Brute Luck, Option Luck, And Equality Of Initial Opportunities*

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INTRODUCTION

In the old days, material egalitarians tended to favor equality of outcome

advantage, on some suitable conception of advantage (happiness, resources, etc.).

Under the influence of Dworkin's seminal articles on equality[1], contemporary

material egalitarians have tended to favor equality of *brute luck advantage*—on

the grounds that this permits people to be held appropriately accountable for the

benefits and burdens of their choices. I shall argue, however, that a plausible

conception of egalitarian justice requires neither that brute luck advantage always

be equalized nor that people always bear the full cost of their voluntary choices.

Instead, justice requires that initial opportunities for advantage be equalized—

roughly along the lines suggested by Arneson and Cohen.[2] Brute luck

egalitarianism and initial opportunity egalitarianism are fairly similar in

motivation, and as a result they have not been adequately distinguished. Once the

two views are more clearly contrasted, equality of opportunity for advantage will,

I claim, be seen to be a more plausible conception of equality.

BACKGROUND

The concept of justice is construed in several different ways: as rightness of institutions, as rightness of distributions, as coercively enforceable duties, as what we owe others (as opposed to what we owe ourselves or owe impersonally), and as fairness (i.e., what we owe others in purely comparative terms). Here I am concerned with justice in the sense of what we owe others. So understood, justice is not concerned exclusively with the comparative issue of ensuring that individuals with equal claims get equal benefits (fairness). It is also concerned with ensuring that the claims of individuals are fully met (non-comparative justice).

A plausible conception of justice requires, I shall assume, some sort of promotion of equality of material advantage (perhaps constrained by certain rights). Obviously, this assumption is highly controversial. Some (e.g., traditional libertarians) would reject the relevance of consequences generally and consequences for the disadvantaged in particular. Others would defend a sufficiency view, according to which justice requires that everyone have a sufficient level of benefits, but does not further require equality.[3] Others would defend a prioritarian view, according to which justice requires promoting benefits, but with extra weight given to those who are worse off.[4] Still others would defend some kind of equality of social status quite independently of the effects on material advantage.[5] My goal here, however, is not to defend the relevance of

material equality, but rather to defend a particular conception of material equality as the most plausible for the theory of justice.

There has been a great debate about the appropriate equalisandum for material equality (and more generally about the appropriate object of concern for justice). Some (e.g., Dworkin, Rakowski, Steiner, and Van Parijs) ground the equalisandum primarily in the competitive value of resources.[6] Others (e.g., Arneson, and to some extent Cohen) ground it in well-being.[7] Others (e.g., Sen and to some extent Cohen) ground it in functionings.[8] I shall here leave this issue open, and simply appeal to *advantage*, where this is whatever aspect of outcomes ultimately matters for individuals.

There is, however, a second dimension to this debate. For, no matter what conception of outcome advantage one adopts, there is still the further question of whether it is equality of outcome advantage, equality of opportunity for advantage, equality of brute luck advantage, or something else that is the equalisandum. This paper focuses on this second issue.

BRUTE LUCK VS. OPTION LUCK

In the next section, I shall argue in favor of equality of initial opportunities for advantage and against equality of brute luck advantage. First, however, I shall examine, in this section, the distinction between brute luck and option luck. For this distinction can be, and has been, drawn in several different ways. It will

3

therefore be useful to start by trying to sort out some of these issues. Throughout, option luck is understood as the complement of brute luck.

Brute luck egalitarianism requires that brute luck advantage be equalized. But what is brute luck? Authors (including myself!) sometimes write as if brute luck is to be understood in the following terms:

Brute Luck as Not Foreseeably Chosen: The occurrence of an event is due to brute luck for an agent if and only if the possibility of its occurrence was not (for the agent) a (reasonably) foreseeable outcome of his/her choices.

This understanding of the distinction between brute and option luck, however, is inadequate. To see the problem, compare two cases in each of which there are just two identically situated identical agents. In the first case, the agents have no choices and are simply exposed to the same natural lottery—exposure to lightning strikes, say. The outcomes of the lottery are clearly due to brute luck, since no choice is involved at all. In the second situation, each agent has two choices—to stop or to continue traveling during a storm—but their choices have no effect on the probabilities of being struck by lightening. Whatever choice they make, they are exposed to the same natural lottery as in the first situation. Each agent is fully aware of the outcomes of each choice (and in particular that the probability of being struck by lightning is not affected by what choice he/she

makes). Each agent chooses (arbitrarily) to stop, and then one is struck by

lightning and the other is not. Given that the possibility and probability of being

struck by lightning, given their choices, were reasonably foreseeable by the

agents, the above view of brute luck would classify this as non-brute luck (option

luck). There seems, however, to be no reason to treat this case differently from the

initial case. Both involve <u>unavoidable</u> inequalities in outcome luck. There was

nothing the agents could have done to alter their exposure to the lightning strikes.

Hence, the presence of fully informed choice—even along with background

equality—is not sufficient to make an outcome a matter of option luck.[9]

A better (normatively more relevant) understanding of brute luck is in

terms of avoidability:

Brute Luck as (Reasonable) Unavoidability: The occurrence of an event is due

to brute luck for an agent if and only if the agent could not have (reasonably)

avoided the possibility of its occurrence.

The notion of avoidability (like that of foreseeability) is to be understood

as *lifetime avoidability*. That is, the issue is whether the agent could have—at

some point in his/her life—avoided the possibility of the result. The mere fact that

a result is unavoidable for the agent shortly before its occurrence does not make

the result a matter of brute luck. For the situation in which the result is

unavoidable (e.g., that the loan shark will break my legs) may itself have been avoidable (e.g., by my not borrowing money from her at an earlier time). For simplicity, my examples and related discussion will assume that what is unavoidable in a situation was not earlier avoidable.

This conception of brute luck rightly sees no difference between the lightning strikes of the first situation and those of the second situation above (since in both cases there is nothing that the agent could do to eliminate the possibility of the strikes). Most authors (e.g., Arneson, Cohen, Rakowski, and Roemer) employ at least something like this conception.[10] Indeed, it is present in Dworkin's original definition:

> Option luck is a matter of 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.[11]

There is, however, a question concerning how avoidability is to be understood. On a strict construal, if an agent can avoid exposure to the risk of being struck by lightning by always lying on the ground, then lightning strike outcomes are not due to brute luck. A problem with this view is that it does not take into account the reasonability of avoiding the result in question. Lying on the

ground may sometimes be reasonable, but it is certainly unreasonable in many contexts. Where lying on the ground is unreasonable, the fact that by doing so one can avoid lightning strikes seems irrelevant.

On a looser construal, brute luck is taken to include all and only outcomes that are not <u>reasonably</u> avoidable by the agent. If, for example, lying on the ground was reasonable (e.g., because of warnings about stormy conditions), then failure to do so will make the results a matter of option luck. If it was not (e.g., because weather conditions were expected to be non-stormy), then failure to do so will not automatically make the results a matter of option luck.

Of course, this raises the question of what counts as reasonable avoidability. An outcome is reasonably avoidable just in case there is, for the agent, some reasonable choice that avoids the outcome. But what makes a choice reasonable? One view is that it is in the agent's <u>best</u> interest. Another view is that it is <u>adequately</u> (either in absolute terms, or relative to the best choice) in the agent's interests. Of course, there are other possibilities as well. I shall not attempt to resolve the issue of how reasonability should be understood in this context. Instead, I shall note a general problem with appealing to reasonability.

No matter how exactly reasonableness is understood, appealing to reasonable avoidability faces, it seems, a structural problem. Suppose that an agent has two choices and that the outcomes are completely determined by the choices (no risk is involved). (The same point can be made when outcomes are

only probabilistically determined by choices.) The agent may choose to pursue an education and live a wonderful life or she may choose to become a drug addict and live a terrible life. The first option, let us stipulate, is a reasonable choice, whereas the second is not. Hence, the wonderful life is not reasonably avoidable (because it's the only reasonable option), whereas the terrible life is. Thus, if brute luck is understood as not reasonably avoidable, then the wonderful life outcome is brute luck and the terrible life outcome is viewed as option luck. It seems intuitively strange, however, to think that the wonderful life outcome is a matter of brute luck. The agent had a fully free choice (we can stipulate), and if she chose the wonderful life, it would seem that the outcome is a matter of option luck.[12] More generally, where two identically situated agents make different choices, the differential impact of their choices is, it seems, option luck. Furthermore, it seems strange that the classification of wonderful life outcome would change (from brute luck to option luck) if an option were added that produced an equally wonderful, although different, life. In this case, the original wonderful life outcome would be reasonably avoidable (and hence deemed option luck), since the added option is also a reasonable choice.

