

Making Justice Sensitive to Responsibility¹

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When, if at all, can the fact that a person is responsible for her disadvantage justify leaving her to bear that disadvantage? Possibly no other question has created more controversy among political theorists of egalitarianism in the last two decades. The connoisseurs of this debate, as well as those exasperated by its seemingly never-ending nature, can by now easily recite one famous answer to this question, alongside the many criticisms levelled at that answer. The answer, in its simplest form, states that under conditions of equality of opportunity responsibility for ending up disadvantaged *vis-à-vis* others justifies leaving one to bear the disadvantage. As this principle has often (although not always correctly) been attributed to so-called luck egalitarians, I will call it the luck egalitarian principle.² Democratic egalitarians (and many others) have denied that responsibility could have such significance in theories of egalitarian justice as the luck egalitarian principle suggests. There are certain goods, those critics argue, that people should never lack, even if they are responsible for losing them against the background of equal options with others. Specifically, the critics often argue that there is a threshold – usually set at the level of what is needed to participate in the democratic processes of the state – beyond which no one should

fall even if they are responsible for squandering what had kept them above the threshold (Anderson, 1999; Scheffler 2003a, 2003b, 2005).

Over the last two decades the debate over the significance of responsibility to justice has come to occupy centre stage among those writing about distributive justice in the English language. It has developed partly as a response to the ambiguous status of the concept of responsibility in John Rawls's theory of justice (Rawls, 1999; Kymlicka, 2002, pp. 72-5; Scheffler, 2003a, pp. 8-24; Freeman, 2007, pp. 111-42) and partly as a result of the growing political hegemony of right-libertarian views of responsibility and the rise of so-called 'conditionality' in welfare regimes in the US and Europe that appeal to the personal responsibility of welfare recipients (King, 1999, pp. 219-86; White, 2003, 129-52; Gallie, 2004, pp. 197-200, 220-2). Faced with the above, egalitarian political theorists have responded by trying to recapture responsibility for themselves and thus undermine its status as – to use the famous words – 'the most powerful idea in the arsenal of the anti-egalitarian right' (Cohen, 1989, p. 933).³ However, it soon became clear that taking up the idea of responsibility may have exposed egalitarianism to far more controversy than it was aimed at resolving, as egalitarians began to disagree among themselves about how best to accommodate the concern with responsibility.

Interestingly, however, for all its sophistication the ensuing disagreement has a curious feature: only one side to the debate – the luck egalitarian side – seems to believe that it is possible both (i) to identify a set of conditions such that, if a person becomes responsible for his or her disadvantage under such conditions, egalitarian justice will not require that the person be assisted with the disadvantage, and thereby

(ii) to show that a concern with responsibility has a systematic and central role to play in theories of egalitarian justice. In contrast, the democratic egalitarian position seems to be that the search for conditions that would expose a concern with responsibility as central to theories of egalitarian justice is futile. Facts about agent responsibility have at best a relatively marginal role in accounting for whether egalitarian justice requires that people be assisted with their disadvantage; often all that matters in cases of disadvantage (once we know that assistance is feasible) is simply the magnitude of the disadvantage in question.

We seem to be offered, therefore, a rather stark choice: we must either accept that (1) responsibility considerations have only a marginal role to play in theories of egalitarian justice, or that (2) the most plausible account of the set of conditions that must obtain for responsibility to justify disadvantage (and remain central to theories of egalitarian justice) stipulates, in the form of the luck egalitarian principle, that people should face equal options. It strikes me as implausible that the choice should really be so stark. In what follows I therefore try to offer a fuller and more plausible account of the conditions under which responsibility becomes significant in the sense of becoming justificatory of disadvantage. In doing so, like luck egalitarians, I am interested in uncovering a set of conditions that specifically passes the test of *egalitarian* justice (as opposed to all-things-considered justice). Egalitarian justice, I will assume, need not be exclusively concerned with equality, but it cannot allow other values to compromise the value of equality. For example, egalitarian justice can demand that equality be sensitive to the existence of certain rights and duties if these are themselves compatible with equality. The type of equality that I will focus on here is equality of ‘fair shares’ rather than equality aimed at ending oppression or

promoting solidarity. This focus is not dictated by any belief that this former type of equality captures better what egalitarianism should be about; rather, it follows from the fact that it is precisely the concern with preserving people's fair shares that offers a crucial reason (whether conclusive or not) against requiring assistance (subsidies) to those who are responsible for their disadvantage.

Why spend any more time than political theorists already have, a critic may ask, searching for the set of conditions under which bringing about a disadvantage justifies that disadvantage by the standards of narrowly defined egalitarian justice? After all, in the final reckoning – when we are asked who ought to be assisted all things considered – we will likely anyway have to take into account the extent of the disadvantage suffered by a person even if it means departing from egalitarianism. It is this concern with the extent of the disadvantage that can explain why all-things-considered justice will normally require, for example, that, where possible, assistance should be given to anyone in abject poverty – no matter if they are responsible for their condition and whether such assistance is or is not egalitarian. Be that as it may, however, there is, nonetheless, an important reason to examine the narrower question of what egalitarian justice would require. This reason is that people often disagree over which disadvantages are acceptable in all-things-considered judgments of justice and to make progress in these debates we have to attend to considerations that matter in our *pro tanto* judgments. It is surely easier to make headway with complex arguments about justice if we know more about the precise way in which different relevant considerations can enter our thinking about it and thus if we can pin-point more precisely what we can and what we cannot accept in each other's arguments. It is for this reason that it remains important that, alongside investigations into the

requirements of all-things-considered justice, political philosophers persist with investigating answers to the narrower and more abstract question I will examine here.

My argument in this paper develops as follows. In section 1, I sketch the intuitions that may lead one to adopt and that might lead one to reject responsibility as justificatory of disadvantage. In sections 2 and 3, I explain how to reconcile these divergent intuitions, thus offering my account of the conditions under which responsibility for a disadvantage can justify leaving a person to bear this disadvantage. I then, in section 4, examine one powerful objection to my account before concluding my argument in section 5.

