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On the Currency of Egalitarian Justice

*G. A. Cohen**

I. INTRODUCTION

In his Tanner Lecture of 1979 called "Equality of What?" Amartya Sen asked what metric egalitarians should use to establish the extent to which their ideal is realized in a given society. What aspect(s) of a person's condition should count in a *fundamental* way for egalitarians, and not merely as cause of or evidence of or proxy for what they regard as fundamental?

In this study I examine answers to that question, and discussions bearing on that question, in recent philosophical literature. I take for granted that there is something which justice requires people to have equal amounts of, not no matter what, but to whatever extent is allowed by values which compete with distributive equality; and I study what a number of authors who share that egalitarian view have said about the dimension(s) or respect(s) in which people should be made more equal, when the price in other values of moving toward greater equality is not intolerable.

I also advance an answer of my own to Sen's question. My answer is the product of an immanent critique of Ronald Dworkin, one, that is, which rejects Dworkin's declared position because it is not congruent with its own underlying motivation. My response to Dworkin has been influenced by Richard Arneson's work in advocacy of "equality of opportunity for welfare," but my answer to Sen's question is not that Arnesonian one, nor is my answer as well formulated as Arneson's is.[1] It needs much further refinement, but I nevertheless present it here, in a

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1. See Richard Arneson, "Equality and Equality of Opportunity for Welfare," *Philosophical Studies*, vol. 55 (1989). My criticisms of Dworkin were conceived without knowledge of Arneson's partly parallel ones, but it was reading Arneson which caused me to see what positive view my criticisms implied, even though that view is not the same as Arneson's.

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rough and ready form, because of its association with relatively finished criticisms of others which I think are telling. If this study contributes to understanding, it does so more because of those criticisms than because of the positive doctrine it affirms.

In Section II of the article I distinguish between egalitarian theses of different strengths, and I indicate that certain (not all) counter-examples to stronger sorts of theses fail to disturb correlative weaker ones.

Section III scrutinizes two Rawlsian criticisms of equality of welfare. The first says that an uncorrected welfare metric wrongly equates pleasures and preferences which differ in moral character. It puts the pleasure of domination, for example, on a par with pleasure from an innocent pastime, where the two are equal in intensity. And the second criticism says that the welfare metric caters unjustifiably to expensive tastes which are generated by, for example, their bearer's lack of self-discipline. Those criticisms defeat equality of welfare, but, so I claim, they do not, as Rawls thinks, also induce support for a primary goods metric, and the second criticism is, moreover, hard to reconcile with Rawls's views on effort and desert.

Ronald Dworkin refines and extends both Rawlsian criticisms of equality of welfare, although primary goods are replaced by resources in the Dworkinian development of the Rawlsian view. In Section IV I show that much of Dworkin's critique of equality of welfare will be met if egalitarians allow deviations from equality of welfare which reflect people's choices: that is, Arneson's *equal opportunity for welfare* theory. But some of Dworkin's objections to equality of welfare cannot be handled in Arneson's way, and the right response to them is to affirm what I call *equal access to advantage,* where "advantage" is understood to include, but to be wider than, welfare. Under equal access to advantage, the fundamental distinction for an egalitarian is between choice and luck in the shaping of people's fates. I argue that Dworkin's different master distinction, between preferences and resources, is less true to the motivation of his own philosophy than the one I favor is.

Thomas Scanlon argues, however, that the fact that a person chose to develop a certain taste is only superficially significant for distributive justice. The reason, he says, why egalitarians do not compensate people for chosen expensive tastes is that those tastes, being chosen, are ones which they might not have had. According to Scanlon, it is not their chosen but their peripheral or idiosyncratic character which explains why expensive tastes have no claim to be satisfied. In Section V I defend my emphasis on choice against Scanlon's skepticism, but I also significantly amend the choice-centered egalitarian proposal to cater to what seems undeniable in Scanlon's case against it.

Finally, in Section VI, I claim that Amartya Sen's writings on "capability" introduce two answers to his "Equality of What?" question, each

of which has its attractions but which differ substantially in content, as I shall show at length elsewhere.[2]

II. METHODOLOGICAL PRELIMINARIES

A person is *exploited* when unfair advantage is taken of him, and he suffers from (bad) *brute luck* when his bad luck is not the result of a gamble or risk which he could have avoided.[3] I believe that the primary egalitarian impulse is to extinguish the influence on distribution of both exploitation and brute luck. To be sure, principled non- and antiegalitarians also condemn (what they consider to be) exploitation, but they do not have the same view of exploitation as egalitarians have, partly because they are less disturbed by brute-luck-derived asset differences which skew distributive outcomes.

On the foregoing sketch of the primary egalitarian impulse, a statement which purports to express and assert it is exposed to two kinds of challenge. First, such a statement might be criticized for misidentifying what should, in the light of the fundamental egalitarian aim, be equalized. I shall myself so criticize Dworkin's equality of resources proposal, since I think that (among other things) it penalizes people who have tastes for which they cannot be held responsible but which, unluckily for them, cost a lot to satisfy. But one might also reject equality of resources on the quite different ground that it conflicts with some important nonegalitarian values. One might say, for example, that while it is indeed brute luck which distributes children into rich and poor families, it would be wrong to seek rectification of the results of that luck, since that would undermine the institution of the family.

In this article I shall not discuss problems for egalitarian proposals of that second kind, problems, that is, of trade-off between equality and other values. That is because I shall treat the various egalitarian proposals to be reviewed below as *weak equalisandum claims.*

An *equalisandum* claim specifies that which ought to be equalized, what, that is, people should be rendered equal in. An unqualified or *strong equalisandum* claim, which is the sort that an uncompromising egalitarian asserts, says that people should be as equal as possible in the dimension it specifies. A qualified or *weak equalisandum* claim says that they should be as equal as possible in some dimension but subject to whatever limitations need to be imposed in deference to other values: those limitations are not specified by the claim in question.

2. See my "Equality of What? On Welfare, Good, and Capabilities," forthcoming in a volume of papers presented at the WIDER symposium on the Quality of Life held in Helsinki in July 1988, and for which not only my piece in the volume but also this one were originally prepared.

3. The latter kind of luck is *option luck.* The distinction between brute and option luck comes from Ronald Dworkin, "Equality of Resources," *Philosophy and Public Affairs* 10 (1981): 293.

Now, strong *equalisandum* claims face objections of the two kinds distinguished above, and which I shall now call *egalitarian* and *nonegalitarian* objections. An egalitarian objection rests on a view about the right way to treat people equally which differs from the one embodied in the strong *equalisandum* claim it challenges. The egalitarian objector thinks that people should be equal, to some or other extent, in something other than what the claim he opposes specifies, but he does not, qua egalitarian objector, object to the *strength* of that claim as such. By contrast, a nonegalitarian objection to a strong *equalisandum* claim says that, while the claim might (and might not) correctly identify what should be equalized, it wrongly fails to defer to nonegalitarian values which restrict the extent to which the form of equality it proposes should be pursued: because of those values, so the objection says, the *equalisandum* proposal is unacceptable (at least) in its strong form. An egalitarian objection to a strong *equalisandum* claim also applies to the weak one correlative to it, whereas a nonegalitarian objection challenges strong proposals only. Since mine will be a weak proposal, objections of a nonegalitarian kind will not detain me.

Taking welfare as a sample *equalisandum* proposal, I shall presently illustrate the distinction I have tried to draw by describing supposed objections to the welfare *equalisandum* which are (*a*) plainly not egalitarian, (*b*) arguably, and so I believe, egalitarian, and (*c*) problematic with respect to how they should be classified. But, before embarking on that exercise in differentiation, a word about what I shall mean by 'welfare' here, and throughout this study. Of the many readings of 'welfare' alive (if not well) in economics and philosophy, I am interested in two: welfare as enjoyment, or, more broadly, as a desirable or agreeable state of consciousness, which I shall call *hedonic welfare;* and welfare as *preference satisfaction,* where preferences order states of the world, and where a person's preference is satisfied if a state of the world that he prefers obtains, whether or not he knows that it does[4] and, a fortiori, whatever hedonic welfare he does or does not get as a result of its obtaining. A person's hedonic welfare increases as he gets more enjoyment, and his

4. These two readings of welfare correspond to Sen's "happiness" and "desire fulfilment" readings and exclude his "choice" reading (see Amartya Sen, "Well-Being, Agency and Freedom," *Journal of Philosophy* 82 [1985]: 187 ff.). It is reasonable to ignore the "choice" reading, since, as Sen shows, it comes from confusion about the relationship between preference and choice. My two readings also correspond to Dworkin's "conscious state" and "relative success" conceptions (see Ronald Dworkin, "Equality of Welfare," *Philosophy and Public Affairs* 10 [1981]: 191–94, 204–9, 220–21). I do not consider welfare as "overall success" (ibid., pp. 209 ff.) because it is very hard to handle, and in any case it is, arguably, undermotivated (see n. 34 below). I also set aside so-called objective theories of welfare (ibid., pp. 224–26), since most philosophers would consider them alternatives to any sort of welfare theory: Scanlon, for whom welfare is preference satisfaction, would describe his theory as antiwelfarist, yet it is an objective theory of welfare in Dworkin's sense. Finally, to complete the review of the five thinkers whose work is salient in this study, Arneson has the same understanding of welfare as Scanlon does, and Rawls has not specified a particular conception, which is not to say that he should have done.

preference satisfaction increases as more of his preferences, or his stronger preferences, are fulfilled. Note that one way to achieve more preference satisfaction is to cultivate, if you can, preferences that are easier to satisfy than those which you currently have.

It will sometimes be necessary to say which of those two ideas I mean by 'welfare,' but not always. For very often the debates on which I comment have a similar shape under either interpretation of welfare, so that I shall have each in mind (by which I do not mean some amalgam of the two) at once. Unless I indicate otherwise, my contentions are meant to hold under either of the two readings of welfare which I just distinguished, and the rest of the present section is a case in point.

a) Many people think that a policy of equalizing welfare is inconsistent with the maintenance of family values, because, so they say, those values endorse practices of benefiting loved ones which generate welfare inequalities.

Now, however penetrating that point may be, it does not represent an egalitarian objection to equality of welfare. Unregulated kinship generosity may be precious on other grounds, but it could not be thought to promote the result that people get an equal amount of something that they should have equal amounts of. Accordingly, if the family values objection indeed has force against equality of welfare, it is a reason for restricting the writ of that particular *equalisandum,* or form of equality, and not a reason for proposing another *equalisandum* in its stead. Family values do not challenge equality of welfare when the latter is construed as a qualified *equalisandum* proposal.