Perhaps these implications are not as troubling as they first seem. Alternatively, perhaps there is some other way of capturing the notion of reasonable avoidability.[13] I shall not pursue the matter further here, since ultimately I will argue against the normative significance of the distinction

between brute and option luck.

The characterization of brute luck as (reasonable) unavoidability has some further problems. One is that at best it is a gross simplification of a more adequate general idea of *inability to influence*. Inability to avoid is one way that an agent can be unable to influence outcomes, but it is not the only way. Suppose that an agent has a choice between a 99% chance of 100 and a 1% chance of 0 on the one hand and a 1% chance of 100 and a 99% chance of 0 on the other. The agent is unable to avoid the possibility of each of the two outcomes, but she is able to influence the chance of their realization. The above characterization ignores how agents can influence outcomes by influencing their probabilities. A more general characterization is the following:

Brute Luck as (Reasonable) Inability to Influence: The occurrence of an event is due to brute luck for an agent if and only if the agent could not have (reasonably) influenced the possibility or probability of its occurrence.

This is a more adequate characterization of brute luck, since it recognizes that avoidability is but one way that outcomes may be influenceable by an agent. There is, however, a further problem. The "if and only if" clause in this characterization is problematic. For it requires that an outcome be classified as non-brute luck as long the agent could have even some very minimal influence on

9

the outcome. For example, if an agent has a choice between a 50% chance of 100

and a 50% chance of 0 on the one hand and a 50.00001% chance of 100 and a

49.99999 chance of 0 on the other, then the above condition holds that the result

is entirely due to option luck (since she has some, extremely minimal, influence

over probabilities). If, however, the two choices had identical payoffs and

probabilities, then the result would be classified as brute luck (since she would

have no influence over the outcome). It seems rather strange that a minute

difference in probabilities should convert the entire outcome from brute luck to

option luck.[14] A more adequate characterization would replace "if and only if"

with "to the extent that" and then have some method of apportioning outcomes

between brute luck and option luck based on the degree of influence the agent

had. It is not, however, clear that any plausible method of apportionment exists.

Hence, this is an open question for brute luck egalitarians to address.[15]

There is yet one more complication related to the reasonableness of choice

that we need to consider. So far, we have been discussing issues that arise even

when agents are fully informed. The new issue concerns how incomplete or false

beliefs should be reflected in the characterization of brute luck. Often agents are

unable to influence events the possibility of which they cannot foresee, but this is

not always so. Some events may be unforeseeable but nonetheless influenceable.

For example, an agent in the late 1970s may not have been able to foresee the

possibility of catching AIDS from unprotected sex, but he could nonetheless have

influenced the probability thereof by abstaining from unprotected sex. Influenceability (as well as avoidability) is, at least as I have been understanding it, objectively determined, whereas reasonable foreseeability is partly subjectively determined. Hence, they are distinct issues.

For simplicity, we shall focus on the initial beliefs of agents so as to be sure that the false or incomplete beliefs are clearly a matter of brute luck. Agents are owed compensation for such doxastic defects if others do not suffer from them. That, however, is not the issue here. The issue concerns whether the outcomes of choices of two *identical* agents with the same imperfect beliefs in identical situations can be due to differential brute luck even if the agents can influence the outcomes.

Suppose two identical agents face the same choice situation. The first choice yields 100 and the second choice yields 0, but, because of their unavoidably imperfect (and identical) beliefs, they each reasonably view their choices as between 60 and 60. Suppose that Smith (arbitrarily) makes the first choice and ends up with 100 and Jones (arbitrarily) makes the second choice and ends up with 0. Because Jones' result was avoidable (and indeed reasonably avoidable based on the objective payoffs), this result is classified as option luck. It seems strange, however, for brute luck egalitarianism to hold that the resulting inequality is just. Although the zero result was as matter of fact avoidable, Jones could not have reasonably foreseen the results of her choice. It seems strange to

hold Jones accountable for results that she could not have reasonably foreseen. It also seems strange to hold that Smith is somehow entitled (because of it being option luck) to the 100 unit advantage, when she only foresaw the possibility of a 60 units advantage.

Although I argued above that the mere fact that the possibility of an event was a foreseeable result of the agent's choices is not a sufficient condition for the outcome to be option luck, the above example suggests that it may nonetheless be a necessary condition. This suggests the following characterization of brute luck, where an agent *deliberately influences* an outcome just in case he/she influences its occurrence and is aware that she has this influence:

Brute Luck as Not (Reasonably) Deliberately Influenceable: The occurrence (or non-occurrence) of an event is due to brute luck for an agent to the extent that the agent could not have (reasonably) deliberately influenced the possibility or probability of its occurrence (non-occurrence).[16]

In the above example—in which the first choice yields 100 and the second choice yields 0, but each of the identical and identically situated agents reasonably believes that each choice yields 60—this characterization has the following implications. The agent that chose the first option reaped 40 units in excess of his reasonable expectations (100 vs. 60). The agent that chose the

second option reaped a 60 unit shortfall from her reasonable expectations (0 vs. 60). The excess and the shortfall are deemed brute luck (since they were not deliberately influenceable) and equalized. This requires a 50 unit transfer from the first agent to the second (20 units to share the good brute luck of the first agent and another 30 units to share in the bad brute luck of the second agent). Each thus ends up with 50.

This completes my examination of the characterization of brute luck. Unavoidability is at the core of the characterization of brute luck, but it seems plausible also to include (1) events for which the agent has no ability to influence the probability, and (2) events for which the agent is unaware of his/her ability to influence the probability (because of false or incomplete beliefs). It also seems plausible to take brute luck to include events that are not *reasonably* subject to deliberate influence (even if strictly speaking they are so influenceable), but it's not clear how this can be done. The main problem for brute luck egalitarianism, however, is that any relevant distinction between brute luck and option luck will be a matter of degree. Small differences in deliberate influenceability should not convert the entire outcome from brute luck to option luck, or vice-versa. Brute luck egalitarianism thus needs some measure of the *degree* of brute luck. It's not at all clear, however, how this might be done. Furthermore, it's not clear how brute luck egalitarianism should be understood if brute luck is a matter of degree. This problem is thus a fundamental problem confronting brute luck

egalitarianism.

Below I shall develop a second, and more fundamental, attack on brute luck egalitarianism. I shall argue that, even if there is a plausible measure of the degree of brute luck, it is not relevant for justice. Instead, justice requires that initial opportunities for advantage be equalized. Before arguing for this claim, I shall first clarify the notion of initial opportunities and contrast it with brute luck equality.
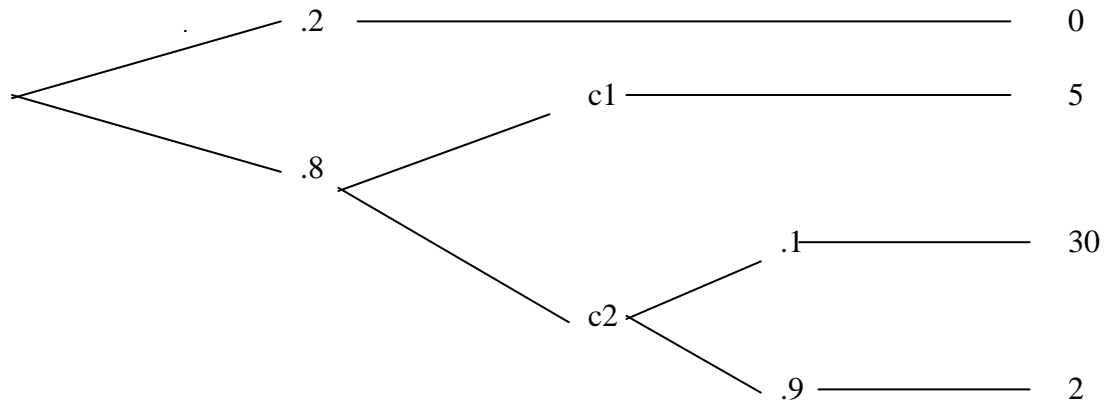
INITIAL OPPORTUNITIES

However exactly brute luck is understood, it will include <u>luck in initial opportunities for advantage</u> (e.g., one's initial genetic endowment, and one's initial social position) and some kinds of <u>outcome luck</u> (i.e., some kinds of luck in how things turn out; e.g., whether an uninfluenceable contingent possibility of a lighting strike is realized). Not included in brute luck are outcomes that are suitably related to choice—<u>option luck</u>. This includes both outcomes that are <u>directly chosen</u> in some appropriate sense (e.g., avoidable foreseen and certain outcomes of one's choices; e.g., being wet when one chooses not to open one's umbrella in the rain) and those that are risky outcomes that are suitably related to one's choices (e.g., winning or losing a lottery for which one purchased a ticket)—<u>option outcome luck</u>. Option luck, the complement of brute luck, thus (somewhat misleadingly) includes the direct results of choices when no luck is

involved as well as option outcome luck.

