

8. Opportunity for Welfare, Priority, and Public Policy

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WHATEVER OF WHAT?

In 1980, Amartya Sen's essay 'Equality of What?' stimulated a still ongoing discussion on the question: 'Insofar as one holds that social justice demands rendering people's condition more nearly equal, what aspects of people's condition should be equalized?' (Sen, 1982). In what respects should people be rendered more nearly the same? Prominent responses include resources, fundamental liberties, capabilities, advantages, welfare, and opportunities for welfare.¹

There is a more general question in this neighbourhood that should be of interest. We might conceive of social justice as requiring us to maximize some function of some aspect of people's condition. The relevant aspect might be any of the candidates just listed or some hitherto unnoticed alternative. But it is not obvious in advance of argument that social justice requires equality of any sort. Perhaps the function we should be maximizing requires us to equalize, but it might be 'maximize the average!', 'maximize the aggregate!', 'maximin!', 'equalize at the highest feasible level!', 'maximax!', 'prioritize!', 'maximize the number above sufficiency!', or yet another alternative. The more general question about the nature of social justice requirements is 'Whatever of what?' There are two issues to resolve, not just one.

¹ On resources, see Dworkin (2000) and Rakowski (1991). On capability, see Sen (1992). On opportunity of welfare, see Cohen (1989), Arneson (1989a, 1990, 1999a, and 2000a).

Sen's question, in its broadened form, is not a concern that any and all approaches to social justice must face. For example, a deontological libertarian holds that individuals and the state as well should above all refrain from violating anyone's Lockean natural rights.² The injunction to respect Lockean rights is not construable as a requirement to maximize the degree to which any specified desirable state of affairs is reached—not the state of affairs in which everyone's rights are equally fulfilled, nor the state of affairs in which the aggregate of everyone's rights are maximally fulfilled, nor even the state of affairs in which the agent's own respecting of others' rights is maximized. The libertarian norm requires of each agent that on each occasion of choosing an act or policy one refrains from violating anyone's rights. Lockean liberalism is just one example of views of justice that have no internal need to face the 'whatever of what?' issue. Despite their merits, these nonconsequentialist approaches to social justice lie outside the purview of this paper. Our concern is to locate a plausible consequentialist principle, call it a principle of egalitarian justice, that has implications for policy that withstand critical scrutiny.

The addition of the 'what function?' question to the 'what aspect?' question obviously complicates any attempt to resolve the latter issue. Any proposal regarding how to assess people's condition for purposes of social justice must be considered as part of a package deal, and problems with the package may or may not attach to the component constituted by the proposal under review. Suppose it is proposed that justice requires equality of utility or welfare (according to some interpersonally comparable conception of utility). This proposal attracts the objection that it deals ineptly with the problem posed by the existence of severely disabled individuals, whose quality of life will be extremely bad no matter what is done for them, but whose condition can be improved ever so slightly by allocation of further social resources to them starting from any status quo distribution of resources. This means that across some large range of possible distributions the severely disabled will become a basin of attraction for social resources, absorbing ever more, without ever becoming equal in utility to others, even as the average utility level of the whole society plummets. In this scenario, justice interpreted as equality of utility brings about the notion that everyone has a miserable quality of life. This might be

² The canonical recent statement of Lockean liberalism is still Nozick (1974).

taken to be an objection against the proposal that utility should be the basis of interpersonal comparison for a theory of justice. Maybe this is so. But we need to explore the possibility that straight equality is not what justice requires, and that if the implications of equality of utility are viewed as unappealing, the source of the difficulty is equality as the justice function not utility as the justice measure of people's condition.

Having been conducted for the most part by philosophers and economists, the equality-of-what debate has tended to remain at a rather lofty level of abstraction. The question then arises, what would be the practical implications for public policy choice of adopting one or another of these candidate conceptions of justice? This question does not just ask us to calculate the proper application of principles whose merits are to be judged independently. We test proposed principles of morality in part by considering whether or not the implications of the principles for individual conduct and social policy strike us as morally acceptable after reflection. A 'zig-zag dialectic'³ ensues, because we also test our judgements about what should be done in particular specified circumstances by exploring if we can discover a set of principles that strike us as morally acceptable after reflection and that imply, in the specified circumstances, the judgements as to what should be done in those circumstances that we are initially prone to endorse.

This mutual testing of principles by their specific policy recommendations and specific policy judgements by their amenability to derivation from acceptable principles can proceed via examination of simple 'toy' examples. Moral principles are expected to yield acceptable results not only for situations we actually face or might face but for any logically conceivable circumstances. However, implications for actual and likely circumstances and for circumstances that resemble these have a special importance for moral theory insofar as it is easier to get our minds around familiar examples and to deliver a confident response as to what should be done in these settings.

Serious public policy recommendations would require clear and compelling moral principles and also a scientific understanding of the complex real-world circumstances for which policies are designed and a scientific understanding of the expected consequences that would result from one or another policy choice. The author of this paper does

³ I borrow this phrase from Gerald Cohen.

not command this empirical expertise, so this paper confines itself to the task of using the implications of principles for policy in simplified stereotyped circumstances to test the reasonableness of those principles. It turns out that complications abound even for this simplified exercise.

NEBULOSITY

One important complication is what might be called the ‘problem of nebulosity’. It could turn out to be the case that the moral values that are ultimate, most worth caring about, involve qualities that are easily measurable. If what ultimately matters is that all should have a fair share of resources, and fairness can be identified with equality and resources with bank account wealth, then social justice will be straightforwardly translatable into social policy. Roughly the same is true if what is ultimately valuable should turn out to be the maximization of utility as conceived in the Benthamite fashion, with utility equated to pleasure and the absence of pain.

However, the more plausible candidates for what ultimately matters morally are nebulous. What matters is not a single measurable magnitude, but a multidimensional conglomerate, some of the dimensions tracking qualities that are hard to measure even in principle, and the weighting of the various dimensions against each other being eminently contestable. The upshot is that we cannot directly apply principles that encapsulate what ultimately matters to choices of conduct and policy. What matters is not operationalizable. Instead we must select measurable proxies for what ultimately matters and use these as guides to policy.⁴ Laws and social norms in most if not all cases are formulated in terms of such proxies. Often a layered network of proxies links the principles that state what matters and the policies to achieve them.

⁴ One might object that it makes no sense to choose a proxy for an unmeasurable value. What would it mean to say that the proxy is accurate or inaccurate? There are two difficulties. One is that what we care about, even if perfectly measurable in principle, is not measurable at acceptable cost in practice. Hence we need a proxy that is feasible to measure. The second difficulty is that if what we care about is only measurable to a degree, the proxy even if it were perfectly accurate would inherit the imprecision of the value it seeks to track.

The use of such proxies complicates the assessment of laws and public policies and social norms. Since proxies almost by definition are imperfectly correlated with what we should care about, the law that is formulated in terms of the proxy value will sometimes deliver verdicts on cases that are anomalous with respect to what matters. Yielding anomalies is never by itself an objection against the use of a particular proxy in policy selection; the issue always is whether some alternate proxy might be substituted and do a better job of tracking what matters all things considered. In some cases, the logic of the situation is recognized on all sides. If a state sets the minimum age to drive at sixteen and the minimum age to vote at eighteen, age here is plainly being used as a rough proxy for possession of adequate maturity and skill and wisdom to drive a car safely in the one case and to venture a vote on public matters in the other case. Driving safely and voting sensibly in turn are proxies for bringing about a pattern of driving overall that reasonably trades off drivers' convenience against the costs of driving accidents and for bringing about laws that on the whole advance the common good. Everyone understands that the mere fact that you can point to one twelve-year-old who manifests a high level of maturity and practical wisdom and could be safely entrusted to drive is not per se an objection to setting the legal age for driving at age sixteen.

But in other types of case, confusion reigns. We respond to anomalies generated by the use of proxies as though proxies were principles. Sometimes we inappropriately hold it as a black mark against a principle that the best available proxies for implementing it are very imperfect and uncertain. But if the principle captures what morally matters and the extant proxies are the best we can do to facilitate the implementation of what matters, flawed implementation is a problem of life, not a defect in moral theory. It remains of course true that when the attempt to implement a fine-sounding principle yields bizarre and unacceptable results, these problems may lead us to reconsider and perhaps ultimately to reject the principle despite its fine sound.

