

Desert-Sensitive Egalitarianism

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I hereby declare that this thesis is entirely
my own work.

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Abstract

The main purpose of my thesis is to present a desert-sensitive egalitarian theory of justice. In this thesis, egalitarianism comes in two principal forms: teleological (telic) egalitarianism and deontological (deontic) egalitarianism. Telic egalitarianism says that we should aim for simple equality, because it makes the outcome better. Deontic egalitarianism says that we should aim for simple equality not because it makes the outcome better, but for some other morally relevant reason. While the two forms of egalitarianism are often regarded as incompatible positions in egalitarian justice, this thesis combines the two in such a way that telic egalitarianism is a baseline position but which allows deviations from it for reasons that deontic egalitarianism specifies.

In taking this approach, I show three things. The first is that telic egalitarianism as a base point can be fleshed out as the Principle of Baseline Equality. This principle holds that all people should be equally well off as a point of departure. This would very likely obtain in conditions of moderate scarcity (which is often called ‘the circumstances of justice’). The second is that deontic egalitarianism is better interpreted in the responsibility-sensitive form: substantive inequalities are morally permissible only if they precisely reflect people’s exercise of responsibility. This is what I formulate as the Responsibility-Based Principle of Inequality. This principle can apply in both negative—an agent’s responsibility for being worse off—and positive—an agent’s responsibility for being better

off—directions. The important point is that implausibilities in the responsibility-sensitive deontic egalitarian standard can be avoided by this principle, because it articulates a carefully narrowed understanding of what people are responsible for. The third is that the conception of desert can embrace these principles as combined desert bases in a way that grounds a system of moral duties owed to deserving parties. They can be tracked by our reactive attitudes only if they are dispositionally construed such that they are informed and impartially formed.

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Chapter 1

Introduction

This thesis presents a desert-sensitive egalitarian theory of justice. Like many other theories of justice, my argument can be regarded as an attempt to spell out a plausible conception of justice. The conception of justice specified in this thesis comprises a characteristic set of principles which aim to provide a fundamental basis of what we owe to each other. We can then say that the justice of a social scheme depends on how a fair system of moral duties is enforced under the principles of justice. In other words, the scheme that ascribes moral duties to people in such a way as to settle on the fair distribution of advantages from social cooperation is the subject-matter of justice, which is what John Rawls calls ‘the basic structure of society’.¹ What is distinctive about Rawls’s proposal is that it uncovers the significance of the distributive aspect of justice that determines a fair allocation of advantages and burdens to people in the institutional scheme regulated under the relevant principles. Rawls’s egalitarian aspiration to work out a theory of distributive justice inspires my attempt to elucidate the principles of egalitarian justice, even though, in the final analysis, I take a stand against his theory, especially his arguments concerning the role of desert in the practice of

¹ Rawls (1971: 7).

distributive justice.²

In contrast to Rawls's ambition to set out a theory of justice as an alternative to utilitarian theories, this thesis will be concerned mainly with egalitarian debates, not with arguments against utilitarian views of justice. This signifies a marked difference between the main focus of my argument and that of Rawls's argument. It is not because Rawls's theory successfully defeats utilitarianism in its contemporary forms that my argument need not take utilitarian arguments seriously.³ Rather, it is because the many great achievements of egalitarian discussions after the publication of Rawls's *A Theory of Justice* inevitably lead me to shift the target to egalitarian justice in pursuit of the conception of distributive justice.⁴

Giving responsibility a central role in distributive justice is the most noteworthy aspect of egalitarian debates. The responsibility-based version of egalitarianism is actively addressed by Ronald Dworkin, Richard Arneson, G. A. Cohen, Philippe Van Parijs, and John Roemer.⁵ This is often called '(brute) luck egalitarianism' in that it aims to rule out, as far as is possible, the influence of sheer

² See Chapter 5, Section 2.

³ As a matter of fact, there have been many attempts to offer rebuttals to Rawls's criticisms of utilitarianism (e.g., Arrow 1973, Hare 1975, and Harsanyi 1976: Ch.4). Even on his famous characterisation of utilitarianism that it can hardly respect the separateness of persons, the adequacy of this criticism seems dubious if we think carefully about the distinction between teleology and deontology that is also relevant to utilitarian arguments (Kymlicka 1988; cf. Freeman 1994).

⁴ Of course, this does not show that other kinds of arguments (including utilitarian ones) outside the domain of egalitarian justice are not viable any more. Nor does it mean that some arguments which contend against egalitarianism are of little relevance to egalitarian debates. As I will argue in Chapter 4, the Principle of Self-Ownership that libertarians endorse has strongly to do with a condition under which an agent can be held responsible for being better off.

⁵ Arneson (1989; 1990), Cohen (1989), Roemer (1994; 1996; 1998), Van Parijs (1995), and Dworkin (2000) which collects two seminal articles on equality published in 1981.

fortune for which an agent cannot be responsible.⁶ Roemer nicely summarises this luck-egalitarian ethic: “society should indemnify people against poor outcomes that are the consequences of causes that are beyond their control, but not against outcomes that are the consequences of causes that are within their control, and therefore for which they are personally responsible.”⁷ The plausibility of this ethic is revealed by an appeal to the fair discrimination of egalitarian indemnification for the badly off consequences of a choice: these consequences will be compensated only to the extent to which people can in no way bear responsibility. By way of example, Dworkin maintains that a falling meteorite hitting a person is representative of cases in which compensation is legitimate, whereas deliberate and calculated gambles that could have been reasonably declined cannot justify the compensation for any loss flowing from gambling.⁸ To put it very roughly, substantive inequalities resulting from responsible action are deserved, whereas unequal outcomes which have nothing to do with the exercise of responsibility are undeserved. It seems that this rescuing of personal responsibility and its desert-sensitivity from the arsenal of the right renders egalitarian justice a much more plausible concept of justice than might have been thought.

⁶ See, e.g., Anderson (1999), Arneson (2000a), Vallentyne (2002; 2003), and Scheffler (2003b). To be honest, I am reluctant to use the term ‘(brute) luck egalitarianism’ because, as will become evident, not all kinds of sheer luck should be targeted in my argument (see Chapters 3 and 4). But following these works, I adopt this conventional term.

⁷ Roemer (1994: 179-180).

⁸ Dworkin (2000: 73). Notoriously, whether and how we can draw the line between responsible outcomes and non-responsible ones is one of the most contentious issues in egalitarian debates. This is because we have to confront complications and difficulties with the identification of factors that are not within individuals’ control, as far as egalitarian justice goes (e.g., Price 1999; Fleurbaey 2001; Lippert-Rasmussen 2001; Vallentyne 2002; Sandbu 2004). In Chapters 3 and 4, I will suggest a promising way of determining the range of outcomes for which people are responsible, by formulating the responsibility-based principle of deontological egalitarianism.

Recently, however, the luck-egalitarian ethic has been under fire for three reasons. First, this ethic seems *non-egalitarian*, since responsibility as such can by no means assure an equal pattern of distribution. More generally, the consideration of people's responsibility is of no relevance to any specification of favourable patterns in terms of equality, for there is no guarantee that the redistribution of advantages for which people are not responsible would amount to equalisation.⁹ As Susan Hurley says, this is fallacious, because "the fact that people are *not* responsible for *difference* does not entail that they *are* responsible for *nondifference*."¹⁰ There is no inherent connection between equality and responsibility. Second, the luck-egalitarian ethic seems *anti-egalitarian*, in such a way as to allow for unequal results that may involve harsh treatment of the responsibly badly off. This means that those who are in great need through their own fault may be left unaided, on the basis of the merciless attribution of responsibility to them. Under the scheme based on the luck-egalitarian ethic, for instance, an uninsured driver who is heavily injured because of reckless driving may be left to die. This seems to run contrary to our considered judgments about claims of the urgently needy.¹¹ Third, as can be inferred from these two concerns, the conception of egalitarian justice that reflects the luck-egalitarian ethic seems inappropriate for providing a bedrock for the basic structure of society. The system of moral duties grounded by some desert-sensitive principle that echoes the

⁹ The redistribution of manna from heaven as such varies depending on how to redistribute it. There seem two main ways of redistribution: the first is to allocate it equally among people; the second is to distribute it such that the effects of sheer luck are neutralised (Vallentyne 2003: 175-178). Note that, as Hurley explicitly recognises, either way of redistribution would not assure equalisation (Hurley 2003: 151-155).

¹⁰ Hurley (2003: 152; emphasis original).

¹¹ See, e.g., Fleurbaey (1995: 39-43), Anderson (1999: 295-298), and Fried (2003: 135-146), for this anti-egalitarian charge.

luck-egalitarian ethic may give rise to a repugnant moral guidance. The above-mentioned case in which there is no duty to rescue the uninsured driver amply illustrates this.

It should be evident that to fulfil the task of explicating the conception of egalitarian justice, there is a need to demonstrate that the conception in question can deal with these three concerns. The easiest—and actually most popular—way of coping with them is to recant the luck-egalitarian ethic: individual responsibility should not matter to the determination of how to distribute whatever we want to distribute among people. Some supporters of this move tend to favour an allocation of advantages in accord with demands of equal respect and concern for human beings, to the extent that everyone can enjoy a decent life.¹² Others would propose a distribution of advantages in such a way as to give priority to the worse off, regardless of their responsibility.¹³ The former may roughly be called ‘sufficientarians’, whereas the latter are dubbed ‘prioritarians’. Setting aside the details, their view is regarded as having more egalitarian consequences, because they are not concerned with how substantive inequalities come about: what these positions enjoin is help the worse off or people whose life is below the threshold of decency. Their implicit attitude is that we should forgo the consideration of personal responsibility built in the luck-egalitarian ethic.¹⁴

However, I do not employ this approach. My argument is committed to neither sufficientarianism nor prioritarianism. This is because if we acquire a

¹² See, e.g., Frankfurt (1987), Wolff (1998), Anderson (1999), and Crisp (2003). In Section 3 of Chapter 6, I will examine—then refute—arguments of this kind, especially the one which is fully set out in Anderson (1999), as the compassion argument for basic needs trumping desert.

¹³ On this view, see, e.g., Temkin (1993: Ch.9; 2000), McKerlie (1996), and Parfit (2000).

¹⁴ Richard Arneson’s prioritarian proposal is an exception. His prioritarianism is weighed by an individual’s responsibility for being badly off, which is named ‘responsibility-catering prioritarianism’ (Arneson 1999a: 237-238; 2000a: 340).

plausible conception of egalitarian justice then the luck-egalitarian ethic can be viably preserved such that the three aforementioned worries do not come into play. My goal in this thesis thus is to elaborate the conception in question that puts responsibility in full play.

There are three proposals corresponding to those three worries about the desert-sensitive conception of egalitarian justice:

1) A pluralist synthesis of egalitarian justice: Egalitarian justice, in my view, should not be taken as constitutive of *only one* relevant principle that specifies the range of substantive inequalities for which people are responsible. Egalitarian justice can be a pluralist concept. We can appeal to another kind of principle that stems directly from the value of equality in itself. This teleological form of egalitarian principle holds that all people should be equally well off as a point of departure (In Chapter 2, I will flesh out this as ‘the Principle of Baseline Equality’). Since this principle provides a basis for equality (even in cases in which the consideration of responsibility may on balance outweigh the moral value of equalisation), the non-egalitarian worry can be diffused.¹⁵ The further point of the pluralist conception of egalitarian justice is that the principles in question can be combined, in that the teleological principle at stake guarantees the baseline of equality while deviations from the base point are justified for deontological reasons: all people should be equally well off unless there is some morally relevant reason not to do so. In Chapters 3 and 4, I will demonstrate that the relevant consideration of responsibility provides such a reason.

¹⁵ Chapter 2 argues that the principle in question is endorsed by virtue of a non-arbitrary reason, not placed as a mere default. As will become clear there, my proposal thus is not susceptible to Hurley’s charge against the equality-default view, according to which equality does not have any moral ground because of its mere default assumption (Hurley 2003: 153-155).

As will be argued in Chapter 2, there are three points that should be noted in relation to this pluralist synthesis of egalitarian principles. First, the two principles combined in this way should not violate the uncontroversial presumption about the equal worth of human beings. No violation of this fundamental idea of human equality must be allowed in the name of justice, since any moral hierarchical view of human life is nothing less than perverse. Second, this pluralist synthesis of the two principles is conditional on the circumstances in which we are standing. As I see it, conditions of moderate scarcity (which are often called ‘the circumstances of justice’) are a striking feature of contemporary society. Third, moral principles as such are not of an exceptionless kind: in some cases, the value of simple equality may outweigh the deontological consideration of an agent’s responsibility. This outweighing need not be considered as ad hoc or inconsistent because our engagement with overall deliberation over the moral status of simple equalisation can be properly regulated under the fundamental idea of human equality.

2) A carefully narrowed understanding of responsibility: The deontological principle that permits substantive inequalities to obtain on account of people’s exercise of responsibility, on my argument, should be formulated such that the range of their responsibility is strictly—thus narrowly—specified. This way of understanding an agent’s responsibility contributes tremendously to the avoidance of implausible implications, due to which the responsibility-sensitive construal of egalitarianism has been charged as anti-egalitarian. There are two points worth mentioning about this proposal. First, responsibility-ascription should not be considered as an all-or-nothing matter. We can say that people are comparatively more (or less) responsible for unequal advantages. The implausibility of holding people either completely responsible or not at all responsible (but nothing in

between) can be evaded. Second, the precise specification of people's responsibility would lead us to heed the residual part of any consequence of choice for which they are not ultimately responsible. This is because, in my view, no one can be fully responsible on grounds that no one is fully rational and perfectly informed in actual circumstances. This helps to ward off the dreadful implication of the responsibility-based conception of egalitarian justice, namely that some of the needy may be left unaided. As will be shown in Chapters 3 and 4, the responsibility-sensitive version of the deontological egalitarian principle—which is what I want to call 'the Responsibility-Based Principle of Inequality'—is applied in both negative (an agent's responsibility for being worse off) and positive (an agent's responsibility for being better off) directions.

3) A desert-sensitive scheme that can ground moral duties: The pluralist principles of egalitarian justice can be embraced as the conception of desert that provides a full account of how we owe moral duties in society. As I mentioned above, grounding moral duties is the primary subject of justice, so how the proposed egalitarian principles can generate such duties is fundamental to our inquiry into egalitarian justice. For this reason, one of my main concerns is how desert can function as the mechanism through which we discern our moral duties. As will be argued in Chapter 5, there are two reasons that desert can play the distinct role in question. First, the combined principles of egalitarian justice that I will spell out in Chapters 2, 3, and 4 can provide two combined bases of desert, which can deal with widespread scepticism against desert in the issues of egalitarian justice, especially when it comes to the desert-responsibility connection. Second, desert claims can be closely linked to our reactive attitudes, in that the reactive attitudes can fully track what the combined desert bases prescribe. In other

words, we acknowledge our *prima facie* moral duties to deserving parties, whether direct or indirect, through the relevant observations of our reactive emotions just in case these reactive attitudes are well-informed and formed impartially in the circumstances of justice. As Chapter 6 shows, this scheme would not only avoid the appalling policy of leaving the seriously needy unaided but also provide a more morally acceptable treatment of the worst off: the normative space of basic needs can be reasonably appreciated in my desert-sensitive egalitarianism.

Before elaborating upon these three proposals, I must make one preliminary remark: throughout this thesis, I put aside domain questions such as equality *of what* or equality of opportunity *for what*. I assume that equality is related to the promotion of advantages for a person's well-being, namely that the conception of equality discussed here is more than 'basal equality'—that is, equality of something.¹⁶ The conception of equality should not merely entail the endorsement of basal equality so understood, since it should have more to do with an equal distribution of advantages that matters for an individual's well-being. It might seem controversial to just assume that redistributing advantages of some kind consists in more than basal equality, unless we specify the domain. Although I do not deny that the specification of a metric is crucial, there seems to be a reasonable consensus about what kinds of positive benefits are seen as relevant advantages calculated in a way that reflects a diversity of people's functioning. As Norman Daniels points out, for instance, there is a similarity of targets of equalisation in Rawls's and Sen's arguments, notwithstanding Sen's criticism of Rawls's

¹⁶ As Amartya Sen argues, basal equality says that in any theory equality is sought in some space. So basal equality includes equality of libertarian rights that Robert Nozick puts forward (Sen 1992: 12-13).

fetishising primary goods.¹⁷ For our purposes, this alignment of otherwise different arguments on the metric of equality allows us to assume that equalisation is such that advantages (of some relevant kind) are distributed to the extent that people are equally well off.

¹⁷ Daniels (1990: 276-285).

Chapter 2

The Principle of Baseline Equality

1. Introduction

My first task in this thesis is to identify and justify a teleological form of egalitarian principle that derives directly from the value of equality itself. It goes without saying that equality is a dominant value in most theories of distributive justice. This is due to the fact that extant inequalities of various sorts—political, legal, social, and economic—pose central problems for any kind of society, from local communities to the global society. Many philosophers have tried to articulate conceptions of equality to deal with those problems.

I now focus on a most intuitive conception of equality among these: simple equality. Simple equality is defined such that all people are at the same level of advantages. For a plausible comparison between simple equality and our current world that has more or less inequalities, it seems reasonable to confine simple equality to that which would be achieved in the closest possible world to our own, where there is least demand for advantages to be transferred from the better off to the worse off. The world in question should be the closest possible world because, otherwise, it might be utterly utopian—far different from our actual world. Implicit in this commonplace conception of equality is that substantive inequalities are

deviations from simple equality.¹

We are now in a position to consider how we should evaluate the value of simple equality. There are two main ways. First, simple equality is read teleologically such that we should strive for simple equality because we thereby make the outcome better. This view may be equated with the non-instrumental egalitarian view that simple equality is valuable in itself.² This is often contrasted to a deontological view of simple equality in which we should aim for simple equality, not because it makes the outcome better, but for some other morally relevant reason. In other words, the deontological reading of simple equality is concerned with how substantive inequalities are produced. The consideration of an individual's responsibility, for instance, may provide a morally relevant reason for (or against) substantive inequalities. Since this distinction is made on the basis of the fact that while teleology refers to end-states, deontology refers to actions or treatments, let me thus call these views 'telic egalitarianism' and 'deontic egalitarianism' respectively.³

With these points in mind, I can now state a main aim of this chapter: to argue for one age-old principle of equality which has been championed by classical thinkers including Aristotle, John Locke, and Marquis de Condorcet, and also by contemporary philosophers, of whom Isaiah Berlin is representative.⁴ Let me

¹ The concept of simple equality seems dominant in egalitarian debates. As Larry Temkin argues, however, our actual judgments about equality usually involve a complex process of reasoning: there are different ideas and lines of thought with respect to inequality (Temkin 1993: Ch.2). This is undoubtedly true. But I regard simple equality as the conception of equality that captures our basic intuition behind the complexities of our judgments about inequality. On this point, see McKerlie (1995: 627-628).

² See, e.g., Temkin (1993; 2000) and Mason (2001).

³ Derek Parfit, I think, is the first to name them telic and deontic egalitarianism in his Lindley Lecture at the University of Kansas, 21 November 1991. See Parfit (2000: 84ff).

⁴ Berlin (1978). See also Benn and Peters (1959: 110-111) and Barry (1965: 119-120).

formulate this principle as follows:

The Principle of Baseline Equality: All people should be equally well off as a point of departure.

Notice that, on my argument, this principle is formulated in its telic form. Most of the supporters I mentioned above, by contrast, have upheld its deontological form, which says that everyone should be *treated as equals* unless there is sufficient reason to do otherwise. Why I want to take the Principle of Baseline Equality in its telic form is that it is not only defensible, but, as I will show, it can be combined with a deontic egalitarian principle that I want to support.

In arguing for the Principle of Baseline Equality in the telic egalitarian form, I should wrestle with a famous criticism of it: the Principle of Baseline Equality is logically untenable because there is no clear reason to start with simple equality (rather than some substantively unequal state). In other words, we cannot exclude selecting some kind of inequality as a baseline, since this principle, it is argued, does not answer why simple equality has enough moral weight to be qualified as the base point.⁵

This chapter purports to defend the Principle of Baseline Equality against this charge. I thereby demonstrate that this principle is plausible, if it is located properly in the desert-sensitive egalitarian theory of justice. To do so, I clarify three points in defence of the Principle of Baseline Equality in its telic form.

First, telic egalitarianism can be endorsed under the uncontroversial idea of human equality: all humans are of equal worth. In egalitarian debates, there is a tendency to think that deontic egalitarianism exhaustively captures this idea of human equality, while telic egalitarianism does not. In Section 2, I want to argue

⁵ Many philosophers have criticised this principle in this way. See, e.g., Nozick (1974: 222-224), Nagel (1979: 119), Norman (1987: 57-58), Gibbard (1991: 268-269), John Kane (1996: 388-389), Kolm (1996: 37), Pojman (1997: 283-284), and Hurley (2003: 154-155).

against this tendency on two grounds. First, a *pluralism* of egalitarian principles does not undermine the normative relevance of telic egalitarianism. Second, more positively, the moral virtue of telic egalitarianism can be demonstrated by three egalitarian cases that any deontic egalitarian principle may not solely handle. This enables us to see that telic egalitarianism constitutes a non-arbitrary reason for simple equality and so would pave the way for the Principle of Baseline Equality.

The second point is that we can explain why simple equality is better placed as a point of departure. For this claim, I contend that it is important to attend to our social context. In egalitarian debates, the context-dependency of values, factors, and moral principles has not been appreciated. My argument will be that the emphasis on the importance of examining the actual conditions we are confronting leads us to take simple equality as a base point. As will be noted, that focus on the context dependency of egalitarian principles pushes us to go further: egalitarian justice can enjoy a pluralist synthesis between the telic egalitarian principle and the egalitarian principle of a deontic kind. In Section 3, I explore this.

My third point is that while the Principle of Baseline Equality can be supported by virtue of a non-arbitrary reason that telic egalitarianism provides, the reason is nothing like that which is weighed automatically through a principle-based mechanical procedure. The Principle of Baseline Equality is not of an exceptionless, complete kind, such that no active deliberation is required in any case of a given context. In Section 4, I demonstrate that the Principle of Baseline Equality should not be taken as a perfect guide to any action, but rather be the moral principle which always, if necessary, engages us in overall deliberation over the moral status of reducing substantive inequalities. I show that the political idea of human equality plays a regulative role in deliberation of this kind, especially in conflicting cases in which moral requirements that different principles enjoin

cannot simultaneously be met in the name of justice.

2. Defending Telic Egalitarianism

In defending the Principle of Baseline Equality, I want to show that telic egalitarianism is supportable and so enables us to see the moral weight of simple equality in itself. To do so, let me start with the commonsense idea of human equality: all people are of equally moral worth. This commonplace idea is, implicitly or explicitly, endorsed by many contemporary egalitarians.⁶ Among such egalitarians are some who simply presume this idea to develop their own argument; others try to provide a metaphysical justification for it. Ronald Dworkin is representative of the former. As is well known, he is committed to the abstract egalitarian thesis: all people are entitled to equal concern and respect.⁷ According to this thesis, policies of any kind that the social planners implement must be such that all people can accept them without abandoning their sense of equal human dignity.⁸ This is, however, supported without defending the thesis that “[equal human] rights have some metaphysical character.”⁹ On the other hand, Kantian egalitarians attempt to justify human equality on grounds that all humans possess (potential) rational capacities of an essential minimum for setting and pursuing

⁶ As Will Kymlicka describes, this idea of human equality has many supporters including Marxists and Robert Nozick (Kymlicka 1990: 4-5). This implies that many political theories share this basic idea, even though they disagree about how this should be fleshed out. My argument here does not deny the possibility that arguments of a nonegalitarian kind might capture the idea of human equality. My goal is rather to show that a pluralist synthesis of egalitarian principles provides a plausible substantiation of the idea of human equality.

⁷ Dworkin (1977: 179-183; 1986: 296-301).

⁸ Dworkin (1985: 205-206). Elsewhere Dworkin refers to this thesis as ‘deep equality’ (Dworkin 1985: 271-273).

⁹ Dworkin (1977: xi).

ends including what morality requires.¹⁰ This metaphysical defence of human equality may gain support broadly. It has been challenged, however, to the effect that this could hardly convince Nietzscheans, (some kinds of) perfectionists, and Animal Liberationists.¹¹

Here I do not want to join metaphysical debates of this sort, because for our purposes, the metaphysical justification is not needed. That is to say, whether any metaphysical argument for human equality is successful or not, it seems reasonable to think that the idea of human equality is much less controversial *as a regulative political ideal*.¹² As Dworkin writes, “[f]rom the standpoint of *politics*, the interests of the members of the community matter, and matter equally.”¹³ This is because it is nothing less than perverse—at least counterintuitive—to claim that the fact that some people are more morally worthy than others (if at all) would make a difference to any distributive principle of justice. The perverseness of such a claim is easily grasped with a moment’s thought that the hierarchical view of persons would demolish our historical achievements of human equality through the French Revolution, the American Declaration of Independence, and the Emancipation Proclamation. It still might be said that human equality as such is no more than presumptive even at the level of political idea: no justification is provided for the idea of human equality. My response is that the political idea of human equality is forceful enough to shift the burden of proof to its opponents, if we consider

¹⁰ See, e.g., Rawls (1971: 504-512) and Gutmann (1980: 33-41). For a recent argument for the metaphysical defence of human equality, see Korsgaard (1996a: Ch.4; 1996b: 92-94).

¹¹ See, e.g., Dubs (1944), Singer (1976), and Pojman (1997). For an illuminating discussion of this issue, see Arneson (1999b).

¹² In Section 4 below, I shall discuss a distinct role of the regulative ideal. In particular, I will show that the regulative political ideal plays an important role in conflicting cases that a pluralism of moral principles may generate.

¹³ Dworkin (1983: 24; emphasis added).

seriously the perverseness of rejecting human equality. In other words, those who deny the idea of human equality must provide a justification for their denial, whereas this is not a task for defenders of human equality.¹⁴ This, I believe, helps us avoid the task of justifying human equality at the level of political idea.

Our focus now is on whether telic egalitarianism follows from this fundamental idea of human equality. At first glance, this seems so because in most situations, if not all, there appears at least some respect in which simple equality is in itself desirable. Nevertheless, many egalitarians, who endorse, explicitly or implicitly, the regulative political ideal of human equality, tend to favour the deontological line of argument that takes *treatment as equals* to be our fundamental concern, rather than the telic line. Famously, Dworkin writes: “the right to treatment as an equal, which is the right, not to receive the same distribution of some burden or benefit, but to be treated with the same respect and concern as anyone else . . . is fundamental.”¹⁵ Thomas Nagel, who explicitly supports the regulative political ideal of human equality that obliges us to see the well-being of others as having the same importance as ours, also insists: “A society that permits significant inequalities among its members, in advantages and disadvantages for which they are not responsible, will be perceived as failing to treat them equally: it distinguishes in its treatment of them along morally arbitrary lines.”¹⁶ It is for a similar reason that Brian Barry, who endorses our reliance “upon

¹⁴ I owe this to Shelly Kagan’s argument (Kagan 1988: 30).

¹⁵ Dworkin (1977: 227).

¹⁶ Nagel (1991: 106). See also McKerlie (1996: 282-283). However, Nagel’s position could be differently interpreted, since he sometimes advocates a prioritarian view as a substantive form of telic egalitarianism; for example, “[t]here are evils to which the equal concern of impartiality responds, favoring those at the bottom of the heap and . . . institutions which improve their status.” (Nagel 1991: 69). Parfit thus thinks that Nagel is partially committed to telic egalitarianism, although, as Parfit points out, Nagel tends to blur the distinction between telic egalitarianism and deontic

a fundamental commitment to the equality of all human beings,” also claims that “[t]his still leaves it open that inequalities may be legitimated.”¹⁷ For these egalitarians, the idea of human equality has much less or nothing to do with telic egalitarianism; the connection in question is at most derivative from the human equality-deontic egalitarian line, not fundamental at any rate.

This is not unintelligible if we see what the regulative political ideal of human equality pushes us to care about. Although the idea of human equality does deny that some can be accorded special privilege on the basis of their worth, such denial does not necessarily promote distributive policies in a direction of simple equality. Rather, it allows that substantive inequalities obtain if, as Dworkin, Nagel, and Barry say with one accord, everyone is treated on the same footing. This is certainly echoed by the deontic framework within which the moral badness of substantive inequalities is judged in light of how they come about. To see this, suppose that we (or the social planners) are in a position to benefit only one person without any sacrifice. Suppose also that there are two people who are in dire straits: the first is a person who is responsible for being worse off, while the second is destitute through no fault of her own. Assume that we (or the social planners) are given the information about their responsibility. Which person should be benefited? Deontic egalitarians may say that the additional benefit should be conferred to the second, not to the first.¹⁸ Since, in this manner, deontic

egalitarianism (Parfit 2000: 86-88).

¹⁷ Barry (1995: 8).

¹⁸ Maybe not all deontic egalitarians say so, since some deontic egalitarians lay more weight on a fair sort of social cooperation as a token of deontology (Norman 1998: 38-41; see also Parfit 2000: 87-88). But even so, it is important to note that responsibility can be interpreted in ways that fit with the fair scheme of social cooperation; an institution-based view of responsibility is exemplary. (I am not committed to the institutional-based account of responsibility. See Chapters 3 and 4.) So the example under discussion is also relevant to deontic egalitarianism of a contractualist kind that

egalitarianism puts a greater emphasis on the non-arbitrary way of satisfying each person's claim than on creating simple equality, the regulative political ideal of human equality that first and foremost directs us to exclude such arbitrariness underpins the deontic position.

It then may well be questioned if the Principle of Baseline Equality, whose form is telic egalitarian, could really be supportable under the regulative political ideal of human equality. This worry can be warded off, however. There are two reasons that telic egalitarianism can have a place under this idea.

First, it is mistaken to think that egalitarianism must be *either* telic *or* deontic in its form.¹⁹ Unfortunately, there is a tendency to treat this issue as if telic egalitarianism is incompatible with deontic egalitarianism.²⁰ This is undoubtedly a mistake, however. It is worthwhile noting that in defining the distinction between telic egalitarianism and deontic egalitarians, Derek Parfit clearly says that “[w]e might of course have beliefs of both kinds”.²¹ This is obviously true (but has been often ignored) since if we admit a pluralism of egalitarian principles then both can be endorsed, even though we might have to deal with conflicting claims based on each of the principles.²² In the following two chapters, I demonstrate that a deontic principle of egalitarian justice that permits substantive inequalities is that which reflects people's exercise of responsibility. This is what I shall defend as the

advances the view of a fair division of responsibility among reasonable citizens. For defences of this view see Scanlon (1988: 85-89) and Rawls (1999: 371-372).

¹⁹ See Temkin (1993: 18) and McKerlie (1996: 275).

²⁰ A typical example is Elizabeth Anderson's criticism of luck egalitarianism. She treats luck egalitarianism as a monistic argument of deontic egalitarianism, which cannot be compatible with her threshold-based argument for political equality (Anderson 1999; see also Scheffler 2003b). I will scrutinise Anderson's argument as representative of the compassion argument for basic needs in Section 3 of Chapter 6.

²¹ Parfit (2000: 84).

²² In Section 4 below, I shall argue what we should do in the face of such conflicting cases.

Responsibility-Based Principle of Inequality. The next section shows how this principle can fit into my desert-sensitive egalitarian theory of justice which, as I am arguing, also contains the Principle of Baseline Equality. Here, suffice it to say that the existence of such a deontic principle of egalitarian justice does not repudiate its compatibility with the Principle of Baseline Equality at all.²³

Of course, merely allowing for the possibility of pluralist egalitarian justice does not provide any positive argument for telic egalitarianism, since this may be nothing more than rejecting the indirect objection to telic egalitarianism. I thus should say something positive in defence of telic egalitarianism. So the second reason that telic egalitarianism has a place under the regulative political ideal of human equality should tell us that there is no reason to stop at the level of deontic egalitarianism (at least in some cases if not all). In other words, we should confirm that deontic egalitarianism does not exhaust what the regulative political ideal of human equality requires. I contend that this is confirmed when we see that telic egalitarianism can deal with the following three egalitarian cases, whereas deontic egalitarianism may hardly do so:²⁴

The first case is that telic egalitarianism can fully prescribe the helping of needy strangers, even when no injustices to them are involved. Let me show this by an appeal to a hypothetical story. Imagine people living on different and

²³ This point is explored in Chapter 5, where I argue that the telic egalitarian principle of justice—the Principle of Baseline Equality—can provide a desert base in a way that can be combined with the one stemming from the Responsibility-Based Principle of Inequality: both bases can indeed ground a normative force of desert such that we incur corresponding duties to deserving parties.

²⁴ I do not mean that the three egalitarian cases discussed below are all telic egalitarianism can cope with. There may be more. For one thing, as I will mention elsewhere in Section 8 of Chapter 3, the value of simple equality that telic egalitarianism carries is relevant to merciful treatment of the worse off through their negligence in their youth, even though they are responsible for the large portion of their worse off outcome.

completely isolated islands: on one island natural resources are bountiful; the other has almost no resources. Suppose that no relationship involving any institutional imposition of duties exists between the two. As a result, there is a great difference of the quality of life between the two islands.²⁵ Assume that there is something we can do for redistributing resources between the islands. Given that there is no unfair treatment of people on each island, deontic egalitarianism may find nothing bad about the difference. But we may well deplore about this gap, because only one set of islanders enjoy an abundance of worldly resources. Telic egalitarianism can explain the badness of this discrepancy in people's well-being between the two, because this state of affairs is evaluated as bad in itself. This, I think, suits our considered judgments, since in the face of this state of affairs, our sympathetic emotion may well urge us to consider how dire is the position of the people on the barren island.²⁶ It should be evident that this hypothetical story is suggestive in dealing with the issue of whether and how much we owe a duty to aid needy strangers. Its details aside, we can now clearly see why telic egalitarianism is more appealing than deontic in cases of this sort: the telic view can justify the prompt response to people who stand in need of help even if they have never been wronged.²⁷

The second is our concern for the self-respect of those who are far worse off. Substantive inequalities of any extreme kind may impair the self-respect of the

²⁵ This example is adapted from McKerlie (1996: 280-181).

²⁶ In Chapter 5, Sections 3 and 4, I will argue the role of reactive emotions such as sympathy in cases of this kind in detail.

²⁷ Note that this case is that in which no negative duties are involved because of no interaction between the two islands. I do not aim to deny, however, that deontic egalitarianism may explain a duty owed to the distant poor as a negative duty to them in the actual world (e.g., Pogge 2002). As will become apparent in the next chapters, our precise understanding of an agent's responsibility helps justify our corresponding duty to her in a way that matches our considered judgments.

worse off, to the extent that their self-respect would find it hard to recover. As Thomas Scanlon observes:

The obvious examples are economic institutions which yield such great disparities of wealth and income that some people experience shame and humiliation because they must live in a way that is far below what most people in the society regard as minimally acceptable. There are also non-economic examples, such as a society in which almost everyone places great value and importance on certain forms of accomplishment, forms that many, but not all, can attain, and in which it is regarded as a great misfortune not to be “successful” in these ways.²⁸

We thus may well perceive the worse off who suffer not merely from material disadvantages but also from personal wretchedness, owing to the impairment of their self-respect. On this point, there are two things worth mentioning. First, self-respect is seen as an essential component of the well-being of reasonable people—no matter what kind of metric is employed.²⁹ Second, undermining anyone’s self-respect runs afoul of the idea of human equality that entitles all people to equal respect and concern. It thus may make sense to favour simple equality in some situations if not all, under the regulative political ideal of human equality. Telic egalitarians can support this move, while deontic egalitarians may not.³⁰ It is interesting to note that telic egalitarianism might be judged desirable at least in some respect, even in cases in which we have to lower the socioeconomic level of well-being; by taking into account the significant impact of the loss of self-respect, people might reasonably prefer a state of affairs in which they all enjoy a simple life style in an egalitarian community to the prosperous but extremely unequal state of affairs.³¹

²⁸ Scanlon (2003: 213-214). Nagel also notices this problem (Nagel 1991: 19).

