Responsibility and Distributive Justice
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The thought that fair shares for individuals depend on whether they behave responsibly is popular and plausible. But the response that this way if thinking is narrow-minded and misses something important is also strongly appealing. This chapter outlines responsibility-oriented conceptions of distributive justice and some criticisms they have attracted. One critic is Karl Marx.

In the letter that became known as *Critique of the Gotha Program,* Karl Marx wrote that when social progress enables us to move altogether beyond the "narrow horizon of bourgeois right," society can inscribe on its banner, "From each according to his ability, to each according to his needs!" (Marx). In Marx's mindset, moving beyond bourgeois right appears to involve reaching a stage of society in which no rules specifying individual rights and duties need to be promulgated and enforced. Well brought up adults will seamlessly coordinate to cooperate with each other as needed. Their patterns of cooperation will bring it about that each individual gives to society according to her ability and takes from society according to her needs. Hence society in this higher phase of communism will fulfill the norm that Marx here announces and can proclaim it on social banners without false advertising. One might imagine that economic production in this utopia takes the form of a giant pot, onto which people contribute as they see fit, and from which they withdraw goods as they see fit, without the need for social control beyond individual sensibility.

This fascinating passage raises many questions. A flat-footed literal-minded response is that so far from being the statement of an uncontroversial social ideal, "From each according to her ability and to each according to her needs" would be unfair and unjust.

One simple criticism is that different individuals might find it differentially onerous to contribute to their abilities. Contributing to social production to the best of your ability might be incredibly painful and difficult for you, and contributing to the best of my ability might be incredibly enjoyable and easy for me. So intuitively, fairness would require that an adjustment be made, and that you contribute less and I contribute more. (In the paragraph from which the Marx quotation rehearsed just above was stated, Marx also remarks that at the stage of social development he is envisaging, labor will have become "life's prime want." But that stipulation is compatible with the troubling scenario just described. Labor is the prime want for both of us, as we both seek fulfillment and service to others, nonetheless laboring might still be difficult and painful for you and easy and enjoyable for me.

Another concern is that the developed abilities that an individual has at any given time depend in part on ability-developing and ability-preserving actions she has taken, or declined to take, in the past. Moreover, intuitively, individuals might be responsible for these actions, in such a way that what distributive justice requires for them and from them now depends in some part on their past exercises of responsibility. Just detecting each person's present abilities does not suffice to determine what the person fairly owes to society. You and I might have very different developed abilities at present. But the history of how this situation came about might preclude its being the case that "from each according to her abilities, to each according to her needs" identifies what is fair and just

for the two of us now. For example, you might have worked assiduously in high school and post-secondary education while I goofed off. You worked hard and conscientiously to develop your abilities and I did not. Also, you might have taken reasonable prudent precautions in your choice of leisure time activities over the past few years. As a young adult, you climbed mountains while wearing a protective helmet and taking reasonable safety precautions with ropes and chocks. At that same life stage I skateboarded downhill at speeds that were thrilling and fun but excessively risky for self and others. Having crashed several times, my mental and physical abilities are now less than yours and more important, less than they would have been had I behaved reasonably over the preceding past few years.

There are further questions that arise about the individual actions that individuals take that predictably bring it about that they will have one or another set of abilities and other traits that bear on their capacity and willingness to be socially productive, to serve the common good, to an appropriate extent, buy their lifetime activities. You might see that society faces a looming crisis in the form of a shortage of health care workers. Responding, you develop abilities and get the education that makes you ready to take on a career in medicine. I insist on serving the common good by becoming a poet, and work to develop my modest talents at poetry, for which there is little social need. There is already a surfeit of poets. Again, all else equal, "from each according to his ability" is not a fair standard for job allocation between you and me, given how we have positioned ourselves for entry into the labor market.

Same goes, mutatis mutandis, for "to each according to his needs." The needs that an individual has at a time are sometimes the result of unforeseeable events that fall on him in ways that are beyond his power to control, as when a sudden lurch in economic conditions in a distant part of the globe reverberates widely and results in the loss of his job. At the other extreme, my need for narcotics today may be the result of long-term drug use on my part. My need for expensive medical care to treat my heart disease may be directly traceable to my diet and exercise habits sustained long-term. In between the extremes, what present themselves to the individual as implacable needs may stem from variously reasonable or unreasonable choices made in the face of good or bad fortune that itself is traceable to conditions for which the individual might bear various degrees of responsibility.