RESOURCES VERSUS WELFARE

The major divide in the equality-of-what debate is resources versus welfare. Although deep, the divide is unclear. On the one side, welfare encompasses such notions as utility, well-being, and goodness of lives. The rough idea is that the basis of interpersonal comparison for

a theory of justice should be quality of life—how well an individual life goes for that very individual.

On the other side, the motivating idea of resourcism is that the basis of interpersonal comparison for a theory of justice should not be welfare. On this construal, welfarism and resourcism exhaust the alternatives, because anything other than the idea that welfare is the proper measure counts as resourcist.

The prominent resourcist proposals, those of John Rawls and Ronald Dworkin, reject welfarism on grounds of individual responsibility and personal liberty.⁵ The thought is that the measure that determines whether the individual has received a fair deal from society is not the welfare level she reaches, because this depends significantly on how she chooses to live and the uses to which she puts the opportunities and resources and liberties made available to her. Where one ends up varies with the choices one has made, for which one is properly held responsible. Given a fair framework for social cooperation and a fair provision of resources and means of various kinds to individuals, the quality of life that the individual attains is not the concern of social justice. With this framework in place, deficits in welfare do not translate into valid claims for any further compensation from society. One is reasonably held responsible for one's choices given a fair distribution of resources in the sense that society does not owe one compensation on the basis of principles of justice to bring about increases in the welfare level those choices generate. Responsibility and liberty here go hand in hand. Corresponding to the individual's personal responsibility for the outcomes of her choices, given a fair background, is her liberty to live her life as she chooses within the constraints of justice whether or not how she chooses to lead her life produces the most personal welfare that could be squeezed from her circumstances.

The welfarist can either accommodate responsibility, and espouse opportunity for welfare as the basis of interpersonal comparison, or resist the suggestion, and continue to insist that welfare, unadorned and plain, should be the measure. Both responses are reviewed in what follows.

At the outset it should be mentioned that the resourcist theorist will find even the former, accommodating response evasive. A responsible individual in a just society will take responsibility for her ends, values, and convictions. The judgement as to what constitutes a good and

⁵ See Rawls (1999) and Dworkin (2000).

successful life for her must be made by her. This responsibility is not one she can delegate to the state, but precisely this delegation must be involved if the state is established to fulfill a welfarist conception of justice. Welfarism of any variety specifies what qualifies as a genuinely good, satisfactory human life, and dictates that society should be arranged and citizens should act so that welfare or good quality of life is fairly distributed across people over the course of their lives. This conception of justice assigns to the public sphere of collective determination a matter that morally ought to be the sovereign prerogative and responsibility of each individual citizen setting ends for herself.

These comments introduce a difficult topic that recurs throughout this paper. One preliminary observation is that responsibility in the sense of obligation for some matter may be placed on several agents without somehow reducing the responsibility that falls on any single agent. It need not be the case that my boss's responsibility to keep me from robbing the store in any way reduces my own responsibility not to steal from the store. My obligation to think through for myself what fairness requires of my conduct is not somehow undermined by the fact that society is obligated to adopt and implement (the correct) conception of fairness and to steer my behaviour away from unfair treatment of others even when my deviations are conscientious (and for that matter I am sometimes obligated to help force society from acting on sincerely held convictions of fairness that threaten to violate people's serious rights). The same goes for human good, I would say. The individual has a responsibility to work through to an autonomous conception of her good, because thinking things through is likely to bring it about that the ends we seek to fulfill in life are genuinely worthy ends. The individual's responsibility for her own ends does not gainsay the responsibility of society—all of us collectively—to conceive of human good accurately and to promote its advancement and fair distribution across persons.

SEN'S HALF-WAY HOUSE

Amartya Sen has developed an interesting criticism of one prominent resourcist ideal of justice, namely, John Rawls's theory.⁶ Rawls proposes that the measure of interpersonal comparison for a theory of justice is

⁶ See Sen's, 'Rights and Capabilities' in (Sen 1984b). See also Sen 1990, 1992.

the share of primary goods held by each individual. Primary goods are those that any rational person will want, whatever else she wants, provided she gives priority to her interest in cooperating with others on fair terms, assessing, adopting, and perhaps revising a conception of the good, and pursuing whatever conception of the good she currently embraces. Primary goods so characterized are supposed to include wealth and income, basic freedoms such as freedom of thought, freedom of speech, and wide freedom to act according to one's conception of the good, the opportunity to compete on fair terms for desirable jobs and other positions in society that confer advantages, and so on. Justice on this conception consists in a fair distribution of primary goods. Sen's objection is straightforward. Individuals differ in their personal traits and talents and susceptibilities. With the same amount of money, a strong person can buy a cart and get it up the hill, whereas a weak person cannot; a healthy person can travel far and engage in many employments, whereas a sickly person will find her cash absorbed by sickness, a person who is quick at learning can go far with a library card and internet access, whereas a slow learner responds to these opportunities with consternation. The general point is that what one is really free to be and do depends not only on the resources one has but on their interaction with one's personal traits and talents and susceptibilities. If what we care about is the extent of the real freedom a person enjoys (where if I am really free to X, then if I choose to X and act on this choice, then I succeed in Xing), the principles of justice should take as the basis of interpersonal comparison the real freedom or capabilities to function that individuals enjoy. What matters is not the resources I possess but what I am enabled to be and do, given that I have these resources in my actual circumstances.

The trouble with capabilities is that there are too many of them. Any person at any time has infinitely many capabilities, and no one's full capability set is perfectly matched and exceeded by anyone else's. Many of these capabilities one has are completely trivial. One wants to say that I have less real freedom than Smith if she has much more 'significant' real freedom than I have even though I have lots of trivial capabilities that do not correspond to any of hers. But to vindicate this thought one needs some standard of assessment of capabilities, some way of distinguishing the important from the trivial.⁷ To my mind the elaboration

⁷ On the measurement of freedom, see Sugden (1985). See also, Pattanaik and Xu (1990), and Sen (1990).

of such a standard of assessment of capabilities would amount to the development of a theory of human good or welfare or well-being. If this is right, then Sen's criticism of resourcism, if it is to succeed, must take the further step of embracing some version of welfarism.

DWORKIN'S TENSION

These arguments leave untouched perhaps the most resourceful and inventive theorist of justice who has staked out a resourcist position. Ronald Dworkin begins by recognizing that an individual's personal talents and traits looked at in one way are resources, means that enable one to achieve more of one's goals. A legless individual with a certain sum of cash has fewer resources than an otherwise similar person with the same amount of cash but well functioning legs. Dworkin proposes that justice requires compensation for an individual's (personal and external) resource deficits but insists on no compensation for one's ambitions, for which each individual bears sole responsibility. One's ambitions are values and goals and desires that one has and that one endorses and is glad to have. Dworkin further proposes that the measure of a resource one has is the highest price that others would pay for that resource, and he elaborates hypothetical insurance markets that work this idea into a specific proposal as to what we owe each other by way of resource provision (Dworkin, 2000: chapter 2).

The details of Dworkin's proposals repay careful scrutiny, but for our purposes this is unnecessary. His scheme of thought reveals an obvious tension. Putting the point aggressively, I would say that it is inconsistent for Dworkin to hold that personal talent deficits merit compensation according to distributive justice but that flaws in one's ambitions or in one's life as hindered by these ambitions should not merit compensation on the same basis. My lack of personal talent may include lack of goal-forming, choice-making, and choice-executing talent. These deficits may induce me to adopt poor values and unworthy life ends—to organize my life around hard drug consumption, for example. If my life is turning out badly because my ends are poor, and this in turn is the result of a personal resource deficit, if I cannot reasonably be held responsible for my endowment of personal talents, why does it make sense to hold me responsible for my ends? Granted, if I am an enthusiastic drug addict who endorses addiction and is glad to be an addict, I cannot in my own voice claim that these values I

believe to be correct and life-enhancing are handicaps that should trigger social compensation to me. But third parties can make such an assessment about my case, and should do so, given the facts just stipulated. If I should not be held responsible for my personal resource endowment I should not be held fully responsible for my ends.

