

INDIVIDUAL CHOICE AND RESPONSIBILITY IN THE BACKDROP OF JUST INSTITUTION

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ABSTRACT

One of the major problems in liberal egalitarian distributive justice is of unfair disadvantage. There are many theoretical approaches to deal with the problem. One approach is to hold people responsible where they ought to be. In the wake, people can be compensated where they are unfairly disadvantaged. This research endeavors to analyze different perspectives in the realm of responsibility-sensitive justice and suggest a possible way out of it. A special consideration has to be made for the unchangeable liberal egalitarian principles, which in this research is “equal concern” for all the people in the society. Conclusively, my research will favor an amended view of Dworkin’s theory, which I consider it more aligned to the element of responsibility as well as the principle of equal concern.

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Introduction

The main problem that is to be discussed in this research is presenting an account of responsibility in the distributive justice. This topic is important in liberal egalitarian distributive justice. The problems faced by the theorist who favor some form of egalitarian approach towards distributive justice is to decide what distribution constitutes of as egalitarian in nature. The fundamental egalitarian principle behind this is of equal concern. I will not debate on the validity of this principle, instead I will restrict my research in the framework of equal concern. From the premise of equal concern, many sub premises can emerge. My focus in this research would be on the basic question that how can a just system justifiably hold people responsible for their actions. In the wake of this quest, part and parcel is the idea of moral arbitrariness, which means that individuals should not pay for the choices they cannot be held responsible. I will restrict the idea under the heading of brute luck, which implies that circumstances that individuals should not bear the disadvantage for the choices they cannot be held responsible for.

Hence, there has to be a comprehensive account which can present a fair way of holding individuals responsible and compensate for brute luck. The idea seems reasonable and morally intuitive to hold people responsible for what they deliberately chose and compensate them for the otherwise. However, once we will enter into the debate, we will realize the complication entailed by this responsibility-sensitive approach. In order to present my account on this whole issue, I will start from the importance of responsibility in distributive justice. After justifying the role of responsibility in distributive justice, I will present some of the main problems encountered in the theory in the second chapter. In that regard, I will discuss the debate between Cohen and Dworkin. Simultaneously, I will discuss that Dworkin's account is more in line with the idea of holding people responsible. I will discuss how his idea of identification with one's

own preferences and the insurance to convert brute luck into option luck give more sanctity to the idea of responsibility in distributive justice. My account will explain that considering current attitude of people as a main determinant in distributive justice is a better and fairer way of incorporating responsibility in egalitarian distributive justice. Nonetheless, I will highlight the lacunas present in Dworkin's theory, especially his envy test. In the wake of those lacunas and resultant objections I shall present an amended Dworkinian account of distributive justice. The focal point of this account is the separation of paternalism and responsibility. Hence, the main argument of third chapter would be to discuss how background institution can play the paternalistic role to enable people to choose from the fair set of choices and exercise their autonomy. If people would be enabled to exercise their autonomy then they can justifiably be held responsible for what they identify with in the wake of facts emanating from the background institution or circumstances.

Chapter 1 - Theoretical Importance of Responsibility in Egalitarian Distributive Justice

This chapter will endeavor to investigate the importance of responsibility with regard to distributive justice. The primary premise where I will begin my debate is of the egalitarian premise of equal concern. First, it will be shown why the idea of outcome egalitarianism is not an attractive one. When discussing the unappealing nature of outcome egalitarianism, the idea of responsibility will be introduced. Secondly, in support of the idea of incorporating responsibility in distributive justice, I will discuss the idea of property rights that how does this idea invites egalitarians to hold individuals responsible for the choices they make. In that regard, I will discuss the through an example another reason why we should track the choices individuals make and hold them responsible for the choices they deliberately made. This will allow us to enter into the realm of luck egalitarianism where we will first analyze the ideas of brute and option luck in the context of responsibility and its implication of distributive justice.

The idea of tracking the choice can be contentious. The nuances of this will be discovered in the next chapter when we will discuss the main contention between Dworkin and Cohen. Currently, the idea I want to put forward is that the moment we accept responsibility as an essential component of egalitarian distributive justice, there is consequential need to bring into debate individuals' choices and preferences: that whether they are to be held liable for the choices they made and the preferences they have. Before that it seems important to analyze responsibility from different impulses originating from the premise of our research, which is equal concern.

1.1 Responsibility and Equal Respect

Our initial premise is egalitarian equal concern. From the virtue of the premise of equal concern, there is a somewhat similar premise which also pertains with the idea of responsibility which can be dubbed as equal respect. Of course, there is no need to take a long leap from equal concern to equal respect.

The principle of equal respect also invites us to understand the virtue of the idea of responsibility. We tend to intellectually differentiate between kids and adults. Kids have a great room for mistakes, hence, teachers and mentor do not most of the times hold them accountable for their actions. Kids get compensated for their misdeeds and harms they do to themselves. However, overtime the element of responsibility starts appearing in their lives. The augmentation of the element of responsibility can be directly related to their intellectual capabilities. Therefore, equal respect commands us to see them from the lens of respect and hold them responsible where they should be. This does not mean that everyone has equal intellectual capability, but it surely does imply that some amount of responsibility has to be assumed by every sane individual.

1.2 Right to Property and Responsibility

In order to discuss the importance of responsibility in the context of distributive justice, I will start from the basic idea of outcome egalitarianism. If we accept that people have some amount of authority over the resources, and they have the right to acquire property then distributive

justice must address such rights. The idea of continuous redistribution to have a purely egalitarian society clearly violates it. One of the arguments that follows is that distribution of resources must be accompanied by some property rights. Therefore, individuals must have some claim over the resources they own and the justice system cannot just intervene and redistribute the resources for the sake of equality. The objection of Nozick (1974) against redistribution on the basis of unequal outcome will have strong grounding if egalitarians do not give a strong justification for redistribution. I would not go into the debate of libertarianism and individual property rights, rather my aim is to profess that outcome egalitarianism will result in negation of that property rights and in order to secure them we have to have a strong basis for redistribution. The idea of responsibility, if incorporated into distributive justice, can provide a framework for just redistribution. A very crude example and a question would be that can a just system take some of the resources of B to compensate A if A has lost her resources. Now, if we want to solve this issue while caring about the principle of egalitarianism and individual right to property, should we incorporate the idea of responsibility to check whether A was responsible for the loss or not? Another point in support of introducing the idea of responsibility in distributive justice is the argument against equal welfare. I would like to discuss equality of welfare through an example. The significance of discussing that is to further cement the importance of responsibility in distributive egalitarian justice.

1.3 Welfare and Responsibility

The fundamental idea of welfare egalitarians is that resources are just means to ends. It is welfare that matters and in order to make people equal, resources don't necessarily have to be distributed equally, instead people's welfare should be made equal. This idea has its own theoretical standing; however, we will see that without the element of responsibility the idea sounds quite illogical in distributive justice. Of course, people use resources for some resource and not everyone requires same amount of resources to achieve equal level of welfare. In simple words, it is well-being or welfare of people that matters not the resources, per se.

This idea is in one way similar to the initial apparently naïve idea of always maintaining equality of resources. I will try to clarify the problem in the idea of equality of welfare through an example, which will also show the shortcoming of always redistributing the resources to keep the distribution equal. And through that example I tend to enter into the debate of responsibility and how far it is important in distributive justice.

Suppose there two people Sara and Tom in an economy. Sara likes wearing expensive clothes and she never wants to reuse the clothes she once has worn. On the other hand, Tom has a simple lifestyle and he is not much concerned about the type of clothes. He likes clothing but he is not concerned about any brand and the idea of not wearing the clothes once worn appears very absurd to him. In this example, Sarah clearly has expensive taste and her expensive tastes takes toll on her welfare if not provided with enough resources to fulfill it.

Hypothetically, out of 10 euros in an economy 8 should be allocated to Sarah and 2 to Tom to equalize welfare. There are many ideas stemming from this example and we will deal with them one by one and combine with them. For instance, the idea of not using the clothes once

worn appears absurd to Tom and that I will discuss in the ambit of mutual justifiability in the later chapter. But, right now, first thing over which I want to develop my argument of the currency of responsibility is the counter intuitiveness of the proposal of allocating almost all the resources to Sara to ensure equality of welfare. I accepted the intuitive basis of compensating on the basis of welfare in isolation above and will do so along the debate, but there is something wrong with this so unequal distribution.