²⁹ Recall what Rawls says about self-respect: “self-respect is perhaps the most important primary good” (Rawls 1971: 440).

³⁰ See Wolff (1998). Cf. Hinton (2001).

³¹ For a presentation of this point, see Norman (1998: 51).

The third case is that the exclusive attention to individuals' claims in deontic terms may ignore the persistence of residual inequalities. For instance, social inequalities such as gender, ethnic, and racial inequalities are so resilient that to implement the only deontic framework in which people are treated as equals would not be doing enough, in the light of the political idea of human equality. This is because those inequalities are entrenched in historically shaped social relations, as is the case of the sexual division of labour. Iris Young writes: "the causes of many inequalities of resources or opportunities among individuals lie in social institutions, their rules and relations, and the decisions others make within them that affect the lives of the individuals compared."³² On inequalities of these structural sorts, a simple kind of egalitarian policy that promotes simple equality may often be more effective than that which cares only about whether and how the inequalities flow from the responsible exercise of individual choice.³³

It becomes increasingly clear that deontic egalitarianism does not exhaust what human equality regulates as our political idea. Telic egalitarianism is also morally relevant. I have shown two reasons—a negative reason and a positive reason: first, a pluralism of egalitarian principles does not deny the compatibility between a telic egalitarian principle and a deontic one. Second, there are at least three egalitarian cases that simple equality can handle, while treatment as equals may hardly do so. It thus can be said that there is a non-arbitrary reason for simple equality that is teleologically read. But a question arises: *how much* does telic egalitarianism carry the moral weight for reducing substantive inequalities? A good way of answering this question, I believe, is to compare the moral strength of the telic egalitarian principle with that of the egalitarian principle of a deontic kind

³² Young (2001: 8). See also Anderson (1999: 288).

³³ In a similar vein, Anne Phillips stresses the value of simple equality, especially as far as gender equality goes (Phillips 1999: 45-51; 2004).

in our social context—the typical conditions of modern society. As will become clear, the attempt to tackle this question leads us to see why simple equality should be set as a point of departure. It is for the same reason that we can see how the principle based on telic egalitarianism can be combined with the egalitarian principle of a deontic kind, the responsibility-based one, in conditions we are facing. In the next section, I explore this.

3. Why 'Baseline' Equality

For the purposes of this section, it is worth re-examining a well-known objection to telic egalitarianism, not just because we need to defeat the powerful objection to the core thesis of the Principle of Baseline Equality, but because by refuting it we will be able to see the extent to which telic egalitarianism promotes simple equality: we can thereby see why simple equality should be a base point. So to start, I want to introduce the objection to telic egalitarianism: the Levelling Down Objection.³⁴ Advocates of the Levelling Down Objection say that there is nothing good about producing simple equality if no one is benefited from the equalisation. Larry Temkin formulates this as the Slogan: one situation cannot be better than another in *any* respect if there is no one for whom it is better in *any* respect.³⁵ The reason this is an objection to telic egalitarianism is that, no matter what kinds of side effects the change brings about, it is argued, telic egalitarianism claims that simple equality is in itself *a* desirable feature. But this implication seems quite absurd, since no one seems to find any plausibility in the claim that others should be brought down to the lowest level of well-being if it is the only way of simple

³⁴ There are many discussions over the Levelling Down Objection that cannot be explored in this thesis (e.g., Temkin 1993; 2000; Parfit 2000; Mason 2001; Brown 2003; and Crisp 2003).

³⁵ Temkin (1993: 248-249, 256-258; 2000: 134).

equalisation. How can telic egalitarians respond to this accusation?

There is a way of showing that this reasoning is flawed.³⁶ We can challenge an assumption on which the advocates of the Levelling Down Objection draw, implicitly or explicitly. The assumption is what Shelly Kagan calls ‘the additive assumption’.³⁷ This assumption consists of two theses: the ubiquity thesis and the independent thesis. The former says that, for any value or factor that is of moral relevance, if the value or factor makes a difference *anywhere*, it makes a difference *everywhere*. The latter says that the contribution made by such a value or factor should be tracked *independently of* contributions of other morally relevant values or factors. The two theses jointly generate the assumption that if the value or factor is of moral relevance, then it should affect the overall moral status of an action in *any* situation. In our argument, the assumption that a relevant value or factor makes an additive contribution to the moral status of the inequality-reducing act is that simple equality must *always* have a desirable effect.³⁸ In other words, for those who support the Levelling Down Objection, it appears that telic egalitarianism bolsters the view that simple equality is always desirable in some respect, even in cases in which everyone is made equally far worse off.³⁹

This reasoning is fallacious, however. This is because, from the fact that simple equality has a desirable effect intuitively, it does not necessarily follow that in *all* situations must it make a difference to the moral status of reducing

³⁶ This point is already adumbrated in Temkin (2000: 156-157) and Tungodden (2003: 9).

³⁷ Kagan (1988: 16).

³⁸ It might seem that the reasoning in question has more to do with the independence thesis than with the ubiquity thesis. Strictly speaking, the two theses are logically separate. Following Kagan, however, I take them to be naturally combined and so refer only to the additive assumption (Kagan 1988: 17-18).

³⁹ Temkin does not think this view implausible (Temkin 1993: Ch.9; 2000).

substantive inequalities. It only follows that at least sometimes the positive valence of simple equality should count as such. It is then reasonable for thinking that the particular effect of simple equality comes about differently with *contexts*. In other words, whether the contribution made by simple equalisation should be desirable, at least in some respect, depends on its interplay with other morally relevant values or factors in a given context.⁴⁰ Obviously enough, this context-dependency conflicts with the additive assumption, because the simple additivity of the contribution any value or factor makes is not guaranteed in this view. Since, as I see it, this view seems plausible, arguments of anti-egalitarians based on the additive assumption fail to undermine the relevance of telic egalitarianism.

To see this clearly, return to the Levelling Down Objection. In the first place, we should scrutinise the context in the Levelling Down Objection. We can easily see that the context in question involves conditions of some non-standard kind such as the excessive scarcity of resources, since simple equality can be attained only by severe levelling down: the dearth of resources of this sort almost ‘disables’ simple equality from having a particular effect.⁴¹ But this would not run counter to telic egalitarianism, were telic egalitarianism seen as free from any commitment to the additive assumption. Here again, simple equality may have normative effects of a different kind—in some cases, no effect—through the interaction with other values or factors in different contexts. To say the least, it seems unfair to rebut telic egalitarianism without any heed to the extremity of the conditions under which the

⁴⁰ Frances Kamm refers to this as the principle of contextual interaction (Kamm 1996: 51).

⁴¹ I draw the term ‘disable’ from Jonathan Dancy’s argument for moral particularism. As is well known, Dancy deploys the notions of ‘disabling’ and ‘enabling’ in describing conditions, the presence or absence of which determines (not in a strong sense) the status of a certain moral reason for action (Dancy 2004: Ch.3). Note, however, that I do not intend to take a stand on particularism at the level of moral metaphysics, even though my argument for the context-dependency of value and reason allies with moral particularism in many respects. See also note 48.

Levelling Down Objection obtains.

For further confirmation of the plausibility of my defence of telic egalitarianism against the Levelling Down Objection, let me take an opposite case in which simple equality matters more. The levelling up case is of that kind. Suppose that there are unowned bountiful resources by which we can raise the well-being of those who are worse off at no cost. In this case, even when all of the destitute had become worse off through their own fault, it seems less implausible to make an actual move to simple equality; we should give favourable advantages to those who are responsible for being worse off, for the equalisation in question need not make anyone worse off.⁴² Note that full-fledged deontic egalitarians may object to this move, since they may think that those who are responsible for being worse off cannot have a legitimate claim for such benefits. My intuition, however, is that where people enjoy many more resources than could be expected in actual circumstances, producing simple equality is welcomed. Telic egalitarianism can explain this, while full-fledged deontic egalitarianism cannot. This illustrates the context-dependency of how desirable is any particular effect of the deontic concern for people's responsibility, and thus how unfairly the Levelling Down Objection is directed at telic egalitarianism.

We are now in a position to answer the question: why should simple equality be taken to be a starting place? To get to the answer, recall first that I suggested in what circumstances simple equality could have no desirable effect. Conditions of a severe shortage of resources are such that it is not suitable for simple equality to make some favourable contribution to the moral status of the inequality-reducing

⁴² It could be that even in conditions of super-abundance, not all deservingly worse off people should be brought up, because some might deserve being worse off in a purely non-comparative sense (for example, criminals). In this case, levelling up the level of their well-being even to produce simple equality may not be morally acceptable.

act. Put another way, in such conditions, other factors—such as the one which lets others be far worse off than they now are—may well weigh more than whatever reason determines that simple equality is desirable. Now compare such conditions with the typical conditions that constitute modern society. Following John Rawls (who follows David Hume), I propose that the conditions we are facing in modern society are of moderate scarcity of resources: these are called ‘the circumstances of justice’.⁴³ What can we then say about the consideration of simple equality? The answer is that given moderate scarcity, to achieve simple equality may very likely require the transfer of advantages from the better off to the worse off, to such an extent that the feasible transfer in question has to ignore their responsibility for (dis)advantages. In circumstances of this actual kind, simple equalisation thus may enjoy some moral weight, but only some because of the high likelihood that the consideration of an agent’s responsibility would outweigh it as a result of the overall deliberation.

We should note that the circumstances of justice are *more* moderate than conditions of the levelling-down kind under which simple equalisation deprives most people of advantages they currently enjoy; so they are *less* suitable if not utterly unsuitable conditions for simple equality to have a desirable effect. We then may be able to say that the consideration of simple equality constitutes *some* normative force that pushes for the correction of substantive inequalities. This echoes the fact that simple equality may very likely be outweighed by the other

⁴³ Hume (1975: III.i, 183-186; 1978: III.ii.2, 487-488) and Rawls (1971: 126-130). For a long time, this implication of the circumstances of justice has been disregarded, except a few (e.g., Rescher 1966: Ch.5; Gauthier 1986: 113-116). But now the importance of moderate scarcity conditions is being recognised (e.g., Scheffler 2001:192; Munoz-Dardé 2005: 277). Note that the circumstances of justice consist not only of conditions of moderate scarce resources, but also of mutual disinterests based on a certain bias in favour of the self (Rawls 1971: 127). In this thesis, the former conditions are a main concern.

considerations of values or factors, given the circumstances of justice. Still, simple equality is morally weighty enough to have a role as a base point, even though the baseline implies that simple equality is ready to be outweighed by some countervailing considerations of a relevant kind. This is, I think, why the principle of ‘baseline’ equality is defensible. There are two points that should be noted on this defence. First, simple equality has moral weight that sufficiently shifts the burden of proof even in the circumstances of justice: we should appeal to some further facts that provide relevant considerations in terms of which any substantive inequality is morally permissible. Second, and more important, such considerations are those with which deontic egalitarians are mainly concerned: on my argument, as will be seen, the consideration of an agent’s responsibility for substantive inequalities is of the relevant kind. We can now see that these points—especially the second point—not only explain why simple equality is better placed as a point of departure, but also indicate the pluralist synthesis between the Principle of Baseline Equality and the egalitarian principle of a deontic kind, since the latter purports to—and (as I will show in the following chapters) can plausibly—justify deviations from simple equality. In other words, the synthesis in question holds that all people should be equally well off unless they are responsible for substantive inequalities. It thus seems that the Principle of Baseline Equality can be combined with our deontic concerns for people’s exercise of responsibility, given the circumstances of justice.⁴⁴

4. Pro Tanto Reason, Moral Principle, and Deliberation

As we have been seen above, there is a non-arbitrary reason to start with simple equality and hence the Principle of Baseline Equality is not groundless. Obviously

⁴⁴ This point will be argued again in Chapter 5.

enough, this is not the same as insisting that although there is *no* reason that simple equality should be aimed for, we should equalise people's well-being unless there are morally relevant reasons for substantive inequalities. Here again, let me emphasise that the reason for simple equality has genuine weight, which means that the Principle of Baseline Equality enjoys a *pro tanto* reason for simple equality. The precise definition of 'pro tanto (reason)' tells us that it is not logically untenable to adopt the Principle of Baseline Equality. There are two points worth mentioning about the definition in question. First, a pro tanto reason differs from a prima facie reason which may turn out not to be a reason at all.⁴⁵ Second, relatedly, a pro tanto reason for action plays a role at least counterfactually, in such a way that the reason would obtain were other reasons absent.⁴⁶ So a pro tanto reason for simple equality has a certain role in the weighing explanation of why all people should be equally well off, even in cases in which it is outweighed by other morally relevant considerations. This is why we need not be worried about the criticism that has been made earlier of the original idea of baseline equality.

It might seem, however, that this pro tanto claim contradicts what the original idea of baseline equality addresses: simple equality should be taken as a *default* standard. The genuinely positive reason that telic egalitarianism provides is weighed for this principle, no matter how weighty the reason is. In other words, on my argument, simple equality seems nothing like a 'mere' default. To say that simple equality should be a point of departure but construed as a pro tanto claim cannot entail that it is automatically overridden whenever there are any other countervailing considerations, such as the relevant consideration of an agent's responsibility for substantive inequalities. This appears a problem with my

⁴⁵ For the distinction between prima facie reason and pro tanto reason, see Kagan (1989: 17).

⁴⁶ See Broome (2004: 38-41).

proposal of the pluralist synthesis between the Principle of Baseline Equality and the egalitarian principle of a deontic kind. It could be that the reason for simple equality is not automatically overridden by reasons that the latter provides, insofar as the former reason is seen as *pro tanto*, not as *prima facie* or default. It then might be a concern that a variety of deliberative procedures and exceptions must be tolerated under the combined principles, in that we might have to deal with them in an *ad hoc* way.

My response is that the objector has a wrong idea about the role of moral principles including (but not limited to) the egalitarian principles of justice. For the objector, moral principles must not only explain but also fully determine the moral status of every action. In other words, they must provide a complete guide to action even in new or hard cases.⁴⁷ To take moral principles in this way seems to me far-fetched; indeed, only a few unpopular positions count such a role as qualifying for moral principles, such as full-fledged utilitarians (the believers of the absolute principle of maximising utility) and hard-core deontologists (the believers of the perfect principle that fully covers an entire list of moral duties). There are two reasons that moral principles should not be interpreted such that they provide a mechanical procedure on which we can fully rely in determining what ought to be done. First, there seems no epistemic means by which we can construct (or discover) moral principles that are capable of functioning as a complete guide to any action. It seems implausible to presume that in formulating moral principles, we can exhaustively list the exceptional cases or circumstances that disable the relevant consideration to constitute a morally relevant reason for action. Nor does it seem precarious to suppose that there might be features of a natural kind that are

⁴⁷This reflects a (somewhat oversimplistic) version of a principled ethic Dancy has attacked (Dancy 2004: 116-117). See also Wiggins (1987: Ch.6) and McDowell (1998: Ch.3).

inaccessible to us (at this moment in time, at least), on which moral properties supervene. Any attempt to refine principles of an informative and definite kind in such a way as to cover the specified account of such exceptions and features, I take it, confronts epistemic difficulties of these kinds and so would seem to fail.⁴⁸

Second, and more important, moral principles often (if not always) require us to engage in overall deliberation over the moral status of a certain action. Practical reasoning based on moral principles does not entail the dispensability of such deliberation at all, much less in hard cases in which few agree about whether the action is desirable or not. There are no moral principles of a plausible kind that command people's lives—or even some parts of them—in such a way as to specify which act is to be performed at each decisional moment. Also, there seems a diversity of ways in which moral considerations enter into our actual deliberation about what is to be done; sometimes reflectively, sometimes non-reflectively (for example, abiding by custom), deliberation of some kind is processed. This diversity cannot overtly be structured by moral principles as such.⁴⁹ Furthermore, we should admit that a multiplicity of moral principles sometimes engenders conflicts between their requirements in certain cases (even if they normally associate well), as in the case of whether I ought to save a stranger or to keep a promise. Quite often, no conclusive reason for action is automatically determined

⁴⁸ Note that my argument is neutral about whether there are moral principles at the level of moral metaphysics. I am just claiming that the idea of moral principles which can function as a perfect guidance for everyone to do a certain act in any place at any moment are untenable due to its epistemic implausibility. So I need not—actually do not—join any discussion over the codifiability of moral principles at the metaphysical level, which is the focal point of particularist challenges against an ethic of principles. Relatedly, let me also say that my argument actually does not give the lie to at least some version of moral particularism; in some version of moral particularism, moral principles can be understood as part of plausible generalisations at the level of moral epistemology (e.g., Little 2000; cf. McKeever and Ridge 2006: 61-65).

⁴⁹ See Scheffler (1992: 30-32).

by the mechanical process of weighing reasons deriving from moral principles. This is, however, not a depressing fact that may commit us to scepticism about the role moral principles play in our deliberative activities.⁵⁰

Notice that in conflicting cases, practical judgments of a certain kind may well be made such that a second-order ideal that we could reasonably accept anchors our engagement with the overall deliberation over the moral status of a certain act. Such an ideal loosely regulates (but does not constitute) our deliberative activities in arbitrating conflicts between oughts, in a direction of the systematic unity of our practical judgments about what is to be done. This is, in Kantian terms, a regulative ideal under which we should make practical judgments of a consistent and harmonious kind, as far as is possible. In order for the practical judgments to be made consistently, the regulative ideal may well demand that our moral faculties—such as imagination, perception, and sentiment—be put into operation, especially in cases in which the combined moral principles cannot help out conflicts of what each principle prescribes. The deliberative exercise of those moral faculties does not lead us to cope with the conflicts in question in an ad hoc way, since we should not ignore our regulative ideal in order to arrive at some practical judgment about what we ought do. Our regulative ideal thus has a distinct role especially in hard cases of this kind.⁵¹

Returning to the Principle of Baseline Equality, we now find no problem in the idea that the principle rests upon a pro tanto reason for simple equality. For the sake of simplicity, assume that we are given full information. As I mentioned above, given the circumstances of justice, it seems that the pluralist synthesis

⁵⁰ For discussions of this point, see Marcus (1980: 124), Scheffler (1992: 43-46), Herman (1993: 75-77), and O'Neil (1996: 73-89, 180-183; 2000: 58-61).

⁵¹ On the idea of regulative ideal, see Kant (1998: A670-674/B698-702, 606-607). See also Marcus (1980: 134-135), Herman (1993: 78-83), and Hart (1998: 611).

between the Principle of Baseline Equality and the egalitarian principle of a deontic kind is plausible. The synthesis is such that the former consideration may, on balance, be defeated by the latter if the latter obtains. From this, however, it does not follow that the desirable effect of simple equality is automatically overridden by the relevant consideration of responsibility. This is because if we simply weighed the consideration of responsibility more than that of simple equality even in the circumstances of justice, we might have to allow for a series of states of affairs of an unjustifiable sort in the light of the regulative political ideal of human equality. As I mentioned in the previous section, among such cases may be the suffering of needy strangers, the devastated self-respect of the worse off, and the resilience of structural inequalities. Under the regulative political ideal of human equality, as typically is the case of any regulative ideal, these possibilities concern us in pondering over the moral status of an inequality-reducing action, even if the consideration of responsibility is fairly strong. Our moral faculties—especially our sympathetic emotion—may push us to take the substantive inequalities with gravity. This demonstrates that our normative judgments gravitate towards simple equality, notwithstanding other morally relevant reasons that argue in favour of substantive inequalities. Simple equality thus should be seen as an input factor, in a way which enjoys pro tanto moral weight that would be taken into account for producing a morally relevant output.

Let me further add that simple equality is something that we should take into consideration weighed against other relevant factors, even when its effect might be null or negligible as a result of the overall deliberation. The consideration of simple equality may be outweighed in effect but not eliminated, as long as the conditions we face are not of the great scarcity kind. Even when it is outstripped, the value of simple equality is considered as an input factor. In other words, the value of simple

equality remains a *pro tanto* reason for reducing substantive inequalities. This allows me to say that the Principle of Baseline Equality does not entail that the positive weight of simple equality disappears, even when we are justified in making departures from simple equality by the consideration of an agent's responsibility for substantive inequalities in the name of egalitarian justice. We must accept that there is no way of living up to all moral principles (including the egalitarian principles of justice) and so some requirements are compelled to be unmet at least in some cases. We should, then, not disregard the fact that there may be some requirements we cannot meet. This could be a certain moral source that drives us to feel some regret, apology, or remorse.⁵² It is inhumane to deny these moral sentiments which might direct us to help the worse off, even in cases in which they cannot be under the guidance of egalitarian justice. My argument need not deny the legitimacy of such acts of charity or supererogation.⁵³

5. Summary and Preview

In this chapter, I have argued for the Principle of Baseline Equality by appealing to the moral weight that telic egalitarianism carries in favour of the act of reducing substantive inequalities. In doing so, first, I have illustrated that telic egalitarianism is not merely defensible but also attractive if it is subsumed into the Principle of Baseline Equality in the desert-sensitive egalitarian theory of justice. My focus

⁵² For detailed discussions of the role of these emotions in cases in which we cannot meet all moral demands, see Marcus (1980: 130-133), Herman (1993: 173-176), and O'Neil (1996: 160-161; 2000: 63).

⁵³ This echoes a duty of humanity which is based on our humanitarian beneficence. My argument then is that the importance of this should not be unvalued, even though it should be sharply distinguished from what is to be done at the level of egalitarian justice. For presentations of this view, see, e.g., Rawls (1971: 191-192) and Campbell (1974; 1988: Ch.1).

then has been on measuring the strength of telic egalitarian claims in their principle-wise form. The moral strength in question is clarified in two respects. First, simple equality in its telic egalitarian form is better placed as a point of departure, were we to take seriously the typical conditions of modern society—that is, the circumstances of justice. Second, this also entails that simple equality so understood is very likely to be outweighed by the moral consideration of an agent’s exercise of responsibility. These considerations fully support the principle of ‘baseline’ equality. Finally, to avoid a misunderstanding of my argument, I showed two reasons for the implausibility of taking moral principles as an absolute guide to any action. First, there are no such principles. Second, moral principles as such cannot dispense with our deliberation over the moral status of a certain action. Our reliance upon the Principle of Baseline Equality does not undermine the importance of moral deliberation over the status of an inequality-reducing act. This means that we should consider the positive valence of simple equality even in cases in which it may very likely be outweighed by the consideration of an agent’s responsibility for substantive inequalities. This is redeemed under the regulative political ideal of human equality.

In the next two chapters, I turn to the conception of responsibility that an agent should bear. More precisely, I demonstrate the relevance of such a consideration by fleshing out the Responsibility-Based Principle of Inequality that can serve as a deontic egalitarian principle of justice. The next two chapters thereby explicate precise conditions under which substantive inequalities can be morally permissible. Chapter 3 clarifies necessary and sufficient conditions under which an agent is responsible for being worse off. Chapter 4 reveals two necessary conditions under which the positive deviation from simple equality can be justified. In those two chapters, I show that the consideration of responsibility is morally

relevant to egalitarian justice, if it is articulated in a way that delineates a carefully narrowed understanding of what people are responsible for.

Chapter 3

The Responsibility-Based Principle of Inequality I: Responsibility for Being Worse Off

1. Introduction

In the previous chapter, I argued for the telic egalitarian principle—the Principle of Baseline Equality—on the basis of a pluralist synthesis of egalitarian principles of justice. In this chapter and the next chapter, I offer a full account of the deontic egalitarian principle, which is centrally concerned with how unequal outcomes are produced. I want to show that the relevant egalitarian principle of a deontic sort is *the Responsibility-Based Principle of Inequality*. Roughly, I formulate this principle as follows:

The Responsibility-Based Principle of Inequality: Substantive inequalities are morally permissible only if they precisely reflect people’s exercise of responsibility.

As can be seen, the Responsibility-Based Principle of Inequality provides a justification for departures from simple equality.

My main purpose in this chapter is to argue the precise conditions under which an agent is *responsible for being worse off*. Admittedly, this is an essential part of the Responsibility-Based Principle of Inequality, as is shown by the fact that the careful examination of the conditions in question has been the main focus

of contemporary deontic egalitarianism. As a matter of fact, contemporary egalitarian philosophers take responsibility to be a core conception which in principle justifies substantive inequalities. In particular, they tend to flesh out the conception of responsibility in terms of *choice*, in such a way that we should hold individuals responsible for chosen inequalities but not for unchosen inequalities. This core idea is intuitively appealing because, on the one hand, alleviation of substantive inequalities that people do not choose would thereby be encouraged, and, on the other hand, it avoids an egalitarian ‘moral hazard’: the situation in which people need care nothing for the consequences (economic or otherwise) of their own choice. G. A. Cohen thus goes so far as to say that (deontic) egalitarianism successfully incorporates “within it the most powerful idea in the arsenal of the anti-egalitarian right: the idea of choice and responsibility.”¹

Recently, however, this core idea has been challenged for three reasons. First, it seems almost impossible to find substantive inequalities simply resulting from people’s choice, since every choice “is routinely influenced by unchosen features of their personalities, temperaments, and the social contexts in which they find themselves.”² If this is true, then no inequalities are justifiable. So under the choice-sensitive egalitarian scheme, any disadvantage that befalls people must be extinguished, even when this may disrupt our society.³ Second, if it is possible to distinguish between substantive inequalities of a responsible kind and of a non-responsible kind, an opposite problem may arise: egalitarian policies based on the connection between choice and responsibility seem anti-egalitarian. The core

¹ Cohen (1989: 933).

² Scheffler (2003b: 18).

³ In this line of argument, Saul Smilansky challenges choice-based deontic egalitarianism (Smilansky 2003a: 149-150; 2003b: 484). For a powerful response to his argument, see Lippert-Rasmussen (2004).

idea may give rise to unequal results that involve harsh treatment of the responsibly worse off; it might be approved that those who are extremely worse off through their own choice are left unaided. This may seem unduly harsh.⁴ Third, there appears no feasible way of proceeding even based on the core idea, because of the administration costs and people's freedom and privacy. The authorities (for example, the governmental bureau of equality) cannot track every person's life history in any practical sense; nor should it be the case, because the attempt to trace each individual's life involves invasive surveillance of an anti-liberal kind (like: "Hi! I'm from the Ministry of Equality. Are you, by any chance, unusually happy today?").⁵ For those reasons, there is now a tendency to doubt the plausibility of relying on the notions of choice and responsibility in deontic egalitarianism.

In this chapter, I shall demonstrate that my account of an agent's responsibility for being worse off can defuse these three worries. In response to the first worry, my argument shows that responsibility is legitimately usable for sorting out substantive inequalities in one domain and in the other—that is, of a responsible kind and of a non-responsible kind. The key point in my argument is that we can plausibly employ the concepts of choice and responsibility in arguing which negative departures from simple equality are morally acceptable, just in case we have recourse to an account of *rational capacities* and employ two constraints: *the Expectational Consequences Constraint* and *the Reasonable Alternative Constraint*. A significant upshot of our reliance on the notion of rational capacities and the two constraints is twofold. First, we can avoid naïve arguments on a binary basis—whether chosen inequalities are acceptable or not—which is, I take it, a main source of scepticism about responsibility. As I will argue, we can appeal to

⁴ See, e.g., Fleubaey (1995: 39-43), Anderson (1999: 295-298), and Fried (2003: 135-146). See also Chapter 1.

⁵ Cohen (1989: 910). See also Anderson (1999: 301).

the *degree* to which people are responsible for being worse off. Second, any substantive inequality seems to be reduced, given that we cannot hold people responsible for being worse off *to the full extent*, for no one could be fully rational in a non-culpable sense, nor could it be the case that perfect information is accessible in actual circumstances. As will be seen, my argument thus can deal with the aforementioned second worry. In response to the third worry, I will demonstrate a feasible and convincing way of implementing the responsibility-ascription scheme, by reference to John Roemer's egalitarian approach.

This chapter proceeds as follows. Section 2 introduces the choice-based proposition of responsibility that contemporary deontic egalitarianism has so far supported, and enumerates problems with this principle. I then suggest an alternative proposition of responsibility: *the Autonomy-Based Principle of Responsibility*. In Section 3, in order to elaborate my account of an agent's responsibility for being worse off, I explore the internal condition for responsibility-ascription that is the basis of practical reasoning, by recourse to the account of rational capacities. In Section 4, I show that the internal condition in question is not vulnerable to the Frankfurt-type case, which has been often used as a test of whether the alleged view of responsibility is plausible. Next, I spell out the external condition for responsibility-ascription that is decomposed into two constraints: the Expectational Consequences Constraint (in Section 5) and the Reasonable Alternative Constraint (in Section 6). Section 7 illustrates that this external condition can also pass the Frankfurt-type test. In Section 8, I consider three questions concerning the Autonomy-Based Principle of Responsibility. In responding to the questions, I present a rough proportional idea of responsibility that enables us to attribute responsibility to people in a fine-grained and much less

harsh way.

2. The Autonomy-Based Principle of Responsibility

Roughly, many egalitarian philosophers have supported the following deontic egalitarian proposition as an acceptable view of an agent's responsibility for being worse off:

The Choice-Based Principle of Responsibility: An agent is responsible for being worse off if and only if she is worse off through her own choice.⁶

As I suggested above, this seems intuitively appealing, since it can apparently cope with the common objection to egalitarianism in general: egalitarianism may bring about a 'moral hazard' by ignoring the causes of inequality—more precisely, by insufficiently recognising personal responsibility. If an egalitarian says that the worse off who repeatedly squandered money on gambling are entitled to be as equally well off as others, we doubtlessly think that her claim is counterintuitive. By contrast, the principle in question holds habitual gamblers responsible for being worse off through gambling. On the other hand, this principle claims that any negative departure from simple equality is morally unacceptable if a person is worse off through *no* choice of her own. For example, if she is harmed by unchosen events such as earthquakes, bushfires, and lightning strikes, this view insists that she not be responsible for being worse off. This standard view says that chosen inequalities are morally permissible, while unchosen inequalities are not.

There are three problems with the Choice-Based Principle of Responsibility,

⁶ Admittedly, 'through her own choice' is crucially ambiguous, because this part does not tell us whether the principle includes cases in which she omits to act: it is not clear whether omission as such can be regarded as choice of a certain sort. This ambiguity may be dealt with by admitting that omission can also be seen as choice of some kind. For a scrupulous analysis of omission in relation to responsibility, see Fischer and Ravizza (1998: Ch.5).

however. First, the mere fact a person chose a certain option does not tell us whether the choice is voluntary or involuntary. Consider Akira who is a plump person. He might have been brainwashed to purchase ostensibly ‘healthy’ food by subliminal TV advertisements, although the food is in fact ineffective and expensive. Even though we can hardly say that Akira voluntarily chose to buy that food, the principle in question may obtain.⁷ Second, a person might make a choice in the light of massively false beliefs. To illustrate: a housewife who only faces a poor set of options in her expected life paths might have falsely believed that a life without a tyrannical husband was not as valuable as a life dictated by him.⁸ Even in this case, the Choice-Based Principle of Responsibility may obtain because it may be said that she *chose* the life with her husband. Third, whether consequences of a choice were due to sheer (bad) fortune does not matter to the truth value of the proposition in question. Suppose, for example, Bob was presented with a choice between being a banker or a postgraduate after graduation from the University of Oxford. After becoming a banker, there was a worldwide financial crisis, the occurrence of which he could not have foreseen even through careful deliberation. In consequence of the crisis, Bob lost his job and is reduced to poverty.

Such cases cannot be excluded in the Choice-Based Principle of Responsibility, since it does not take into account the responsibility-defeating

⁷ Note that some egalitarians who support the Choice-Based Principle of Responsibility may conceive of this objection. For instance, Cohen refers to choice as ‘genuine’ choice that implies its voluntariness, in such a way as to leave open what exactly this amounts to (Cohen 1989: 934).

⁸ There are two cases of the tyrannised housewife. The first is the case in which she does not know any other possible lives, due to her lack of relevant information. Strictly speaking, this partially reflects irrationality on her part. The second is the case in which she has information as such, but those different lives seem to her as inaccessible. In this case, she has a rational motivation to falsely believe that nothing is better than the current life. For the moment, I blur the distinction between two cases. But in Section 6 I focus on the latter case as the case of ‘informed’ tyrannised housewife.

factors such as (involuntarily formed) irrational beliefs, (rationalised) false beliefs, and effects of sheer bad fortune. No doubt they should be counted in articulating the formulation of responsibility for being worse off in such a way as to explain the unacceptability of those negative departures from simple equality. The standard view thus must be revised.

I propose the revised principle as an appropriate view of responsibility for being worse off:

The Autonomy-Based Principle of Responsibility: An agent is responsible for being worse off if and only if (1) she has rational capacities to have chosen otherwise and (2) she is worse off through the expectational consequences of her own choice made out of options, including at least one sufficiently good alternative that she could have reasonably expected to obtain.

As will be seen, this principle can evade the problems enumerated above. To see this clearly, I elaborate the revised principle in the following sections.

3. Rational Capacities: Condition (1)

Let me begin to explore condition (1) which I want to call the internal condition for responsibility-ascription. In moral philosophy, condition (1) is something of a platitude. But what does “an agent has rational capacities to have chosen otherwise” mean precisely? As I see it, it requires that an agent satisfy the three practical reasoning-related conditions:

- (a) The agent has a capacity to form rational beliefs about what she ought to do given relevant information.
- (b) The agent has a capacity for self-control of desires in accordance with the rational beliefs, under the increasing impact of relevant information.
- (c) The agent has a capacity to choose intentionally what she does, somehow independently of what her rational beliefs and informed desires guide.

In the case of condition (1a), if the agent has no capacity to hold rational beliefs, or

if the agent is not given the minimum pertinent information required for forming true and rational beliefs, then the responsibility for being worse off should not be assigned to her. Recall the case of Akira, who is brainwashed by (illegal) TV commercials to purchase supposedly ‘healthy’ food. He could not have formed rational beliefs about that food in his everyday life since, as in the case of ordinary people, he often watches TV commercials. It is then counterintuitive to hold Akira responsible for being worse off through continuing to spend all of his money on that diet. The same is also true of the case of a tyrannised housewife who may have no easy access to relevant information while being monitored by her husband, even though she might rationalise the belief about her deprived situation. Thanks to condition (1a), we can properly eliminate those cases in which people’s beliefs were manipulated to be irrational or rationalised in the light of their truncated preferences.⁹

Similarly, given that the agent’s beliefs are rational, unless her desires are conditional on these beliefs we ought not to hold her responsible for being worse off through her resulting behaviour, for, in this case, her desires are insensitive to the increasing credence to her rational beliefs, under the impact of relevant information. Even if she has true and pertinent beliefs about each option, she may be susceptible to a robust disposition to her strong cravings. To see how, consider Campbell who is a wonderfully knowledgeable, but very addicted, unwilling smoker. Not only does he have a rational belief that he ought to stop smoking (and

⁹ This condition may not always be a necessary condition for responsibility-ascription, since irrational beliefs as such may not play a causally relevant role in making an irrational choice. To see this, imagine that Akira has irrational beliefs about vegetables by virtue of the false information. Suppose that he non-deliberately decides to eat lots of the commercialised food. It then is not plain that he is not responsible for the outcome that he has several health problems related to getting more obese. We might want to hold him (at least partially) responsible for that outcome of the irrational act.

might otherwise become far worse off) but he also knows that his craving for cigarettes is uncontrollable even in the presence of his rational belief: his desire for smoking is uncontrollably stronger than his rational disposition to do what he ought. If we attempt to attribute to him the responsibility for being worse off through continuing to smoke, then Campbell may complain, “Why am I being punished? I can’t do otherwise!” Under (1b), however, he need not complain, since we can allow that he not be responsible, provided that his desperate desire to smoke is not sensitive to his true and rational beliefs.¹⁰ (It might actually be the case that Campbell once had a capacity for the self-control but lost it through his negligence. I shall discuss how we can cope with this diachronic type of culpability later.)

