

PHIL 167: Contemporary Political Philosophy
Fall 2005; David O. Brink
Handout #7: Post-Rawlsian Themes

Rawls is often credited with almost single-handedly reinvigorating the discipline of political philosophy and, especially, the subject of distributive justice. Much of the best work in this area within the last thirty years represents some kind of response to ideas in A Theory of Justice -- either articulations of new ideas within a broadly Rawlsian paradigm or attempts to find viable alternatives to the Rawlsian framework. What follows is an incredibly brief tour of two themes that have emerged in the wake of Rawls's liberal egalitarianism. One issue concerns **equality**. Though egalitarian in spirit, Rawls's difference principle eschews strict equality. This raises the question what egalitarians should care about. Should it be equality per se? If we focus instead, as Rawls suggests, on the worst-off, should we give them absolute priority as the difference principle does, or not? A second issue concerns individual **responsibility**. As the debate between Rawls and Nozick suggests, there is room to question the role for notions of individual responsibility and desert within any deeply egalitarian framework, such as Rawls'. We might look at ways in which philosophers sympathetic with Rawls' egalitarianism have tried to adapt a broadly egalitarian framework in ways that accommodate forms of individual responsibility worth preserving.

GIVING PRIORITY TO THE WORSE-OFF

I said that some of Rawls' contract-independent arguments for Justice as Fairness, in particular, the Difference Principle look better if we accept some version of the Moral Asymmetry Thesis.

All else being equal, the claims of the worse-off should have priority over the claims of the better-off (to the extent that their relative social positions are not something for which they are responsible).

But notice that the Difference Principle does not simply give priority to the worst-off; it gives them **absolute priority**. It implies that we should never divert resources to any other group -- no matter how badly-off they are, no matter how numerous a group they are, and no matter how large the benefit we can provide to them -- if this makes even the smallest difference to those who are worst-off. This sounds like the **Dictatorship of the Worst-off** and may seem problematic where there is a group that is only marginally better-off than the worst-off but has many more members for whom we can provide a bigger benefit.

Consider educational policy. Assume that we have a fixed number of resources to devote to special education. Also assume, somewhat artificially, that we can quantify both the severity of handicaps and the amount of benefit that different policies would produce. One handicap is marginally more severe and also rarer. Because this handicap is more severe, it is harder to overcome than the other, and so education of these children is more resource intensive. One policy (Hardship) gives educational priority to those with the worse handicap, while the other (Benefit) gives priority to the larger group with the smaller handicap.

	A-Children	B-Children
Benefit	x improve by 5	500x improve by 20
Hardship	x improve by 20	500x improve by 6

Condition B is much more common than condition A, but A-children have a bigger complaint than B-children. A-children are marginally worse-off. It follows that Hardship maximizes the worst-off position. But representatives of B-children can fairly complain about Hardship and demand Benefit. Though Hardship can be defended by noting that the complaint of each A-child is worse, individually, than that of any single B-child, it implies a much greater total loss than Benefit, and one can arguably claim that B-children possess a greater collective complaint.

The situation might be the same with health care policy. Condition B is much more common than condition A, but A-patients have a bigger complaint than B-patients. Assume that A-patients and B-patients are at the same absolute position where further years of life are substantial goods, say, 25 years old. A-patients are marginally worse-off. It follows that Hardship maximizes the prognosis of those who are worst-off. But the patients with condition B can fairly complain about Hardship and demand Benefit. Though each A-patient can defend Hardship by noting that his complaint is worse, individually, than that of any single B-patient, Hardship implies a greater total loss, and B-patients can arguably claim to possess a greater collective complaint.

	A-Patients	B-Patients
Benefit	x get 5 additional years	500x get 20 additional years
Hardship	x get 20 additional years	500x get 6 additional years

By giving the worst-off a veto, the Difference Principle does not record the moral significance of any less serious losses and so is unable to see how a much larger number of such losses might render justified some losses to those with the worst individual complaints.

If these implications of the difference Principle are hard to accept, we may want to accept the Moral Asymmetry Thesis without accepting the Difference Principle. This is the view defended by Derek Parfit (“Equality or Priority?”) and David Brink (“The Separateness of Persons, Distributive Norms and Moral Theory”). We may want to defend what Parfit and others call **Prioritarianism**.

INDIVIDUAL RESPONSIBILITY

Samuel Scheffler (“Responsibility, Reactive Attitudes, and Liberalism and Philosophy and Politics”) argues that egalitarian liberals – both political and philosophical – are guilty of ignoring considerations of individual desert and responsibility in their conceptions of distributive justice. He levels the complaint against utilitarians, Rawls, and Nozick. As Nozick says, utilitarianism is an end-state view and so seems to attach no intrinsic significance to desert or responsibility. Inasmuch as Rawls’ Difference Principle is also an end-state view, similar claims would seem to apply to it. Moreover, Rawls claims that Justice as Fairness explicitly rejects the principle of distribution according to desert (TJ: 310). He may in fact seem to be a skeptic about responsibility and desert. For in defending his preferred conception of the Second Principle – Democratic Equality – against the conceptions of Natural Liberty and Liberal Equality, he insists on the moral arbitrariness of both the social and natural lotteries (§§12-14). Because we have no

control over the distribution of social and natural endowments, they are undeserved, and, hence, an inappropriate basis for distributing primary goods. It is more surprising that Scheffler should target Nozick's libertarianism, which is supposed to be precisely a historical conception of justice in holdings. But in disagreeing with Rawls' arguments for Democratic Equality, Nozick denies that "the foundations underlying desert [must be] themselves deserved, *all the way down*" (ASU: 225). Here, Nozick seems to agree with Rawls that people don't deserve their natural and social endowments; he disagrees by denying that this is necessary to deserving what one might acquire by market exchanges employing those underserved endowments.