Digging into the counter intuitiveness of allocating 8 euros to Sara, the main question that arises is that whether Sara should be held responsible for her expensive taste or not. Therefore, the question highlights the importance of responsibility and the counterintuitiveness of distributing just considering the welfare. What if Sara deliberately cultivated such an expensive taste? Is it still justifiable to give 8 euros to her to bring her welfare equal to Tom?

Therefore, the main question is whether Sara deliberately cultivated her expensive taste or not? If yes, should we hold Sara responsible for her expensive taste and on the basis of that incorporate the idea of responsibility in distributive justice or not? Investigating whether Sara is responsible for her expensive taste or not can be linked with the idea of responsibility in distributive justice. The simple assertion is that individuals cannot be held liable for the habits which they did not deliberately cultivate.

1.4 Idea of Responsibility and Rawls

Idea of not holding people accountable for their unchosen circumstances can be independently grounded. So, I want to make this clear that it is not the element of responsibility that allows us to consider this idea. In fact, it is other way round, which means that the moral concern of brute luck allows us to incorporate responsibility in distributive justice. Rawls talks about “social contingencies” and “natural fortune” and their influence on “distributive shares” without explicitly focusing on the element of responsibility (Rawls 1971, 73). The idea is that it seems morally impermissible for inequalities to arise out of natural and social contingencies. This pertains to the idea we just discussed whether one is liable for the habits she did not cultivate. If someone suffers involuntarily from a condition, then she cannot be held liable for that.

Two readings can emerge out of this Rawlsian claim. First, the inequalities arising out of morally arbitrary factors are unjust in absolute terms and have to be corrected. This reading is closer to the stance collectively taken by luck egalitarians. However, the second reading, which is in the line of Rawls’s difference principle is that a justification can be found for these inequalities. The justification found in the difference principle is that these inequalities should be arranged in such a way that the worst off are to be benefitted.

If we consider the first reading of Rawls’s idea of moral arbitrariness, then extrapolation of the idea would imply that people should be held responsible for whatever falls outside the social and natural contingency. In simple words, if Rawls (1971) thinks that people should not bear the effects of the consequences of moral arbitrariness then they should be held responsible for what is in their control. This extrapolation can be contested, because of the way Rawls deals with this problem, which is democratic equality: combination of fair opportunity and difference

principle (Rawls 1971). Fair equality of opportunity entails making arrangements in the basic structure so that everyone has the equal access or chance to occupy the offices Rawls 1971): equal access to those who have equal talent and equally motivated. Rawls (1971) concedes that fair equality of opportunity does not address the problem of natural lottery. However, in his difference principle inequalities arising due to natural contingencies must be arranged in such a way that they benefit the worst off (Rawls 1971).

Nonetheless, we must remember that the difference principle does not distinguish between brute and option luck and hence worse off are benefitted without considering whether they are responsible for their outcomes or not. We will see in the examples that there are cases in which advocates of responsibility-sensitive justice would favor compensating people even in the case of being responsible of their ill fare. However, in order to do that there would be a need to invoke another principle, for example, principle of charity, but in the case of Rawls, there is no need of that. Albeit, many Luck Egalitarians now accept, as a requirement of justice, a sufficient threshold, which means that people falling below the threshold would be compensated regardless of the consideration of responsibility. Hence, we can say that difference principle belittles the idea of responsibility in distributive justice.

There is a debate that whether difference principle is totally indifferent to responsibility or not, but the inherent idea of natural and social contingency allows us to say that the problem of brute luck merits attention. Moreover, Rawls does draw attention to this by responding to the problem of people with cheap tastes and thus having more welfare by saying “it is regarded as unfair that they should now have less in order to spare others from the consequences of their lack of foresight or self-discipline” (Rawls 1982, 169).

However, Rawls’s dealing with expensive taste and natural talents seems dichotomous. This is because he deals with the idea of expensive tastes and natural talents differently. Rawls (1971)

thinks that people don't have any claim for an extra reward on the basis of their natural talents. "The effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him. The better endowed are more likely, other things equal, to strive conscientiously, and there seems to be no way to discount for their greater good fortune. The idea of rewarding desert is impracticable" (Rawls 1971, 312). The pertinence of this topic with our discussion right now is the Rawlsian conceptualization of responsibility. Is that idea sensitive to the idea of uncontrollable circumstances or not?

Here it seems that the deservingness of people on the basis of their natural talents is not justified in Rawlsian principle because he thinks that people did not cultivate those talents themselves and it is through natural fortune that they have greater skills. However, the point previously discussed where Rawls says words like "lack of foresight or self-discipline" in the context of expensive taste (Rawls 1982, 169). He did not show the likewise sensitivity to natural fortune in the case of expensive taste by using such words. Why Rawls holds individuals fully responsible for their expensive tastes without connecting it partially with natural fortune, when he thinks no extra compensation when talent is connected to natural fortune?

Rawlsian proposal seems objectionable under the premise of responsibility, due to the dichotomy between expensive tastes and natural talents. Right now, I want to move on with an assertion that the idea of moral arbitrariness is firmly grounded in the egalitarian philosophy and has its strong link with the premise of equal concern. However, there is a contention in the conceptualization of the concept of responsibility in the wake of moral arbitrariness. If responsibility has to be incorporated and strictly applied in distributive justice then Rawls's position in this regard seems unconvincing. However, I only consider it unconvincing if the distribution has to be strictly responsibility-sensitive. Otherwise, in the final part, I will discuss how Rawls's difference principle can rescue the responsibility-sensitive theories from its

problems which we will encounter during our research. Currently, I would like to jump on the idea of conceptualizing responsibility in human action. What to take into account when doing that?

1.5 Responsibility-Sensitivity Commands being Sensitive to the process of Conceptualizing Responsibility:

Why is it a big problem to conceptualize responsibility in human action? By conceptualizing I mean there should be a comprehensive account of holding humans responsible for their preferences and choices in a way that we stay in line with our premise of equal concern. Can treating people with equal concern be extrapolated into assuring that people in the end don't have any complain against the justice system? This can be an answer "one of the first questions any egalitarian must answer is, Equality of what?" (Hampton 1998, 154). This is also fundamentally related to the principle of equal respect we discussed in the beginning. As we discussed equal respect allows us to hold people responsible which entails people having autonomy in authoring their lives. However, in the wake of exercising autonomy, people are encountered with circumstances that are undesirable natural or social circumstances.

1.6 Individual Autonomy and Dworkinian Responsibility-Sensitive Justice:

Before precisely figuring out the mechanism of conceptualizing responsibility in human's action, one thing related to responsibility is individual's autonomy, which I just brought up. In this regard, Dworkin's theory merits detailed discussion. I shall explain how the element of autonomy is evident in Dworkin's conceptualization of responsibility.

Dworkin's proposal allows individuals to have their subjective view about their lives. Of course, in this case every individual's view will vary according to her view of life. Individuals have ambitions in their lives and in the wake of those ambitions they have attitude towards their habits and preferences. Moreover, individuals need resources to pursue their ambitions. Some individuals are less well-off and some are more due to brute luck. An egalitarian impulse would be to neutralize such brute luck. Expensive tastes can also become a source of resource deficiency and in that regard individuals have a certain view or attitude towards their tastes. They cannot be neutral in the wake of brute luck.

Dworkin, in this regard, allows individuals to have their subjective view about their lives and form an attitude about their endowments. Here, endowments are construed as granted, but individuals can claim compensation against the conditions that happen to debilitate them towards their ambition. In this regard, Dworkin's view allows individual to exercise their autonomy and as a result assume responsibility.

The argument of "political morality" has relevance in regard to Dworkinian construal of responsibility. 'There are strong reasons of political morality for not making people equal in that sort of success' (Dworkin 2000, 21). Dworkin (2000) grounds his case in the wake of

highlighting the deficiencies and counter-intuitive nature of equality of welfare. Pertaining to our discussion the idea of equal respect is evident in Dworkin's (2000) theory when he objects to the idea of equal welfare under the ambit of political morality. The importance of responsibility is implicitly highlighted in the Dworkin's (2000) case against welfarism that it is condescending for a justice system to adopt such a paternalistic behaviour vis-à-vis individuals.

