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Dignified Morality

(This is a pre-proof draft that will appear in *Jurisprudence* in 2015)

Matthew Clayton and Zofia Stemplowska*

POLITICAL AND PERSONAL MORALITY: ASYMMETRIES

A striking feature of *Justice for Hedgehogs*¹ is its asymmetric treatment of political and personal morality where the former concerns what we owe to each other in virtue of membership in the same political association and the latter concerns what we owe to each other beyond that. Since 1981, when he published his two groundbreaking articles on equality, Dworkin has developed and defended a radical conception of political morality, culminating in his book *Sovereign Virtue*.² The compelling core of that conception, which he calls ‘liberal equality’, is an account of equality that proposes that the good and bad effects of brute luck should be shared. Justice requires the political community to compensate citizens who are disadvantaged by biological endowment or social background. Accordingly, Dworkin argues for several radical proposals with respect to socioeconomic arrangements, including considerable redistribution from those lucky enough to possess marketable talent to the unlucky. He also

¹ Associate Professor of Political Theory at the University of Warwick, UK; Fellow and Tutor in Politics, Worcester College, Oxford, UK.

² Ronald Dworkin, *Justice for Hedgehogs* (Harvard University Press, 2011). Bracketed page references within the article are to this book.

³ Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality* (Harvard University Press, 2000). His two groundbreaking articles, ‘What is Equality?’ parts I and II are reprinted as chs 1 and 2 of that book.

proposes a steeply progressive tax on income from received gifts and inheritance, and revisionist but generous arrangements for those beset by ill health or disability.³

In *Hedgehogs* he introduces his chapter on equality by noting the ‘unconscionably great’ inequalities between rich and poor in economically developed societies and the considerable gap between the liberal egalitarian truth about political morality and the political practices of those countries. Notwithstanding the unwillingness of people to relinquish the wealth they accrue from market exchange, or to vote for policies that limit the intergenerational transmission of unequal wealth, Dworkin insists that ‘[i]t is nevertheless important to continue to trouble the comfortable with argument . . . At a minimum they must not be allowed to think that they have justification as well as selfishness on their side’ (351). His recommendation echoes the nice observation he made some years ago that ‘justice is our critic not our mirror’.⁴ Political philosophers should not identify principles of political morality by appealing to how we organise our political life around here, or by describing what citizens generally believe. Rather they must strive to articulate the best conception of what it means to treat individuals with equal concern and respect, if only to present it as a yardstick with which to measure how unjust or illegitimate our politics are.

³ *Ibid* chs 2, 8 and 9; Ronald Dworkin, *Is Democracy Possible Here? Principles for a New Political Debate* (Princeton University Press, 2006) ch 4.

⁴ Ronald Dworkin, ‘What Justice Isn’t’ in his *A Matter of Principle* (Oxford University Press, 1985) 219. That article was a critique of Walzer’s *Spheres of Justice* (Blackwell, 1983), which presented distributive justice as determined by the shared understanding within particular political communities of the point of different goods, such as education, health, citizenship, and money.

Whereas Dworkin offers radical proposals for political reform, his conception of personal morality is more conventional. He describes and endorses the main features of common moral opinion. First, he discusses the personal morality of aiding others. These are cases in which one has the opportunity to improve the position of others who are in need. Dworkin's focus is on those struggling in the absence of well functioning political or economic arrangements but with whom we have no special relationship.⁵ His view is that in aid cases our duties are sensitive to (a) the extent to which the individual will suffer if aid is not provided, (b) the size of the cost we would incur in helping and (c) the degree to which we are confronted by the problem, which turns on our spatial proximity to it and whether identifiable individuals will be helped by our intervention (274-280).⁶ Notably absent from this account of personal morality is the

⁵ Though the same considerations might bear on cases in which those in need of rescue are our fellow citizens but they are strangers and we are under no legal duty to aid them. Since Singer's article on famine relief, there has been an extensive literature devoted to so-called pond cases, cases in which an individual can save a victim who would otherwise drown in a shallow pond, with some, but not enormous, cost to himself. In these cases it is often stipulated that there is no legal duty to save the victim and, given that stipulation, most claim that there is a moral duty to rescue, in at least some variants of the case. See Peter Singer, 'Famine, Affluence and Morality' *Philosophy and Public Affairs* 1 (1972): 229-243. In these cases, whether or not the victim is a fellow citizen does not, according to most views, make a difference to our moral duties. Dworkin does not, as far as we are aware, discuss moral duties to rescue co-citizens in pond cases. In particular, it is not clear whether he concurs with David Miller in believing that our moral duties to rescue fellow citizens are more demanding than our duties to rescue non-citizens. See David Miller, 'Cosmopolitanism: A Critique', *Critical Review of International Social and Political Philosophy* 5 (2002): 80-85 and, for related discussion, Thomas Pogge, 'Cosmopolitanism: A Defence', *Critical Review of International Social and Political Philosophy* 5 (2002): 86-91.

⁶ For discussion of these elements, and other aspects of Dworkin's personal morality, see Kenneth W. Simons, 'Dworkin's Two Principles of Dignity: An Unsatisfactory Nonconsequentialist Account of Interpersonal Moral Duties', *Boston University Law Review* 90 (2010): 715-735, F. M. Kamm, 'What Ethical Responsibility Cannot Justify: A Discussion of Ronald Dworkin's *Justice for Hedgehogs*', *Boston University Law Review* 90 (2010): 691-713 and Dworkin, 'Response', *Boston University Law Review* 90 (2010): 1059-1087.

reasonably demanding idea of luck sharing that characterises his egalitarian political morality. For example, he does not propose that oil rich people are morally required to share the value gained from oil with those endowed with less valuable natural resources on the other side of the globe with whom they are not associated.