Before I proceed with the argument in the next section, however, I need to make a few clarifications and caveats. First, let me clarify my use of ‘responsibility’. In the context of the debates in question the phrase ‘A is responsible for X’ can mean two different things. To be responsible for X can mean (1) that one has brought X about or (2) that the burdens (or benefits) that come with or constitute X are justly one’s to bear (or to enjoy). I will refer to the first type of responsibility as *agent responsibility* and to the second type as *consequential responsibility*. We talk of agent responsibility when we say, for example, that although Anne is responsible for breaking a window (because she is, so to speak, the author of that outcome) we must help her clean up the mess she has created. We talk of consequential responsibility when we say, for example, that although Beth was absent when the window was broken, she is responsible for sorting out the resulting mess. The problem occupying much of the current debate about egalitarian justice, and the problem I address here, can, therefore, be rephrased as follows: under what conditions, if any, could being agent responsible

for finding oneself in a situation in which one suffers a disadvantage make one consequentially responsible for the disadvantage as far as egalitarian justice is concerned?⁴ When, in what follows, I ask if responsibility can be significant to justice, I ask if agent responsibility can be significant in the sense that it can ground consequential responsibility. And for ease of exposition, in what follows, whenever I use the term ‘responsibility’ with no qualifications I mean agent responsibility.

Second, in what follows, I will talk of disadvantage being justified or not. The type of justifications I am interested in here are not all-things-considered justifications, but rather justifications concerned only with the requirements of egalitarian justice, and hence if something is said to be justified it can also be considered just (or fair) by the standards of egalitarian justice.

Third, let me clarify the place of luck in this discussion. For simplicity it is best to examine the conditions under which responsibility for disadvantage can justify that disadvantage while assuming that the opposite of responsibility – (bad) luck – is not justificatory of disadvantage.⁵ This is, therefore, what I will assume.

Finally, let me specify further the scope of this inquiry. When thinking about the conditions under which agent responsibility for a disadvantage could justify that disadvantage we must ultimately take a stance on three overlapping categories of conditions: (1) conditions relating to the circumstances in which agent responsibility is being exercised (e.g. what kind of options does the agent face?), (2) conditions relating to what, for want of a better expression, I call the type of agency (e.g. is the agency deliberate, intentional, absent-minded?) and (3) conditions relating to whether

agency is freely willed. Here, I want to focus on the first category of conditions, although I will touch upon the second one briefly as well. I will assume for the purposes of my argument that worries about the lack of free will do not undermine the significance of responsibility to justice. I will also assume that there are cases in which it makes sense to say that an agent has brought about a given outcome and it is this set of cases I will focus on; I will therefore, for the purposes of this discussion, assume away the many difficulties besetting any attempt to attribute outcomes to conduct in a complex world with a multitude of causal chains.⁶

Of course, responsibility can only be exercised within a structure of options. This means that the nature of the outcomes for which an agent is responsible is to a large extent determined by factors external to the agent. And this means that if one can be responsible for outcomes at all, one can be responsible for outcomes that only take the shape that they take because the structure of options facing the agent has certain characteristics. Sometimes, if the range of choices is restricted in specific ways, this may undermine one's responsibility for any outcome that results by, for example, undermining one's deliberative capacities, but I do not think that it would be useful to conclude that one cannot be responsible for anything unless one is responsible for the range of options one faces. Such a conclusion would not silence the question of how significant to what justice now requires is the fact that one contributed to a given outcome. It is for that reason that I think it is appropriate to assume that responsibility is possible and to pursue the question of when, if at all, is it significant.

1. The Significance and Insignificance of Responsibility

1.1. The Significance of Responsibility

Why should we think that responsibility is significant in the sense that it can justify disadvantage? One famous answer designed to focus our intuitions takes the following form:

...[I]magine two people of equal natural talent who share the same social background. One wants to play tennis all day, and so only works long enough at a nearby farm to earn enough money to buy a tennis court, and to sustain his desired lifestyle (i.e. food, clothing, equipment). The other person wants a similar amount of land to plant a garden, in order to produce and sell vegetables for herself and others. Furthermore, let's imagine, with Rawls, that we have started with an equal distribution of resources, which is enough for each person to get their desired land, and start their tennis and gardening. The gardener will quickly come to have more resources than the tennis player, if we allow the market to work freely (Kymlicka, 2002, p. 73).

Kymlicka goes on to conclude that, even when we take equality to be the requirement of justice, it would be 'peculiar' to say that we should tax the gardener to enforce equality between her and the tennis player. In fact, to redistribute would be to treat both of them unequally since the difference between their situations boils down to their different choices from the same range of options: it boils down to something that they are responsible for. Equality, therefore, requires that the differential effects of choices should *not* be annulled by redistribution.

Since our intuitions about the above example may be 'polluted' by our prior views on the fairness of benefiting from the fruits of one's labour whether or not the person

who wants to share in them is responsible for being worse off, here is one more thought experiment. Imagine that following a flood there are two people in need of new housing and you happen to have three flats at your disposal (perhaps you are a local government official with a considerable degree of discretion). The two people are Adam and Ben – both single grown up men of similar socio-economic standing. You give each a key to their flats but a week later you discover that both men are again in need of housing as both flats have suffered from major fires. In Adam's case the fire started due to a faulty electrical cooker while in Ben's case the fire started because, while aware of the risk it posed, he left a burning candle near the curtains when he left his flat to go shopping – something, Adam would never do. Assuming that you cannot house them both in the third flat, you must now decide to whom to allocate the remaining flat. Should you toss a coin to decide, or should you give it to Adam?

It seems clear to me that, all else being equal, we should give the remaining flat to Adam (even if, in the real world, local officials would be unable to make such decisions if only due to informational difficulties). Moreover, we should do it even if we were assured that Ben would not set fire to a second flat. Giving the flat to Adam is, therefore, not dictated by forward-looking reasons. What makes it the case, then, that Ben does not have a claim on the remaining flat? Since his options were no worse than Adam's, is it Ben's responsibility for ruining his flat that explains this reaction to his situation? If so, then responsibility for a disadvantage does seem to justify one bearing that disadvantage: responsibility is significant in this way when exercised against the background of equal options. The next section, however, is intended to throw doubt on this view.

1.2. The Insignificance of Responsibility

Anderson has argued that a commitment to accepting as distributively just outcomes for which people are responsible would fall prey to what I will call the ‘poor carer’ objection: it would most likely mean having to tell a woman who chooses to have a baby at the expense of her career that the resulting economic hardship and dependency on her husband is perfectly just if the shape her life takes flows from choices that she is responsible for. Anderson calls this the problem of ‘the *vulnerability of dependent caretakers*’ (Anderson, 1999, pp. 297-8; emphasis in the original). Similarly, White asks us to consider

...the case of those who forgo paid work in order to care for children or the infirm. Do such carers have a claim, as a matter of justice, to assistance or compensation for the income they forgo? Someone who thinks of justice as consisting solely in equal opportunity for welfare [a view White rejects] might regard assistance or compensation as unjust, on the grounds that any income and welfare loss which results from becoming a carer reflects a lifestyle choice rather than bad brute luck (White, 2003, p. 71).