This is not to say that society—the members of a political community regarded together—ought to turn a cold shoulder to individuals who are in bad predicaments if their own making. But when resources are scarce, not all can always be helped. "To each according to his needs" suggests that when people's needs cannot all be fully satisfied, society's response should be to bring it about that each person's important needs are satisfied in the same proportionate degree. But equally meeting, say, half of the needs for medical care of the malnourished child who needs food and medical attention and of the alcoholic who needs a new liver and of the tourist who broke his leg wandering around in a remote area and needs an expensive rescue operation, is not obviously what should be done, as it would be if "to each according to her needs" were the applicable norm. On some views, "these implications of "to each according to her needs" show that conforming to this norm is quite obviously what ought *not* to be done (see Anderson 1999 versus Arneson 2000).

To be fair, it should be note that Marx suggested his slogan as a distributive norm that the desirable communist society of the future would satisfy only provided that several conditions are met. We have already mentioned that in the higher phase of communism, according to Marx, labor will have become life's prime want. Marx also supposes that the subordination of the individual to the division of labor will have ceased and that "all the springs of cooperative wealth flow more abundantly." The ending of the division of labor brings it about that individuals are free to shift from one to another productive role just as they have a mind. The remaining assumption, to the effect that wealth becomes more abundant, leaves it open, to what extent abundance prevails. Marx may have a maximal conception of abundance, as inaugurating an effective end of scarcity, so that available resources exceed the ensemble of demands that people might conceivably make on them.

If that is the future state in which society can truthfully write Marx's slogan on its banner, we are in the realm of utopia, and not Rawlsian realistic utopia, but something more akin to heaven on Earth (Rawls 1999). But in that imagined blissful setting, why care whether individuals contribute according to their abilities, since their contributing less would impose no costs on others, and why limit social distribution to satisfaction of needs, however these are defined, since available resources would suffice to satisfy everyone's needs and in in addition everybody's heartfelt and trivial desires? To specify conditions in which the implementation of Marx's slogan could make sense and be feasible is also to specify conditions in which implementing it would be contrary to justice and morality.

Or so some would hold. Others would vigorously disagree. This is contested terrain. The discussion to this point, criticizing Marx's view, takes it for granted that what we owe to one another by way of distributive justice rights and duties varies significantly depending on how individuals comport themselves and are disposed to comport themselves.

1.

Distributive justice as understood in this chapter names a broad topic (Cohen 2008). Distributive justice principles specify what is a fair distribution of benefits and burdens across individual persons (and other animals as well, for simplicity this important consideration is set to the side and ignored.) Narrower conceptions of distributive justice are identifiable. Some identify the topic of distributive justice as the specification of what would be fair division of the benefits of social cooperation (Rawls 1999). Suppose individuals lived on separate islands and did not interact. Here there is no social cooperation, but questions of distributive justice in the wide sense might still arise. Maybe a person who happens to live on an island with lush resources is required by distributive justice to share resources with those less favorably situated.

Responsibility is a workhorse term that plays several roles. To speak of a person's responsibilities might be to refer to her duties or obligations. A person who is responsible for some children's safety has a duty to keep them safe. Sometimes to describe a person as responsible, for example, for her own health or safety is not to ascribe a duty regarding her health or safety to her but rather to deny that any other person is under a duty to make good any shortfall that comes about in her health or safety. To say that someone behaves responsibly in some context is to say that she does a good job executing some responsibilities she has in that context. To hold someone

responsible for their actions or omissions or for the outcomes of their actions and omissions is to treat them as responsible for these things or to regard them as it would be appropriate to regard someone who was responsible for these things. So understood, holding responsible depends for its meaning on someone's being responsible. What is that? Thomas Scanlon observes that if one responsible for doing an action, it is then attributable to one. He writes, "To say that a person is responsible, in this sense, for a given action is only to say that it is appropriate to take it as a basis for moral appraisal of that person" (Scanlon 1998: 248). Moral appraisal of an action done by a responsible agent is moral appraisal of that agent. What establishes this connection between agent and deed? One suggestion is that one has rational agent capacities--cognitive, volitional, and affective, at a sufficient level, and nothing interferes with one's opportunity to exercise the capacities on this occasion of choosing and doing.

2.

Not all doctrines of social justice hold that at the fundamental level, the determination of what counts as fair distribution of benefits and burdens across persons varies with individual responsibility factors. On a plain sufficientarian view, justice requires that all be provided sufficiently good opportunities, resources, or capabilities, so that all have good enough life prospects or a good enough level of basic rights protection or the like (Benbaji 2005). The requirement might be that one is sustained at the good enough level throughout one's life. On such a view, individuals do not lose entitlement to sufficiency by behaving in ways that violate responsibility standards. If one behaves in a super-responsible, highly virtuous way, one does not thereby become entitled to more sacrifice on the part of others to maintain one at sufficiency, and if one behaves is subpar, vicious ways, one does not thereby become entitled to less. We might say, for the sufficientarian, the entitlement to sufficiency is not conditional on good behavior (Anderson 1999).