Another objection to unqualified equality of welfare which is not egalitarian is that implementing it would involve intolerably intrusive state surveillance.[5] ("Hi! I'm from the Ministry of Equality. Are you, by any chance, unusually happy today?") Gathering the information needed to apply unqualified equality of resources might well involve less intrusion, and that would be *a* reason for preferring unqualified equality of resources to unqualified equality of welfare, but not one which impugned the egalitarian character of equality of welfare.[6]

Still another nonegalitarian objection to equality of welfare is that, if priority were always given to relieving misery, then no resources could be devoted to maintaining cathedrals and other creations of inestimable

5. I do not have in mind the objection that the level of welfare a person enjoys is none of the state's business. I mean the objection that, whether or not welfare levels are any business of the state, the procedures necessary to find out what they are would be unacceptably invasive.

6. Recall that "an egalitarian objection *rests* on a view about the right way to treat people equally" (see p. 909 above). Hence, even if the "intrusion" objection to unqualified equality of welfare *issued in* support for unqualified equality of resources, it would not therefore be an egalitarian objection.

value. That powerful objection to uncompromising equality of welfare does not challenge the claim that, to the extent that equalization is defensible, welfare is the right thing to equalize.

b) Consider people who convert resources into welfare inefficiently, so that, if welfare is to be equalized, they must be given twice the resources that ordinary converters get. These bad converters divide into various subsets. Some of them are inefficient because they are negligent or feckless in a morally culpable way: they buy their food at Fortnum's because they cannot be bothered to walk up to the Berwick Street market. Others are blamelessly inefficient, because they are in some way disabled. They need twice the normal ration because half of such a double-share is required to overcome the illfare effects of a handicap from which they suffer. That half could be the cost of their renal dialysis.

Now there seems to me to be an egalitarian objection to a policy of ensuring that the Fortnum's customer's welfare level is as high as everybody else's. It seems to me that, when other people pay for his readily avoidable wastefulness, there is, *pro tanto,* an exploitative distribution of burden which egalitarians should condemn. Equality of welfare should here be rejected not because of other values but because it is inegalitarian.

But there could also be an objection to servicing kidney failure (and similar) sufferers to the extent required to equalize welfare: the policy could be said—*is* often said—to have too depressive an effect on the welfare of everybody else in society. Yet, while that may be right, it hardly represents an *egalitarian* objection to equality of welfare. Keeping aggregate welfare high at the expense of kidney sufferers is not a way of distributing something more equally.[7]

c) There are people whose inefficiency at turning resources into welfare is clearly their own fault, and others whose inefficiency is clearly bad luck. But, between these extreme types, there is a vast range of cases where it is unclear whether or not fault applies. It is very hard to say, with respect to many grumpy people, for example, whether they can be held to account for their grumpiness, whether, as we say, they are more to be pitied than blamed. Now grumpy people are bad converters, and, if we feel reluctant to service them with the extra resources they need to become a bit cheerful, then it is unclear whether the objection to equality of welfare associated with that reluctance is (at least in part) egalitarian, since it is unclear whether or not their conversion inefficiency is their own fault.

So much in illustration of different bases on which egalitarian claims might be challenged. Let us now take equality of welfare as a proposed solution to the *equalisandum* problem—it seems to me the most naive one, and therefore a natural one with which to start—and let us see how

7. I believe that I here display disagreement with what Dworkin says in "Equality of Welfare," p. 242, which I find obscure.

it must be modified in the light of egalitarian objections to it which have been raised in recent philosophical literature.

III. RAWLSIAN CRITICISM OF EQUALITY OF WELFARE

A good way to begin is by examining two objections to equality of welfare, in both its hedonic and its preference interpretations,[8] which derive from the work of John Rawls, and which I shall call the *offensive tastes* and *expensive tastes* criticisms. I believe that each criticism can be accommodated by a welfare egalitarian through a natural modification of his original view. In the case of the offensive tastes criticism, that would probably be conceded by Rawls (and by Ronald Dworkin, who develops the criticism more systematically and at some length). But the second criticism is supposed by Rawls and Dworkin to justify an abandonment of the terrain of welfare altogether, and, as I shall indicate, I do not think that it does. The second criticism also creates a problem for Rawls's system, which I shall describe in a brief digression.

Rawls adverts to offensive tastes in the course of his critique of utilitarianism, but, as Amartya Sen notes, he is at that point really criticizing welfarism as such, where welfarism is the view that just distribution is some or other function of nothing but the welfares of individuals.[9] It follows logically that the offensive tastes criticism also applies against a conception of justice in which equality of welfare is the only principle. And although a "weak" (see Sec. II above) egalitarian of welfare need not be a welfarist (save, of course, with respect to the metric of equality in particular), it is extremely unlikely that a good criticism of welfarism proper will not also apply to that restricted welfarism which acknowledges the relevance of no information but welfare in the context of equality, even if its proponent admits non-welfare information elsewhere. In any case, the offensive tastes criticism strikes me as powerful against even a weak welfare-egalitarian claim.

The offensive tastes criticism of welfarism is that the pleasure a person takes in discriminating against other people or in subjecting others to a lesser liberty should not count equally with other satisfactions in the calculus of justice.[10] From the point of view of justice, such pleasures deserve condemnation, and the corresponding preferences have no claim to be satisfied, even if they would have to be satisfied for welfare equality to prevail. I believe that this objection defeats welfarism, and, hence, equality of welfare. But the natural course for a welfare egalitarian to take in response to the offensive tastes criticism is to shift his favor to something like equality of *inoffensive* welfare. The criticism does not seem

8. For the difference between these interpretations, see above.

9. Amartya Sen, "Equality of What?" in *Tanner Lectures on Human Values*, ed. S. McMurrin (Cambridge: Cambridge University Press, 1980), p. 211.

10. John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971), pp. 30–31.

to necessitate abandoning equality of welfare in a more fundamental way.[11]

The *expensive tastes* criticism is thought to necessitate such an abandonment. It occurs in the context of Rawls's advocacy of primary goods as the appropriate *equalisandum*: "Imagine two persons, one satisfied with a diet of milk, bread and beans, while the other is distraught without expensive wines and exotic dishes. In short one has expensive tastes, the other does not." A welfare egalitarian must, ceteris paribus, provide the epicure with a higher income than the person of modest taste, since otherwise the latter might be satisfied while the former is distraught. But Rawls argues powerfully against this implication of the welfare egalitarian principle:

> As moral persons citizens have some part in forming and cultivating their final ends and preferences. It is not by itself an objection to the use of primary goods that it does not accommodate those with expensive tastes. One must argue in addition that it is unreasonable, if not unjust, to hold such persons responsible for their preferences and to require them to make out as best they can. But to argue this seems to presuppose that citizens' preferences are beyond their control as propensities or cravings which simply happen. Citizens seem to be regarded as passive carriers of desires. The use of primary goods . . . relies on a capacity to assume responsibility for our ends.

People with expensive tastes could have chosen otherwise, and if and when they press for compensation, others are entitled to insist that they themselves bear the cost "of their lack of foresight or self-discipline."[12]

I believe that this objection defeats welfare egalitarianism but that it does not, as Rawls supposes, also vindicate the claims of the primary goods metric. The right way for an erstwhile welfare egalitarian to respond

11. In fairness to Rawls, one should recall that he presented the offensive tastes criticism as an objection not to equality of welfare but to utilitarianism, and for utilitarians a move to "inoffensive welfare" no doubt constitutes a pretty fundamental shift. From the fact that the same criticism applies against both views, and that each should be revised in the same way in the face of it, it does not follow that the distance between the original and the revised view is the same in both cases.

12. John Rawls, "Social Unity and Primary Goods," in *Utilitarianism and Beyond,* ed. Amartya Sen and Bernard Williams (Cambridge: Cambridge University Press, 1982), pp. 168–69. Compare John Rawls, "Fairness to Goodness," *Philosophical Review* 84 (1975): 553, "Justice as Fairness: Political Not Metaphysical," *Philosophy and Public Affairs* 14 (1985): 243–44. For a somewhat different explanation of why justice ignores expensive tastes, with less (not no) emphasis on the idea that they are subject to the agent's control and more on the idea that it is appropriate to hold him accountable for them, see the reply to Kenneth Arrow ("Some Ordinalist Notes on Rawls' Theory of Justice," in his *Collected Papers* [Cambridge, Mass.: Harvard University Press, 1983], 1:104 ff.) in Rawls's "Citizens' Needs and Primary Goods" (Philosophy Department, Harvard University, Cambridge, Mass., 1986, typescript). For interesting comment on and sympathetic development of Rawls's views on responsibility for preference, see Bruce Landesman, "Egalitarianism," *Canadian Journal of Philosophy* 13 (1983): 37.

to the objection seems to me to be the following: "To the extent that people are indeed responsible for their tastes, the relevant welfare deficits do not command the attention of justice. We should therefore compensate only for those welfare deficits which are not in some way traceable to the individual's choices. We should replace equality of welfare by equality of opportunity for welfare. It would be utterly unjustified to adopt a primary goods metric because of the expensive tastes counter-example."

I shall pursue that response further in the next section, in confrontation with Dworkin's extensive development of the theme of expensive taste. But, before turning to Dworkin, I want to indicate a serious problem for Rawls's system which his remarks about expensive tastes raise.

The problem is that the picture of the individual as responsibly guiding his own taste formation is hard to reconcile with claims Rawls elsewhere uses in a fundamental way to support his egalitarianism. I have in mind the skepticism which he expresses about extra reward for extra effort: "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."[13]

Now there are two ways of taking this passage. One way is as I think Rawls intended it, and the other is as Robert Nozick took it, and on the basis of which he entered strong criticism of Rawls. Nozick, I am sure, misread the passage, but his misreading of it constitutes a correct reading of what many socialists and egalitarians say about effort, so it will be worth our while to pause, digressively, to attend to Nozick's criticism. On either reading of the passage, it is hard to reconcile with what Rawls says about foresight, self-discipline, and expensive tastes. But I shall come to that point in a moment, for the passage can also be criticized independently, and I want to do that first.

The two readings of the passage divide with respect to how they take the word 'influenced' in Rawls's use of it here. In my reading of it, it means "influenced." In Nozick's, it means something like "wholly determined." There is difficulty for Rawls whichever way we take it, but not the same difficulty in each case.