This is imperative especially when assigning responsibility to individual in distributive justice. Responsibility is an important component of distributive justice and assignment of it has to be in line with the premise of equal concern and equal respect. Moreover, with regard to equal respect, individual autonomy has to be taken into consideration while assigning responsibility and redistribution or compensation where things fall outside the domain of autonomy. One aspect of being sensitive and cautious while locating responsibility in the course of individual decision making is having a resilient position vis-à-vis libertarian critique on egalitarianism, as done by Nozick (1974).

This would be our main discussion in the next chapter that if we have to incorporate responsibility in distributive justice, then what would be the just way of doing that. The just way ought to be in line with our initial premise of equal concern, equal respect and the other premise of not holding people accountable for the unchosen circumstances and in the corollary the expensive preferences and habits they end up having.

The conclusion of this chapter is that responsibility is the main component in luck egalitarianism and it has a strong relationship with our premise of equal concern and equal respect. The component of responsibility is also an important argument against outcome egalitarianism. We tangentially touched problems encountered by luck egalitarians in

conceptualizing responsibility in individual choice. Next chapter is devoted to this quest which I dub as ‘locating responsibility in individual decision making’.

Chapter 2 – How to Attribute Responsibility to Individual Decisions

So far, we have, to an extent, realized the importance of responsibility in distributive justice. The assignment of responsibility calls for a redressal when people cannot be held responsible, which is the case of brute luck. Therefore, there must be a conscious effort to neutralize brute luck as done by Dworkin (2000) through hypothetical insurance. However, there is contention among luck egalitarians in deciding the right metric of justice. The debate of this chapter pertains with the idea of attributing responsibility in a fair manner and in the corollary deciding how to neutralize brute luck where an individual cannot be held responsible. Now our debate has move on to a point where we should answer to the problem of just way of locating the point where an individual should assume responsibility through the course of her action.

For that the first discussion of this chapter would involve the contention between Cohen and Dworkin in presenting an account of responsibility in distributive justice, and hence the different views they have with regard to compensation, especially the case of expensive tastes. Subsequently, after discussing the point of view of both personalities on individual responsibility, I will narrow down the argument to the main point of our discussion of this chapter, which is attributing responsibility in a fair manner. I will highlight the way both philosophers see the fair way of holding people and compensating where they cannot be held responsible. Moving on, I will focus on the contention emerged out of the case of expensive taste. The discussion will be around the point that the subjective nature of Dworkin's theory is a better way out of the serious problem posed by the problem of expensive taste.

Furthermore, I will discuss the significance of a fair environment in Dworkin's theory. This point will be explained and analyzed in detail in the third chapter. I will then present some specific critique of Cohen through the example of Tiny Tim he uses to make a case against the approach of Dworkin. I will rebut this example through Dworkin theory that how resource sensitivity allows Tiny Tim to have a subjective view about his pain, and thus entitles him for the compensation through the concept of insurance. Moreover, in the next section I shall discuss the difference in the objectiveness in some cases, which validates the idea of envy test, because an objective account cannot be presented about such cases. After explaining the significance of Dworkin's idea of subjective view of one's preference and identification, I will present another Cohen's critique on the element of identification in Dworkin's theory. A rebuttal would be given by giving arguments in favor of envy test that how it allows individuals to reappraise their tastes and preferences. I will end the chapter by highlighting the importance of just background institution or circumstances for the envy test to be successful

2.1 The Contention between the Views of Cohen and Dworkin in Attributing Responsibility

Dworkin's idea of identifying with circumstances has been contested by Arneson (1989) and Cohen (1989). The objection directed against Dworkin's idea is on the basis of the phenomenon of genuine choice. According to the Cohen (1989), If Sara identifies with her expensive tastes but she had expensive taste out of brute luck then her choice was not genuine. Why does she have to make a genuine choice to bear the expense of her expensive taste? The point put forwards by Arneson (1989) and Cohen (1989) is also relatable to the core idea of luck egalitarianism which is of brute luck. If someone does not make a genuine choice and she is compelled into making that choice due to social and natural contingencies then that person cannot be held responsible for that (Cohen 1989). Cohen (1989) points out that "...what

currently strikes me as the right reading of egalitarianism that its purpose is to eliminate involuntary disadvantage, by which I mean disadvantage for which the sufferer cannot be held responsible, since it does not appropriately reflect choices that he has made or is making or would make” (916).

When talking about brute luck, it is important to make it clear that choice made from a set of options and choice made without any option. The set of choices in the former case, which can also be out of brute luck, has to be distinguished from the case where a person was not faced with any choice. It is also important to distinguish between the right set of choices and the set of choices which are considered morally wrong. I am going to discuss this in detail in the next chapter in the context of just background institution; the way just institutions can help individuals in providing them with the right set of choices.

With regard to tracing the choices, Dworkinian theory consider it unfeasible to trace the origin of a preference, because he thinks preferences originate from preferences, and it that way all preferences can constitute as a brute luck (Knight 2009). Therefore, instead of tracing back the origin of the preference in the history, individual’s present attitude towards her preference in the wake of her ambitions is considered in Dworkinian theory.

In the case of person having a set of choices, Dworkin’s idea of having a fair hypothetical market condition to exchange provides us with the acumen that individuals are to be provided with a fair set of options to choose from, even though those options themselves have resulted from brute luck. Another emphasis laid upon by Cohen (1989) is eliminating “involuntary disadvantage” (916).

There are two points evident in the above quote of Cohen (1989, 916). One is of genuine choice and the second is of concern of disadvantage. First, I will address the point of genuine choice. Referring to the expensive taste of Sara, for Cohen, it is important to know whether she has

made a genuine choice or not to know if she is worthy of compensation or not. As illustrated in the example above of a person surrendering her wallet at gun point that choice as such is not enough to hold anyone responsible, there has to be set of options. Cohen's quest is to know whether she deliberated the preference or not. Dworkin sees it differently and does not locate responsibility in history of an individual, however for his principle to get fulfilled, historically individual has to go through envy test, in the backdrop of a just institution like auction. I will this illustrate this point shortly.

Firstly, both of them are similar in one thing, which is equal starting point in different way: equality of resources and equal access to advantage. In Dworkin's conception Sara would be allocated an amount of initial resources which will be equal in number to other people and there would be a free market for exchange. However, Sara cultivates expensive taste for clothes which increases her threshold to gain welfare. Now, there are two ways to go. First, if Sara identifies with her taste then she will not be liable for any compensation. On the other hand, if she does not identify with her tastes she would get the amount according to the hypothetical insurance market. Now, Dworkin does not investigate the nature of choice and only considers her present attitude towards her taste. Is this addressing the problem of brute luck? In other words, does hypothetical insurance address the problem highlighted by Cohen (1989), which can be summarized in the following sentence "disadvantages for which the individuals cannot be held responsible" (916).

2.2 Right Point of Attributing Responsibility in the Course of Individual Action

It is important to discuss now that at which point individuals should bear the responsibility? Is it at the time of cultivating taste or at the later point when they have an attitude towards that taste? In the case, where both of these happen simultaneously, the question would be to choose

between the origin of the preference or the present attitude of a person towards the preference. If the argument of Cohen is that individuals are 'disadvantaged' due to that expensive taste then that point is addressed in the bifurcation of expensive taste and handicap regime of Dworkin. The concern for disadvantage is addressed and an expensive taste can be classified as handicap, if individuals consider it as an impediment in their pursuits (Dworkin 2000). Why do we have to trace back the nature of choice? Should not we leave it on an individual to decide (and take responsibility) for the taste she has cultivated?

The point I address here is that Dworkin's view of attitude towards a preference gives autonomy to individuals to decide for themselves. The whole idea of the attitude towards preference and the expected insurance of Dworkin answers to the objection of paternalism directed by Jonathan Wolff (1998) on luck egalitarianism. The reply to the objection of paternalism that is evident in the very approach can be understood by the following example. For example, there is a person X who identifies with her expensive preference. Dworkin's view, in this regard, would be to consider X's attitude towards her preference, and then decide for the compensation. In the case otherwise, individual's attitude does not count as significant, instead there is an external conception about the preference that whether it was genuine or not. I consider Dworkin's approach less paternalistic and it gives autonomy to an individual in having a conception about her taste. Of course, there will be cases where having a paternalistic attitude would make intuitive sense, for instance, where it would be objectively considered justified to compensate a person. Children would not have a complaint against their shortcomings, but a paternalistic attitude is needed to address to their shortcomings. The very example also tells that the paternalistic approach, in general, would sound problematic.