Secondly, in discussing what we are permitted to do to others as a matter of personal morality, Dworkin discusses cases in which we make others worse off in pursuit of our own interests and cases in which we make others worse off to benefit someone else. Like other deontological moral philosophers, Dworkin argues that the *way* in which one harms another is morally relevant. He distinguishes between *deliberate*, *unintended* and *competition* harm. We are morally forbidden deliberately to harm others by using or taking their bodies or property without their consent. We are also rightly subject to moral rules that limit and rectify the unintended side-effect harms our actions produce. Competition harm, Dworkin insists, is morally permissible. This occurs when, for example, an individual's success in a competition for a job deprives another of that employment (285-291). Interestingly, Dworkin takes the permissibility of competition harm to the extreme. He sets out a hypothetical case, call it *Antidote*, in which having been bitten by a snake, two hikers, call them Ailsa and Ben, race for the only vial of antidote. Ailsa, who is nearer, grabs it and Dworkin claims that she is permitted to swallow the antidote, leaving Ben to die. By contrast, Ben is not permitted to kill Ailsa to acquire the vial, because of the prohibition on deliberate harm (285-289).

Once again, this moral judgement indicates Dworkin's rejection of the view that the good and bad effects of luck should be shared when considering matters of personal morality. The brute good fortune of being located nearer to the vial does not, he claims, render Ailsa's consumption of the antidote morally objectionable. Those who worry about the influence of unregulated luck in these cases disagree. Of course, they accept that someone has to die, but in such cases the salient luck-sharing proposal is to flip a coin (or to use an equivalent way of deciding). Some might reply that nearness to the antidote is no different to a coin flip because, *ex ante*, each has an equal chance of being closer to the vial. However, if Dworkin's claim about job competitions is extended to *Antidote*, it would appear that he is committed to the view that Ailsa is permitted to consume the antidote without winning a coin flip even when her acquisition of the vial is explained by her greater natural athleticism or the good fortune of having rich parents who bought her state-of-the-art running shoes for her expedition. If that is so, it seems that in Dworkin's view of personal morality the claims of the less fortunate place fewer demands on us than they do in his conception of political morality.

Finally, it is noteworthy that Dworkin's insistence that political philosophers ought not to appeal to people's customary political behaviour when defending normative principles of political conduct seems to be relaxed in the context of personal morality. In his discussion of aid he argues that, given that we are morally required to save some but not everyone we could possibly save, we have a stronger duty to save a particular identifiable individual than we have to save an anonymous

person.⁷ His explanation of the distinction, which at first sight seems morally irrelevant, is that '[i]gnoring the impending death of a particular person dying before us would require a callousness that mocks any pretended respect for humanity' (278). Nevertheless, it is not clear how this thought serves to justify the distinction between identifiable and anonymous harm, because it is not immediately obvious why ignoring the known impending death of an anonymous person at similar cost to oneself would be any less callous. In response to that kind of objection, Dworkin appeals to the fact that confrontation is relevant because people normally show concern for victims of disaster in a way that treats it as relevant:

'the morality of rescue hinges on an interpretive question and . . . we must take natural human instincts and behaviour into account in answering that question. We aim to make best sense of behaviour, and we therefore cannot ignore the responses that a genuine respect for life normally provokes' (278-279).

Of course, it is open for Dworkin to argue that the inegalitarian *political* instincts of the fortunate that motivate them to work against sharing resources with their co-citizens are not natural in the relevant way, and therefore need not be taken into account in fashioning political principles, perhaps because they are the product of biases explained by their advantaged position in society. However, it is doubtful that that kind of argument would successfully serve to justify Dworkin's asymmetric

⁷ To be clear, an anonymous person is not a particular person we can see but whom we have not met before or whom we cannot name. A person is anonymous to us if we do not know of that particular person. We fail to save an anonymous person when, because of our failure to give to a charity, for example, the charity cannot save one more person whom it could save had we donated.

treatment of the place of people's customary instincts in political and personal morality respectively. Nevertheless, for present purposes we merely want to note that in Dworkin's view the justificatory role played by people's moral instincts and their normal responses to moral problems appears to be more important in personal morality than in political morality.

DWORKIN'S DEFENCE OF ASYMMETRY

We have reviewed two apparent asymmetries between Dworkin's account of personal morality compared to his conception of political morality. First, his egalitarian luck-sharing political proposal is absent in his account of our duties to aid and not to harm others. Secondly, while he is happy to accommodate people's actual revealed moral instincts in his conception of personal morality he is keen to challenge such instincts when he addresses individuals as citizens. What accounts for these asymmetries and can Dworkin's position be rendered coherent?

Dworkin's asymmetric view is premised on what he calls an 'integrated' account of morality in general and the observation that political relationships have distinctive features that generate special obligations between citizens. The heart of his account is his claim that moral principles are best interpreted as following from, and framed to serve, human dignity. The two fundamental moral principles he works

with are, first, 'the equal objective importance of everyone's life' (260) and, second, that each has a special responsibility for her own life (261). The first, equal importance, principle is defended by appeal to the ideal of self-respect, which consists in being motivated by the conviction that it is objectively important that one's life is well lived. Dworkin argues that without affirming this motivation, we cannot make sense of how we live (205-209). To justify *equal* importance, Dworkin elaborates and defends 'Kant's principle', which claims that the reasons for thinking that it matters that one's own life is well lived are also reasons for thinking that it matters that everyone lives well. In particular, there is no reason to think that objective importance attaches only to one's own life or the lives of members of a particular group. If anyone's life has objective importance, then everyone's does (255-260).

Special responsibility is a multifaceted idea in Dworkin's conception of morality. He distinguishes between various kinds of responsibility (102-103). For our purposes it is assignment and liability responsibility that are most relevant. One has assignment responsibility when it is one's duty to perform a certain task or to ensure a certain outcome, such as when parents are responsible for rearing their children according to some standard. One has liability responsibility when one is duty-bound to bear the costs that arise from a particular state of affairs: for example, (a) having a duty to compensate another for a loss one's negligent action has caused her to suffer, or (b) needing to accept without complaint that one's welfare might suffer if one cultivates tastes that are more expensive to satisfy than other available preferences.