In my reading of Rawls, in which he means "influenced" by 'influenced,' he does not say that the more effortful have no control over, and therefore deserve no credit for, the amount of effort they put in. His different point is that we cannot reckon the extent to which their above-par effort is attributable not to admirable striving but to "greater good fortune": there is "no way to discount" for the latter. That is a practical objection to trying to reward effort that deserves reward, not a claim that there is no such effort—see the final sentence of the passage.

13. Rawls, *A Theory of Justice*, p. 312.

If Rawls is right that not all effort is deserving, then, we might agree, not all effort deserves reward. But why should it follow that effort deserves no reward at all? The practical difficulty of telling how much of it merits reward hardly justifies rewarding it at a rate of 0 percent, as opposed to at a rate somewhere between 0 percent and 100 percent, for example, through a taxation scheme whose shape and justification escapes, because of its deference to effort, the writ of the difference principle.

But that criticism of Rawls is mild by comparison with the one to which he is exposed on Nozick's reading of his remarks. The plausibility of that reading is enhanced by Nozick's careless or mischievous omission of what follows "conscientiously" when he exhibits the *Theory of Justice* passage quoted above. Thereby, Nozick creates the impression that Rawls is presenting a familiar egalitarian determinist doctrine. Nozick's response to that doctrine is very powerful. He says that "denigrating a person's autonomy and prime responsibility for his actions is a risky line to take for a theory that otherwise wishes to buttress the dignity and self-respect of autonomous beings. . . . One doubts that the unexalted picture of human beings Rawls' theory presupposes and rests upon can be made to fit together with the view of human dignity it is designed to lead to and embody."[14] Nozick is pressing a dilemma: either people have real freedom of choice, in which case they may be credited (at least to some extent) with the fruits of their labors; or, there is no such thing as free choice, in which case liberals should take the purple out of the passages in which they set forth their conception of humanity, and—we can add—socialists should stop painting inspiring pictures of the human future (unless they believe that people lack free will under capitalism but that they will get it after the revolution).

On Nozick's reading of the "effort" passage, it is clearly inconsistent with the responsibility for taste formation with which Rawls credits citizens. That does not matter so much, since Nozick's reading is a misreading. But it is not easy to reconcile what Rawls says about effort with what he says about tastes even on my less creative reading of his text. On my reading of it, effort is partly praiseworthy and partly not, but we cannot separate the parts, and the indicated policy consequence is to ignore effort as a claim to reward. Now, the passage about tastes begins with the thought that "citizens have *some* part in forming and cultivating their final ends and preferences," though it ends by assigning a more wholesale responsibility for them to citizens. If we stay with the opening thought, then we can wonder why partial responsibility for effort attracts no reward at all while (merely) partial responsibility for expensive taste formation attracts a full penalty (and those who keep their tastes modest reap a welfare reward). And if we shift to the wholesale responsibility motif, then we can wonder why beings who are only in a limited way responsible

14. Robert Nozick, *Anarchy, State and Utopia* (New York: Basic, 1974), p. 214.

for the effort they put in may be held wholly responsible for how their tastes develop.

IV. RELOCATING DWORKIN'S CUT

A

Ronald Dworkin denies that equality of welfare provides the right reading of the egalitarian aim, and I agree with him about that. But I do not share his view that the demise of equality of welfare should prompt egalitarians to embrace equality of resources instead. Part of my reason for disagreeing with Dworkin on that score is my belief, to be defended in a moment, that one of his major objections to equality of welfare can be met by a revised form of that principle. The revised welfare principle, unlike equality of welfare, permits and indeed enjoins departures from welfare equality when they reflect choices of relevant agents, as opposed to deficient *opportunity* for welfare. If a person's welfare is low because he freely risked a welfare loss in gambling for a welfare gain, then, under the opportunity form of the principle, he has no claim to compensation. Nor does a person who frittered away welfare opportunities which others seized. Nor, to take a different kind of example, does a person who chose to forgo welfare out of devotion to an ideal which (expressly, or merely as it happened) required self-denial.

The revised principle can be called equality of opportunity for welfare.[15] It is not a principle that I shall endorse. Equality of opportunity for welfare is a better reading of egalitarianism than equality of welfare itself is, but it is not as good as what currently strikes me as the right reading of egalitarianism, namely, that its purpose is to eliminate *involuntary disadvantage,* by which I (stipulatively) 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.[16] Equality of opportunity for welfare eliminates involuntary welfare deficiencies, and welfare deficiencies are forms of disadvantage. Hence the principle I endorse responds to inequalities in people's welfare opportunities. But, as will be illustrated below, advantage is a broader notion than welfare. Anything which enhances my welfare is *pro tanto* to my advantage, but the converse is not true. And disadvantage is correspondingly broader than welfare deficiency, so the view I favor, which can be called *equal opportunity for advantage,* or, preferably, equal *access* to advantage, corrects for inequalities to which equal opportunity for welfare is insensitive.

Why is "equal *access* to advantage" a better name for the view than "equal *opportunity* for advantage" is? We would not normally regard meager personal capacity as detracting from opportunity. Your opportunities are the same whether you are strong and clever or weak and stupid: if you

15. For a clear articulation and persuasive defense of it, in its preference satisfaction interpretation, see Arneson's "Equality and Equality of Opportunity for Welfare."

16. The need to add that third disjunct is explained in Sec. V*A* below.

are weak and stupid, you may not use them well—but that implies that you have them. But shortfalls on the side of personal capacity nevertheless engage egalitarian concern, and they do so because they detract from access to valuable things, even if they do not diminish the opportunity to get them. Hence my preference for "access,"[17] but I still require this possibly unnatural stipulation: I shall treat anything which a person actually has as something to which he has access.[18]

Some of Dworkin's counter-examples to equality of welfare fail to challenge equality of opportunity for welfare, and they fail, a fortiori, to challenge the wider disadvantage principle. The Dworkin examples I here have in mind, which are to do with expensive tastes, not only do not challenge equality of opportunity for welfare: one can say the stronger thing that they bring its claims to the fore as a candidate reading of the egalitarian aim. But other counter-examples to equality of welfare presented by Dworkin necessitate movement beyond equality of opportunity for welfare to the broader conception of equality of access to advantage. One sort of counter-example that has that effect concerns handicaps, in the literal sense of the word, and I shall be presenting a handicap counter-example to equality of opportunity for welfare at the beginning of the next subsection.

In my view, however, equality of resources is subject to objections which are just as strong as those which defeat equality of welfare (and equality of opportunity for welfare). I shall now defend that conclusion, by describing the case of a doubly unfortunate person. I believe that egalitarians will be moved to compensate him for both of his misfortunes, but the fact that the first calls for egalitarian compensation challenges equality of welfare and the fact that the second does challenges equality of resources.

B

My unfortunate person's legs are paralyzed. To get around, he needs an expensive wheelchair. Egalitarians will be disposed to recommend that he be given one. And they will be so disposed before they have asked about the welfare level to which the man's paralysis reduces him. When compensating for disability, egalitarians do not immediately distinguish between the different amounts of misery induced by similar disabilities in people who have different (dis)utility functions. They propose

17. For analogous reasons, Arneson would have been better advised to call his theory "equality of access to welfare."

18. I am not entirely happy with the word 'advantage' in the title of the view I am espousing; I use the word only because I have been unable to find a better one. Its infelicity relates to the fact that it is so frequently used to denote competitive advantage, advantage, that is, *over* somebody else. But here 'advantage' must be understood shorn of that implication, which it does not always have. Something can add to someone's advantage without him, as a result, being better placed, or less worse placed, than somebody else, and the word will here be used in that noncompetitive sense.

compensation for the disability *as such,* and not, or not only, for its deleterious welfare effects. Insofar as we can distinguish compensation for resource deficiency from compensation for welfare deficiency, the first appears to enjoy independent egalitarian favor.

The egalitarian response to disability seems to defeat not only equality of welfare but also equality of opportunity for welfare. Tiny Tim is not only *actually* happy, by any standard. He is also, because of his fortunate disposition, blessed with abundant *opportunity* for happiness: he need not do much to get a lot of it. But egalitarians would not on that account strike him off the list of free wheelchair receivers. They do not think that wheelchair distribution should be controlled exclusively by the welfare opportunity requirements of those who need them. Lame people need them to be adequately resourced, whether or not they also need them to be, or to be capable of being, happy.

Note that I do not say that, whatever other demands they face, egalitarians will always service people like Tiny Tim. One could imagine him surrounded by curably miserable sound-limbed people whose welfare was so low that their requirements were judged to precede his. The essential point is that his abundant happiness is not as such decisive against compensating him for his disability.

In face of (what I say are) the intuitive phenomena, the only way of sustaining the view that equality of welfare is the right reading of the egalitarian aim is to claim that egalitarians propose assistance for disability without gathering welfare information because of a general correlation between disability and illfare which it is impossible or too costly to confirm in individual cases. Like Sen and Dworkin, I find that defense unpersuasive, and I consequently conclude that the egalitarian response to disability defeats equality of welfare.[19] And, as I argued, it also defeats equality of opportunity for welfare, since the response to disability is shaped by something other than the different costs in lost opportunity for welfare which disability causes in different people.

I have not completed my description of the man's misfortune. There is also something wrong with his arms. He is not less able to move them than most people are: I shall even assume, to make my point more vivid, that he is especially good at moving them. But there is, nevertheless, something seriously wrong with them, and it is this: after he moves them, he suffers severe pain in his arm muscles.

In the terms of a distinction which I once had occasion to make in a different context, it is not *difficult* for the man to move his arms, but it is very *costly* for him to do so.[20] What I call 'difficulty' and 'cost' are two

19. Dworkin, "Equality of Welfare," pp. 241–42, following Sen, "Equality of What?" pp. 217–18. Sen is surely right that it is his deficient capability as such which explains the claim to assistance of a contented crippled person who requires expensive prosthesis and who is not particularly poor. Compare Sen, "Well-Being, Agency and Freedom," pp. 195–97.

