43–72. On the rationale of the family of views of which the hybrid proposal is a member, see G. A. Cohen "On the Currency of Egalitarian Justice," *Ethics* 99, no. 4 (July 1989): 906–944. See also Arneson, "A Defense of Equal Opportunity for Welfare," *Philosophical Studies* 62, no. 2 (May 1991): 187–195; also "Property Rights in Persons," *Social Philosophy and Policy* 9, no. 2 (Winter 1992): 201–230.

unforgiving. A second error is that if we compensate for unchosen bad luck before the canonical moment, why ignore unchosen bad luck that occurs after it? Both errors are illustrated by Bert's case, posed by Marc Fleurbaey.²¹ Starting with an allotment of opportunities at the canonical moment that is ex hypothesi fair, Bert squanders his resources by his own carelessly voluntary choice. He deliberately chooses to ride a motorcycle at high speed without protective headgear just for the thrill of the experience on a deserted road (so nobody is put at risk except himself), and without having purchased any accident insurance, even though he concedes the risk of accident is excessively high by comparison with the expected gains from speeding. In the event, he suffers an accident and is grievously injured. He is personally responsible for his plight, which has come about as a result of his heedlessly reckless choice. However, once he is injured he could be restored to normal health if society pays for brain surgery costing \$10,000. Without this surgery he will swiftly degenerate into an irremediable vegetative state. Given that he is already the recipient of a fair share of opportunities, to provide him with the operation he needs would be to bestow on him an unfairly large set of opportunities – if he had a fair share, and he is now given extra resources, he gets more than what is fair. Nevertheless, it seems harsh to deny Bert his life-restoring operation. Bert behaves worse than could reasonably be expected of him. His behavior is faulty on a fine-grained conception of responsibility. Still, we should help him, I assume.

I assume, and do not here argue for, the “we should help him” response to Bert's case. Some might think that helping Bert at this point is required by charity, not justice. But there is a possibility of merely terminological disagreement here. I use *distributive justice* as a name for obligations to compensate fellow members of society for certain types of bad luck, these obligations being regarded as appropriately enforceable.²²

Some factors that may influence the response to Bert's case:

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²¹ Fleurbaey, “Equal Opportunity or Equal Social Outcome?” pp. 25–55.

²² I wrote this essay in 1995. For my recent thinking on this and related topics, see Richard Arneson, “Desert and Equality,” in *Egalitarianism: New Essays on the Nature and Value of Equality*, ed. by Nils Holtug and Kasper Lippert-Rasmussen (Oxford: Oxford University Press, 2007), pp. 262–293; Arneson, “Luck Egalitarianism Interpreted and Defended,” *Philosophical Topics* 32, nos. 1 and 2 (2004), 1–20; Arneson, “Justice after Rawls,” in *Handbook of Political Theory*, ed. by John Dryzek, Bonnie Honig, and Anne Phillips (Oxford: Oxford University Press, 2006), pp. 45–64; Arneson, “Cracked Foundations of Liberal Equality,” in *Ronald Dworkin and His Critics*, ed. by Justine Burley (Oxford: Basil Blackwell, 2004), pp. 79–98; Arneson, “Luck and Equality,” *Proceedings of the Aristotelian Society*, supp. vol. 75 (2001), 73–90.

Opportunity Provision versus Maximal Utility. The description of Bert's case strongly suggests that offering Bert the resources he needs for the operation that would restore him to good health would be a very efficient use of resources to increase the sum total of human good. The strength of this consideration can be checked by varying the example in thought. We can imagine variants of Bert's case that are changed in only one respect: the cost-to-benefit ratio of giving Bert extra help becomes increasingly unfavorable.

Initial Opportunities and Subsequent Bad Luck. After being allotted a set of resources that is supposed to give him a fair share of opportunities for well-being, Bert then chooses a course of life, experiences bad luck, and ends up with very low well-being despite initially bountiful resource provision. In Bert's case, he has bad luck in the course of following a poor plan of life, but bad luck could befall anyone who starts with a given set of opportunities, regardless of the quality of the life plan she chooses. Again, we can check the influence of the bad luck factor in our response to Bert's predicament by imagining otherwise similar variants of the example in which the bad luck lessens and then disappears.

Deservingness. In the example, Bert behaves imprudently and comes to harm through his own fault, but the "punishment" he receives is disproportionate to his "crime." Life is punishing Bert very severely for slight fault. We can bring this feature of the situation into relief by exaggerating it. Or we can imagine variants of the case in which Bert's negative deservingness increases and the ratio of his punishment to his crime diminishes as a result.

Priority to the Badly Off. Once Bert is injured, his life prospects absent any further aid are truly dismal. This factor may itself strengthen the case for helping him.

Efficiency. In the example as described, the resources that we could give to Bert have alternative uses. If we do not help Bert, we could help someone else. We might try to gauge the importance of this factor by imagining it altered. Suppose that the resources we could give to Bert have no alternative uses. We could help Bert or no one.

Does Bert's case indicate that distributive justice should be fundamentally concerned with the life outcomes that individuals actually reach rather than the opportunities they enjoy? Is provision of opportunities at most instrumentally morally valuable and not morally valuable for its own sake? Maybe one is just barking up the wrong tree when one tries to specify the

content of distributive justice by articulating an ideal of fair provision of opportunities. However, the issue is still open.