Right now, the point of discussion is that what exactly is the appropriate point where we should incorporate responsibility: at the point of cultivation of habits or the attitude post cultivation?

Of course, both can happen simultaneously. Nonetheless, attitudes evolve and the I consider the present attitude matters more than the nature of the actions committed in the past. It is imperative to discuss Dworkin's theory in this light and clarify whether there is any potential of evolution of attitude of a person towards her preferences. For example, if a person was religious was in his past. He identified with his preference and thus, according to Dworkin, should have borne the cost of it. Suppose he spent most of his fortune donating to the Church and became poor. Currently, he is a changed person and no longer identifies with his past religious preference. Should he be compensated in the eyes of Dworkin?

One approach would be to assert that he should bear the cost of his preference he associated with previously. However, this goes against the point I am trying to assert, which is the present attitude towards the taste. Therefore, with a slight alteration, I tend to say that the justice system should gauge the present attitude of a person towards the taste and on the basis of that decide the compensation as per the command of the insurance market. The mere fact that the religious person disassociates with his past preference shows that he would have bought insurance, had the same personality existed in the past. Now this can be confusing as well. Can we keep compensating people on the base of regret of their past mistakes? Should not we hold them responsible for their attitude in past?

I will not categorically propound that the person should just be compensated on the basis of her present attitude. The least I would want to assert is that the present attitude should matter most and should have the greatest impact on the decision of compensation. The reason behind this, and I reiterate on this point in this research, is that present reappraisal and reflection has the strongest association with the idea of responsibility. Albeit, it is important to check whether the present regret and disassociation with the taste is genuine and the past preference or taste is genuinely considered as an impediment towards the newly formed ambition.

Moreover, having an ambition is linked to personality. If a person who has gone through a radical change in her personality and thus changed her ambition, her new personality should be considered. This can be applied to our example of a person who had strong religious beliefs before and then disassociated with her past personality. In order to assign responsibility on her, it would be more plausible to entertain the current personality of her. Entertaining current personality entails considering the current attitude towards the preference. As mentioned above, this argument cannot be applied to every case. The change in the personality and ambition will substantiate the claim to receive an insurance amount one would have given to insure her against the brute luck. For example, a person cannot claim compensation by just saying that she bought an expensive car few days back, but now she disassociates with it. The idea of responsibility is tied with the identification with the taste and the change in the identification would automatically mean change in the ambitions

Another example in favor of current attitude determining the compensation is the case of smoking. Assuming that we have a certain amount of agency especially in the wake of information in regard to the case of smoking, the attitude towards the smoking habit should be given importance. For example, if John cultivated the habit of smoking partly or overwhelmingly due to his genes. This habit can be classified as brute luck and John's choice of smoking is not his genuine choice. Now according to the view of Cohen, John cannot bear the responsibility because his choice was not genuine and thus the habit of smoking is brute luck. He cannot be held responsible for the choice he has made. However, Dworkin would take one step further and investigate the current attitude of John towards his habit. Let's not discuss for a moment whether Dworkin would agree for compensation or not. Just sticking to the idea of the point where one has to take the responsibility, Dworkin assumes that the current self is capable of making a genuine decision and can identify with his tastes or despise it. This current self is not considered isolated and insulated from the previous self which was inclined towards

smoking. Therefore, there is a part of personality, assumed by Dworkin, which can form attitudes in isolation from the personality influenced by brute luck. Here, I have to make it clear that I am not entering into the debate of free will and determinism and neither in the debate of metaphysical conception of self. The point I want to emphasize is that if we want to incorporate responsibility in the phenomenon of distributive justice, then Dworkin's view has appeal, because it gives greater autonomy to the individual and in the wake of that autonomy assignment of responsibility seems less paternalistic and sounds more plausible.

Here it is important to revise back the fundamental quest of this research which stems from the idea of equal concern in the paradigm of egalitarianism. In the corollary, we discovered the significance of responsibility and we also, to an extent, found that being responsibility-sensitive is not in conflict with egalitarian distribution. The idea which is part and parcel with the idea of responsibility is a broad consensus on the idea of eliminating the impact of brute luck from distributive justice. Now we saw above that there is a conflict among luck egalitarians on the correct point of time where an individual should be held responsible for her choice. In order to make a little simpler I consider seeing responsibility directly in relation to brute luck. As Cohen (1989) affirms that "the primary egalitarian impulse is to extinguish the influence on distribution on of both exploitation and brute luck" (908). Therefore, things might get easier to understand if we scrutinize Dworkin's idea of attitude towards expensive taste in relation to the fundamental impulse of extinguishing brute luck.

Extinguishing brute luck, especially when the brute luck results in unfair disadvantage, is important keeping in consideration the primary premise of equal concern. Of course, unfair disadvantage has to be compensated, but sometimes the construal of disadvantage poses a challenge for egalitarians. Dworkinian idea of resource deficiency seems to offer a solution to this problem. Unfair resource deficiency should be compensated according to the insurance

market. State happens to be the insurance market in that case. However, once again the construal of resource deficiency poses a challenge. In this regard, I tend to suggest that with the virtue of individual autonomy and individual bearing responsibility, subjective view of references will help in determining whether a preference or expensive taste happens to be resource deficient or not. Therefore, a subjective preference of one's own life and preference is a Dworkinian way of solving the issue of deficiencies that can happen to make it difficult to decide whether a taste or preference is a resource deficiency or not.

2.3 Objective versus the Subjective View of Personal Wellbeing

We can have a reference point against which we can measure resource deficiency. Simple answer would be the amount of resources. Nonetheless, this seems to be a very shallow criterion, because we know different people require different amount of resources to pursue their ambitions. Hence, subjective preferences play a role in the construal of one's wellbeing. This allows me to profess that it is people who will decide whether they are happy with their present situation or not. Any conception which entails telling people that they their present situation is not good entails paternalism. Of course, an easy counter argument is of the extreme cases where people are in absolute bad condition. Therefore, Dworkin's idea of people's attitude to their expensive taste allows people to have their view about their own welfare or

wellbeing. Moreover, the idea of envy test after equal distribution of resources also gives people the choice to exercise their subjective view of their wellbeing in relation to others. This point pertains to the point I asserted in the first chapter that individual autonomy demands people having a subjective view of their lives. It is important to note that according to Cohen it is important to know whether the taste was deliberately cultivated in past or not. Conversely, in Dworkin's view, we don't have to locate responsibility in history; instead historically a just institution like auction has to be present. The idea of auction is of course hypothetical, but the idea implicit in is of fair environment. In consequence of the fair environment, there will be hard facts, for instance, price luck. People will be allowed to form their ambitions in that scenario and individual responsibility will be located on the basis of their attitude towards their preferences and taste.

2.4 Dworkin's hypothetical Auction and Insurance:

Dworkin (2000) proposed the idea of hypothetical auction. The implicit idea in this proposal is of having a fair institution where people can exchange the equal amount of resources. The important component on which the whole idea can be based in the context of responsibility is of envy. Envy test has to be passed for the distributive justice to be fulfilled. The idea of envy sheds light of people's conception of their share vis-à-vis others. This allows people to have their subjective view about the bundle of resources they have, but in relation to others. They can envy the bundle of others. The idea is that once envy test is satisfied there is an egalitarian distribution of resources.

Some people will definitely be less well-off due to natural and social contingencies. One of the very evident social contingency will be the outcome of auction. Some people's preferences will turn out to be expensive, while some people will find the things they like cheap. We will discuss how these hard facts are dealt by Dworkin and considered objectionable by Cohen. But, for now, I would first discuss Dworkin's way of neutralizing brute luck. Dworkin (2000) gives the idea of hypothetical insurance. According to the hypothetical insurance, people ought to be compensated as per the rate decided by the hypothetical insurance. The insurance is hypothetical, because people decide behind the veil of ignorance the rate they would be willing to pay to insure themselves against any mishap, for example, blindness (Dworkin 2000). The fundamental quest of insurance is to transform brute luck into option luck. In other words, individuals are being allowed to exercise their autonomy and to take responsibility in the face of risk by either identifying or disassociating with their preferences.

In regard to this, people identify or otherwise on the basis of resource deficiency. In the wake of having some conception of their lives and forming ambition, they consequently have an attitude towards their bundle. Consequently, they can envy the bundle of other people and claim that their bundle is inferior to another individual due to social and natural reasons. This complaint would be synonymous of being resource deficient, because the basis of the envy is that the pursuit of their ambition is being debilitated due to some reasons. A simple type of debilitation or resource deficiency would a person with broken limbs. However, Dworkin's view allows individuals to have a subjective about the hindrances in their ambitions. Compensation would be decided on the basis of hypothetical insurance: how much a person would have paid to insure against the hindrance or the resource deficiency (Dworkin 2000).