Thus, we have four factors that jointly determine what outcomes are realized: brute luck in initial opportunities, brute outcome luck, choices, option outcome luck. To make the role of these four factors maximally clear, it may be helpful to have a diagrammatic display. The brute luck initial opportunities can be represented by a horizontal decision-tree in which each branch represents an empirically possible way one's life can go. Along the decision-tree, there are branches at various nodes. At some nodes—chance nodes—the path taken is determined by "acts of nature" or by the choices of others. At other nodes— choice nodes—the path taken is determined by the choice of the agent in question. Thus, initial opportunities are represented by a full decision-tree, choices by choice nodes, outcome luck (which may be brute or option) by what happens at chance nodes, and outcomes by full branches (or paths). Writing the probabilities under the chance node columns, and the advantage value of each full branch under the outcome column, the following provides an example:

Brute Luck Initial Opportunities	Brute Outcome Luck	Choice	Option Outcome Luck	Outcome
	.2			0
		c1		5
	.8			
		c2	.1	30
			.9	2

This represents the initial opportunities of a perfectly informed agent, where there is a 20% chance of a brute luck event occurring that results in no further choices or chance events, and has a value of 0. If this brute luck event does not occur, then the agent confronts the choice between c_1 and c_2, both of which I'll assume are reasonable (their expected values are 5 and 4.8 respectively). If she chooses c_1, then there are no further choices or chance events, and the outcome has a value of 5. If she chooses c_2, then she is exposed to some option luck. She has a 10% chance of having a path worth 30 and a 90% chance of a path worth 2. (For simplicity, in this diagram brute outcome luck is shown as occurring prior to choice, but it may also occur after choices are made.)

Equality of initial opportunities for advantage calls for equality in the value of the initial decision-trees that each agent confronts. Equality of brute luck calls for equality in the net result of the initial decision-trees (initial brute luck) and (later) brute outcome luck events. These two views are each superior to two other egalitarian views. *Equality of outcome advantage* is problematic because it is not sensitive to the value people assign to having the freedom to engage in certain kinds of risky behavior (e.g., buying lottery tickets), and because it is highly insensitive to the administrative and incentive costs of outcome equalization (totally insensitive except where there is more than one way of equalizing outcome advantage). Some would also claim (although I shall argue

against this view below) that it fails to hold people suitably accountable for their choices. *Equality of luck* holds that all factors except direct choice call for equalization. It calls for compensating for all kinds of luck (both brute and option luck), but allows uncompensated differences in outcomes when they are due *solely* to differences in choices (e.g., when it is raining and no luck is involved, I knowingly choose to get wet by not using my umbrella and you knowingly choose not be wet by using your umbrella). Although a slight improvement on equality of outcome, it still suffers from most of the main problems just mentioned. In particular, it implausibly always calls for the elimination of the effects of option outcome luck in chosen lotteries (e.g., regular lotteries).[17]

Equality of brute luck and equality of initial opportunities each holds that inequalities in initial opportunities are to be compensated. Brute luck equality also requires that inequalities in brute *outcome* luck be compensated. In the next section, I will argue against this second requirement.[18] First, however, I'll briefly clarify two aspects of initial opportunity egalitarianism.

What point in a person's life counts as the "initial" point for the purposes of evaluating opportunities? There are two main candidates here: at the onset of (perhaps partial) moral standing and at the onset of some kind of full moral standing. If, for example, individuals acquire moral standing when they become sentient, but not do acquire a full set of moral rights until they are rational agents, then opportunities would be evaluated either at the onset of sentience or at the

onset of agency. Arneson has tended to favor something like the full moral standing view (onset of adulthood), but this view is, I believe, implausible. For, if full moral standing is understood in absolute terms (e.g., as requiring rational agency), then sentient individuals not capable of rational agency (e.g., sufficiently mentally impaired individuals) will be left out of the equation. For the present purposes, however, we can leave this issue open.

How exactly are initial opportunities to be evaluated? Admittedly, this is a tricky issue, and there will probably be more than one plausible way of doing this, but there is no problem in principle. Here I shall identify some plausible approaches.

The first point to note is that we are concerned with *effective* opportunity for advantage. Hence, we must factor in, not only the external opportunities, but also the personal capacities and resources of the agent. As Arneson has emphasized[19], agents vary in their initial decision-making and decision-implementing abilities, and the evaluation of opportunity sets must adequately reflect this. A simple-minded idea would be to evaluate the opportunities on the assumption that an agent always chooses the *best* option that he/she is capable of. This will be an agent-relative matter, since the best feasible choice for one agent may not be feasible for another agent (e.g., due to a disability). This, however, is still not sufficiently sensitive to the agent's decision-making and implementing abilities. For some agents may be more prone to mistakes and weakness of the

will, and this is not reflected if opportunity sets are evaluated on the basis of best choices. The best options available to each of two identical fallible agents may be equally good, but their second best option might have radically different values. Given their fallibility, the difference in the second best options matters.

Arneson proposes that two opportunity sets be judged equally valuable just in case (1) the best life path in the first opportunity set is equally valuable with the best life path in the second, (2) the second best life path in the first opportunity set is equally valuable with the second best life path in the second, and so on. This approach is plausible as a sufficient condition for opportunity sets being equally valuable. It fails, however, as a necessary condition. The best life path of one might be slightly worse than that of the second set, but, given that agents do not always choose their best option, this might be exactly offset by the second best life path being better to an appropriate extent.[20]

A more general and adequate approach will appeal to an agent's *choice disposition*, which, for each choice situation, specifies for each feasible option the probability of the agent choosing that option. For example, suppose that in a given choice situation there are just two options: D (having dessert), which will make the agent sick because she has already eaten too much, and ~D (not having dessert), which is better for the agent. If the agent is perfectly rational, perfectly informed, not prone to mistakes, and so on, then the choice disposition will assign zero probability to the choice of D and 100% to the choice of ~D. If the agent is

20

somewhat disposed to suffer from weakness of the will, and so on, then her choice disposition might assign a 90% probability to the choice of ~D and a 10% probability to the choice D. [21]

Initial opportunity sets can thus be evaluated on the basis of their expected value. Probabilities are used for acts of nature, choices by others, as well as well choices by the agent in question. Suppose, for example, that an agent faces an opportunity set with a 20% brute luck chance of ending with 100 (with no choices involved), and an 80% chance of having a choice. Suppose further that, if she has a choice, then she has a 90% disposition to make the first choice, which ends with 200, and a 10% disposition to make the second choice, which ends with zero. In this case, the expected value of the opportunity set is 164 (= .2x100 + .8x[.9x200 + .1x0]). This effective opportunity set is more valuable than the opportunity set of a second agent who faces the same external opportunities but has a 20% (versus 10%) choice disposition to make the second (less desirable) choice. The effective opportunity set of this second agent is, on the proposed method of evaluation, worth 148 (= .2x100 + .8x[.8x200 + .2x0]). (In this artificial example, there is no issue of the earlier choices of agents later affecting their choice dispositions, but obviously the idea applies equally well when later choice dispositions can be influenced.)

One might question, of course, the theoretical legitimacy of ascribing probabilities to the choices of autonomous agents. This is indeed a deep and

troubling issue, and all I can do is make a few hand-waving gestures. First, this approach need not invoke unique probability descriptions. It might instead invoke families of probabilities to reflect the choice-making dispositions of agents. At the limit, it might even reject the appeal to probabilities and simply appeal to the *possible* choices of an agent. Of course, the move to families of probability functions or to "possibility" functions will require some way of evaluating opportunity sets based on such functions, but well-developed approaches already exist for dealing with "vague probabilities", "probability interval ascriptions", and decision-making under uncertainty (e.g., the maximin rule). Thus, such appeals need not create evaluation problems. More generally, however exactly it is done, it seems clear that there must be some way of ascribing dispositions to autonomous agents and having those dispositions affect the value of the effective opportunity sets.

There is, however, a problem with evaluating opportunity sets on the basis of expected value: it fails to allow for the possibility of rational risk aversion in this kind of life-encompassing situation. I used expected value merely as a way of illustrating how the idea could work. The more general idea leaves open (to be specified by the theory of personal advantage) how probabilities and possibilities are to be dealt with. The exact evaluation may build in some mild risk aversion, or even the radical risk aversion of maximin (maximize the value of the worst possible outcome). I leave all this open.