One might object that the resourcist following Dworkin's line can recommend compensation for one's resource deficits including one's prudential reasoning ability deficits, but draw the line at compensating the individual for their exercise. But this is implausible. By luck, my practical reasoning disabilities may not lead me to unworthy ends and values, so in this case compensation would be unwarranted. What should trigger a claim to compensation is exactly what Dworkin must say should not trigger such a claim. Also, it may be that when poor abilities lead to bad values, a cash transfer is an inadequate remedy. (Whatever cash transfer I receive in the example just goes to more drug consumption.) The appropriate compensatory remedy might be paternalistic restriction of liberty targeted to blocking the poor exercise of critical reason from excessively damaging one's life. Or the remedy might appropriately take the form of provision of specific in-kind benefits that will lessen the impact of my addiction on my life prospects.

SUBJECTIVE AND OBJECTIVE CONCEPTIONS OF WELFARE

The claim that what we owe to one another in the name of justice does not depend on the welfare one would get from the benefits allocated by just arrangements is rendered all the more plausible, the more implausible the conception of welfare that is invoked in this context. If welfare is identified with desire satisfaction and the value of the satisfaction of an individual's desire is fixed by its felt importance for that person, the question then arises why justice should be concerned with the level of desire satisfaction that people reach. People's desires may be foolish or deluded, and their satisfaction may not amount to much. If my welfare is deemed to be fixed by my own assessment of how my life is going, then if my assessment is idiosyncratic or bizarre, my welfare will appear to rise and plummet in odd and arbitrary fashion. How well each person's life goes in that very person's scale of values will hardly do as a standard of interpersonal comparison for the purposes of a theory of justice.

Consider the satisfaction of an individual's desires that would survive reflection with full relevant information (the possession of which information would alter one's desires). Informed desire satisfaction also fails to provide a plausible standard of interpersonal comparison for a theory of justice. The degree to which one's circumstances afford one the opportunity to satisfy one's fully informed desires is not plausibly regarded as tracking what matters for purposes of justice. A person's basic desires, perhaps set askew by unfortunate socialization, might be such as would withstand critical scrutiny with full information, but nonetheless be trivial. One's paramount basic desire might be to count the blades of grass on courthouse lawns.

These objections to various conceptions of welfare rely on the reader's sense that none of these proposals correctly captures what really makes one's life go better or worse. The objections trade on the presumption that we have in mind at least implicitly some more adequate conception of well-being. We have a sense of what human well-being is, to which the proposed interpretations just canvassed are inadequate. This presumption might be correct or incorrect. Unless it is correct, the objections do not succeed. The objections then attack particular conceptions of welfare and do not impugn the idea that welfare rightly interpreted is the proper basis for interpersonal comparisons for a theory of justice.

Say a conception of welfare is subjective if the value of a putative good to an individual is fixed by that very person's attitudes, desires, or opinions regarding it. Since these attitudes, opinions, and desires can be foolish or defective, we might favour a conception that is not subjective in this way. According to an 'Objective List' conception of welfare, a person lives a life that is good for her to the extent that it contains the entries on a list of genuinely worthy and choiceworthy attainments such as reciprocated friendship and love, meaningful work, intellectual and cultural achievement, possession of significant knowledge, pleasure and freedom from pain, and satisfaction of desires and fulfillment of sensible goals as rated by their felt importance to the individual. The more one attains these items over the course of one's life, the better one's life has gone.

Although there is much to say on this issue, I shall simply assume that welfarism gets the best run for its money when welfare is interpreted on the Objective List model.⁸

⁸ On Objective List conceptions of the good, see Parfit (1984: 493–502).

The resourcist has a rejoinder. Reasonable individuals will not tend, after reflection, to converge on any one conception of the good but will fan out to embrace many conflicting conceptions of what is truly worthwhile in human life. All of these conflicting conceptions are reasonably rejectable, so none is fit to serve as an element of a theory of justice that is supposed to command the rational and free allegiance of all citizens. Enforcing any one conception of human good as part of a public conception of justice is wrong just as sectarian establishment of any one religion as the state religion would be morally wrong.

Here the resourcist tends to assume an asymmetry between the right and the good, such that reasonable people can be expected to agree about what is fair but not about what is good. I see no basis for the asymmetry. A thoroughgoing ethical skepticism is always an option, but if one lowers the bar of what constitutes decisive argument to make it plausible that agreement on what's fair can be expected, agreement on the good can be expected to a comparable degree. Much disagreement on human good under examination turns out not to qualify as reasonable disagreement. A reasonable and sensible person can fail to be adequately informed and make mistakes in reasoning and judgement that are excusable, but still mistakes. Just as most people's empirical beliefs are shot through with errors and confusion as judged by the standards of science, most people's moral beliefs similarly would not withstand rational critical scrutiny. Also, if one leaves to the side the complex matter of religion, which is really in the end mainly empirical and metaphysical disagreement, I submit that disagreement about human good is not so prevalent as philosophers like to claim. And finally, insofar as people do affirm opposed values and advocates for each side can make an equally good case, we should acknowledge that we have no basis for favouring any of them in the present state of ethical knowledge. The rational response to rational disagreement is to agree that either the values backed equally by reasons are equally good or that we do not know which if any is better given our current epistemic condition. Even if at a high level of abstraction there is a fair amount of rational agreement on the good, at a lower level of abstraction, and when one good is rated against goods of very different types, disagreement may be rife. But this upshot is not damaging for welfarism so long as one is willing to acknowledge that the standard of good that can sensibly be employed in a theory of justice is only as specific and determinate as reasons warrant.

PERFECTIONISM

Objective accounts of human good are sometimes labeled 'perfectionist'.⁹ The label points to a potential difficulty. Perfectionism as I shall understand it identifies human good with excellence of achievement, the approach towards perfection of human capacities. The idea is that the best, most significant domains of human achievement are the ones that count. Human good according to perfectionism is constituted by the highest achievements in these fields of art, culture, science, and athletics. But most of us do not contribute to this honour roll of the very highest achievements, so according to perfectionism so construed, most people's lives do not have any intrinsic value at all. At best, if we are lucky, our lives somehow help raise the maximal achievements of the Albert Einsteins and Michael Jordans of the world. Whatever the maximizing function selected to complete a perfectionist conception of justice, the resulting view will hardly resemble anything recognizable as egalitarianism. Even if the theory counts the maximal significant achievements of each individual who ever lives and seeks to maximize the average level of everyone's achievements, this would mean that some aspect of my life that is a quite minor episode of it from my own perspective such as the C- grade I earned in high school biology, since it is my highest qualifying achievement, captures the goodness of my life in the perfectionist rating.

But an objective account of human good need not and should not be perfectionist as just described.¹⁰ An objective account should notice that ordinary attainments that almost all of us achieve are non-trivial human goods that significantly enhance the quality of the life of the person who achieves at this everyday level. Attaching reasonable weights to the variety of goods that people can achieve renders it the case that my life, though containing less human good than many people's, is not an absolute nullity by comparison with the lives of those who succeed in pushing forward the frontiers of achievement at the very highest levels of human excellence.

⁹ For a skeptical account, see Rawls (1999: 285–92). For an elaboration, see Hurka (1993) and Sher (1997).

¹⁰ For further argument on this point, see Arneson (1999c).

OPPORTUNITY AND CAPABILITY

Let us return to the issue of whether fundamental principles of justice should use as a standard of interpersonal comparison the welfare people actually reach or the real freedom that they have to achieve welfare if they choose. Martha Nussbaum has explored this issue in recent writings.¹¹ Her arguments are plausible and merit a careful hearing.

Nussbaum revises Sen's capability approach by taking a clear stand as to what capabilities are important for an individual's life and hence relevant to what justice requires. She identifies what she takes to be several functionings crucial to the good life, and holds that social justice requires that each person should have the capability or real freedom to achieve each of these important human functionings at an adequate level.