These carers knew what they were getting into (we assume they really are responsible for the choices they made). Should it follow that the resulting situation – the poverty of the carers – is just? Anderson and White deny this.

We can multiply examples that tell against the justificatory force of responsibility. A homosexual can challenge homophobic treatment by his colleagues at work *even if* he were responsible for becoming a homosexual (compare Hinton, 2001, pp. 72-87).

Shiffrin offers another interesting example of a situation where one's responsibility for an outcome does not seem to undermine one's claim to have its consequences mitigated: the choice not to bear children may expose women to a significantly higher risk of cancer and thus impose extra costs on the health service but it would seem wrong to deny cancer treatment on these grounds when otherwise such treatment would be available (Shiffrin, 2004, p. 278), given what it might imply about our respect for differing life-style choices.⁷

It does not even seem that responsibility is being *outweighed* by other considerations in the above examples of the homosexual and the childless woman. Rather it looks like claims about responsibility do not even enter the picture in the first place. That one is responsible in any of the above contexts (for the specific outcomes) does not even suggest a weak reason for why one's situation should be seen as just – in fact, it may even seem offensive to argue that it might suggest such a reason.

What emerges from the above is that the problem that an account of the significance of responsibility to justice faces is that responsibility operates within structures that are themselves subject to assessment from the standpoint of justice – an assessment, it would seem, that goes beyond a focus on equality of options. What then, if anything, can explain the difference between our intuitions in the case of Adam and Ben on the one hand and the poor carer on the other?

2. A Solution: Limits on Responsibility

Let me return to the case of Adam and Ben. Ben was responsible for ruining his flat. But, crucially, it is not the mere fact of responsibility for ruining the flat that deprives him of a claim on the third flat. To see this, imagine now that Ben leapt out of this flat leaving the burning candle behind because he saw a child in need of rescue (Adam leapt out as well upon seeing the same child). Ben would still be responsible for ruining his flat. However, I think that our reactions to how to allocate the third flat in this case would differ to those of the previous case. Specifically, I believe that in this case, in contrast to the previous one, it would *not* be unfair to allocate the third flat between Adam and Ben by lottery. But if our reactions would change as suggested, then it cannot be the mere fact of responsibility for ruining the flat in circumstances of initial equality that deprives Ben of a claim on the third flat in the first case, since his responsibility for ruining the flat in circumstances of initial equality in the second case does not deprive him of the claim on the third flat. Indeed, what I want to show is that the requirement of equality of options is not sophisticated enough on its own to put an end to worries about injustice resulting from leaving people who are responsible for their disadvantage to bear this disadvantage. Additional conditions must be met before responsibility for a disadvantage will mean that it is not unjust to leave the responsible person to bear it. In what follows I outline how the structures within which responsibility is exercised must look before responsibility for a disadvantage can justify that disadvantage. But I begin, in subsection 2.1, by concentrating on the requirement of equality of options alone in order to show that, in any case, any measurement of when such equality obtains must be more complex than many have hitherto acknowledged.

2.1. Duties

It is widely and correctly acknowledged in the egalitarian literature that any normatively significant definition of what counts as equal options must be complex enough to take account of the difficulties illustrated, for example, by the fact that men and women do not face equal options if, in order to get and keep good jobs, neither can take any maternity or paternity leave. Given the difference in their biological functions in such a scenario women would have to choose between having a job or having a child while men could still have both provided they found a partner willing to give up her job for a child. A working definition of equal options could, therefore, say that options are not equal unless they make it possible to enjoy (face) the same combination of benefits (burdens) at the same cost, except where the differences are controlled by the agent whose opportunities are being assessed.

But notice further that any understanding of equality of options must be complex enough to take account of how options are affected by the presence of collective (shared) duties. Let me explain. There are duties that are (1) shared by all of those whose options are supposed to be equal (usually, therefore, by all members of a given society), and (2) enforceable from the viewpoint of justice. We may, of course, profitably disagree about the content of these duties but not whether there can be any such duties. For the purposes of this argument, let us assume that we all have a duty to keep pollution levels below a certain limit (for example, a limit needed to preserve a given level of biodiversity). And let us assume that, because some ignore their share of this collective duty, others have to carry heavier burdens than they would otherwise have to carry in order to make sure that the duty is being fulfilled. What is clearly unfair about this situation is that some in that society do more than others to fulfil

everyone's duties. However, there is also the unfairness related to the fact that in performing more than their equal share of duties, those who do this are benefiting those who do less than they are required to do. In performing what others should do but do not, the dutiful people are in fact expanding the options of the non-dutiful ones – allowing them to spend time and resources on other things than the fulfilment of their duties. But then even if one is responsible for finding oneself at a disadvantage due to one's choice to fulfil a shared duty in the face of others slacking off, one is also entitled to have the disadvantage brought about in this way removed.

The above argument is important in order to show that seeing responsibility for disadvantage as potentially justifying this disadvantage does not commit one to the view that those who bring about their disadvantage by performing shared duties when others fail to do so thereby give up a claim against others to remove their disadvantage. But the argument is also important for a more narrow and specific reason. It may, in my view, explain (and explain away) some of the force of the poor carer objection reported above (in subsection section 2.2.). For if we assume that people are under the shared duty to care (by providing services or resources) for the infirm and elderly⁸ in a society then the argument above explains why it may seem unjust if the carers in such a society end up disadvantaged: the carers are fulfilling everyone's collective duty and so, in fact, subsidising others and are, therefore, entitled to have their disadvantage removed. The poor carer objection to the significance of responsibility is therefore not an objection to the principle endorsing the significance of responsibility exercised against the background of equal options since both the objection and the principle offer the same recommendations vis-à-vis the poor carer's disadvantage.⁹

Irrespective of the status of the poor carer objection, however, the wider point stands: the presence and fulfilment of duties must be taken into account when assessing if responsibility for a disadvantage justifies that disadvantage.

2.2. *Rights*

There are, however, striking examples of disadvantage that remains unjust, despite the fact that the person who now bears it is, at least in part, responsible for bringing the disadvantage about against the background of equal options – even if what counts as equal options is conceived in a way that makes room for the fulfilment of shared duties.

Possibly the most obvious instance of such a problem is when an agent has been coerced through violence, or the threat of violence, to do something that she would otherwise not do and that she is not under an enforceable duty to do. Thus, for example, that someone promised to produce a given outcome should count as a reason to enforce that outcome in many cases but not, as Hume argued, if it was a promise of money made to a robber (Hume, 1978, p. 525; Scanlon, 2003, p. 266). The presence of coercion simply annuls the significance of the coerced person's agreement to deliver the money. What this example suggests, I propose, is that the circumstances in which responsibility is exercised will make responsibility irrelevant *even if it is exercised against the background of equal options* just as long as the disadvantage is the result of a violation of the disadvantage bearer's rights.