Assignment responsibility and liability to bear the costs of certain states of affairs are important features of morality, Dworkin argues, because a dignified human life is an authentic life. It is, in other words, a life led independently on the basis of serious reflection about which projects and relationships an individual finds appropriate in the light of her ambitions and circumstances. A person who defers unthinkingly to others when deciding how to live does not lead an authentic life: living well is a performance, an achievement that requires one to take on the task of living well (assignment responsibility) and to accept that one's life can go better or worse depending on how one chooses (liability responsibility) (209-214). In addition, given the equal importance principle, Dworkin claims that everyone should be afforded the opportunity to take responsibility for her own life.

As reviewed above, Dworkin takes a reasonably conventional approach to the morality of aid and harm. In cases where strangers are involved, the duty to come to someone else's aid depends on the extent to which the victim might suffer, the cost to the would-be rescuer from aiding, and the degree to which the rescuer is confronted by the suffering of others (which turns on proximity and whether the victim is an identifiable individual).⁸ This three-fold approach is justified, Dworkin argues, because we may endorse everyone's equal importance without helping others as much as we help ourselves to pursue our own projects, though complete indifference to the fate of others is not consistent with

⁸ We ignore a different part of Dworkin's argument, which deals with different number choices in which one can help some but not all and one must choose which set of individuals to save (see 280-284). We restrict our discussion to the question of how much we must help another or others when that involves us suffering a loss as a consequence.

equal importance (273-274). A non-saintly individual who gave others' lives as much attention as his own would violate the ethical constraint of authenticity, because he would deny his 'personal responsibility to act consistently with the character and projects he identifies for himself' (261). Thus, although equal importance explains why we have a reason to bear certain costs to come to the aid of those in need, that principle should be interpreted in a way that does not jeopardise our living authentic lives (277).

The equal importance principle is thus compatible with us pursuing our own projects, within broad limits, even when the effect is that others whom we could save die as a consequence. But we are never allowed to pursue our projects at the cost of deliberate harm to others. In suggesting this, Dworkin offers a reasonably familiar deontological account of morality. The novelty of his view is that he offers a justification of its constraints that draws on dignity, particularly its second aspect, authenticity, that demands each of us to take responsibility for our own lives. In the first place, we are charged with the task of living well and that task requires us to decide for ourselves which goals and relationships to pursue. If an individual is to decide for herself, however, her choices must not be usurped by others, and therefore their using her body or property without her consent for their own benefit, or to promote the good as they understand it, is morally impermissible. Secondly, each individual needs protection against others intentionally interfering with her body or the material resources to which she is entitled to pursue her goals: the concern for the second principle of dignity delineates a zone of immunity from

deliberate harm by others even where the harm in question does not take the form of usurping one's judgement (288). Dworkin is careful to insist, however, that dignity does not protect individuals from competition harm—set backs to their opportunities that follow from others winning competitions for scarce goods such as jobs, positions of authority or limited life-saving medicine. That kind of harm is, he says, inevitable and permissible because living well requires us to pursue projects that affect what others might achieve (285-289).

To summarise, Dworkin claims that his conception of dignity implies a personal morality that includes some requirement to come to the aid of those who are badly off, permits us to seek goods that others might benefit from, but protects our control over our bodies and property from interference by others by a prohibition on deliberate harm.⁹ This conception of morality countenances the existence of various kinds of inequality and disadvantage due to the unequal resources available to people in different parts of the world and the unequal social origins and biological endowments of different people that make them more or less well placed to take advantage of opportunities to compete for scarce resources.

In political morality, however, dignity demands equality. Dworkin starts with the widely endorsed observation that in our world we cannot live well without rules that are enforced by a penal system. We need institutions that develop and interpret rules that have authority over us

⁹ Dworkin also offers an approach to unintentional harm, which we consider below. One exception to the prohibition of deliberate harm is justified punishment (299). A further question, which, as far as we can tell, Dworkin does not consider, is whether the *enforcement* of the duty to rescue is prohibited in his conception of morality.

and that are enforced if we fail to conform to their requirements.

However, dignity is threatened by the existence of such rules. In the first place, if one has the authority to decide the rules others are to comply with, it appears that one usurps their responsibility for their own lives; and deference to a putative authority seems to be an abdication of that special responsibility. Second, the enforcement of rules via coercion and the exercise of force seems to deprive individuals of the opportunity to plan and execute their own goals in life as required by authenticity.

Dworkin's solution to the puzzle of political obligation is that the exercise of coercion and enjoyment of political authority are permissible, but only if those in positions of authority acquire their positions in the right way and exercise their authority and power according to certain standards: the exercise of coercive authority is permissible only if it is premised on a 'reciprocal responsibility' to each other (317-320). To be clear, Dworkin follows others in distinguishing between legitimacy and justice. A political system might be legitimate—which means that those under its sovereignty have a standing moral reason to obey its laws—without being just. It is legitimate if its institutions and laws can 'reasonably be interpreted' as motivated by the ideals of human dignity, even if it fails to realise those ideals (321-323).¹⁰ Nevertheless, justice, the complete realisation of dignity in politics, is egalitarian, because political morality involves the sharing of responsibility, with each complying with the demands placed upon her by the collective. For collective decisions to be just, they must be decisions

¹⁰ One of the many innovative features of Dworkin's account of political morality is his account of human rights, which deploys his conception of political legitimacy. Human rights are those rights the violation of which makes it the case that a government cannot reasonably be interpreted as attempting to respect the dignity of its citizens (332-344).

that can be viewed as made by the collective in the service of everyone subject to its decisions. To use Dworkin's term, the political community needs to be a 'partnership', the best interpretation of which involves citizens affirming that 'they must act with equal respect and concern for all other partners' (384).

SUFFICIENT CONDITIONS FOR EGALITARIAN MORALITY

We now assess the plausibility of Dworkin's view. In particular, we offer two kinds of criticism. In this section, we argue that Dworkin's claim that, unlike political morality, personal morality is not egalitarian faces two challenges. The first is that equality should be adopted as a non-associative ideal and reflection on the imaginary desert island case Dworkin uses to defend equality of resources supports that claim. Secondly, we argue that, plausibly interpreted, some of Dworkin's own remarks about the conditions under which the coercion of others is permissible suggest that individuals are under egalitarian duties to those who are not their co-citizens. In the final section, we evaluate Dworkin's account of personal morality directly and suggest that his non-egalitarian account rests on a particular configuration of his two principles of dignity: the equal importance of everyone's life and the need and responsibility to live authentic lives. Specifically, we note that there are alternative ways of combining these two principles that support more egalitarian conclusions about personal morality than those endorsed by Dworkin.