There is, however, a further generalization of the idea that is needed. For the above method of evaluation implicitly assumes that freedom (availability of choices) is only *instrumentally* valuable. This method holds that the values of outcomes determine—in conjunction with a risk and uncertainty rule—the value of opportunity sets. A more general approach, therefore, would not assume that the value of opportunity sets is reducible in this simple way to the value of outcomes. I take this to be a question that is to be answered by the theory of prudential advantage, which may allow that certain kinds of opportunities are intrinsically valuable.

In sum, although there are many different ways that the advantage value of opportunity sets can be assessed, and each way involves complex and difficult issues, there is no reason to suppose that a plausible theory of advantage cannot be developed so that opportunity sets can be evaluated.

With the above understandings of brute luck and of initial opportunities, we are finally ready to ask which should be equalized.

JUSTICE DOES NOT REQUIRE THE EQUALIZATION OF BRUTE OUTCOME LUCK ADVANTAGE

Initial equality of opportunity for advantage is compatible with equality of brute luck advantage, but it does not require it. A scheme that provides equality of initial opportunities for advantage, but with no compensation for brute *outcome*

luck (i.e., brute luck after the initial point), is one way of ensuring equality of initial opportunities, but it is not the only way. A second way is to provide (in addition) compensation for brute outcome luck. In both cases, initial opportunities for advantage are equal. I shall argue that justice requires compensation for brute outcome luck when and only when doing so is a way of increasing the value of people's initial opportunities.

Consider two schemes, each of which provides equality of initial opportunity for advantage, but only one of which provides compensation for brute outcome luck (e.g. acts of nature that are not deliberately influenceable). The scheme that provides compensation for brute outcome luck may have significantly higher administrative costs (since it needs to gather information about what happens, determine whether it is brute or option luck, and then collect and make payments). In addition, it may even have certain adverse incentive effects on people's behavior (e.g., it might for contingent reasons make people more prone to take various unreasonable risks). The net result of the administrative costs, incentives effects, and all other relevant factors may be that the initial opportunities for advantage faced by *each* person are less valuable under the brute outcome luck compensation scheme than without it. If that is so, then justice, I claim, forbids equalizing for brute outcome luck. For example, suppose (for simplicity) that no choices are involved, and that each person faces a 90% brute luck chance of 100 units and a 10% chance of 0 units (expected value of 90). The

only alternative is to provide compensation for the brute outcome luck, but, given very high administrative costs, etc., this means that we provide only 10 units of advantage for each person (with brute outcome luck eliminated). It is implausible to hold that justice requires that brute outcome luck be equalized in this case. It would radically reduce the value (from 90 to 10) of everyone's initial opportunities.

The point is not that justice never permits compensation for brute outcome luck. It is rather that justice does not always *require* such compensation. Initial opportunity egalitarianism favors such equalization just to the extent that it efficiently promotes equality of initial opportunities (e.g., same degree of equality but with more valuable opportunity sets for all). To the extent that administrative costs are low, incentive effects are non-negative, and the value of opportunity sets reflects some risk aversion, equality of initial opportunity for advantage will tend to favor compensating for bad brute outcome luck. The exact level of compensation provided for various kinds of brute luck, however, will vary depending on the costs and benefits of doing so. It deems it unjust, however, to provide compensation for brute luck where, for example, everyone would have equal *and better* life prospects without such compensation.

The superiority of initial opportunity egalitarianism to brute luck egalitarianism as a theory of justice follows from three claims—recalling that our topic is justice in the sense of giving people their due (as opposed to the merely

comparative concern of fairness). The first claim is uncontroversial and holds that if we can give everyone more of what we owe them (non-comparatively) without upsetting the comparative balance (e.g., preserving equality among those who have an equal claim), then is unjust not do so. The second claim is that with respect to brute luck advantage of the relevant sort (to be specified below) individuals have a (non-comparative) claim to as much as possible compatible with whatever others get. This is a non-waste condition. In conjunction with the first claim, it holds that it is unjust to give everyone 1 unit of the relevant brute luck advantage when everyone could be given 2 units. Any plausible egalitarian theory of justice will satisfy this condition. The third claim is that the relevant kind of brute luck advantage is initial opportunity for advantage (initial life prospects)—as opposed to all brute luck advantage (including brute outcome luck advantage). This, of course, is the controversial claim, and I will now defend it.

Both initial opportunity egalitarianism and brute luck egalitarianism are concerned with brute luck advantage. They take, however, two different perspectives on the matter. Initial opportunity egalitarianism takes an *ex ante* perspective (focusing on probabilities of brute luck advantage) and brute luck egalitarianism takes an *ex post* perspective (focusing on how brute luck advantage turns out). The latter perspective is highly insensitive to the costs (in terms brute luck advantage) of achieving ex post equality, whereas the former perspective factors them in. If there are no net (e.g., administrative or incentive) costs in

achieving ex post equality and if the value of opportunity sets is based on even slight risk aversion, then the two approaches agree that ex post equality of brute luck is required. If, however, there are costs to such equality, then the ex ante perspective factors them in and may not require ex post equality (e.g., when all can face a 90% chance of 100 and a 10% chance of 0 or get 10 for sure). The ex post perspective, on the other hand, ignores these costs (and requires 10 for sure in the case just mentioned). The ex ante perspective is, I claim, more plausible. For it is the perspective that rational individuals would adopt if they were offered a choice (ex ante, of course) on how to deal with their own brute luck. Rational individuals would insure against some but not all possible brute outcome luck events. Given administrative costs, etc., the insurance premiums for some of these events are just too expensive.

Of course, many (indeed probably most!) will be unconvinced by this willingness to leave brute outcome risks uncompensated. Let us therefore consider some specific objections.

Brian Barry asks us to consider a case in which there are systematically massive differences in life chances—a caste system say.[22] This strikes us as quite unjust. Our view would, he suggests, be unaffected, if we were to discover that at birth (conception, sentience, or adulthood) individuals are assigned to castes based on some equal opportunity randomization device. According to initial opportunity egalitarianism, however, this makes, it seems, all the difference in the

world. Each person would have initial equality of opportunities for advantage in this case. Each person's caste is the result of brute *outcome* luck and hence justice may not require compensation for this. Admittedly, Barry has common sense intuition on his side.

To keep things simple, let us assume that the caste systems involved give all individuals the same rights of non-interference (e.g., of bodily integrity). For I fully agree that any caste system that does not respect certain rights of non-interference is unjust. Here, however, we are focusing on the demands of material equality, and so I want to set this issue aside. Let us suppose that the caste system gives everyone the same rights of non-interference, but gives positive rights and opportunities that vary (and vary in value) by caste.

Should mere equality of opportunity be rejected as too weak given that it can judge caste systems as just? A first reply is that caste systems are typically inefficient as ways of promoting equality of initial opportunities for advantage (due to waste of human talent, resentment, etc.). Hence, caste systems will typically be judged unjust by the equality of opportunity view as well. Moreover, to the extent that the evaluation of opportunity sets reflects risk aversion, even if caste systems are efficient with respect to resources, they may not be efficient with respect to the value of opportunity sets (e.g., a 50% chance of 100 and a 50% chance of 0 may be judged as less valuable than a 100% chance of 40). Indeed, given that I have remained neutral on the extent to which the evaluation of

opportunity sets reflects risk aversion, nothing I have said rules out extreme risk aversion in the form of maximin. (In this case, initial opportunity egalitarianism and brute luck egalitarianism are effectively equivalent.) If opportunity sets are so evaluated, then caste systems will be ruled out except where they make the worst off person as well off as possible. Given, however, that extreme risk aversion is not a plausible way of evaluating opportunity sets, this reply has only limited force.

Of course, egalitarians concerned with equality of social status[23] will be totally baffled by the above willingness to envisage the justness of caste systems. For equality of social status is indeed totally lacking in the envisaged situation. Because I am here remaining neutral on the relevant conception of outcome advantage, I will not rehearse the inadequacies of taking social status to the relevant conception (roughly: it fails to take account of all the other things that matter to individuals[24]). Instead, I will simply note that brute luck egalitarianism faces a comparable problem if it holds that option luck advantage need not be equalized. Unequal option luck can produce inequalities in social status just as much as unequal brute outcome luck can. Indeed, caste systems could arise merely as a matter of option luck. Of course, the inequalities of social status are more likely to arise on initial opportunity egalitarianism, but the point here is that equality of social status is a purely outcome-based concern, and hence not one that will provide a wedge between brute luck and initial opportunity

29

egalitarianism.