It might be thought that the above two conditions are enough for the agent having rational capacities.¹¹ But there is good reason for thinking that the further condition is necessary—that is, condition (1c). It requires that the truly responsible agent be able to choose otherwise, apart from her rational beliefs and informed desires of various strengths. It is important to note that this volitionalist requirement does not imply that she can ignore those dispositions in her motivational mechanism.¹² Nor does this imply that she can choose in no way that is responsive to reasons. It simply means that there is an independent stage of

¹⁰Note that my argument is neutral about the well-known debates between internalism and externalism of normative motivation (Williams 1981: Ch.8). To be sure, the proposed argument could associate well with the model of internalism such that true and rational beliefs motivate us to act for their specified end (Smith 1994: Ch.3; 1995). However, informed desires themselves may be construed as conditional on such rational beliefs in a non-instrumental way that may lead my argument to pro-externalism (e.g., Copp 1997; Johnson 1997; Dreier 2000; Wiland 2000).

¹¹Michael Smith thinks that the two conditions are sufficient for the agent to be regarded as possessing rational capacities (Smith 1994: Ch.5; 1997; 2003).

¹²See Mele (1995: 47-56) and Haji (1998: 76-79).

choice as such, after deliberative reflection on her possible options.¹³ The significance of this stage is that without it the notion of choice has no application; the agent becomes a mere servant of her dispositional states which issue in a most rational act. To see how, suppose that a deliberative mechanism operates decisively—deliberation that entirely governs a certain choice—in such a way that one would make the choice in any logically possible scenario. In this case, the mechanism in question is not deemed responsive to reasons for which one would choose differently, even in cases in which one's decision were fully rational.¹⁴ To put it another way, consider that those whose choice is perfectly directed all the time by their rational beliefs and informed desires are the only responsible agents. It is then likely that most actual people, who are often susceptible to the weakness of will, are not responsible for their behaviour. Qua a responsible agent, the agent thus must be able to choose not in accordance with the reasons endorsed by her rational beliefs and informed desires.¹⁵

Consider Emilka. Like Campbell, she is a wonderfully knowledgeable individual and also a heavy smoker. But unlike Campbell, Emilka possesses a capacity to control her desire for cigarettes in accordance with her true, rational

¹³ Note that this does not conflict with the view of seeing choice as a certain disposition, since choice involves the following schematic form of intentionality: "I shall do x, in circumstances C, in order to y/as a way of y-ing." (Wallace 1999: 239; see also Wallace 1996: 127-136, Ch.6) Following Simon Blackburn, we can thus say that it is mistaken to think—as many Kantians implicitly or explicitly presume—that a truly responsible agent can *objectify* her beliefs and desires of various sorts (Blackburn 1998: 252-256). This is because my argument admits that no one can be immune from those dispositional states. From this fact, however, it does not follow that there is no independent conception of choosing otherwise, nor that this volitional condition indicates that the noumenal self dictates other parts of the agent.

¹⁴ See Fisher and Ravizza (1998: 46-49).

¹⁵ Note that the claim here does not mean that to be responsible, an agent could choose otherwise in an outright sense. See the next section below.

belief that she ought not to smoke. It might be said that, hence, Emilka is responsible for being worse off through smoking. Nevertheless, if she is merely passively subject to those inner states, we might want to say that she was psychologically pushed to stop smoking rather than that she chose to quit. In this case, is Emilka sure to be responsible for being worse off? We might want to say no. Since we ordinarily take it for granted that the agent can normally choose whatever she likes in light of her preferences, it appears counterintuitive to ascribe such responsibility to Emilka, given that she cannot volitionally choose otherwise. As condition (1c) requires, if Emilka is a truly responsible agent, she must be able to choose otherwise even in the face of her fully rational belief-desire sets.

4. The Frankfurt-Type Case

To see the plausibility of condition (1) “an agent has rational capacities to have chosen otherwise,” and to avoid confusion (one might think that my argument shows a commitment to incompatibilism), consider the following:

The Conspiracy of the Tobacco Industry: Black, a genius neuroscientist, is employed by the tobacco industry. In some way or other, he can make precise judgments about whether smokers will decide to stop smoking and, moreover, has the ability to cause them to decide to continue smoking by manipulating their brain states. Black does not want to intervene unnecessarily; if the smokers were to keep smoking, he would do nothing. He would cause them not to quit just in case they intended to do so.¹⁶

Suppose that Emilka was thinking about quitting smoking, but actually did not intend to do so and thus continued to smoke. In the end, she suffers a severe illness due to that habit; she is worse off. Intuitively, we want to claim that she is responsible for that outcome on grounds that she has chosen voluntarily to smoke.

¹⁶This case originally comes from Frankfurt (1988). But this case is more inspired by its adaptation by Lippert-Rasmussen (Lippert-Rasmussen 1999a: 486).

But she could not *actually* have chosen otherwise because of the presence of Black. Can condition (1) then endorse our intuition that Emilka is responsible for being worse off, even though she could not actually have chosen otherwise?

Yes it can. This is because condition (1) does not require that Emilka could have chosen otherwise in an outright sense, but that she *possess* rational capacities to have chosen otherwise. The significant difference is that in the latter sense, unlike the former sense in which the availability of alternative sequences *simpliciter* is required, we can abstract those capacities away from the presence of Black. Regardless of whether Black intervenes in her brain states, Emilka has rational capacities to stop smoking for three reasons. First, she holds a rational belief with pertinent information that she ought to quit smoking. Second, her desires can be sensitive to such rational consideration. Third, Emilka decided to continue to smoke even after engaging in deliberation that satisfies the above two conditions. Even if, unbeknownst to her, Black would have caused her to continue to smoke had Emilka made up her mind to stop smoking, it remains true that she has rational capacities to have chosen otherwise insofar as the above three conditions are met. All else being constant, we can plausibly say that Emilka is responsible for being worse off.

5. Expectational Consequences Constraint: Condition (2a)

So far I have elaborated the internal condition for responsibility-ascription, by recourse to the account of rational capacities. Now let me turn to the external condition in the Autonomy-Based Principle of Responsibility—that is, condition (2): an agent is responsible for being worse off only if she is worse off (a) through the expectational consequences of her own choice, and (b) the choice was made out of options, including one sufficiently good alternative that she could have

reasonably expected to obtain. This condition is as important as the internal condition, because in actual circumstances there are many events over which a rational agent cannot exert control even through ideal deliberation. Those events often make consequences of her choice unexpected, as in the case of the financial crisis Bob encountered. In this and next sections, I explore condition (2).

In spelling out condition (2), two parts—(a) and (b) as is shown above—can be decomposed, although they are closely related in that both have to do with how an agent's expectations obtain. To begin with (2a) 'through the expectational consequences of her own choice', pay heed to the neologism 'expectational'. This term is adapted from John Broome's argument on expected utility function: in cases of any choice under uncertainty, various as its degree may be, each possible option should be evaluated by reference to a *prospect* for outcomes that an agent could reasonably expect to obtain at a deliberative moment of her choice.¹⁷ Roughly, it then may be said that an agent is worse off through the expectational consequences of her own choice if and only if her being worse off is one of the outcomes she could have reasonably expected to obtain through the choice. 'The Expectational Consequences Constraint' is thus construed such that the agent is responsible for being worse off only if the outcome is among the expectational consequences of her own choice.

It may well be asked what outcomes can count as reasonably expectational. I here propose that the outcomes in question can be identified by weighing value that

¹⁷ Broome (1991: 91-92). See also Dreier (1996: 253). Here I assume that prospects can be valued in a way that is weighed against (normally multiplied by) their probabilities. Admittedly, this assumption that involves the expected value property is open to question, because it presumes two controversial principles: first, all prospects valued as such are commensurable; and second, they can be evaluated individually. I shall not enter into debates over the validity of these principles. For discussions of them, see Broome (1991: Ch.5) and Dreier (1996: 262-267).

an agent assigns to certain outcomes of a prospect against the related risk in the light of her *considered preferences*.¹⁸ Each person's considered preferences constitute a proper ranking of prospects such that their value roughly corresponds to her informed desire and is probabilistically weighed on the basis of the risk that is calibrated in terms of her true and rational belief. Obviously enough, whether an agent can form considered preferences rests upon her rational capacities—whether or the extent to which rational beliefs go hand-in-hand with informed desires.¹⁹ As such, the Expectational Consequences Constraint relates strongly to condition (1)—the internal condition of responsibility-ascription. To see how, recall Bob's case in which he is worse off due to financial meltdown. Suppose that Bob has full rational capacities. Suppose, further, that he chose to be a banker through careful deliberation with pertinent information of the extremely low probability that some financial crisis occurs. In this case, it is counterintuitive to hold him responsible for being worse off through the financial meltdown simply because he chose to become a banker. This is confirmed by the fact that the probability of financial crisis occurring was rightly evaluated as substantially low, and that the outcome in question was not the one to which Bob would have assigned great disvalue, based on his considered preferences. On the proposed principle of responsibility, thanks to condition (2a), there is no need to attribute such responsibility to Bob; we should hold him responsible only for the worse off consequences of his choice that could have been expected as a reasonable prospect in the light of his considered

¹⁸For presentations of considered preferences, see Gauthier (1986: 29-38) and Arneson (1989: 82-83; 1990: 161-164).

¹⁹This echoes a standard picture of Bayesian decision theory that explicates desires and beliefs an agent would have in the relevant conditions in terms of the value and subjective probabilities. Philip Pettit calls this 'the explication thesis' in reflection upon what David Lewis says about decision theory (Pettit 1991: 150-151; see also Lewis (1983: Ch.8).

preferences. Indeed, to be plausible, the proposed condition of responsibility need not apply to all the further consequences that follow from any choice.

Notice that according to this argument, reasonableness comes into the picture in examining rational beliefs which are reasonable ones to act upon.²⁰ Such an examination requires an agent to possess a capacity to investigate information. This capacity is germane to what condition (1a) says: an agent should have a capacity to form rational beliefs about what she ought to do under the impact of relevant information. Whether an individual could have reasonably expected the consequences to obtain through her own choice depends on whether she has a rational capacity to make reasonable judgments, the judgments which can track what an agent ought to do in the light of her considered preferences. If the individual lacks the rational capacity to form such judgments, she may very likely form her prospect for the outcomes based on her irrational beliefs and so may not attempt to seek adequate information. To see this, reconsider Bob's case again. Now suppose, unlike the previous case, Bob has no rational capacity to reasonably assess all prospects for the outcomes of any choice. This would have made him wrongly shape the belief about the probability of financial crisis in question; he thought it extremely less probable despite its high probability. Should a world-wide financial meltdown come about, we say that Bob could not have reasonably expected his bankruptcy to result from his choice. And we continue: this is mainly due to the deficiency of his rational capacity for the formation of reasonable beliefs and so the non-culpable failure to gain more precise information. In this case we thus should not ascribe the responsibility to him.

It might be claimed that the actual market is full of the outcomes that people could not predict prior to their own choice even in the light of their considered

²⁰ See Jackson (1986: 358-365; 2001: 29-33).

preferences. We then can in no way hold people responsible for being worse off through the expectational consequences of their own choice. This might seem a *reductio ad absurdum*.

My response is twofold. First, many if not all unpredictable fluctuations in the market are *reasonably* foreseeable in advance of any choice. In other words, when people form a prospect for the outcomes of each option, they may well be expected to take uncertainty of this sort into account *to a reasonable extent*. In making a choice no one can ignore the effects of other people's choices in the market. Nor can people neglect the changes in their tastes and technological conditions in the long run. Note that those standard cases differ from the original Bob's case in which a most well-informed and rational agent could not have reasonably expected the disastrous consequence to obtain through their own choice—going bankrupt through being a banker; the financial panic is that which Bob could not have reasonably anticipated had he been relevantly informed and rational. In ordinary cases, people who possess rational capacities should conduct their deliberation in reflection upon the occurrence of minor unforeseeable events they could reasonably count. No rational people can escape from the attribution of responsibility in such cases.

Second, it could be that the market would be made more stable if the proposed principle of responsibility were dominant and institutionalised in our society. In the society under my proposal, people may be normatively motivated to abstain from reckless choice that often gives rise to market fluctuations of an excessive sort (for example, choices driven just by speculation mania). We then could say that the more stable the market, the fewer the difficulties in holding people responsible for being worse off through the expectational consequences of their own choice.

6. Reasonable Alternative Constraint: Condition (2b)

As a component of the necessary condition for responsibility-ascription, the Expectational Consequences Constraint is not satisfactory, for, otherwise, condition (2) might not consider cases in which people have no reasonable alternative, even though they have relevant knowledge and are able to act upon it. Recall the case of a tyrannised housewife. Now consider a particular—more common—kind of a tyrannised housewife: one who has relevant knowledge that her current life is of incredible misery and hardship, but for whom any different life is inaccessible to her in her social situation (she is in the male dominated society, for instance). In such a situation, she may well be disposed to falsely believe that nothing is better than her current life. We should note that this tyrannised housewife—hereafter called ‘the informed tyrannised housewife’—can exercise rational capacities under the impact of the relevant information that no sufficiently good alternative which would secure her a decent life is choosable. It is intuitively unacceptable to hold her responsible for her dire situation, even though this is an outcome of her own choice that she could have expected to obtain.²¹

It is time to turn to (2b) to defuse this worry. Now I want to propose a more precise form of (2b): we should hold people responsible for being worse off only in cases in which they could have reasonably expected the other possible alternative(s) to obtain, at least one of which would, with near certainty, guarantee a decent life at no high opportunity cost. This is what I call ‘the Reasonable Alternative Constraint’. Admittedly, this is a formulation similar to a definition of

²¹ Admittedly, this is a typical case of adaptive preferences (e.g., Elster 1983: Ch.3; Sen 1987). Amartya Sen raises examples of this sort as follows: “The battered slave, the broken unemployed, the hopeless destitute, the tamed housewife, may have the courage to desire little, but the fulfilment of those disciplined desires is not a sign of great success and cannot be treated in the same way as the fulfilment of the confident and demanding desires of the better placed.” (Sen 1987: 11).

optional luck—optional risks for which people are responsible—except the part ‘at no high opportunity cost’.²² The formulation that involves the added part contains not only a necessary but also sufficient condition of a reasonable alternative. The reason is that we can thereby count certain (expectational) advantages with other options that people would lose by choosing the alternative in question. Such options include a chance of achieving a much greater good, which is slightly riskier than the alternative at stake.²³ In this section, I show why opportunity cost should be necessarily low for the alternative to be qualified as the sufficiently good one below.

We should first and foremost notice that the Reasonable Alternative Constraint plays a significant role in legitimately avoiding holding the informed tyrannised housewife responsible for being worse off. This is because this constraint does not endorse the implausible claim that even if people fully realise that they are actually unable to choose a sufficiently good option, they may be responsible for being worse off as among expectational consequences of their own choice. Such a claim is seriously counterintuitive, since it requires people to responsibly evaluate any set of options with prospects for the outcomes, even when they realise, on the basis of deliberative judgments, that those options could in no way be selected. To see how, suppose that an appeal to options that the informed tyrannised housewife could not pursue (in any reasonably imaginable scenario) were used to guarantee her responsibility for her wretched situation. It would follow that whatever she chooses validates the attribution of such responsibility to her, on grounds that she chooses to keep being a housewife of the tyrant among her

²² For presentations of this definition of option luck, see Olsaretti (2004: 151-154) and Otsuka (2004: 153). See also Dworkin (2000: 73).

²³ For relevant discussions of this point, see Lippert-Rasmussen (2001: 572-574), Otsuka (2004: 155-156), and Sandbu (2004: 297-299).

options, none of which can be expected to obtain except the option she chooses. By contrast, the Reasonable Alternative Constraint is not vulnerable to this problem, because, for responsibility-ascription, it requires at least one sufficiently good alternative that the housewife could reasonably expect to obtain. In other words, the Reasonable Alternative Constraint does not direct us to hold her responsible for being worse off, on grounds of the existence of alternatives that she knows she would not be able to select in any case.²⁴

It seems increasingly clear that the Reasonable Alternative Constraint prevents us from ascribing the responsibility to the informed tyrannised housewife who realises that she has no selective option to lead a decent life. Still, there is ambiguity in why *only one* sufficiently good alternative an agent could reasonably expect to obtain is enough. Now the consideration of opportunity cost comes into play. A good place to start in seeing this point is to consider in what circumstances the currently tyrannised housewife would be responsible for being worse off. Recall that she cannot reasonably pursue options that, she relevantly acknowledges, lack feasibility. This is because in her situation in which she could in no way make

²⁴ It might be claimed that for the precise attribution of responsibility, we should know whether the informed tyrannised housewife *would* have chosen the reasonable alternative had this option been accessible to her in the expectational terms. But obviously, this is not only epistemically impossible but rather metaphysically indeterminate, since her hypothetical choice is essentially indeterminate (Hurley 2003: 162-163). One then might say that we cannot indeed engage in the precise ascription of responsibility to the housewife in question. My response is that responsibility in a relevant sense need not involve the consideration of such hypothetical choice, since for responsibility-ascription, all we need to know is whether the housewife is responsible for being worse off, not whether she *would have been responsible* for being worse off. The former question of responsibility, unlike the latter of *counterfactual responsibility*, has nothing to do with whether the housewife would have opted for the reasonable alternative had it been available to her. Unlike luck egalitarianism (in its caricatured version), my argument bases our responsibility judgments about the worse off upon not all kinds of luck, much less upon counterfactual luck. See also my argument on circumstantial good luck elsewhere in the next chapter.

a living were she to divorce from her tyrannical husband, *the opportunity cost is prohibitively high*. It is then likely that the formation of her considered preferences is negatively affected by the extent to which she has to be burdened with this exceptionally high opportunity cost of getting a divorce. She thus cannot reasonably prefer such an option to the one which would keep her submissive to the dictatorial husband. But what if the society constituted circumstances in which there is low opportunity cost to win a divorce, by virtue of few obstacles for a divorced female to lead a decent life? In this scenario, we might want to say that the informed tyrannised housewife could deliberately prefer the separation. It would seem that she cannot waive the responsibility for her dreadful life with the current husband, if chosen. This promisingly demonstrates that there being one sufficiently good option an agent could have reasonably expected to obtain at no high opportunity cost is sufficient for responsibility-ascription, all other things being equal. The essential point is not the number of relevant opportunities that can reasonably be expected to obtain, but rather that the opportunity cost of a sufficiently good alternative must be low.

Some contemporary egalitarian theorists, on the contrary, have claimed that, for responsibility-ascription, all persons must have effectively equivalent arrays of options.²⁵ According to this argument, in order to hold the informed tyrannised housewife responsible for her hardship, her actual circumstances must become close to an ideal situation in which she can lead any life in light of her own preferences reasonably formed in the same way as other members' own. In other words, we can hold her responsible for being worse off only if all agents "face equivalent decision trees—the expected value of each person's best (= most prudent) choice of options, second-best, . . . nth-best is the same" in an effective

²⁵ See Arneson (1989; 1990) and Cohen (1989).

sense, among other things.²⁶ In cases of this sort, without any reservation we should hold the informed tyrannised housewife responsible for being worse off. However, it seems too demanding to equalise each person's set of options at each deliberative point, for three reasons. First, the full-equal-opportunity scheme may have high administration costs, since it needs to gather relevant information about each person's decision tree.²⁷ Second, it is much less feasible to reduce the opportunity cost of every alternative at each rank in such a way that all agents have effectively equivalent options in their expectational terms. Third, even if possible, it is likely that the result could be achieved by severely levelling down (for example, by exploiting economic and human resources of an extant kind).²⁸ All these three points show the infeasibility of the proposed scheme. There is no difficulty in imagining that, according to this line of egalitarian policies, we can by no means hold people responsible for being worse off.²⁹

To hold them responsible, however, there is no need to require that all agents' options be effectively equivalent in their expectational terms. Here again, there being a sufficiently good alternative that they could reasonably expect to obtain is enough for responsibility-ascription, every other thing being equal.

7. The Frankfurt-Type Case Again

To avoid confusion, let me emphasise that condition (2) does not require the

²⁶ Arneson (1989: 85-86).

²⁷ See Vallentyne (2002: 544).

²⁸ Andrew Mason points to this problem in arguing how demanding the view of fair access to qualifications is (Mason 2004: 380-382).

²⁹ In this line of reasoning, Lippert-Rasmussen interprets Richard Arneson's position as refusing to take a stand on whether people are ever responsible for being worse off (Lippert-Rasmussen 1999b: 66).

availability of alternative sequences *simpliciter*. Consider the case of Emilka under the influence of Black again. Recall that, qua a fully rational agent, she was seriously considering quitting smoking. But she found it difficult to quit smoking, due to her weakness of will, semi-addiction to tobacco, or for whatever reason. Now suppose that there is one option that she could reasonably expect to obtain at very low cost—the option to regularly have giving-up-smoking candies that are amazingly effective. In addition, there are no social and economic difficulties in doing so, because the government successfully promotes the campaign of those candies. She thus faced little opportunity cost to avoid smoking. Nevertheless, she continued to smoke and suffered a serious illness. In the end, she is worse off. It seems that she is responsible for that outcome. Yet the reasonable option at stake could not be *actualised* because of Black, since, unbeknownst to Emilka, Black would have intervened in her brain states and caused her to continue to smoke had she not intended to smoke. It then may well be asked: can condition (2), which entails the requirement that there be at least one reasonable alternative the consequences of which an agent could reasonably expect to obtain, really hold her responsible for being worse off?

Yes it can. This is because, notwithstanding the reasonably obtainable scenario that Emilka would have had giving-up-smoking candies with no difficulties in the expectational terms, she intended not to put an end to her smoking habit. There are two points that should be noted here. First, in her social setting, giving-up-smoking candies of an effective sort *are* easily purchased at low cost, and what is more, there *is* no high opportunity cost of having them (since the government encouragingly promotes the use of the candies in question). This is a striking fact that makes the option in question the reasonable alternative to her in its expectational terms. She thus could have reasonably taken into account the

prospect that she would not be affected with the smoking disease were she to have those candies.

Second, in the case under discussion, Emilka is not determined to decide to smoke continually, since her psychological mechanism from her motivation to actual choice is undetermined. In this case, the Reasonable Alternative Constraint obtains because it requires only that at least one alternative available to her is such that she could reasonably *expect* it to obtain. In other words, the Reasonable Alternative Constraint requires only that the decision to have giving-up-smoking candies instead of cigarettes be such that Emilka can regard it as a sufficiently good option in the light of her considered preferences. The very facts that those candies are actually sold at low cost and having them is socially encouraged render the decision in question responsive to the first-person deliberative judgments based on her informed practical reasoning. But it does not entail that the option of having those candies be actualised.³⁰

The plausibility of this argument is confirmed by seeing the recent discussion as regards moral responsibility. Proponents of the alternative possibilities requirement for moral responsibility tend to ignore the fact that the point is not whether an agent has any kind of leeway to avoid moral responsibility, but whether the agent has option(s) of a relevant and significant kind that motivates her practical reflection upon it. Such alternatives' responsiveness to an agent's deliberative judgments based on her healthy practical reasoning provides a sufficient ground for her moral responsibility.³¹ This argument is relevant to the Reasonable Alternative Constraint, because the essential point is not whether the

³⁰ It goes without saying that when Black intervenes with Emilka's brain states to cause her to smoke she is not responsible for the resultant health conditions. See also note 39.

³¹ See, e.g., Mele (1995: 186-191), Fisher and Ravizza (1998: 69-76), Haji (1998: 75-79), Fisher (1999: 117-123), and Watson (2001: 382).

reasonable alternative is not thwarted in any possible scenario, but whether it makes an agent's decision responsive to relevant judgments on the basis of her practical reasoning. In sum: under the Reasonable Alternative Constraint, a fully rational agent like Emilka is responsible for being worse off even in cases in which, unbeknownst to her, she could not actually have opted for the reasonable alternative.

8. Proportionality, Culpability, and Harshness

So far I have argued that the conception of responsibility can play a major role in specifying which deviations of a negative kind from simple equality are morally permissible, given the Autonomy-Based Principle of Responsibility which contains the two necessary conditions for responsibility-ascription. The first has to do with rational capacities. The second consists of the two constraints: the Expectational Consequences Constraint and the Reasonable Alternative Constraint. We are now in a position to examine how the Autonomy-Based Principle of Responsibility can cope with the aforementioned three worries. For that purpose, let me take up three related questions.

First Question: The proposed principle says that an agent is responsible for being worse off if and only if she has rational capacities to have chosen otherwise and the two constraints are met. But even among people whose capacities are rational enough to be responsive to reasons in accordance with their considered preferences, there is a difference in how effectively they can respond to the reasons in question. This seems of much significance, since the sufficiently rational agents have different background conditions, some of which may diminish rational capacities, such as poor native and social endowments. Furthermore, how easily an agent can

pursue a sufficiently good alternative is relevant even in cases in which its opportunity cost is sufficiently low. Is it fair then to ascribe to people the same degree of responsibility for being worse off, simply on grounds that they possess sufficient rational capacities?

To see the problem clearly, imagine another heavy smoker, Geoff. He has rational capacities to have quit smoking but actually continued to smoke, notwithstanding the availability of giving-up-smoking candies of an effective kind. Like Emilka, he seems to be responsible for being worse off. But Geoff has grown up in a squalid slum (in which it is natural for the dwellers to smoke heavily) while Emilka has a good family background and is well-educated. It then may well be that in Geoff's case the decision to avoid smoking by using a certain measure—by having giving-up-smoking candies—is less effectively responsive to reasons endorsed by considered preferences than in Emilka's case. Obviously enough, we can conceive a rough correlation between such differential responsiveness to the reasons in question and their differential background conditions in this example, given that neither Geoff nor Emilka fail to develop their own rational capacities in a culpable way.³² Provided that they are not negligent in this way, do we not think it unfair to ignore the difference between Emilka's and Geoff's background conditions in attributing to them the responsibility for being worse off? Should we not say more about the difference since their background conditions may have differential effects upon the two people's rational capacities?

We can deal with this problem by appealing to two arguments for fine-grained assignments of responsibility for being worse off. Both arguments

³² I scrutinise the correlation in question and how to differentiate the cases mentioned above and culpable cases. See my response to the second question in this section below.

consist of *a rough proportional idea of responsibility*. The first argument is that the less an agent's rational capacities are, roughly, the less proportionately she is responsible for being worse off, other things being equal. On this proportional construal, we can avoid an all-or-nothing way of responsibility-ascription, for the proportional construal can reflect the fact that people's rational capacities come in degrees. Recall that in the case under discussion, the differential degree of rational capacities is directly associated with particular factors determining the difference of their uncontrollable background conditions such as internal and external endowments.³³ It is thus reasonable to regard Emilka as *more* responsible for being worse off, as compared with Geoff, even though their capacities are rational enough to regard them as responsible agents. This trait of the proportional construal can be called *a responsibility-reflecting role of proportionality*. (There is another significant role of the proportional construal. It will be argued later.)

The second argument for the proportional idea of responsibility is closely related to the Reasonable Alternative Constraint. This claims that an agent's responsibility for being worse off be curtailed by the degree to which the agent would face differential opportunity cost in pursuit of her reasonable alternative, even in cases in which the opportunity cost is substantially low. Consider Geoff's case again. In the squalid situation in which Geoff was born and raised, the opportunity cost of refraining from smoking may not be extremely low, even when it is below the threshold of low opportunity cost that can be seen as minimally constitutive of his reasonable alternative. To illustrate: if Geoff attempted to stop smoking, he might have to sacrifice a larger proportion of possible friends than Emilka might in her very different neighbourhood. It then seems unfair to attribute

³³ Later, I will consider Roemer's proposal as a relevant way of counting these uncontrollable effects of background conditions on each person's rational capacities.

to him the same responsibility as Emilka, who could have chosen not to smoke at much lower opportunity cost. So, should both suffer from lung cancer caused by the same kind of smoking habit, Geoff's responsibility ought to be comparatively lower than Emilka's, not only by virtue of the differential degree of their rational capacities, but also because of the relatively higher opportunity cost to break his habit of smoking.

To sum up: first, the rough proportional idea of responsibility allows that people's rational capacities come in degrees even in cases in which their capacities can be seen minimally as rational, and, correspondingly, responsibility for the worse off consequences should be held in degree. Second, responsibility-ascription should also be sensitive to the difference of opportunity cost that an agent would have to incur with the view to the reasonable alternative, even if it is sufficiently low. In my account, there is no need to apply the same degree of responsibility to rational agents across the board.

Second Question: The proposed principle says that if an agent has no (or fewer) rational capacities then we should not hold her responsible (or as responsible) for being worse off from her own choice. But this formulation appears to overlook culpable cases in which people lack rational capacities (or have only diminished ones), owing to some past negligence. Is it possible to distinguish those negligent cases from non-culpable cases (such as Geoff's case) in which shortcomings of an agent's rational capacities stem from the adverse effects of uncontrollable background conditions?

Recall the case of Campbell, who lacks a capacity for self-control in the face of his desperate desire to smoke that is completely insensitive to what his informed,

rational beliefs guide. Now suppose that he *used to* have a rational capacity to make his desire for cigarettes responsive to reasons in accordance with his rational, well-informed beliefs, since he enjoyed favourable background conditions (he was born in an upper-class family, for instance). It follows that, all else being constant, he lost the rational capacity through his culpable negligence. In other words, he could have secured the rational capacity for self-control over the desire in question had he not taken up smoking. In this case, even if he now finds it all but impossible to control this craving in such a way as to respond to his true and rational beliefs, our considered judgments are that he is responsible for being worse off through smoking, because he had, and could act upon, relevant knowledge about what he would be in the future were he to develop a smoking habit.³⁴ How can we hold Campbell-like people responsible for such worse off consequences under the proposed principle?

There seem two ways of bringing to light whether a person's shortcomings of rational capacities are in fact due to some past negligence. One obvious way of drawing the line between culpable and non-culpable cases is to examine the whole history of decisions made by each person from the beginning of life. However, this bluntly diachronic method seems of no feasibility, since it would involve insurmountable epistemic difficulties. Even if possible, it demands huge administration costs to collect relevant information of each personal history, and worse, may transform our society into a suffocating Panopticon. We thus should consider a more feasible and liberal way of distinguishing between negligent and non-culpable cases. The key point, I think, is to find the simple method of

³⁴Note that this kind of diachronic sense of responsibility can also be described under the proportional construal of responsibility mentioned above: even in cases in which a person lost a certain degree of rational capacities due to some analogous kind of negligence, we want to hold her more responsible than other people whose capacities are non-culpably less rational.

revealing the adverse effects of uncontrollable background conditions on rational capacities. My first approximation of the method in question is this: introduce the idea of an imaginable state in which the capacities people possess are determined in ways that are beyond their control. This is what I call a *canonical state*. Put another way, the canonical state illustrates that the comparative degree of individuals' rational capacities is due to the difference of their uncontrollable background conditions. To a first approximation, we thus can say that the Autonomy-Based Principle of Responsibility should be applied on the basis of an agent's rational capacities in the canonical state. In other words, to avoid mitigating responsibility in cases of a culpable sort, the degree of people's responsibility for being worse off should be, among other things, roughly in proportion to the degree of their rational capacities in the canonical state.

An essential question remains. *How* can we identify the canonical state? There are, I think, two ways of identification. The first is to employ the idea of the canonical *moment* at which people should start being responsible agents. What lies behind the canonical moment is the thought that we can draw a non-arbitrary and morally significant line between childhood and adulthood, where children are not responsible beings while adults are.³⁵ Rational capacities of the former, it is argued, are vulnerable to the negative effects of background conditions, while the latter's are not seriously undermined by those effects.

Yet this line drawn at the canonical moment seems to me false, since it is not clear that there is such a moment based on which the degree of responsibility for being worse off is determinate. In other words, there is no clear reason for thinking that the comparative degree of rational capacities people enjoy at the canonical moment is determined in ways that are beyond their control, even in a rough sense.

³⁵ The idea of canonical moment draws from Arneson's argument (Arneson 1990: 179).

Two reasons: first, rational capacities come on line gradually, and in a piecemeal fashion, so to draw a line is simply misguided. Second, and more important, the effects that differential background conditions generate may well exert more or less ongoing influence on people's rational capacities. It seems that the canonical moment cut-off distorts the fact that the adverse circumstantial influence may persist even in adulthood, when it comes to the uncontrollable effects on rational capacities.³⁶

It might be countered that this conclusion is too hasty, because there may seem a promising means to define the canonical moment. For instance, we can take a plausible measure such as establishing a good educational system that all children can freely and easily access. To ensure the provision of a good education system may make the canonical moment more reliable and stable. What is more, this might even eradicate the negative effects of original backgrounds. Were it successfully done in this way, we might be able to simply start holding adults responsible for being worse off, such that the proposed principle synchronically applies to each state of affairs.

This demonstration, I suspect, is too optimistic. As empirical studies show, the effects of individuals' original background conditions—especially when it comes to the effects of their class of origin—are persistent. Even under the excellent educational system, it would seem difficult to view differences in achieved success purely as a matter of people's personal responsibility.³⁷ Of course, this does not deny that to improve the current educational system may help alleviate the negative influence that background conditions of an uncontrollable kind yield. All I want to say here is that the canonical moment cut-off can hardly

³⁶In a similar vein, Marc Fleurbaey criticises Arneson's proposal of the canonical moment (Fleurbaey 1995: 42).

³⁷See, e.g., Marshall, Swift, and Roberts (1997: 70-132) and Bowles and Gintis (2002: 10-19).

provide a reliable understanding of the canonical state.

Hence we should turn to a different way of assessing how much responsibility should be ascribed with respect to the culpable lack of rational capacities, without recourse to the canonical moment. My thought is that John Roemer's approach can be taken as supplying a better understanding of the canonical state. Roemer suggests that all people can be partitioned into 'types'—the groups of individuals in a population with a certain set of circumstances—roughly by appealing to the following statistical data: their occupation, ethnicity, gender, what their parents do, and the parents' income level. We can thereby observe the frequency distribution of degrees of effort that agents of the same type exert for earning income in each different type. The point of this observation is that the distribution of effort levels is different across types; for instance, the median level of effort in type 1 is 5 while it is 10 in type 2. This is because the difference of type means that the range of effort levels, which are reasonably available to members of each type, differs across types. Any non-trivial difficulty in altering the relation between a person's own effort level for her lower type and the effort level of someone else for his higher type thus represents the (adverse) effects to which their background conditions differentially give rise.³⁸

I suggest that this ingenious argument can be employed for singling out the resilient influence of uncontrollable background conditions on people's rational capacities in the canonical state, for Roemer's distinction between effort degrees and levels, roughly, can be taken as the distinction between degrees and levels of effort exerted for the development or improvement of rational capacities. This distinction is useful for examining approximately how culpably the worse off have diminished their rational capacities. What we should know is that people belong to

³⁸ Roemer (1994: Ch.8; 1996: 276-310; 1998: 5ff; 2003). See also Moriarty (2005: 217-221).

different types that echo the differential influence of their own backgrounds on rational capacities. We can thereby see why those whose rational capacities are underdeveloped in the same degree are often comparatively responsible for being worse off. This seems to be a less demanding—thus feasible—way of collecting relevant information.

Third Question: As in other responsibility-sensitive formulations in deontic egalitarianism, the Autonomy-Based Principle of Responsibility seems unduly harsh in that rational agents may bear full responsibility for being worse off through their own choice. For instance, they may be left unhelped even in cases in which they are extremely worse off, given that they have rational capacities and the two constraints are met. Can the proposed principle ward off this harshness worry?