Equality as a non-associative ideal

Dworkin argues that political association is sufficient for egalitarian principles to apply. To be sure, those principles must also leave space for individuals to take responsibility for their own lives, which explains much of the distinctive character of his egalitarian conception: in particular, its advocacy of equality of resources rather than of welfare, advantage or capability.¹¹ Dworkin's view remains egalitarian, however, as evidenced in his two key devices for identifying an equal distribution. First, he recommends a division of the natural resources available to a citizenry that satisfies the so-called 'envy test', under which justice in the distribution of private property obtains only if no one prefers anyone else's set of natural resources. Second, justice requires bad genetic and social luck, which causes disability and disease or which worsens one's employment prospects, to be compensated in a way that mimics the insurance decisions that would be chosen by equally situated citizens (354-363).

It is controversial but plausible to claim that political association is sufficient for the applicability of egalitarian principles. It is not obvious, however, that it is necessary. Indeed, it is plausible to hold that certain

¹¹ See also Dworkin (n 2) chs 1, 2 & 7 and, for discussion, Andrew Williams, 'Equality for the Ambitious', *The Philosophical Quarterly* 52 (2002): 377-89, Matthew Clayton 'The Resources of Liberal Equality', *Imprints* 9 (2000): 63-84, and Rasmus Sommer Hansen and Soren Flinch Midtgaard, 'Sinking Cohen's Flagship—Or Why People with Expensive Tastes Should Not be Compensated', *Journal of Applied Philosophy* 28 (2011): 341-354.

egalitarian principles apply in the absence of associative ties.¹² To illustrate, consider a variant of Dworkin's case of shipwrecked individuals who find themselves washed ashore a deserted island. In his original presentation of the case, he stipulates that the immigrants acknowledge that no one has a prior claim to any of the island's natural resources and that, accordingly, those resources are to be divided equally.¹³ Interpreted in the light of *Hedgehogs*, it appears that the stipulation is required if the immigrants currently share, or, once they inhabit the island, will come to share citizenship.¹⁴ But suppose the ship carries individuals drawn from two political communities and that both groups want to maintain their separate partnerships on the island. Suppose, in addition, that there are resources that afford both groups more than sufficient opportunity to establish and maintain separate well functioning political associations on different parts of the island. It so happens that one group, call them the Primi, swims better than the other, the Secondi. Getting to the island first, the Primi grab the part of the island with the most valuable resources, leaving a perfectly adequate, though significantly less well endowed, area for the Secondi to set up their political association.

The Primi act wrongly. Suppose they are morally permitted to maintain their separate association by demarcating an area of the island and refusing applications for membership according to a set of legitimate or fair rules. Even so, they are not entitled to deprive others of an equal

¹² We are grateful to Andrew Williams for discussion of this issue. For an extended defence of equality as a non-associative ideal, see Merten Reglitz's PhD thesis, *Global Egalitarianism as a Practice-Independent Ideal* (University of Warwick, 2011).

¹³ Dworkin (n 2) 66-67.

¹⁴ See also Dworkin (n 2) 1.

share of the value of the island's natural resources.¹⁵ We can think of different ways in which the division of the island's natural wealth might be conducted—such as the Primi being permitted to act unilaterally subject to some compensatory requirements or a requirement that the Secondi should be represented when the decision to divide the island is taken. Nevertheless, assuming scarcity, the principle that each is entitled to an equal share of the value of the island's resources seems most plausible from a moral point of view.¹⁶ Interpretations of dignity that permit the Primi to grab more than an equal share should be rejected.

Dworkin doesn't discuss the possibility of affirming equality as a non-associative ideal, except very briefly. In his discussion of aid, when rejecting the view that we ought to strive for equal *well-being* for everyone, he says:

Of course, each of us can try to make it easier for other people to live well according to their own lights. We can work, for example, toward a more equal distribution of wealth and other resources. To some extent—particularly in the circumstances discussed in Part Five [political association]—we do have that responsibility (273).

¹⁵ This case and argument is adapted from Andrew Williams's 'Review of David Miller's *On Nationality*' *Mind* 110 (2001): 512-516, which sets out a parallel criticism of nationality-based limitations on the scope of distributive justice. For further criticism of such limitations see Simon Caney, *Justice Beyond Borders* (Oxford University Press, 2005).

¹⁶ Hillel Steiner, *An Essay on Rights* (Blackwell, 1994) and his 'Territorial Justice and Global Redistribution' in Harry Brighouse & Gillian Brock (eds.), *The Political Philosophy of Cosmopolitanism* (Cambridge University Press, 2005): 28-38; Peter Vallentyne, 'Left-Libertarianism' in David Estlund (ed.), *Oxford Handbook of Political Philosophy* (Oxford University Press, 2012).

In this statement, Dworkin leaves open the possibility that there are some egalitarian duties towards non-citizens. He does not commit either way.¹⁷ However, it is unclear why he is so reticent to embrace the view of an entitlement to an equal share of the value of the world's natural resources as a (modest) non-associative requirement of dignity.

Authority or Coercion as Sufficient

Dworkin's own defence of egalitarian political morality paves the way for a more egalitarian personal morality than he envisages. He suggests that there are two ways in which political association threatens dignity in a way that calls for equal concern. First, there is the problem of authority. If we treat another as an authority—as giving us a normally decisive moral obligation to do what she tells us to do—it appears that we abdicate from leading an authentic life; and if we assert that we have political authority, that appears to be a usurpation of our subjects' responsibility for their own lives. Government can exercise legitimate authority in this sense only if it aims to treat its citizens as equal partners (i.e. with equal concern and respect).