Other justice doctrines are likewise unencumbered by commitments to any claim to the effect that, at the fundamental level of principle, what one is entitled to get from others by way of treatment or provision is diminished or amplified by one's choices of conduct. Utilitarianism holds that one ought always to do whatever would maximize the aggregate of good or welfare or the like summed across persons (Eggleston 2014). How others behave has only instrumental, not intrinsic reasons-giving force affecting the utilitarian calculation of what one should do. One's conduct might make one a more or less effective transformer of resources into welfare, for self or others, and if so, that would affect the contribution to aggregate good that provision of resources to one could be expected to bring about. But one's conduct does not in itself constitute a reason to reduce or increase one's fair share of resources in utilitarian accounting.

An outcome egalitarianism would be another example of a justice doctrine that rejects the idea that one's own conduct, for which one is rightly deemed responsible, has a bearing on what we are entitled to by way of treatment at the hands of others. Outcome egalitarian justice holds that social arrangements should be set so that each person over the course of her life gets the same or receives the same from others, with what counts as the same being measured by whatever is the right standard for this purpose.

Here utilitarianism by virtue of being a single-principle morality more definitively excludes responsibility considerations from playing a role in the determination of what is fair than, for example, sufficientarian or egalitarian doctrines that take their place as one

principle among several in an overall doctrine. For an example, consider the sufficientarian doctrine espoused by Elizabeth Anderson. Her label for the position is democratic equality. In a nutshell, the position is that all members of society should be continuously enabled to function as full members of democratic society. Any shortfall one suffers in capacity to be a full participating member of democratic society is to be boosted to the full satisfactory level, no questions asked. But being enabled to be a full participating member of democratic society, though perhaps a demanding standard, does not require that one have ample wealth or particularly favorable life prospects or that one's life is proceeding successfully by one's own lights. In Anderson's view, there is a division of labor between social and individual responsibility. Society is obligated to maintain each of us at the good enough democratic participation level. Beyond that level, individual responsibility holds sway. Whatever ambitions any of us might have, above or in addition to being a full participant, each of us will have to fashion a set of goals and a plan of life to seek to fulfill them. The rest of us are not on the hook for making good any shortfall in the life outcomes anyone reaches. Beyond democratic sufficiency, each of us is responsible for how her own life goes—meaning that no one else has any moral duty to bring it about that one's life attains gains above sufficiency resources or achieves one's prime life aims.

The responsibility each of us has to fashion her own life and accept the consequences for herself, good or bad, of pursuing it, attaches to us given a background fair framework for interaction, maintenance of which is also a moral requirement that falls on all of us as community members. What counts as a fair framework, and also sets the democratic participation capacity sufficiency line, is fixed by a more rock-bottom moral requirement that our relationships with others be relations of equality. According to Anderson and others (Scheffler 2003 and 2005, Kolodny 2014), thinking of justice in distributive terms commits us to misguided priorities. What is fundamental in this domain is something entirely different—namely, arranging social life to avoid certain inequalities in status, power, and consideration. Unjust distribution is distribution that impedes or violates relating as equals. As the thumbnail description of Anderson's democratic equality indicates, the relational egalitarian does not reject personal responsibility as a justice consideration; far from it. She denies that anything in the ball park of distributive justice is the slot into which responsibility considerations significantly fit.

Many questions arise here. One might hold that maintenance of social equality and fair distribution are separate and independent components of justice, rather than holding with Anderson and others that the latter is subordinate (Lippert-Rasmussen 2016). Partly agreeing with Marx's skepticism that fair distribution is what ultimately matters, G. A. Cohen defends the socialist ideal viewed as balancing relational and distributive egalitarian concerns (Cohen 2009). One might hold that distributive justice broadly construed is morally fundamental and that the kinds of social relationships we ought to sustain are whatever ones in our circumstances would best promote distributive justice. One might hold that relating as equals, respecting one another as rational agents, itself requires conditioning the claims we make on others on the quality of our exercise of responsible agency.

In this chapter these interesting questions are set aside. This chapter explores the idea that the benefits we are entitled to expect from others, and the burdens they are

entitled to impose on us, depend in part on how we and they exercise our agency. Two interpretations of this idea are discussed, under the headings of choice and fault/desert. The idea is subject to challenge on the ground that we are not the sort of creatures that can exercise responsible agency; we lack free will. Even helping ourselves go assumptions that are friendly to the idea that we are do have responsibility capacity, we find that the free will challenge gives us reason to revise, maybe substantially, our common-sense notions of what we are responsible *for*.

3.