It is time to turn to the other significant role of proportionality. Recall the rough proportional idea of responsibility: by examining the degree of rational capacities and how accessibly a reasonable alternative could be obtained, we can assign to people the corresponding degree of responsibility for being worse off, even in cases in which they have sufficient rational capacities and the two constraints are satisfied. Now we should notice that this rough proportional idea of responsibility diminishes the range of negative deviations from simple equality for which individuals are responsible, for it is extremely unlikely that when they are worse off as the result of a less than fully rational choice, the responsibility should *fully* be attributed to them in actual circumstances: no one has perfect rational capacities, nor is it possible for anyone to gain perfect information.³⁹ The proposed principle

³⁹There are two senses in which no one can be fully informed. In the first sense, it seems practically impossible to collect all existing information, including tacit knowledge; should it be possible it would be of much difficulty and costliness. Second, there seems no possible way to

of responsibility thus insists that no one is perfectly rational. This constitutes a reason for not holding people fully responsible for any negative departure from simple equality. This enables us to avoid the prevalence of substantive inequalities of an extreme sort—it can be called *an inequality-appeasing role of proportionality*.

This implication of proportionality should be taken more seriously, since this is ignored by philosophers who accuse the responsibility-sensitive deontic egalitarianism of not caring about the responsibly worse off.⁴⁰ We can find no grounds for such antipathy towards the Autonomy-Based Principle of Responsibility, as long as we notice the point of my argument that attends to the crucial gap between agents in ideal circumstances and in actual circumstances. According to my proportional view of responsibility, it could hardly be said that any agent in actual circumstances has rational capacities of a perfect kind, no matter how well-educated or talented she is. This is empirically endorsed: as Kahneman and Tversky argue, the psychological experiments on people's contradictory attitudes towards their options reveal the imperfection of their capacities to rationally frame choice opportunities and outcomes, which is far from the case of an ideal agent. Because the experimental data are obtained from university students and teachers, and because further complexities are involved in the case of decisional situations of an actual kind (such as a lack of information), the observations assure that no one can be fully rational in the actual

acquire future information, such as future technology available for certain medical treatments. The second sense in which we cannot be perfectly informed firmly guarantees that we should not be fully responsible for being worse off. With these in mind, we may say that Emilka's case can be seen as that of less than full information, because she can by no means know about Black's possible intervention. It means that, even in Emilka's case, her responsibility should certainly be curtailed by that extent.

⁴⁰ See Section 1 above (note 4). See also Chapter 1.

circumstances.⁴¹ The remaining irrationality on any agent's part in the non-culpable sense has an interesting implication: this may approve a policy to guarantee everyone's basic needs, on grounds that there remains residual irrationality of capacities for choice in any situation of an actual kind.⁴²

It still might be objected that the proposed principle of responsibility may be cruel. Take the case of Campbell again. Suppose, here, Campbell made imprudent decisions to smoke in his earlier life. He realised that his choices would give rise to the foreseeable consequence that he would not be able to effectively exercise his rational capacities later. He is deemed responsible for being worse off through those cumulative adverse effects on his capacities. But how much responsibility should he bear? My proportional view of responsibility holds that the degree of responsibility should be assigned to him, roughly in proportion to the degree of his rational capacities in the canonical state, among other things. Yet it seems unduly harsh, since this suggests that Campbell should have assigned heavy weight to his early decisions: he was expected as a responsible agent to consider not only the current satisfaction of his desires but also the possible threats of losing his rational capacities in the future, in the light of his considered preferences. In other words, he should have borne in mind the high potentiality that he would find it much more arduous—even impossible—to control his craving for cigarettes later on. This seems too heavy a burden of deliberation to reasonably expect of anyone

My response to this objection is that there is no need to deal with all of the remaining harshness within the Responsibility-Based Principle of Inequality.

⁴¹ Kahneman and Tversky (1986; 2000). *Pace* critics of the responsibility-sensitive deontic egalitarianism (e.g., Fried 2003: 146-149), this unavoidable element of irrationality on people's capacities does good to the Autonomy-Based Principle of Responsibility.

⁴² I will argue at full length how my desert-sensitive egalitarian theory of justice can appreciate the normative space of basic needs in Chapter 6.

Recall that given a pluralism of egalitarian principles under the regulative political ideal of human equality, the telic egalitarian consideration may weigh more than reasons of any kind for substantive inequalities, even in the circumstances of justice. There may be a need to take the moral status of ascribing responsibility under deliberation in hard cases in which the two combined egalitarian principles cannot automatically apply. The above-mentioned case may be of this kind. The rough proportional story might seem merciless in that it possibly attributes to rational agents such as Campbell the heavy task of deliberative choice, especially at the early stage of life. On account of the practical difficulties in retrieving all of the relevant information about rational capacities at an earlier time, however, the responsibility for being worse off in question should be discounted in the light of the political idea of human equality, even if such difficulties result from the cumulative consequences of responsible choices in the past.⁴³ As in cases of the distant needy, the worse off whose self-respect is severely damaged, and the worse off who are stuck by structural inequalities, the fact that Campbell's negligence is at earlier stages of life may well provide a fairly strong reason for a policy in a direction of simple equality. The remaining harshness thus does not itself overthrow the Autonomy-Based Principle of Responsibility.⁴⁴

9. Summary

Before turning next to the conditions under which an agent is responsible for being

⁴³ This is not far from the ordinary thought that young people are in the stages of developing their rational capacities to be responsible agents. See Scanlon (1998: 280), for a similar presentation of this.

⁴⁴ This response might seem ad hoc. But it is not, because, on my argument, this kind of weighing the value of simple equality more than the relevant consideration of responsibility is redeemed by the regulative political ideal of human equality. See Chapter 2, Section 4.

better off, let me briefly summarise the argument of this chapter. I opened my brief discussion of the Responsibility-Based Principle of Inequality by suggesting that this can be seen as providing a morally relevant reason for deviations from simple equality. This chapter proposed the principle that designates an agent's responsibility for being worse off as an important component of the Responsibility-Based Principle of Inequality. I showed that the principle in question plays the role as long as it is construed as having the relevant accounts of rational capacities and the two constraints: the Expectational Consequences Constraint and the Reasonable Alternative Constraint. This is what I call the Autonomy-Based Principle of Responsibility. I then clarified three key points by responding to the three typical worries about the proposed principle of responsibility. First, this principle allows the assignment of the differential degree of responsibility to sufficiently rational people in its proportional terms. Second, this principle can be applied in such a way as to differentiate culpable defects of rational capacities from their non-culpable lacks, by recourse to Roemer's approach. Third, this principle can ward off the harshness worry, since its proportional construal essentially allows that no one be fully rational in actual circumstances. I thus conclude that the Autonomy-Based Principle of Responsibility comes into full play, in considering a deontic egalitarian reason for negative departures from simple equality.

Chapter 4

The Responsibility-Based Principle of Inequality II: Responsibility for Being Better Off

1. Introduction

In the last chapter, I clarified the conditions under which an agent is responsible for being worse off. In this chapter, I turn to consider the conditions under which an agent is *responsible for being better off*. This constitutes another part of the Responsibility-Based Principle of Inequality. In recent debates, advocates of the deontic version of responsibility-sensitive egalitarianism have not sufficiently discussed the conditions in question, since their focus is fundamentally on negative cases—the cases in which people are worse off.¹ Thus, questions that they pose are usually the following kinds: should we help those who are worse off across the board? How can we differentiate the worse off who are qualified to receive some aid from the worse off who are not? Although, as we saw in the previous chapter, answering these questions is a primary task for the theory of egalitarian justice, it is also essential to argue how and why positive departures from simple equality can

¹ This may not be true of theorists of desert such as David Miller and George Sher, because their interest is principally in positive cases (Miller 1976; 1999; Sher 1987). I shall also argue for the relevant conception of desert that endorses a desert-sensitive egalitarian scheme in the next chapter.

be justified. There are many cases in which it may be questioned whether the riches of the better off are legitimately enjoyed. This question strikes us as crucial not simply with respect to the completion of the Responsibility-Based Principle of Inequality. A proper response to this question may justify taxing certain advantages away from the non-responsibly better off for the assistance of the non-responsibly worse off (even though this may not be the only way of raising money needed for helping the worse off).

This chapter explores what conditions should be met by an agent in order to have a legitimate claim for being better off. I argue that there are two necessary conditions of an agent's responsibility for being better off. The first is *the Principle of Self-Ownership*: one must possess and exercise one's own rational capacities, with the view to the justification for one's being better off. The next three sections in this chapter demonstrate why the conception of self-ownership constitutes a necessary condition of an agent's responsibility for being better off. In Section 2, I introduce the notion of self-ownership and show that the normativity of self-ownership cannot itself justify any positive departure from simple equality, due to its formality and shallowness. I thus propose two substantive constraints concerning the Principle of Self-Ownership: Section 3 argues *the Expectational Consequences Constraint* that purports to reflect how an agent makes a deliberative choice by recourse to her rational capacities. Section 4 argues for *the Non-Arbitrariness Constraint* that can cope with our concern about the effects of internal and external endowments.

The second condition has more to do with the ownership of material advantages besides oneself. This condition is as important as the first in that reaping positive benefits normally involves issues of whether an agent is legitimately entitled to the material goods external to her, which may well give rise

to our concern about whether an action in pursuit of positive advantages privileges others. I argue for the other-regarding principle that is called for to defuse this concern. Section 5 scrutinises familiar arguments for the principle of justice in acquisition—the Lockean Proviso—and then proposes the relevant principle of just appropriation that can respond to the worry in question. Section 6 expands that argument to *the Principle of a Fair Opportunity* that can serve as another necessary condition of an agent's responsibility for being better off.

Section 7 responds to two main concerns about my proposal.

2. The Principle of Self-Ownership

A good place to start in spelling out the conditions of responsibility for being better off is to consider an uncontroversial condition. To the first approximation, such a condition can be that an agent must be an owner of her own rational capacities. Setting aside its complication, there seems little disagreement about this proposal, for, as I discussed in the previous chapter, it is reasonable to think that to be a responsible agent, one must be able to engage in practical reasoning based on one's rational capacities, under the impact of relevant information, and that this requires that the agent possess the capacities that are regularly conducive to practical deliberation of a rational kind. Here again, on this proposal, the agent can be described as the owner of the power of self-control over her intentional decisions, even in the presence of the Frankfurt-type of counterfactual intervener. This is because even in cases in which the agent would be caused to take a specific action although she has an intention to perform different actions, her possession of rational capacities is not undermined because the responsiveness to reasons in accordance with which she forms a decisional intention is secured.² Let me

² See Smith (1997: 311).

propose that this ownership condition be considered as the core of the Principle of Self-Ownership which defines the liaison between rational capacities and their owner.³

Many political philosophers have taken for granted this principle.⁴ In particular, libertarians endorse the Principle of Self-Ownership in a stronger sense which holds that each person has a *right* of self-ownership. Robert Nozick famously attempts to defend the right of self-ownership in its fully extended sense which holds “each person as having a right to decide what would become of himself and what he would do, and as having a right to reap the benefits of what he did.”⁵ Yet many supporters of the right of self-ownership do not take this hard line any more, since the fact that each person is a rightful owner of herself—her mental capacities and physical traits—does not entail that she has a right to the benefits that would accrue through the exercise of her rational capacities. Among them are left-libertarians who more modestly claim that each person has the right to control over herself, while this should be sharply distinguished from the right to reap the benefits through exercising her rational capacities.⁶ Michael Otsuka

³ Note that the Principle of Self-Ownership need not be of the robust kind, because this does not require an outright sense of freedom to do otherwise. As has been seen above, this principle is compatible with the Frankfurt-type case in which the counterfactual intervener has the power to govern the agent’s behaviour—that is, the agent could not do otherwise. But the principle in question is not of the weak kind, since it requires the agent’s rational capacities per se to be her own, not to be set up or manipulated by someone else. For this point, I bear in mind discussions over autonomous agents in Mele (1995: Ch.9) and Fischer and Ravizza (1998: Ch.7, 230-236).

⁴ As Otsuka notes, liberal egalitarians—such as John Rawls and Ronald Dworkin—may not hesitate to endorse the idea of self-ownership, much less for right- and left-libertarians (Otsuka 2003: 15).

⁵ Nozick (1974: 171).

⁶ There is a variety of left libertarianism. On this point, see Vallentyne and Steiner (2000) and Vallentyne, Steiner, and Otsuka (2005).

paradigmatically describes the former right of self-ownership as follows:

A very stringent right of control over and use of one's mind and body that bars others from intentionally using one as a means by forcing one to sacrifice life, limb, and labour, where such force operates by means of incursions or threats of incursions upon one's mind and body (including assault and battery and forcible arrest, detention, and imprisonment).⁷

Now it seems perverse to deny that this right of self-ownership should be guaranteed for all agents, because this is a fundamental right against basic infringements on one's mind and body that no one could reasonably decline.⁸ And it seems evident that this right of self-ownership represents the Principle of Self-Ownership in such a way as to associate an agent with her rational capacities in the realm of her rights. This explains, *prima facie* at least, why the agent appeals to the fact that she has exercised her own rational capacities, in claiming for certain benefits that render her better off.

So far so good. Obviously enough, however, the right of self-ownership, so understood, does not strongly ensure an agent's *positive* claim for being better off. True, the proposed right of self-ownership protects us from trespass against our mind and body, at least without our consent. Since such infringements are potential threats even in contemporary society, this right is undoubtedly important and so must be respected. Nevertheless, the importance in question reveals mainly a *negative* role for the right of self-ownership to play, in such a way that no one must make use of anyone else's mental and physical entities, at least without his or her consent. This does not prove any positive reason that someone can have a legitimate claim for being better off; by appealing to this right, we can say, at most, that an agent is not responsible for being better off if she did not act on her rational

⁷ Otsuka (2003: 15). In a similar vein, John Christman describes this right as 'control rights' (Christman 1991: 29).

⁸ See Thomson (1990: Ch.8).

capacities, or if she has no control over the use of her mind and body. This shows only a negative structure of self-ownership, not its positive aspect.⁹

It is now plain that the right of self-ownership is too formal and thus substantially thin for one to have a positive claim for being better off. This means that in order for an agent to claim that she is responsible for being better off, the proposed right of self-ownership is not enough even in the issues only related to the Principle of Self-Ownership. There is a need to have more substantive constraints concerning which the agent is said to be responsible for being better off, as far as the conception of self-ownership goes. To see what constraints in the Principle of Self-Ownership are to be met, let me sketch two reasons that the right of self-ownership cannot be so robust as to give the owner of mind and body an entitlement to being better off through their exercise.

First, the bare notion of self-ownership is not concerned with how deliberately an agent exercises her own rational capacities. It can be easily imagined that some outcome of a person's choice is a fluke: it is unexpected, unanticipatable, against the ordinary run of natural consequences. This does not matter to the crass consideration of self-ownership, since the right of self-ownership may authorise such a fluky result insofar as that is through her own choice, whether it is a result of her careful deliberation or not. Relatedly, how defective or irrational a person's capacities for autonomous choice are is of little concern from the viewpoint of mere self-ownership.¹⁰ Consider that an agent who possesses only minimal kinds of physical and mental capacities might be extremely better off through some choice (for instance, making a big fortune on gambling of an irrational sort). The right of self-ownership is indifferent to any

⁹ See Cohen (1995: 98): "Self-ownership is not eliminated, but it is rendered useless, rather as it is useless to own a corkscrew when you are forbidden access to bottles of wine."

¹⁰ For discussions of this point, see Cohen (1995: 236-238) and Vallentyne (1998: 612-613).

difference between cases of this utterly lucky kind and cases where an agent is better off through the execution of her intention formed in the light of her considered preferences.

Second, self-ownership itself pays no heed to how one's capacities for rational choice have been acquired. Imagine people who enjoy a high degree of rational capacities. Among them some are naturally blessed with excellent capacities for winning profits, but others put in tremendous efforts to the improvement of their rational capacities over the course of their lives.

For these reasons, the Principle of Self-Ownership should involve two corresponding constraints. I show them below.

3. Expectational Consequences Constraint

As has been argued above, the mere consideration of self-ownership per se has little to do with how people have engaged in practical reasoning and formed their will based on their rational capacities for choice: one might find precious and valuable ore without any information, when wandering aimlessly around on a mountain; people who utterly lack skills and knowledge of any sort about the moves of the stock market might amass huge marginal gain from stock exchanges; and so on. In these cases, the bare consideration of self-ownership may counterintuitively hold people responsible for being far better off simply because the better off result is one of the consequences they achieve through their own choice, whether deliberative or whimsical. Nor does the bare notion of self-ownership reflect the degree of their rational capacities exercised for the choice. It seems that to hold a person responsible for being better off, we should see whether she engages in deliberative activities and the extent to which she has rational capacities.

To do so, we can adopt the Expectational Consequences Constraint. Admittedly, this constraint was spelled out in Section 5 of Chapter 3. But it should be slightly modified for its application to positive cases.

Expectational Consequences Constraint: An agent is responsible for being better off only through the consequences she could have reasonably expected, and did actually expect, to obtain by her intentional choice.

The modified part of this constraint is that in order for an agent to have a claim for being better off, this outcome should be that which she did *actually* expect through her intentional choice. This is because, unlike negative cases, an agent's responsibility for positive goods has more to do with whether she actually deliberates upon judgments about choice opportunities; if an agent did not actually foresee and intend her better off outcome, we are inclined to regard the good fortune as a fluke and so not credit her with a performance for positive advantages that lets her be better off.

So adapted, the Expectational Consequences Constraint can reflect how an agent makes deliberative judgments about choice opportunities and—as in the original Expectational Consequences Constraint (proposed in the previous chapter)—the degree of her rational capacities. The judgments made by recourse to her rational capacities thus are germane to give enough credence to her own rational belief about how reasonably she would gain certain advantages. In other words, the consequences that are reasonably expected to obtain through choice are, on her part, the results of actual deliberation in the light of her considered preferences. This roughly determines the responsible range of her better off outcomes. To illustrate: good consequences of a fluky sort that are antecedently unlikely are normally those which a person could not have reasonably expected to obtain; the treasure a person found by chance when taking a walk does not express such deliberation at all because the result in question is not the main purpose of her

chosen act. The same is true of the case where people who dabble in stocks without any relevant knowledge luckily make money on the stock market. By virtue of the Expectational Consequences Constraint that enables us to see how (and the extent to which) the outcome an agent enjoys flows from her deliberative choice, we can say that the people in these examples may not be responsible for being better off.¹¹

To see the importance of the Expectational Consequences Constraint more clearly, it is useful to attend to David Miller's notion of integral luck.¹² By 'integral luck' Miller means luck that has effects on a person's actual performance itself. The example Miller gives is a poorly skilled archer who wins the archery competition through lucky strikes. It seems that luck of this sort counts against responsibility for the good because the outcome—winning the archery competition—could not have been reasonably anticipated in forming her intention to attend the game. Now suppose that this archer is just a layperson who has never done archery before. Suppose, further, this person is not talented in sports at all. We are reluctant to hold her responsible for her win against the other competitors who have trained every day. The Expectational Consequences Constraint plays a major role in factoring out such effects of sheer integral luck, since it asserts that the consequences that can be claimed as those one is responsible for are only those which could have been reasonably, and were actually, expected to obtain through her intentional choice. Under this constraint, the layperson in question cannot be seen as responsible for the lucky result.

It is important to note that meeting this constraint should not be regarded as an all-or-nothing matter. Rather, the degree to which the Expectational Consequences Constraint is met does essentially matter to us, for there is nothing

¹¹ For a similar discussion of the expectational element of consequences for which people are held responsible, see Sher (1987: Ch.3).

¹² Miller (1999: 143-146).

wrong in claiming how much an agent's better off consequence exceeds her reasonable expectation. For example, if an agent received slightly better outcome than those which she could have reasonably expected, and did actually expect, to obtain, she would be responsible for the outcome in a slightly weaker way than if it was within the expectational consequences of her own choice, other things being equal. Were extraordinary benefits acquired far beyond the reasonable expectation, then an agent would be deemed as much less responsible for them than if they were within her reasonable expectation, all else being constant. As such, there is no need to say that an agent is *not* responsible for being better off *at all*, even in cases in which the better off consequence she enjoys is not the one that she could have reasonably expected, and did actually expect, prior to the choice. In the application of the Expectational Consequences Constraint, we should instead refer to the degree to which she is responsible for being better off.

This might seem too obvious. But this is not negligible, since integral luck as such could hardly be nullified even in the ideal kind of market in which there are supposedly few departures from a competitive equilibrium: even in such a market, non-reproducible resources (for example, scarce natural resources and specific hand-made resources) might be valued anomalously higher than their equilibrium prices; nor might the process of production be stable, due to economies of scale involving technological innovation of some sort.¹³ Much more uneven is the existing market—which is obviously far from the ideal kind—in which many people reap windfall profits, sometimes through their own whimsical action, sometimes based on their economic behaviour of a purely speculative sort. It is certain that less extreme cases involving integral luck of some kind are prevailing

¹³ As Miller admits, this is the very fact that should be realised by people like Miller himself, who support the maintenance of an ideal sort of market (Miller 1989: 172-173). See also the following paragraph above.

in the market. In circumstances of this actual kind, the Expectational Consequences Constraint should apply so as to allow us to refer to the degree to which an agent is responsible for being better off. Otherwise, we might have to say that most of the outcomes of people's acts are something like 'spoils' in the market. Or more modestly, we should say that these outcomes do not inherit their originally formed intentions.

It might be proposed instead that the market be regulated by a politically controlled agency that monitors market activities of this kind, in order to minimise the unnecessary fluctuations of market in question. As is well known, Miller puts forward this proposal.¹⁴ *Pace* Miller, however, it is implausible to assume that such a political agency can shift the market economy into a (temporal) competitive equilibrium, for, due to various factors such as globalisation, technological progress, and the existence of many venture companies, controlling the market in a direction of equilibrium (if there is any) is extremely difficult, and may be detrimental because of the likelihood for the authority to misjudge such an optimal point. As proponents of the notion of government failure say, it is mistaken to presume that a political agency is capable of acting upon collective information to effectively maintain the perfectly working order of the market.¹⁵ In lieu of such control, it seems better to simply appeal to the degree to which the Expectational Consequences Constraint is satisfied, in such a way that deviations from the expectational consequences of an agent's own choice make her less responsible for being better off.

¹⁴ Miller (1989: Ch.6).

¹⁵ See, e.g., Hayek (1960: Ch.15) and Buchanan (1962).

4. Non-Arbitrariness Constraint

It is time to turn to another constraint which can deal with the problem that the bare consideration of self-ownership cannot. The problem is that by appealing only to the right of self-ownership we cannot distinguish between the better off who are blissfully influenced by the initial endowment of natural and social assets, and the better off who have struggled for rational capacities. To cope with this problem, I propose the ‘Non-Arbitrariness Constraint’ that enables us to make the needed differentiation.

Non-Arbitrariness Constraint: An agent is responsible for being better off roughly to the extent that the better off consequence is not substantively due to the influence of natural and social endowments.

The Non-Arbitrariness Constraint echoes John Rawls’s famous statement: “the initial endowment of natural assets and the contingencies of their growth and nature in early life are arbitrary from a moral point of view.”¹⁶ But Rawls is suspicious of any attempt to extinguish their effects, because “[t]he 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.”¹⁷ *Pace* Rawls, I argue here that there is a reasonable way of discounting for the greater good fortune of the better endowed.

For us, this is an easy task because we have established an approximate way of knowing the extent to which people are endowed with natural and social assets of an initial kind. Recall that to distinguish between culpable lack of (a certain degree of) rational capacities and their non-culpable defects, we can introduce the idea of a canonical state in which the degree of people’s rational capacities are determined in ways that are beyond their control. The canonical state thus purports

¹⁶ Rawls (1971: 311-312).

¹⁷ Rawls (1971: 312).

to show the degree of rational capacities under the influence of uncontrollable background conditions. As we have already seen, there is a rough connection between such rational capacities and natural assets in that native gifts render not only possible but also rational a certain choice out of alternatives presented to the gifted. Hence, to discount the greater good luck of the better endowed, we should weigh an agent's responsibility for advantages by reference to the effects of rational capacities in the canonical state.

Let us consider two agents, Katie and Laurie. Suppose both currently have effective capacities for rational choice. And further, both are in the end better off to the same degree. For the sake of simplicity, assume that integral luck of any kind has no influence on the process of their being better off. There is, however, one difference: Katie originally owned the higher degree of capacities for rational choice, owing to her good background conditions (for instance, she had received a good education since she was born), whereas the degree of original capacities Laurie possessed is extremely low due to her unfortunate circumstances (for instance, she was born in a very poor family living in a slum). It then seems that their responsibility for being better off differs in degree, among other things. In light of the Non-Arbitrariness Constraint, we can say that their responsibility for being better off differs such that Laurie is more responsible than Katie, all else being constant.

But *how much* is Laurie held more responsible for being better off, as compared to Katie's better off state of the same level? Put another way, to what extent should we take into account the differential effects of natural arbitrariness at the early stage of life, in holding Laurie more responsible for being better off? There are two ways of taking those effects into account. The first is to ascribe to an agent the responsibility for being better off only to the extent of the proportional

improvement of her rational capacities from the canonical state. I call this *the strong version of the Non-Arbitrariness Constraint*. What lies behind this version is an idea that counts pure efforts exerted for the improvement of rational capacities only as responsible. In other words, this version attempts to strictly exclude any part of rational capacities affected by natural lottery.¹⁸ This can be contrasted to *the weak version of the Non-Arbitrariness Constraint*, which simply says that the more an agent's rational capacities improve from the canonical state, the more she may be held responsible for being better off *in an essentially comparative sense*. The reason this version is weaker is that it allows some residual effects of natural and social contingencies: people's responsibility for being better off is not non-comparatively but comparatively weighed in terms of the efforts put in to the improvement of rational capacities. In the following I point to two reasons that the Non-Arbitrariness Constraint is more plausibly interpreted as this weak version than in its strong version that aims to completely extinguish any uncontrollable effects on the improvement of rational capacities.

First, the improvement of one's rational capacities from the canonical state does not entail that one has never been fortunate on it. We can easily imagine the following kind of case: a person whose parents are slum dwellers and who is racially discriminated against encounters one excellent teacher who encourages her to seek higher education. In this kind of case, although the person is endowed with a relatively lower degree of rational capacities that results from her adverse

¹⁸Note that this is not the same as the simplistic idea of effort-based responsibility, the idea that bases an individual's responsibility on the degree to which she has made efforts of any kind. The Non-Arbitrariness Constraint in its strong version claims only that we should reward efforts poured into the growth of rational capacities from the canonical state, not every effort. For the normative idea of rewarding pure efforts of any kind and its theoretical problems, see, e.g., Lamont (1995), Levine (1999), and Hsieh (2000).

background conditions, it might be that, thanks to the teacher, she would fight against this plight and finally achieve a higher degree of capacities for rational choice through receiving higher education. Luck of this common kind is what David Miller calls 'circumstantial luck'.¹⁹ Since circumstantial luck of this sort always lies in the background of human performance, it is impossible to completely factor it out in evaluating the improvement of rational capacities. This, I think, gives a reason not to employ the strong version of the Non-Arbitrariness Constraint.

It might be countered that although circumstantial luck of this common sort is rampant, it is undoubtedly luck that is beyond our control and thus should be nullified. But the nullification of circumstantial luck of this kind involves the attempt to annul counterfactual luck, which not just epistemically but metaphysically goes beyond our practice of judging people's responsibility. To see this, suppose that the aforementioned person successfully acquires rational capacities of an ideal kind, owing to greater effort made with the help of her teacher's strong encouragement. It seems evident that the fact that she luckily had a great teacher plays an important role in the improvement of her rational capacities. Now suppose, in line with the strong version of the Non-Arbitrariness Constraint, we try to discount for counterfactual luck of this kind in precisely assessing her responsibility for being better off. To do so, we should know what she would have been like had she not had the luck of having met the good teacher. In other words, we should know what she *would have been responsible* for instead. This is, however, not just epistemically unknowable but essentially indeterminate. This

¹⁹ Miller (1999: 143-144): "luck may determine whether someone has the opportunity to perform in the first place. The car carrying the athlete to the track meet may break down so that she has no chance to run. One soldier may be given an opportunity to show courage in battle, while another never gets within range of the enemy. Luck of this kind can be called 'circumstantial luck'."

demonstrates the implausibility of adopting the strong version of the Non-Arbitrariness Constraint.²⁰

Relatedly, there is a paradoxical problem with circumstantial luck of the kind discussed above in assessing the improvement of rational capacities from the canonical state. This is a paradox which Saul Smilansky calls ‘fortunate misfortune’.²¹ To see the paradox, consider Maureen. She was born with unfortunate defects and thus has had difficulties in her life, not only because of her disabilities, but also because of social discrimination against her. But in the process, she recorded every hardship in her diary. This habitual writing fulfilled her emotionally and improved her writing skills. She then published a novel based on her diary, which became a great hit all over the world. In the end, she is far better off.²² Here, interestingly, the background conditions of an apparently adverse kind are not consequently unfavourable in that she is better off through having gone through and surmounted her initial predicament. In view of her resultant well-being, her background conditions that roughly determine the substantively lower degree of rational capacities may well be regarded as ‘good fortune’ for her, even though Maureen, admittedly, managed to overcome the hardships of her

²⁰ For a relevant discussion of this point, see Hurley (2003: 29-30, 161-168). It is important to note that the point of my contention is that *not all* kinds of circumstantial luck can be extinguished through our practice of responsibility judgments. As a matter of fact, I have argued in the previous chapter that there must be a sufficiently good alternative that an agent could have reasonably expected to obtain, in order to hold her responsible for being worse off. Admittedly, whether the reasonable alternative is absent is a certain kind of circumstantial luck. This is not inconsistent with what I am arguing here, however, since circumstantial luck of this kind has nothing to do with counterfactual responsibility. In other words, it has nothing to do with whether or how much the agent would have been responsible had she not been affected by circumstantial luck, such as the luck of having encountered the excellent teacher.

²¹ Smilansky (1994).

²² This example draws on Smilansky’s Abigail case (Smilansky 1994: 153-154).

earlier life. Here I do not intend to give a complete solution to this puzzle of circumstantial luck of this sort; nor do I deny that Maureen has put in intensive efforts to achieve that success. No one seems to deny that we should reward her for the efforts poured into the improvement of rational capacities. All I want to emphasise is that cases of this sort are seen everywhere, and that this leads to the difficulty of employing the strong version of the Non-Arbitrariness Constraint.²³

So much for the first reason. A second reason that the Non-Arbitrariness Constraint is better interpreted as the weak version is that to count the only consequences in proportion to the development of an agent's capacities as a token of pure efforts she has made may radically thin down the evaluation of such efforts that we make every day.²⁴ Consider, for example, professional pianists. They are more or less naturally talented in piano playing, although, we can imagine, some have practiced more to train their talents. We may well praise the huge amount of effort they have poured into the piano practice. It might seem that this appraising attitude favours the strong version of the Non-Arbitrariness Constraint, since it insists that the more efforts some pianists have made for the cultivation of skills, the more favourable a claim they can make for being better off as a reward for their first-rate play, other things being equal. Nevertheless, it could be that the growth of their skills from the canonical state might be negligible as compared to the

²³ It might be claimed that the case of fortunate misfortune similarly undermines the weak version of the Non-Arbitrariness Constraint: this problem would render unfair favourable treatments of any sort towards a Maureen-like person because original 'misfortune' is resultantly not misfortune at all. In response, the fact that misfortune results in fortune in some sense does not erase the significant fact that (as in Maureen's case) an agent has put in efforts to overcome serious difficulties with her rational capacities in the canonical state. The Non-Arbitrariness Constraint in its weak version can roughly reflect the fact in question, in a way that holds her more responsible for being better off than those who enjoy the same kind of better off state, even though there is the ineliminable influence of natural luck.

²⁴ For similar presentations of this point, see Sher (1987: 157) and Miller (1999: 146-149).

presence of their native assets and good fortune in their life. Because in special kinds of skills such as musical talent people's native endowments may occupy a large part of their performance skills, the development in question might be only slightly detectable (if not null). So if the strong version of the Non-Arbitrariness Constraint were employed, it would follow that those pianists are held responsible for little of what they gained through their performance. By contrast, its weak version allows us to say simply that some 'diligent' pianists more responsibly enjoy their better off consequence as a result of their performance, as compared to other genius pianists who also enjoy the same sort of consequence. In the weak version of the Non-Arbitrariness Constraint, all that is needed is such comparative judgments that involve no absolute measure of the development or improvement of rational capacities.

5. Lockean Proviso Revisited

So far I have elaborated the two constraints concerning the Principle of Self-Ownership: the Expectational Consequences Constraint and the Non-Arbitrariness Constraint. The Principle of Self-Ownership, thus understood, provides a necessary condition of an agent's legitimate claim for being better off. However, the completed principle of self-ownership seems not *sufficient* for regarding a better off agent as a legitimate claimant for positive advantages, since to examine whether an agent legitimately claims such positive advantages necessitates a shift in our focus from issues of self-ownership to ownership of material goods. The implication of this shift is essentially important in positive cases, because an agent might prejudice other people's interests in ways that restrict their opportunities for acquiring positive benefits, or simply expropriate the benefits from them. It goes without saying that the world in which we are standing

is not of Robinson Crusoe's kind. Choices that render some people better off thus nearly always involve social interactions with others, especially when it comes to economic activities in the market. As I already argued, such interactions consist in the circumstances of justice which are typically marked by conflicts (and an identity) of people's interests over moderately scarce resources.²⁵ This shows that in addition to the Principle of Self-Ownership, we need an other-regarding principle that constitutes another necessary condition of an agent's responsibility for being better off through her own choice, given the situation in which most people pursue their own interest in becoming better off. It is time to discuss such a principle.

I think that any such principle is germane to the Lockean proviso, for the Lockean proviso directly states occasions on which an agent can enjoy advantages that lead her to be better off. Following the strand of debates over the Lockean proviso, I consider a primitive situation—which, to a greater or lesser extent, represents our current situation—where reasonable people have an ordinary interest in acquiring unowned worldly resources to as great an extent as possible. This, I believe, can boil down our argument over the other-regarding principle to that which focuses on a principle of justice in acquisition.

Let me start by considering what John Locke himself says about the proviso. As is well known, Locke puts forward an account of how an agent can legitimately appropriate such worldly goods in the following way: an agent “can have a right to what that is one joyed to [through mixing one's labour with it], at least where there is enough, and as good left in common for others.”²⁶ There has been much controversy over how we should interpret this statement: whether this states a

²⁵ See Chapter 2, Section 3.

²⁶ Locke (1960: Sec.27, 306).

necessary condition of legitimate acquisition (Robert Nozick), or sufficient (Jeremy Waldron), or neither (Richard Arneson);²⁷ whether the ‘enough’ stipulation means ‘enough for similar use’ (A. John Simmons) or ‘enough for survival by use of the remaining resources’ (G. A. Cohen); and so on.²⁸ Such exegesis of Locke’s original argument aside, it is plain that Nozick adopts a sophisticated version of the Lockean proviso that specifies occasions on which an agent can appropriate unowned objects by mixing her labour with them. His way of adapting Locke’s statement ‘enough and as good left in common for others’ is that initial acquisitions of any sort must worsen nobody else: “The crucial point is whether appropriation of an unowned object worsens the situation of others.”²⁹ But an ambiguity remains: the situation of others is not to be worsened *as compared to what?* Nozick seemingly takes the baseline for comparison to be the well-being of other people in a state of nature, in which no one privately owns worldly resources and so each can be free to avail herself of them.³⁰

Notice that Nozick’s Lockean proviso is different from the original Lockean proviso in a crucial sense: while the latter does not allow any appropriation if it undermines anyone else’s full range of opportunities to improve his or her situation by his or her particular appropriation, the former only prohibits the acquisition of resources from making others worse off than if they would have free access to them. Locke writes:

Nor was this appropriation of any parcel of Land, by improving it, any prejudice to any other Man, since there was still enough, and as good left; and more than the yet unprovided could use. So that in effect, there was

²⁷ Nozick (1974: 175-182), Waldron (1979), and Arneson (1991: 45).