Why does justice require provision of capabilities rather than actual functioning at the target level? Her answer is that provided that fully adequate capabilities are secured for the individual, she has the right to use those opportunities or not as she sees fit. Take the example of religious expression. Justice according to Nussbaum requires that each individual should have the capability to develop a religious point of view and express it through chosen rituals and worship. To have such a capability, I must be provided an adequate education that enables me to explore complex sacred texts and perhaps a socialization that enables me to be reasonably cooperative with fellow members of my faith as well as formal guarantees of religious liberty. But it would be going beyond justice in an inappropriate and wrongful way for the state to coerce or manipulate the individual or implement some other policy designed to bring it about that the individual actually attains religious development or expression at a level the theory of justice deems adequate. Justice requires both providing adequate capability and refraining from acting to bring about any level of functioning. Nussbaum introduces the example of sexual fulfillment to make the same point. Sexual expression is an important human good, so the just society implements policies that bring it about that every person so far as is feasible has the capability or real freedom to engage in sexual expression. But again, to go beyond provision of capability to provision

¹¹ See Nussbaum (1988, 1990, 1992, 1999, 2000). See also Arneson (2000b).

of functioning would be a violation of justice. An individual might exercise her capability in this area by choosing a life of celibacy, and the state should respect the individual's choice. Each is entitled to adequate provision of capabilities to achieve all the fundamental human functionings, and with regard to choice of actual level of these functionings each individual should be sovereign.

Against the claim that the standard of interpersonal comparison for justice purposes should be the actual level of welfare that individuals reach, one might also object that this view gives personal welfare and even self-seeking an unduly privileged position. The capabilities that justice requires all should have are capabilities for agency as well as for personal welfare. A choiceworthy human life need not be one relentlessly seeking the long-run welfare of the individual. One might reasonably pursue goals other than one's self-interest and self-consciously choose to sacrifice one's own welfare for the welfare of others or for some other worthy cause. We are interested in making it possible for people to lead lives that are choiceworthy in the sense of admirable or virtuous, and a life can be admirable even if the goals it achieves are attained at a cost of personal welfare. So one might insist that the capabilities that justice requires be made available for all persons be capabilities for agency not just for welfare.¹²

Finally, one might uphold a capability rather than an actual functioning standard of interpersonal comparison by appeal to personal responsibility. Provided real freedom is provided, society has no further obligation to ensure individual functioning. The individual is not responsible in the sense of obligated to gain any given level of functioning but should be held responsible for the outcome of her choice against a background of fair provision of capability. In this latter case, one is held responsible for the outcome in the sense that any welfare deficits for the individual that her action generates will not generate further claims for compensation from society. The individual is responsible for her choice in that she is rightly left to absorb its consequences that fall on her.

In response: consider the case in which one can provide opportunity or capability to an individual but one knows with certainty that the opportunity will be wasted. Recall that capability is real or effective freedom. I can be formally free to go to Paris if no law prevents me and no individuals would block me from trying to go, yet I am still unable

¹² Sen argues for this claim (Sen, 1986).

to get to Paris. But if I have the capability or real freedom to go to Paris, if I choose to go and act in a way that is open to me to effect this choice, I do get to Paris. The contrary intuition regarding freedom including real freedom is that it is just a means, not morally valuable in itself. Suppose we can supply building materials for a church to a group of people, but we know that they will not make use of this capability to build a church, nor will they do anything else useful with the opportunity, so the building materials will rot unused. Or we can supply eggs to people, and thereby, given their circumstances, we provide them real freedom to eat fried eggs, but we know with certainty that the people will negligently drop these eggs and none will be cooked or eaten.¹³

If provision of capability for significant human functionings is required by justice and morally valuable as an end, it seems to me that provision of opportunities that one knows will be wasted nonetheless generates opportunities provided. Hence providing them must be morally valuable as an end. My own view about such cases does not square with this valuation. Wasted opportunities are a waste, and if one knows an opportunity will be wasted, any obligation one might otherwise have to provide it lapses. But then opportunity and capability provision is morally valuable as a means, not as an end. Provision of real freedom is not what ultimately matters morally but a usually reliable tool for bringing about what ultimately matters morally.

One option for Nussbaum is to bite this bullet. One might insist in the face of the example that opportunity provision is valuable as an end, apart from any further consequences such provision might bring about. It is morally good that people have the real freedom, regardless of what use they make of it. The religion example might be cited to enhance the plausibility of this claim.

This option carries significant costs. Suppose the example is amplified in scale. Everyone receives enough real freedom to achieve all important human functionings, but people exercise their freedom or let it languish so that none do in fact attain a decent quality of life with adequate levels of any significant functioning. To my mind the fact that avoidable welfare deficits are brought about by the mechanism of individual voluntary choice against a background of adequate freedom does not render the result a 'Don't care' for social justice. Whatever in the

¹³ See Arneson (1998).

culture, manifesting its effect through individual choice, prevents people from living lives of decent quality is a matter of injustice.

The examples that Nussbaum cites to show that justice is concerned with provision of capability not determination of functioning are perhaps not decisive in this regard. In these cases, it is far from clear that governmental attempts to ensure functioning would actually improve people's welfare on any plausible construal. Forcing people to have sex who would prefer to remain celibate does not actually secure any goods of sexual expression to them and of course harms them. In cases where provision of opportunity is all we can sensibly do to promote functioning, the judgement that the government should not act to go beyond provision of opportunity to ensure functioning need not show that our underlying principle is to promote capability only.

The arguments of John Stuart Mill's *On Liberty* indicate strong reasons to promote wide individual liberty as a means to maximize individual welfare.¹⁴ Even if we only go along part-way with Mill, and deny that his arguments succeed in establishing that restriction of human liberty against his liberty principle would ever promote welfare on the whole, we still may embrace the idea that wide individual liberty is partly constitutive of some important human goods and overwhelmingly likely to be instrumental to the attainment of the bulk of them.

Of course the issue of whether to adopt capability or functioning as the basis of interpersonal comparison is not at all the same as the issue whether or not to insist that restriction of an individual's liberty for her own good ought never to be done. We might opt for capability as the measure and yet allow that paternalistic restriction of liberty to restore or protect an individual's capability is sometimes morally acceptable. Nussbaum explicitly indicates that her approach to social justice, though distrustful of paternalism on general grounds, does not reject it in all cases.

Nussbaum straightforwardly appeals to 'the respect we have for people and their choices' as the basis for putting capability rather than achieved functioning at the core of social justice requirements. Even when we are quite certain that we know better than others what mode of functioning of those available is best and what path will lead to it, 'we do not respect people when we dragoon' them into a better functioning against their will (Nussbaum, 2000: 88). In a similar spirit,

¹⁴ See Mill (1974). For comment, see Arneson (1989b).

Nussbaum argues against those she calls ‘secular humanists’ that we should respect and value people’s choices to engage in religious functioning. She observes, ‘When we tell people that they cannot define the ultimate meaning of life in their own way—even if we are sure that we are right, and that their way is not a very good way—we do not show full respect for them as persons’ (Nussbaum, 2000: 180).¹⁵

The much-dreaded secular humanist wins this battle, in my judgement. Respect for persons is shown by behaving towards them according to correct moral principles. So far as I can see, the invocation of respect does not advance the discussion as to what these principles are. If coercion and compulsion of me are required by correct moral principles, you do not show less than full respect for me when you clamp me down.

Notice that Nussbaum’s own view allows paternalism to preserve for a person an adequate level of capability. She draws the line not at paternalism but at paternalism to enhance functioning. The issue is complicated, because many important functionings or achievements that enhance well-being are either more valuable if done freely or valuable at all only if done freely. A plausible case in which the liberal welfarist would advocate paternalistic restriction of liberty to enhance functioning would likely involve restriction now that paves the way for freely chosen valuable functioning later.¹⁶ If I define the ultimate meaning of life in my own way as requiring adherence to a religious view that tells me to jump off a cliff, and forcing me not to act on this superstition will lead to willing engagement by me at a later time in valuable activities, the welfarist liberal will recommend paternalistic restriction, despite the liberal empirical lore that wisely cautions against it, if that maximizes the social justice function. That judgement strikes me as correct and not reasonably deemed objectionable on the ground it manifests disrespect to persons.¹⁷ To say this is not to deny that

¹⁵ A similar line of argument is in Dworkin (2000; chapter 6).

¹⁶ One sees that the policy disagreements between Nussbaum and her prioritarian opponent are likely to be subtle. Agreeing that justice is global in scope and that objective well-being is the basis of interpersonal comparison, we are left with the opportunity versus outcome (capability versus functioning) debate, which strikes me as interesting in theory but likely to be non-momentous in practice.

¹⁷ If respect for persons is taken to indicate that one should refrain from interfering with people’s liberty in self-regarding matters, then it will rule out paternalism to protect capability as well as paternalism to enhance functioning.

religions sometimes counsel prudential and moral ways of life for the most part and enhance many people's overall well-being even if core religious beliefs are threaded with myth and confusion.