20. G. A. Cohen, *Karl Marx's Theory of History* (Oxford: Oxford University Press, 1978), p. 238.

widely conflated but importantly distinct ways in which it can be *hard* for a person to do something. (It is costly, but not difficult, for me to supply you with a check for £500, or for me to tell you some secret the revelation of which will damage me. It is extremely difficult for me to transport you to Heathrow on the back of my bicycle, but it is not costly, since I love that kind of challenge, and I have nothing else to do today. At the far end of the difficulty continuum lies the *impossible,* but it is the *unbearable* which occupies that position in the case of costliness.)[21]

Now there is an expensive medicine which, taken regularly, suppresses the pain that otherwise follows the man's arm movement, and this medicine is so expensive that it has no adverse side effects. Egalitarians would, I am sure, favor supplying our man with the medicine, even if it costs what a wheelchair does. But providing the medicine cannot be represented as compensating for a resource incapacity. The man's capacity to move his arms is, *in the relevant sense,* better (so I stipulated) than that of most people.

"In the relevant sense" does a lot of work here, so let me explain it. Someone might insist, and I do not have to deny, that there is *a* sense in which a typical normal person has a capacity which this man lacks. I need not deny that he lacks the capacity to move his arms without pain, or, if you prefer, to move his arms without pain without taking medicine. I can even agree that it is his lack of *that* capacity which is the egalitarian ground for compensating him. *But compensating for a lack of capacity which needs to be described in that way for the ground of the compensation to be revealed cannot be represented as compensating for incapacity when that is opposed to compensating for welfare opportunity deficiency.* A would-be resource egalitarian who said, "Compensation is in order here because the man lacks the resource of being able to avoid pain" would be invoking the idea of equality of opportunity for welfare even if he would be using resourcist language to describe it.

My example was medically fanciful, but a medically more ordinary example makes the same point, though you have to exercise slightly sharper perception to see it. It was fanciful in the foregoing case that the pain should wholly succeed and not also accompany the pain-inducing movement. Think now of a more ordinary case, in which arthritic pain accompanies movement, and suppose, what is likely, that the movement is not only painful but, consequently and/or otherwise, *also* difficult. That difficulty introduces a resource deficiency into the case, but the example nevertheless stands as a challenge to equality of resources. For it seems not coherently egalitarian to cater only to the difficulty of moving and not independently to the pain which moving occasions. So there is an irreducible welfare aspect in the case for egalitarian compensation in real-life disability examples.

21. A man otherwise like the one I described might find it difficult to move his arms for the psychological reason that he could not face the thought of what would follow their movement. But my man is psychologically robust: he can easily move his arms, though he often (coolly) decides not to on occasions when other people would move theirs.

Or just think of poor people in Britain who suffer discomfort in the winter cold. The egalitarian case for helping them with their electricity bills is partly founded on that discomfort itself. It does not rest entirely on the disenablement which the cold, both through discomfort and independently, also causes.

People vary in the amount of discomfort which given low temperatures cause them, and, consequently, in the volume of resources which they need to alleviate their discomfort. Some people need costly heavy sweaters and a great deal of fuel to achieve an average level of thermal well-being. With respect to warmth, they have what Dworkin calls *expensive tastes:* they need unusually large doses of resources to achieve an ordinary level of welfare. They are losers under Dworkin's equality of resources, because, as we shall see, it sets itself against compensation for expensive tastes.

The two grounds of egalitarian compensation which apply in the case of the disabled man have something in common. The man's straightforward inability to move his legs and his liability to pain when moving his arms are both disadvantages for which (I tacitly assumed) he cannot be held responsible, and, I suggest, that is why an egalitarian would compensate him for them. Both aspects of his plight represent unavoidable disadvantages, which he was unable to forestall and which he cannot now rectify. On my understanding of egalitarianism, it does not enjoin redress of or compensation for disadvantage as such. It attends, rather, to "involuntary" disadvantage, which is the sort that does not reflect the subject's choice. People's advantages are unjustly unequal (or unjustly equal) when the inequality (or equality) reflects unequal access to advantage, as opposed to patterns of choice against a background of equality of access. Severe actual disadvantage is a fairly reliable sign of inequality of access to advantage, but the prescribed equality is not of advantage per se but of access, all things considered, to it.

When deciding whether or not justice (as opposed to charity) requires redistribution, the egalitarian asks if someone with a disadvantage could have avoided it or could now overcome it.[22] If he could have avoided it, he has no claim to compensation, from an egalitarian point of view. If he could not have avoided it but could now overcome it, then he can ask that his effort to overcome it be subsidized, but, unless it costs more to overcome it than to compensate for it without overcoming it, he cannot expect society to compensate for his disadvantage.

I affirm equality of access to advantage, whatever advantage is rightly considered to be, but I cannot say, in a pleasingly systematic way, exactly what should count as an advantage, partly because I have not thought hard enough about this question, which is surely one of the deepest in normative philosophy.[23] What does appear clear is that resource deficiencies

22. The answers to those questions will not always be as simple as the sample answers that follow, but they are always the right questions to ask.

23. Another matter about which I cannot say anything systematic is the problem of how to compare the net advantage positions of different people. The right place to begin

and welfare deficiencies are distinct types of disadvantage and that each of them covers pretty distinct subtypes: poverty and physical weakness are very different kinds of resource limitation, and despondency and failure to achieve aims are very different kinds of illfare. Whatever the boundaries and types of welfare may be,[24] lack of pain is surely a form of it, and lack of disability, considered just as such, is not, *if* there is to be a contrast between equality of resources and equality of welfare. Those two classificatory judgments are reasonably uncontentious, and they are the ones I need to sustain the criticism of Dworkin which arises from reflection on the case of involuntary pain.

(I warned at the outset that my positive proposal would be crude. One thing that makes it so and makes me wish that it will be superseded is the unlovely heterogeneity of the components of the vector of advantage. One hopes that there is a currency more fundamental than either resources or welfare in which the various egalitarian responses which motivated my proposal can be expressed. But I certainly have not discovered it, so, at least for now, I stay with the appearances, which contradict welfare, resources, and opportunity for welfare readings of the egalitarian demand, and which point, in the first instance, to the theory [or semitheory: it is perhaps too close to the intuitive phenomena to merit the name 'theory'] I have affirmed.)

C

Whatever number of dimensions the space of disadvantage may have, egalitarianism, on my reading, cuts through each of its dimensions, judging certain inequalities of advantage as acceptable and others as not, its touchstone being a set of questions about the responsibility or lack of it of the disadvantaged agent.

In Ronald Dworkin's different reading of egalitarianism, people are to be compensated for shortfalls in their powers, that is, their material resources and mental and physical capacities, but not for shortfalls traceable to their tastes and preferences. What they get should reflect differences in what they want and seek, but not in their *ability* to get things.

Dworkin's "cut" contrasts with mine in two ways. First, it calls for compensation for resource deficiencies only, and not also for pain and other illfare considered as such. "There is no place in [Dworkin's] theory . . . for comparisons of the welfare levels of different people," nor, I infer, for catering to people whose pains do not diminish their capacity, since that service reflects a judgment about how their welfare, in one

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would be with Amartya Sen's perspicacious discussion of the (at least) structurally analogous problem of how to order different capability-sets (see his *Commodities and Capabilities* [Amsterdam: North-Holland, 1985], chap. 5). (I say "[at least] structurally analogous" because it may turn out to be the same problem [see Sec. VI below].)

24. Dworkin's "Equality of Welfare" is a masterful exposé of ambiguities in the concept of welfare, even if it does not prove that egalitarian justice should ignore welfare comparisons.

relevant sense, compares with that of others.[25] My cut awards redress for both resource and welfare disadvantages, but, in Dworkin's theory, there is not even "some small room for equality of welfare," alongside other considerations.[26]

So, for purposes of egalitarian intervention, Dworkin-style, only one dimension of disadvantage is recognized. And the second difference between our cuts is that, within that single resource dimension, Dworkin does not put absence of responsibility in the foreground as a necessary condition of just compensation.

I say that the question of responsibility is not *foregrounded* in Dworkin's presentation, because I shall argue that, insofar as he succeeds in making his cut plausible, it is by obscuring both of the differences between it and the different cut that I have recommended. I shall also argue that the grounding idea of Dworkin's egalitarianism is that no one should suffer because of bad brute luck and that, since the relevant opposite of an unlucky fate is a fate traceable to its victim's control, my cut is more faithful to Dworkin's grounding idea than the one he ostensibly favors is.

For Dworkin, it is not choice but preference which excuses what would otherwise be an unjustly unequal distribution. He proposes compensation for power deficiencies, but not for expensive tastes,[27] whereas I believe that we should compensate for disadvantage beyond a person's control, as such, and that we should not, accordingly, draw a line between unfortunate resource endowment and unfortunate utility function.[28] A person with *wantonly* expensive tastes has no claim on us, but neither does a person whose powers are feeble because he recklessly failed to develop them. There is no moral difference, from an egalitarian point of view, between a person who irresponsibly acquires (or blamelessly chooses to develop) an expensive taste and a person who irresponsibly loses (or blamelessly chooses to consume) a valuable resource. The right cut is between responsibility and bad luck, not between preferences and resources.

The difference between those two cuts will have policy significance in the case of those expensive tastes which cannot be represented as reflecting choice. There will be no policy difference with respect to Dworkin's leading example of a person with expensive tastes. I refer to Louis, who requires ancient claret and plovers' eggs in order to reach an ordinary

25. The quoted material is from Dworkin, "Equality of Resources," p. 335.

26. Dworkin, "Equality of Welfare," p. 240.

27. On the hedonic conception of welfare, *X*'s taste is *pro tanto* more expensive than *Y*'s if more resources are needed to raise *X* to a given level of enjoyment. On the preference satisfaction conception of welfare, levels of preference satisfaction replace levels of enjoyment in the characterization of what makes a taste expensive. The discussion below of expensive tastes may be interpreted along either hedonic or preference lines.

28. An unfortunate utility function could itself be regarded as a resource deficiency, but not by someone concerned to contrast equality of resources and equality of welfare.

level of welfare. I treat Louis in practice the way Dworkin does, because, as Dworkin describes him, he did not just get stuck with his taste: he schooled himself into it. But, while Dworkin and I both refuse Louis's request for a special allowance, we ground our refusals differently. Dworkin says: sorry, Louis, we egalitarians do not finance expensive tastes; whereas I say: sorry Louis, we egalitarians do not finance expensive tastes which people choose to develop.

Now consider a case of expensive taste where there will be a policy difference. Paul loves photography, while Fred loves fishing.[29] Prices are such that Fred pursues his pastime with ease while Paul cannot afford to. Paul's life is a lot less pleasant as a result: it might even be true that it has less meaning than Fred's does. 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. Paul's problem is that he hates fishing and, so I am permissibly assuming, could not have helped hating it—it does not suit his natural inclinations. He has a genuinely involuntary expensive taste, and I think that a commitment to equality implies that he should be helped in the way that people like Paul are indeed helped by subsidized community leisure facilities. As this example suggests, there is between Dworkin's account of egalitarian justice and mine the difference that my account mandates less market pricing than his does.