²⁸ Simmons (1992: 292) and Cohen (1995: 76-78).

²⁹ Nozick (1974: 175).

³⁰ Nozick (1974: 178-182). But notoriously, his way of setting the baseline for comparison could be variously interpreted. For a detailed discussion of this, see Wolff (1991: 112-115).

never the less left for others because of his inclosure for himself. For he that leaves as much as another can make use of, does as good as take nothing at all. No Body could think himself injur'd by the drinking of another Man, though he took a good Drought, who had a whole River of the same Water left him to quench his thirst. And the Case of Land and Water, where there is enough of both, is perfectly the same.³¹

By contrast, Nozick's Lockean proviso permits one to own (or even monopolise) worldly objects by offering compensation to other people who would in consequence lose the opportunity to acquire them. This weak version of the Lockean proviso seems *prima facie* more plausible than the original version—especially in the circumstances of justice that involve conditions of moderate scarcity: under the original Lockean proviso, it is highly likely that no one can privatise unowned worldly goods in such circumstances; nor, to say the least, can we know whether appropriation in such circumstances are illegitimate.³² In what follows, hence, I mainly target Nozick's version of the Lockean proviso.

Now the question is whether Nozick's Lockean proviso is sufficient for just appropriation. Taking the base point in Nozick's way renders the answer negative, for the Lockean proviso as adapted by Nozick may neglect the extent to which people differ in their bargaining powers: Nozick's Lockean proviso does not forbid a person to monopolise all resources, insofar as she guarantees others compensation of a meagre kind.³³ To see how, imagine a case in which people are washed up on a desert island in conditions of moderate scarcity.³⁴ Suppose that they can be divided into two kinds, 'the incompetent', endowed only with poor

³¹ Locke (1960: Sec.33, 309). See also Cohen (1995: 77-78). Cf. Simmons (1992: 288-294).

³² See Nozick (1974: 176) and Waldron (1988: 214; 2002: 172-173).

³³ In fairness to Nozick, we should note that he admits the problem with monopoly of this kind, though in a limited sense (Nozick 1974: 181-182; cf. Steiner 1977: 47).

³⁴ This way of constructing the relevant argument draws from Dworkin (2000: 66). See also Otsuka (2003: 22).

skills to acquire worldly resources, and ‘the competent’, gifted with great abilities to appropriate resources effectively. For the sake of simplicity, assume that people differ in such talents to acquire worldly goods through no fault of their own (for instance, the difference is due to their native talents). Now consider that Nozick’s Lockean proviso is employed as the principle of justice in acquisition. The problem then is that even if the competent appropriated a great deal more than the incompetent, the amount of which leaves the incompetent barely sufficient to live off, the Lockean proviso might obtain. This may be the case as long as the competent offer the incompetent compensation that would lead them to be no worse off than if nothing had been appropriated. Note that this problem also occurs even in cases in which there is no difference of such talents between people: the first appropriators may legitimately take over land or worldly resources by offering the others certain benefits that, for instance, make their position slightly better than if nothing had been appropriated.³⁵ Nozick’s Lockean proviso thus seems too weak to prevent people being exploited unfairly by those who have more leverage in the bargaining process after their initial acquisition.³⁶

This charge levelled against Nozick’s Lockean proviso tells us that there is a need to impose a more strict principle on an agent’s claim for the appropriation of unowned worldly resources. One obvious way of coping with the problem at stake is that the original Lockean proviso—which is more stringent than Nozick’s—is adopted as the principle of justice in acquisition instead. But, as has been argued,

³⁵ It might be suggested that there is a further possible case: the incompetent may legitimately monopolise unowned objects insofar as the competent are compensated to the point that is better than if nothing had been appropriated by them (Arneson 1991: 49). Although this may be logically possible, this is very unlikely because the incompetent, in our example, are placed at a huge disadvantage with respect to the appropriation of worldly resources.

³⁶ For further discussions of this problem, see Cohen (1995: 79-83) and Otsuka (2003: 23-24).

this version of the Lockean proviso would be too stringent especially in the circumstances of justice; under this proviso, no worldly objects may be legitimately acquired in the conditions of moderate scarcity. The more moderate principle of justice in acquisition I want to propose is *the Principle of a Fair Opportunity*. This principle enjoins an appropriator not to undermine all sufficiently good alternatives for everyone else to reasonably choose or accept after the appropriation, given that he or she is well-informed and rational.³⁷ This principle reflects upon the possibility that under Nozick's Lockean proviso there could remain no reasonable alternative to all but the first appropriators after their initial acquisition. For the proposed principle, such problems are not threatening any more, because this principle enjoins that any appropriation be compatible with the sufficiently good alternative that any well-informed and rational agent can accept through careful deliberation. For instance, the proposed principle requires an appropriator who monopolises all opportunities for the improvement of life to give the rest of the people compensation up to the degree to which they can lead a sufficiently decent life. The Principle of a Fair Opportunity thus is, on the one hand, more robust than Nozick's Lockean proviso in that it guarantees anyone a decent life. The Principle of a Fair Opportunity, on the other hand, is (plausibly) weaker than the original Lockean proviso that prohibits appropriators to damage any opportunity for others to improve their situation through particular acquisitions.

³⁷ For a similar presentation, see Otsuka (2003: 23-29). While Otsuka employs an opportunity-for-welfare metric in specifying the sufficiently good alternative, as I said in Chapter 1, my thesis does not tackle the question of which metric should be endorsed, so I want to leave aside the metric issue.

6. The Principle of a Fair Opportunity

Return to our main interest in the other-regarding principle that states a necessary condition of responsibility for being better off. Admittedly, to appropriate unowned worldly resources is typically among cases in which one receives benefits that make one better off through one's own choice. It seems that the aforementioned argument has strong relevance to the condition of such responsibility. It is true that arguments concerning the Lockean proviso are lodged normally for the justification of property rights of an exclusive sort. The aim of my argument is less ambitious than that, since it is to clarify a necessary condition under which people can be held responsible for being better off, not to provide an indefeasible justification of property rights. But there is an undeniable link between advantages for which the better off are responsible and their advantages protected in terms of property rights; the responsibility for being better off generates a strong if not decisive reason for the duration of private property rights.³⁸ Furthermore, the fact that my argument has a more moderate aim than the arguments for absolute property rights does not deny the applicability of the relevant principle of justice in acquisition to the evaluation of each individual's claim for being better off. These thoughts, I think, allow me to employ the relevant principle of a Lockean-proviso sort as a necessary condition for their responsibly being better off in general.

Hence I propose that the Principle of a Fair Opportunity can apply to how we

³⁸ Leif Wenar—a contemporary theorist of property rights—demonstrates that property rights of an exclusive sort could hardly derive their moral ground only from the labour of original acquisitions even under the relevant Lockean proviso. So he argues for a more moderate account of property rights which do not solely depend upon the conception of historical entitlements to worldly objects (Wenar 1998). My argument here could resonate with arguments of his kind. This is because my argument does not purport to give full endorsement to property rights of an absolute kind, even though it may supply a justification for a certain system of property rights as long as the rights associate with the conception of responsibility for being better off.

assess people's responsibility for being better off. Let me formulate this principle as follows:

The Principle of a Fair Opportunity: To be responsible for being better off, it should necessarily be the case that a better off agent leaves available at least one sufficiently good alternative that others could reasonably pursue or accept were they well-informed and rational.

As has been seen above, this principle does not disregard the presence of bargaining leverages that enable the better off to expropriate others of their advantages, whether directly or indirectly. Since exploitation in its contemporary form is characterised by the (potential) exercise of such bargaining powers that differ among people, the Principle of a Fair Opportunity, I believe, has prima facie plausibility even in a complex society.³⁹

Imagine a world in which no electricity has been invented and so candles are used for lighting. That world stands in a state of nature in which many people engage in making candles without obstructing other people's activities of a similar sort. Consider Michael who is a talented organiser. He has capacities to run an efficient process of producing candles from natural wax at low cost. Suppose also that he justly collects all of the resources necessary for manufacturing candles. He now monopolises the market of candlemaking. Is he then allowed to reap benefits that make him far better off? My answer is that as long as he does not damage all sufficiently good alternatives that others—people who work on a candlemaking job—could reasonably pursue or accept were they informed and rational, he is responsible for being better off, all else being constant. In Michael's case, the most promising way of meeting this condition is to employ the people and offer a salary that would certainly promise them to lead a decent life.

I now consider two objections that may be moved against the Principle of a

³⁹ See, e.g., Arneson (1981: 212-213), Miller (1989: 190-193), and Van Parijs (1995: 141-142), for the explanations of exploitation in its contemporary form.

Fair Opportunity. The two possible objections have opposite directions such that the proposed principle is *too weak*, on the one hand, and *too strong*, on the other hand, to allow people to be responsible for being better off through their own choice. Neither of them is, as I will show, successful, but to respond to the two objections helps us see the plausibility of the Principle of a Fair Opportunity.

Consider, first, the charge that the proposed principle is too weak. This objection is made for the reason that to leave anyone with at least one reasonable alternative available is not enough. True, the original Lockean-proviso kind of principle would be too demanding were it applied as a necessary condition of responsibility for being better off. This principle says that any outcome flowing from any choice people might make should not be made worse than if one had not acquired certain advantages that let one be better off. This then would require that to be responsible for being better off, the agent must leave every choice opportunity open to others to be as well off as they would otherwise have been. This is certainly a big ask. But from this, the objector argues, it does not follow that the principle requiring the better off not to damage all sufficiently good alternatives for others is the most plausible other-regarding principle, for we may well be concerned about the opportunity of the far better off that others could not have reasonably pursued. In the example of Michael's candle factory, even if he provided a decent amount of salary for his employees, the latter have had no chance to get the same benefits Michael is receiving. It then might seem that the proposed principle is not fair enough, because it allows that opportunities of an appropriator's kind are even absent to many.

In response, first, I want to say that ex post equalisation based on such differential opportunities seems hopeless. This is because, to discount the benefits Michael is receiving on the above-mentioned ground involves the not just

epistemically but rather metaphysically implausible task of inquiring into the effects of counterfactual luck. Recall what I said about circumstantial luck before: not all kinds of circumstantial luck can be rooted out, especially when it involves counterfactual luck, since we can never know whether an agent would have been responsible for being better off had she not been affected by such luck. The same is true of the argument here. It is not just epistemically unknowable but essentially indeterminate what Michael's life would have been like had he not been presented with the opportunity to pursue the current career. Counterfactual judgments of this sort, however, are needed for assessing precisely how much opportunities of an appropriator's kind have impacted on the life paths of the better off like Michael. This is highly implausible; we can hardly tell what the Michael-like better off agents would have been responsible for instead. By contrast, this indeterminacy problem does not occur with our practice of judging whether a reasonable alternative in which Michael's employees can lead a decent life is guaranteed, for there is no need to appeal to counterfactual judgments of that kind: we can judge whether the better off *are* responsible for their current position by recourse to whether others *do* have any sufficiently good alternative. This is entirely different from estimating what the better off would have been responsible for had they not been affected by counterfactual good luck.⁴⁰ In the example under discussion, for responsibility-ascription, all we need know is whether Michael's employees have sufficient salary to make a decent living.⁴¹

Second, I contend that the objection in question underestimates the

⁴⁰ See Hurley (2003: 162-163) and also note 20.

⁴¹ It might be suggested that *ex ante* equalisation of each person's set of opportunities is possible. As I mentioned elsewhere in Section 6 of Chapter 3, however, such equalisation is unfeasible, because of the seemingly high costs such as those of administration. Even if possible, the equalisation may strictly level down the distributive pie itself in contemporary society.

normative force of the proposed principle. We should note that the sufficiently good alternative that well-informed and rational people could reasonably choose or accept is not of the minimum kind. For instance, this constraint may require that advantages be assigned to the incapacitated such that they could enjoy a decent life through the option in question. This means that, even putting the metric issue aside, a fair amount of resources might have to be indemnified to the non-culpably disabled whose opportunity to acquire such resources is undermined by some resource-taker. We can now see that this requirement could be more radical than holding everyone to an equal title to the same share of valuable resources, which is often set as a baseline of how much the acquirer has to compensate the disabled in question.⁴²

I turn next to another entirely opposite challenge against the Principle of a Fair Opportunity: it is too strong. The objection is made for the reason that this principle apparently imposes a heavy duty on the better off, in such a way that they should compensate everyone else whenever all of his or her reasonable alternatives are undermined by the actions of the better off. This is very demanding, it is argued, because our society may consist of unintended consequences that are not reasonably foreseeable beforehand even for well-informed and rational agents. In particular, the market is filled with the outcomes of economic activities that may worsen people's situation inadvertently.⁴³ It then might seem that this principle could rarely be satisfied, because it is often the case in the market society that the

⁴² See, e.g., Steiner (1994: 268): "each is entitled to an equal portion of [unowned natural resources]. Hence persons who appropriate a greater than equal portion ('over-appropriators') are thereby engaging in a redistribution. They are imposing an unjust distribution on some or all of those who have appropriated a less than equal portion ('under-appropriators'). And they consequently owe them redress." See also Steiner (1977).

⁴³ For classical arguments about the importance of unintentional consequences in modern society, see Popper (1966: 94-96) and Hayek (1979: 68-69).

influence the better off generate through their own choice is adverse to some others, even when utterly beyond their intention. An obvious example that compels us to take this concern seriously is effects of new technology some people invent, develop, and/or use for business.

To see this clearly, let me expand on Michael's example in a way that his candle factory exists in a more complex world where various people live and constitute the work force. Imagine that a genius named Edison invents electricity and develops the commercialised way of using it for lighting. He has excellent management skills and so begins to run a company that sells people electricity for lighting. His company now has many employees. By contrast, Michael's candle factory is facing the falling demand for candles as an unavoidable consequence of the innovation. Now suppose that in order to maintain his company Michael has to fire most of his employees. In this situation, should it follow that Edison should hire them in order to have a legitimate claim for being better off? It seems to the objector that the Principle of a Fair Opportunity requires Edison's company to employ them. But Edison's company has enough manpower and thus cannot afford the new recruitments. In this case, it is argued, the Principle of a Fair Opportunity cannot authorise Edison as a legitimate claimant for being better off. Because the market society is full of cases of this sort, it looks as though the proposed principle does not hold the better off responsible for their achievements of most kinds.

My response is that even under the Principle of a Fair Opportunity, Edison's claim for being better off may not be rejected for three reasons. First, the Principle of a Fair Opportunity should be based not on each individual's bare preferences formed simply through her actual expectations of certain advantages, but rather on considered preferences she would have were she to engage in careful deliberation

about her relevant options. In the latter case, the preferences are shaped in such a way as to calibrate the expectational consequences in terms of the value of her options that corresponds to each person's informed desires and that is statistically or probabilistically weighed in accordance with her true and rational beliefs.⁴⁴ This means that in having the prospect for a certain outcome, each individual should think about whether the outcome in question could be reasonably expected to obtain based on what ordinarily happens. In other words, each rational agent should bear in mind that there are many changes embodied in the contemporary market—such as changes in tastes and resource conditions and ongoing technological innovations—the systematic (negative) effects of which are unknowable precisely in advance.

Let me now return to Edison's case. Edison's invention and development for the commercial use of electricity brings about a reduction in demand for candles for lighting. But things of this kind frequently come about in the market and thus, to a reasonable extent, this could and should have been foreseen as a possible outcome.⁴⁵ We thus may say that whether Edison can have a claim for being better off depends partially on what prospect could be reasonably held in the light of considered preferences that Michael's employees would have; if the widespread use of electricity for lighting in the near future could be reasonably foreseen, the prospect should correspondingly be changed. (Otherwise, the Autonomy-Based Principle of Responsibility says that they are somewhat if not fully responsible for being worse off). This allows many cases in which Edison-like entrepreneurs are responsible for being better off.⁴⁶

⁴⁴ See Chapter 3, Section 5, for this decision-theoretic characterisation of considered preferences.

⁴⁵ See also my first response to the *reductio* concern about the Expectational Consequences Constraint in Chapter 3, Section 5.

⁴⁶ Some might take this argument as claiming that it is not unfair for someone to cheat others

Second, relatedly, it should be noted that the Principle of a Fair Opportunity obtains only if the better off leaves available at least one reasonable alternative for everyone else to pursue *in some way or other*. This means that having anyone else's reasonable alternative undamaged need not take the form of directly compensating him or her for the loss of access to advantages that would be secured in the reasonable alternative. The economist's familiar attention to entrepreneurial profits may help us see the indirect way of counterbalancing the reduction in access to such advantages and so guaranteeing all others' reasonable alternative.⁴⁷ Entrepreneurial profits such as Edison's are common in the modern competitive market, in which an optimal allocation of resources or goods is changeable in response to the ever-changing technological and economic conditions. Entrepreneurs may in the beginning monopolise pure profits because of the new market conditions that they generate through the discovery or even creation of demand for a certain product. Although such conditions may constitute barriers of a non-illegal kind to entry, this happens only in the beginning. Such new conditions would attract many competitors' attention because of the remaining opportunities to gain profits. Given a tendency to equilibration, the pure profits in question are to be exploited by an increased number of such competitors entering the market.⁴⁸ This often provides alternative sources of employment for people

simply because they could reasonable expect to be cheated in market dealings. But note that this argument can in no way extend to the justification of fraud or deceitful exploitation, which are more or less *intentional*. Recall that my argument based on the Principle of Self-Ownership undoubtedly holds that people not have a claim for being better off if taking advantage of anybody else, in the form of infringements upon his or her right of self-ownership, at least without his or her consent.

⁴⁷ See, e.g., Schumpeter (1943: 82-85) and Kirzner (1973: Ch.2). But the standard textbook of economics does not normally provide the full account of entrepreneurial profits. For example, no account of entrepreneurial profits can be found in any discussion of profit maximisation in Varian (1987).

⁴⁸ See Arnold (1987). Cf. Nell (1987).

who lose their jobs, owing to the changed market conditions.

Of course, what I have just claimed above is nothing more than one possible (but very likely) case, which is somewhat twisted in an ideal direction of the market as neo-Austrian economists tend to do. Even putting aside fraud and exploitation, entrepreneurial profits are not as simple as neo-Austrian economists think: entrepreneurs do not harm others at all because the thing exploited by them never existed before.⁴⁹ Even in cases in which the entrepreneurs indirectly contribute to the creation of job opportunities, as I will argue below, the transaction cost of certain kinds—such as the cost of relocation and adaptation—is likely to fall on workers especially in the secondary (or ‘hard’) production.⁵⁰ Some of these costs would impede some workers from getting employment. But the argument about entrepreneurial profits shows, I believe, that for Edison to have a claim for being better off, it should not follow that his company should hire Michael’s current employees. As long as they have at least one sufficiently good alternative that they could reasonably pursue or accept, we can hold Edison responsible for being better off, everything else being equal.

It might be argued that even in cases in which the employment would be enhanced in the above-mentioned way, we are stuck with the well-known problem of the plasticity of labour in economics: the transaction cost of adaptation to, or relocation for, a new job might be very high in some cases, to the extent that it is not feasible for some to pursue such a job.⁵¹ This seems true in cases of the aforesaid kind in which job opportunities resulting from the new conditions are qualified as ‘open’ to Michael’s employees. If the openness of job opportunities

⁴⁹ Kirzner (1981: 403-404; 1992: 223). For an extensive attempt to justify entrepreneurial profits in this line of argument, see Harper (1996).

⁵⁰ See Alchian and Woodward (1988: 69).

⁵¹ For discussions of this point, see Nell (1987: 409-410) and Christman (1988: 12-13).

entails that they have to incur cost of a prohibitive extent, it seems that these opportunities could by no means be reasonably expected to obtain and then the Principle of a Fair Opportunity simply would be violated.⁵² To respond to this worry is actually to show the third reason that Edison's claim for being better off may be legitimatised under the Principle of a Fair Opportunity: this principle allows the degree to which a person is responsible for being better off. The degree in question partially depends on how prohibitive the cost of pursuing new kinds of job opportunities would be. This rough proportional application of the proposed principle, I hope, defuses the concern about the relevance of my argument to the real world. I discuss this point below.

7. Responses to Two Concerns

In the previous sections, I have demonstrated the two principles which state two necessary conditions under which an agent has a legitimate claim for being better off: the Principle of Self-Ownership and the Principle of a Fair Opportunity. Now it is time to consider concerns about this argument. Here I would like to take up two concerns and show how we can cope with them.

The first concern I would like to consider is that my argument seems a *reductio ad absurdum*: the conditions under which an agent can legitimately claim for being better off seem to be so strict that they could rarely obtain. There appear many examples which show how stringent the alleged conditions are: many if not all companies have gone through windfall revenue of some kind; the natively endowed are far better off, owing to their natural talents; to launch a new business

⁵²This partially corresponds to a part of the condition under which an agent is responsible for being worse off, which says that opportunity cost to opt for the reasonable alternative must be sufficiently low. See Chapter 3, Section 6.

gives rise to employment arrangements of a devastating kind in some other companies; and so on. It then might seem that my argument does not allow the better off to have any claim for their reception of benefits, on grounds that they can in no way meet the conditions that the two principles discussed above stipulate.

This worry is mistaken, however, because, as I have mentioned, responsibility-ascription is not an all-or-nothing matter. Rather, responsibility as such involves judgments based on the degree to which the agent can claim to be legitimately better off. To see how, first, recall the two constraints concerning the Principle of Self-Ownership: the Expectational Consequences Constraint and the Non-Arbitrariness Constraint. Under the Expectational Consequences Constraint, we can say that the new business owners in the example mentioned above are less responsible for their income because of its windfall nature. Similarly, under the Non-Arbitrariness Constraint, it may be said that the better endowed are less responsible for being better off, as compared to the better off (at the same level) with less natural and social assets. That an agent's responsibility for being better off can come in degrees is essential for the Non-Arbitrariness Constraint, because this constraint should be interpreted as its weak version that bases appropriate judgments upon a comparative degree to which the better off are influenced by their natural and social endowments.

This is also true of the Principle of a Fair Opportunity. To be sure, some workers may be caught in cutbacks that arise in the development of a new business, which brings about a drastic change in market conditions. But, as we have seen, such a change does not always mean that no job opportunities would be accessible to them, since new job opportunities are normally created through the change. Of course, we should not ignore the occurrence of transaction cost that those workers are compelled to bear in seeking the new career possibilities. Here again, there is a

need to consider how much cost of a transaction sort they have to incur. And this consideration involves our judgments made in terms of the degree to which an owner of the new business is responsible for profits that make him or her better off: the higher the transaction cost is, the less responsibly the owner can claim the profits. We thus need not hold the new business owner *either* responsible *or* non-responsible for being better off.⁵³

Another concern is about the *feasibility* of my argument: even if one accepts what I have laid out with respect to being responsible for being better off at the level of ideal theory, one might wonder how my argument can be applied to the non-ideal circumstances in which we are standing. For one thing, there seems little desirability of operating a watchdog agency to trace every consequence of every choice and examine how much every better off individual is responsible for her current state of affairs. There is a huge problem with collecting and acting upon relevantly detailed information about each person's performance. Even if possible, methods of this sort would be unacceptably costly, and—more fatally—extremely anti-liberal, as though Big Brother were to always monitor everyone's every performance. How can my proposal be schematised at the level of non-ideal theory?⁵⁴

My first response is that legal enforcements of an inviolable kind can be employed for some obvious cases in which nobody is permitted to be better off, without recourse to the omniscient and omnipotent agency. For instance, to

⁵³ Of course, there is a threshold up to which the better off must satisfy the two conditions in order for them to be legitimate claimants for being better off. For instance, the better off must leave available at least one sufficiently good alternative that most well-informed and rational agents could reasonably pursue or accept, regardless of its transaction cost. The degree to which the better off are responsible enters into the consideration above the threshold.

⁵⁴ For presentations of the distinction between an ideal theory and a non-ideal theory, see Rawls (1971: 245-246) and White (2003: Ch.4).

infringe upon people's mind and body, at least without their informed consent, should be legally punished in standard cases. This can be viewed as a fundamental kind of violation of the Principle of Self-Ownership. Also, the better off are prohibited from taking advantage of others in ways that involve actions of (quasi-)fraudulent and deceitful kinds, whether direct or indirect. That some company temporarily lowers the price of a product, for the purpose of monopolising the market of it, may be seen as an anti-trust violation; that employees are compelled to consent to the dramatic cut-off of their payments under the threat of layoff may be seen as an ostensive violation of minimum wage legislation; and so on. Legislation of this sort—such as the anti-trust law and the minimum wage legislation—are a promising means to institute the rough approximation of the scheme under the proposed argument at the level of ideal theory.

More worrying cases, I take it, have to do with how the two constraints—especially the Non-Arbitrariness Constraint—are applied in circumstances of an actual kind. One way of coping with this worry is to implement certain tax reforms. As in legislation of above-mentioned kinds, the tax system can be framed in such a way as to reflect what I have argued at the level of ideal theory and also respect the feasibility of my proposal in the presence of imperfect information. A few examples—though they are not exhaustive—are available. The current tax scheme in many countries guarantees a low rate of inheritance and estate taxes; in the US, for instance, the Economic Growth and Reconciliation Act, which reduces estate and gift taxes gradually and will abolish the estate tax in 2010, was recently enacted. On my view, it seems difficult to justify the low rate and such exemption of inheritance tax which allows capital gains to accrue to descendants or donees, since any bequest and gift to them has

almost nothing to do with the exercise of their rational capacities and so their deliberative choice. Another example is that we may possibly expand windfall profit taxes to various commodities other than crude oil, in such a way that the tax scheme meets the Expectational Consequences Constraint. Finally, an endowment tax that is levied on the basis of individuals' potential earnings should be introduced so as to meet the Non-Arbitrariness Constraint. Admittedly, this final proposal seems more controversial than the two former ones, because it has almost never been institutionalised so far and thus gives rise to the feasibility concern more distinctly. So let me focus on the endowment tax.⁵⁵

I contend that, as has been discussed elsewhere in the previous chapter, John Roemer's proposal can be taken to provide the most sophisticated way to enforce a scheme of such initial assets-based taxation.⁵⁶ Recall that we can portion the population into types characterised in terms of essential factors such as gender, race, parents' occupation and income, and birthplace, without recourse to detailed information about each person's life history. A type is thus a set of persons whose background conditions of an uncontrollable kind have, very roughly, the same sort of influence upon their life. For the sake of the endowment tax, all types can roughly be ranked such that the higher type a person belongs to, the higher rate of tax should be imposed upon her income. The person in question has more potential to earn higher income than anyone of a lower type, mainly by virtue of her favourable endowments. As I see it, this can be regarded as the taxation scheme

⁵⁵ This does not mean that taxing inheritances and windfall profits is less controversial. Take up the inheritance tax: whereas there seems reasonable agreement about taxing away some receipts to descendants or donees, many people have disagreement about donor's rights to make bequests or gifts to them. For thorough discussions of this issue from the viewpoint of tax justice, see Murphy and Nagel (2002: Ch.7) and White (2003: 180-186).

⁵⁶ Roemer (1994: 184-193; 1996: 276-310; 1998: 5ff; 2003).

that plausibly meets the Non-Arbitrariness Constraint (in its weak version), since under this scheme the actual income of people who are suffering differential effects but succeed in overcoming such difficulties can be boosted more than that of those who are better endowed. Put another way, a larger portion of actual income of the latter can be taxed away than that of the former under this endowment tax scheme.⁵⁷

It goes without saying that my suggestion about those tax reforms is provisional and so more needs to be said. But I hope that these illustrations have shown, to some extent at least, the feasibility of my proposal on the conditions of an agent's responsibility for being better off.

8. Summary

I have argued that in order to have a legitimate claim for being better off, an agent should satisfy two conditions that the two principles stipulate: the Principle of Self-Ownership and the Principle of a Fair Opportunity. The first involves two substantive constraints: the Expectational Consequences Constraint and the Non-Arbitrariness Constraint. The Expectational Consequences Constraint says that an agent is responsible for being better off only through the consequences that she could have reasonably expected, and did actually expect, to obtain through her intentional action. The Non-Arbitrariness Constraint says that an agent's responsibility for being better off is weighed according to the comparative degree

⁵⁷ We should note that, in addition to the tax reform, policies concerning institutional rearrangements—such as equalising access to education, health care, and workfare—are important, since they address the eradication of natural arbitrariness which is the source of adverse background conditions (Roemer 1998: 114). Should social policies of this sort be successful then the Non-Arbitrariness Constraint might not be needed. This seems too optimistic, but the optimism does not deny the significance of the policies in question.

to which she is not under the influence of natural and social endowments. The Principle of Self-Ownership, so construed, thus says that the justification for an agent's being better off requires more than her possession of rational capacities.

The second principle is the other-regarding principle: the Principle of a Fair Opportunity. The Principle of a Fair Opportunity requires a better off agent to leave available at least one sufficiently good alternative that other well-informed and rational agents could reasonably pursue or accept. I argued that this principle is epistemically and metaphysically plausible, and what is more, not a weak other-regarding principle, because the reasonable alternative is not of the minimum kind. I argued that, on the other hand, this principle is not too demanding, since the content of the reasonable alternative should be based on considered preferences that a well-informed and rational agent would form were she to carefully deliberate upon her relevant options. Furthermore, all the better off should do is leave the alternative in question available to all other people in some way or other. Should it not be secured sufficiently to others, this would mean that positive advantages the better off are currently enjoying may be curtailed down to the degree of their responsibility, but not be nullified. This shows that we need not appeal to the Principle of a Fair Opportunity (and the two constraints) in an all-or-nothing way. An agent's responsibility for being better off can come in degrees.

Chapter 5

Desert, Duties, and Reactive Attitudes

1. Introduction

My argument to this point has demonstrated that we can plausibly espouse the two egalitarian principles of justice under the regulative political ideal of human equality. The first is the Principle of Baseline Equality which says that people should be equally well off as a point of departure. The second is the Responsibility-Based Principle of Inequality which holds that substantive inequalities are morally permissible only if they accurately reflect people's exercise of responsibility. As noted in Chapter 2, these principles can be combined in such a way that people should enjoy equal standings unless they are responsible for substantive inequalities. In the previous two chapters, I stressed that the consideration of an agent's responsibility specified by the Responsibility-Based Principle of Inequality helps evade any implausible implication of the responsibility-sensitive egalitarian scheme.

In this chapter, I demonstrate that the principles in question have not just a conceptual unity of egalitarian justice, but also carry a grounding force that designates *prima facie* moral duties holding among individuals in our society. Since (as I noted in the opening chapter) our primary subject of egalitarian justice

is to reveal how the relevant principles of justice can ground moral duties, the topic explored in this chapter is fundamental. In what follows, I argue that the conception of *desert* can indicate the synthesised association of the proposed egalitarian principles in such a way as to embrace them as the relevant desert bases. I then demonstrate that the conception of desert that comprises the desert bases in question can provide a bedrock for a fair system of moral duties, and that this can be tracked by our reactive emotions, if properly construed.

But why desert? There has been a dramatic revival of our theoretical interest in desert falling within distributive justice, despite the long-standing scepticism about the role of that desert plays therein. This renewed interest is not due simply to the fact that desert suits our ordinary thought (for example, giving reward for efforts poured into work or productive contributions to the market society), in examining how just a certain assignment of advantages can be. The more important point is that desert can enjoy an articulated formulation in its own terms, to such an extent that desert plays a vital role in our moral practice of egalitarian justice. This can be ascertained if we see that the conception of desert can resonate with our appraising practice on the basis of our properly made reactive emotions. In other words, reactive attitudes of an apt sort can serve as the morally relevant mechanism through which we discern *our* prima facie duties to deserving parties, within the domain of egalitarian justice.

For our purposes, the present chapter sets out the argument as follows: Section 2 explains the general structure of desert and then argues that there is a plausible conception of desert on account of the synthesis of two desert bases echoing the two egalitarian principles of justice. I shall show that this conception can defuse various and widespread forms of scepticism in debates over the issues of egalitarian justice, especially when it comes to the desert-responsibility

connection. Section 3 demonstrates that the normative aspect of desert can be captured very well in terms of its orientation of our reactive attitudes. I argue that the key to achieve this is that the relevant class of reactive attitudes be narrowed down such that they are well-informed and formed impartially in dispositional terms. Section 4 spells out the content of the reactive attitudes by an appeal to their expectation-sensitivity. Section 5 deals with Samuel Scheffler's famous objection to a desert-sensitive egalitarian theory of justice that acknowledges a central role of desert in moral thought and practice.

2. Desert and its Combined Bases

For our purposes, we should first and foremost clarify the connection between the two egalitarian principles and the conception of desert. To do so, let me begin by noticing the basic structure of desert. As is well known, desert can be described as a three-place relation in the following scheme: S deserves X by virtue of F, where S is a person, X is an advantage (or a disadvantage) such as a material object or a mode of treatment, and F is a desert basis.¹ By this three-relation scheme, we can immediately point to three things. First, S's deserving X indicates that there is some sort of fittingness in S's having X. For example: a lazy surfer deserves his resulting worse off position; a prolific researcher deserves promotion to professor; and so on.² Second, we cannot plausibly say why S deserves X without specifying desert base(s), F. In other words, to identify the desert base(s) is a clue to fleshing out the relevant conception of desert. As Joel Feinberg says: "Desert without a

¹ Joel Feinberg is the first to provide a thorough analysis of desert-based claims in light of this three-place relation scheme (Feinberg 1970: Ch.4).

² See Cupit (1996: Ch.1).

basis is simply not desert.”³ Third, this desert scheme allows a pluralist notion of desert. This means that X could be evaluated differently in terms of a multiplicity of desert bases. Not only is there a variety of one-to-one correspondences between X and F, but X could also be specified by virtue of multiple desert bases; for instance, S deserves X by virtue of both F₁ and F₂, but not by virtue of F₃ and F₄.⁴

So much for the schematic formulation of desert. The next step is to examine how the conception of desert can incorporate the two principles of egalitarian justice. What is distinctive about my argument for the two principles in question is the essential role assigned to responsibility in egalitarian justice. So a good place to start is to scrutinise how responsibility and desert are connected, as far as egalitarian justice goes. Responsibility has been often viewed as a necessary condition of desert. Among supporters of this view James Rachels clearly states this thesis as follows:

The concept of desert serves to signify the ways of treating people that are appropriate responses to them, *given that* they are responsible for those actions or states of affairs. That is the role played by desert in our moral vocabulary.⁵

As we have seen in the previous chapters, many examples can be adduced for this thesis: a gambler who is relevantly informed and capable of acting upon such information deserves any subsequent loss of money because of his responsibility for the expectational consequences of gambling; an informed tyrannised housewife

³ Feinberg (1970: 58).

⁴ See Kristjánsson (2003: 42), for this point. Note that this does not mean that there is nothing unifying with respect to the concept of desert, since a multiplicity of desert bases does not necessarily undermine the commonality among desert claims (e.g., Sher 1987: 21; Miller 1999: 133-138; Baiasu 2006: 228). This is important because my argument, I shall show, supports the idea that desert bases can be pluralistically synthesised.

⁵ Rachels (1978: 157; emphasis original). See also Sadurski (1985: 116-117) and Miller (1999: 133-134).

does not deserve to be worse off because she is not responsible for the miserable life with her dictatorial husband (given that no other reasonable option is available to her in its expectational terms); an entrepreneur who is a responsible claimant for her earned profits is said to deserve to be better off (as long as the entrepreneur did not undermine all sufficiently good alternatives that others can reasonably pursue or accept); and so on. It seems natural to think that those who are responsible for being worse (or better) off deserve to be worse (or better) off.