One should also recall nebulosity. If it is genuinely unclear what course of action best advances human well-being fairly distributed on the whole, then the welfarist must be prepared to acknowledge that any course of action that is tied for best so far as we can tell is morally permissible so far as we can tell. But from the complexity and partial indeterminacy of human good one cannot infer that people should always be left free to follow their own judgement of what is best even in self-regarding matters. Moreover, when a case, as specified, makes it clear that letting people go their own way will result in a loss of human good fairly distributed over the long haul, then letting people go their own way fails adequately to value morally each person's life and the importance that it turn out better rather than worse.

SUFFICIENCY, EQUALITY, AND PRIORITY

In contemporary theories of justice, it is often urged that what matters morally from the standpoint of justice is that everyone has enough. Call this the doctrine of sufficiency: Institutions and acts should be set

But Nussbaum accepts paternalism to protect capability. I do not see why respect for persons interpreted as a norm against paternalism should distinguish in this way between paternalism for capabilities and paternalism for functioning. If one says that the norm against paternalism is a strong and normally compelling principle that gives way only in extreme cases where the individual's free choice would drastically reduce long-term capability, one must be appealing to the claim that capability maintenance per se has great value. But in response to the counter-example in which provision of capability has no tendency to promote valuable functioning or any other plausible candidate for value, I imagined the advocate of the capability approach to justice to insist that people have a right to autonomy that the norm against paternalism protects. This response seems to acknowledge that we should secure capability rather than functioning for people as a matter of justice not because capability is valuable per se but because people have a right to autonomy that rules out paternalism. I cannot put together these various responses into a position that makes sense. My own view, of course, is that autonomy and the norm against paternalism are instrumentally useful for promoting valuable functioning outcomes and are not valuable in themselves.

so that as many as possible of all persons who shall ever live attain the threshold or adequate level. Sufficiency can be yoked to a variety of positions as to the proper basis of interpersonal comparison. For simplicity I just consider sufficiency of welfare or well-being.

Sufficiency can seem a moderate doctrine when compared to alternate egalitarian justice norms such as equality or maximin. Maximin assigns strict lexical priority to attaining benefits and avoiding losses for the worst off (who might be a single individual), no matter what the cost in foregone benefits or avoided losses that could have been secured for any number of better off people. On its face, maximin seems implausible in its strong tilt toward the worst off; few would say a penny's worth of benefit for a single worst off individual should take priority over enormous benefits for teeming masses of slightly better off people.

Equality too can seem an extreme doctrine. Against the idea that everyone should have the same according to some measure it has been objected that how well off one person is compared to others does not per se morally matter. What matters rather is that each person should have enough, it is said (Frankfurt, 1987).

The advocate of sufficientarianism obviously owes us some account of how to single out non-arbitrarily a level of welfare that is deemed specially important to attain. Why that particular level and not a lower or higher threshold? But independently of where the threshold is set, one of two problems must loom large. One difficulty is that sufficiency as specified says that bringing any number of people up from lives of abject misery to significantly better but still subthreshold lives matters not at all by comparison with bringing even one person just across the threshold of sufficiency. Moving a billion people from hellish existence to a far better life does not register as important for the sufficiency doctrine, which values only maximizing the number of people who reach the threshold. The higher the threshold is set, the worse this problem becomes. The second problem is that sufficiency prefers preventing one person who is just at the threshold from slipping even the tiniest notch beneath it to bringing it about that any number of people who are just at the threshold and hence living barely adequate lives are enabled to obtain significant gains to a much better quality of life far above the threshold. The higher the threshold of sufficiency is set, the worse this problem becomes (Arneson, 1999b, 2000).

The remarks in the preceding paragraph do not suffice to rule out the possibility that one will be able to characterize the level of

sufficiency in such a way as to show that gaining the level is of transcendent moral importance. Were this done, the problems just described would not be decisive objections against the sufficiency doctrine. Perhaps according to some basis of interpersonal comparison, a threshold of the sort the doctrine requires can be characterized, though I doubt it. My point here is that if one accepts welfare or well-being as the basis of interpersonal comparison, the idea of a threshold suitable for a sufficiency doctrine becomes wildly implausible. The good life admits of degrees. No matter how low or high one's level, significant benefit and loss can be had. At any level of well-being, a jot more or less hardly matters, so the idea that there is some level of welfare, even the slightest departure from which is horrifically bad, is hard to credit.¹⁸

Accepting the view that people's relative position does not matter morally per se, one need not accept sufficiency as the moderate and plausible egalitarianism. Priority of well-being combines attractive aspects of maximin and sufficiency while avoiding their rigidity and vulnerability to counter-example. Prioritarianism of well-being holds that justice requires that we choose acts and policies that maximize moral value, moral value varying with well-being gains to individuals. The moral value of obtaining a benefit or obtaining a loss for a person is greater, the amount of well-being the individual would gain from the benefit, and greater, the lower in well-being the individual would be over the course of her life in the absence of this benefit.¹⁹ Well-being

¹⁸ One can elaborate versions of the sufficiency doctrine that avoid some of the unattractive implications just noted. Suppose it is proposed that strict priority should be given to obtaining benefits and avoiding losses for those who are below the sufficient threshold, the degree of priority varying with one's distance from the threshold, so that helping those leading hellish lives takes priority over helping a similar number of people who are leading better but still subthreshold lives. This view is still implausible in its implications for situations in which one can obtain great benefits for many already above-threshold people or instead forego these benefits and obtain a tiny benefit for one person below the threshold. To my mind this revised sufficiency is more plausible than the sufficiency doctrine criticized in the text because the former is closer in substance to the priority view.

¹⁹ On priority, see Parfit (1995). As stated in the text, prioritarianism is defined only for constant population. When this restriction is dropped, and acts and policies are assumed to be able to affect the size of the population, the view I favour is the critical-level generalized utilitarianism developed by Blackorby et al. (1997).

in turn is identified with attainment of objectively valuable goods, the entries on the Objective List.

As so far stated, prioritarianism names a family of views, not a particular principle. One gets a specific principle by deciding on the degree of priority that should be assigned to obtaining benefits for one who is badly off rather than one who is well off. At one extreme, prioritarianism assigns vanishingly small priority to obtaining benefits for those who are worse off, and it becomes indistinguishable from utilitarianism. At the other extreme, the priority assigned to obtaining a benefit for a badly off person as compared to one who is slightly better off is so great that prioritarianism resembles maximin (except that priority is given not to being relatively worse off than others but to being badly off on an absolute scale of well-being). I intend to single out views that assign a middling priority, and so are not close either to maximin or maximize the average.

RESPONSIBILITY AND PRIORITY

Resourcist views of social justice appeal to considerations of liberty and personal responsibility. Regarding liberty, my view is that the welfarist can note that it is generally instrumentally valuable for securing well-being and in some cases partly constitutive of well-being. In neither case should one take liberty to be a value separate and independent of well-being and properly included in the formulation of fundamental principles of justice. Regarding responsibility, the story is more complicated.²⁰

Does justice require separating the needy and disadvantaged into two groups, those who are undeserving or otherwise responsible for their plight and those who are just victims of bad luck? If separation is possible, do the groups merit different consideration? For that matter, does justice require separating the privileged and advantaged into two groups, those who are deserving or otherwise responsible for their favourable condition, and those whose good fortune is just the result of sheer good luck? If separation is possible, do the lucky advantaged and the meritorious advantaged deserve different treatment?

Notice that even if values of responsibility and deservingness are dismissed on the ground that we cannot see into people's souls and

²⁰ See Arneson (1989a, 1999a, 2000a, and forthcoming).

fathom their true virtue or lack thereof, there is still room for notions of responsibility of a sort to play an important role in a theory of justice oriented to good consequences. Holding people responsible for various consequences of their choices that befall themselves and other people is no doubt in many types of situation a useful instrument for inducing people to behave in ways that promote better consequences.

Consider safety regulations in national parks. The park service erects warning fences and attaches penalties to violations of safety rules. Those who wish to rock climb within park boundaries, as in Grand Teton, may be required to register with park rangers before embarking, discuss their plans, and listen to advice dispensed by experienced rangers. Venturing on especially dangerous routes may be flatly forbidden. Those using the park may be informed that if rescue is required, they will be charged for its costs, or charged for its costs if those in need of rescue are deemed unreasonably to have placed rescuers in jeopardy. In certain situations, people are informed, no rescue effort will be organized, so those who risk getting in this sort of fix must rely on their own resources to extricate themselves from it. These responsibility-defining features of regulations may be regarded simply as instruments for inducing behaviour that balances pleasure and risk optimally.