The reason why responsibility should not be seen as justifying an outcome when one's rights were not assured is that to see the outcome as just is not to acknowledge that it is the result of an injustice in the first place. Of course, it is not impossible that whether or not someone's rights were violated, the person would still have acted exactly the same way (a person coerced into burning her house might have tried to burn it down herself as an insurance scam). When this is the case, the violation of rights should not count against justifying disadvantages but this is not a counterexample to my point here – merely a call to be clear that what absolves people of the burden of the disadvantage when their rights are violated is not the violation of rights *per se* but a violation that *genuinely results* in the disadvantage.¹⁰

Of course, rights can be violated in other ways than through the exercise of coercion that forces people to choose one way rather than another. Imagine a woman who, uncoerced, puts on a miniskirt knowing that this may expose her to a higher threat of sexual violence. Even if she knew that putting on a miniskirt would lead to a sexual assault - and thus bore agent responsibility for her disadvantage to some degree – it would not follow, for the same reason as above, that her responsibility justified the resulting disadvantage.¹¹ Similarly, the above mentioned example of a homosexual who is badly treated at work, or the case of a person who is responsible for leaving her jacket unattended in the library and has it stolen, would also fall into the category of cases where disadvantage is not justified by the presence of responsibility because rights are being violated.

Could it not be suggested, however, that to the extent that rights are not being respected, people do not face equal options? The woman in a mini skirt and the

homosexual, for example, do not have the same options open to them as a heterosexual man. But this suggestion is wrong: even if rights are often violated without regard for equality, they can also be violated in an egalitarian manner (and it suffices to think of totalitarian regimes for an example if we put aside the special case of the ruling elite in such a regime). This is why the requirement that rights not be violated is an *additional* requirement on the conditions that must be met before responsibility for a disadvantage can justify that disadvantage.

2.3. The Structure of Payoffs

Requiring that rights be met before responsibility for disadvantage can justify that disadvantage does not provide us yet with a complete answer to the question when responsibility for disadvantage can justify that disadvantage. To see this imagine the following. Imagine a society in which unjustifiably spying on others would secure one a state-sponsored flat. Imagine that people in such a society have exactly the same characteristics and preferences except in so far as some would and some would not spy on others (i.e. treat others badly short of violating their right to privacy) to secure a benefit for themselves. The options facing everyone in such a society would then be appropriately equal in that the only thing that could preclude someone from taking advantage of the opportunity to secure a flat would be her choice about whether to treat others badly or not. And imagine, finally, that half of the population would spy on the other half and secure flats for themselves. What seems clear to me is that despite the equality of options obtaining, and people's responsibility for their disadvantage, we would have good reasons to doubt if the resulting distribution of flats was just.

Even if one were to reject the above claim about the presence of injustice in the scenario above, the following general point would still apply. People can face equal options not only when, for example, these options specify that whenever people are responsible for a disadvantage X they will be left to bear this disadvantage, but also when these options specify that whenever people are responsible for disadvantage X they will be brought back to equality (and, as a corollary of that: whenever they end up advantaged, they will be brought back to equality).¹² Thus, everyone faces equal options when *no one* has a claim of justice for assistance as a result of exercising responsibility in a way that leads to disadvantage but, similarly, everyone faces equal options when *all* have a claim of justice for assistance as a result of exercising responsibility in a way that leads to disadvantage.

Thus, equality of options is compatible with a wide, possibly infinite range of payoffs attaching themselves to the same conduct: lying on a beach all day might be an option equally open to all whether or not the payoffs that are attached to this conduct consist of a fat pay cheque, a date with a movie star, a smack on the head, or compulsory quarantine. No theory of egalitarian justice, however, is complete unless it takes a stance on how the specific payoffs – or a legitimate range of payoffs – for a given type of conduct should be determined. Indeed, I believe that the concern with providing people with rights that are at least at some level immune to variation in the conduct of the right-bearer is an instance of this more general concern of matching outcomes to conduct in a way that goes beyond the stipulation of equality of options.

So how can we go about matching payoffs to conduct? For example, a theory of justice can stipulate that people are all under an individual duty to act in certain ways (e.g. never spy on others without good cause even if others do not have a corresponding right to privacy) and when people fail to discharge their duties, it is unjust for them to gain advantage as a result. Or a theory of justice can stipulate that perfectionist considerations should be the basis upon which payoffs ought to be decided: conduct that favours what perfectionists care about should not lead to a disadvantage and *vice-versa*.¹³ No plausible perfectionist views would regard the choice to spy on people for the sake of a flat as something to be rewarded and thus the injustice of the policy of flat allocation described above could be explained by such a theory. Or, finally, a theory of egalitarian justice might stipulate that once resources and opportunities have been distributed in some egalitarian way markets should allocate payoffs to conduct. It would then be able to explain the injustice generated by the flat allocation policy by pointing out that the policy distorts what would otherwise be decided by the market: so flats should go to those who build or buy them. I will refer to this way of determining payoffs as neutral, although it is absolutely crucial to note that it cannot be entirely neutral with regard to privileging certain preferences over others since there is no entirely neutral way (i.e. market-based way) of stipulating the liberties that participants in the markets ought to have to begin with (Dworkin, 2000, pp. 143-5).¹⁴

So even without deciding which type of considerations should be the ones in light of which the payoffs are assessed, we can be certain that no plausible theory of justice could defend a perverse payoff allocation designed to override markets and cultivate undesirable conduct. This explains why an account of the significance of

responsibility must be inadequate if it does not stipulate conditions for holding people consequentially responsible for the disadvantages they bring about beyond those of equality of options and the satisfaction of rights. In the next section I explore further the types of considerations that ought to be relevant to stipulating which payoffs are and which are not appropriate.

3. Reasonable and Unreasonable Conduct

Imagine a situation in which a choice between competing schemes of payoff allocations must be made. Imagine, for example, that we need to choose between two schemes regulating payment for car damage. The first scheme states that every car will be repaired for free (the resources coming from everyone's equal contribution to the scheme). The second scheme states that only those cars will be repaired for free (i.e. from everyone's equal contribution to the scheme) that have been well-maintained by their owners. Both schemes, by design, are egalitarian in that they present people with equal options within each scheme. Notice, however, that if the first scheme is adopted, then responsibility for car damage will not justify leaving the owner to bear the costs of the repair of the car while, if the second scheme is adopted, it will.