Can a government escape the duty to treat individuals as equals by renouncing authority? Such a government might exercise coercion—it might forcibly prevent individuals from acting in certain ways, threaten to punish transgressions of its rules and follow through on such threats where necessary—but, crucially, it does not claim that the individuals

¹⁷ See also 479-480 n. 12, in which he notes but says 'I have so far not taken up', Alexander Brown's elaboration of resource egalitarianism as a conception of global justice. For Brown's view, see his *Ronald Dworkin's Theory of Equality: Domestic and Global Perspectives* (Palgrave, 2009), Part II.

over whom it exercises force have a standing moral obligation to comply with its rules. Can the Primi in our example avoid a duty to share the island equally simply by saying that they do not claim the right to exercise authority over the Secondi, merely to exclude them (with force if necessary) from the most valuable land?

Such a renunciation would not release them from their egalitarian duty, because dignity is threatened by relevant forms of coercion:

We may not deliberately harm even strangers for our own advantage. That applies to collective action as well as individual acts: if I combined with allies to imprison someone or steal his property, I would show the same contempt for our victim and therefore for myself as if I acted alone. Democratic politics raises the possibility that we all harm each other in that way every day (320).

The Primi in our example are not morally permitted to imprison an innocent Seconda as that would be a straightforward violation of her right to control her body. Does the Primi's exclusion of the Secondi from the most valuable part of the island constitute deliberate harm? That is not so clear, because Dworkin cashes out the harm of depriving individuals of material resources as a violation of 'our right and power to direct the use of resources that have been put at our disposal *by settled political arrangement*' (288, emphasis added). In our island case, there is no settled arrangement prior to the Primi's unilateral grabbing of land. Nevertheless, it is not plausible to suggest that the Primi may take as much as they like, provided that they honour their limited duties to come to the aid of the

Secondi. To see this, consider a case in which the Primi and Secondi are not separated geographically but, because of their greater number or power, the Primi can easily enforce a distribution that exhibits significant inequality in their favour. Despite being settled by the exercise of coercion, such a political arrangement does not count as just (or legitimate). If it did, then it would seem that inequality within a society could be rendered just (or legitimate) merely by the powerful not claiming legitimate authority and contenting themselves with the liberty to promote their own interests by force short of violating anyone's body.

The appeal to 'settled political arrangement' as the baseline set of rights on the basis of which we identify rights to property and, therefore, deliberate harm and objectionable coercion, is, for these reasons, unconvincing. If deliberate harm makes reference to a baseline set of property rights, the baseline must offer a fair, or at least a legitimate, distribution of material resources. But baselines determined by unilateral and unequal land grabs are paradigm cases of unfairness.

In essence, if coercion in the absence of authority triggers an egalitarian duty if and only if it involves deliberate harm, then Dworkin seems to face a dilemma. On the one hand, if deliberate harm does not arise in cases of unequal land grab, then it is unclear why all political associations must be egalitarian. Dworkin might respond by pointing out that he can still explain why genuine political associations - that is, associations whose governments claim authority - must be egalitarian. Even so, he cannot explain why such an egalitarian association is any more just than an association that coerces people into an unequal resource

distribution without claiming the authority to do so. On the other hand, if deliberate harm does arise in cases of unequal land grab, then we need a more egalitarian personal morality than Dworkin's, since we can no longer accept an advantage-conferring distribution of natural resources.

To avoid the dilemma, we may opt for an alternative reading of Dworkin's view that coercion is a threat to dignity in a way that demands equal concern and respect. This involves the thought that whenever one group (e.g. the Primi) forcibly prevents another (the Secundi) from trying to achieve their ends, such coercion is just only if the Primi succeed in treating the Secundi with equal concern and respect. That reading would enable us to claim that the powerful within a society cannot justly take more than an equal share, and that remains the case even if they do not claim the right to tell others how they should act.¹⁸ It would also render unjust the Primi's exclusion of the Secundi from the valuable part of the island; and similarly we, the resource-rich, are not permitted by justice forcibly to deprive the resource-poor people of the world of the opportunity to benefit from resources in our part of the globe.

We have suggested that Dworkin ought to be interpreted as arguing that what makes an association a suitable site of equal justice is either the fact that authority is claimed *or* that coercion is exercised. Both are sufficient to justify egalitarian concern. But if that is so, then Dworkin's arguments have more radical implications than he appears to acknowledge, because, though we are often blind to this fact, we, the rich, routinely exercise coercion over individuals who are not co-citizens, those

¹⁸ Michael Blake, 'Distributive Justice, State Coercion, and Autonomy' *Philosophy and Public Affairs* 30 (2001): 257-296; Andrew Walton, 'Justice, Authority, and the World Order' *Journal of Global Ethics* 5 (2009): 215-230.

who would help themselves to the natural resources we enjoy were it not for our immigration policies that forcibly exclude them from our territory.¹⁹

THE REQUIREMENTS OF DIGNITY

We have argued above that Dworkin's defence of equality in political morality cannot be made secure without appeal to principles that would also render personal morality more egalitarian than Dworkin suggests. But the conclusion that personal morality is more redistributive is supported also by consideration of how to reconcile its two principles of dignity; the principles that, according to Dworkin, tell us what personal morality requires.

Aid

Consider duties of aid. Dworkin admits that we have duties to aid others even in the absence of conditions that would expose us to the demands of political morality, that is, even when we are simply in the domain of personal morality. We must help others when not helping would show disregard for the equal objective importance of each person's life. This is prescribed by the first principle of dignity—the equal importance principle. Redistribution brought about by fulfilling the duties of aid,

¹⁹ There remain relevant differences between the implications of our argument here and the implications of equality as a non-associative ideal. In the latter, there is a duty to share the world equally even in cases in which we neither claim authority nor exercise coercion over others who might benefit from additional resources.

however, would fall far short of equality or any radical move towards it. This is because the second principle of dignity, the principle of authenticity, protects us from needing to make costly sacrifices, that is sacrifices that would disrupt the authentic life plans we have set out for ourselves against the background of global brute luck. For example, as Dworkin explains, the life of a scientist or an artist may involve a single-minded focus and a greater use of resources to make it a success (277) and the principle of authenticity recognizes claims made to resources on such grounds. In effect, it appears that even assuming the existence of great avoidable suffering, we have a duty to aid only in two broad types of cases. First, we are required to aid when the costs to us of aiding those who suffer are low enough that they necessitate at most a small sacrifice in realising our authentic life plans. Second, we are required to aid at a higher cost if the suffering of others is something that confronts us.²⁰ To refuse aid in either of such cases would be to show disdain for the dignity of others and thus violate the first principle of dignity, according to which everyone's life is of equal objective importance.