Nonetheless, this thesis—which I will hereafter call this ‘the desert-responsibility thesis’ (following Geoffrey Cupit)—has been subject to two attacks.⁶ The first attack against this thesis holds that if responsibility plays a necessary role in giving people their due, then it could be that no one deserves anything. As I see it, this attack is made in two different ways. The first way of making this attack is a famous one: all actions and characters, including efforts and contributions, depend entirely upon natural and social endowments for which people are not responsible. John Rawls writes:

It seems to be one of the fixed points of our considered judgments that no one deserves his place in the distribution of native endowments, any more than one deserves one’s initial starting place in society. The assertion that a man deserves the superior character that enables him to make the effort to cultivate his abilities is equally problematic; for his character depends in large part upon fortunate family and social circumstances for which he can claim no credit. The notion of desert seems not to apply to these cases.⁷

This challenge, I take it, is underscored by metaphysical scepticism that no agents are capable of behaving or having characters so as to deserve them, if responsibility as such is a necessary condition of desert. This is because actions of any sort as well as agents’ characters cannot be detached from any influence of

⁶ Cupit (1996: 39).

⁷ Rawls (1971: 104).

their native and social endowments.⁸ To put it another way, the robust notion of voluntariness for which individuals are responsible cannot be identified simply because there is no such choice that is unaffected by the circumstantial effects of their background conditions. As Samuel Scheffler observes, this metaphysical scepticism has been dominant among contemporary political philosophers, since they, explicitly or implicitly, tend to regard responsibility-sensitive desert as ascribable only to ‘individual agency’ whose personality or character is not predetermined by uncontrollable factors, genetic or environmental.⁹ In other words, whether an agent deserves a certain advantage, they think, depends on whether it results from her non-causally determined choice out of possible alternatives.¹⁰ It is implausible to presume, however, that an agent can make such a radical choice.¹¹ It is thus concluded that given the desert-responsibility thesis, no one deserves anything because no one *is* responsible for anything.

Another way to put the attack is to suspect that the desert-responsibility thesis is impracticable. There are two ways in which the impracticability of rewarding desert can be pointed out. First, as the cited passage from Rawls’s *A Theory of Justice* implies, there seem too many cases in which an agent cannot be held responsible for being better (or worse) off, on grounds that any influence of her inborn talents defeats her responsibility, even if it could be identifiable in some way or other. In other words, it could be that because one’s talents have more or

⁸ It might be objected that the above passage does not show Rawls’s commitment to any metaphysical scepticism. Following Feldman (1997: 178) and Moriarty (2003: 522), however, I take Rawls’s argument above to be a metaphysical challenge against the desert-responsibility thesis.

⁹ Scheffler (2001: 20-21).

¹⁰ See, e.g., Barry (1965: 108): “a person’s having being able to have done otherwise is a necessary condition of ascribing desert.” Cf. Lamont (1994: 47-49).

¹¹ This may be so even if determinism is false, since indeterminism may only support randomness, not self-causing action (Strawson 1994: 17-20). Cf. Robert Kane (1996: 181-183).

less impact upon one's current holdings, the better (or worse) off born with the (marketable) talents cannot deserve to be better (or worse) off. Second, there is no epistemically feasible way of singling out an agent's desert in such a way as to respect her responsibility. In particular, it is impracticable to discount the positive effects of such natural endowments, since, as Rawls says, "[t]he better endowed are more likely, other things equal, to strive conscientiously."¹² Impracticability of these kinds, it is argued, would remain problematic, even if people's responsibility were precisely identifiable. Given the desert-responsibility thesis, no one deserves anything because in actual circumstances no one *can be held* responsible for anything.

In what follows I will demonstrate that these challenges against the desert-responsibility thesis are not as powerful as it might have been thought. My argument for the Responsibility-Based Principle of Inequality shows that responsibility can play a vital role in legitimating substantive inequalities in a plausible sense. Responsibility thus could go hand-in-hand with a proper desert basis in the practice of egalitarian justice. To confirm this, let me respond respectively to the metaphysical and impracticability arguments against the desert-responsibility thesis.

As for the metaphysical scepticism, I want to repeat here that to be responsible an agent need not be able to choose otherwise in an outright sense. It is important to note that the Autonomy-Based Principle of Responsibility requires only that an agent possess rational capacities and have at least one alternative that could be judged as reasonably obtainable based on her healthy practical reasoning: she has capacities to form rational beliefs and desires given pertinent information, and also a capacity to choose otherwise in the expectational terms, independently

¹² Rawls (1971: 312).

of what such belief-desire sets guide. The agent's responsibility thus can obtain even in the presence of the Frankfurt-type of counterfactual intervener.¹³ This way of holding people responsible, I believe, reduces the force of the metaphysical scepticism, since it does not rest upon the idea of something like 'ultimate control' that cannot be traced back to heredity or environment. In other words, my argument does not demand that in order to be responsible, agents must be 'individual agencies' who are capable of making a choice in some non-causally determined way. This helps avoid the line of thought that because no one *is* responsible for anything no one deserves anything.

Yet this does not automatically guarantee that there is a way of overcoming difficulties in factoring out, as far as is reasonably possible, the effects of natural and social circumstances, which are the main source of the metaphysical scepticism. Given that not all kinds of circumstantial luck are to be extinguished, however, my argument provides a promising way of holding people responsible. This can defuse the impracticability worry. Two things I argued in the previous two chapters should be recalled. First, responsibility-ascription need not be taken to be an all-or-nothing matter. For instance: the natively talented person can be said to be more or less responsible for the consequences of a choice even in cases in which her talents have a major role in such a choice and the resultant states of affairs; the negative responsibility of heavy smokers who have only minimum capacities for rational choice is comparatively less than that of smokers of a similar kind who have more rational capacities, given that no fault of their own has been involved in the development of their rational capacities; and so on. Desert could be ascribed in a corresponding way in which an agent weakly (or strongly) deserves the

¹³ See Chapter 3, Sections 4 and 7.

consequences of her own action or character.¹⁴ Second, there is a feasible way of counting (or discounting) the effects of bad (or good) fortune that have fallen upon the worse (or better) endowed. My argument endorses such computations in order to hold individuals comparatively responsible for being worse (or better) off, roughly in proportion to the degree of their rational capacities determined in ways that are beyond their control—that is, in the canonical state. As I argued, Roemer’s approach of apportioning the population into types makes this argument much more feasible, because responsibility-ascription thereby does not require the detailed information on the development or improvement of each person’s rational capacities.¹⁵ Thus, there is no need to conclude that since no one *could be held* responsible for anything, nobody deserves anything.

So much for the first attack. Let me turn to the second attack against the desert-responsibility thesis. This challenge purports to rebut the thesis by claiming that responsibility is not *always* a condition of desert. As I see it, there are two examples that seem to support this challenge. First, consider a case in which a person contracts a painful disease through no fault of her own. It seems that whereas she is not responsible for the suffering, she may deserve some medical care; even if no medical treatment is available she may deserve our sympathy, at least.¹⁶ The second example is of being a *person*, or, more precisely, a *human being*. We normally consider each of us as equally respectable at least in a certain minimal sense. Thus, there is reason for thinking that all people deserve the

¹⁴ This way of using the language of desert involves comparative judgments, in that desert claims count relative to the conditions of other parties. Obviously, this echoes that people’s responsibility, on my argument, is comparatively fair in a rough proportional sense. For recent discussions of the comparative element of desert, see Kagan (1999; 2003), McLeod (2003b), Miller (2003), and Olsaretti (2003: 17-21; 2004: 33-37).

¹⁵ See Chapter 3, Section 8, as well as Chapter 4, Section 7, and the next section below.

¹⁶ A similar counterexample is raised in Feldman (1997: 183).

correspondingly minimal amount of advantages that meets the fundamental requirement of human equality. However, it is plain that none of them are responsible for the fact that they are persons.¹⁷ These examples show that desert does not always presuppose responsibility on the recipient's part.

Since these two cases illustrate that responsibility is not always a condition of desert, it might seem that the desert-responsibility thesis is simply false. If so, my argument seems vulnerable to this charge, because it draws heavily on the Responsibility-Based Principle of Inequality that would underpin the desert-responsibility thesis. In order to counter this challenge, let me make clear what the two examples cannot undermine. There are, I think, two things worth mentioning, both of which help us see that the examples in question are not devastating.

First, from the fact that in the aforementioned cases responsibility cannot provide a condition of desert, it does not follow, of course, that in a wider range of cases there is no connection between responsibility and desert.¹⁸ As we have seen above, many cases in which people are legitimately better (or worse) off can be explained by the desert-responsibility thesis. This is particularly so in cases in which we place the Responsibility-Based Principle of Inequality in a core of the thesis in question. I further contend that, given the circumstances of justice, we may be able to say that most cases are definitely within the purview of the thesis in question. Many issues of distributive justice arise in conditions of limited resources, which make an agent's responsibility more relevant to the practice of egalitarian

¹⁷ See Cupit (1996: 161) and Feldman (1997: 183-4). On the contrary, Aristotelians might hold people responsible for possessing personhood of a minimal kind if they want to deserve respect. For this line of defence of the desert-responsibility thesis, see Kristjánsson (2003: 54-60).

¹⁸ Fred Feldman admits this point in his reply to Smilansky's criticism (Feldman 1996: 166).

justice.¹⁹ It thus seems better to retain a view like the desert-responsibility thesis. Second, and more important, the above-mentioned counterexamples do not deny that there could be a different kind of desert base that may save the proposed argument. In other words, these examples show, at best, that there is no responsibility-related desert base which can *solely* deal with those counter-cases. As I mentioned above, desert could have multiple bases. Furthermore, the examples in question reveal nothing about the incompatibility between the desert-responsibility thesis and some other relevant desert base. It could be that conflicting considerations revolving around such a pluralism of desert bases may be weighed properly.

There thus could be a different desert base of the relevant kind that is not incompatible with the desert-responsibility thesis. But what is such a desert base? My answer is that it is *equality*. More precisely, I propose that the desert base in question can be provided by the Principle of Baseline Equality, which holds that all people are equally well off as a point of departure. With this in hand, what can we say about the two counterexamples? As for the first, we can say that the invalid who is not responsible for the disease deserves some treatment, on grounds that she has an equal entitlement to some medical treatment. This seems guaranteed if we take seriously the base point that all people are equally well off. In its own light, it is morally wrong not to save the person, on conditions that no responsibility is involved and the disease can be treated without huge sacrifice or cost; should any treatment of the ill not be available, we may well feel compassion for her misery, at least.²⁰ To the second counterexample, we can respond by appealing to the Principle of Baseline Equality, to the effect that while all people are not responsible

¹⁹ See Chapter 2, Section 3, and the next section below.

²⁰ I shall argue the role of reactive sentiments such as compassion in the practice of egalitarian justice in the next section below.

for being human beings, all deserve equal standings as a starting point. A relevant desert base thus should reflect the fact that there is a deserved baseline of equality, in the sense that no one should be deprived or privileged unless there are specific reasons. The desert base is that which the Principle of Baseline Equality can provide.²¹

We are now in a position to see why my specification of the two desert bases is not susceptible to the second attack against the desert-responsibility thesis. On the one hand, my argument demonstrates that the relevant conception of responsibility—which can avoid scepticism of metaphysical and practical sorts—plays a pivotal role in giving people their due in most cases, given the circumstances of justice. On the other hand, my argument need not support the obtaining of the desert-responsibility thesis in all cases. Here again, egalitarian justice consists of the Principle of Baseline Equality as well as the Responsibility-Based Principle of Inequality. The former principle directly derives some normative force from the consideration of simple equality in its telic form. The political idea of human equality lying behind the consideration in question regulates us to set simple equality as a baseline in the circumstances of justice, where departures from the baseline are likely to be justified. The important point is that the Principle of Baseline Equality coexists with the Responsibility-Based Principle of Inequality, if we admit a pluralism of egalitarian principles.²² Given that a multiplicity of desert bases is allowed, by parity of reasoning we may say that the desert base which stems directly from the value of simple equality can

²¹ For a similar presentation of the idea of a baseline, see Smilansky (1996: 159; 2000: 43-44). But Saul Smilansky does not interpret the baseline as a different desert base from the desert-responsibility thesis. While, on his argument, the base point in question is simply assumed and so merely presumptive, it is provided by the Principle of Baseline Equality in my argument.

²² Recall what I argued as a reason for telic egalitarianism in Section 2 of Chapter 2.

pluralistically coexist with the desert-responsibility thesis.²³

My proposal goes further: we can even support something like the combined claim that *no one deserves substantive inequalities unless they are responsible for the inequalities*. As has been seen above, this conception of desert can not only comprise the equality-related desert base which dismisses the aforementioned counterexamples against the desert-responsibility thesis, but also it performs very well in the circumstances of justice, where we may very likely encounter cases involving subtleties and complexities of a standard kind. Consider, for example, a case in which an ailing person is now somewhat responsible for contracting the disease. (For the sake of simplicity, assume that this corresponds to her rational capacities in the canonical state.) Since her responsibility counts less than the case in which a fully rational agent could have reasonably avoided contracting the same kind of disease, she weakly deserves some treatment. But her desert of such treatment is less than that of people who are not responsible for the suffering at all. In many cases if not all, this may enable us to impose differential burdens on those invalids (for example, through a subsidy scheme). In the circumstances of justice where resources are moderately scarce, this, I suggest, matches our considered judgments. The synthesis of the two desert bases that the two egalitarian principles correspondingly endorse can explain why such differential burdens are justified in situations of a standard kind.

It might be questioned if the conception of desert that the combined desert bases underlie can really support the view that all people—including the worse off who are responsible—deserve some minimal level of advantages, lest they be treated as something less than human beings. The answer might seem no, because

²³ Feldman suggests a similar line of argument which claims that both equality and desert can be compatible in such a way as to adjust the weight of welfare together (Feldman 2003: 154-160).

the equality-related desert base is anchored by nothing but a weak force of simple equality: it would very likely be outweighed by the consideration of an agent's responsibility for substantive inequalities in the circumstances of justice. But this answer is untrue for two reasons. First, as I argued in Section 8 of Chapter 3, my proportional view of an agent's responsibility for being worse off has an inequality-appeasing aspect, since it allows that no one be fully responsible for being worse off. This is (even empirically) grounded in actual circumstances in which no one is fully informed and rational. If this principle provides a desert base as the qualified desert-responsibility thesis, then advantages of a minimum kind seem to be guaranteed for almost everyone in our context of a standard kind—that is, in the circumstances of justice. Second, the Principle of Baseline Equality should not be taken as a stringent principle which forbids cases of any exceptional kind. As I argued in Section 4 of Chapter 2, moral principles are not of an exceptionless kind, but rather of a kind that often engages us in deliberation over the moral status of a certain action. The Principle of Baseline Equality is exemplary, in a way which allows the possibility that the value of simple equality might weigh more than the consideration of an agent's responsibility for substantive inequalities. As has been seen in Section 2 of Chapter 2, there are several cases in which simple equality is better pursued if we take seriously the political idea of human equality: our concerns for needy strangers, self-respect of the worse off, and structural inequalities of a resilient kind may prefer the direction of simple equality to the strict line of policy based on their responsibility. These cases illustrate that we may well favour simple equalisation over the policy to permit substantive inequalities as a result of our overall deliberation regulated by the second-order political ideal of human equality. The proposed conception of desert which reflects the egalitarian principles in this manner thus would assure all

people some minimal level of advantages in actual circumstances.²⁴

3. Duties and Reactive Attitudes

So far I have argued that desert could be a plausible conception of egalitarian justice, given the synthesis of multiple desert bases: there is no need to recant the desert-responsibility thesis, since the thesis is fully compatible with the equality-related desert base. This not only shows that desert enjoys a conceptual unity of egalitarian justice; it also seems that the conception of desert bears a normative force that guarantees *prima facie* duties owed to the deserved.²⁵ To ascertain this, it is time to explore the morally relevant mechanism through which we discern our own duties to people who have desert claims. To put it another way, we should now argue how we acknowledge our *prima facie* moral duties owed to the claimants for advantages in the desert-sensitive institutional scheme.

My proposal is that the normative force of desert that, *prima facie*, obliges us to provide people with what they deserve can be captured by the close link between individuals' desert claims and our *reactive attitudes*.²⁶ That is to say, reactive attitudes can serve as the mechanism through which we realise our *prima facie* moral duties to the deserved. Examples of reactive attitudes are gratitude, resentment, indignation, forgiveness, love, sympathy, guilt, and hurt feelings.

²⁴ I shall argue this point at full length in the next chapter. There I will show that my argument can allow for the normative space of basic needs.

²⁵ I do not deny that the normative force of desert does not always entail duties owed to deserving parties. (This is why I put 'prima facie'.) Not all cases are those in which we can do something for them. For the asymmetry between desert claims and duties owed to those who have such claims, see Miller (1976: 114-117; 1999: 135-136), Sher (1987: xi-xii), Kristjánsson (2003: 46-47), and Olsaretti (2004: 13-14).

²⁶ David Miller has made a similar kind of suggestion (Miller 1976: 88-91). See also McLeod (2003a).

Emphasising the close tie between desert claims and our reactive emotions is not novel, because this is a longstanding view of the grounds of moral duties holding among us. As is well known, from Adam Smith to Henry Sidgwick, gratitude and resentment are commonly regarded as universalisable sentiments that are of one cloth with justice of a desert-sensitive sort, according to which we are under obligations relating to their object.²⁷ In the contemporary age, Peter Strawson and his followers remind us of this traditional view, by pointing to the fact that our moral practice is represented by the expression of our reactive attitudes towards an object based on our judgments which are deserved by the object. In other words, the reactive emotions associate with our ordinary interpersonal relationships involving judgments of whether the emotions in question are fitting for the object.²⁸ Notice that such reactive attitudes could be more or less vicarious. As Strawson says, reactive emotions could be expressed on behalf of others, where the reactor's own interest is not involved.²⁹ Nor is it always the case that the object of our reactive attitudes is a particular individual. Institutional arrangements such as the authorities under which favouritism and nepotism are rampant could also be a target of our indignation, on grounds that they do not offer a putatively proper mode of treatment to people.³⁰ It thus can be said that a scope of the target of reactive attitudes is very broad.

It can be easily observed that the conception of desert discussed above is germane to our reactive attitudes. The relevant class of reactive attitudes here are resentment, indignation, and sympathy. No doubt the inherent connection between

²⁷ Smith (1976: II.ii.1, 78-82) and Sidgwick (1981: III. v. sec. 5, 278-283).

²⁸ Strawson (1962). For recent discussions of the link between desert and reactive attitudes, see Wolf (1981: 102-116), Ekstrom (2000: 149-153), and Kelly (2002: 186-187).

²⁹ Strawson (1962: 56).

³⁰ See Scheffler (2003a: 74).

desert and responsibility is underlined by the web of our reactive emotions, especially when it comes to resentment and indignation. For instance, we feel resentment towards an employer when he exploits a large portion of the benefits that his employees are responsible for and thus deserve. Sympathy also enters into individuals' desert claims in a way that motivates us to do something for people who deserve a certain advantage. Consider the examples raised originally against the desert-responsibility thesis: we may well feel strong sympathy for the ailing person who is not responsible for the suffering; an agent who is impoverished, such that her self-esteem is seriously damaged, deserves our compassion; and if people who tread on her self-respect could be identified, our sympathy for her would be prompted much more strongly, by the extent to which this would evoke our indignation towards those people; and so on.

It seems that the normative force of desert can be tracked in this way by the phenomenology of our reactive attitudes. However, we should confront one serious concern: how can the link between individuals' desert claims and our corresponding reactive attitudes be *appropriate*?³¹ This propriety concern arises because there seems no guarantee that our reactive attitudes will not include those which are shaped in light of wrongful information or false beliefs (of a rationalised kind), nor those which enshrine old prejudices and biased judgments such as racism and favouritism. Admittedly, this concern is raised for any account that assigns a significant role to reactive attitudes; so, my reactive attitudes-based account is not exceptional in this respect. This is a concern that must be taken seriously, in advocating the plausibility of my account of reactive attitudes that can serve as the mechanism through which we discern our prima facie moral duties, direct or indirect, to deserving parties. To defuse this worry, let me suggest three

³¹ See McLeod (2003a), for this concern.

constraints that the relevant class of reactive attitudes should meet, in order to be qualified as appropriate.

The first constraint is that reactive attitudes counted as appropriate are to be formed in light of *well-informed* judgments about their target. The role of judgments accompanying cognitive states is crucial in forming reactive attitudes. It seems that reactive emotions are parasitic on our certain judgments about their object. For example: I have anger towards my friend based on my judgment about his stealing my car; I feel deep gratitude to my mother based on my judgment about her devotion to me; and so on. As such, emotions are sensitive to cognitive judgments. The point here is that such emotions can be corrected in light of truthful judgments—more specifically, in accordance with the relevant beliefs formed under the impact of pertinent information. As Robert Solomon says, emotions can be defused by being aware of truth, because the object might be misidentified or mistakenly regarded as a responsible target.³² To illustrate: my resentment directed at my friend would be alleviated were it known to me that he had stolen my car under duress; presented with the information that my father devoted himself to me much more intensively than my mother did, I might change my emotive stance towards my mother; and so on. Examples of this sort can be raised almost endlessly.

This judgment-sensitivity of our reactive emotions is of great significance when it comes to their normative association with desert claims, for it seems that

³² Solomon (1976: 185-191; 1980: 256-262). Note that the notions of judgments and beliefs which are essential components in cognising the truth should be interpreted in a broader sense that involves truth-aptness than those which are responsive only to evidential knowledge. The subtle differences aside, there seems a consensus about the character of emotion-related beliefs, even though some are critical of Solomon's overintellectualisation of emotions. See, e.g., Gordon (1987), Greenspan (1988), Deigh (1994), Adler (1997; 2002), de Sousa (2002; 2004), Zagzebski (2004), and Salmela (2006).

the propriety of our reactive attitudes towards their object partially depends on whether our corresponding judgments are made with relevantly informed beliefs. Consider the employer's case again. Our resentment against the employer based on our judgments about his exploiting the employees is appropriate only if he does not pay the extent to which his employees are responsible. In this case, the pertinent facts about the responsibility in question are an indispensable factor of making our reactive emotions appropriate. So if it turned out that the employees receive enough salaries for which they are responsible, we would conclude that we have reacted wrongly to their claim and so our emotive attitudes should immediately be modified. This is also true in the case of an ailing person who is deemed to deserve some reparation or sympathy at least. Suppose now that we find out that she has contracted the disease mainly on account of her disregard for her own health. Less compassion then could be given for her dire straits than would be given in the case where she is not responsible, not to mention less indignation about her current situation.

The cognitive element of our emotions thus has an essential role in tracking what the combined desert bases prescribe, in such a way as to help us avoid an unfair attribution of reactive attitudes to their recipients. However, this constraint seems insufficient to alleviate the propriety concern, for the cognition of relevant facts about a target of our reactive attitudes might not have enough power to change our bias, as is shown by racism that survives even these days. It thus can be imagined that some reactive attitudes—even in the presence of pertinent information—are triggered by biased interests and partial concerns on the basis of racism, favouritism, and personal love. Some racists, for instance, might feel no indignation at the employer over his exploitation, were it based on the racial discrimination. The fact that a stranger suffers acutely from her illness for which

she is not responsible might not evoke sympathy of people who are concerned only about their family members, relatives, and close friends.

The second constraint which is thus needed is that our reactive attitudes should be of an *impartial* kind. Impartiality is a familiar constraint which is imposed upon many theories of justice, to a greater or lesser extent. Impartiality enjoins us to abstract away from personal attachments to, and exclusive interests in, particular objects (including ourselves), which are a hotbed of privileged treatment of some kind. This requirement, I believe, can be employed as a constraint on the ascription of reactive attitudes to their recipients. In doing so, it is important to note that because impartiality captures an attitude we commonly take on many occasions (for instance, in teaching children and examining a job candidate), the impartial attitude is not from outside or nowhere but from inside, as ordinary thinking that is situated within us. As Thomas Nagel describes, impartiality represents our common way of thought in picking away at who we are.

Each of us begins with a set of concerns, desires, and interests of his own, and each of us can recognize that the same is true of others. We can then remove ourselves in thought from our particular position in the world and think simply of all other people, without singling out as *I* the one we happen to be.³³

This connection between impartiality and our common attitude cannot be overemphasised, since impartiality has been often confused with impersonality, which requires us to completely leave our own self behind,³⁴ and also with a mere logic of identity which seeks to reduce all differences to single unity.³⁵ Unlike the impersonal or universal point of view, adopting the impartial point of view does

³³ Nagel (1991: 10; emphasis original).

³⁴ This confusion is seen in Cottingham (1986), Friedman (1989), and Walker (1991). This is partly due to the fact that ‘impersonal’ and ‘impartial’ are interchangeably used by impartialists, of whom Thomas Nagel is representative (Nagel 1991).

³⁵ See Young (1990: Ch.4).

not mean any disengagement with our ordinary moral practice—more specifically, the appraising practice involving reactive emotions.³⁶

To see how clearly, let me contrast the impartial making of reactive attitudes to the method of Ideal Observer theory—the typical and traditional way of meeting the requirement of impersonality. The latter urges us to radically change a set of beliefs and motives constitutive of our actual selves, in order to achieve the God-like perspective which would be taken as “omniscient, omniperceptive, disinterested, and dispassionate.”³⁷ There are mainly two problems with this requirement of revising our belief-desire sets. One problem is that we have epistemic difficulties in grasping what such a perspective is like; and should we know it, it could hardly be attainable. Another problem is that the God-like point of view “lacks susceptibility to essentially particular interests, and the capacity for emotions with essentially particular objects.”³⁸ The former is called an epistemic problem with the method of Ideal Observer theory; while the latter boils down to psychological difficulties in taking on the perspective of an Ideal Observer. I contend that these problems do not apply to the constraint of impartiality imposed

³⁶ For similar—but not the same—lines of argument for impartiality (or an impartial sort of perspective), see, e.g., Piper (1987: 104-107; 1991), Mendus (2002: Ch.3), and Zagzebski (2004: 349-372).

³⁷ Brandt (1955: 407; 1979: 225). Note that Richard Brandt presents this characterisation of Ideal Observer in criticising Roderick Firth’s Ideal Observer theory (Firth 1952: 333-341).

³⁸ Walker (1991: 766).

upon the ascription of reactive attitudes.³⁹

Let me first explain why the impartial engagement with reactive attitudes is not threatened by the epistemic problem. The reason is that unlike the attempt to grasp what an Ideal Observer ensures, there is no need to have information of a perfect kind under which, for instance, probabilities of any event are zero or one, with the view to impartiality. This is because for our reactive emotions to be impartial, all that are needed are judgments based on relevantly warranted information about their object. Although the information seeking process is essential to impartiality, lest we attribute our reactive emotions wrongly or mistakenly to the object, this is not an intolerably heavy task in the epistemic terms. For one thing, as has been already shown, we need not investigate every person's life history, when assessing his or her responsibility for substantive inequalities, for, following John Roemer's proposal, we can appeal to a rough way of portioning the whole population into types in the way that reflects the differential degree of rational capacities for which no one is responsible. Our reactive attitudes could reasonably be shaped or adjusted on such a feasibly informed basis, not on omniscient knowledge, even when collecting some further information is required for having them impartial.⁴⁰

³⁹ It might be objected that Ideal Observer theory—such as espoused by Firth—purports to identify the morally good with what the God-like observer would approve of; it does not advocate that we must ourselves attempt to cultivate the traits of such an observer. If so, however, there seems no point of seeking the moral good, because it is epistemically inaccessible to us. And actually, this epistemic inaccessibility is a concern to Firth, who admits that in order to determine the characteristics of the Ideal Observer, we may have to examine our current procedures for judging or deciding morally relevant questions (Firth 1952: 332-333).

⁴⁰ So the weight of fact-finding on an object of reactive attitudes is lessened in the norm of impartiality. This seems to make the reactive attitudes specified as impartial much less hypothetical. This, I think, reduces the power of scepticism about the reconciliation between reactive attitudes and their demanding sensitivity to factual considerations. For a discussion of this scepticism, see Watson

Let me turn to how psychologically our reactive attitudes can be impartially engaged with. To see how, again let me compare the impartial engagement with reactive attitudes to the role-taking of the God-like observer. As we have seen above, an Ideal Observer of this kind would be deprived of any particular interests and concerns and so make unbiased and consistent judgments about any case. The concern is that this practice may generate a lack of interest in, or simply indifference to, actual subjects (including us). What is worse, this practice might involve no participatory communication with these subjects—just acts of observation with no passion.⁴¹ By comparison, the practice of reactive attitudes that meets the requirement of impartiality are not disengaged in this way, since impartial reactive attitudes are, after all, nothing but *a certain class* of reactive attitudes. True, the class is narrowed down by the constraint of impartiality. From this, however, it does not follow that the impartial engagement with reactive attitudes exhibits a kind of simple disinterestedness, indifference, or something like the divinity of instantaneous omniscience, which does not address any interaction with actual contexts. The truth is opposite: our reactive attitudes formed with the filter of impartiality would urge us to express emotions of some kind if there were lack of actual concern with, or indifference to, the substantive treatment of us. We should note that this does not itself run afoul of the fact that reactive attitudes are ineliminably prompted by particulars.

I turn now to the third constraint on our reactive attitudes. This is that the relevant conception of reactive attitudes is one according to which they can be construed *dispositionally*. According to the dispositional construal, reactive attitudes are states that have some functional basis. We then should see the reactive

(1987: 144-146).

⁴¹ See Friedman (1989: 651) and Walker (1991: 768).

attitudes as being a set of dispositions, in such a way that we are disposed to display reactive emotions towards an object in conditions $C_1, C_2 \dots C_n$. This dispositional conception of reactive attitudes can encapsulate what I have suggested as the conditions in which to make appropriate the normative tie between desert claims and our reactive attitudes. As a general condition, the circumstances of justice fit well with this model. As has been argued, desert is more or less conditional on such circumstances because, in conditions of limited resources, the desert-sensitive issues of distributive justice robustly arise. This can be built into the dispositional construal because of its essentially conditional trait: we would be disposed to display resentment at those who expropriate our own resources, in circumstances where the resources are moderately scarce. More specific types of conditions are also appreciated by this dispositional model, which are actually the two constraints I argued above—that is, the conditions under which we are well informed and impartial. On the informed judgments constraint, we can describe our reactive attitudes in the following form: if relevant facts of an object obtained, we would reveal emotive reactions to the object. On the impartiality constraint, it can be held that the disposition to appropriately express certain reactive attitudes to the target is manifested when our judgments thereof are made impartially.

Note that in talking about dispositions in this way, I have in mind a realist notion of dispositions, not a behaviourist account that does not treat dispositions as causal factors. According to the realist account of dispositions, there *are* particular states which dispose an object to undergo a change, irrespective of whether the states in question are known to us. For instance, the fragility of glass is a real factor which is identified in terms of its manifestation under suitable conditions (for instance, shattering when hitting the floor), regardless of whether we are ignorant

of the real nature of the factor.⁴² I want to take the dispositions of reactive attitudes to be of this realist kind. But if the dispositions at stake are of the realist sort, how do we possess such emotive states that dispose us to express emotions of a reactive kind in the above-mentioned three conditions? My tentative answer is that they are partially innate and mostly acquired at later stages by educative efforts of parents, friends, teachers, and siblings.⁴³ This acquisition process may be of a natural psychological kind in a way that involves various kinds of learning process such as conditioning and deconditioning through education and mimicry, facial or otherwise. Its details aside, it seems less controversial to think that there is some psychological mechanism that may prove the causal states of reactive emotions in some rigidified way.⁴⁴

The dispositional conception of reactive attitudes enables us to ward off one typical worry about the reliance upon the account of reactive attitudes—that is, the worry that our reactive emotions cannot keep track of the normative force of desert because they may not always be evinced in actual circumstances. It is often the case that, for instance, we do not feel anger at politicians despite the prevalence of political corruption for which they are responsible. It seems that this sort of concern can be cleared up by the dispositional conception of reactive attitudes. To see this, consider a variety of commonplace reasons that no reactive emotions are felt or revealed towards the politicians: we do not know details of the political corruption; we take it as natural because of having got used to it; or, we

⁴² For a classical presentation of this realist account of dispositions, see Armstrong (1968: 85-88).

⁴³ See, e.g., Nagel (1979: 37), Watson (1987), and Fisher and Ravizza (1998: 211-213).

⁴⁴ For helpful discussions of this point, see Brandt (1979), Gibbard (1990), and Darwall (2002). In particular, Stephen Darwall presents an insightful argument about the connection between psychological mechanism as such and the moral status of reactive emotions. His argument mainly refers to recent psychological surveys on empathy and sympathy (Darwall 2002: 54-58).

(unconsciously) suppress our feelings such as resentment and indignation about it because we will be clapped into prison should we criticise the corrupt politicians. In any of these cases, if physiological reactions of an emotive sort were the determining factor of our having reactive attitudes, the politicians might not be regarded as their target, for we do not find ourselves reacting with certain feelings in respect to them. But if we see reactive attitudes as dispositionally construed, we may plausibly say that the politicians in question are indeed the target of our reactive attitudes, even in cases in which our reactive emotions are neither actually felt nor revealed. The dispositional construal has to accompany neither with physiological nor with phenomenological content such as the having of actual feelings or the display of such emotions.

There is no reason that the politicians in question can escape from the attribution of deserved blameworthiness, since the reason we do not actually express resentment about the political corruption seems to be one of the following: we lack pertinent information thereof, or our emotions are tamed through becoming accustomed to it or under the oppressive circumstances in which we cannot express our indignation at them. Even in the actual circumstances that these cases exemplify, the dispositional reading of reactive attitudes may well obtain. This is because, were we informed and impartial and so directed to attend to what the politicians have performed, we would very likely feel indignant at them for their misdeed, on grounds that idiosyncrasies of any sort—such as tame dispositions and the fear of persecution—are thereby washed out.

4. The Content of Reactive Attitudes

It becomes increasingly clear that the conception of desert that embraces the two combined bases has a normative force which can be captured in terms of our

reactive attitudes. In other words, our reactive attitudes can serve as the mechanism through which we acknowledge our prima facie moral duties to deserving parties. This is, I maintain, plausible as long as the reactive attitudes are dispositionally construed as meeting the two conditions—the conditions under which we are well-informed and impartial in the circumstances of justice. But to see clearly how the proposed construal of reactive attitudes can track what the synthesised desert bases prescribe, it is important to attend to the *content* of our reactive emotions. In this section I explore this. (I assume that the class of our reactive attitudes construed dispositionally is of an informed and impartial kind.)

An account of the content of reactive attitudes that I find palatable is based on their connection with our shared *expectations*. According to this account, the reactive emotions can be understood (especially when it comes to resentment and indignation) such that we display reactive emotions towards people or institutions in the face of their breach of our shared expectations. Put another way, we do hold people to our shared expectations in a way that exposes those people to our resentment or indignation when they violate the expectations in question. For example, we feel furious, or embarrassed at least, that one fails to observe a rule of etiquette, breaks a promise, or hurts an innocent person (in normal situation), all of which have something to do with breaches of our shared expectations. This emphasis on the expectation-sensitivity of our reactive attitudes fits well with the dispositional construal of reactive attitudes, since the stance of holding people to our shared expectations is characterised in terms of their susceptibility to a range of reactive emotions, not based on symptomatic feelings of a reactive sort.⁴⁵

⁴⁵ R. Jay Wallace articulates this expectation-sensitive account of reactive attitudes, in narrowing the relevant class of them to resentment, indignation, and guilt (Wallace 1996: Ch.2; see also Scheffler 2003a). As Wallace notes, Jonathan Bennett originally considers this way of explaining the content of reactive emotions (although he ultimately rejects it) (Bennett 1980: 41-42).