A second objection to initial opportunity egalitarianism (raised by one of the editors of this journal) is the following. Suppose that one group of people initially face a 99% chance of a wonderful life and a 1% chance of a miserable life, whereas a second group of people face the opposite risk (a 1% chance of a wonderful life and a 99% chance of a miserable life). According to initial opportunity egalitarianism, all the individuals of the first group—including those whose lives turn out miserably (!)—owe compensation to all the individuals of the second group—including those whose lives turn out wonderfully. This, however, seems crazy. Why would a person with a miserable life owe compensation to someone with a wonderful life?

Admittedly, there is something troubling about this, but it is not as significant as it might seem. First, even brute luck egalitarians agree that sometimes someone with a miserable life owes compensation to someone with a wonderful life. For if someone has wonderful brute luck and then loses everything because of bad option luck, then he owes—according to brute luck egalitarianism—compensation to a person with terrible brute luck but who has a wonderful life because of wonderful option luck. We must therefore abstract from claims of need here. Neither initial opportunity egalitarianism nor brute luck egalitarianism recognizes them. Because my goal here is only to defend the relative superiority of the former, I shall not here attempt to defend it against the

criticism of insensitivity to needs.

There is, furthermore, a second reply to this objection. Initial opportunity egalitarianism will typically provide some compensation for brute outcome luck (e.g., where there is significant risk aversion and administrative costs and adverse incentive effects are not too great). Thus, typically, it may not require any compensation from those with better prospects who were unlucky and have miserable lives. It may instead require those with better prospects who were lucky and have wonderful lives to cover the entire cost of compensating those with worse prospects. Of course, there are possible situations in which initial opportunity egalitarianism will require those with good prospects but miserable lives to compensate those with bad prospects but adequate lives. Such situations, however, will be ones in which risk aversion and decreasing marginal advantage from resources are not significant enough to offset the administrative and (if any) incentive costs. In such situations, it is not so implausible to view this as just (assuming that issues of needs are set aside).

A related objection to the equality of initial opportunity for advantage is that it seems quite arbitrary to treat initial brute luck as calling for equalization but not to view brute luck a few seconds later as so calling. Why should disease that starts prior to the initial point (initial brute luck) call for equalization but not disease that strikes shortly after this point (brute outcome luck)?

A first reply is that initial opportunity egalitarianism does not draw the

line as starkly as suggested. As already noted, it may well compensate for brute outcome luck when this is an efficient way of promoting equality of initial opportunities. Furthermore, it does not draw the line between what *happens* before the initial point and what happens after. Rather, it assesses the chances for advantage relative to that initial point. If at that point there is a 100% chance that a bad brute luck event will happen some 20 years later, the evaluation of the opportunity set will fully reflect the occurrence of that event. Thus, if one individual faces such an event and an otherwise identically situated agent does not, then initial opportunity egalitarianism requires that full compensation be given to the first individual. Furthermore, if the chance of the bad brute luck event is 99%, then it will require in principle almost full compensation.

Initial opportunity egalitarianism does not attach any principled significance to whether events occur before or after the initial evaluation point. It is rather that it evaluates the opportunity set relative to the chances involved at that point. The issue that separates brute luck and initial opportunity concerns compensation for how these chances turn out. Indeed, where the initial chance of an event is 100% (i.e., where it is fully deterministic), then both views agree that full compensation is owed. In this case, there is no relevant brute *outcome* luck. The event is simply a case of bad brute luck in initial opportunities.

A related objection to equality of initial opportunities is that it arbitrarily fails to provide for equalization for events that were completely unforeseeable at

the beginning of the initial opportunity set. If, for example, equalization is provided between two children at the beginning of their lives, and it is later discovered that one of the children had a previously undetected genetic predisposition to a certain disease, it seems quite unjust not to provide compensation simply because we were initially unable to detect this disposition.

The answer, of course, is that it would indeed be completely unjust to provide no later compensation in such a case. For as a matter of fact the initial opportunities were not equal. We believed that they were equal, but they were not. Hence, the discovery of the genetic disposition requires some additional compensation for the person in question.

This ends my defense of equality of initial opportunity for advantage and my criticism of equality of brute luck advantage. I now turn to a second issue that may seem to separate the two views: the treatment of option luck. Brute luck egalitarians have tended to condemn compensation for bad option luck. I shall argue, however, that egalitarians—including brute luck egalitarians—need not, and should not, always condemn such compensation.

JUSTICE PERMITS COMPENSATION FOR OPTION LUCK DISADVANTAGE

So far, we have focused on principles of equality (what should be equalized). A theory of justice may also posit principles of accountability (what should not be

equalized). One way of equalizing brute luck advantage, for example, is by implementing a publicly announced and suitably proactive policy of equalizing *outcome* advantage. Most brute luck egalitarians, however, would reject this approach on the grounds that it equalizes the results of option luck, and these should not be equalized. They invoke a principle of accountability to rule out equality of outcome advantage. I shall argue against substantive principles of accountability. Neither brute luck egalitarianism, nor equal initial opportunity egalitarianism need, nor should, endorse such principles. For simplicity, I will focus on brute luck egalitarianism, but the issue applies to all forms of egalitarianism.

Suppose that each agent starts with equally valuable opportunities for advantage, there is no brute outcome luck, and some individuals run cash lotteries (selling tickets and giving out cash prizes). These lotteries are reasonably avoidable and their possible results are fully foreseeable. Hence, any resulting inequalities are the results of option luck. Does justice permit the coercive imposition of a tax on lottery winnings to help those who are destitute because of losing all their money on lotteries? Below I shall address the question of whether justice would allow such taxation when the taxation scheme is introduced retroactively. First, however, I want to consider the *public and proactive* introduction of the scheme. That is, we shall consider the justice of such a taxation scheme where this scheme is publicly announced and only applies to

lottery winnings that take place after the public announcement.

Brute luck egalitarians have some tendency to hold that such a scheme is unjust. After all, without the scheme, the resulting inequalities would be the result of option luck. The idea is that, although coercive redistribution is called for to equalize brute luck advantage, it should not modify the "natural" option luck differential payoff structure. Instead, if there is full information, the redistribution scheme should simply tax each person an amount equal to his/her excess brute luck advantage, and transfer to people an amount equal to their brute luck advantage shortfall. The basic option luck payoff structure should not be modified. Taxes should not be choice-sensitive (e.g., you should not have to pay higher taxes if you chose to play the lottery and win).

Brute luck egalitarians, that is, have tended to endorse something like the following principle of accountability:

Natural Rewards: If, prior to any coercive transfers, two agents are identical with respect to the factors for which justice requires equalization, then justice requires that the two agents have the same coercive transfers (e.g., taxes or subsidies).[25]

This is a generic principle; it leaves open what factors must be equalized. It says that whatever they are (e.g., brute luck advantage or initial opportunities

35

for advantage), there should be no transfers beyond those required for the relevant equality. If, prior to the transfers, two agents are already equal in the relevant respects, then their transfers should be the same. Their net transfers (taxes or subsidies) should not depend on what choices they make. For brute luck egalitarians, this means that there should be no equalization that is not required for brute luck equalization.

This principle, however, is implausible. There is no reason to treat the pre-coercive-redistribution—or "natural"—payoff structure as privileged. Typically, there will be many redistributive schemes that will maximally equalize brute luck advantage. Leaving the natural (pre-transfer) option luck differential payoff structure in place (and taxing away excess brute luck advantage) will be one of them, but it may not be the most efficient way of maximally promoting brute luck equality. A modification of the natural option luck payoff structure may, in conjunction with taxes on brute luck advantage, also maximally equalize brute advantage, and it may produce higher levels of brute luck advantage for everyone. This will be the case, for example, where risk aversion leads to an underproduction of goods. Let me explain.

Suppose that all agents start with equally valuable opportunities (initial brute luck) and that (for simplicity) there is no brute outcome luck. There is no need for coercive transfers for the purposes of achieving brute luck equality. Suppose that there are just two ways of providing health care services. One way is

to have no coercive transfers for that purpose and to let individuals purchase individual insurance on the free market. This is the scheme favored by Natural Rewards (relative to brute luck egalitarianism as well as relative to initial opportunity egalitarianism), since it leaves "natural" option luck in place. The only alternative, let us suppose, is to coercively tax everyone an equal amount to fund the health services and then to provide all basic health services independently of whether the health problems are the result of brute luck (e.g., lung problems even if brought on solely because of smoking, or liver problems induced solely by excessive drinking). This violates Natural Rewards, since the net transfers (taxes plus benefits) are not needed to achieve the requisite equality (which by stipulation was already present). Although the (equal per capita) taxes are choice insensitive, the funded benefits are not. Those who develop lung problems because they choose to smoke will, all else being equal, gain greater net funded benefits than those with the same brute luck (e.g., genetic disposition for lung cancer) who choose not to smoke.