2.5 Cohen's Critique on Compensating on the Basis of Resource Deficiency and the Dworkinian Reply:

The incorporation of the example given by Cohen (1989) will pose a challenge to Dworkin's idea of equal resources and hypothetical insurance. Tiny Tim who feels pain in moving his limbs, but his welfare is more than the people around him who don't have this disease pose a challenge to the argument of compensating on the basis of deficiency of welfare. It also poses a challenge to the metric of resource equality, because Dworkin (2000) claims that any claim of compensating rests against the backdrop of some conception of fair share. However, the example of Tiny Tim does invoke the principle of resource deficiency in a very subtle way, which I will explain.

Dworkin's (2000) idea of hypothetical insurance will allow justice system to compensate Tiny Tim due to his pain on the basis of resource deficiency. The reason would be the disassociation of Tiny Tim with that condition. Hypothetical insurance will calculate the amount he would have paid to insure against this disease or shortcoming. He would disassociate because the pain would have hindered his pursuits.

Cohen (1989) misinterprets the case of Tiny Tim to support his point of equal access to advantage. In the corollary, he equates the case with expensive taste to object to Dworkin. According to Cohen (1989), Tiny Tim should be compensated on the basis of involuntary disadvantage and in the same way a person with expensive taste should be compensated who would not have cultivated the taste deliberately. Dworkinian reply in this regard is that both with the expensive taste and Tiny Tim would be compensated principally on the basis of their

attitude towards their preferences. In this way, the problem is solved through the individual present attitude towards her preference.

I consider the analogy of Tiny Tim used by Cohen (1989) vague. It is important to differentiate between the expensive taste and handicap. If we employ the principle of equal access of advantage the difference between Tiny Tim's pain and expensive taste becomes stark. Tiny Tim's pain is the disadvantage, but what is the apparent disadvantage in the case of Sara who always wants to put on new clothes. Cohen might reply that her habit is her disadvantage and only thing important is to investigate whether she cultivated it voluntarily or not to see whether she was responsible or not. But, I think, Cohen should clarify the difference between disadvantage and the loss of welfare in a better way. The idea of advantage again involves some type of background conception of what constitutes as advantage and disadvantage.

2.6 Difference between Objective Handicap and Expensive Taste:

One thing that is evident from the example of Tiny Tim is that pain constitutes as disadvantage and hence the relief from pain can be categorized as an advantage. Hence in Cohen's term, everyone should have equal access to be relieved from pain and if someone suffers from the pain as a result of brute luck, she should be compensated. But, how will he apply this argument to expensive taste? If someone has cultivated an expensive taste like Sara and it was a result of brute luck, is this enough a reason to compensate Sara in the eyes of Cohen? In the case of Sara, the disadvantage would be the pain or frustration suffered by her as a result of not getting

new clothes. Hence, in the case of expensive taste there is a need to go one step further to finally decide the entitlement for compensation according to luck egalitarian principle.

There is an evident difference between the example of Tiny Tim and Sara or of any similar type of expensive taste example. The clear difference is that the pain suffered by Tiny Tim is objectively construed as pain by everyone. Resultantly, a just egalitarian system must not remain neutral to pain. Cohen (1989) is right when he says that compensating Tiny Tim is not on the basis of equal welfare and resources. It can also be said that the compensation is on the basis of equal access to advantage. However, that argument of equal access to advantage cannot be applied to expensive taste, because expensive taste is a result of subjective preference, be it out of brute or option luck. If Sara does not get expensive new clothes, the suffering she bears cannot be objectively construed as pain. Moreover, if Sara has equal welfare even in the absence of new expensive clothes then the whole argument finishes. Therefore, the example of Tiny Tim cannot be fully extrapolated to expensive taste.

By pointing out the flaw in the analogy of Tiny Tim we can say that the case of expensive taste deserves special theoretical treatment to be solved while keeping the distinction of brute and option luck intact. Moreover, Tiny Tim example is inadequately being used by Cohen to attack the way Dworkin's theory deals with expensive taste, because resource deficiency along with the idea of insurance would allow for the neutralization of brute luck in the case of Tiny Tim.

I have explained above how Dworkin dealt with the problem of expensive taste. We saw that his approach is responsibility-sensitive and in the corollary, it should also address the distinction of brute and option luck. However, the interesting part is his conceptualization of responsibility. I would not be wrong in saying that Dworkin has made an equation of responsibility in which responsibility is affected by different variables like attitude, ambitions and choice. We don't know the exact weightage each variable carry, however we can

conveniently assert that even in the case of zero weightage of choice (brute luck), ambitions and attitude can have a significant impact and as a result individual can end up bearing the cost of the brute luck. It is to note that this would not be the case in every brute luck, for example a physical disability, which will be objectively considered below a certain threshold, out of brute luck will be compensated. I will elaborate on the significance of having a sufficient threshold regardless of the consideration of brute and option luck later on. Right now, with regard to the idea of present identification with preferences, I will make the difference clearer between the by first explaining the objections levelled by Cohen against identification and in response a Dworkinian rebuttal would be given.

2.7 Cohen's Objection on Dworkin's Idea of Identification with Tastes:

I favored Dworkin's point of individual's reflecting on their preferences and forming an attitude towards them. Cohen (1989) contested this point of Dworkin that not everybody is equally capable of reflecting back on their preferences and tastes. This is where Cohen (1989) raises a challenging question and he thinks that this differential treatment with expensive taste and other brute luck makes Dworkin's theory untenable. He challenges the idea of attitude towards one's expensive taste in the following words "Is the crucial feature of the taste the fact that the person wishes he did not have it? Or is it his reason for wishing he did not have it, namely, that, among other things, it threatens to cause him frustration and pain"? (Cohen 1989, 926).

Cohen (1989) raises objections by professing that not everyone is intelligent enough to reflect back on the habits and preferences of her, but a just egalitarian system cannot deny that person compensation on the basis of not reflecting (Cohen 1989). Moreover, a person can feel the frustration of her taste, but still can identify with her expensive taste (Cohen 1989). In this regard, Cohen points out that the fundamental quest should be to locate whether the choice made was genuine or not, in order to put responsibility or not (Cohen 1989).

He discusses in the following way “Suppose that there was no such warning, that our unfortunate contracted his expensive taste innocently, and that we now offer him, gratis, an inexpensive unrepugnant therapy which would school him out of it. If he agrees to the free therapy, then, so I believe, the ideal of equality says that he should get it, regardless of whether he says farewell to his taste with unmixed relief or, instead, with a regret which reflects some degree of identification. This suggests that identification and dis-identification matter for egalitarian justice only if and insofar as they indicate presence and absence of choice” (Cohen 1989, 927).

Another representation of Cohen’s objection to Dworkin’s egalitarianism is that when he writes “the right cut is between responsibility and bad luck, not between preferences and resources” (Cohen 1989, 922). Therefore, the main objection is that after incorporating choice it doesn’t matter whether someone has resource deficiency or expensive taste, the focal point of luck egalitarianism, according to Cohen, is to find whether someone has made genuine choice or not. However, this is where the main difference between Cohen and Dworkin gets evident and I tend to answer Cohen’s objection on the behalf of Dworkin.

2.8 Attributing Responsibility in the wake of Envy Test

Normatively, individuals should not be held responsible for the preferences out of brute luck. Nevertheless, in order to assign responsibility, there should be an appropriate way of doing that. The case of expensive taste seems to pose a special problem, especially in the eyes of Cohen (1989). My view, especially with regard to expensive taste, is that there is a need to have a cautious theoretical treatment of expensive taste. When the quest of responsibility, I would go step by step and try to analyse the merits of the idea of Cohen and Dworkin in their dealing with expensive taste.

The first question I would put forward is that does the incorporation of choice make preferences and resource deficiency equal? In order to equate resource deficiency with preferences, we would have to move one step further in the case of latter. It is when preferences become debilitating they merit attention from egalitarian justice. Intrinsically, it is hard to assert that an expensive taste is a good or bad thing or even to say that it makes a person worst off before knowing her subjective attitude towards that.