Acknowledging that holding people responsible in various ways promotes desirable outcomes, we still face a further issue. Are desirable outcomes defined in part by people's responsibility attributes? Is it intrinsically morally desirable, desirable for its own sake and not in order to bring about some further goal, to bring it about that those who behave responsibly fare better than those who behave irresponsibly, that the deserving fare better than the undeserving, the virtuous better than the vicious, saints better than sinners?

It is hard to formulate a clear case in which instrumental and intrinsic notions of personal responsibility will lead to different recommendations for policy. Suppose we are setting up a rationing scheme for a scarce and expensive medical technology. The demand for the technology by people, all of whom have comparable medical need for it, will stably exceed supply. Suppose further there are two distinct medical syndromes that give rise to the need for the technology. One is a form of environmentally caused cancer that strikes people randomly. The other is a form of cancer caused by smoking and eating fatty foods. It turns out that 'punishing' the victims of the latter form of cancer by denying them access or limiting their access will have no

tendency to affect people's behaviour to a statistically significant extent, because the time lag between engagement in risky behaviour and eventual onset of the disease is so great that people are just not responsive to incentives that attach to behaviour after such a long time lag. So in straight prioritarian terms, we do exactly the same amount of good by making the scarce technology available to those suffering from the randomly falling cancer, those suffering from the cancer caused by lifestyle choice, or to any mix of the two groups. Nonetheless one might think: it is intrinsically morally better, when one must choose between conferring an identical benefit on one of two people, to confer it on the person who has not come to be in need through any choice on his part rather than on the person whose needy state is brought about by his past choice. I admit to being inclined to think this way. This punitive thought is consistent with holding that if one can help only the sinner, not the saint, one should help the sinner rather than let the resource go to waste. The thought is also compatible with adopting a soft line on personal responsibility that holds that one is more responsible for making a bad choice, the more difficult and painful it would have been to have made a good choice instead. (In the example, although those adopting the unhealthy lifestyle differ in their degree of responsibility for their choice, shifting the resource to the victims of randomly falling cancer will tend on the average to bring it about that those with a lesser degree of responsibility for their present threatening plight will have a greater chance of having that plight alleviated.)

I simply note that if one is moved by the case for taking the responsibility status of people to affect the intrinsic moral value of bettering or worsening their condition, prioritarianism can be modified to incorporate this consideration. This might be done in different ways. One is to hold that we ought to choose actions and policies so as to maximize a function of opportunity for well-being that takes an opportunity for a benefit to be better, the larger the benefit, and to be better, the lower the lifetime well-being of the person who would be its recipient. A person's opportunity for well-being is identified with the well-being he would attain over the course of his life, as assessed from the onset of adulthood, if he were to behave throughout his life as prudently as could reasonably be expected (given the cost and difficulty for him of choosing prudently rather than imprudently). Another and simpler proposal is to incorporate responsibility directly into the principle that determines the moral value of securing gains and avoiding

losses for people. According to responsibility-catering prioritarianism, the moral value of attaining a benefit for a person, is (i) greater, the larger the gain in well-being she would get from it, (ii) greater, the lower the person's lifetime well-being would be in the absence of this benefit, and (3) greater, the less the person is deemed responsible for the lifetime well-being level the person currently enjoys (if it is bad and we are contemplating transfers to her).

WHATEVER OF WHAT AMONG WHOM?

The egalitarian theorist of justice who has decided on a standard of interpersonal comparison, hence knows what about persons should be equalized, and has decided on a particular maximizing function, hence knows what exactly 'equalization' shall amount to, still has further theory-building work to do.

One issue is whether the egalitarian justice principle as fully elaborated is to serve as one among several principles in one's political morality, or is to be the master principle that fundamentally determines what we owe to each other. If the former, then to understand what the egalitarian justice component of the view comes to, we need to know to what other principles the egalitarian justice principle is being harnessed and what the relative weight of these other principles is to be. If the latter, then we need to be told why political values distinct from egalitarian justice concerns that might have been thought to merit inclusion as fundamental principles are really dispensable or plausibly reinterpretable as instruments for promoting the master egalitarian values to their fullest extent.

John Rawls takes the 'one among several' route when he asserts the equal basic liberty principle that ensures civil rights for all citizens and the fair equality of opportunity principle that prohibits wrongful discrimination and assigns these principles a strictly higher priority than the difference principle that is to regulate the distribution of social and economic benefits. Classical utilitarianism is usually understood as a single master principle that is intended to be a complete and adequate political morality. Welfarist prioritarianism of the sort I espouse is intended to play the role of master principle not that of 'one among many'. To defend the claim that welfarist prioritarianism is fit to play this role, one would need to argue in detail that values commonly thought to be distinct and separate from egalitarian justice and also

morally considerable in their own right can be placed in a subordinate and purely instrumental role without moral loss. In particular, one would have to argue that the values associated with the right to a democratic say in political matters, the right to free speech and freedom of association, and liberties of conscience and expression can all be interpreted as tools to the promotion of human welfare without doing violence to their proper meaning and significance.

Another issue, linked to the first, concerns the legitimate scope of the egalitarian justice principle. Here only two alternatives have struck anyone as plausible. One position is that the moral imperative of equality arises within a nation state and applies only among the members of a single nation state. The state exercises very significant coercion over all its members and claims to act in their name as it coerces them. Some theorists have found in these facts or kindred facts a deep source of compelling moral reasons for the enforcement of equality. The members of a single political society in virtue of their common membership have an obligation to arrange basic institutions on a footing of equality, or perhaps the members have an obligation when acting collectively through their agency, the state, to implement a substantive equality not elsewhere morally required. Call this the stateist limit on scope.

The second position that has struck people as plausible is that fundamental moral principles have the widest possible scope. We are bound to treat in accordance with the same master moral principles all persons who shall ever live. Distance through time or space, shift of political jurisdiction—none of this makes any fundamental and substantive difference per se to the character of what we owe to each other. One should act so as to produce best consequences, assessed according to the master egalitarian principle, for all people existing at any time who can be affected by what one does. Call this the cosmopolitan view on the scope of justice principles.

The choice of stateism versus cosmopolitanism quite obviously will drastically alter one's political morality and the character of the policy implications it delivers. Suppose egalitarianism takes the form of a leximin view that assigns the highest priority to producing benefits and avoiding losses for the worst off, next highest priority for the second worst off, and so on up to the best off individual. This view can be elaborated in different ways depending on how one's theory identifies who is better off and worse off, but on any remotely plausible conception of being badly off, people who live in abject poverty in the

world's poorest nations and suffer low life expectancy and high infant mortality and low income and lousy working conditions will on the average qualify as far worse off than the vast bulk of the populace in affluent societies. Suppose then that a cosmopolitan leximin principle of justice is assessing Scandinavian Social Democracy as it functioned from the years after World War II to 1990. Such matters as wage compression and universal provision by the state of social services and benefits to the population of Norway or Sweden will count for less than the impact of Scandinavian Social Democratic policies insofar as they had an impact on the worst off on a world scale through expanded trade, foreign aid to impoverished nations, and the number of very poor people allowed to immigrate and settle in Scandinavia over this time period.

Here is a simple example that illustrates the radical shift in moral perspective induced by the adoption of cosmopolitan justice. As I write this essay in April 2001, Harvard students are protesting the abysmally low wages paid to that university's lowest-paid workers. The living wage movement demands that a minimum of \$10.25 per hour be paid to all Harvard employees. At present, more than a thousand workers employed directly by Harvard or indirectly by contracting firms that are hired by Harvard earn less than this modest hourly wage. No doubt, if the options are the Harvard status quo and a change in which Harvard's kitchen workers and maintenance crews and other low-wage workers are paid a higher hourly wage (without any decrease in the numbers of people employed), the shift to provision of a living wage is a progressive reform. But for any such reform, from a cosmopolitan perspective, one can mechanically produce another that beats it. In this case, the cosmopolitan alternative would be that Harvard pays a competitive wage and no more to its workers and takes the money saved by declining to pay the higher living wage and uses it instead to purchase health care insurance or provide small amounts of capital to finance self-employment for some of the very poorest inhabitants of the earth. Asking low-paid Harvard workers to donate part of their wages to this small-scale foreign aid programme would render it even better from the cosmopolitan moral standpoint.