There is, however, no principled reason to hold that coercive funding of universal health services is unjust. Both it and the market approach will equalize brute luck and be suitably proactive and publicly announced. If the administrative costs and adverse incentives of the coercively funded scheme are sufficiently high, then the market approach will be a more efficient way of equalizing brute luck advantage. If, however, the administrative costs of the coercively funded

37

scheme are sufficiently low (or even just sufficiently lower than the market approach!), the incentive effects are not significantly adverse (or perhaps even positive), and people are sufficiently risk averse, then the coercively funded scheme may be more efficient. It may be, that is, that coercively funded scheme will provide just as much equality, but with individuals at a higher level of brute luck advantage. If it is, then justice, I claim, requires the coercively funded scheme—even though some people will not be fully bearing the costs of their "natural" option luck health decisions. It would be unjust, because inefficient, to insist—as Natural Rewards does—that there be no choice-sensitive transfers. Retroactive choice-sensitive transfers are indeed problematic, but public and proactive ones are not (since agents will take these transfers into account in their choices).

A more abstract example may help clarify the point. Here I will focus just on risk aversion and incentives and indicate how schemes that reduce the opportunity for option luck may be more efficient ways of equalizing brute luck advantage (or alternatively: the value of initial opportunities). I'll assume for simplicity that administrative costs are zero, and that the advantage equalisandum (e.g., well-being) is also what individuals rationally seek to promote. Suppose that water is in scarce supply and that each individual has a choice between exploring for water and not exploring. Exploration provides a 20% chance of failure and hence of receiving nothing and an 80% chance of success (finding water) and

38

hence of receiving 10. Exploration thus has an expected value, for each individual, of 8. Non-exploration ensures, say, that one will receive 7 units of advantage for sure. Assume, as is reasonable, that the difference in outcomes is a matter of option luck. Because people are significantly risk averse, if this natural option luck is left in place, no one, let us suppose, would choose the risky option and everyone would end up with 7. Under a second scheme, however, full compensation is provided for those who choose the risky option and lose. Instead of getting nothing, they receive 8 units from a tax transfer scheme that is funded from the profits of those who choose the risky option and win. Under this scheme, the "risky" option ceases to be risky, since one will get 8 for sure after transfers. Furthermore, this option is clearly preferable to the first option of 7 for sure. Hence, everyone would choose the "risky" option. The result will thus be that 20% of the agents will lose and get nothing initially, and 80% of them win and get 10 initially. Then, as announced in advance, each of the winners is subject to a tax to provide 8 to each of the losers. Each winner pays a tax of 2 (= [8x.2]/.8) and thus ends up with 8. Both schemes equalize brute luck advantage (since each ensures that the initial opportunities are the same for all and that there is no brute outcome luck) and are proactively public. Under the second scheme, however, each person's brute luck advantage is higher than it is under the first.

Natural Rewards holds that agents have a pre-institutional entitlement to reap their "natural rewards", where these are understood as the rewards that

would follow if no coercive redistribution were implemented between agents who are identical with respect to the factors that must be equalized (e.g., brute luck or initial opportunities). Brute luck egalitarians have been attracted to Natural Rewards, I think, because they view it as unjust for someone to be coercively required to subsidize someone else's option luck (e.g., the health cost of smoking, when this is genuine option luck).[26] This point, however, does not support Natural Rewards. People should indeed reap the benefits and bear burdens in accordance with the payoffs *as defined by public and proactive just institutions*. There is, however, no reason to suppose that just institutions must leave "natural" rewards in place. The natural reward structure is just one among many possibilities.

One might think that respecting the natural reward structure is required if the reward scheme is to be *neutral* among competing conceptions of the good life. Altering the "natural" reward structure, it may be thought, would favor some conceptions over others.[27] This, however, is not so. We are assuming throughout that the reward scheme must satisfy brute luck (or initial opportunity) egalitarianism. As long as the relevant conception of advantage is suitably neutral (e.g., some kind of preference satisfaction theory), there will be the relevant equality and neutrality. All will face equal brute luck advantage.

Natural Rewards is implausible because it views the "natural" option luck payoff-structure as if it were normatively privileged, but it is not. Furthermore, by doing so, it is incompatible with our duty to others to provide them as much of the

40

relevant equalisandum as possible (given what others are receiving). It rules out schemes that may be just as equalizing and better for everyone than schemes that it allows. [28] Thus, brute luck egalitarians and initial opportunities egalitarians can and should reject Natural Rewards.[29]

There is, however, a related principle that is plausible. Natural Rewards places a general constraint on the structure of payoffs. It opposes "unnecessary" transfers (i.e., transfers that are not necessary for equalizing the relevant factors) even when this is public and proactive. The related and more plausible principle has no problem with suitably public and proactive modifications of "natural" payoffs. It rejects, however, coercive redistributions that are not suitably public and proactive. Rawls is appealing to something like this principle when he writes:

> It is perfectly true that given a just system of cooperation as a scheme of public rules and the expectations set up by it, those who, with the prospect of improving their condition, have done what the system announces that it will reward are entitled to their advantages. ... But this sense of desert presupposes the existence of the cooperative scheme; it is irrelevant to the question of whether in the first place the scheme is to be designed in accordance with the difference principle or some other criterion.[30]

Consider, then:

Institutional Rewards: If, prior to any coercive transfers, two agents are identical with respect to the factors for which justice requires equalization, then justice requires that they have transfers that have the same excess/shortfall relative to the transfers dictated by the public institutional norms governing transfers that were in effect shortly before their choices.[31]

Very crudely, the basic idea of this principle is that transfers should be done in accordance with institutional norms that are public (e.g., of which most people aware) and in effect at the time of choice. The principle does not, however, require *strict* adherence to the public norms in place at the time of choice. For to do so would in general rule out the possibility of equalizing the relevant factors (e.g., brute luck)—since typically the public institutional norms in place do not ensure the requisite equality. The principle therefore requires something weaker than strict adherence to the public norms in place. It allows transfers to diverge from the requirements of the public norms, but only as long as the divergence is the same—no matter what choices they have made—for agents that are identical with respect to the factors that must be equalized. Thus, although agents will not in general get what the public norms in place at the time of their choices required (since some adjustment will be necessary so as to equalize appropriately), the discrepancy will not depend on what choices they made.

Obviously, there are several murky issues lurking here. What exactly is required for a norm to be suitably public? How much advance notice is needed for proactivity? Some of these issues, no doubt, could be cleaned up by a more thorough analysis. There will also surely be some inevitable vagueness in these notions. The basic idea, I hope, should be clear enough.

Something like Institutional Rewards is plausible for egalitarians. Of course, those who endorse independent principles of pre-institutional desert or entitlement will have reason to reject this principle and impose their preferred principle of accountability.[32] My point here is that there is no need for egalitarians to endorse such pre-institutional principles of accountability. They can endorse a robust principle of accountability simply by endorsing Institutional Rewards.

Once it is recognized that Natural Rewards—in addition to privileging the pre-transfer distribution—has absolutely no sensitivity to the prevailing institutional norms governing transfers (and the expectations that they generate), its implausibility is obvious. As a retroactive principle, Natural Rewards' insensitivity to legitimate institutional expectations is fatal. As a proactive principle, it has no problem in that regard, but its arbitrariness is now obvious. Equality should be promoted in ways that ensure individuals reap the differential benefits and bear the differential burdens of their choices in accordance with the institutional norms publicly in place at the time of their choices, but robust accountability does not require that individuals get their "natural" rewards.

43

Before closing, we should note that once Natural Rewards is rejected, brute luck (and initial opportunity) egalitarianism is less prone to two objections based on its alleged treatment of option luck. First, it has been argued that brute luck egalitarianism can be unduly harsh in its non-compensation of extremely bad option luck.[33] We can now see that this does not follow as immediately as claimed—at least where public norms for the future are at issue. It may take a harsh line and provide no compensation for bad "natural" option luck. It will do this, however, only where brute luck equality is more efficiently promoted (e.g., due administrative costs and adverse incentive effects). In many cases (e.g., where there are favorable incentive effects and people are extremely risk averse), it will provide some partial (or perhaps full) compensation for bad "natural" option luck. Of course, this does not eliminate the objection, since efficiency may well dictate taking a harsh line. It does, however, soften the objection, since in such cases the harsh line will have a plausible rationale.