Our starting point is a doctrine that is known as "luck egalitarianism." It holds that luck, good and bad fortune, falls on us, but this luck comes in different flavors, which make a difference to what turn our to be our distributive fair shares. Luck egalitarianism so understood has two separate and distinct components, which we might identify as luckism and egalitarianism. The egalitarian component states a moral presumption that fair shares are equal shares, as measured by whatever is the correct standard for assessing people's condition. The luckism component says that the presumption in favor of equal shares can be weakened or perhaps at the limit even extinguished when people arrive at unequal shares by processes for the outcome of which they are rightly held personally responsible. One suggestion: Unchosen and uncourted luck does not dampen the moral presumption for equality. Chosen and courted luck does dampen this presumption.

Luckism is not necessarily tied to egalitarianism. One could affirm luck-oriented sufficientarianism, luckist maximin, luckist prioritarianism, and so on.

On the face of it, the luck-oriented idea that what should count as fair distributive shares is sensitive to personal responsibility considerations is compelling. Consider the sufficiency doctrine that Anderson espouses. Imagine two persons who started adult life with resources, skills, and opportunities that enable each one to be a full participant in democratic society over a full span of life. Maria carefully husbands her enabling means, but is laid low by a disease spread by an unforeseeable epidemic. Without an infusion of extra medical care, her condition will unavoidably be below sufficiency. Dick squanders his enabling means, failing to maintain his work skills, indulging in prolonged alcohol abuse, sneering at exercise, and eating unhealthy foods. He succumbs to predictable health ailments, expensive to treat. Without an infusion of extra medical care, his condition will unavoidably be below sufficiency. If it is not possible to help both Dick and Maria, the fact that the misfortune he suffers lay within his power to control, and was avoidable by reasonable actions he might have undertaken, might be thought to render it the case that Maria's claim to aid in these circumstances is stronger and takes priority over his.

However, as already mentioned, norms of personal responsibility as they might figure as components of social justice doctrines are many and various. Luckism in one path among others. Following this path, we see that it forks.

Larry Temkin formulates the luck egalitarian idea in these words: "It is morally bad—unjust and unfair—if some are worse off than others through no fault or choice of their own" (Temkin 1993, XX). Let's add: It is morally bad—unjust and unfair—if some are just as well off as others through no merit or choice of their own. Let's also interpret this as a pro tanto norm, not one that absolutely ought to hold sway come what may. Putting these claims together still leaves room for interpretation. Let us go with this: It is

in itself always morally better to some degree if people's condition is closer to equality rather than further from it, and also in itself morally better to some degree if people's condition is closer to being in proportion to their fault, merit, or choice. The two values need to be balanced against each other, and perhaps against other considerations, to obtain an all things considered verdict as to what are fair shares.

The alternation of *fault or choice* indicates that different norms of individual responsibility (or luckism) might be in play here. Ronald Dworkin has championed choice (Dworkin 2000 and 2011; for discussion see Arneson 2018). To see its appeal, consider some examples.

High-stakes gambler. Alf and Bert voluntarily enter a casino and engage in high-stakes gambling from which one emerges poor, one rich.

Nose-to-the-grindstone worker. Alicia works ferociously hard at her job and puts in overtime hours steadily over the years. Bea works less hard and takes time off work for leisure time pursuits. Over time Alicia has greater wealth, Bea less.

Adventurous climber. Kay enjoys the thrill of big climbs on treacherous mountains. Mel enjoys the safety of climbing in a gym. Over time Kay suffers injuries and needs rescues; Mel does not.

Notice that as described, nobody's choices are necessarily unreasonable or imprudent. The risks that Alf and Bert and Kay take may be good bets; the play-it-safe choices of Mel may be equally good decisions. Alicia and Bea choose different package of work and leisure, but for each of them, the package chosen may be rational.

The notion of personal responsibility as choice does not make fair shares vary depending on whether an individual is making good or bad choices, or better or worse choices than others are making. The relevant distinction is between brute and option luck, characterized by Dworkin as follows: "Option luck is how deliberate and calculated gambles turn out—whether someone gains or loses through accepting an isolated risk he or she should have anticipated and might have declined. Brute luck is a matter of how risks fall out that are not in that sense deliberate gambles" (Dworkin 2000, 73).

In the three examples described, the responsibility as choice norm dictates that if the individuals start adult life with fair (for the egalitarian, equal) shares, no further compensation is appropriate to equalize the conditions of Alf and Bert, or those of Alicia and Bea, or those of Kay and Mel. (If Alicia and Bea are facing choices with certain outcomes, this is a degenerate or limit case of option luck. Each takes a "gamble" with the outcome of choice known in advance for sure.)