How would we go about choosing between the two schemes? Leaving aside the admittedly important administrative and informational considerations, the advantages of the first scheme are that it gives people the freedom not to worry about maintaining their cars while making their possession of a working car secure in that, following any accidents, their cars will be repaired out of everyone's resources. The advantages of

the second scheme are that there is less waste overall and that those who take good care of their cars have more resources left to engage in various pursuits than they would have if the first scheme were adopted since in the second scheme they have to pay less into the common pot (and specifically do not have to pay in to rescue those who do not take care of their cars). Since the advantages of each scheme are also indicative of the disadvantages of the other scheme, what seems to be at stake and traded off one another is, to put it crudely, the security of one's holdings and situation (which comes with the freedom not to worry about these holdings and situations) versus the freedom to engage in pursuits that one could otherwise not afford (which comes with the risk of losing what one already has). For simplicity, and largely following Andrew Williams's position, I will refer to this as a trade-off between security and freedom, although it should be clear that this presents only a simplified picture of reality and that different types of freedom are involved on both sides of the equation (Williams, 2005; compare Ripstein, 1999; Shiffrin, 2004, pp. 287-8; Fleurbaey, 2005, pp. 39-41). It is worth stressing that adopting any specific trade-off between the freedom and security of person A will affect not just the freedom and security of that person but also the freedom and security of those who will (potentially) have to assist person A if she is disadvantaged.

Each car scheme trades off security and freedom differently and consequently arrives at different conclusion as to whether those who are responsible for running their cars down are to be assisted or not. How should we go about judging which trade-offs are just? My general answer is this: securing holdings or situations (through the availability of assistance or disallowing risky pursuits or a combination of both) should take priority for as long as the interests that are served by not needing to avoid

a given conduct (lest it leads to a disadvantage) outweigh the interests that would be served if such security did not have to be provided. Thus, for example, if the interests people have in not caring about their car maintenance (lest they end up without a functioning car) is more important than the interest people have in retaining the resources that would be needed to offer free (at the point of use) accident repair, even if the accidents stem from a lack of car maintenance, then free accident repair should be offered as a matter of policy. If this is the case, then we should conclude that it is not unreasonable of the car owner to avoid car maintenance and demand assistance when the car breaks down.

Of course, the above recommendation is rather imprecise since it says nothing about an objective way of weighing interests despite presupposing that such weighing is possible. Nonetheless, it should still seem clear that at least the following two extreme positions are implausible - (i) making sure that one never suffers any type of disadvantage or (ii) never assisting people with regard to a disadvantage they brought upon themselves. Position (i) is implausible for it would require us either to always compensate even those who deliberately and repeatedly damage their own holdings, or to prevent people from taking risks vis-à-vis their holdings without full insurance, even if insurance is unavailable and people are willing to take this self-regarding risk. But position (ii) is also implausible. It would, for example, require us to deny assistance to those who tripped because they were walking too quickly if it was within their power to walk more slowly. Surely, however, people need some areas of their life where they can at least occasionally perform below their best without suffering negative consequences as a result (if only to perform at their best elsewhere).

Of course, I do not mean to suggest that we must assess such trade-offs in the case of each separate activity (however we individuate them). This would make my recommendation unfeasible. Such assessments, however, would only be necessary with regard to activities whose costs we do not trust markets to set correctly or which they cannot set since, as mentioned above, markets can only function against a background of initial regulation.

Nonetheless, even if feasible, my general recommendation, to assess at which point the interests served by not needing to avoid a given way of bringing about a disadvantage outweighs the interests that would be served if such disadvantages did not need neutralising, may seem empty or, at best, trivial. It is neither of these things, however. For notice that it rests on the substantive claim that what needs to be taken into account, on one side of the equation, is not simply (a) the interest of people not to suffer disadvantage but (b) the interest of people of not needing to avoid certain ways of bringing about a given disadvantage (i.e. the interest of people to engage in certain types of conduct without suffering disadvantage). There is a world of difference between options (a) and (b). This can be illustrated by the following example. It seems plausible to hold that in a reasonably wealthy society, the interest of bungee jumpers, whether insured or not, to have their legs mended following a bungee jumping accident outweighs the interests of the well-off not to cover the costs of such operations. However, at the same time the interest of bungee jumpers to go bungee jumping uninsured does *not* outweigh the interest of people to be free from the cost of such leg-mending operations. Thus choosing option (a) or (b) delivers different answers to the question whether uninsured bungee jumpers ought to be offered free operations as a matter of justice.

Why should we accept, however, that trade-offs between freedom and security should be decided by interests of type (b) rather than (a) as I postulate here? Given that we already recognise that there is a trade-off between indemnifying against disadvantage and realizing other aims (because indemnifying against disadvantage is costly) it would be perverse not to recognise also that people's interest in being indemnified against a given disadvantage depends on how difficult and costly it would be to avoid suffering such disadvantage in the first place. But this means that how well a given set of options serves people's interests will depend not merely on the range of outcomes it can deliver, but also on how these outcomes depend on conduct. For example, how well the presence or absence of indemnification against, say, house damage caused by fire serves people's interests will depend on whether it was possible to avoid such damage by fitting fire alarms and water sprinklers. Taking (b) type interests into account then allows us to consider the interest people have over outcomes as well as over conduct, and the relationship between the two. Specifically, taking (b) type interests into account will let us determine if the interest people have in acting in a certain way is weighty enough to ground the demand that others assist them if a disadvantage results. If the answer turns out to be 'no', then providing assistance nonetheless (when the conduct in question results in disadvantage) will allow some people to privilege their interests over those of others.

I cannot say more here about how to weigh the competing interests against one another since an answer would require outlining a whole theory of value. But my main point should be clear: the luck egalitarian principle must be complemented by a stance on how to trade freedom against security before we can say we have pinned

down when responsibility for disadvantage can justify leaving the responsible person to bear that disadvantage.¹⁵ Clearly this does to some extent curtail the significance of responsibility to justice since it requires that some disadvantages be removed despite people's responsibility for bringing them about. However, this does not prevent a concern with responsibility from entering theories of justice in a systematic way and remaining central to egalitarian justice. Indeed, it is not only possible to stipulate the conditions under which the exercise of responsibility leading to a disadvantage will justify that disadvantage but, in addition, such conditions reveal that judgements about the justifiability of disadvantage must depend on facts about the conduct leading to the disadvantage. This is why a concern with responsibility remains central to theories of justice: even if responsibility for disadvantage does not justify all disadvantages that people bring about, whether it does or does not itself depends not merely on the magnitude of a given disadvantage (and what it would cost to neutralize it) but also on facts about the conduct leading to the disadvantage.