Pertinent is to mention the spirit of Dworkin's proposed envy test. Envy test caters to the subjective preference that we just talked about. "Cohen's conclusion that the envy test is satisfied without compensation of Paul rests on the mistake of thinking that the envy test is to be applied objectively" (Knight 2009, 21). If Sara envies the bundle of Tom, envy test is not fulfilled, and there will be further exchange, and of course in the case of expensive taste the

exchange would not appease Sara and therefore, she will be entitled to extra compensation¹. However, Cohen (1989) thinks that envy test will deny Sara the extra compensation as he says in the case of Paul's expensive taste of photography "I think the egalitarian thing to do is to subsidize Paul's photography. But Dworkin cannot think that. His envy test for equality of resources is satisfied: Paul can afford to go fishing as readily as Fred can" (923). There is misunderstanding here. It is true that as per the market conditions Paul's taste is expensive, but envy test allows Paul to not identify with his tastes which are happening to be an impediment in his life. The thing which Paul has to take responsibility of is of having ambitions amidst real-life market conditions. He can form ambitions in which his taste of photography might not be an impediment per se, but the cost of having this expensive inclination might be an impediment. Here, in Dworkinian proposal would be that he has to accept that real-life condition and should form ambitions in the wake of those conditions. In simple words, if he thinks his tastes are not an impediment and thus identifies with them, then he has to identify with the cost as well.

In response to the tracing the origin of preferences which seems to be the evident spirit of Cohen's idea, which is tracing whether expensive taste was cultivated deliberately or not, because Dworkin thinks that preferences beget preferences and it is difficult to find out that whether someone has cultivated her preferences genuinely or not, in other words it doesn't seem possible to locate original preferences and find out whether they were genuine or not (Knight 2009). What he does is that in the wake of the quest of equality of resources, he allows people to exercise their present subjective attitude towards their bundle of resources, which includes their preferences as well.

Moreover, I find an intuitive link between responsibility and attitude. If we have to hold

¹ I have borrowed this argument from the book of Carl Knight called Luck Egalitarianism: Equality, Responsibility and Justice. (Knight 2009, 21)

individuals responsible for their actions we take into consideration their present attitude that could be an alternative to their choice, or their present attitude could represent their choice of life. Especially, in the case of expensive taste, the argument of present identification and attitude matter more. This is because it allows individuals to reappraise their preferences and also gives them space to assume responsibility. It is the present attitude of an individual that will decide whether the specific preference is happening to be a resource deficiency or not. We have to differentiate this with the idea of historically locating the genuineness of choice.

With the same token, Dworkin's "envy test embodies a first-person understanding of equality, being based on each individual's appraisal of their situation vis-à-vis everyone else's" (Clayton 2000, 175). There is a possibility to construe individual's appraisal of her background circumstances as individual's genuine choice instead of going back in history and locating the origin of choice. The superiority of present over past choices has intuitive weightage and I will explain the reason of asserting that through a following example.

We need to keep that in mind that we are trying to locate the justified point of responsibility in individual's action. In simple words, we are trying find, for the sake of justice and equal concern, that whether an individual can be held responsible for her actions or not – therefore in the case of expensive taste what should be the best criterion of making an individual responsible. Keeping this consideration of quest of locating responsibility in distributive justice, consider an example of an individual A. A was raised in a kind of environment where racism was a norm and resultantly he internalized those values. Cohen's argument in this regard would be to know whether A had those preferences willingly or not, in order to hold him responsible or otherwise. Dworkin's position here seems more superior to me. This is because his position offers an account to hold individual responsible while addressing the brute luck of being raised in such a family. If an individual today does not identify with her racist tendencies

and he really wants to transform himself and then he is entitled to compensation (special treatment in a form of therapy) as these racist tendencies would be treated in the handicap regime. However, if A thinks that his racist tendencies are a part of his personality then he should pay whatever cost it entails, because today he can either identify or disidentify with his racist tendencies, which are considered morally wrong.

Of course, a question arises that whether the current identification is politically correct or not, but this same question can be raised about the historical choice being made. However, the question attached to it is that can we leave it on individual to decide for their wellbeing as it has been proposed by envy test. Lazenby (2016) here argues that if some conditions of people are considered disadvantage by the political community then those conditions ought to come under the regime of handicap. “A political community should regard certain conditions as disadvantaging some of its members only if the balance of evidence suggests that those conditions constitute a disadvantage for the individuals who bear them” (Lazenby 2016, 2).

I don't disagree with this point. However, with regard to this point I discussed above that every case cannot be treated with equal objectivity like Tiny Tim. Tiny Tim's case lies on one extreme of spectrum where even if Tiny Tim does identify with his condition, political community's collective conscience would regard it as a disadvantage or resource deficiency. It would be an important question that how can a society draw a line and decide what constitute as politically correct or not. I will tend to answer this in the ambit of fair environment or background institution shortly

However, with regard to the issue of the subjectivism, envy test has huge significance and it becomes more pertinent in the case of expensive taste. Some of the cases can be very subjective, on which it will be difficult to have a single view that whether a preference constitutes as resource deficiency or not. The case of Sara is the perfect example where it is expected that

most of the political community would not objectively consider it as a disadvantage. Nonetheless, the case of Sara can be treated as an obsession, but to fulfil the envy test, she herself has to point it out, disidentify and claim for compensation.

I concede that the spectrum of objectivity and subjectivity is not that easy to establish. There are not only cases like Sara and Tiny Tim, which we can place on the spectrum and decide. There are other complicated cases where one person might identify with the expensive taste and will even be ready to bear the cost of it, but those cases can be objectively construed as politically wrong. For example, a woman brought up in a social environment where women oppression is a norm. She cannot feel the oppression and her ambitions are formed on the basis of her upbringing. She has been taught to stay at home and serve the male members of her family. Resultantly, she does not seek education. Now this woman is clearly making herself resource deficient against other people in the society. It is hard to decide the political correctness or the conscience of the community in this case. Case would have been easier where a woman herself complained and disidentified with the taste. However, here the individual is not envying the position of other people and the envy test is fulfilled. It is also in line with the premise of equal respect we derived in the beginning of equal respect.

In this regard, Lazenby (2016) clearly has a point in the context of political correctness. I conceded this point above in the case of Tiny Tim that there are conditions which can be objectively construed as disadvantage and resource deficient. But, the case of the woman who opts to stay at home and not seek education is trickier. Does this case pose a big challenge for envy test? I will present a Dworkinian rebuttal to this in detail in the following chapter

For now, I tend to assert that in order to keep the idea of responsibility intact, there has to be a point where an individual assumes responsibility and right now it seems to me that assuming responsibility in future is superior to locating responsibility in past, because individuals have a

greater ability to reflect back and as according to Knight (2009), envy test allows for reappraisal. Moreover, the formation of ambition in the backdrop of just institution and faced with hard facts give individuals a greater room to have attitude towards their tastes and preferences and eventually assume responsibility.

I have put forward the idea of just institution under which people will form their ambitions faced with the facts that will emerge out of the collective action in the just institution. For instance, the prices of goods through an auction or the political options emerging in a liberal democracy. Therefore, I will try to answer to the problems raised by the cases where individuals themselves identify with the taste or the preference they have, but those tastes or preferences can be deemed as politically incorrect.

Chapter 3 – Fair Background Institution or Circumstances

This chapter, as the title suggests, tend to focus on the importance of the just institution and circumstances available where people have authentic or fair set of choices. Subsequently, I will discuss how the idea of auction in Dworkin's theory entails the implicit idea of fair condition. Resultantly, the facts which will emerge out of the hypothetical institution will be considered hard facts. Subsequent to that, I shall focus on how it is plausible to attribute responsibility only in the backdrop of a fair environment and amidst hard facts resulting from the fair environment. I will once again bring in the significance of envy test, but this time around, I will discuss it in relation to the fair institution. Moreover, this will enable me to discuss the contention that can occur because of the paternalistic impulse. In this regard, I will present an account of how would the amended version of Dworkin's theory will respond to the argument of individuals having a mistaken view about their ambitions and thus their preferences.

Before I jump on the debate of the just institution debate, I shall summarize my understanding on the important point of locating responsibility in an individual's action, in order to explain my inclination towards Dworkin's proposal. We discussed the line of reasoning of Cohen and Dworkin in attributing responsibility. I made some points in favor of how Dworkin attributes responsibility in an individual action. With some reservations, which I will discuss later, I ought to clarify what appears a plausible way of locating responsibility in an individual's action to me. This view of mine has a special consideration which is that we should operate in the domain of political philosophy and Dworkin's chronology of theoretical ideas starting from the auctions seems to have better implications for political philosophy.