Of course, not all expectations are associated with our reactive attitudes. In order to characterise the connection between them, our shared expectations should be capable of being justified relative to the reactive attitudes on a certain ground.⁴⁶ Especially in explicating the normative aspect of desert that grounds *prima facie* duties, it is important to realise that this stance of holding people to our shared expectations needs a warrant from some *moral* ground. But this does not require us to embark upon some further task, because, as I have already demonstrated, the two synthesised desert bases can provide such a ground, as far as egalitarian justice goes: one desert base has to do with the desert-responsibility thesis; the other desert base is substantiated by the Principle of Baseline Equality. As I have shown, both are regulated by the political idea of human equality, and hence, they can be taken together to provide a morally acceptable standard for rating each person's claim. I now want to suggest that they become also putative grounds of our shared expectations concerning people or the institutional arrangements. In other words, the relevant expectations are of a normatively justifiable kind just in case they are grounded on the two desert bases.

We can now see that the stance of holding people to our shared *normative* expectations has an explanatory role in why we incur *prima facie* moral duties to deserving parties. We can see, for instance, that any employer incurs a duty not to pay less than the amount of salary that his employees are responsible for and so deserve. The employer's incurrance of a moral duty is guaranteed by his susceptibility to our reactive emotions in the following conditional sense: if the employer failed in a duty which is justifiable based on our shared normative expectations then he would prompt our indignation. How is it that all people are equally respectable and thus deserving a decent level of advantages? In response, it

⁴⁶ See Wallace (1996: 22).

should be again noted that our shared normative expectations in the first place correspond to the Principle of Baseline Equality that all people should be equally well off as a base point. We then may confront the following two paradigmatic possibilities of breaches of our shared normative expectations: our expectations are violated if we find out that the worse off are not responsible for being worse off, on the one hand; in the face of people who are responsibly worse off, on the other hand, a breach of our shared normative expectations still may be perceived. No doubt the latter possibility is more controversial, so let me focus on it. On my argument, this could be the case for two reasons. First, as I mentioned, no one can be fully responsible for being worse off in actual circumstances. This residual part of the outcome for which people cannot be responsible may well be reflected in the formation of our shared normative expectations about what the worse off of any kind ought to receive. Second, our shared normative expectations may be responsive to our normative thoughts directed through overall deliberation about the status of simple equalisation in some cases. As I argued before, for example, our sympathetic concern about the worse off for their self-respect or youthful indiscretion may ultimately outweigh the consideration of their responsibility under the regulative political ideal of human equality.⁴⁷ These thoughts, I think, generate duties to help all of the worse off in the actual circumstances, no matter how strong each of the duties is. Unless the duties in question are discharged in accordance with our shared normative expectations, our sympathetic motivation disposes us to reveal indignation towards people or the current institutional settings.⁴⁸

This expectation-sensitive element of reactive attitudes seems to match our

⁴⁷ See Chapter 2, Section 2, and Chapter 3, Section 8.

⁴⁸ I shall discuss this point more in Chapter 6.

considered judgments, in that this can reflect the differential strength of our reactive emotions. Let me explain this point. Our indignation felt in observing the responsibly worse off could not be as strong as in encountering the worse off who are not responsible. This is obviously because in the latter case, unlike the former, the worse off did not cause their situation by their own deliberative fault. In other words, our shared normative expectations are breached more intolerably in the latter case than in the former. Our compassion then may well be aroused much more strongly in the latter case than in the former, just as our indignation towards people or the institutional arrangements that leave the worse off unaided will be correspondingly strong. So the duty to help those not responsible for being worse off is much more stringent and so prioritised over those responsible for being worse off if this can be done feasibly.⁴⁹ Of course, not all of such shared normative expectations impose duties on us in this way. There are many cases in which no one can do anything for the deserved without huge sacrifice of a certain sort. We have already seen such an example: the treatment of an ailing person who is not responsible for the disease in cases in which any medical care is not currently available.⁵⁰

It might be questioned: how can we explain cases in which our shared normative expectations are simply met? My argument can plausibly explain cases of this sort by appealing to the dispositional construal of reactive attitudes. On my argument, we feel approval for people's current positions on grounds that our shared normative expectations are satisfied. This kind of approval may involve neither physiological nor phenomenal content of reactive emotions of any robust sort. Still, the approval can be dispositionally connected to our reactive attitudes in

⁴⁹ See Chapter 6, Section 3.

⁵⁰ See note 25 above.

such a way as to hold people or the institutional settings to our reactive emotions. As I discussed above, whether we actually feel or reveal emotions is not the determining factor of whether an object is a target of our reactive attitudes.⁵¹

5. Scheffler on Desert

In this section, I show that the proposed conception of reactive attitudes is not vulnerable to Samuel Scheffler's objection that reactive attitudes cannot play an indispensable role in our judgments about any redistributive assignment of advantages. Scheffler admits that the conception of desert can be implicated in our practice involving the display of reactive attitudes. He also thinks that the propositional content of reactive attitudes can be fleshed out in terms of their expectation-sensitivity. He writes:

[T]he reactive attitudes always present themselves as merited or deserved responses to the individuals who are their targets. Since part of what is involved in treating people as responsible agents is being disposed to view them as appropriate targets of reactive attitudes when they violate the normative expectations to what we hold them, it follows that our practice of treating one another as responsible agents commits us to the idea that an agent's breaches of expectations deserve to be met with a reactive response.⁵²

Scheffler argues, however, that this account fails to prove that "responsible agents are committed to including within their reactive repertoires resentment that is based on judgments of economic desert in particular."⁵³ There are, he believes, two main

⁵¹ See also Wallace (1996: 71): "We suppose only that the agent held responsible has done something that meets or exceeds the moral obligations we accept, and that at the time of action she was the sort of person we hold to such obligations, in the way that is dispositionally connected with the negative reactive emotions."

⁵² Scheffler (2003a: 71).

⁵³ Scheffler (2003a: 75).

reasons.⁵⁴

First, our judgments that are made about socioeconomic affairs in the name of distributive justice are not typically those which involve reactive emotions, even though we often experience such feelings in the face of some maltreatment of people. According to Scheffler, there is an obvious presence of reactive emotions in our thoughts of retributive justice, since they are intimately connected to the institutional practice of punishment that criminals apparently deserve. On the contrary, reactive emotions as such are not typically directed at people or a given institution in a way that is responsive to socioeconomic affairs of an unfair kind. For one thing, our resentment may not be expressed in public, even when we observe that some individual receives a much higher salary than we could normatively expect him to earn. Moreover, unlike the legal institution in which criminals are publicly subject to our reactive emotions (through decisions on the extent to which we punish them), there is no similar kind of institutional settings in which our reactive attitudes about an allocation of advantages are displayed. Scheffler thus asserts: “what he is said to deserve—a lower salary—does not itself constitute an institutional vehicle whose function is to give public expression to feelings of resentment and indignation like those conveyed the original judgments of desert.”⁵⁵

Second, and more important, a target of reactive attitudes may differ from its propositional object in many if not all cases of distributive justice. While the target

⁵⁴ Scheffler used to appeal to the holism of distributive justice as a main reason against responsibility-sensitive desert within the most plausible theory of egalitarian justice (Scheffler 2001: Ch.10). But he now admits that this cannot be provide a strong reason for rejecting the role assigned to desert in distributive justice, since there could be a holistic idea of distribution in accordance with desert (Scheffler 2003a: 81-88). See also Hurka (2003: 67-68).

⁵⁵ Scheffler (2003a: 75).

of our reactive attitudes is a person or an existing institution, the propositional object is that which we have reactive emotions about. This difference seems salient; for instance, whereas we may not feel indignant at a person who receives higher salary than the amount which we could reasonably expect her to earn, we may feel resentment at recipients of certain benefits that spill over from someone else's—or some institutional—breach of our shared normative expectation. In cases of this commonplace kind, the target of a reactive attitude is not identical to its propositional object. Since those cases are not exceptional in our society, it is argued, the conception of desert reflected in our reactive attitudes cannot provide a secure standard based on which we can make appropriate judgments about the treatment of people. For these two reasons, Scheffler concludes that desert cannot play an essential role in our practice of egalitarian justice.⁵⁶

In responding to his argument, I take to be beyond question Scheffler's understanding of retributive justice in which the institutional mechanism—the mechanism of giving punishment for a crime—represents a public expression of our reactive attitudes, no matter how controversial this is.⁵⁷ Now let me focus on the first argument that reactive feelings are not of a typical kind that constitutes our practice of distributive justice. On this argument, first and foremost, I must say that Scheffler is just plainly wrong on the facts about the presence of people's reactive emotions in the issues of egalitarian justice. There is actually a large body of literature on the experimental data, to the effect that people's perceptions of the desert-sensitive fairness of an economic practice or distribution guides their own

⁵⁶ Scheffler (2003a: 73-77).

⁵⁷ As is well known, this presumption has been challenged by the consequentialist-based theories of retributive justice—most classically, the utilitarian theories of punishment. For the recent criticisms of this presumption upon which Scheffler heavily relies, see Husak (2000), Moriarty (2003), and Mills (2004).

choices and their reactions to others' choices. Among this is data on the experimental results of the 'ultimatum game': given a certain sum of money and two players, the proposer can offer any portion of money to the responder, while the responder has a choice of whether she accepts it or not, and if she does not then neither party gets any money. One might anticipate that the proposer will offer the lowest non-zero amount, on the expectation that the responder will reason, "Well, this is at least better than nothing." However, in fact the proposer normally comes up with a more equal division of money than the case in which she only takes care of her self-interest.⁵⁸ Other literature is on public opinion surveys in the United States. It shows that most Americans think that the government should aid the needy but that this should extend only to the incapacitated such as the disabled, not to the deserved poor.⁵⁹ These empirical studies confirm that people are sensitive to other people's reactive emotions which are evoked when receiving their undeserved maltreatment and so brings to the light Scheffler's simple factual mistake.

Second, more fundamentally, the principal problem with Scheffler's first argument is that he fails to capture the point of the expectation-based interpretation of reactive attitudes. As I argued above, whether people actually feel resentment or indignation towards people or institutional arrangements is not crucial. The important point is rather whether our shared normative expectations are breached or not. The dispositional construal of reactive attitudes allows that they need not

⁵⁸ The results show that the proposer offers about 40 percent of the total to the responder, and that, as is expected by the reasonable proposer, divisions of less than that percent are more likely rejected by the responder. See, e.g., Kahneman, Knetsch, and Thaler (1986: 288-292), Camerer and Thaler (1995), and Ullmann-Margalit and Sunstein (2002: 345-349).

⁵⁹ For useful references to such surveys in the debates over the US citizens' attitudes towards welfare reform, see, e.g., Gilens (1999: 1-10) and Wax (2000: 271-274).

always be accompanied by some physiological sign or occurrence of emotions. Their upheavals depend on the extent to which our beliefs are informed and impartially shaped in the circumstances of justice. To see this clearly, take the example that we may not actually feel indignant at an employer or a system that lets an employee receive her higher salary than our shared normative expectation. On my argument, this can be explained such that our reactive emotions would be revealed only if they were based on our informed belief-based judgments and also confined to the cluster of impartial ones. The very fact that emotive responses are atypical in actual circumstances does not itself deny the dispositions to react to breaches of our shared normative expectations about the treatment of people. Nor does it refute that the redistributive arrangements reflect our reactive attitudes, since there is no need to have the institutional expression grounded directly upon any actual feeling aroused by some maltreatment of economic agents. This, I think, undermines the first reason Scheffler puts against the role of reactive attitudes in the issues of egalitarian justice.

Turn to the second reason raised by Scheffler against the role of desert in the domain of distributive justice: a target of reactive emotions may differ from its propositional object. In actual circumstances, there may be many cases that involve the difference in question; the target of such feelings and its propositional object might be coincident—sometimes simply inconsistent. However, this is not a problem with my dispositional construal of reactive attitudes, for reactive attitudes, so understood, are essentially judgment-sensitive, in that they count as appropriate only if they are formed impartially under the impact of relevant information. This judgment-sensitivity has an important implication in coping with Scheffler's criticism. The reason is that were our beliefs sufficiently informed and impartially formed about the propositional object, then our judgments in the light of which

emotions of a reactive sort could be displayed in the circumstances of justice would tie their target to its propositional object. Reconsider the example of our feeling resentment at those who are the beneficiaries of a breach committed by someone else. I think this to be a case in which we are not informed enough of the facts about how the beneficiaries receive such benefits (knowingly or unknowingly, directly or indirectly), and of the facts about the relationship between the beneficiary and the person who breaches our shared normative expectation (close or not). Under the impact of warranted information about these details, however, our judgments would be made differently: our indignation would be directed aptly at the person who commits the breach (and the beneficiaries as well). Were we carefully attentive to the dispositions constitutive of our reactive attitudes of an informed and impartial kind, it would seem that the target of our reactive attitudes is identical to their propositional object.

6. Summary

This chapter has demonstrated the conceptual unity of egalitarian justice by an appeal to the conception of desert. As I have shown, the difficulties with respect to the desert-responsibility thesis in particular can be defused if the two synthesised principles of egalitarian justice are incorporated into the desert bases. I also argued that the normativity of egalitarian justice that grounds *prima facie* moral duties to deserving parties can be tracked by the appropriate conception of reactive attitudes: our reactive attitudes can serve as the mechanism through which we come to a realisation of *prima facie* duties to the deserved, given that our reactive attitudes are construed dispositionally such that they are formed impartially with pertinent information in the circumstances of justice. We have seen that the content of reactive attitudes can be explicated in terms of our shared normative expectations

that are held to people in actual circumstances: were the shared normative expectations unmet then the people would prompt our reactive emotions of an informed and impartial kind. I then showed that this construal of reactive attitudes as residing in the two combined desert bases can deal with Scheffler's criticisms against the role of desert in the practice of distributive justice. The further strength of my argument is a point to which I turn in the next chapter, by putting my argument to the test of how plausibly moral duties to people in great need can be grounded in the desert-sensitive egalitarian theory of justice.

Chapter 6

Basic Needs Trump Desert?

1. Introduction

In the last chapter, I argued that a conception of desert underpinned by the two egalitarian principles grounds *prima facie* moral duties owed to deserving parties, whether direct or indirect. As explained, the normative force of desert can be captured by our reactive attitudes, if dispositionally construed such that they are formed impartially with pertinent information. To the preceding chapter I have demonstrated that moral duties as such echo the regulative political ideal of human equality that all people are of equal worth, in two respects: first, a pluralism of the two egalitarian principles (incorporated into the conception of desert as the two desert bases) allows for the normativity of simple equality, so that simple equalisation may be favoured even in cases in which an agent's responsibility is obvious. Second, more crucially, the restricted understanding of people's responsibility for substantive inequalities on the basis of the Responsibility-Based Principle of Inequality alleviates sufferings of substantive inequalities in actual circumstances. So if this is schematised as desert-sensitive egalitarianism, not only can we avoid the inhumane treatment of people who face their unequal positions, but any improper way of arranging a pattern of redistribution can be excluded.

With these results in mind, this chapter aims to examine how plausible my desert-sensitive egalitarianism is. The most relevant way of accomplishing this task, I think, is to scrutinise whether the needy can be treated appropriately in the desert-sensitive egalitarian scheme. It goes without saying that a duty to the needy is that which no one can convincingly turn down. In other words, how plausibly the duty in question can be espoused is a fundamental test to which any egalitarian argument should be put. In this chapter, I thus attempt to show how plausible my argument is by going over whether and how reasonably my desert-sensitive egalitarian theory of justice can guarantee the duty owed to those in dire need. For these purposes, in Section 2 I elucidate the concept of basic needs that delineates when people are in great need. In the next three sections, I wish to show that no arguments for the robust normativity of basic needs can defeat my desert-sensitive egalitarianism. In Sections 3, 4, and 5, I take up three arguments: the compassion argument, the vulnerability argument, and the urgency argument. I then demonstrate that none of them can offer a more plausible account of what we ought to do for the needy. In defence of my perspective against these arguments, I show that the desert-sensitive egalitarian view can allow for the normative space of basic needs in a suitable manner: my argument passes the test with a better score.

2. The Concept of Basic Needs

In order to explicate the concept of basic needs, let me start by observing a few characteristics of needs by contrasting needs with desires. Because needs are often confused with desires, this contrast helps clarify what makes (basic) needs conceptually salient. Consider the statement “I need a car.” In ordinary discourse, this might often be taken as identical to the statement “I desire to have a car.” By examining these two statements carefully, however, we can see two main

differences between needs and desires. First, the needs statement may not be tied to a subject's perceptual experience, while the desires statement must be: when I stand in need of a car in the countryside, it could be that such a need is neither intended nor felt by me. This shows that needs are not always evident to all agents, whereas desires are those which they can perceive more or less as mental states.¹ Second, needs are explained by a certain end for which something is needed (whether an agent is aware of the needs or not). More precisely, what is needed is a means for a goal that is evaluated from a *(quasi-)objective point of view*.² For instance, the statement "I need a car" must be followed by an end of some objectively evaluative kind which gives rise to my need; 'for a comfortable life in the countryside' is of this kind. Note that this objective evaluation of the end, as theorists of needs often maintain, may itself go beyond contingencies of any kind on reality and feasibility in the countryside of our contemporary age, even though the substantive content of this need is in part relative to the social context at a given time.³ On the other hand, if someone says, "I desire to have a car," we can interpret it as designating her desire to own a vehicle in an elliptical way, regardless of whether its evaluation is subjective or (quasi-)objective.⁴

¹ See Wiggins (1987: 6): "What I need depends not on thought or the workings of my mind (or not only on these) but on the way the world is." Note that needs, so defined, should not be confused with drives. Needs for an object do not always drive a person to get it physiologically. For instance, to say that everyone needs education, regardless of his or her perception, does not mean that an organism causally drives his or her to receive education (Thomson 1987: 13-15).

² See, e.g., Frankfurt (1984: 3), Griffin (1986: 41-42), and Barry (1965: 48).

³ See, e.g., Sen (1984: 332-338; 1992: 108), Wiggins (1987: 11-23), Miller (1999: 212-213), Alkire (2002: Ch.5), and Reader (2006: 340).

⁴ I do not deny that a goal, objectively specified, is not normally questioned in the needs statement. We do not always have to clarify a goal for which we need something essential, such as the avoidance of harm or death, since it is too obvious to put it in that way. For discussions of this point, see Thomson (1987: 18-22) and Miller (1999: 317).

These characterisations of needs bring us into the distinction between instrumental needs and basic needs: some needs are just instrumental such that a goal for which something is needed is that which we can reasonably choose or even dispense with, whereas others are not derivative from any particular goal but instead are intrinsically linked to our being human beings—human nature, say. Only the latter can be called ‘basic needs’. In other words, our basic needs, unlike instrumental ones whose purpose is reasonably choosable or dispensable, are defined such that their end is inescapable and ineliminable as far as we live as human.⁵ Of course, as in cases of needs *simpliciter*, how the basic needs are satisfied may well differ at various levels, such as the levels of individuals, societies, and times. The point is that meeting the basic needs involves a global goal for which we are destined to aim as long as our life can be seen as human.

This definition seems equivocal. It requires more clarification of what makes the claims of needs depend upon the intrinsic nature of human beings. My way of clarifying what makes needs basic follows the traditional way of understanding basic needs. What is ultimately essential for the human nature in claims of needs can be stipulated in a negative way: people are inhumanely *harmed* unless their basic needs are met.⁶ In other words, unmet basic needs violate a minimal decency of humankind, to the extent that no individuals can remain unharmed in their life. But what constitutes the harm in question, as distinct from all sorts of other harms we human beings can suffer that are unconnected to basic needs? There are, I think, two sources of the harm by which a person’s minimal decent quality of life might be undermined.

⁵ See, e.g., Griffin (1986: 42), Thomson (1987: 17-18), and Reader (2006: 344-345).

⁶ As a matter of fact, this way of defining basic needs has gained many supporters. Among them are Feinberg (1973: 111-112), Miller (1976: Ch.4; 1999: Ch.10), Thomson (1987), Wiggins (1987: Ch.1), Doyal and Gough (1991), and Alkire (2002: 158-160).

First, it is widely recognised that some basic needs are uncontroversially delineated such that the avoidance of serious harm is linked to “the fact that we must ail and eventually die without food, water, and air.”⁷ In other words, the fundamental inescapability of basic needs points foremost to a *biological minimum*, which constitutes goals all humans must pursue if they are to avoid serious harm. Although the possession of biological needs does not automatically render its subjects distinctly human beings, they are vital for any human being, for they must be met for any normal exercise of rational capacities, including higher-level capacities to engage in healthy practical reasoning and social affiliations (which, as I will argue below, are germane to the second source of the serious harm). No one seems to deny that the fulfilment of biological essentials is a minimum requirement for carrying out the capacities to make rational judgments and choices.⁸

It might seem that satisfying these basic needs is not a real problem for humankind. This is wrong for two reasons, however. First, there are still millions of the desperate who are under the influence of malnutrition and have no access to fresh water in many of the developing (and part of the developed) countries. We should note that the importance of our emphasis on people’s biological functionings does not disappear even in cases in which the desperate do not actually feel deprived or are not aware of deprivations. As I argued above, needs

⁷ Thomson (1987: 27).

⁸ There might be exceptional cases in which a person can enjoy their higher skills or talents while being in dire needs; for instance, some novelists could write fabulous novels only in a squalid situation. In egalitarian debates, however, we do not have to deal with those cases for two reasons. First, whether people succeed in achieving their own overall good does not matter much. *Pace* perfectionists, egalitarians can appeal to a modest standard of well-being, whatever the metric is. Second, and more important, the significance of biological needs resides in our *capabilities* to lead a human life, not in whether the satisfaction of the needs is demanded for a certain kind of life or not. We thus can say that meeting biological functionings is normally required for the achievement of higher capabilities. Cf. Griffin (1986: 47-55).

are not subject to whether people perceive a needy state. This has a further implication: even in circumstances in which individuals' biological needs are currently met, as in many developed countries, the biological needs should count as fundamental in society. The importance of meeting them is not absent insofar as there are potential threats of serious harm, no matter how impending the threats are. Recall that many victims of Hurricane Katrina suffered—some are still suffering—the devastating effects in southeast Louisiana and Mississippi of the United States, in a way that their biological needs were left unfulfilled. Second, the biological minimum has a relevant appeal to health care needs without any detour through social norms. For the biomedical model of health defined as the absence of disease, which means deviations from normal functionings to be met for exercising rational capacities, provides an empirical basis of qualifying any physiological disturbance in the natural functionings of the human organism as detrimental to us. Although what this empirically confirmed model implies should not be exaggerated, establishing the health care system can be seen as a natural extension of the appeal to biological needs that people could reasonably accept in contemporary society.⁹

Obviously enough, the biological minimum, thus defined, does not exhaust all basic needs. The biomedical model is not sufficient for the full account of basic needs whose goals can be neither evaded nor eliminated by human beings, for there is no difficulty in finding those needs in other species. We should thus clarify the second source of the peculiar kind of harm that comes from having basic needs

⁹ See Daniels (1985: 28-32; 1996: 185-187), for this argument. Note that what the biomedical model says is weaker than the WHO definition of health: 'a state of complete physical, mental and social well-being, not merely the absence of disease and infirmity' (see <http://www.who.int/about/en>). This shows that the model in question identifies the most fundamental class of basic needs that are indispensable for survival and thus essential for any human being.

unmet. Here I insist that the second source has strongly to do with an essential class of capabilities that must be satisfied in order for an agent to act *autonomously* in any form of social life. This is easily confirmed by observing that a person's quality of life would suffer were her autonomous conditions impaired, even in cases in which she is provided with all manner of material comforts (for example, many women's lives in a patriarchal society). This proposal, I believe, gains consensual support from many theorists who find the moral significance of basic needs: Len Doyal and Ian Gough, for instance, say that a fundamental human need in addition to the biological one is to be autonomous in a minimum sense—"to have the ability to make informed choices about what should be done and how to go about doing it";¹⁰ David Copp says that the ground of basic needs must be one that everyone must be a "rational and autonomous agent" who "at a minimum, has the ability to choose how he shall live his life on the basis of his values he has formed, values that he has the capacities to evaluate and to pursue";¹¹ and Amartya Sen and Martha Nussbaum's conception of (basic) capabilities in significant part echoes what is required for an individual to be an autonomous citizen, which relates strongly with her capacities to achieve objectives she has reasons to value.¹²

These views can be epitomised in my own terms: the minimum requirements for an autonomous agent are those by virtue of which the agent can exercise minimal capacities for rational decisions and act upon them in the expectational

¹⁰ Doyal and Gough (1991: 53).

¹¹ Copp (1993: 123).

¹² Sen (1992; 1993) and Nussbaum (1992; 1993; 1999). As is well known, there is a difference in their approaches to basic human capabilities: Nussbaum makes a list of basic capabilities, most of which are required for autonomous action, such as a capacity to engage in practical reasoning and a power to form affiliations (Nussbaum 1992: 216-223; 1993: 263-265; 1999: 41-42). Sen, on the contrary, is sceptical of the further specification of basic capabilities, since it demands completeness of such a list that is theoretically and practically difficult to satisfy (Sen 1992: 45-49; 1993: 46-48).

terms. Although there may be subtle differences that the specific versions of basic needs have, all of them, I think, can reasonably espouse my synoptic view. What my view delineates, I take it, is based upon an overlapping consensus about the minimum conditions of an autonomous agent.¹³ In sum: our basic needs are identified with the biological functionings, plus other central human capabilities defined such that any failure to meet the needs deprives people of their human decency as autonomous members of society.¹⁴

To this point it has been argued that the nonfulfilment of basic needs is a seriously harmful state in which no individuals can enjoy a minimally decent quality of life. The concept of basic needs, so understood, includes not only the biological minimum but also the basic capabilities required for the autonomous exercise of capacities to make rational decisions and implement them. With this in hand, we might easily see the normative force of basic needs. There seems little difficulty in showing how cruel it is when the severely deprived are left unhelped. As a matter of fact, many contemporary egalitarians take the normativity of basic needs for granted. Among such egalitarians are sufficientarians who claim that all people should have enough, and prioritarrians who claim that all people's lives should be leximinized.¹⁵ For these egalitarians, various as their positions are, the

¹³ For the notion of an overlapping consensus among different arguments over a concept, see Rawls (1993) and Nussbaum (1999: 40).

¹⁴ Some might question my proposal of including basic human capabilities as the component of basic needs as such, on grounds that capabilities have richer connotations—more than commodities and passive states of standing in need (Sen 1984: 513-515; see also Alkire 2002: 170-174). My argument here does not deny the salient features of capabilities (if any), although I think that they should not be exaggerated. For a thorough discussion of this point, see Reader (2006).

¹⁵ On sufficientarianism (in a broad sense), see, e.g., Frankfurt (1987), Wolff (1998), Anderson (1999), and Crisp (2003). On prioritarianism, see, e.g., Temkin (1993: Ch.9; 2000), McKerlie (1995), and Parfit (2000). (See also Chapter 1.) Needless to say, there is a variety of these positions. For one thing, there could be a combined position which holds that people whose life is below the threshold

basic tenet may be simply that “the first priority of justice is to bring it about that every person gets a decent level of capability for each of the functionings that are needed for a genuinely good quality of life.”¹⁶ But not all of them have offered an ostensive argument of why meeting basic needs is the first priority of justice. It seems, however, that the relevant argument should be proposed for the priority in question.

As I see it, there are three arguments for the strong normativity of basic needs: the compassion argument, the vulnerability argument, and the urgency argument. But to examine only whether each argument shows the evaluative force of basic needs is not the main focus here, for the main aim of this chapter is to show how plausible my desert-sensitive egalitarian theory of justice is. More precisely, this chapter purports to show that my argument can provide a reasonable account for a moral duty to the needy. I thus examine these arguments in terms of whether each of them achieves better than my desert-sensitive egalitarianism, with respect to the helping of the direly needy. In doing so, I focus on whether we can forgo the consideration of an agent’s responsibility for being needy in the light of each argument, since the difference between these arguments and my proposal consists in whether responsibility should count or not. This attempt would have an impact on egalitarian debates, because the above-mentioned egalitarians—who presume, implicitly or explicitly, the normative force of basic needs—are inclined to go for the ‘trumping claim’: basic needs trump responsibility, or desert in general. In the following, I show that none of the three arguments can support the thesis that basic needs trump desert. I thereby demonstrate that my desert-sensitive

of human decency be prioritised over the worse off who are above the threshold unless benefits given to them are trivial or demand a huge amount of sacrifice (e.g., Anderson 1999; Crisp 2003; see also the next section). Although I do not deny such a variety, this does not affect my argument here.

¹⁶ Arneson (2000b: 47).

egalitarianism can appreciate the normative space of basic needs in a much better way than if any of the three arguments were employed.

3. The Compassion Argument

The first argument for the trumping claim is that we feel *sympathy* for people whose basic needs are unmet, whether they are responsible or not. This argument counters any appeal to responsibility in determining a pattern of egalitarian redistribution. So the compassion argument collides with my desert-sensitive egalitarian theory of justice.

To see this clearly, let me take up two examples. First, imagine a person who uses up his salary on gambling and then is starving. Given that he has rational capacities to a sufficient extent, it is argued, my desert-sensitive egalitarianism holds him blameworthy for his current situation, other things being equal. But it seems seriously inhumane to leave him to die simply because he is responsible for the situation. Another instance is a heavy smoker who has rational capacities for control over her craving to smoke. Suppose that she suffers from lung cancer through her smoking habit. In the desert-sensitive egalitarian view, it is argued, she is to be held responsible for the illness inasmuch as the cancer is caused by her habitual tobacco use, all else constant. Yet it seems cruel to give her no operation for cancer simply because she could and should have avoided contracting the cancer, even in cases in which the operation can be performed at reasonable cost. As these cases illustrate, it seems counterintuitive that the agents are denied any assistance that is necessary to lead a minimally decent life simply on grounds that they are responsible for their dire situation. Once we put ourselves into the shoes of those in grim situations, our compassion may well encourage us to help them out of the situations, since “compassion is based on an awareness of suffering, an

intrinsic condition of a person.”¹⁷ To give people their due on the basis of their responsibility-sensitive desert, irrespective of their dire plights, would give rise to such counterintuitive outcomes, contrary to the concern of our compassion.

The compassion argument, by contrast, directly appeals to the threshold at which the minimal decency of an autonomous life defined above is guaranteed over the course of that life. As Elizabeth Anderson argues, this has two directions at the policy level: negative and positive directions. Negatively, for the badly off suffering serious harm due to their dire situation, this argument helps to purge the differential effects of internal and external endowments. Positively, this argument promotes a secure way of treating people as equals, since people across the board are entitled to sufficient goods of society that make their life minimally decent.¹⁸ With the compassion argument at work, people are thus regarded as equal citizens who have supposedly moral powers and so enough capacities to participate in democratic and egalitarian self-government.¹⁹ It is important to note that in such a polity, all citizens are reasonably expected to exercise responsibility for their own fate above the decency threshold. Anderson writes:

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.²⁰

As such, this argument holds people responsible for any loss following from their

¹⁷ Anderson (1999: 306). Note that Elizabeth Anderson distinguishes compassion from pity: unlike the former, the latter is “aroused by a comparison of the observer’s condition with the condition of the object of pity.” In other words, pity stands in the observer’s superiority to a sufferer, which should be sharply distinguished from judgments based on compassion that is a more aptly egalitarian emotion towards the object (Anderson 1999: 306-7).

¹⁸ Anderson (1999: 312-313).

¹⁹ This argument obviously reflects Rawls’s notion of moral agents who can shape and fulfil a conception of their own good (Rawls 1999: Ch.10).

²⁰ Anderson (1999: 327).

improvident acts, unless this loss puts them below the threshold at which their basic needs are met. Hence, the compassion argument is not as lenient as egalitarianism of a simplistic-sufficientarian kind.²¹

It might seem that the compassion argument is more attractive than the desert-sensitive egalitarian view, since it is not only far from egalitarianism of any lax sort but also directs policies of a more humanitarian sort than those based on any responsibility-catering argument, including mine. In the following I show that this is not the case.

Let me first emphasise that my desert-sensitive egalitarian conception of justice does not consist only of a single desert base which is of one cloth with the consideration of responsibility. On my argument, there is also an equality-relative desert base that derives its normative force from the value of simple equality in itself. In other words, the two desert bases are pluralistically placed in egalitarian justice, which may favour simple equalisation that would lead us to rescue the needy, even in the circumstances of justice.²² We should also note that this is promoted under the regulative political ideal of human equality, since the situation in which those who fall into dire straits may well contradict the idea that all people are of equal moral worth. The further—and most important—point is that as the compassion argument does, my argument also allows reactive emotions such as sympathy to enter into our responses to those in dire need. Recall what I argued for the relevant construal of reactive attitudes in Chapter 5: the conception of desert is closely linked to our reactive emotions such that our imaginative occupying of another's viewpoint drives us to feel sympathy towards them and so feel obliged us to do something for them (if we can). This stance can be fleshed out in such a way

²¹ A similar view is supported in Crisp (2003). Cf. Arneson (1999a; 2000a; 2000b).

²² See Chapter 2, Section 3, and Chapter 5, Section 2.

that our sympathetic feeling is aroused if our shared normative expectation about the treatment of the needy is breached.²³ The desert-sensitive egalitarian scheme thus does not deny the significance of sympathetic emotions that can serve as the relevant mechanism through which we discern our duty to the seriously needy, however indirectly.

But what is distinctive about my desert-sensitive egalitarianism is that it signifies the role of an agent's responsibility that purports to justify substantive inequalities of many kinds. For this reason, my argument seems problematic in that the destitute poor may not always be rescued, unlike the compassion argument under which the rescue is always promised. So some might think that as long as an agent's responsibility matters, the desert-egalitarian scheme often runs contrary to the phenomenology of sympathy. However, the reality is opposite: my argument could underwrite the appropriate role of compassion—even reactive emotions in general—more promisingly than if we appealed to the compassion argument.

Consider a gambler who depletes his income on gambling. Suppose he is fully capable of making autonomous decisions and act upon them. Suppose also that he receives a truly good job offer. He, nonetheless, continues to gamble. Now imagine that we employ the scheme under which the basic needs of anyone will be met whenever they turn out to be unsatisfied. Under this scheme, we must promise to satisfy the basic needs of the gambler in question. Naturally, he comes to know through consecutive gambling that the government rescues him whenever his basic needs are actually unmet. It then could be that he gambles forever. We now should ask ourselves: can we feel compassion for him when he is deprived of basic needs? I doubt it. To say the least, this case shows that social policies of this kind that meet basic needs without counting an agent's responsibility for being worse off do not

²³ See Chapter 5, Section 4.

necessarily resonate with our reactive emotions. Rather, our reactive emotions may indicate that the ‘convinced’ gambler should not be acquitted, lest his indulgence in such a debauched life be encouraged. It thus seems that the compassion argument cannot fully cover these emotional states of a relevant kind.

What the case of the ‘convinced’ gambler illustrates is that we may not feel strong compassion for this gambler, on grounds of his responsibility for lapsing into the needy state. My desert-sensitive egalitarianism that resides in the desert-responsibility thesis can appreciate this point. Let me get back to the Autonomy-Based Principle of Responsibility, which embodies a plausible understanding of responsibility. Under this principle, the ‘convinced’ gambler is inescapably responsible for being needy for three obvious reasons. First, his capacities are rational enough to resist a series of choices of gambling, in such a way that his craving for gambling is sensitive to beliefs of a rational and informed kind. Second, his being worse off is the consequence he could have reasonably expected to obtain were he to gamble. Third, he could have chosen the reasonable option—the good job offer—that would certainly guarantee a decent life other than gambling.²⁴ It is not deniable that his responsibility deadens our sympathetic feeling towards him. On my argument, this can certainly be reflected in the desert-sensitive egalitarian scheme which allows that compassion be not strongly evoked in cases of this sort, since our relevantly formed reactive attitudes can track what his responsibility specified in the above-mentioned way bears as the relevant desert base.