To put the point more schematically, my argument reveals that a concern with responsibility enters theories of egalitarian justice at two different stages: (i) when we determine what counts as an adequate set of options, and (ii) when we enquire if a person is responsible for a disadvantage that arose against the background of such a set of options. Responsibility – or to be precise, what people do – matters at stage (i) because whether people should or should not face a given (option of a) disadvantage depends in part on what conduct would result in it. However, once it has been established what the set of options facing people should be, and such a set has been secured, responsibility matters at stage (ii) because it justifies disadvantages that arise against the background of such a set of options.

Returning then to the debate between democratic and luck egalitarians, we can now observe the following. Democratic egalitarians are right to point out numerous cases in which responsibility for disadvantage will not justify that disadvantage despite the presence of equal options. Nonetheless, luck egalitarians are right to insist that responsibility has a systematic and central role to play in theories of egalitarian justice. However, insisting on the latter invites a powerful objection.

4. Objection: Unacceptable Outcomes

Probably the strongest objection to the luck egalitarian principle has been what I will call the unacceptable outcomes objection (Fleurbaey, 1995, pp. 40-2; Anderson, 1999, pp. 326-7; Scheffler, 2003a, pp. 18-9). It states that the luck egalitarian embrace of responsibility implausibly justifies leaving people without assistance in thoroughly bad situations if they are responsible for bringing them about. To be clear, what the objection objects to is not that people can find themselves in thoroughly bad situations but that the fact of responsibility can be used to justify leaving people in such situations.¹⁶ My account of the conditions under which responsibility for disadvantage can justify that disadvantage, for all its additional complexity, remains open to this objection. This certainly shows that, despite the added layer of complexity, concern with responsibility is not marginalised in my account, but this may seem a pyrrhic victory to the supporters of the unacceptable outcomes objection. Let me, therefore, in this final section outline my reasons for thinking that a plausible account of the significance of responsibility to egalitarian justice must bite the bullet and resist the demands of the objection.

To show this, let me isolate the objection more precisely. Notice that the intuition that *some outcomes are unacceptable no matter what* (i.e. no matter if one is responsible for bringing them about) has two different readings. First, we can interpret it as stating that some things cannot be *done* to people no matter what. Now, I think that the truth of this is undeniable. There is no reason to believe that *anything* could be done to people just as long as their conduct was inappropriate. However evil, foolish or otherwise faulty a person's conduct, that person should not be punished by torture, for example. Similarly, we may agree that the fact that someone accepted a given outcome should count as a reason in favour of that outcome in many cases but not, as Mill argued, if one agreed to become a slave (Mill, 1956, p. 125). This is because we may think that no one has the right to enslave anyone else. I do not have to defend these specific conclusions here, however, to make the general point that, given one's status as a human being, one may have interests that could never be overridden by others' desire or need to treat one in a given way. But my argument here certainly does not commit me to the view that anything can be done to people if they are responsible for bringing about certain outcomes; indeed by recognising the existence of rights I reject such a view. So if the unacceptable outcomes objection is to have bite it has to be interpreted differently.

And indeed there is the second reading of it. The intuition that *some outcomes are unacceptable no matter what* could express the view that people should not *find themselves* in certain bad situations in which they lack assistance from others. Here too, however, the objection's scope must be limited still further. First, the objection does not concern situations in which assistance to those who find themselves in a

thoroughly bad situation is lacking because there are no resources available in a given society to secure such assistance equally for all who need it. After all, in such cases the lack of assistance cannot be seen, even by the proponents of the objection, as a violation of the requirements of egalitarian justice. Second, in light of the argument in section 3, the objection also has no purchase on situations in which people are responsible for finding themselves in thoroughly bad situations but their conduct has not unreasonably privileged their interests over those of others (in the required sense focused on the trade-off between freedom and security outlined in the previous section). In such cases I too accept that leaving people to bear these disadvantages would be unjust.

So the objection applies only to situations in which a person is responsible for his disadvantage due to his conduct unreasonably privileging his interests over those of others (thus the disadvantage does not consist in the person's rights being violated), and there are enough resources equally to assist others who find themselves in similar situations. And the objection is mistaken. To see this assume a situation of relative scarcity and imagine a mountain climber who insists on going uninsured and unprepared on numerous mountain expeditions. Assume also that the costs of any rescue operation are so high that the mountain climber would not be able to cover them except through purchasing prior insurance (but that, nevertheless, either buying insurance is not compulsory, or the climber simply manages to set off uninsured despite the fact that she was required to insure herself). Assume, finally, that the mountain climber is sane and otherwise responsible for this conduct. Does she really have a claim of egalitarian justice to be saved for free each time she needs it? The resources for her rescue do not come out of thin air, but are resources that could be

used by others on their own pursuits. Should the climber's claim on the resources win *each time* against the claims of others in virtue of the fact that if she does not get the resources she will be left to die? To say so would commit one to the view that even if the climber is getting stranded on purpose – in fact in order to prevent others from employing their resources elsewhere – she still has a claim of justice (i.e. not charity) against them. This, to me, seems utterly implausible. Neither market-based accounts of how to trade off the relevant interests nor plausible duty-centred or perfectionist accounts, in my view, would deliver the conclusion that the reckless mountain climber's interest in persistently engaging in mountain climbing uninsured outweighs the interests of others not to bear the costs of repeated rescue operations.

Indeed, this is why the conclusion that the mountain climber must be rescued no matter what, as a matter of egalitarian justice, is implausible. Rescuing the climber means restructuring people's options so that the trade-off between security and liberty no longer aligns with our considered judgments about which is more important. So to deliver what the objection asks for – unconditional assistance for all in thoroughly bad outcomes – we would either have to go against our understanding of a fair balancing of people's interests or stop being egalitarian. But if we are concerned with egalitarian justice alone we should certainly not do either.¹⁷ Which is not to say, of course, that we should never be moved to break free of the requirements of egalitarian justice. Perhaps witnessing its implications for those who are left without assistance will persuade us to break free from it but, in my view, certainly not in every case, since egalitarian justice must weigh heavily when egalitarians consider all-things-considered justice. Crucial as the question of when we should go one way rather than another is, it is beyond the scope of what I set out to investigate here.

In light of the implausibility of the claim that even a climber who gets stranded again and again and again has a claim of egalitarian justice for costly rescues, it might be objected that I misinterpret the unacceptable outcomes objection, interpreting it too widely. The objection, it could be argued, should be understood as saying that (1) one can never be left without assistance in thoroughly bad situations if it was mere imprudence that led to this situation and/or that (2) there are some material goods one should never lack. But even if interpreted in either of these more narrow ways the objection would fail. Regarding the first re-interpretation, I doubt if those who repeatedly do not lock their houses must be assisted by others when their possessions are stolen, again and again and again. Regarding the second re-interpretation, I again doubt if those who deliberately and persistently jeopardise what they have, however valuable, must be assured assistance from others. Naturally, depending on the wealth of a given society, there might be *some* goods that could never be justly lost through mere *imprudence*, but this is not a position my argument in section 2 rejects.