3.1 Fair Background Institution and Hard Facts

The reason I show inclination towards Dworkin's view of locating responsibility in individual action is the chronology of the whole theory. First, there is a conception of fair background condition, which is the manifestation of hypothetical free market through an auction. In the wake of this hypothetical fair condition (auction), individuals exchange their initial resources. The prices of different goods and services resulting from this exchange can affect different people differently, due to the different set of preferences.

Here, it is important to understand the difference between Cohen and Dworkin's approach vis-à-vis luck. In Cohen's conception, these prices of different things, as a result of auction, might happen to be a brute luck for some people whose preferences will turn out to be expensive. Of course, as this is not due to their fault if they did not deliberately cultivate those preferences. Cohen does think that people who cultivate tastes for expensive goods just because they are expensive do not deserve compensation. However, people who just happened to have these expensive preferences out of brute luck ought to be compensated.

However, in Dworkinian conception, the prices are decided through the fair mechanism. People collectively exchanged goods and some goods had more demands than others. My understanding of this idea is that due to the fair background condition these facts are hard facts in the eyes of Dworkin and people cannot be compensated just on the basis of these hard facts. (I will reply to the lacunas in Dworkin's proposal explain that how can these background fair hypothetical state be broadened to increase its legitimacy).

People are not to be compensated merely on the basis of this brute or hard luck arising from

the background condition, because the assumption is that the background conditions are fair. Therefore, the conditions arising out of the collective action of people (exchange in the auction) are held superior to the bad price luck². In other words, prices decided as a result of fair market conditions are normatively superior to the hard price luck experienced by some people.

3.2 Responsibility vis-à-vis Hard Facts

Subsequent to that, Dworkin locates responsibility, which is the ambitions formed facing these hard facts. People will form ambitions on the basis of set of choices arising out of fair hypothetical state. This is the point where Dworkin locates responsibility. When people form ambitions, they need means to fulfil them. All means come in the ambit of resources and disadvantaged are those who are resource deficient to pursue their ambitions. Hence, people in Dworkinian terms should take responsibility of forming ambitions in the wake of hard facts and after that they can have a claim if they are disadvantaged vis-à-vis the ambitions they formed.

The merit of this chronological order and locating responsibility is that it seems intuitive to have a defined starting point. By that I mean that for this argument to have practical implications, there is a need to have a conception hypothetical state which assures as much fairness as possible, so that hard facts or price luck can be justified. The direct practical suggestion entailed by the idea of hypothetical auction is of fair environment. Fair environment will validate the price luck. Tracing back the formation of preferences can lead us into the morass of metaphysics and the debate of freewill and determinism which Cohen (1989) himself concedes.

² Bad price luck is another name given to the hard facts arisen out of market exchange

3.3 Assuming Responsibility in a Fair Environment or Institution

Secondly, the attribution of responsibility looks plausible. As I wrote above, considering the nature of the principle of responsibility, there is an intrinsic link of responsibility and autonomy. I think, people forming their ambitions in the face of hard facts is an appropriate time for assuming responsibility. Cohen would want to trace back how preference was born at the first place, but Dworkin has a clearer view. Preferences are formed in the wake of some conditions and those have to be fair. The merit of the argument is the way he neutralizes brute luck post formation of preferences. It is again in relation to other people, which is very much in line with our premise of equal concern.

In the example of A, where he has racist tendencies due to the social environment he gets out of brute luck, an objection can be raised that holding individuals like A accountable just on the basis of present attitude towards their taste or preference sounds simplistic. Of course, A's present attitude towards his racist tendencies can be determined by his social upbringing and for Cohen and the like, it would be imperative to historically know whether he deliberately cultivated racist tendencies or not.

My first response in this regard would be that individuals would have to assume responsibility at some point and having an attitude towards their tendencies is not absolutely unfair if we assume even a slight amount of freewill. But, this would not be my only response to the example of A, because I don't consider this response sufficient. My response to the likely Cohen's objection would be to go to history of A, but not to check whether the choice was genuine, but to see whether those racist tendencies were formed under a fair environment or

not.

As for Cohen, the history of the preference matters, therefore, whether A genuinely adapted to racist tendencies or not. On the other hand, Dworkin is concerned about A's attitude towards the racist tendencies. As I have indicated that Dworkin's approach seems more plausible and aligned to the responsibility-sensitive approach, because of present attitude, which involves the element of reappraisal. Nonetheless, fixating on attitude can raise suspicion, because attitudes can be adaptive and we would bracket them out for the sake of differentiating between brute and option luck. This suggests that we need to amend Dworkin's view in this regard. The point of amendment I find plausible is the background institution, which can allow individuals right set of choices.

This pertains with the spirit of the idea of auction and free market exchange professed by Dworkin (2000). The idea of having a fair institution is very important considering that individuals will be faced with the set of choices as a result of that institution/institutions (It can be multiple institutions, like education system, fair market condition etc.) The nature of the set of choices individual will face is important. In the case of A, it is important that he is faced with the set of choices to choose from if he is to be later held 'responsible' in the wake of having an attitude towards his preference.

The fair institution in relation to our example of A having racist tendencies can be of education system. An inclusive education system based on the liberal values of tolerance can allow individuals to form preferences or the set of choices that are fair in their nature. The set of choices will of course result from the design of institution. For example, as mentioned above an education system, which is based on liberal values of tolerance. Moreover, the individuals educated in that system ought to have fair amount of choices, for example, different conceptions of life that are fair and just in nature. Similarly, this argument can be applied to

our example of a woman who opts to stay at home. The basic institution of education can provide the very woman with a set of choices to choose from. Therefore, reading Dworkin's idea of identification with taste can lead to a wrong conclusion. A correct reading requires the whole idea to be studied in the backdrop of a just institution.

Of course, there will be some amount of paternalism involved when having a background institution. For example, there would be a mechanism to make people comply with the fair rules of the institution. This can raise objections too; for that reason, care needs to be taken in designing institutions and compliance rule. I cannot advocate single set of rules here, and this would be another topic of philosophical debate that what constitutes of as fair rules or not. Considering the example of the woman who decides to stay at home and not study, the element of paternalism involved would be to oblige her to seek education. In this regard, we would have to settle for some political and social values for the background institution or the environment to allow for the right set of choices to be available to people. For instance, the institution or the environment where inquiring and questioning is encouraged.

The institution of freedom of inquiry can also be related to the idea of fair education system as a background institution in which people can form their ambitions. The result of the freedom of inquiry and critical thinking in a society will allow people significant amount of choices. As Cohen (1989) critiqued the vagueness of the idea of identification with taste, I consider it imperative to look at the idea in the backdrop of fair institution. People must have fair institution in order to form ambitions and resultantly attitudes towards their tastes and preferences. Therefore, institutional structure should allow people to exercise autonomy, which in this case is having some semblance of ambition of their lives. The currency of the idea fulfilment of envy test is also plausible in the wake of the fair background institution/institutions.

3.4 Envy Test in the Backdrop of a Fair Institution

The subjective nature of envy test might give an impression that it is agnostic to the mistakes individuals can make in their identification with their tastes. It becomes difficult in different cases to decide whether a paternalistic approach is suitable or not, and equally important it is to decide the degree of paternalism required in different cases. Lazenby's (2016) categorisation of the types of mistakes people can provide us with insights of how to deal with them and consequently decide for the right degree of paternalism needed to handle cases where people make mistakes.

This issue cannot remain confine in the domain of individual choice. Or in other words, individual choice requires collectively well thought out circumstances. Of course, the circumstances or the institutions creating those circumstances are subject to change, but there has to be a starting point and before that an ideal hypothetical state like auction in theory.

The principle of individual which, as I discussed earlier, is tied with our main idea of responsibility. Therefore, we cannot be too sensitive with the individual mistakes as long as they do not disrupt the fundamental circumstances in which people will form ambitions and attitude towards their preferences. This assertion of mine can be based on the simple intuitive idea that if people are to be held responsible for their actions, a degree of freedom has to be given to them. And as per the Dworkin's theory, the institution of insurance will change brute luck into option luck. The focal point is that the quest of converting brute luck into option luck entails the idea of people having agency in their actions.