The success of this account of the duty to aid depends on accepting Dworkin's proposed reconciliation of his two principles of dignity. In Dworkin's scheme of personal morality, the second principle has priority

²⁰ Notice that we distinguish here only between two cases as we are already assuming that the third element that determines the duty to aid, i.e. the need of others, is considerable (see section 1). Dworkin does not explicitly state that the presence or absence of confrontation makes a difference to whether a sacrifice must or need not noticeably eat into our life plans, but such a reading is compatible with his abstract discussion and is suggested by all the examples he uses (when not referring to political associations) to illustrate the application this discussion. For instance, he suggests that in the absence of confrontation aid is required when the costs of aiding are 'very low' (279). Our reading is also supported by Dworkin's explicit aim to have personal morality 'make sense of...common moral opinion' (277).

over the first in that it sets the starting baseline: leaving aside their obligations to fellow citizens, people are allowed to hang on to all the resources they are lucky enough to have and that they can use in the pursuit of a successful, authentic life; departures from this baseline are required only when this is necessary for the sake of not violating the dignity of others (as protected by the first principle).

An alternative way of reconciling the principles would assign the priority to the first principle instead. The first principle would set the baseline at an equal distribution of resources to reflect the equal objective importance of everyone's life; departures from the baseline, in the form of resistance to redistribution, would be justified only if this were necessary for a dignified, authentic life, as protect by the second principle. On this second view, a person who has struck good luck in the distribution of resources would not be able to claim them for herself simply because she wanted an authentic life that made use of them all; she'd need to make a case that such resources were necessary for her to lead a dignified, authentic life. She would be able to make such a case and resist redistribution of, say, internal organs for the sake of someone else's equally important life. To harvest her organs would clearly violate the second principle.²¹ She would also be able to claim the material resources necessary to lead a dignified, authentic life. But as Dworkin's discussion of political morality illustrates, a person is capable of leading a dignified, authentic life while sharing the costs of the bad brute luck of others.

²¹ Perhaps some redistribution of bodily items is consistent with the second principle: for example, were it necessary to save people's lives, compulsory blood donation might not threaten authenticity. However, we shall not pursue that issue here.

Indeed, Dworkin explicitly states that constraining circumstances due to redistribution do not make a dignified, authentic life impossible (212). This means that the resources that are, on the one hand, *necessary* to lead a dignified, authentic life that we could claim for ourselves are far less than the resources that, on the other hand, we may wish to use in the pursuit of any authentic life we come up with, when constrained only by the need to show, ourselves, respect for others. It is not easy to know how much is truly necessary, but Dworkin's assurances, in the context of justifying taxation—that '[p]roperly motivated laws [including taxation] of my community are part of the background against which I make my ethical [authentic] choices. My own ethical responsibility for making those choices is not diminished by that background' (370-1), and that '[t]axation in many countries now is unjust, because it takes too little' (375)—suggest that less is needed than it might be convenient to have.

Since an alternative way of reconciling the two principles is available,² Dworkin's reconciliation appears to privilege the authenticity principle above the equal importance principle. In defence, Dworkin might argue that the differences between these different ways of reconciling the two principles are illusory. He might point out that we are not allowed to assume that the first principle of dignity, if used to set the baseline, would recommend sharing the luck in the distribution of resources. Such a baseline, he might argue, is appropriate only in a political association; personal morality sees nothing inappropriate in

² A further suggestion, offered by Appiah, for balancing the principles 'would be to reconceive my success [authenticity] in the light of the deep needs of others' Kwame Anthony Appiah, 'Morality: Aid, Harm, and Obligation', *Boston University Law Review* 90 (2010): 661-675,670.

differential brute luck just as long as the lucky respect the dignity of others.

We already pointed out in the previous section the difficulties of hanging on to such a bifurcated view of personal and political morality. Our modest point here is that Dworkin does not explain why a luck-sharing baseline is *in*appropriate for personal morality. Since we could still tame redistribution to allow the lucky to hang on to anything truly necessary to lead dignified, authentic lives, he cannot claim that this alternative way of reconciling the two principles would make a mockery of the second principle. To do so would be to set up a false dichotomy between Dworkin's limited duty to aid and a duty to aid that allows no legitimate preference for one's own life.²³ Even if it is true that full impartiality (and full luck sharing) does not meet the constraint of authenticity in all possible circumstances, it does not follow that we can therefore be required to share only relatively little and mostly when confronted with need.

Our less modest point is that reconciling the two principles in a way that requires more luck sharing offers a more plausible interpretation of what it takes to meet the demands of the first principle of dignity. Recognizing lives as objectively equally important should plausibly lead us, we think, to reject the appropriateness of allowing some to enjoy the massive advantages delivered by the global luck lottery, curtailed only by modest duties to aid, let alone the appropriateness of taking the distribution of such a lottery as our starting point. Allowing luck to lie

²³ Dworkin's arguments are sometimes suggestive of such a dichotomy; cf. 274, 278.

where it falls, subject only to the provision that the lucky sacrifice some of their life plans when confronted by the nearby suffering of particular people, does not seem to view all lives as equally important: the unlucky anonymous sufferers lose out.

Dworkin might resist this push towards a more redistributive personal morality of aiding on the grounds that it would make personal morality too out of sync with common moral opinion.²⁴ As we noted above, when it comes to personal morality, Dworkin urges us to ‘make best sense of [existing] behaviour’ (279) and relies on appeals to ‘natural instincts’ to make his case for the limited duty to aid.²⁵ The presence or absence of confrontation with suffering is allowed to make a considerable difference to the extent of the duty because ‘[w]e must take natural human instincts and behaviours into account’ (279). These natural human instincts, as Dworkin explains, indicate that ‘genuine respect for life’ (279) requires aiding ‘particular, identifiable person staring us in the face’ (278) but does not require rescuing anonymous persons or sharing resources with them.