Recall, moreover, that the position defended here is compatible with accepting that there are some *relational* goods (certain types of treatment) that one should never be deprived of, no matter what. For example, however imprudent, reckless or foolish one's choices, a person should never be denied equal treatment before the law simply because he or she was imprudent, reckless or foolish. Could it not be argued, however, that this is also all that democratic egalitarians themselves insist on? All they claim, this argument goes, is that no matter what disadvantage a person is responsible for bringing about, he or she should never be treated other than as an equal citizen. Of course, the plausibility of this last claim (both in itself and as

something that can be attributed to democratic egalitarians) will hinge on what ‘being treated as an equal citizen’ is understood to require. If it simply requires that people should not be deprived (no matter what disadvantages they bring upon themselves) of such liberal-democratic rights as the right to worship, the right to free speech, the right to a fair trial etc., then democratic egalitarians are right to remind us of this fact but we would be hard pushed to find any egalitarians who might disagree. If, however (as is more likely), the democratic egalitarian claim is that responsibility for disadvantage could never make it just (by the standards of egalitarian justice) that a person should lack access to material goods that allow full participation in the political process, the claim is more controversial and, for the reasons outlined above, ought to be rejected. Either way, the important point to note is that the debate over the significance of responsibility to egalitarian justice can become more nuanced and informed once we realise that neither of the sides to the debate needs to reject the sensible view that there are limits to how those responsible for their disadvantage can be treated.

The above notwithstanding, what my discussion in this section reveals about the place of responsibility in egalitarian justice is that responsibility is crucial, since it can justify leaving people to bear even terribly heavy disadvantages. This is what follows from accepting that judgments of responsibility must be irrevocably coupled with judgments about the reasonableness of the interests served by a given type of conduct and served by not paying for the disadvantage resulting from such conduct.

5. Conclusion

I noted at the outset of this article that the current debate over the significance of responsibility to egalitarian justice often proceeds as if egalitarians had to choose between, on the one hand, signing up to the view that responsibility can justify disadvantage just as long as it was exercised against the background of equal options, and, on the other hand, accepting that responsibility ultimately has only a marginal role to play in any such theory. Choosing the first option would mean being burdened with a host of implausible substantive implications about the justifiability of disadvantage (or, in order to avoid such implications, it would mean accepting that the requirements of egalitarian justice must be severely curtailed by other justice-based considerations). Choosing the second option would mean an inability to disarm the libertarian challenge to egalitarianism, which demands a prominent and systematic place for considerations of responsibility. But however inhospitable either of the options may be to the prospects of the political success of the egalitarian project, the main reason why neither of the options should be chosen is that, in fact, neither provides an accurate and complete picture of the significance of responsibility to egalitarian justice. I have argued, instead, that it is possible to reveal that responsibility has a central role to play in theories of egalitarian justice even if we reject, as we should, the view that responsibility for disadvantage arising against the background of equal options justifies that disadvantage.

Crucially, and contrary to what many commentators say, I believe that this insight is not lost on luck egalitarians to whom, after all, we owe the egalitarian concern with responsibility in the first place. However, I must leave this argument for another time. What I want to stress in conclusion is this. Since the publication of G.A. Cohen's 'On the Currency of Egalitarian Justice' an attentive reader might have suspected that the

egalitarian principles proposed by Cohen (to eliminate bad brute luck and exploitation) may not be principles of all-things-considered-justice, given Cohen's claim that the egalitarian principles he proposed should be seen as 'subject to whatever limitations need to be imposed in deference to other values...' (Cohen, 1989, pp. 908-9, quote at p. 908).¹⁸ What I hope to have showed here, however, is that, even before the egalitarian stance on responsibility as justificatory of disadvantage must be revised and curtailed to make room for values other than equality in all-things-considered judgements of justice, that egalitarian stance must be understood to require much more than that responsibility be exercised against the background of equal options if it is to justify disadvantages.¹⁹

Specifically, when arguing over whether it is right to leave people to bear disadvantages they are responsible for we must move beyond straightforward considerations of responsibility and equality towards considerations of trade-offs between the various interests that are served and jeopardised by not indemnifying people against bearing a given disadvantage. This is because to determine if responsibility for disadvantage would justify that disadvantage we must inquire not merely about the presence of equality of options but we must also find out if the disadvantage would have arisen had rights been correctly identified and met and had the options facing people in general been structured to reflect the proper weighing of interests that they have in freedom and security.

This realisation, perhaps paradoxically, will allow us to recognise that considerations of responsibility are crucial to egalitarian justice. They are crucial because to determine correctly the trade-offs in question we must take an agent's conduct into

account and assess its relative importance. We cannot, in other words, exclude from our judgements considerations about how a given disadvantage arose. Moreover, since, on the account offered here, we can systematically trace and codify the role of responsibility in egalitarian theories of justice, we can steer clear of the unsatisfactory conclusion that judging whether responsibility can justify disadvantage is simply a matter of whether it does or does not ‘seem right’, in any given case, that people should be left without assistance. I have argued that if we are prepared to accept the idea, as I think we should, that egalitarian justice may sometimes require leaving people in thoroughly bad situations, we can accommodate our other, seemingly conflicting intuitions, into a coherent and helpful scheme. We can thereby make progress in the intricate debate over the place that considerations of responsibility should have in theories of justice.

Notes

¹ I am grateful for comments to Daniel Butt, Clare Chambers, Katherine Eddy, Ben Jackson, Daniel McDermott, David Miller, Avia Pasternak, Jonathan Quong, Miriam Ronzoni, Julia Skorupska, Hillel Steiner, Adam Swift, Andrew Williams and Jonathan Wolff as well as the participants of the Nuffield Political Theory Workshop, the Oxford Graduate Political Theory Workshop and the Oxford Jurisprudence Discussion Group. I am also grateful to three *Political Studies* referees for their insightful and helpful reviews.