It's true that responsibility and desert are not central notions for Rawlsian justice. But nothing in Rawls' defense of Democratic Equality requires him to be a skeptic about responsibility and desert. He only claims that some endowments are the product of morally arbitrary lotteries, not that all are. My initial social starting point and genetic endowment may be beyond my control, and to the extent that what I accomplish or fail to accomplish is due to these factors, I am presumably not responsible for these accomplishments. But what I do with these unearned endowments may well be up to me. True, Rawls allows that dispositions to hard work may themselves be influenced by the natural lottery (312). But he never says that how hard one works is strictly determined by the social and natural lottery. So Rawls will see much of what people do as the product of both factors over which they have no control and factors over which they do. He is not a skeptic about responsibility and desert; rather, each is a scalar notion which ought to be proportional to control. To determine responsibility or desert for an outcome, we must try to factor the causes that produce the outcome into those over which we have control and those over which we do not.

Interestingly, Scheffler does not discuss more recent versions of egalitarian liberalism by Ronald Dworkin and Richard Arneson that are expressly designed to accommodate individual responsibility within a broadly egalitarian conception of distributive justice.

DWORKIN'S EQUALITY OF RESOURCES

Dworkin is an egalitarian, but of **resources, not outcomes** ("What is Equality: Parts 1 and 2"). He agrees with Rawls that just outcomes should not turn on endowments that are the product of the natural lottery. But he doesn't think that everything is the product of the natural lottery. In particular, we don't want to treat conceptions of the good as products of the natural lottery, lest we treat those with expensive ("champagne") tastes as the worst-off whose position we must then maximize. The natural way to accommodate this idea would be to insist on starting-gate equality or equality of resources, which would allow inequalities but only those that result from people's voluntary choices. But starting-gate equality does not correct for underserved differences in natural endowments, nor does it correct for undeserved subsequent bad luck. Dworkin asks us to distinguish between two kinds of luck.

- **Brute Luck** involves outcomes that are wholly outside one's control and undeserved.
- **Option Luck** involves outcomes that are the product of luck and one's responsible choices.

For example, one's genetic endowment is a matter of brute luck, but one's losses at the gambling table are a matter of option luck. Dworkin thinks that we want a version of equality of resources that corrects for brute luck, but not option luck. Toward this end, he develops an elaborate version of equality of resources in which parties participate in a hypothetical auction in which

everyone begins with equal chips which they can use to bid on bundles of goods and opportunities. Ideally, at the end of the auction no one should be jealous of another's bundle (the envy test). In the real world, distributions are produced by the interaction of people's ambitions with a market evaluation of the value of what they produce. The inequalities that emerge are justified because they are the product of option luck for which one should be responsible. By contrast, inequalities that result from brute luck are unjustified. They should be compensated according to a schedule established by Dworkin's hypothetical insurance market in which one buys policies so as to ensure against disadvantage due to factors outside one's control. The premiums and pay-outs are established under his own veil of ignorance but funded through compulsory taxation and distributed to everyone when the veil is lifted.

ARNESON'S RESPONSIBILITY-CATERING PRIORITARIAN CONSEQUENTIALISM

Originally, Arneson replied to worries about accommodating individual responsibility within an egalitarian conception of distributive justice by insisting on a different currency for distributive justice – not utility, primary goods, or resources, but rather opportunities for utility or welfare (“Equality and Equal Opportunity for Welfare”). Equal opportunity for welfare would require correcting for the effects of brute luck but not for option luck. Welfare can be conceived in different ways. Arneson's original proposal understood it in terms of the satisfaction of idealized desire, but since then he has endorsed more objective conceptions of welfare.

Eventually, Arneson came to conclude that this view fetishized opportunities (“Equal Opportunity for Welfare Defended and Recanted”). Opportunities are not good in themselves but insofar as they can be and are used to produce welfare. If so, the ultimate focus should really be on welfare itself. But Arneson is not an egalitarian about welfare. He is a consequentialist who accepts the Moral Asymmetry Thesis and, therefore, Prioritarianism. Moreover, he is a consequentialist who wants to minimize the effects of brute luck. So he is a consequentialist who also seeks to minimize the operation of brute luck but who puts a thumb in the scales of consequentialist reasoning for the claims of worse-off.

Arneson's responsibility-catering prioritarian consequentialism represents a first-best theory of justice for ideal circumstances in which we can reliably and efficiently measure and track facts about individual responsibility and comparative priority. He recognizes that the discriminations it requires may prove impracticable for actual non-ideal circumstances. Something more like Rawlsian justice may be administratively more feasible. But it is important to recognize that something like Rawlsian justice is acceptable, if at all, only as a second-best theory of justice behind the first-best theory of responsibility-catering consequentialism.