I distinguish among expensive tastes according to whether or not their bearer can reasonably be held responsible for them. There are those which he could not have helped forming and/or could not now unform, and then there are those for which, by contrast, he can be held responsible, because he could have forestalled them and/or because he could now unlearn them. Notice that I do not say that a person who deliberately develops an expensive taste deserves criticism. I say no such severe thing because there are all kinds of reasons why a person might want to develop an expensive taste, and it is each person's business whether he does so or not. But it is also nobody else's business to pick up the tab for him if he does. Egalitarians have good reason not to minister to deliberately cultivated expensive tastes, and equality of welfare must, therefore, be rejected. But we should not embrace equality of resources instead, since that doctrine wrongly refuses compensation for involuntary expensive tastes, and it does not refuse compensation for voluntary ones for the right reason.

In Dworkin's view, only the principle of equality of resources can explain why Louis's expensive tastes should not be indulged by egalitarians. But his long discussion of Louis rejects the most obvious reason the egalitarian has for denying Louis the resources needed to service his taste: that he "sets out deliberately to cultivate" it.[30] It is crucial that, as

29. I thank Alice Knight for this example.
30. Dworkin, "Equality of Welfare," p. 229.

Dworkin acknowledges, "Louis has a choice": the taste is not instilled in him by a process which circumvents his volition.[31]

Instead of foregrounding the fact of Louis's choice, Dworkin asserts that he can be denied extra resources only if we think that, were Louis to demand them, he would be asking for more than his fair share of resources, where "fair share" is defined in welfare-independent terms. For Dworkin, it requires great "ingenuity" to "produce some explanation or interpretation of the argument in question—that Louis does not deserve more resources just because he has chosen a more expensive life—which does not use the idea of fair shares or any similar ideas."[32]

Now, it is certainly, because trivially, true that if we think that Louis should be denied the resources he demands, then we must believe that he would have more than his fair share if we gave them to him. But we could use equality of opportunity for welfare to define fair shares here: we could say that shares are fair when they equalize welfare opportunities. It is therefore false, and it scarcely takes ingenuity to show it, that only if we move toward equality of resources, toward fair shares in Dworkin's special sense, can we explain egalitarianism's lack of sympathy for Louis.

I conclude that while it is indeed true that "expensive tastes are embarrassing for the theory that equality means equality of welfare precisely because we believe that equality . . . condemns rather than recommends compensating for deliberately cultivated expensive tastes," the proposal that equality means equality of opportunity for welfare[33] glides by the Louis counter-example.[34]

31. The quoted material is from ibid., p. 237.

32. Ibid., p. 239.

33. Which must, on other grounds, be broadened into equality of access to advantage (see Secs. IV*B* and IV*D*). The quoted material is from Dworkin, "Equality of Welfare," p. 235.

34. Equality of opportunity for welfare and, a fortiori, equality of access to advantage, also supply what seems to me to be an adequate response to a complicated argument which Dworkin thinks contributes a great deal to this drive to subvert equality of welfare in favor of equality of resources. The argument first appears in the context of Dworkin's exploration of the hypothesis that equality of welfare be understood as equality of overall success—that hypothesis surfaces after the supposed wreckage of several previous ones. The argument has two premises, each of which I find hard to assess, but neither of which I shall here contest. The first premise is that "equality of overall success cannot be stated as an attractive ideal at all without making the idea of reasonable regret central" (ibid., p. 217): equality of overall success will seem defensible only if it promises to make people "equal in what they have reasonably to regret" (ibid., pp. 217, 218). And the second premise is that the idea of reasonable regret "requires an independent theory of fair shares of social resources . . . which would contradict equality of overall success" (ibid., p. 217). But if both premises are true, so that such a theory is indeed required, why can it not be a theory which says that shares are fair when they induce equality of opportunity for welfare, or equality of access to advantage? I do not find anything in Dworkin's dense ratiocination which appears to rule that out. It follows that the supposed self-destruction of equality of welfare on the altar of reasonable regret is much less of an argument for equality of resources than Dworkin appears to think it is. (For criticism of Dworkin's second premise, see James Griffin, "Modern Utilitarianism," *Revue Internationale de Philosophie* 36 [1982]: 365–66; and for an

D

While a proponent of equality of opportunity for welfare can readily deal with Louis, the case of Jude is much harder for him to handle.[35] I shall argue that Jude's case reflects credit on equality of access to advantage, by comparison with both equality of resources and equality of opportunity for welfare.

Jude has what might be called *cheap expensive tastes.* They are cheap in that he needs fewer resources to attain the same welfare level as others. But they are expensive in that he could have achieved that welfare level with fewer resources still, had he not cultivated tastes more expensive than those with which he began. Jude began with very modest desires, but then he read Hemingway and cultivated a desire to watch bullfights, and, once he had it, he needed more money than before to achieve an average level of welfare, though still less than what others needed.

A believer in equality of opportunity for welfare has to keep Jude poor, since he did not have to become a bullfight-lover (it is reasonable to suppose that he could have suppressed, at no great cost, his desire to cultivate that taste). A believer in Dworkin-style equality of resources ignores Jude's tastes, and their history, and finds no reason, in anything said so far, to grant him less income than anyone else. I reject both views. Pace equality of opportunity for welfare, I see no manifest injustice in Jude's getting the funds he needs to travel to Spain. He then still has fewer resources than others, and only the same welfare, so equality of access to advantage cannot say, on that basis, that he is overpaid. But, pace equality of resources, it seems not unreasonable to expect Jude to accept some deduction from the normal resource stipend because of his fortunate high ability to get welfare out of resources. Unlike either Dworkin's theory or Arneson's, mine explains why both gross underresourcing and gross "underwelfaring" (despite, respectively, a decent welfare level and a decent resource bundle) look wrong.[36]

E

There are some expensive tastes which Dworkin regards as "obsessions" or "cravings" and which he is prepared to assimilate to resource deficiency, for the purposes of distributive justice. This kind of taste is one that its bearer "wishes he did not have, because it interferes with what he wants to do with his life and offers him frustration or even pain if it is not

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argument that the idea of overall success should never have been floated in the first place, see sec. 4 of Richard Arneson's "Liberalism, Distributive Subjectivism and Equal Opportunity for Welfare" [Department of Philosophy, University of California, San Diego, 1987, typescript].)

35. Dworkin, "Equality of Welfare," pp. 239–40.

36. I do not feel comfortable about this victory, since, in achieving it, I exploit to the hilt a feature of my theory which I regard as suspect: the heterogeneity of its conception of advantage (see latter part of Sec. IV*B* above).

satisfied."[37] Dworkin concludes that "these tastes are handicaps," and, since equality of resources redistributes for handicap, it will presumably do so (within the bounds of practicality) in the case of tastes which meet the quoted description.

Now, Dworkin's description of them assigns (at least) two features to "handicap" tastes, and he fails to say which feature makes them handicaps, or, equivalently, endows their owner with a claim to compensation. 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?[38]

The latter proposal is unavailable to Dworkin. An involuntary liability to frustration and pain does indeed command compensation, but, as I urged in Section IV*B* above, that thought reflects egalitarian sensitivity to people's welfare, rather than to their resources position. Since Dworkin defends intervention in response to handicaps but not in response to shortfalls in welfare, he is not entitled to classify a taste as a handicap *because* it causes pain.

But perhaps the crucial feature of the tastes we are considering is that the individual whose tastes they are "wishes he did not have" them. He disidentifies with them, so that—we can attribute this thought to Dworkin—they are not inalienable aspects of his person (see Sec. IV*F* below), but more like unfortunate environing circumstances. They form no part of his *ambition,* in the special sense in which Dworkin uses that word, and that is why equality of resources can regard them as handicaps. I believe that this is indeed Dworkin's position, that the following regimented statement of it is not unfair: tastes are (subsidy-warranting) handicaps if and only if they represent obsessions, which they do if and only if the individual whose tastes they are disidentifies with them.

I have four comments on the thesis that it is the individual's alienation from his taste which makes it an obsession and therefore allows us to regard it as a handicap.

1. Some people in the grip of cravings are too unreflective to form the second-order preference-repudiating preference by reference to which Dworkin justifies the "handicap" epithet. But it would seem unfair to deny to them the assistance to be extended to others, just because of their deficient reflectiveness. So the disidentification criterion does not cover all compensation-worthy cravings.

2. Not all tastes which hamper the individual's life and therefore raise a case for compensation qualify either as obsessions or as tastes whose bearers, even if highly reflective, would repudiate. Paul (see Sec.

37. Dworkin, "Equality of Resources," p. 302.

38. This is one of several key places at which there is reason to regret that, in expounding his views, Dworkin abjures the device of canonical statement. Other cases in point are passages quoted at Sec. IV*F* below (on choosing tastes and choosing pursuits) and passages quoted at Secs. IV*F* and IV*G,* which give three materially different renderings of Dworkin's "master cut."

IV*C* above) might not want not to want to take pictures, and a person whose unhappy taste is "for music of a sort difficult to obtain" might well not disidentify with his desire for that music.[39] He has *a* reason to regret his musical preference, since it causes him frustration, but that is not a conclusive reason for wishing he did not have it. What he most likely regrets is not (as Dworkin stipulates) his musical preference as such, but the impossibility or expense of satisfying it. His taste is involuntary and unfortunate, but it is probably not an "obsession" or "craving": addiction is not the right model here.

A typical unrich bearer of an expensive musical taste would regard it as a piece of bad luck *not that he has the taste itself but that it happens to be expensive* (I emphasize those words because, simple as the distinction they formulate may be, it is one that undermines a lot of Dworkin's rhetoric about expensive tastes). He might say that in a perfect world he would have chosen to have his actual musical taste, but he would also have chosen that it not be expensive. He can take responsibility for the taste, for his personality being that way, while reasonably denying responsibility for needing a lot of resources to satisfy it.

3. By contrast with the more representative person described above, Dworkin's music craver prefers not to have his unfortunate preference yet, by hypothesis, persists in having it. That rather suggests that he cannot help having it, and that in turn raises the suspicion that it is its unchosen and uncontrolled, rather than its dispreferred, character, which renders compensation for it appropriate. Would not Dworkin's attitude to the music craver be less solicitous if he learned that he had been warned not to cultivate his particular musical interest by a sapient teacher who knew it would cause frustration?