In this exercise, it is crudely assumed that one's overall well-being is reliably indicated by one's monetary income, which is of course inaccurate. Being relatively poor in the society one inhabits may to some extent lower one's well-being, so of two people with the same yearly income, one of whom lives in an affluent society where she is

poorer than most other members of her society, may be worse off on a well calibrated well-being scale.²¹ More important, other factors may significantly affect well-being that are not tightly linked to monetary income. A rich person in an affluent society who dies of illness in childhood is surely among the world's worst off. A person who is severely retarded or disabled by crippling chronic illness will be among the very worst off on a world scale regardless of her monetary income.

But these complicating points could be accommodated by minor rewriting of the example of a progressive reform at the expense of Harvard's low-paid workers without altering its essential message. A cosmopolitan perspective requires us to seek maximization of some equalizing function on a world scale, not a local scale, and drastically affects our sense of who owes what to whom by way of fundamental and compelling social justice obligations.

PRIORITY AND PUBLIC POLICY

Priority may sound blatantly like a Robin Hood conception of social justice that tells us to take from the rich and give to the poor. But actually the degree to which prioritarianism as stated recommends egalitarian social policies depends on many contingencies. Notice first of all that prioritarianism attaches no moral value to equality of condition per se, to bringing it about that people have the same income or wealth or achieve the same level of well-being over the course of their lives. The desired aim is to maximize a sum of human well-being adjusted by prioritarian weighting. If arranging institutions and social practices so that talented people are induced to sort themselves into maximally productive work roles involves letting market incentives operate in a private ownership setting, so be it. If attaining a rate of savings sufficient to fulfill prioritarian goals over the long run of many generations requires the existence of a class of wealthy private investors whose great wealth leads them not to be disposed to consume too much of it, so be it.

In a society that countenances significant social inequality in order to fulfill the prioritarian aim, the worst off individuals might seem to have a valid complaint against the social order. Here are people guzzling champagne and driving fancy cars, while you cannot afford adequate health care insurance. You are disadvantaged through no

²¹ On relative poverty, see Sen, (1984a).

fault or voluntary choice of your own, and others end up advantaged through a symmetrical lack of merit. Why is this fair?

If the society is fulfilling prioritarian principle, there is an answer to this complaint. The response is that if one were to attempt to rearrange social institutions, education and socialization methods, practices, laws, customs, and social norms in order to make you better off, the result would be either that someone would fall to a level of well-being lower than what you now experience (and so this person would have a stronger complaint than you have), or others, who are better off than you are, would find their well-being lowered at your expense to such an extent that their aggregate loss, weighted by prioritarian adjustment, outweighs the moral value of the gains to well-being that would accrue to you under this attempted reform. If the society is already well-run according to prioritarian principle, then there is no way to make you or anyone else better off without worsening the position of others who collectively would have a stronger moral complaint than you now have.

On the other hand, if Robin Hood-type policies are justifiable in a society run according to prioritarian principle, their rationale will not be collective envy but the gains in weighted well-being that will come about over the long run through the redistributive measures.

PRIORITARIAN HEALTHCARE POLICY

What does justice require by way of health care provision? Prioritarianism implies that health care policies should be determined by a cost-benefit analysis that measures costs and benefits of proposed policies in terms of their overall impact on weighted well-being.²² A serious assessment of any given policy choice from this perspective would require careful quantitative analysis that takes into account all relevant factors that the policy choice can affect. I cannot make any pretence of offering any such assessment here at the level of detail that would be needed in order to make responsible policy recommendations. I shall present some stylized considerations to illustrate the flavour of prioritarianism as a guide to policy.

Prioritarianism brings a special and (I would contend) a plausible perspective to bear on policy choices that pit the interests of young

²² In this connection prioritarianism may be compared to the proposal by Richard Posner that legal rights and duties ought to be determined by a cost-

people and old people against each other. Other things being equal, a dollar spent on the health care of an old person is likely to do less good, in terms of well-being gains, than a dollar spent on a child, because the young person is likely to live for more years and reap the health benefit for a longer time. (Suppose a child and an aged adult both need a hip replacement, and the technology and materials for providing hip replacement are in scarce supply.) More important, in policy choices that influence the likelihood that present children will live to old age, a child who dies prematurely is very likely to be one of the worst off, because her lifetime well-being, if she dies young, will be very low, compared to those who have lived to a ripe old age, even those among the old whose socio-economic status is low. It bears emphasis that an old person confronted with a life-threatening disease is likely to be among the best off members of his society, and to be privileged just by virtue of his age, and hence that further gains in well-being that further healthy life would give him are to be discounted by his present high well-being score.²³ These considerations have a bearing on the assessment of the morality of the Inuit practice of putting aged family members out in the snow to die rather than letting them consume scarce resources that are needed to provide security for

benefit analysis with costs and benefits measured according to the norm of wealth maximization. This entails that property rights should be clearly specified, that voluntary exchanges should be allowed to stand provided external costs are not imposed on third parties, and that where transaction costs render voluntary exchange too costly, the state should assign the right to act to the party who would have paid most for it had transaction costs not interfered. The last policy mentioned follows the norm that a change from the status quo to another state of affairs is acceptable just in case the winners from the change hypothetically could fully compensate all losers while still remaining gainers. Like Posner, I propose that rights and duties be set according to a cost-benefit analysis, but I propose prioritarianism should substitute for wealth maximization as the measure of costs and benefits.

²³ The view in the text supposes that an individual is better off, the greater her lifetime aggregate well-being. If two persons on the average gain the same positive increment of well-being on each day of their lives, but one is older, that one is better off. So prioritarianism will tend to assign greater moral value to obtaining benefits for those whose lifetime overall well-being would otherwise be low, and other things being equal, those who lead long lives are better off than those who lead shorter lives. For a version of egalitarianism that takes a different approach to the issue of justice between young and old, see McKerlie (2001).

younger family members in a harsh physical environment. (I cannot claim any accurate anthropological knowledge of Inuit practices; everything I know about them is gleaned from an old Hollywood movie, *The Savage Innocents*, directed by Nicholas Ray.) Consider in this same spirit healthcare policies that directly or indirectly ration the use of expensive life-prolonging medical technology by old ill people whose prognosis is poor.

One might also wonder about the merits, from a prioritarian standpoint, of medical interventions that prolong life at a reduced level of functioning, so that expected additions to well-being tail off for that person if the intervention is made. Prioritarianism in a rough way justifies the use of calculations of quality-adjusted life years (QUALYS) in deciding the merits of alternative uses of medical care budgets, provided that QUALYS are further adjusted by the prior well-being status of the person for whom we are contemplating medical intervention. So extending the duration of a person's life at a reduced level of functioning generates more moral value if the person is to this point in her life low in well-being. But of course a relatively non-costly intervention that would extend the life span of a person who is already high in well-being might be cost-effective from a prioritarian standpoint even if the person's functioning and hence expected well-being in these extra years are greatly reduced. In these discussions I have simplified by proceeding as though the continued life and restored good health of the person being treated will affect the well-being only of that very person, but this is obviously a gross over-simplification—think of the case of a grandmother whose health is imperiled and who is the sole guardian of young children. These effects of the continuance of one person's life on the well-being of others can be negative as well as positive. A wife loves her husband very much, we acknowledge, and yet in some scenarios the wife, despite her affections, would be clearly better off if the husband's life were to end swiftly rather than for her to continue to play the role of care-giver while her husband persists in a dependent debilitated state. The true romantic recognizes the fungibility of persons when it exists.

According to prioritarianism, when medical intervention and support services bring about the continuation of an individual's life when continued life is certain to lower the person's overall lifetime well-being, continuation of life wrongs the person. This summary judgement must be qualified in cases when the individual in question is competent and steadily wants to continue living, because we would need to

analyse the requirements of autonomy and the intricate interplay between autonomy and well-being, but when the individual is rendered permanently incompetent, no such hedges are in order. My own father suffered from advanced Alzheimer's disease for the last several years of his life, during which time he surely had steadily negative well-being in significant amount as reckoned by any sane measure of well-being. The prioritarian perspective on what he was owed in strict justice, by society and by immediate family members (myself included), strikes me as eminently and disturbingly sensible.