²⁴ Dworkin might also attempt to resist this more expansive global luck sharing (limited only by allowing the lucky to hang on to whatever is necessary for an authentic life) by appealing to the fact that such a scheme would be ‘too demanding’. Thus Dworkin entertains the possibility that ‘[i]t would be too demanding to expect any person to respond to even grave danger wherever and whenever it arises. A general understanding that only people in the immediate area of present danger have an actual duty both eliminates that risk and puts the duty on the person who is in most cases best able to help’ (278). Dworkin does not explicitly endorse this worry, but he does mention it and does not dismiss it. But even if an appeal to over-demandingness were granted, it would at best reduce the extent to which we are required to share each other’s bad luck. It would not altogether eliminate the duty to rescue the anonymous in dire need when this requires a sacrifice in one’s life plans.

²⁵ There are limits to such appeals in political morality, since Dworkin rejects, for example, ‘tribal’ concerns despite recognizing that they are shared by ‘many’ (323-4).

What are we to make of such a response especially given that, in the domain of political morality, Dworkin dismisses common conduct and intuitions?²⁶ Dworkin does not give a full explanation of why he thinks that the right account of personal morality is responsive to our natural instincts. The context in which he makes this claim is his desire to justify the particular distinction between our demanding duties to save identifiable individuals and our less demanding duties to save anonymous persons. Perhaps, then, this apparent asymmetry is explained by a more basic symmetry. One interpretation is that appeals to natural instincts are appropriate when they *extend* what we are required to sacrifice for others²⁷ but not when they are supposed to *shrink* what we would otherwise be required to sacrifice. In this case, the argument would go, the personal morality baseline is not to aid at all when it would require noticeable sacrifices but our natural instinct is to recoil from such permissiveness when confronted with suffering, which is why we are required to aid after all. In the political domain, by contrast, the baseline requires that the lucky share their good brute luck with the unlucky. It is irrelevant that our moral instincts might rally against it, urging us to hang on to what we have laid our hands on.

There is something to be said for being more suspicious of instincts that happen to serve our self-interest than of those that propel us to serve

²⁶ When it comes to political morality Dworkin admits, for example, that ‘...majorities continue to be reluctant to help poor people who are markedly different from them’ (350) but this is no bar to the requirement that they do so. So in political morality we are not constrained by needing to make sense of existing behaviour; we can advocate radical revisions. (We take it that Dworkin would not insist that the reluctance to help the markedly different poor is merely a mistaken manifestation of deeper intuitions in favour of equality of resources.)

²⁷ Although this would still raise the question of whether natural instincts help us identify appropriate ‘others’ (cf. 280)

others.²⁸ But as a reply to our suggestion that personal morality is more redistributive than Dworkin claims, the appeal to natural instincts in the way we interpret it, is unsuccessful. In the first place, it seems implausible that the instincts that urge us to give more to others are always reliable, while those that urge us to give less never are. For example, as Simons has noted, 'We might "naturally" feel more compassion towards someone if we know their first name, but that is hardly a justifiably basis for imposing a stronger moral duty to rescue such a person'.²⁹ And second, if our interpretation of the role of instincts in Dworkin's account is right, then human natural instincts do not give us a reason to adopt a personal morality baseline that requires only modest redistribution from lucky to unlucky. The personal morality baseline needs to be in place, perhaps justified by reference to the two principles of dignity, before extensions to our duties in confrontation cases can be justified by appeal to natural instincts.³⁰

Harm

²⁸ Peter Unger, *Living High and Letting Die* (Oxford University Press, 1996).

²⁹ Simons (n 6) 722. In response to Simon's challenge Dworkin has explained: 'I do not mean to rely just on the fact that people do have the natural reactions... I believe these natural reactions [in cases of confrontation with suffering] pertinent to the interpretive question I do believe fundamental. If someone is suffering or in danger directly in front of you, and you ignore him, it is hard to avoid the conclusion that you care less for human life than you should' (Dworkin (n 6) 1075). This does not explain, however, which natural reactions to pay attention to and when. For example, as Simons has noted, paying attention to natural reactions would not support Dworkin's recommendation that fewer resources be devoted to end of life care.

³⁰ This is consistent with the view that, in both political and personal moralities, we must remain reliant on as well as sceptical of natural instincts and common conduct as our guide. Because we have to be sceptical, we cannot simply set ourselves the task of accommodating them all; because we have to rely on them, we cannot just block all appeals to them. There might be no one better placed than Dworkin to walk the tight rope, but our suggestion is that he has not done so here.

The two principles of dignity are also meant to delineate permissible harm to others within the domain of personal morality.³¹ However, here again, Dworkin appears to privilege the second principle above the first. He argues that deliberate harm is morally impermissible and there are restrictions on the type and extent of unintended harm that is morally permissible. Explaining the moral prohibition on deliberate harm he emphasises that, putting aside cases of permissible paternalism, if we are to take assignment responsibility for our own lives we need to be free of others' interference with our bodies and the property given to us by 'settled political arrangement' (288). Turning to unintentional harm—interferences that are the side-effect rather than planned product of our actions—he suggests that it should be regulated by a principle that enables each to 'maximise control' over his life (290-291).³² The basic principle is that a person is liable if he unintentionally causes damage to others if 'that damage could have been prevented had he taken precautions that would not have impaired his opportunities and resources as much as the damage

³¹ While the presence of political association makes duties of aid to co-members more or less redundant (except in special cases), duties not to harm are just as relevant in interactions with co-members as with non-members. It might be that the principles delineating permissible and impermissible harm are, on Dworkin's view, meant to apply to both personal morality and political morality. In what follows we therefore do not rely on claims of asymmetry to criticise Dworkin's treatment of harm within personal morality, but nor do we argue that our rejection of the permissibility of competition harm in personal morality entails the rejection of permissibility of competition harm in political morality since in the latter case, equal distribution already reduces the scope for competition harm and mitigates its effects. That said, we think that the considerations we adduce against the invariable permissibility of competition harm in the domain of personal morality also suggest that it is not invariably permissible in the domain of political morality.