For option luck to be fully in play, the individual who takes a gamble must have some reasonable alternative to taking that gamble. Chased by an angry bear, I might choose to jump off a cliff, risking injury if I land on rocks below and drowning if I land in a river that exceeds my swimming ability. But if the risk of bear attack was unforeseeable and no reasonable alternative to escape the bear is available, the outcome that befalls me is brute not option luck. A complication here is that a shadow of option luck remains: Suppose I choose to face the bear, even though the cliff jump gives a better prospect of escaping death or serious injury. The availability of a reasonable alternative course of action renders this a somewhat option luck choice.

4.

There is an alternative, desert-oriented standpoint from which personal responsibility might be assessed (Eyal, 2007). We can imagine further detail that might obtain in the three gambling choices described.

High-stakes gambler. Alf's spouse needs an expensive medical treatment not covered by insurance. Alf can gain the money he needs to provide his spouse the medical treatment and a good chance of survival only if he gambles big and wins, and the casino offers the best available odds of success. Bert in contrast borrows against his meager retirement savings in order to indulge his yen for high-stakes gambling., His aim is to gain a big wad of money for a splurge vacation in Phoenix.

Nose-to-the-grindstone worker. Alicia neglects her family responsibilities in order to pursue her career to the max. Bea has no lucrative work skills but happens to have great abilities to convert spare time into fulfilling life activities. She trades paltry extra wages, which would not do anyone much good, for free time that expectably is the key that unlocks the door to a richly flourishing life.

Adventurous climber. Kay correctly observes that her community is greatly in need of competent volunteers for wilderness rescue teams. She hones her mountain skills with a view to volunteering for valuable rescue service. Mel is simply trying to maximize her expected fun over the long run of her lifespan.

If we ask, who is more deserving then in common sense terms, Alf looks to be more deserving than Bert, so more eligible for compensation if he loses at gambling than Bert would be with equal losses, and more entitled to keep his winnings, if he is lucky, than Bert would be with equal winnings. In a similar way, Bea looks to be more deserving than Alicia., and Kay more deserving than Mel. Alicia makes the conventionally prudent choice, saves for the future, and Mel does the best he can to avoid unnecessary risk-taking.

To focus on the question at issue here, do not consider in the first instance how institutions should be set up, to handle a possible claim for compensatory help by one of these individuals, who ends up suffering large losses. How institutions and social practices should be arranged may reflect an array of considerations. We would certainly not want first-responders arriving at an emergency scene to inquire into the process by which the emergency victims came to be in peril at this moment. We want them to ask no questions and just do what they can to do as much good as they can, saving as many as can be saved. Perhaps tax law enforcers would be hopelessly overburdened if we inserted fine-grained issues of deservingness or risk responsiveness into the determination of what tax rates apply to individuals and what tax bills are owed. Perhaps attempts to make treatment of individuals by state policies and by officials administering the policies sensitive to deservingness and character would inevitably be self-defeating, counterproductive.

Ultimately the moral principles we embrace should make a difference to the design and operation of social practices. But there are reasons to abstract away from feasibility and implementability issues when pondering what from a moral standpoint matters, what moral principles we should embrace. Most obviously, what morally matters and what is feasible are just different questions. Even if slavery is entrenched so deeply in society now that no antislavery policy is implementable, the question, is slavery right and just makes sense, and the answer can be a resounding No even if somehow this has no immediate policy implications. Secondly, what is implementable shifts. If we

don't separate the issues, we may fail to notice possible paths we could now take, that would bring it about that in future what is now unimplementable becomes implementable. Third, to ask what is feasible is usually not to ask what is literally physically possible but rather something like this: what means that we could take to achieve a candidate goal to one or anther degree would be worthwhile to undertake given the moral cost of pursuing them. To determine these tradeoffs of values we need to know what are the magnitudes of the values and disvalues at stake in such exercises.

Eyal's point is simple and, once stated, hard to brush aside. Suppose someone is in a predicament and needs help. Or suppose someone is in possession of resources hat could be deployed to help those in predicaments, dire conditions. In some cases something in the situation makes us hesitate, doubtful that the person in trouble really has a strong claim for help, or doubtful that the manner in which the person came to be in possession of resources that could be used for altruistic ends really leaves us morally free in one way or another to expropriate her resources for good causes. So to speak, good or bad luck can sometimes stick to a person, in the sense that there arise moral reasons not to remove the bad luck and not to take away the person's good luck. But the factor that inhibits us, Eyal insists, is never the sheer fact that the person has undertaken risk to his prospects (or at the limit a certain loss). In his words: "That someone incurs a disadvantage without having *culpably* to risk incurring it is, in a central respect, unjust. If, however, that disadvantage results from that person's own *culpable* choice to take that risk, then (barring prioritarian considerations) that disadvantage can remain perfectly just" (Eyal 2007: 4).