Prioritarianism resists any simple ascription to persons of a moral right to bear children. Suppose that I am a carrier of genes that would give any offspring I might bear an unsatisfactory low expectable quality of life, or an unsatisfactory low expectation of a good life unless the offspring's plight is alleviated by societal provision of excessively expensive medical intervention. Suppose also that a test is available that enables me to know with fair accuracy whether my procreating would impose unwarranted costs on my offspring or on society. In these stipulated circumstances, I am morally obligated to undergo the test and abide by its results. In all such cases what count as an unsatisfactory expected quality of life, and excessively expensive medical intervention by society, and so on, are to be determined by prioritarian calculation.

The issue of aid to chronically mentally ill adults poses difficult issues and prioritarianism accurately registers the conflicting pressures on policy choice. On the one hand, chronically mentally ill persons whose illness rises above a threshold of severity are among the very worst off in the quality of life they are able to attain, so on this score there is great moral value in securing gains in their well-being. On the other hand, such people can sometimes be extremely poor transformers of resources into genuine improvements in their quality of life, so on this score there is reason not to allocate scarce dollars to the provision of services that will provide little discernible help. The problem is exacerbated when significantly mentally ill persons combine a strong taste for autonomous living and an aversion to institutionalized restrictions with a poor ability to manage their lives with any level of given resources so as to attain a decent quality of life.

By now the exasperated reader wants to interject that in a decent society the issues raised here largely settle themselves as people exercise legal rights to which they are morally entitled. These rights that accord significant control to each individual over matters that

directly affect her life leave little room for matters to be settled by the edicts of the consequentialist social planner, hence the discussion of these edicts has the quality of dystopian fantasy. In reply: Legal rights and moral rights are in a prioritarian perspective important instruments for achieving the best possible outcomes for people. In a particular situation, the actually constituted rights may determine, for example, that a terminally ill aged person is free to spend any amount of money she chooses up to the limits of her bank account wealth on medical care that a qualified practitioner is willing to provide her, so the question, what expenditure in these circumstances would be optimal, may have no practical purchase. But first, the person herself may wonder whether what she is doing is morally defensible, and to this question prioritarianism has answers. Second, normative questions may be raised about the current assignment of packages of rights to individuals. What justifies it? Prioritarianism holds that rights assignments should be set so as to maximize the attainment of morally good outcomes, genuinely good lives for people fairly distributed, over the long run.

It goes without saying that prioritarian justice does not accord any special moral status to health care delivery or to health needs as compared to other needs the individual might have. (This is the insight adopted from the generic conception as discussed in the second section) In principle, if the well-being of aged Smith would be further advanced by a daily ration of vodka than by the use of equivalent resources to provide him a daily ration of health care, prioritarianism prefers social policies and individual actions that supply the vodka in place of the health care even though vodka consumption will be detrimental to the individual's health. In practice, it might be difficult to devise simple and reasonably implementable policies that would be sensitive to variations across individuals to permit the fine-grained assessment of Smith's actual needs to determine what society owes him by way of care and concern. But this point cuts both ways: the best coarse-grained policy we can devise might dictate vodka-oriented welfare benefits to a range of persons even though on a more fine-grained analysis it would turn out that some of these persons would do better with health care provision, not vodka supplements. The issue for prioritarian policy analysis is not what would most satisfy Smith's actual preferences (these might be foolish or based on ignorance of demonstrable fact), but what would most advance his well-being objectively construed. But flying directly against an individual's

entrenched actual preferences is unlikely to advance her well-being objectively construed.

Even when the satisfaction of health needs is the proper primary aim of policy, one should not presume that the health care delivery system is the best vehicle for maximizing the satisfaction of these needs. 'For example, among the 125 developing countries with GDPpc less than \$10,000, the difference between male and female literacy accounts for 40 percent of the variance in life expectancy after factoring out the effect of GDPpc' (Daniels et al., 1999: 224). So, perhaps social measures to increase female literacy are a better means to improving life expectancy than tinkering with the health care delivery system in such a setting.

CONCLUSION

I have argued that the basis of interpersonal comparison for an egalitarian theory of justice should be welfare (well-being), that welfare should be construed according to the Objective List conception, and that the egalitarian function that we should seek to maximize by action and social policy is 'Prioritize!' Since welfare properly construed turns out to be a somewhat nebulous idea, often opposed proposals for public policy will be, from a prioritarian welfarist perspective, equally good so far as we can tell. My hunch is that the choice of scope for egalitarian justice, global or state-centred, has more clear-cut implications for policy than the choice among contenders in the 'equality of what' debate. The stylized implications of prioritarianism for policy in simple settings provide grounds for confidence that this approach to social justice is on the right track.

APPENDIX 8.1: OPPORTUNITY FOR WELFARE AND PUBLIC POLICY

My claim that the policy implications of opportunity for welfare conceptions of distributive justice are nebulous and uncertain might be subject to doubt on the ground that John Roemer has developed an elaboration of this conception that yields precise policy implications.²⁴ But Roemer's results, interesting though they may be, do not bear on my concerns.

²⁴ See Roemer (1995, 1996, 1998).

Roemer proposes a formal definition of equal opportunity for welfare. The rough idea to be polished is that opportunities are equal when each person could gain comparable advantages by comparable effort. The proposal is that society decides what features of individuals' situations are to be deemed circumstances beyond their power to control. Individuals are divided into types on the basis of their circumstances; the individuals composing a type have the same circumstances. Roemer sees his version of equal opportunity as an alternative to the ideal of non-discrimination in competitions for positions that confer advantage. Non-discrimination holds that opportunities are equal when positions are assigned on the basis of criteria of merit appropriate for the position. Roemer counterposes to this familiar idea the level-playing-field conception, which holds that opportunities are equal when positions are assigned on the basis of choices—factors for which the individual can be responsible—and not on the basis of circumstances beyond the power of the individual to control.

Assume we have a specific kind of advantage to be equalized, a classification of individuals into types with respect to access to this advantage, and a resource to be distributed that affects access to the advantage. For example, the advantage might be educational attainment, the types might be defined in terms of parents' race and educational attainments, and the resource might be school funding. We also need a single-dimensional measure of effort, such as school attendance. Roemer's proposal is to hold the individual responsible for her effort as measured by her centile in the effort distribution curve of her type. Compensation should aim to equalize the advantage that the individual at the same centile of effort reaches, regardless of her type.

As Roemer notes, this algorithm taken literally and applied in each separate competition for a kind of advantage recommends that concert pianists should be selected quite independently of their native musical ability and professional basketball players should be selected regardless of whether or not they have any native talent for playing basketball (on the plausible assumption that native talent should be deemed a circumstance). The same goes for selection of surgeons, rocket scientists, and transportation safety engineers. Roemer softens this implication by suggesting that equality of opportunity should be applied to competitions that prepare one for careers and merit should be used to select candidates for jobs (and entrepreneurial loans). But we still have the oddity of a proposal that urges that admission to medical and other professional training schools and college sports teams should be based entirely on choice and not at all on merit or aptitude.

To my mind, it is a mistake to see an opportunity-oriented justice norm as a direct rival to the merit principle. The relevant opportunity is opportunity for welfare or well-being over the course of one's life, and justice is done when these opportunities are fairly distributed. The social justice norm should be applied to institutions and practices as they work to fashion lifetime opportunity, rather than to competitions for advantage taken one at a time.

If people get more well-being from consuming medical care, musical concerts, sports events, transportation safety, and the like, the better their quality, then there is reason to favor selection to training for these positions as well as selection to the positions themselves on a basis of aptitude. In part, the equal opportunity programme should operate by subsidizing consumption of excellent goods by the worse off rather than following anti-meritocratic norms that ensure the goods are of mediocre quality. Of course, to some extent the equal opportunity for welfare norm may require interference in the educational selection process and job market and the competition for loans of entrepreneurial capital to favour the worse off. The opportunity-oriented justice norm itself sets the appropriate trade-off between increasing the access of the worse off to advantageous positions and increasing the well-being of the worse off by ensuring that these advantageous positions in society function effectively to serve people's needs. This trade-off properly set will not recommend insistence on short people's access to professional sports training or on admissions of those with trembling hands to schools for surgeons or barbers.

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