3.5 Individuals' Mistaken Subjective View: An Objection to the Envy Test

However, the question that arises in the wake is that how would Dworkinian amended theory, which I present here, view mistakes made by individuals. Before presenting my view on it, which is formed in the light of Dworkin's theory, it is important to know what constitutes of as politically incorrect decision. What if it has to do with a particular conception of good?

The argument of background institution that I propose in this chapter can tackle questions like this. The main point I am trying to make is that necessary paternalism required to establish boundaries to prevent mistakes or politically incorrect decision from happening has to be at the institutional level. The reason of this assertion that paternalism and responsibility cannot go together. Therefore, the appropriate place of paternalism is at the background level. First, dealing with individual cases is cumbersome and sometimes practically impossible, hence, the provision of fair circumstances for the fair prices to result, background setup has to take care of the mistakes. The question is that in what way background circumstances or institution be designed that individuals in the wake that individuals know consequences before making mistakes.

I would expand the above point keeping in consideration Lazenby's (2016) bifurcation of Dworkinian reading which he calls 'weak' and 'strong' (195). I would agree with his argument that strong reading would defeat Dworkin's argument against welfarism. The main contention of my proposal is with his interpretation of the weak reading. He enlists some examples that can for many indisputably constitute of as fair or necessary conditions for individuals to assume responsibility such as "complete secondary education, the presence of a parent or guardian who

has treated them in accordance with some minimal standard, showing them attention and affection, and the absence of any serious trauma” (Lazenby 2016, 195). He furthers his argument by stating that mistakes will still be frequent even after these fair background circumstances (Lazenby 2016).

This is where I think the problem lies. It seems to me that after having fair circumstances or institution a justice system should not worry about mistakes, except for exceptional conditions where intervention is inevitable. As I stated earlier, in the backdrop fair circumstances, individuals assume responsibility for their ambitions, therefore being paternalistic is contradictory at that stage. Lazenby’s (2016) bifurcation is too strict. He states that either individual can have their subjective view about their preferences, which are genuine or “a set of authentic preferences that is different from the actual preferences they have” (Lazenby 2016, 196).

My response to Lazenby would be the amended envy test of Dworkin. I believe that envy test can survive even after the set of choices resulting from a fair background. It is true that the preferences will not be absolutely genuine, but I conceded this earlier that going into the history of the preference is not a solution. The amended account of Dworkin will be cognizant of the fair circumstances prior to the envy test. It would not be an exaggeration to profess that envy test cannot fairly succeed without the fair environment or institution. Therefore, the point made by Lazenby (2016) about the person who had preferences in the absence of fair environment is valid and, I believe, in that case envy test cannot succeed without that person being offered special treatment.

Moreover, the institutional implication of amended Dworkin account in response to the Lazenby’s (2016) of a comparative example of two deaf people or a group among whom one who does not have a reference point of normal ears would be that there is a room in the

background institution to cater to this problem by making it compulsory to have this treatment. I will not argue on the merit of this specific case, but the main argument I am trying to make is that if there is a case like this which can be substantiated, then change can be done in the institution for individuals to have right set of choices. Therefore, my amended account of Dworkin has a huge capacity of change and improvement at the institutional level. The similar type of argument is presented by Tim Parr as well. He dubs it as “nuanced version of the envy test”, and which he thinks “is immune to some of the most pressing objections that have recently been levelled against it” (Parr 2018, 319). The point he makes is that there are cases where some outcomes of envy test are counterintuitive and Lazenby (2016) does have a point, but negating envy test is problematic.

It is problematic because it is synonymous to paternalism, which is against the non-paternalistic values of liberal political theory (Parr 2018). As we operate in the liberal egalitarian framework in this research it is important to respect them. More importantly, envy test is aligned to the idea of individuals assuming responsibility. Therefore, I will stick to the earlier assertion that at the stage of responsibility individuals should exercise their autonomy, even if they commit mistakes.

Conclusion

The research started from the argument that how important it is for individuals to assume responsibility for the actions they deliberately do. With the virtue of the argument of political morality, justice system cannot all the time intervene to make the outcome equal. I discussed this argument in the ambit of equal respect, which has a direct link with equal concern. Simultaneously, I linked the argument of equal respect with the argument of allowing people the autonomy to make decisions for themselves, which implied that individuals should take responsibility for their actions, which they autonomously perform. Subsequently, I brought into debate the idea of moral arbitrariness because of social and natural contingencies. If individuals have to assume responsibility for the actions they deliberately perform, they should not take responsibility for the actions which are due to the natural and social contingencies. This was the contentious part of my research which pushed the debate into the realm of presenting a fair account of responsibility. In other words, egalitarian distributive justice requires a fair account of responsibility in the wake of natural and social contingencies or brute luck. I discussed the account of Dworkin and Cohen in this regard. Cohen's (1989) main argument against Dworkin was that resource deficiency argument of Dworkin cannot fully encompass brute luck, and in this regard, he talked about expensive tastes preferences of people. Cohen criticized the idea of identification with taste and according to him, for the sake of justice, one should know whether the taste was cultivated deliberately or not. As a rebuttal, I presented Dworkinian account and proclaimed that the idea of resource deficiency does encompass expensive taste. The difference is that instead of tracing back the origin of preference in the past, individual will be held responsible in the present to either identify or disassociate with her preference. Individuals will decide in fair circumstances that whether they are resource deficient or not.

This was the point over which I built my argument upon. My view is that if we take the reading of Dworkin in which individual attitude to their preferences is allowed to evolve then that account is superior, considering the element of responsibility in distributive justice. The basic idea is that if individuals have to assume responsibility at some point, present is the best stage to do that. Of course, one can argue that an individual can cultivate preference and at the same has an attitude towards that, but the important part of my argument is the evolving nature of the attitude. The example of the person who was religious in past is pertinent.

The reason I tend to favor Dworkin's account is that enables an individual to reflect back and change her attitude towards her preference. I intuitively consider assuming responsibility in present superior to assuming responsibility in past. Equally important, individuals should assume responsibility by having an attitude toward their preference in the wake of just environment. This is very important, because all individuals will be faced with hard facts or price luck, in which they have an attitude toward their preferences. It is important that these hard facts should emanate from just circumstances.

I utilized the example of auction, which is hypothetical in Dworkin's account, but the purpose of presenting it that the prices should emerge from the fair circumstances. Fair circumstances are very important for the Dworkin's envy test to take place. Individual's identification or not in the wake of the ambitions they formed determine the distribution in Dworkin's account. I concede that there is some degree of generality in Dworkin's idea of insurance to tackle brute luck, because in practical, cases can vary, and the amount decided by the insurance may not cater to individual cases. However, I think, it is practically impossible to gauge the amount every individual would have paid for the insurance against any brute luck.

I, subsequently, discussed the problems present in the Dworkinian account. This is the reason why I reiterate the idea of fair circumstances or fair background institutions. I professed that

background institutions can be tailored to provide individuals with the right set of choices. Lazenby's (2016) argument of people making mistakes was brought in to make the argument clearer. It is true that individuals make mistakes in judgement and envy test allows to have a purely subjective view of their preferences. There are some conditions that can be objectively labelled as bad and deserve correction through intervention. Parr (2016) discusses the problem when individuals make a wrong judgement by stating that "we can respond to this objection by noting that an individual's comparatively poor ability to make accurate value judgements might itself be a disadvantage according to the envy test" (316).

I concede there is some form of paternalism involved here where the system will decide if an individual's judgement is right or not. This is not my general suggestion, because this would defeat the idea of envy test and individual having their subjective view about their preferences. The point I find interesting in Parr's (2018) argument is that there would definitely be cases where intervention would be needed and it would be advisable to convince individual on the basis of individual's own values. My conclusive argument in response to this problem is that individuals form their ambitions and attitude towards their preferences on the basis some values. It would be paternalistic to make them obey the values they don't identify with. In that case, the paternalistic part should exist in the institutions and the circumstances. As discussed in the example of a woman who identifies with her preference of staying at home. In these cases, the problem is with the norm they follow. Of course, it is a long-term solution to provide with the fair background circumstances so that individuals get right of choices. I consider it as an evolving solution which involves trial and error. The fundamental point in conclusion is that paternalism and responsibility cannot be done at the same time. Therefore, institutions should assume the role of paternalism and then individuals should have their subjective view in the backdrop of just institutions. In this regard, envy test offers a fair account of assuming responsibility.

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