It has also been objected that invoking the distinction between brute and option luck can be highly intrusive and demeaning.[34] It requires highly specific information about individuals and classifies some as inferior in the sense of having a lower capacity for a good life. This may well be so, but brute luck egalitarianism can be sensitive to these costs. To the extent they are present, there is a reason not to base the institutional norms on the distinction between natural brute and option luck. If these costs (effects on people's outcome advantage) are

great, it may favor providing compensation based on need or simply universal provision. Once the commitment to not equalizing factors that need not be equalized is dropped, it's an open question what kind of option luck compensation scheme brute luck egalitarianism will favor. Again, this does not eliminate the objection, but it does soften it.

In summary, egalitarians generally (including initial opportunity egalitarians), and brute luck egalitarians in particular, should reject Natural Rewards and instead base their principles of accountability on Institutional Rewards.

CONCLUSION

The distinction between brute and option luck is not, I have argued, as clear as is generally supposed. The core notion for brute luck is that of unavoidability, but this needs to be generalized to the absence of (strict or reasonable) deliberate influenceability. The crucial outstanding problems for brute luck egalitarianism are: (1) identifying some relevant manner of apportioning degrees of influenceability so that the presence of a trivial amount of deliberate influenceability does not convert everything to option luck, and (2) identifying how brute luck egalitarianism is to be understood once the distinction between brute and option luck is understood as a matter of degree.

I have further argued that justice does not, in any case, require that brute

luck advantage be equalized, nor that natural option luck advantage be left in place. Justice requires that initial opportunities for advantage be equalized, but this need not (although it may) compensate for inequalities in brute *outcome* luck, and it may favor compensating for inequalities in natural *option* luck. The extent to which such compensation should be provided is a contingent matter and is determined by how efficiently they promote equality of initial opportunities for advantage. We owe this efficiency to others.

Notes

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[1] Ronald Dworkin, "What is Equality? Part 1: Equality of Welfare," *Philosophy and Public Affairs* 10 (1981): 185-245 and "What is Equality? Part 2: Equality of Resources," Philosophy and Public Affairs 10 (1981): 283-345.

[2] Richard Arneson, "Equality and Equal Opportunity for Welfare," *Philosophical Studies* 56 (1989): 77-93; Richard Arneson, "Liberalism, Distributive Subjectivism, and Equal Opportunity for Welfare," *Philosophy and Public Affairs* 19 (1990): 158-94; G.A. Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99 (1989): 906-44.

[3] See, for example, Harry Frankfurt, "Equality as a Moral Idea," *Ethics* 98 (1987):

21-43.

[4] See, for example, Derek Parfit, "Equality or Priority," Lindley Lecture, Department of Philosophy, University of Kansas, 1991; Dennis McKerlie, "Egalitarianism," *Dialogue* 23 (1984): 223-238 and "Equality or Priority," *Utilitas* 6 (1994): 25-42. Richard Arneson tentatively endorses prioritarianism over (his formerly endorsed) initial opportunity egalitarianism in his "Equality," *A Companion to Contemporary Political Philosophy*, edited by Robert E. Goodin and Philip Pettit (Oxford: Blackwell, 1993), pp. 489-507 and in his "Equality of Opportunity for Welfare Defended and Recanted," *The Journal of Political Philosophy* 7 (1999): 488-497. Arneson's endorsement of (desert-weighted) prioritarianism is explicit in his "Luck Egalitarianism and Prioritarianism," *Ethics* 110 (2000): 339-349.

[5] For example, David Miller, "What Kind of Equality Should the Left Pursue?", in *Equality* edited by Jane Franklin (London: Institute for Public Policy Research, 1997), pp. 83-99; Elizabeth Anderson, "What is the Point of Equality?", *Ethics* 109 (1999): 287-337; Jonathan Wolff, "Fairness, Respect, and the Egalitarian Ethos," *Philosophy and Public Affairs* 27 (1998): 97-122; and Andrew Mason, "Equality, Personal Responsibility, and Gender Socialisation," *Proceedings of Aristotelian Society* 100 (1999-2000): 227-246.

[6] Ronald Dworkin, "What is Equality? Part 2: Equality of Resources,"; Eric

Rakowski, *Equal Justice* (New York: Oxford University Press, 1991); Hillel

Steiner, *An Essay on Rights* (Cambridge, MA: Blackwell Publishers, 1994);

Philippe Van Parijs, Real *Freedom for All* (New York: Oxford University Press,

1995).

[7] Richard Arneson, "Equality and Equal Opportunity for Welfare" and "Liberalism,

Distributive Subjectivism, and Equal Opportunity for Welfare"; G.A. Cohen, "On

the Currency of Egalitarian Justice".

[8] Amartya Sen, "Equality of What?", in *The Tanner Lectures on Human Values*,

vol. 1, edited by S. McMurrin (Salt Lake City: University of Utah Press, 1980)

and *Inequality Reexamined* (Cambridge, MA: Harvard University Press, 1992).

[9] An important issue that I shall not address is the following: With respect to

avoidability (and, below, influenceability), is it the specific events that matter or

the impact on advantage? For example, suppose that no matter what I do I will be

struck by lightning and suffer a disadvantage of 10. If I make one choice I will be

struck and lose the use of my left arm (disadvantage of 10, say). If I make a

difference choice, I will be struck by a different lightning bolt and lose some of

the function of my right arm (disadvantage 10 as well). My disadvantage of 10 is

not avoidable, but some of the particular events and outcomes are. I'm inclined to

think that, for the characterization of brute luck, it is the impact on advantage that

matters, but I shall not attempt to resolve this issue. The examples and discussion

below can be recast if necessary.

[10] These authors each emphasize something like the ability to control the occurrence of the event. See, Richard Arneson, "Equality and Equal Opportunity for Welfare" and "Liberalism, Distributive Subjectivism, and Equal Opportunity for Welfare", G.A. Cohen, "On the Currency of Egalitarian Justice", Eric Rakowski, *Equal Justice*, pp. 73-74, and John Roemer, "A Pragmatic Theory of Responsibility for the Egalitarian Planner," *Philosophy and Public Affairs* 22 (1993): pp. 146-66, and John Roemer, *Equality of Opportunity* (Cambridge, MA: Harvard University Press, 1998), ch. 3.

[11] Ronald Dworkin, "What is Equality? Part 2: Equality of Resources," p. 293, emphasis added.

[12] Note that here, as is standard in the literature, option luck is understood as the complement of brute luck. Hence, even though no luck is involved in the examples (since choices determine the outcomes) certain outcomes (e.g., the terrible life) are classified as option luck. The point of the example, however, could also be made if choice did not determine outcomes and luck was involved.

[13] Martin E. Sandbu has insightfully argued that brute luck is luck that is present in the least risky reasonable prospect. See his "On Dworkin's Brute Luck-Option Luck Distinction and the Consistency of Brute Luck Egalitarianism," unpublished (2001), Harvard University, sandbu@fas.harvard.edu. For insightful discussions

of reasonability conditions, see Kasper Lippert-Rasmussen, "Egalitarianism, Option Luck, and Responsibility," *Ethics* 111 (2001): 548-579.; and Michael Otsuka, "Luck, Insurance, and Equality," *Ethics* (forthcoming, 2002).

[14] A similar problem arises where one can minimally influence the nature and advantage value of the outcomes (as opposed to probabilities). The "if and only if" clause requires that, where there is no influence, the outcomes be classified as due to brute luck, but, where there is even a small influence, the outcomes be classified as due to option luck.

[15] Skepticism about a categorical distinction between brute luck and option luck has been independently raised by Marc Fleurbaey in "Egalitarian Opportunities," *Law and Philosophy* 20 (2001): 499-530.

[16] Dworkin's original definition of option luck includes a deliberateness requirement: "an isolated risk he or she should have anticipated and might have declined" ("What is Equality? Part 2", p. 293). Eric Rakowski is one of the few commentators who, when reformulating Dworkin's distinction, explicitly recognizes both uninfluenceability (or at least avoidability) and unforeseeability as individually sufficient conditions for brute luck: "The distinction is therefore between, on the one hand, risks that people must ineluctably bear or that, though they could in principle have avoided running, they had no reason beforehand to associate with an activity in which they engaged, and, on the other hand, all other

risks that people knowingly run or of which they should be aware." *Equal Justice*, pp. 73-74. The issue of foreseeability is also discussed insightfully by Kasper Lippert-Rasmussen, "Egalitarianism, Option Luck, and Responsibility"; by Michael Otsuka, "Luck, Insurance, and Equality"; and by Thomas Christiano, "Comments on Elizabeth Anderson's 'What is the Point of Equality?', www.brown.edu/Departments/Philosophy/bears/9904chri.html, 1999.