The possibility of pointless opportunity provision might be thought to illustrate the futility of trying to devise principles of distributive justice according to which justice is some function of opportunity provision. Suppose that Smith and Jones live on separate islands and that Smith's resources are ample and Jones's resources are skimpy. Let's stipulate that Smith can improve Jones's opportunity to lead a good life in just one way, by constructing a raft and setting some of his goods adrift on the raft to be carried by the tides to the shores of Jones's island. On the facts so far stipulated, let's say that justice requires that Smith help Jones. But suppose with certainty that if she sends aid to Jones, the aid will do no good and not help him further any of his goals. Perhaps Jones is clumsy and neglectful and will certainly entirely waste the resources; perhaps Jones has firm religious scruples against using resources that wash ashore on her island. On outcome-oriented principles, Smith's obligation to aid will evaporate in these circumstances. But it might seem that on opportunity-oriented principles, Smith's obligation remains in force. After all, the opportunities are just as good, and just as available to Jones, whether she uses, neglects, or squanders them. If opportunity provision is what fundamentally matters from the standpoint of distributive justice, nothing cancels the obligation to aid. Denying this might be thought tantamount to rejection of opportunity-oriented views of distributive justice; however, the conclusion is premature. At most, the example suggests that the pointless provision of opportunities is not required by justice. Justice is not indifferent to outcomes, we might say, regardless of how the outcomes are produced.

Suppose that after what provisionally seems a fair initial distribution of opportunities, Amanda freely and rationally chooses a course of life that involves a certain sacrifice of her prospects for well-being in order to aid a worthy cause of her choice. Here, as in Bert's case, an initial distribution of opportunities thought to be fair is followed by an imprudent choice by the agent leading to subsequent dismal life prospects. But here, unlike in Bert's case, Amanda's choice (I claim) does not give rise to a case for further redistribution of resources to improve her expectation of personal well-being. A similar judgment (I claim) is appropriate when Cheryl freely and rationally enters into high-stakes gambling immediately after receipt of her canonical moment of fair distribution of resources and emerges the loser of the gamble, with poor prospects for lifetime well-being. Here is a partial characterization of a conception of fair opportunity for well-being that accords with these tentative judgments:

- The measure of interpersonal comparison for distributive justice is the effective opportunity for well-being for the agent that a set of resources provides, the amount of well-being that the resources would provide if the agent conducted herself as prudently as could reasonably be expected in her circumstances.
- Distributive justice requires that resources be set so that at the onset of adulthood each agent faces an array of options that provides an effective opportunity for well-being such that, for all agents, a function of effective opportunity for well-being is maximized that gives priority to providing gains in well-being to those with less.
- A free and rational choice by an agent to bring about an outcome that provides a low level of well-being for the agent does not bring it about that justice requires further compensation to the agent to increase her well-being.
- A free and rational choice by an agent to undergo a lottery, provided the agent selects it from a set of options that includes acceptable options that would not involve incurring comparable risk, does not bring it about that justice requires further compensation to the agent in the event that the outcome of the lottery is disadvantageous to her.
- Less than fully rational choices by agents may trigger a justice requirement of further compensation to them for misfortune they suffer depending on how faulty their conduct is, fault being assessed according to a fine-grained theory of responsibility.

3.10 Two Rawlsian Rejoinders

Rawls can deploy two powerful rejoinders to this line of thought. One is that the theory of justice must limit its concerns to matters that could feasibly be administered in modern democratic society. But the ideas of individual deservingness and responsibility and individual well-being, even if they could be made clear in principle, cannot conceivably be measured by any institutions we could devise. Since the theory of justice is for men and women, not for angels or for Gods, these indeterminable moral qualities are irrelevant to justice.

We need to know what matters to us morally for its own sake before we can begin to address in a sensible way the issue of how to achieve what matters to the greatest possible extent, given the epistemic and other practical constraints of life as we know it. No doubt the theory of justice is many levels of abstraction removed from the sphere of practical policy determination, but we cannot decide on appropriate proxy measures for the unmeasurable

Rawls and Responsibility

107

qualities we really care about until we decide what we really care about. At this stage in our inquiry, the appeal to the constraints of feasibility is premature.

Rawls's second powerful rejoinder is that the theory of justice seeks a consensus on fair terms of cooperation that can include all reasonable persons under conditions of pluralism of belief. Pluralism means that reasonable individuals will tend to affirm different and opposed comprehensive conceptions of the good. These opposed conceptions will specify inter alia different and opposed views of human well-being and of human responsibility and deservingness. We simply have to agree to disagree about these matters. To try to base a theory of distributive justice on some particular comprehensive conception of the good is inevitably sectarian and thwarts the aspiration to reasonable consensus. (See also objection 3 and the reply to it in the text.)

The Rawlsian approach to the problem of interpersonal comparison for a theory of justice presumes from the outset a fundamental epistemic asymmetry between ideas of the good and ideas of the right. We have no reason to accept this asymmetry. The ideal coherence test that Rawls proposed and that many others endorse for determining what ethical claims are acceptable does not suggest a reason for supposing that reasoned agreement about the good cannot form part of the moral consensus of a just society. No doubt we face difficult problems of partial commensurability in both domains; that's life.