4. 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 disidentification matter for egalitarian justice only if and insofar as they indicate presence and absence of choice.[40]

F

The foregoing reflection brings me to the claim which I ventured in Section IV*C,* to wit, that, insofar as we find Dworkin's cut plausible, it is because we are apt to suppose that it separates presence and absence of

39. The quote comes from Dworkin, "Equality of Resources," p. 302.

40. For an amendment to that suggestion, see Sec. V*A* below, where, inter alia, I comment on the case, which is not addressed above, of a person who would refuse the offer of therapy because of his musical convictions.

choice. Choice is in the background, doing a good deal of unacknowledged work. Here is a passage which supports this allegation: "It is true that [my] argument produces a certain view of the distinction between a person and his circumstances, and assigns his tastes and ambitions to his person, and his physical and mental powers to his circumstances. That is the view of the person I sketched in the introductory section, of someone who *forms* his ambitions with a sense of their cost to others against some presumed initial equality of economic power, and though this is different from the picture assumed by equality of welfare, it is a picture at the center of equality of resources."[41]

This passage offers two characterizations of "tastes and ambitions" in putative justification of placing them outside the ambit of redistributive compensation. The first says that, by contrast with mental and physical powers, they belong to the person rather than to his circumstances. But, in the usual senses of those words, that classification cannot be sustained. Using language in the ordinary way, my mental powers are as integral to what I am as my tastes and ambitions are. The person/circumstances distinction must therefore be a technical one, which means that there must be another way of expressing it, and a possible different way emerges in the second sentence of the passage. That different way has to do with the suggestion that people *form* their preferences but not, presumably, their powers. But there are difficulties with this suggestion.

The first is that it proposes a false alignment. People certainly form some of their ambitions, but they arguably do not form all of them, and they certainly do not form all of their tastes, which are also supposed to belong to the person.[42] Dworkin emphasizes that people "decide what sort of lives to pursue," but they do not decide what in all pertinent respects their utility functions will be: pace Dworkin, they are extensively unable to "decide what sorts of lives they *want*."[43] So being "formed" by the person cannot be a necessary condition of being part of the person, if tastes and ambitions make up the person.

It confirms my claim that Dworkin's cut looks plausible because it seems to separate presence and absence of choice that he uses the two phrases "decide what sort of life to pursue" and "decide what sort of life

41. Dworkin, "Equality of Resources," p. 302, my emphasis. The word 'produces' in the first sentence of the passage should, Dworkin confirms, be 'presupposes': note the contrast with the picture "assumed" by equality of welfare. (But the question whether Dworkin has argued for, as opposed to from, his distinction does not matter here.) Dworkin does not describe the different picture which he thinks is assumed by equality of welfare. If it is a picture of the person as passive and unchoosing, that would help to justify my immanent critique of his view. For that picture, see Rawls, "Social Unity and Primary Goods," p. 169.

42. Dworkin does not actually say in the passage under scrutiny that people form their *tastes*: "tastes and ambitions" have shrunk to "ambitions" by the time that we get to the motif of self-formation. But unless Dworkin claims that tastes, too, are in general formed, on what basis is he here assigning them to a person's person?

43. The quotes are from Dworkin, "Equality of Resources," p. 288, my emphasis.

one wants" interchangeably, thus assimilating two very different kinds of process, only the first of which straightforwardly embodies choice, in the general case. Elsewhere, and similarly, "the choice between expensive and less expensive *tastes*" is put on the same level as "choosing a more [or a less] expensive *life*."[44] And we are also told, in another place, that, when "people choose plans or schemes for their lives," "their choices define a set of [resultant] preferences."[45] That formulation sweeps away the (often unchosen)[46] preferences which lie in the determining background of choice. A person in possession of his faculties always chooses (within the constraints he faces) what career to pursue, but he does not always choose what career to prefer, and the latter fact may reasonably restrict his responsibility for choosing to pursue an expensive one.

Being "formed" is not only not a necessary condition of belonging to what Dworkin calls the person: it is also not a sufficient one. For mental and physical powers fall outside the person, in his circumstances, and some of those powers are, unquestionably, formed. On either side of the preference/circumstance line people both find things and form things. Hence appeal to formedness does not show that distributive justice should ignore variations in preference and taste.

If, moreover, the false alignment (formed/not formed = person/circumstances) indeed worked, it would, surely, constitute a reduction of the person/circumstances distinction to the distinction between what is and what is not subject to choice. To repeat one of my main claims: it is only because Dworkin's preference/resource distinction *looks* alignable with the one it cannot in the end match that it commands appeal.

The idea that we *form* our ambitions is absent from a different formulation of the person/circumstances distinction, which comes soon after the one we have just studied: "The distinction required by equality of resources is the distinction between those beliefs and attitudes that define what a successful life would be like, which the ideal assigns to the person, and those features of body or mind or personality that provide means or impediments to that success, which the ideal assigns to the person's circumstances."[47] This proposal has different implications from the one (see above) which counterposes *tastes and ambitions* to circumstances, since

44. Ronald Dworkin, "Liberalism," in his *A Matter of Principle* (Oxford: Oxford University Press, 1985), p. 193, my emphases.

45. Dworkin, "Equality of Welfare," p. 206. I introduce 'resultant' to forestall the misinterpretation that Dworkin means that the choices *reflect* preferences.

46. "Many of a person's desires are indeed voluntary, since they derive simply from his own decisions. Someone typically acquires the desire to see a certain movie, for example, just by making up his mind what movie to see. Desires of this sort are not aroused in us; they are formed or constructed by acts of will that we ourselves perform, often quite apart from any emotional or affective state. However, there are also occasions when what a person wants is not up to him at all, but is rather a matter of feelings or inclinations that arise and persist independently of any choice of his own" (Harry Frankfurt, *The Importance of What We Care About* [Cambridge: Cambridge University Press, 1988], p. 107).

47. Dworkin, "Equality of Resources," p. 303.

not all ambitions, and few tastes, are informed by beliefs and attitudes: plenty of tastes and ambitions arise without being drawn forth by any sort of doxastic pull.[48] But I shall here set aside the problem of discrepancy between the "belief" cut and the "preference" one, in order to assess the belief cut in its own terms, in the light of Dworkin's larger purposes.

Within those purposes, the person/circumstances distinction is meant to be not only exclusive but (relevantly) exhaustive: we do not have to review anything beyond people's persons and circumstances to know how to treat them from an egalitarian point of view.[49] But, if that is so, then where are we to place the life-enhancing feature of cheerfulness, from the point of view of egalitarian justice? Cheerfulness raises two difficulties, one small and one big.

First, the small difficulty. Cheerfulness is not something that "defines what a successful life would be like." It should therefore count as a circumstance. But circumstances are elsewhere characterized as powers and incapacities, and cheerfulness is neither of those. It is not a power but a fortunate disposition which, for given inputs, generates higher than ordinary utility outputs. It is not something a person *exercises* when pursuing his goals, even if it tends often to improve his pursuit of them. Since it does the latter, the fact that it is not, strictly, a power is perhaps not a very important point. But there is another point which is certainly important.

The important point is that the value of cheerfulness is not merely, or mainly, that it raises the probability of a person's achieving what, by his lights, is "a successful life." Cheerfulness is a marvelous thing quite apart from that, and one different thing that it does is diminish the sadness of failure. It is a welfare-enhancer independently of being a goal-promoter. This makes it difficult for Dworkin to compensate cheerless people fully for their gloominess. But then there is an inconsistency between the criterion for determining what lies outside the person and the principle that disadvantages not deriving from the character of the person require compensation. Cheerlessness lies outside the person, but it is difficult to see how Dworkin can award appropriate compensation for it.

When I discussed gloominess with Dworkin he suggested that it was a borderline case with respect to the person/circumstances dichotomy and that the best way to cope with it would be to ask whether an individual

48. Frankfurt's sensitive distinction (see n. 46 above) between desires which do and desires which do not reflect decisions could be matched by a similar one between those which do and those which do not display attitude and commitment. For more on that differentiation within desire, see Sec. V*A* below.

49. At an Oxford seminar on economic justice of February 22, 1988, Dworkin was explicitly exhaustive. He spoke of his proposal requiring "a sharp distinction between personality (equals attachments, projects, etc.) and circumstances (equals everything else, the material with and against which people labour to achieve what their personality favours)."

would have insured against turning out to be gloomy, and to compensate him for his gloom if we think that the answer is "yes."

I think that the insurance device does have some appeal as a method of deciding whether or not to compensate for gloom. But its appeal seems to me to have nothing to do with the person/circumstances distinction: the individual who chooses to, or not to, insure against gloom is not thereby making *that* distinction. And if we suppose that he is indeed making it, then another problem arises. For in Dworkin's main use of the insurance device the individual *knows* what belongs to his person when he decides whether or not to insure: Dworkin's veil of ignorance is, in that important way, thinner than Rawls's.[50] But an individual who decides not to insure against gloominess remains, *ex hypothesi,* ignorant of whether or not he is gloomy.

The insurance device seems, then, unable to solve Dworkin's gloom problem. It is, nevertheless, independently attractive, especially when the veil of ignorance is indeed thickened, and that, I opine, is because it seems to sort out a big difference that really matters for egalitarian justice: between disadvantages that are and disadvantages that are not due to bad brute luck.[51] It is in the essential nature of insurance that luck is what we insure against, and genuine choice contrasts with luck. So anyone who, like Dworkin, is strongly drawn to the insurance test should consider accepting the choice/luck cut and giving up the attempt to defend the different cut of preferences/resources.

G

In my view, a large part of the fundamental egalitarian aim is to extinguish the influence of brute luck on distribution (see Sec. II above). Brute luck is an enemy of just equality, and, since effects of genuine choice contrast with brute luck, genuine choice excuses otherwise unacceptable inequalities.

Curiously enough, Dworkin advocates something very like the foregoing point of view in sketchy statements in "Why Liberals Should Care about Equality," but he is not faithful to it in "What Is Equality?" He says, in "Why Liberals Should Care about Equality," that we should attend to "which aspects of any person's economic position flow from his choices and which from advantages and disadvantages that were not matters of choice."[52] That is the compelling core idea, but it is misrendered in the

50. Dworkin's main use of the insurance device is to deal with handicaps and talents: see "Equality of Resources," secs. 3, 5, and 6 and see p. 296, and esp. p. 345 for the particular point that Dworkin insurers know what they think "is valuable in life."