[17] Equality of luck is at least roughly identical to what Richard Arneson calls (misleadingly in my view, since it focuses on outcomes) "strict equality of opportunity". See his "Postscript (1995) to `Equality and Equality of Opportunity for Welfare'," in *Equality: Selected Readings* edited by Louis Pojman and Robert Westmoreland (Oxford: Oxford University Press, 1997), pp. 238-242; and his "Equality of Opportunity for Welfare Defended and Recanted". Equality of luck is *not* the view that Elizabeth Anderson calls "luck egalitarianism" in her "What is the Point of Equality?". This latter view is simply brute luck egalitarianism. It is misleading to call it "luck egalitarianism", since it does not call for equalizing option luck.

[18] The fact that equality of initial opportunity does not guarantee equality of brute luck precisely because it does not guarantee equality of brute *outcome luck* was not initially adequately recognized. The divergence has also been noted—in the form of an objection to equality of initial opportunity—by Marc Fleurbaey,

"Equal Opportunity for Equal Social Outcome," *Economics and Philosophy* 11

(1995): 25-55, and Kasper Lippert-Rasmussen, "Arneson on Equality of

Opportunity for Welfare," *The Journal of Political Philosophy* 7 (1999): 478-487. In

his reply to the latter, Richard Arneson acknowledges the divergence and

(mistakenly, in my view) seeks to modify the equality of initial opportunity view so

as to equalize for brute outcome luck. See his "Equality of Opportunity for Welfare

Defended and Recanted".

[19] Richard Arneson, "Equality and Equal Opportunity for Welfare" and "Liberalism,

Distributive Subjectivism, and Equal Opportunity for Welfare".

[20] It's possible, however, that Arneson is not giving a criterion of when

opportunity sets are equally valuable, but rather of when they are equal in the

sense of having isomorphic payoff structures. This latter notion is stronger, and

there is little reason, I believe, to require equality in this sense.

[21] The idea of appealing to probabilistic choice dispositions is borrowed—with

modification— from John Roemer, "A Pragmatic Theory of Responsibility for the

Egalitarian Planner," and *Equality of Opportunity*. He there appeals to the

frequency distribution of how agents of the "same type" (having same personal

factors for which the agent is not responsible). I replace the frequency distribution

with a choice disposition (which underlies the frequency distribution), since

frequency distributions can fail to reflect to the underlying choice dispositions

(especially when small numbers are involved). Roemer does not, however, evaluate opportunity sets on the basis of their expected value given the probability distribution. Instead, he invokes the frequency distributions of choices to impose a desert-based constraint on distribution of advantage.

[22] Brian Barry, "Equal Opportunity and Moral Arbitrariness," in *Equal Opportunity* edited by Norman E. Bowie (Boulder: Westview Press, 1988), 23-44. The point also appears in Brian Barry, *Theories of Justice* (Berkley: University of California Press, 1989), note to p. 224. The idea of a lottery for unequal family positions is also discussed in James Fishkin, *Justice, Equal Opportunity, and the Family* (New Haven: Yale University Press, 1983), pp. 57-58, 61-64, and 110-113.

[23] See: David Miller, "What Kind of Equality Should the left Pursue?"; Elizabeth Anderson, "What is the Point of Equality?"; Jonathan Wolff, "Fairness, Respect, and the Egalitarian Ethos," *Philosophy and Public Affairs* 27 (1998): 97-122; and Andrew Mason, "Equality, Personal Responsibility, and Gender Socialisation".

[24] For elaboration on this point, see, for example, Richard Arneson, "Luck Egalitarianism and Prioritarianism".

[25] Dworkin's condition of ambition-sensitivity for the justness of resource allocations—which requires that gains and losses from choices not be redistributed when made from an appropriate position of equality—is a version of Natural

Rewards. See "What is Equality? Part 2: Equality of Resources", p. 311. In the economics literature, something like Natural Rewards is known as Equal Resources for Equal Non-Responsible Characteristics (or some variant thereof), and talents and handicaps are typically assumed to be the non-responsible characteristics. A weaker natural rewards principle requires only that there be no transfers when *everyone* has the same (or equally valuable) non-responsible characteristics. My argument in the text applies against this weaker principle as well. For formulation and discussion of natural reward conditions, see, for example, Marc Fleurbaey, "Equal Opportunity or Equal Social Outcome" and "Equality among Responsible Individuals," in *Freedom in Economics: New Perspectives in Normative Analysis* (London: Routledge, 1998), pp. 206-34.

[26] For example, in *Contemporary Political Philosophy* (New York: Oxford, 1990) Will Kymlicka writes: "This points to an important component of our everyday sense of what it means to treat people as equals—namely, we should not expect others to subsidize our projects at the expense of their own." (p. 40). "Treating people with equal concern requires that people pay the cost of their own choices. ... it is equally unjust for me to demand that someone else pay for the costs of my choices." (p. 75). For related discussions of this issue, see Terry Price, "Egalitarian Justice, Luck, and the Costs of Chosen Ends," *American Philosophical Quarterly* 36 (1999): 267-78; Andrew Mason, "Equality, Personal Responsibility, and Gender

Socialisation," and Colin MacLeod, *Liberalism, Justice, and Markets* (Oxford: Oxford University Press, 1998).

[27] See, for example, pp. 210-211 of Marc Fleurbaey, "Equality among Responsible Individuals," in *Freedom in Economics: New Perspectives in Normative Analysis* edited by Jean-François Laslier, Marc Fleurbaey, Nicolas Gravel, and Alain Trannoy (London: Routledge, 1998) and pp. 685-86 of Marc Fleurbaey, "Equality and Responsibility," *European Economic Review* 39 (1995): 683-689.

[28] Marc Fleurbaey has noted the incompatibility of Natural Rewards with Pareto Efficiency in contexts in which individuals are accountable for their preferences. My criticism appeals to incentive effects and risk aversion and does not depend on holding people accountable for their preferences (which is implausible when this is a matter of brute luck). See p. 212 of Marc Fleurbaey, "Equality among Responsible Individuals," in *Freedom in Economics: New Perspectives in Normative Analysis* edited by Jean-François Laslier, Marc Fleurbaey, Nicolas Gravel, and Alain Trannoy (London: Routledge, 1998) and pp. 34-36 of Marc Fleurbaey, "Equal Opportunity Egalitarianism or Equal Social Outcome," *Economics and Philosophy* 11 (1995): 25-55.

[29] Frank Vandenbroucke has, I have discovered from Marc Fleurbaey, independently made a similar criticism of Natural Rewards in ch. 1 of his *Social*

Justice and Individual Ethics in an Open Society: Equality, Responsibility, and Incentives (Berlin: Springer-Verlag, 2001).

[30] John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), p. 103. For additional discussion of legitimate institutional expectations see pp. 310-315 and pp. 188-89 of T.M. Scanlon, "The Significance of Choice," in *The Tanner Lectures on Human Value VIII*, ed. Sterling McMurrin (Cambridge: Cambridge University Press, 1988). For an argument that a non-institutional conception of rewards/desert is needed, see Samuel Scheffler, "Responsibility, Reactive Attitudes, and Liberalism in Philosophy and Practice," *Philosophy & Public Affairs* 21 (1992): 299-323. For related discussion, see Owen McLeod, "Desert and Institutions," in Louis P. Pojman and Owen McLeod, eds., *What Do We Deserve? A Reader on Justice and Desert* (New York: Oxford University Press, 1999), 186-195.

[31] For simplicity, I leave out one important qualification. The principle is to be understood as allowing deviations from legitimate expectations where this is the morally appropriate response to a past wrong. Legitimate expectations need not be respected where an independent wrong is involved. A similar qualification is needed for Natural Rewards.

[32] A defender of strong pre-institutional desert is George Sher, *Desert* (Princeton: Princeton University Press, 1987). John Roemer and Richard Arneson each advocate

theories of justice in which pre-institutional desert plays a role. See, John Roemer, "A Pragmatic Theory of Responsibility for the Egalitarian Planner" and *Equality of Opportunity;* and Richard Arneson, "Equality" and "Equality of Opportunity for Welfare Defended and Recanted".

[33] For example, Marc Fleurbaey, "Equal Opportunity for Equal Social Outcome" and Elizabeth Anderson, "What is the Point of Equality?".

[34] Jonathan Wolff, "Fairness, Respect, and the Egalitarian Ethos" and Elizabeth Anderson, "What is the Point of Equality?".