To clarify, we should allow that deservingness can take a positive or negative form. Being culpable (morally blameworthy), one incurs moral discredit, and likewise, being morally praiseworthy, one incurs moral discredit. The claim being considered is that moral discredit and credit is a fundamental distributive justice building block. (Eyal pairs deservingness with a prioritarian norm of distributive justice, but as mentioned already, we could pair deservingness with any of several such norms,)

We might balk immediately at the identification of justice-relevant deservingness with moral deservingness. Doesn't the fastest runner in the race deserve to finish first, and the brilliantly successful scientist the Nobel Prize?

In response: any form of activity in which people seek to encourage excellent achievement will give rise to standards of merit and deservingness. If you want to run a bridge club that promotes excellent card play, you had better reward the best players. For this purpose they are the deserving. They could be gangsters or moral predators--that does not matter for the purpose at hand. If by some odd causal chain rewarding the worst players best promoted good play, there would be no objection to heaping awards on the players who can never manage a finesse or count the cards that have been played so far in the hand. Our question is, is there some idea of rewarding the deserving, such that doing that is intrinsically not merely instrumentally valuable?

Further response: Even if we thought it intrinsically desirable that, for example, a prize for the best player in some domain should go to the player who plays best, this thought can float entirely free from the idea that there is some sense of being deserving, such that it is in itself morally better, all else equal, that good fortune, over the course of someone's life, goes to the deserving. We are following the suggestion that there is such a sense of being deserving, and that it consists of *moral deservingness.* The suggestion

Eyal and I are following is actually a bit narrower, it identifies the relevant moral deservingness with moral praiseworthiness and moral blameworthiness. We'll need eventually to say more about what this might come to.

Another point to flag here is that someone might abide the idea of people's being morally deserving or undeserving in particular contexts and settings but reject the idea that there is any moral imperative or norm to the effect that it is morally fitting that people's good or bad fortune be proportionate to their overall lifetime deservingness score. This essay focuses on the latter. One reason for this focus is that if we confine the idea that fair shares should track desert to particular contexts it will be hard to be sure we have clearly distinguished our instrumental convictions, to the effect that (for example) if we define "good teacher" appropriately, rewarding good teachers will bring it about that children learn more and better, from our convictions, if any, regarding what is in itself morally fitting.

5.

For many of us, once we start thinking of global deservingness as rendering it desirable to bring about overall good or bad fortune for a person, we face free will skepticism. Maybe when we get down to it, no one is really truly deserving in the way that could underwrite this connection (Pereboom 2001 and 2014; also McKenna and Pereboom 2016).

Not everyone is tempted down this path. Shelly Kagan, author of the definitive treatment on desert for our time, writes, "I find myself far more confident of the claim that some people are more morally deserving than others than I am of any particular philosophical theses concerning the supposed metaphysical preconditions of desert." Kagan adds that whatever these metaphysical conditions of desert might be, "I simply assume—if only for the sake of discussion—that whatever they are, they are met" (Kagan 2012: 130).

This stance understates the rational threat posed by the skeptical challenge Nagel 1979). For consider a familiar argument:

1. If human choices are events brought about by prior causes, they are beyond our power to control.
2. We are morally responsible, at most, for what is within our power to control.
3. Human choices are events brought about by prior causes.
4. So, we are morally responsible for none of our choices.

Every phrase in this argument can be variously interpreted. Interpretations of this and similar arguments are legion in recent discussions of free will and moral responsibility. For purposes of this essay we simply assume that some suitably refined version or 1-4 constitutes a valid argument. The compatibilist denies 1, asserting that the fact that human choices are caused events does not rule out their being within the power of the choosing agent to control, in some sense that preserves the agent's moral responsibility for choice. According to the free will libertarian, premise 3 is false.

The intuitive basis for 3 is that our ordinary experience of choosing between alternatives does not involve any experience of events prior to choice that predetermine the choice, so that it is not really up to us to choose any one of the alternatives presented. This may not be any strong reason to reject 3, because our ordinary experience of choosing might simply be shaped by lack of conscious awareness of the panoply of causal factors that shape the choice we are now making. Nonetheless, the "free will"

hypothesis is best viewed as the empirical claim that the full scientific account of human choice making will somehow vindicate the ordinary chooser's experience. How might that be? Our current science offers no clue. If the free will hypothesis is correct, future science will have to differ sharply from current brain science in ways we cannot anticipate. Trying to give a coherent account of the free will idea would seem to be a mug's game, akin to trying to characterize non-Euclidean geometry before its core concepts have been invented and formulated.

The abstruse free will issue has immediate ramifications for any distributive justice doctrine according to which fair shares for individuals depend in part on what those individuals deserve. We can be differentially deserving only in ways that lie within our power to control. If no significant aspect of our agency lies within our power to control, we are morally responsible for none of it, and so we cannot be differentially deserving. Everyone's deservingness score will be the same.