Moreover, the strength of our sympathetic emotions that motivates actions for the avoidance of cruelty can be captured by the expectation-sensitive

²⁴ See Chapter 3, for the full account of the conditions of responsibility of this kind.

interpretation of reactive attitudes.²⁵ Our reactive emotions would vary depending on our judgments about what the destitute did. Indignation felt in observing the responsibly worse off could not be evinced as strongly as in encountering the unfortunately destitute, owing to the difference of our shared normative expectations about them. My desert-sensitive egalitarianism correlates this difference closely with the conception of responsibility, given that our reactive attitudes are shaped impartially with relevant information about how much an agent is responsible for being worse off.²⁶ We can point to the undeniable fact that while the ‘convinced’ gambler is pretty much responsible for the worse off outcome of gambling, he is extremely badly off. This means that we may well feel some compassion for him because of his hardship, but the compassion may not be as strong as that invoked when we face a gambler who has an unfortunate background: our shared normative expectation would be seriously violated if the unfortunate gambler is left unaided, whereas it would not be violated much in the former case. This, I think, suits our considered judgments about the treatment of the ‘convinced’ gambler.

Some still might complain that there is no guarantee that the responsibility-catering form of desert-sensitive egalitarianism cares *always* for the needy. It thus might seem that my argument would advocate cruelty because it may promote a different treatment of the needy on account of their responsibility. In response, recall that the Autonomy-Based Principle of Responsibility allows for the inequality-appeasing role of proportionality that bears mainly on an agent’s capacities in actual circumstances: because no one can be fully informed and

²⁵ See Chapter 5, Section 4.

²⁶ Note that, on my argument, our reactive attitudes are narrowed down to the informed and impartial class, which can be dispositionally construed. For the detailed account see Chapter 5, Section 3.

rational, no one can be fully responsible for any outcome of choice. This is empirically confirmed by the psychological experiments of how (relatively well-educated) people make a decision under risk: it reveals the imperfection of our rational capacities for framing choice alternatives and outcomes, which is far from what an ideal agent would do on the basis of her perfectly rational preferences.²⁷ This is particularly relevant to the consideration of the extent to which people are less than fully rational and so affects our corresponding emotions towards those people, no matter how rational their capacities are. Given that our reactive attitudes were formed impartially with the relevant information, we would feel compassion of the apt kind for the badly off, even in cases in which they seem to possess rational capacities of an effective kind. This directs us to discharge a duty to the badly off in question, even when they might not be prioritised over the unfortunately worse off in some marginal cases.²⁸ My argument thus does not deny the role of our compassion for any needy person in actual circumstances, on the one hand. My argument, on the other hand, can plausibly account for the prioritisation of rescuing people who are not responsible for their dire straits over the faulty desperate, in such a way as to fit with the strength of our sympathetic emotions for each needy individual.

Some still might object to my argument, to the effect that even under the strictly narrowed understanding of responsibility, there could be almost perfectly rational agents who are nearly fully responsible for falling into dire plight if they choose. Suppose that the ‘convinced’ gambler is one such person. The objector might say, then, that under the desert-sensitive egalitarian scheme, he could be left

²⁷ By referring to Kahneman and Tversky (1986; 2000), I have argued that this provides a good reason to help the badly off of any kind in the actual circumstances. See my response to the third question in Section 8 of Chapter 3.

²⁸ See also the next section, for this point.

to die because of his responsibility. It might seem very cruel not to aid in his subsistence simply because his capacities are almost perfectly rational and exercised in the presence of full and pertinent information. What would my desert-sensitive egalitarianism say about this? The immediate response is that the regulative political ideal of human equality may well push us to rethink the plight of such nearly fully rational but destitute persons, notwithstanding their responsibility, on grounds that all people are of equal moral worth. Here again, my desert-sensitive egalitarian conception of justice constitutes the two pluralistically synthesised desert bases underpinned by the two principles of egalitarian justice, one of which disfavors substantive inequalities per se—the Principle of Baseline Equality. This is a moral ground of our compassionate feelings that are prompted in the face of an individual's sufferings from the badly off state. As I argued above, my argument can fully embrace this.

Some might not be persuaded by this response: it is logically possible that my argument holds perfectly rational agents fully responsible for substantive inequalities and so may leave them unhelped should they be truly needy in the name of egalitarian justice.²⁹ Even if this could be rarely obtained in actual circumstances, it is argued, there might be an undeniable possibility that these agents are fully responsible if they possess perfectly rational capacities and the option of leading a decent life is presented with full and relevant information. To be sure, we can realise that the world in which people are fully rational is possible; in such a world, we might have to hold those people fully responsible even in cases in which their basic needs are unmet. This, however, brings me to ask a question in

²⁹ The situation I am describing here might seem logically impossible, because no one would intentionally act irrationally if fully rational and perfectly informed; the very fact he does it proves that he is not fully rational indeed. But it then simply means that the proposed objection to my argument fails, since it is now admitted that there is no such a possibility.

return: if people are *really* fully informed and perfectly rational, do we *really* think it unduly harsh to hold them fully responsible for being worse off? I think not. To see why, consider a perfectly informed gambler, Jensen. He is a fully informed and intelligent gambler. He can know exactly what will happen if he devotes himself to gambling. Also he can choose otherwise: he can make decisions and act upon them in the light of his rational beliefs and informed desires. However, he squanders money on gambling and is then starving. Would we really think it merciless not to rescue him? I doubt it, because he has absolutely no trouble in avoiding the choice in question. His distress may not elicit our sympathetic reaction, since it is suffered through his inexcusably deliberate fault.³⁰ From this, of course, we cannot—obviously should not—jump to a conclusion that no one can be morally faulted for refraining from helping Jensen. What this case shows is rather that there is a far-reaching gap between the ideal circumstances in which Jensen-like people exist and the actual circumstances in which we are standing—the gap that my perspective signifies. The point is simply that we cannot forgo the consideration of responsibility at root.

Notice also that my desert-sensitive egalitarianism does not deny that there is room for a principle of humanity which is connected to our charitable motivation to help any badly off person. In other words, even in cases in which Jensen-like agents are fully responsible for being needy, there remains an irremovable fact that the moral requirement of simple equality cannot be met. This may well drive us to do something supererogatory for them. Although my argument does not deny the praiseworthiness of supererogatory acts, it emphasizes that this motivation should be

³⁰Note that this resonates with even what Nussbaum says when she reminds us of the significant role played by compassion in ancient Greek analyses: she regards “the belief that the person who is suffering did not cause the suffering by *deliberate fault*” as one of three cognitive requirements for causing compassion (Nussbaum 1992: 237; emphasis added).

separated from moral duties that egalitarian justice holds.³¹

4. The Vulnerability Argument

The second argument that allows basic needs to enjoy some normative precedence over responsibility is that those who are in dire need are *vulnerable*, whether they are responsible or not. Robert Goodin pioneers this argument. By vulnerability, he roughly means susceptibility to potential threats of harm, manmade or natural, which includes not merely physical damages, but rather infringements of vital interests. To see how this argument grounds moral duties owed to the needy, it is important to address two points about the definition of vulnerability. First, vulnerability is a relational concept in that the vulnerable are dependent upon someone (to *whom* people are vulnerable) for something specific (with respect to *what* the people are vulnerable). For instance: a train passenger is dependent upon an engineer for her safety en route to her destination; tenants are susceptible to the decisions by their landlord; and so on. Second, vulnerability, so defined, implies that, in most cases, people being depended upon are in the best position to protect the vulnerable, since those people normally if not always have a better or even exclusive capacity to protect the vulnerable from some threatened harm. To illustrate: surgeons at a hospital near the car accident are best able to treat those seriously injured by that accident; both parents and teachers have great impact on children for their healthy growth; and so forth.³² The principle of protecting the

³¹ For presentations of a similar view, see, e.g., Rawls (1971: 191-192) and Campbell (1974; 1988: Ch.1). See also the last paragraph in Section 4 of Chapter 2.

³² This might seem circular, since the vulnerable are defined as those who ought to be relieved of threats to harm if this can be done without special difficulties. But Goodin rejects this circular objection (Goodin 1985b: 124-125). He argues that the vulnerability argument stands at the second-order task of weighing moral considerations that currently concern us. The social fact that the

vulnerable thus enjoins more than abstaining from acting in such a way as to assault them, for, under this principle, people being depended upon should incur moral duties flowing from the fact that the dependent are the vulnerable, whether the depended intend to harm the dependent or not.³³

The vulnerability argument, so understood, can be considered as a robust argument for the normative force of basic needs for three reasons. The first has to do with the conceptualisation of basic needs that has been done above. Recall that basic needs are defined negatively such that people are inhumanely harmed unless their basic needs are met. Obviously enough, this way to delineate the concept of basic needs resonates with what vulnerability means, because, as we have seen above, the vulnerable are those who face serious harm of an impending kind. The vulnerability argument thus can fully apply to cases of the needy. Second, what makes basic needs distinctive is captured well by the vulnerability argument, in that the vulnerable are not simply regarded as those whose basic needs are not *actually* satisfied, but also as those who face *potential violations* of their basic needs, regardless of their perception of such threats. The emphasis upon the potential threats of unmet basic needs has an implication that the impending harm ought to be prevented in advance. Third, and most important, the vulnerability argument clarifies that the desperately needy are subject to actions or choices of

vulnerable exist is not the same state of affairs that the vulnerable people should be helped through some institutional scheme; only the latter follows from the vulnerability argument while the former does not (rather, the former is the state of affairs to which the argument in question should apply).

³³ Goodin (1985b: 32-35, 110-114; 1985c). Goodin thus argues that whether duties in question are positive—a duty to do something to help someone—or negative—a duty not to harm anyone—does not crucially matter to the vulnerability argument. More precisely, to bring the consideration of vulnerability to the fore would undercut the sharp distinction at stake, because this compels us to upgrade the moral status of positive duties that are indistinguishable at root from special duties of any kind (Goodin 1985b: Ch.2).

others, to the extent that they cannot behave autonomously. Here again, on the vulnerability argument, whether the others intend to inflict harm on the vulnerable or not does not crucially matter in holding them to have duties to the vulnerable. The vulnerability argument justifies the imposition of moral duties upon whosoever is in a position to help the vulnerable out of their dire straits. It is plain that such a position is taken directly by the social planners, and indirectly by us—through paying taxes, for instance—in contemporary society. Put another way, in most cases in which individuals' basic needs are potentially unmet, the vulnerability argument enjoins the welfare state to discharge an ultimate duty to meet them.

The implication of the vulnerability argument is that the government has a duty to the needy, regardless of their responsibility for being in grim states, especially in cases in which they can be protected without any substantive difficulties.³⁴ For this argument, Goodin distinguishes task responsibility from individual (or causal) responsibility. Task responsibility, as Goodin defines elsewhere, is the responsibility that is assigned to people in accordance with their duties, jobs, or (generically) tasks, from the minimally consequentialist point of view—namely in terms of whether the allocation as such creates socially desirable outcomes.³⁵ This is essentially forward-looking, unlike individual (or causal) responsibility that is concerned with what has been done, since the point is who is

³⁴ To be precise, the state's responsibility in question is activated only insofar as individuals are unable to satisfy their basic needs. Goodin's argument thus rests upon the fact that people individually should bear primary responsibility for attending to their own basic needs; so people should discharge primary responsibility for averting the harm that befalls them if failing to meet their own basic needs (Goodin 1985b: 145-154; 1985c: 784-785).

³⁵ Goodin has in mind a variety of consequentialist considerations (Goodin 1985b 114-117; 1995: 109-110). Although they are admittedly disputable, for present purposes, they should be left open.

best able to perform a task, in distributing duties to people.³⁶ The vulnerability of the needy has a direct appeal to the former, not to the latter. Goodin writes:

My argument is that task responsibility and causal responsibility are separable, logically, and should often be separated in practice. On my analysis, how *A* got into his present state is irrelevant. All that matters now is who is best able to get him out.³⁷

Consider, for example, a reckless driver who is wounded heavily. Although he is suffering through his headstrong driving, the vulnerability argument claims that medical practitioners who have no difficulties of any special kind in saving his life should treat him, since his salvation is within their hands in that they are the only agents who can operate on him. Should they not operate on him without any special reasons, they would not perform their duty to protect him from the preventable harm—his subsequent death. In the light of the vulnerability model which has recourse to task responsibility rather than individual (or causal) responsibility, we can thus engage in the consequentialist-wise distribution of moral duties to people (or the government), without any detour through detecting causal webs of each action with the view to the assignment of individual responsibility.³⁸

As Goodin admits, two desert-related questions immediately arise.³⁹ First, should we not ignore whether the needy fall into their current situation through

³⁶ More precisely, those duties incurred by people are defined in terms of the reasonable expectations people could hold in normal circumstances. Otherwise, it might be the case that we ought to protect other people from trivial harm or those who are in a far distant place (Goodin 1985b: 122-123).

³⁷ Goodin (1985c: 780).

³⁸ Goodin (1995: Ch.2, 81-113). But note that as I have argued mainly in Chapters 3 and 4, the ascription of responsibility to each agent is not unfeasible at all, if we have recourse to a relevant tax scheme. This, I think, undermines one of the strong reasons against individual (or causal) responsibility-based arguments of any kind, including mine.

³⁹ Goodin (1985b: 132-134; 1985c: 780-781).

their own improvident behaviours? It is intuitively plausible to say that the needy deserve the worse off consequence, as in the ‘convinced’ gambler’s case, insofar as the result is produced by their negligent actions. Second, why is a special duty to save the needy imposed upon *us* (through the governmental body), even in cases in which we have done nothing wrong towards them? The vulnerability argument urges us to bear an indirect burden with the protection of the needy simply because they are the vulnerable. Goodin responds to two concerns revealed in the form of the two questions, to the effect that “[b]oth claims ... extend the notion of ‘desert’ beyond its proper bounds.”⁴⁰ Goodin appeals to two analogical cases: as for the first concern, how the needy fell into their present state is out of place, *just as physicians are expected to treat the heavily injured equally, irrespective of their differential liabilities*. To the second concern, Goodin replies that whether a duty is imposed on us is not relevant to what the vulnerable deserve, *just as we bear the burdens of getting a drowning child out of a shallow pond*. By these two analogical examples, Goodin attempts to show that desert is out of place in accounting for the moral duty to the needy.

I want to scrutinise Goodin’s responses to the two desert-related concerns, especially in regard to his appeals to two analogical cases against the responsibility-sensitive part of desert. This is mainly because the careful examination of his replies enables us to see whether the vulnerability argument has more plausibility than my desert-sensitive egalitarianism has. In what follows I demonstrate that Goodin’s responses by analogy are too weak to justify the trumping claim, since he fails to compare the vulnerability argument with the argument that puts desert within its proper bounds. I show below that my argument can provide a more plausible account of what we ought to do in the two cases (and

⁴⁰ Goodin (1985b: 133; 1985c: 781).

other related ones).

Let me take the physicians case first. We must note that for the precise comparison of the two arguments in the physicians case, it is essential to bring out a contextual factor that makes this case special.⁴¹ Obviously enough, such a factor is *emergency* in a strong sense: the driver would quickly die were the operation not immediately done. As I will argue later, this is not representative of most cases debated in egalitarianism, because the case in which some immediate decision must be made cannot always be standardised in matters of redistribution.⁴² Although this fact may well pose a question concerning the relevance of the counterexample used for the trumping claim, I here accept this contextual factor for the comparison in question. Even then, we do not find any superiority of the vulnerability argument over the desert-sensitive egalitarian view. This is because, as in the vulnerability argument, my desert-sensitive egalitarianism requires physicians to perform the operations on those who are badly wounded even in cases in which their liability is undeniable. Here again, the Autonomy-Based Principle of Responsibility in its rough proportional construal allows that no one be fully responsible on grounds that no one is fully informed and rational. That is to say, the fact that no one could ever be fully rational and informed in actual circumstances assures emergency treatment of all people; so, if they did not receive emergency care, then they would be treated undeservedly.

It might seem that this guarantee is not firm enough. My response to this objection is threefold. First, as I argued above, this is empirically confirmed since there is the fact that the imperfection of our rational capacities is unavoidable,

⁴¹ For discussions of the role of contextual factors, see Kagan (1988) and Kamm (1996). See also Chapter 2, Section 3.

⁴² In the next section, I will argue that the emergency case is not typical as a case demanding the satisfaction of basic needs; nor are all basic needs relatively urgent.

especially when it comes to decisions under uncertainty. This is also affirmed in a different way: should the guilty driver really be fully rational and perfectly informed, as in the case of Jensen, our hunch then would be that he should be punished. This is because his reckless choice must have been made in ideal circumstances in which he certainly could have avoided the accident in question. This implies that in the less-than-ideal circumstances—our actual world—my desert-sensitive egalitarianism need not bite the ‘basic needs not being met’ bullet. Second, even if someone is very nearly fully informed and rational, the desperately needy may be rescued for some telic egalitarian reason, as in the case of needy strangers.⁴³ Here again, my desert-sensitive egalitarian conception of justice contains the telic egalitarian principle as the relevant desert base, which holds that all people deserve equal standings. This has pro tanto moral weight such that it may well favour immediate surgery based on the claim that all people should be equally well off, even in cases in which the patient’s responsibility is irrefutable. Note that this is neither ad hoc nor consistent, because our deliberation over the moral status of such an immediate operation should be conducted under the regulative political ideal of human equality.⁴⁴ Third, as was also already pointed out, my argument does not deny the benevolent principle of humanity that may dispose the surgeons to do a supererogatory act for the badly injured whose responsibility is indisputable even under the Autonomy-Based Principle of Responsibility. But we can see that this is unlikely, because my argument allows for the fact that no one should bear ultimate responsibility for being worse off even through the exercise of his or her rational capacities in the actual circumstances. To sum up: in the physicians case, a duty to save the undeservedly needy is morally

⁴³ See Chapter 2, Section 2.

⁴⁴ See Chapter 2, Section 4.

equivalent to a duty to help the badly off. Hence, this case cannot show moral differences of any salient kind between my desert-sensitive egalitarian argument and the vulnerability argument.

To show that my desert-sensitive egalitarianism can deal with the physicians case just in the same way as the vulnerability argument does, however, is not to show that the former is more plausible than the latter. So to see the superiority of my argument, let me consider a slightly different case in which another different—and much less standard—contextual factor is added: excessive scarcity. Suppose that two drivers are in a car accident at a tiny village. Both of them are badly wounded. An eyewitness can prove that one is liable for this accident because of his reckless driving, not the other at all. Unfortunately, surgery can be performed only for one seriously injured person, since there is one hospital which has only a few surgeons at this moment in the village. Those surgeons are informed of who is an absolutely negligent driver. Now the point to consider this extreme case that exemplifies emergency and excessive scarcity is that it provides a test by which we can clearly examine which argument is more generally plausible. The test result is this: while the vulnerability argument is indifferent to operating on either, my desert-sensitive egalitarianism claims that the less culpable patient be prioritised.⁴⁵ In this case, the property of a duty to save the undeservedly needy shows its own difference from that of a duty to help the needy in the vulnerability argument. As far as this extreme case is concerned, I think, this prioritisation of helping the faultless wins broader support; *pace* Goodin, an agent's exercise of responsibility matters in this extreme case.⁴⁶

⁴⁵ As a matter of fact, Goodin asserts that in cases of this sort, what we should do is flip a coin rather than examining the patients' records in treating either person (Goodin 1985a: 586-588).

⁴⁶ Goodin might say that we should not use extreme cases of this kind in political philosophy. This is because such cases "cannot directly inform policy choices. Either they are too thin or else they are

To avoid a misunderstanding, let me emphasise that the modified physicians case is far from a standard case of emergency treatment. We must note that this is an extreme case in combined conditions of desperate scarcity and emergency; so, this should be taken as a test case. Normally in accordance with existing codes from medical ethics from Hippocrates onwards, the drivers in question should receive medical treatment in the same way according to their injuries and needs, as long as the resources necessary for operations are available. Here again, the helping of the severely wounded is assured by the desert-sensitive egalitarian scheme, since my argument confirms theoretically and empirically that no one can be fully responsible in actual circumstances.

I turn now to the drowning child case that purports to show why *we* incur a duty to the needy, regardless of their personal responsibility. To distinguish this case from the physicians case where emergency is a distinct contextual factor, let me assume that there is enough time to rescue the child. It is absurd to deny that the moral duty ought be imposed upon those who can easily save the drowning child in this tragic situation. My argument does not gainsay the duty in question at all. According to the Autonomy-Based Principle of Responsibility, the duty in question is generated for the high likelihood that children lack capacities to make rational judgments about their own behaviour involving certain risks. The fact that children's own capacities are not rational enough in a non-culpable sense owing to their immaturity ultimately constitutes a compelling reason to help any child out of

overly rich in unrealistic detail." (Goodin 1982: 11). Fair enough. To recant the use of extreme cases does not change the main discussion here, however, for my argument can reasonably offer a certain aid to those whose life is in grim straits without acquittal of each person's responsibility in most actual cases: my argument places importance upon the gap between the ideal world in which full rationality obtains with perfect information and the actual world in which no one is fully informed and rational. See also the next paragraph.

the water.

My desert-sensitive egalitarianism indeed provides a better account of a duty owed to the drowning child, for the responsibility-sensitive conception of justice can appreciate our considered judgments that the relevant sense of responsibility ought to be acquired and developed for the growth of children. On my argument, the fact that the drowning child is devoid of capacities which are rational enough to have reasonable beliefs about the risky outcome does not fully exempt her responsibility proportionately assigned on the basis of the Autonomy-Based Principle of Responsibility. Unlike the vulnerability argument that is not essentially concerned with individual responsibility, my desert-sensitive egalitarianism can give endorsement to this line of thought, in the form of appealing to the degree to which this child should take the responsibility: the responsibility is roughly proportional to the degree to which the child should acquire rational capacities for not making the same kind of error in her growing process. One essential role of proportionality—the responsibility-reflecting role of proportionality—in the Autonomy-Based Principle of Responsibility clearly supports this.⁴⁷

It might be wondered if this desert-based account for saving the drowning child is true of cases in which an adult is drowning through his fault and can be rescued by someone nearby without any substantive difficulties. My response is yes, for the drowning adult should be saved from the pond on grounds that no one could be fully responsible, even if this adult has rational capacities of a sufficient kind. Here again, this is ultimately secured by the desert-sensitive egalitarian scheme. On the other hand, we might want to blame this person to the extent that her capacities are rational enough to avoid falling into such an improvident situation. Our considered judgments, for example, may be that the drowning

⁴⁷ See my reply to the second question in Section 8 of Chapter 3.

person should bear its full cost—compensate a rescuer for wet clothes—after the rescue. My desert-sensitive egalitarianism justifies this claim, while the vulnerability argument cannot in its own terms. Unlike the vulnerability argument that is theoretically cost-insensitive, my argument is cost-sensitive in such a way as to track an agent's responsibility in a rough proportional sense.

Let me summarise my contention here. The desert-sensitive egalitarian theory of justice appropriately mitigates miserable consequences of any sort, as in the vulnerability argument, by virtue of my proposed conception of desert that can be put within its proper place in egalitarian justice. In the desert-sensitive egalitarian scheme, the fact that no one could be perfectly rational and informed warrants moral duties owed to the needy who are therefore not fully responsible for their dire straits in actual circumstance: any physician should do an operation on anyone who is ferried to her hospital by ambulance; and any child should be saved from drowning by someone who is nearby and has no trouble with the rescue. Still, the duties borne by the surgeons and the rescuer do not exculpate those who are saved; for instance, the rescued might have to bear certain (proportionately ascribed) costs of the saving activities. Moreover, in conditions of excessive scarcity and emergency, we cannot ignore the magnitude of their deservingness in a rough sense: the less responsible a person is, the less deserving she is of the worse off consequence. In saving only one injured person at an automobile accident, surgeons in a tiny hospital are compelled to give priority to the operation on a less responsible patient, given that they are informed of who is less liable for the accident in some way or other beforehand. In this extreme case, my argument can supply a more convincing account of a duty owed to the patients than the vulnerability argument, because their responsibility would matter.

5. The Urgency Argument

The third argument for the trumping claim is that it is *urgent* to rescue those who stand in dire need, whether they are responsible or not. According to this argument, the moral significance of basic needs is grounded in terms of the urgency of claims on basic needs relative to claims on mere interests or desires. Thomas Scanlon employs the criterion of urgency as an objective basis of measuring the relative weight of a person's preference concerning her truly significant interest in a given circumstance.⁴⁸ In this view, moral significance may well be assigned to a person's claims on basic needs, because it can be said that her preference for the claims on basic needs is formed in terms of her vital interest for survival. In the light of urgency, we can thus rank people's claims in such a way that claims on basic needs have some priority over claims of other kinds. What is special about this argument is its appeal to why we should assign particular importance to urgency as such. The concept of urgency in this argument involves a distinct sense of emergency in a way that is incorporated into basic needs themselves: meeting people's basic needs is of special importance *right now, not later*.

The urgency argument seems consistent with our considered judgments, in that there seems a fair amount of agreement with respect to the urgency of some fundamental class of basic needs.⁴⁹ The class of the biological minimum such as needs for food and water constitutes the urgency claims. It then might be argued that this leads us to prioritise the relevant principle which can justify the ubiquity of moral duties owed to people in urgent need, over any other moral principles (including my desert-sensitive egalitarian principles of justice). Scanlon calls this principle 'the rescue principle' which holds that "if you are presented with a

⁴⁸ Scanlon (2003: Ch.4). See also Nagel (1991: 68).

⁴⁹ See Sen (1993: 40).

situation in which you can prevent something very bad from happening, or alleviate someone's dire plight, by making only a slight (or even moderate) sacrifice, then I would be wrong not to do so."⁵⁰ What is distinctive about the rescue principle under the urgency argument is that it can allow for a relatively higher level of sacrifice and cost to aid in the subsistence of the needy, for the moral consideration of urgency that squares unmet basic needs with an emergency state commands immediate rescue in a way that would trump the considerations of culpability and cost even in cases of conflict between claims.⁵¹ The urgency argument thus seems more capable of instructing us to give immediate aid to those who are on the verge of starvation than any other arguments that are conditional on 'costlessness' or 'minimum costliness' for aid. This argument says, for instance, that one ought to save the drowning child if one can do so, regardless of whether the child's drowning is her own fault or not. One should also do so even in cases in which the rescue ruins one's fancy clothes. One might have to do so even if some (but not extremely high) risk should be involved in saving the child. Even this level of duty is anchored by the rescue principle because, otherwise, her vital interest for survival would be neglected.

There is no denying that the urgency argument can provide a plausible account of why some claims on basic needs have a strong normative force by an appeal to the rescue principle. As a matter of fact, there are obvious cases in which we can find eligible the urgency argument for the rescue principle, such as urgent necessity for international aid to reduce global poverty. My contention is that this does not itself refute the desert-sensitive egalitarian view I put forward. To see why, we should reconsider the essential component of urgency: the robust sense of

⁵⁰ Scanlon (1998: 224). See also Rawls (1971: 114-117).

⁵¹ Scanlon (1998: 225).

emergency. There are two points worth mentioning about this component. First, the strong sense of emergency on which the rescue principle relies is not always connected to central issues in egalitarian debates. Many cases discussed in the name of egalitarian justice are not typically those which require that we have a split second to decide whether to rescue an individual. For one thing, whether or how much the ‘convinced’ gambler should be compensated need not be treated as an emergency case, since in this case, unlike in the physicians case, no immediate decision on the treatment of his claim is demanded. The urgency argument, however, treats both any case involving some lack of basic needs and the drowning child case as exactly the same, because emergency in this argument is an essential property in claims on basic needs. Second, relatedly, not all basic needs are to be met urgently. As has been seen above, most biological needs may be defined such that the deprivation of those needs is of the emergency kind such as starvation resulting from global poverty. Nevertheless, not all basic needs are urgent in a literal sense. For instance: among the biological needs, treatment of chronic disease is not urgently required; nor may the need for some autonomous exercise of capacities for rational choice—practical reasoning—be described as urgent. Furthermore, some desires may be as urgent as some biological needs, such as “my desire to hear Pavarotti’s farewell performance next week.”⁵² If emergency itself carries moral significance as the urgency argument contends, then this desire should be signified in the same way. This seems absurd.

This does not deny that there are basic needs of an urgent kind, the dissatisfaction of which leads to immediate death. So it might seem that relevant claims on these urgent needs trump what the desert-sensitive egalitarian conception of justice prescribes. We can see that this is not so if we correctly understand what

⁵² Goodin (1988: 36).

the conception in question entails, however. Here again, my desert-sensitive egalitarianism tells us that we cannot hold anyone fully responsible for falling into the emergency situation, even in cases in which his or her culpable negligence is the main cause. Under the Responsibility-Based Principle of Inequality, a moral duty to help out the needy is nearly certainly guaranteed as the least that we should do. On the other hand, it is counterintuitive to allow the rescued to duck their responsibility, especially when they had an accessible alternative in which they would not get into the urgent situation. This can be reflected in the scheme under the Autonomy-Based Principle of Responsibility, by virtue of its proportional construal that ascribes a relevant degree of responsibility to the saved. This is, I think, a striking fact that my argument accommodates, whereas the urgency argument cannot in its own terms. In addition, my argument contains the telic egalitarian principle—the Principle of Baseline Equality—as the relevant desert base which stems directly from the value of simple equality in itself. Recall that the value of simple equality may well outweigh the desert-responsibility thesis in some situations. An appeal to the urgent needs can definitely be qualified as such cases; they must be satisfied immediately, whether the desperately needy are responsible or not. My whole theory of justice thus can appreciate any case in which the urgently needy must be helped, regardless of their responsibility.

Before closing, let me take one possible objection to the last point. It might be objected that in a situation in which all other people enjoy a slightly better level of well-being than the desperately needy, simple equalisation cannot have any implication of helping them and so fails to counter the trumping claim on some urgent needs. My response is that the situation in question is far from our actual world, because it includes a contextual factor of a non-standard kind: excessive scarcity of resources. Under this condition, achieving simple equality may not have

desirable influence in any respect. From this, however, it does not follow that simple equality does not have a desirable effect on the needy in cases of a standard kind. Of course, this case could be taken to be a test case for my argument, as in the modified physicians case. But taken as such, this will not challenge my desert-sensitive egalitarianism, for, as I argued above, my argument can deal with cases of this non-standard kind such as the modified physicians case: an agent's responsibility may have much heavier weight than that in a standard situation, to such an extent that it nullifies the desirability of simple equality. This is what my argument can support, while the urgency argument cannot.⁵³

6. Summary

This chapter has scrutinised whether my argument assures the normative space of basic needs defined properly, in terms of whether it can provide a more desirable account for the treatment of the desperately needy than other arguments for basic needs trumping desert. I took up the three plausible arguments for this trumping claim—the compassion argument, the vulnerability argument, and the urgency argument—and examined them closely. It turned out that they all fail to justify the trumping claim. By comparison, my desert-sensitive egalitarian theory of justice performed perfectly especially in some hard cases that the three arguments could not handle. I thus conclude that my argument not only guarantees a duty owed to the needy, but also treats them more morally acceptably than if any of the three arguments for the strong normativity of basic needs were employed.

⁵³ On this kind of context-dependency of a value or factor, see Chapter 2, Section 3.

Chapter 7

Conclusion

In this thesis, I have presented a desert-sensitive egalitarian theory of justice which contains three important proposals. First, egalitarian justice is a pluralist concept such that the two forms of egalitarianism—telic egalitarianism and deontic egalitarianism—each enjoy an important place in egalitarian justice. More precisely, these two forms can be formulated as the relevant principles of justice: the Principle of Baseline Equality and the Responsibility-Based Principle of Inequality. Further, I have demonstrated that these principles can be combined within a pluralist synthesis: all people should be equally well off unless they are responsible for substantive inequalities, given the circumstances of justice. As has been noted, the political idea of human equality—which can be accepted by all reasonable people as an uncontroversial second-order ideal—is not only appreciated by the pluralist synthesis of these principles, but also orients practical judgments of a consistent and harmonious kind, as far as is possible, should the two principles conflict. So in some situations, the telic consideration of simple equality may justly outweigh whatever considerations arise from personal responsibility.

Second, the particular specification of responsibility in the

Responsibility-Based Principle of Inequality helps us avoid any unacceptable implication with which the responsibility-sensitive construal of deontic egalitarianism has been charged. But in my view, no one can be held fully responsible for substantive inequalities. The principle I proposed insists that people should be attributed full responsibility only if they are fully informed and rational. Put another way, it is very likely that people are partially—not ultimately—responsible for being worse off in actual circumstances. Adopting this conception allows us to preserve the luck-egalitarian ethic while still appreciating the normative space of basic needs. Taken together with the telic egalitarian consideration, I have argued that the Responsibility-Based Principle of Inequality would guarantee a minimally decent life for everyone.

Third, as typically is the case for any theory of justice, my argument has revealed that the two principles of egalitarian justice can ground moral duties, direct or indirect, in contemporary society. I have argued that the conception of desert can embrace the two principles at stake in such a way as to defuse longstanding suspicions of the role of desert in our practice of distributive justice. The point of this appeal to the conception of desert, I have emphasised, is that our *prima facie* moral duties to deserving parties can be fully captured by the close link between each individual's desert claim and our reactive attitudes. This obtains only if those reactive attitudes are relevantly informed and impartially formed. I have shown that this construal not only echoes the circumstances of justice but explicates the content of reactive attitudes in terms of their expectation-sensitivity.

One of the virtues of the desert-sensitive egalitarianism I have proposed is that it preserves the luck-egalitarian ethic, which grants an essential role to responsibility judgments in egalitarian justice. I have demonstrated that there are three reasons that we can reasonably retain the luck-egalitarian ethic. First, my

argument is committed to a form of pluralist justice that has an egalitarian ground for equality; this commitment deals with the worry that responsibility itself does not provide any ground for an egalitarian pattern of distribution. Second, the deontic form of egalitarianism which is concerned with an agent's responsibility, on my argument, is carefully restricted in that responsibility is not fully held by anyone in actual circumstances. Third, our duties to do something for the deserved are assured by my argument because we discern our direct or indirect *prima facie* moral duties through our reactive emotions; these emotions can track what the principles prescribe only if they are shaped impartially with pertinent information. As such, my argument avoids the implausibilities that the desert-sensitive form of egalitarianism has been thought to engender. The luck-egalitarian ethic is upheld in such a way as to fit with our considered judgments about responsibility.

The practical upshot of this argument should be obvious. To take the notions of desert and responsibility in the way I propose would not commit us to any endorsement of existing inequalities in the actual market society. On the contrary, the desert-sensitive egalitarianism for which I have argued would very likely call for corrections of extant substantive inequalities. In particular, my argument enjoins that people who are not strictly responsible for being worse off be given redistributive advantages that would make their well-being closer to the baseline of equality. This shows that the role of desert and responsibility runs contrary to that which the right purport to delineate, for, on my argument, these notions lead us to appreciate claims of the worse off in actual circumstances. Furthermore, as I have argued, this can be actualised in a way that is schematised in institutional settings—such as the relevant tax scheme—under which we can feasibly impose endowment tax based on the partition of the population in terms of the circumstantial factors. This move radically undermines the feasibility concern that

the right often use as a response to egalitarian arguments, including mine. It now should be evident that we can rob them of this weapon.

What I have discussed throughout this thesis, of course, only provides a plausible conception of egalitarian justice that deploys the three major notions—equality, responsibility, and desert—in the right places. No fuller defence of this theoretical conception of egalitarian justice has been offered as competing with and finally defeating different kinds of theories of justice, including anti-egalitarian ones. Although it is my hope that the approach to egalitarian justice developed in this thesis could gain extensive support, there is a need to defend the desert-sensitive egalitarian theory of justice against the other kinds of conceptions of justice. That is a task for another time.

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