² This simplest version of the principle is somewhat inaccurate; a fuller version of the principle involves counterfactuals, stating that responsibility for ending up disadvantaged justifies leaving one to bear the disadvantage, unless the (extent of the) disadvantage would have been avoided had the agent in question faced as good options in life as those who do avoid the disadvantage. I will nonetheless rely on the simpler formulation of the principle, precisely because of its simplicity. I call the principle the luck egalitarian principle because luck egalitarian writings are often interpreted as subscribing to this view although, in my view, luck egalitarianism ultimately presents a more complex position than the one captured by this principle. The most important examples of luck egalitarian writings are: Arneson, 1989, 1999a, 1999b, 2000, forthcoming (his writings strictly-speaking support, on balance, luck-prioritarianism over narrowly defined luck-egalitarianism); Cohen, 1989, 2004; Dworkin, 2000 (2003 for Dworkin’s rejection of the luck egalitarian label); Rakowski, 1991; Roemer, 1994, 1996; Steiner, 2002; Temkin, 1993, 2003.

³ This is an oft-quoted phrase, and has become almost the political theory equivalent of a sound-bite. Similar points about the importance of egalitarians capturing responsibility have also been well expressed by, among others, Colin Macleod (1998, p. 10).

⁴ I am grateful to a *Political Studies* referee for pointing out to me that another way of thinking about the question I am posing (i.e. under what conditions, if any, can leaving an individual to bear a disadvantage be justified by appealing to her agent responsibility for the disadvantage?) is to think about it in terms of avoidability: under what conditions, if any, can leaving an individual to bear a disadvantage be justified by appealing to her earlier opportunity to avoid that disadvantage? These two questions are not identical since, as I am inclined to believe, one can be responsible for something that was unavoidable. Nonetheless, thinking in terms of avoidability might expand the range of intuitions that we can bring to bear on the problem that I am tackling in this article.

⁵ Such an assumption is not always necessary (Lake, 2001, pp. 94-105).

⁶ For a nuanced account of the problems facing luck egalitarians who try to distinguish between luck and responsibility see Matravers, 2002a and 2002b.

⁷ Marc Fleurbaey and Alexander Kaufman have also criticised the luck egalitarian principle for exaggerating the significance of responsibility (Fleurbaey, 1995; Kaufman, 2004).

⁸ I exclude an important group of people in need of care – children – from this example because the issue of what is owed to the carers of children is clouded by considerations of what is owed to the children, which I cannot unpack here.

⁹ Of course we may be mistaken as to the existence of such a duty or, at least, where the resources for discharging it should come from. Notice that if it is assumed that those in need of care have already been provided with equal opportunities with others – as indeed they must have been if equality of options is assumed – then adequate resources needed to provide them with care without jeopardising anyone else's equality would already have been provided (and often to the very carers in question). So a carer should only end up disadvantaged if she were to provide *additional* care. The carer would then be providing those she cared for with a gift over and above the demands of equality. It would seem that in such cases the poor carer objection could not be presented as an egalitarian objection to making justice sensitive to responsibility. To the extent, however, that we still have an intuition that the poor carer ought to be compensated for her disadvantage, this can be explained by considerations raised in subsection 2.3 below. I am grateful to Hillel Steiner for discussion on this point.

¹⁰ Establishing what counts as a disadvantage that genuinely results from rights violation will, of course, be tricky. I say 'genuinely' here to bracket off cases in which the initial rights violation leads its victim to engage in reasonably avoidable conduct that further deepens his disadvantage; we would need additional information (along the lines developed later in the article) to assess the justifiability of that disadvantage. I am grateful to a *Political Studies* referee for pressing me to clarify this point.

¹¹ Which is not to say that everyone shares this view. Studies of how juries decide rape cases show that they often ask 'Did the victim engage in risky behaviour?' and are 'moved to be lenient with the defendant whenever there are suggestions of contributory behaviour on [the victim's] part' (Kalven, 1971, p. 249). An ICM poll for Amnesty International UK (AI) revealed that a third of the British population believe that a woman is at least partially responsible for being raped if she has behaved

flirtatiously, where ‘being responsible’ has been reported by AI to be understood as ‘being blameworthy’ (Amnesty International, 2005).

¹² My understanding of the problem has been crystallised thanks to a talk by Andrew Williams (Williams, 2005; see also Williams, forthcoming; Fleurbaey, 2001, pp. 527-8).

¹³ Notice that this is the way for considerations of desert to enter theories of justice in tandem with considerations of responsibility: through the adoption of perfectionist views on how to match conduct to payoffs it would be possible to bring desert considerations to bear on the setting out of the payoff structure in such a way that one could only be consequentially responsible for disadvantages one deserved. Moreover, notice that one way to accommodate the poor carer objection against the significance of responsibility raised by Anderson and White and reported above in subsection 2.2 is to point out that the options facing people must be set in such a way that payoffs for taking care of children, for example, should reflect the high value such work has for society according to theorists such as Anderson and White.

¹⁴ We have to be careful not to confuse two different issues here. There is a separate question concerning *what should count as equal options*, and a separate question concerning *what should count as appropriate payoffs attached to options that are already assumed to be equal*. To illustrate the first question consider this: do those who have to take two days off work to pursue their religion face equal options with those who only have to take one day off when they are all paid the same salary, or do they face equal options only when the salary reflects the difference in the time off people take? To illustrate the second question consider this: are those who face equal options to pursue religion treated justly if in pursuing a religion they equally face destitution? It is this second type of question – the question of how to match payoffs to choices that are already required to add up to equal options – that I am specifically interested in here.

¹⁵ One more line of argument that I cannot pursue here deserves a brief mention. If responsibility enters theories of justice on the back of considerations of trade-offs between interests, then the requirement that equality of options obtains before responsibility can be seen as justificatory of disadvantage is too strong (even if it is independently required if we are concerned with egalitarian justice). In essence, this is because not every instance of inequality of options is relevant to the question of which type of conduct it is reasonable for people to engage in; when disadvantages stem from unreasonable conduct they are to be borne by those who brought them about.

¹⁶ I am grateful to a *Political Studies* referee for this point.

¹⁷ Notice, however, that accepting my position does not mean that we are necessarily entitled to leave people to die (even if we were only trying to institutionalise egalitarian justice): what policy we are permitted to adopt towards reckless mountaineers would depend, among other factors, on the confidence with which we can assess what has happened and the odds of being able to reclaim our expenses after successful rescue operations from the agent who needed rescuing. I am grateful to a *Political Studies* referee for suggesting I clarify this point.

¹⁸ The possibility that there is, therefore, no or little disagreement between G.A. Cohen and John Rawls since the latter examines all-things-considered justice has now been carefully examined by T.M. Scanlon (Scanlon, 2006).

¹⁹ In fact, as pointed out in note 15, I believe that responsibility for disadvantage can justify that disadvantage sometimes, even if it is exercised against the background of

unequal options that affect how one acts (but securing equal options for all would still nonetheless be required by an egalitarian theory of justice).

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