This flattening of individual deservingness would not show that a distributive principle according to which fair shares for individuals should vary with their deservingness must be false (but see Scheffler 2005 for a contrary view). It might be true, but it would become an idle wheel for the determination of fair shares. (The principle might be construed as making a hypothetical claim: If people vary in deservingness, their fair shares will vary with their varying deservingness scores.)

If compatibilism is true—that is, if premise 1 in the argument above is false—then we might be responsible for some of our choices and might become differentially deserving even in a world in which human choices are all caused events.

If compatibilism prompts doubts (for a clear simple expression of doubt, see Nagel 2014, for discussion of the issue McKenna and Pereboom 2016 and the references cited therein, and for a recent attempt to dissolve the doubt, List 2019), we have extra reason to investigate whether background conditions might yet obtain, such that it can make sense to embrace distributive justice principles that incorporate deservingness as intrinsically helping to fix the content of fair shares. So suppose we begin by denying premise 3 ("Human choices are events brought about by prior causes"). Where does that leave us?

6.

Remarks by John Rawls pose further problems for the idea that distribution according to desert can plausibly become a component in distributive justice principles. Common-sense precepts of desert on cursory examination look unsuited for this role. He adds,

"The precept which seems intuitively to come closets to rewarding moral desert if that of distribution according to effort, or perhaps better, conscientious effort. Once again, however, it seems clear that the effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him. The better endowed are more likely, other things equal, to strive conscientiously, and there seems to be no way to discount for their greater good fortune. The idea of rewarding desert is impracticable" Rawls 1999: 274).

Rawls does not assert that individuals never make choices for which they might be, to some degree, morally responsible. Suppose they do. This would not plausibly imply that choices float entirely independently above the world of caused events. Whatever our free choice might be, it is conditioned by causal factors and entangled with

them. Rawls does not deny there could be such a thing as desert, but determining that one person is more or less deserving, given causal entanglement, is beyond our power. This would be true for an acting individual as well as for others observing her.

What choices one makes is partly a result of the decision problems one faces, and these may often be beyond her power to control. One person is tempted and fails to resist the temptation, and other is not tempted; one person has the opportunity to act nobly; another lacks the opportunity. In another terminology, we might say that a person's deservingness cannot depend on luck that is beyond her power to control. This suggestion might push us to hold that what one is truly responsible for, at most, is the orientation of one's will—one's disposition to do what is right. How circumstances conspire to trigger the dispositions one has is beyond one's power to control, so premise 2 above limits responsibility to the quality of one's will, and rules out assessing true deservingness by the quality of choices displaying one's underlying will.

This cannot be right either. Disposing one's will to do what is right is ambiguous. This can refer either to disposing oneself to do whatever is in fact right, so far as one can determine what that is, or it can refer to disposing oneself to do this and that particular thing or type of thing, which one takes to be in fact right. But even if anyone can make a good faith effort to try to discern what is morally right, people have different levels of ability and face variously favorable opportunities for succeeding in such efforts. Moral truths may be difficult to discern. Figuring out what is right may require solving a complex equation, which you can understand and solve, and I cannot.

Whether or not one becomes morally deserving depends on trying to do what one subjectively takes to be moral or what really is that is controversial. What can be called a pure quality of will view holds that what matters is degree of concern that is directed to what is really morally right from the recognition that this is so. Here is Nomy Arpaly stating the view:

"An action is blameworthy jut in case the action resulted from the agent's caring inadequately about what is morally significant—where this is not a matter of *de dicto* caring about morality but *de re* caring about what is morally significant" (Arpaly: 2003: XX). Suppose that in a certain setting what is really morally significant is the fact that one's act would help the needy. Suppose that in this setting what one sincerely but falsely believes to be morally significant is to refrain from coddling people's weakness by helping them avoid facing difficult problems and tasks. Suppose one turns away from a drowning person struggling in deep water, with a view to avoiding coddling. One acts from concern for what one de dicto takes to be morally required but does not act from any concern at all for what is de re really morally required. For Arpaly, one's act is morally blameworthy (for a view on this position opposed to Arpaly's but nonetheless still rejecting the control principle, see Rosen 2003 an 2004 and for critical discussion from a pro-Arpaly stance, Harman 2011).

This is not an implausible position, but it flatly goes against the control principle (premise 3). If it does not lie within one's power of control to discern what is really morally significant, one cannot be morally blameworthy for failing to discern this and act from concern for it. So holds the control principle.