51. If it is relevant that, given the chance, a person might have insured against cheerlessness, why is it not relevant that he might have insured against ending up with tastes that happen to be expensive? Compare L. Alexander and M. Schwarzchild, "Liberalism, Neutrality, and Equality of Welfare versus Equality of Resources," *Philosophy and Public Affairs* 16 (1987): 99 ff.

52. Ronald Dworkin, "Why Liberals Should Care about Equality," in *A Matter of Principle,* p. 208. ("What Is Equality?" is the joint title of "Equality of Welfare" and "Equality of Resources.")

cut between preferences and resources. Elsewhere in "Why Liberals Should Care about Equality," Dworkin also comes close to adopting genuine-choice/*luck* as the basic distinction. He says that the liberal "accepts two principles":

> The first requires that people have, at any point in their lives, different amounts of wealth insofar as the genuine choices they have made have been more or less expensive or beneficial to the community, measured by what other people want for their lives. The market seems indispensable to this principle. The second requires that people not have different amounts of wealth just because they have different inherent capacities to produce what others want, or are differently favored by chance. This means that market allocations must be corrected in order to bring some people closer to the share of resources they would have had but for these various differences of initial advantage, luck and inherent capacity.[53]

I say that Dworkin comes close to the basic distinction I favor here, but he does not quite get there, partly because luck (or chance) appears in his text as only one element in a set of unjust distributors, others being differences in initial advantage and in inherent capacity. And I find Dworkin's disjunctions of unjust distributors strange. For anyone who thinks that initial advantage and inherent capacity are unjust distributors thinks so because he believes that they make a person's fate depend too much on sheer luck: the taxa in Dworkin's disjunctions belong to different levels, and one of them subsumes the others.

Now, once we see the central role that luck should play in a broadly Dworkinian theory of distributive justice, Dworkin's own propensity to compensate for resource misfortune but not for utility function misfortune comes to seem entirely groundless. For people can be unlucky not only in their unchosen resource endowments but also in their unchosen liabilities to pain and suffering and in their unchosen expensive preferences. A willingness to compensate for deficiencies in productive capacity but not in capacity to draw welfare from consumption consequently leads to absurd contrasts.

Consider lucky Adrian and unlucky Claude.[54] "The desires and needs of other people" mean that unlike Claude, Adrian can pursue "a satisfying [gainful] occupation." People are happy to buy what Adrian, but not Claude, can enjoy producing, and that, for Dworkin, gives Claude a claim to redress quite separate from the one arising from the income difference between him and Adrian. But now suppose that, with respect to their leisure preferences, Adrian is like fisherman Fred, and Claude is like would-be photographer Paul,[55] and that the reason why fishing is cheap and photography is expensive is that many want to fish and few want to

53. Dworkin, "Why Liberals Should Care about Equality," p. 207.
54. Dworkin, "Equality of Resources," p. 308.
55. See Sec. IV*C* above.

take pictures, so that economies of scale are realized in the production of fishing, but not of photographic, equipment. It would follow that "the desires and needs of other people" mean that, unlike Claude, Adrian can pursue "a satisfying [leisure] occupation." Yet Dworkin will not redistribute for that luck-derived discrepancy, since it lies in the domain of consumption and not that of production.[56] But that is not a good basis for redistributive reluctance. It is quite absurd to regard Adrian's opportunity to pursue a satisfying profession as an enviable "circumstance," justifying redistribution,[57] without extending the same treatment to his opportunity for satisfying leisure.[58]

We must eschew Dworkin's preferences/resources distinction in favor of a wider access-oriented egalitarianism. We can agree with him that "it is perhaps the final evil of a genuinely unequal distribution of resources that some people have reason for regret just in the fact that they have been cheated of the chances others have had to make something valuable of their lives."[59] But equalizing those chances requires a discriminating attention to what is and is not chosen, not to what belongs to preference as opposed to endowment. In a brilliant exposition of how Dworkin's theory corrects deficiencies in Rawls's, Will Kymlicka remarks that "it is unjust if people are disadvantaged by inequalities of their circumstances, but it is equally unjust for me to demand that someone else pay for the costs of my choices."[60] That expresses Dworkin's fundamental insight very well, but a proper insistence on the centrality of choice leads to a different development of the insight from Dworkin's own. Dworkin has, in effect, performed for egalitarianism the considerable service of incorporating within it the most powerful idea in the arsenal of the anti-egalitarian right: the idea of choice and responsibility.[61] But that supreme effect of his contribution needs to be rendered more explicit.

56. Dworkin's refusal to redistribute for the discrepancy is explicit at "Equality of Resources," p. 288.

57. Ibid., p. 308.

58. The foregoing criticism depends on Dworkin's classification (ibid., p. 304) of a satisfying occupation as, so described, a resource. In his 1988 Oxford University B.Phil. thesis on "Justice and Alienation," Michael Otsuka argues that that was a superficial error on Dworkin's part. But I do not think that Dworkin can declassify occupation as a resource—and thereby escape my argument in the text—except at the severe cost of losing his argument against throwing people's powers to produce into his island auction, since that argument rests on the idea that, with people's powers to produce up for auction, the talented would end up envying the package of occupation and income enjoyed by the ungifted (see Dworkin, "Equality of Resources," pp. 311–12).

59. Dworkin, "Equality of Welfare," p. 219.

60. His 1987 Princeton lecture notes on Contemporary Political Philosophy, section on Rawls, subsection called "Subsidizing People's Choices" (Philosophy Department, University of Toronto, 1987, typescript), p. 5.

61. It is an idea much less deniable than the different idea of self-ownership, which is also central to right-wing thought. See the closing pages of G. A. Cohen, "Are Freedom and Equality Compatible?" in *Alternatives to Capitalism*, ed. Jon Elster and Karl O. Moene (Cambridge: Cambridge University Press, 1989).

Someone might say that to make choice central to distributive justice lands political philosophy in the morass of the free will problem. The distinction between preferences and resources is not metaphysically deep, but it is, by contrast, awesomely difficult to identify what represents *genuine* choice. Replacing Dworkin's cut by the one I have recommended subordinates political philosophy to metaphysical questions that may be impossible to answer.

To that expression of anxiety I have one unreassuring and one reassuring thing to say. The unreassuring thing is that we may indeed be up to our necks in the free will problem, but that is just tough luck. It is not a reason for not following the argument where it goes.

Now for the reassuring point. We are not looking for an absolute distinction between presence and absence of genuine choice. The amount of genuineness that there is in a choice is a matter of degree,[62] and egalitarian redress is indicated to the *extent* that a disadvantage does not reflect genuine choice. That extent is a function of several things, and there is no aspect of a person's situation which is wholly due to genuine choice.

Let me illustrate this point. One of the things that affects how genuine a choice was is the amount of relevant information that the chooser had. But we do not have to ask, Exactly what sort and amount of information must a person have to count as having genuinely chosen his fate? All that we need say, from the point of view of egalitarian justice, is: the more relevant information he had, the less cause for complaint he now has.

It seems to me that this plausible nuancing approach reduces the dependence of political philosophy on the metaphysics of mind.[63]

H

In a theory of distributive justice whose axis is the distinction between luck and choice, the positive injunction is to equalize advantage, save where inequality of advantage reflects choice. Now that sounds rather like equalizing the scope of genuine choice, of what, one might perhaps equivalently say, people are capable of doing. But, if those assimilations are correct, then the position latent in Dworkin looks close to the "capability equality" espoused by Amartya Sen, to which I shall turn after first facing a challenge to the emphasis I have placed on choice in articulating my conception of egalitarianism. The challenge will induce a needed revision of that conception.

62. This point corresponds to Dworkin's point that there is a continuum between brute and option luck (see "Equality of Resources," p. 293).

63. Thomas Scanlon's recent Tanner Lectures on "The Significance of Choice" present a liberatingly nonmetaphysical approach to choice in the context of, among other things, distributive justice. I have not yet had the time to determine to what extent what he offers can be used to improve the statement of a broadly Dworkinian theory of distributive justice.

V. SCANLON'S DOUBTS ABOUT VOLUNTARINESS

A

According to Thomas Scanlon, when we examine a person's condition with a view to determining what distributive justice owes him, we treat some of his interests as commanding more attention than others on a basis which is independent of his own ranking of those interests. It follows that we do not pursue a policy of equality of welfare, where welfare is understood as preference satisfaction (and it will be so understood throughout this section).

Scanlon does not address the view that justice should concern itself with opportunity for welfare, as opposed to welfare *tout court*. But the fact that he rejects the sovereignty, from the point of view of justice, of the subject's own preference ordering means that he would also reject an opportunity form of egalitarian welfarism.

Now, the features of Scanlon's position described above produce no conflict with the view I have espoused, since equality of access to advantage is not identical with equality of opportunity for welfare; and, in deciding both what qualifies as an advantage and the relative sizes of advantages, it is necessary to engage in objective assessment of the kind that Scanlon emphasizes. I nevertheless find two challenges to the view I have adopted in Scanlon's writings.[64]

As thus far developed, that view favors compensation for *all* deficits in ("inoffensive")[65] welfare which do not reflect the subject's *choice*. On this reading of the egalitarian attitude, it recommends a two-stage procedure. First, any deficit in welfare is treated as a possible case for compensation; then, whether it actually constitutes such a case is decided by facts about choice.[66] I discover in Scanlon's writings an objection to each stage of that procedure. First, he adduces examples of welfare deficit where the idea of compensation seems excluded from the start. Second, he offers a train of reasoning whose conclusion is that choice lacks the importance for distributive justice which it initially appears to have. If Scanlon is right, choice is just a surface indicator of something different and deeper.

According to Scanlon, (certain?) welfare deficits which reflect the subject's adherence to a religion raise no prima facie case for compensation:

> Differences in religious belief are one thing that can produce differences in utility level, and someone who regarded equality of welfare as the standard of interpersonal justification would have to regard these differences as being grounds for compensation: com-

64. There are further challenges in his Tanner Lectures, which I have not yet been able to study with care. See, in particular, the second lecture's critique of the "Forfeiture View," with which my own has affinities.

65. See Sec. III above. I shall henceforth take the parenthesized qualification as read.

66. I do not here mean a *conclusive* case: not only the distribution of nonwelfare advantages but also nonegalitarian considerations might defeat the welfare deficit claim.