³² For further discussion of this and related issues, some of which led to revisions in Dworkin's manuscript, see Simons (n 6).

he was likely to cause would likely impair the opportunities and resources of others' (291).

However, Dworkin allows competition harm,³³ because disallowing it would be too disabling and would, therefore, deprive us of the opportunity to live authentic lives. It is a fact of life that one person's pursuit of her ambitions sometimes prevents another from achieving his. As he says, if one gets the job, a particular partner or the only vial of antidote, then those goods are unavailable to others:

No one could even begin to lead a life if bare competition harm were forbidden. We live our lives mostly like swimmers in separate demarcated lanes. One swimmer gets the blue ribbon or the job or the lover or the house on the hill that another wants. Sometimes, when one swimmer is drowning and another can save him without losing much ground in the race, the latter does have a duty to cross lanes to help . . . But each may concentrate on swimming his own race without concern for the fact that if he wins, another person must therefore lose (287-288).

Even if we agree with Dworkin that competition harm is sometimes permissible, we should not see it as always permissible. Indeed, it is not obvious why a principle similar to that regulating unintended harm—in which permissibility depends on a comparison of costs and benefits that different individuals receive from the possible actions—does not also apply to competition harm. For example, consider a variant of *Antidote* in which the consequences for Ailsa and Ben of not taking the medicine differ. Ailsa

³³ Both in the sense that we are permitted to act in a way that is harmful or leads to harm and that we do not owe compensation when the harm arises.

has a gene that enables her to survive snake bites even though they cause her agony for a week. Ben is not so fortunate and would die without the antidote were he bitten. In this case of competition harm in which the stakes are unequal, it is not implausible to think that it is morally impermissible for Ailsa to consume the only vial of antidote, given that she would survive without it, albeit with considerable short-term pain. Thus, the permissibility of competition harm is sensitive to the costs and benefits to different individuals of winning and losing the race.

In swimming races we also try to eliminate certain types of competitive advantage: performance-enhancing drugs, starting the race before the starting signal has been given, and the purchase of helpful swimming equipment that is not available to everyone. In the kinds of competition harm that Dworkin has in mind, it appears that similar restrictions apply. For example, in the original *Antidote* case, many think that Ailsa's acquisition of the vial is permissible only if the situation mimics a fair lottery. It would be impermissible, they claim, for Ailsa to take the vial if her opportunity to take it is explained by the fact that her wealthy parents bought her expensive running shoes while Ben's parents could afford only run-of-the-mill shoes. In cases of unequal luck, the loss of opportunity (for attractive jobs or scarce medicine) that an individual suffers will sometimes count as impermissible if the individual has already drawn a short straw in the lottery of life and for that reason can pursue her ambitions to a lesser extent. To be sure, competition harm is not always impermissible despite a disadvantaged person suffering as a consequence. For example, hiring a privileged but skilled individual may

produce benefits to others that outweigh the loss suffered by those who are overlooked. Still, like unintentional harm, competition harm does worsen others' opportunities and for that reason calls for a justification, and in some cases a sound justification must rest on considerations of equality.

Dworkin's distinction between invariably impermissible deliberate harm³⁴ and invariably permissible competition harm appears too stark. On his view, deliberate harm damages dignity and is, therefore, impermissible because it deprives individuals of control over their bodies and property. By contrast, competition harm does not damage dignity because it consists in a loss of opportunity that does not deprive individuals of control over their bodies and property.

However, as noted above, there are many cases of competition harm in which the dignity of those who lose out is not damaged but nor is the harm necessary to preserve the dignity (authenticity) of the person doing the harming. The person who gets the job or the house on the hill can live an authentic life without these goods.³⁵ In these cases in which individuals having the control necessary to take special responsibility for their lives is not at stake, but opportunities valued by everyone are available, it seems that we might go one of two ways. We might say that actions that do not deprive others of control over their bodies or property (and that are not required to honour our limited duties of aid) are morally permissible. This appears to be Dworkin's view. Our alternative proposal

³⁴ But see n 9.

³⁵ Love is different. It may be that Colin can live an authentic life without Diana's affection, but even if it were possible for us to allocate Diana's affections to another such interference would obviously usurp her ethical independence.

is that, provided that considerations of control required for special responsibility are not at stake, where there are conflicting claims to scarce resources, the principle of equal importance supports moral principles that promote an equal distribution of those opportunities. True, a moral principle that distributed such goods equally would limit what any particular person can do in life. But such limitations would not deprive him of either ethical independence or the control over body or property that are necessary for him to live authentically.³⁶ Thus, a redistributive morality that required us to share good and bad brute luck with respect to the resources available to us would not jeopardise our taking special responsibility for our lives and would better reflect the equal importance of everyone's life. Accordingly, the two principles of dignity in conjunction support more radical revisions to common moral opinion than Dworkin seems to propose.

Our argument amounts to an internal and external critique of Dworkin's asymmetric treatment of political and personal morality and the conventional, even conservative, shape he gives to personal morality. We think that there are good independent reasons to revise the requirements of personal morality he offers. We also think that there are no reasons internal to his theory to insist on such asymmetry and such conventional personal morality. Any such insistence, in fact, threatens to

³⁶ As Dworkin explains elsewhere, 'limitations of nature and circumstance' (including taxation) do not compromise authenticity. A person facing such limitations ' . . . does not then have the many colours on his palette, but the life he designs with the colours he has may be just as fully authentic, just as firmly the life that he rather than anyone else has designed' (212). Similarly, the egalitarian moral principle proposed in the text limits what a person can permissibly do, but it need not affect him taking special responsibility for his life or jeopardise his authenticity.

bring down the radical vision of political morality that Dworkin has developed over the years.³⁷

³⁷ For helpful discussion of the issues we discuss in this paper, we thank Victor Tadros, Andrew Walton and Andrew Williams. We are particularly grateful to Andrew Mason for his written comments on an earlier draft.