One might reject the control principle on the ground that it generates counterintuitive judgments we ordinarily confidently make, such as that Nazis are morally blameworthy for evildoing even if that evildoing is done from sincere belief that

one is doing the right thing, a belief formed after conscientious and careful moral reflection. But the control principle is itself rooted in commonsense conviction. "I couldn't help doing it" when truthfully and correctly uttered blocks adverse moral assessment to the effect that the speaker is morally blameworthy for doing it. My phobia against touching snakes may render it the case that I couldn't help running away from a snake encounter when the morally right act in the circumstances would have required prolonged snake handling. Lacking knowledge that the dark shadow in my car's path is a paralyzed person and lacking any indication that further checking would make any sense, I couldn't help running over the person even though, given the actual facts, that was the morally wrong thing to do.

Arpaly's quality of will account distinguishes the Nazi example involving acting on false moral belief and the other examples involving compulsive desire and false empirical belief. The conscientious Nazi does evince inadequate moral concern de re but the snake avoider and the unfortunate driver do not. However, this result is secured by moral gerrymandering: the principle is formulated, one might say rigged, to get this result. Suppose that if I had an IQ of 110 I could arrive at a correct factual belief on a matter germane to choice of right action, but lacking the extra intelligence, I could not arrive at a correct factual belief. Here I am not morally blameworthy if I act wrongly from false belief. But in another scenario, if I could arrive at the correct moral belief if I had slightly higher IQ, but could not with my actual 108 level, and I act from false moral belief, I am morally blameworthy according to Arpaly. I lack concern for what is truly morally significant. But you could just as well say, in the factual belief case, that I act from inadequate concern for what is in fact required to do what is morally right in my circumstances. I'm not concerned at all to do what is in fact right, because I have no way of knowing that particular act is the one that in my circumstances is uniquely morally right.

7.

The position so far advanced is that what renders one morally deserving, in the way that boosts one's fair share, is caring de dicto for what is morally significant—the right and the good. To care is to be disposed to choose and strive in accordance with morality's dictates. One is morally responsible for caring in this way, or not, to the extent this lies within one's power to control. A companion principle complements this doctrine: the more difficult and painful it would be to do what I take to be morally right, and the more cost I see that I will incur if I do it, other things being equal, and adjusting for the moral stakes involved, the less blameworthy I am if I fail to do it, and the more moral credit I earn if I do it. (Making a great conscientious effort to do what one takes to be right, at great cost and sacrifice, may render one morally praiseworthy and deserving independently of whether one actually succeeds in choosing and executing what one takes to be right.)

If we accept the control principle, a sensible continuity norm will recommend accepting the companion principle as well. If it lies within my power to control whether I do the right thing, but just barely, and only at great sacrifice, the assessment of my failing to do right if that is what happens should not differ greatly from the assessment that would have attached to me had this failure been just barely beyond my power to control.

The position adumbrated so far does not yet fully respond to Rawls's causal entanglement worries. Even on the assumption we have free will, it still must be

entangled in a host of causes that continuously partially act as forces on choice and action, and sometimes, perhaps often, perhaps almost always render this free will reduced, impotent, or nearly so. I assume these causes are excusing in negative cases and in positive scenarios, deservingness-diminishing. So how can one tell whether anyone, oneself or another, is truly deserving, and to what degree? By sheer luck, for example, one person will be strongly motivated to put forth conscientious effort toward figuring out what is right and conforming one's will to that, and another person will be beset with strong contrary desires (accepting moral luck, one would find acting from bad motives that just befall one, and also find being led by self-interest not to seek out inconvenient moral truths or evidence, as blameworthy, as in Harman 2011). One person by luck will be faced with decision problems that happen to fit her dispositions so that she acts well; another not. And two persons identically disposed may face different decision problems. Even if each is somehow identically responsible for the orientation of his or her will, one will get the opportunity to act well, or badly, the other not. As Rawls states, the idea of rewarding desert is impracticable.

The notional reply to entanglement worries is that a person's raw or common-sense deservingness score must always be adjusted, up or down, is needed in order fully to offset causal entanglement. One subtracts the influence on choice and effort of all causal forces operating on the individual to push choice or effort one way or another. We can't do this, of course, in any remotely fine-grained way. Can we can do so in a coarse-grained way, by institutional procedures or introspective judgment or inference from behavioral observation, in some settings, sufficiently adequately so that the project of rewarding desert is practicable and not counterproductive,? This is a large question, or maybe a nest of questions. (From a first-person perspective, I am myself in no doubt that I have been seriously morally blameworthy sometimes in ways that render me less deserving and entitled to less by way of fair shares than I would otherwise have been. But such confident judgment is not self-certifying.) These questions this essay leaves open and unaddressed. Of course, if the questions are open, that means Marx and Rawls, who in different ways want to downgrade desert as a factor that should influence people's shares, might yet be shown to be right.

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