> pensation for having acquired a particularly onerous or guilt-inducing religion or one particularly unsuited to one's own personal strengths and weaknesses. This strikes me as distinctly odd. Quite apart from the fact that it might destroy the point of religious burdens to have them lightened by social compensation, the idea that these burdens are grounds for such compensation (a form of bad luck) is incompatible with regarding them as matters of belief and conviction which one values and adheres to because one thinks them right.[67]

Scanlon's powerful example forces me to choose among the following strategies: (1) to argue that it is because the burdens of religion so manifestly reflect choice that compensation for them is out of the question; (2) to argue that it is not as odd as Scanlon maintains to compensate a person for those burdens; (3) to revise my view that all burdens which do not reflect choice raise a case for compensation.

Before exploring these alternatives, I want to remark on a difference between the two kinds of religiously derived burdens mentioned by Scanlon in the passage quoted above. First, there is the burden of religiously induced guilt. And then there is the burden of one's religion being unsuited to one's strengths and weaknesses. Those two burdens seem to me to be relevantly different. It does seem, at least at first, "distinctly odd" to compensate for religiously induced guilt, but there are *some* discrepancies between a person's religion and his repertoire of capacity for which it is not similarly peculiar to offer compensation. I do not think that it is strange for a lame or poor person to request the cost of transport for a pilgrimage mandated by his religious convictions. And even if Scanlon means "strengths and weaknesses" of an intimately psychological kind only, there would still, I think, be cases falling under that description where compensation did not look so odd. I shall, however, focus on the particularly powerful guilt example.

Strategy 1 for dealing with that example is to represent the person's guilt as due to his choice of religion and as not raising a case for compensation for that reason. But people often no more choose to acquire a particular religion than they do to speak a particular language: in most cases, both come with upbringing. And when upbringing instills a religion which, like the one Scanlon describes, has a doxastic character (it is not just a way of life but, centrally, a set of beliefs), then we cannot regard its convinced adherent as choosing to retain it, any more than we can regard him as choosing to retain his belief that the world is round.

Strategy 2 says that compensating a person for religious guilt is not as strange as Scanlon maintains. To be sure, it would be strange for the subject himself to request compensation for his painful guilt feelings, since he believes that he *should* feel guilty: although he has in no sense

67. Thomas Scanlon, "Equality of Resources and Equality of Welfare: A Forced Marriage?" *Ethics* 97 (1986): 116–17.

chosen to have the feelings, *he would not choose not to have them if he could.*[68] It is, however, far less clear that those of us who reject his religion should have no inclination to compensate him for his guilt. If a person suffers because of (what we think is) a *plainly* false belief that God has commanded him to suffer, and we cannot persuade him that he is under an illusion, should we do nothing for him because he believes that he is owed nothing? If his belief is sapping his life, might we not give him priority when we distribute scarce recreational facilities? Why should *his* belief be sovereign here?[69]

When our own convictions match those of the believer's there is no purchase for the main claim of strategy 2, which is that the demands of justice may exceed the demands a person could intelligibly make on his own behalf. Strategy 3 does not employ that claim. This final strategy is to revise the view I have defended, as follows. Instead of saying, "compensate for disadvantages which are not traceable to the subject's choice," say, "compensate for disadvantages which are not traceable to the subject's choice *and* which the subject would choose not to suffer from." The revisionary element is the second clause. In the revised view, choice appears at two levels, actual and counterfactual. The revision seems to me not ad hoc but a natural development of the original view in the face of Scanlon's example.

The amendment is natural because it is true to the grounding idea that disadvantage is to be redressed when it reflects either exploitation or bad luck. Up to now, I have treated choice as the only relevant opposite of luck, but the Scanlon example shows that some of the costs of unchosen commitments (and they are commitments because one would not choose not to have them) are also not bad luck: they are not bad luck when they are so *intrinsically connected* with his commitments that their bearer would not choose to be without them.

The strong requirement of intrinsic connection establishes a contrast between Scanlon's believer and people whose expensive preferences engage my concern but not Dworkin's. The believer differs from a person whose preferences are not governed by belief at all and which a fortiori represent no commitment, such as someone who prefers plovers' eggs to hens' because the former were household fare in childhood. And the costs the believer incurs also differ relevantly from those sustained by the committed lover of expensive esoteric music (see Sec. IV*E* above), since the high

68. I do not mean that if, contrary to fact, he could choose not to have them, he would not so choose: ". . . if he could" is within the scope of the description of what he would not (now) choose. In saying "I would not give it up if I could" he is not making a prediction.

69. One might say: because it would destroy the point for him of his religious commitment to compensate him for the burdens associated with it. But that answer is here out of place; I am responding to the part of Scanlon's case which he represents as "quite apart" (see the last sentence of the passage quoted on p. 936 above) from the foregoing consideration.

price of satisfying the latter's preference is not integral to the commitment mandating that preference: that Berg is more expensive than be-bop is no part of what makes Berg better for most Berg lovers. It is just an unfortunate fact, and Berg lovers consequently do not break faith with their commitment to what they think is good music when they campaign for a Lincoln Center in which to hear it. Most would not choose to lack their esoteric taste, but they would certainly choose not to sustain the frustration that happens to accompany it, and that produces a relevant disanalogy with the case of the guilty religious believer. It means that we might think it right to provide a Lincoln Center even for those who forgo an offer to be schooled out of their high-brow musical tastes (see comment 4 in Sec. IV*E* above).

It follows from those contrasts that the Scanlon-inspired amendment enforces no retreat from anything ventured above in critique of Dworkin's view. I do not, however, want to understate the amendment's significance. Its policy implications are entirely negligible, but it does introduce a conceptual element very different from anything required to resist Dworkin. For counterfactual choice is *not* a kind of choice, even though, like choice, it is strictly inconsistent with luck. It is neither because of his choice nor because of bad luck that Scanlon's believer suffers.

Since the Scanlon amendment charges only for the intrinsic costs of commitments, it is not engaged by the pilgrimage case introduced earlier in this section. That case is similar to the example of the monument, which Scanlon uses in prosecution of his opposition to welfarism:

> The strength of a stranger's claim on us for aid in the fulfillment of some interest depends upon what that interest is and need not be proportional to the importance he attaches to it. The fact that someone would be willing to forgo a decent diet in order to build a monument to his god does not mean that his claim on others for aid in his project has the same strength as a claim for aid in obtaining enough to eat (even assuming that the sacrifices required of others would be the same). Perhaps a person does have some claim on others for assistance in a project to which he attaches such great importance. All I need maintain is that it does not have the weight of a claim to aid in the satisfaction of a truly urgent interest even if the person in question assigns these interests equal weight.[70]

I see no glaring oddity in a believer's claim that, since all should be equally able to worship as they will, his own worship, because it requires what happens to be expensive, warrants public subsidy.[71] Note that even

70. Thomas Scanlon, "Preference and Urgency," *Journal of Philosophy* 72 (1975): 659–60. Since Scanlon later (p. 666) assigns a special urgency to religious concern, one must charitably read the suggestion above that the need for a monument is not a "truly urgent interest" as a too strong way of saying that it is less urgent than a person's interest in a decent diet.

71. Compare Arneson, "Equality and Equality of Opportunity for Welfare."

Scanlon allows that, unlike the man burdened with a sense of sin, the monument builder might well have *a* claim on us. But, under the suggested amendment to my view, and as I am sure Scanlon would agree, the man's claim would lapse if his religion required him to build a monument *because* it was expensive, and therefore onerous to supply, for its cost to him would not then be a disadvantage which he would choose to have removed: it would be intrinsic to his religious commitment.

B

I turn to Scanlon's second challenge to the position I have espoused. I have in mind his argument against the importance of beliefs about choice in the explanation of our unwillingness to cater to expensive preferences.

Citing Rawls's suggestion that distributive justice does not attend to desire as such because desires are subject to our control, Scanlon provisionally hypothesizes that it is because preferences are "too nearly voluntary" that they are not "an appropriate basis for the adjudication of competing claims."[72]

Scanlon then asks in what way or sense preferences could be considered voluntary. He notes that they are not voluntary in the sense of being immediately subject to the will but allows that there is scope for volition "in the malleability of preferences over time."[73] So "perhaps the force of the voluntariness objection[74] lies in that it is possible for unusually strong or unusually expensive preferences" not, indeed, to be chosen at will, but "to be 'manufactured' by the person who has them."[75] But Scanlon proceeds to reject this account of the matter:

> But if this were the whole basis for the voluntariness objection one would expect that, at least in principle, the actual genesis of a person's preferences would be relevant to the strength of their claim to be satisfied. The very same intense interest might have arisen out of a conscious decision to "take up" a certain activity, or it might have grown almost unnoticed as the result of a series of chance encounters. Which of these is the case does not, however, seem to matter for the purposes of determining the strength of the person's claim on others for aid in the satisfaction of this interest. (Although it may be relevant to the assessment of his claim to aid in getting rid of the interest should he come to regard it as an obsession which cripples him in the pursuit of his normal activities.)[76]

I do not agree with Scanlon's contention that "the actual genesis of a person's preferences" is irrelevant to the strength of his claim to have

72. Scanlon, "Preference and Urgency," pp. 663–64. Scanlon cites John Rawls, "A Kantian Conception of Equality," *Cambridge Review* 96 (1975): 97. See, too, the passage from Rawls, "Social Unity and Primary Goods," quoted in Sec. III above.

73. Scanlon, "Preference and Urgency," p. 664.

74. To, i.e., the idea that distributive justice should track preference strength as such.

75. Scanlon, "Preference and Urgency," p. 664.

76. Ibid., pp. 664–65.

them satisfied. Suppose that each of two people have developed an expensive interest, and it is of a kind which, once contracted, cannot be extinguished, so that there is no question of any claim for assistance in getting rid of it. One of them, however, made a "conscious decision" to develop the interest, with full foreknowledge of the cost of satisfying it, while the other just happened to come by it, unawares, or developed it before it became expensive for wholly unforeseeable reasons. Then, so I believe, we should extend more sympathy and favor to the second persons. We might say of the first, "we must, in all charity, help him"; but it would be much harder to say in his case than in the case of the other, "we must, in all justice, help him." I therefore dissent from Scanlon's reasoning at this point. But it will nevertheless prove instructive to see how it continues.

Scanlon holds that there is something quite different from voluntariness underlying the reference to voluntariness. It is the very "fact that an interest, given its content, *could* have arisen" either voluntarily or not which is crucial, for that fact shows that the interest in question might not have arisen at all.[77] And, since it might not have arisen, Scanlon concludes that, from an objective point of view, it is of "peripheral importance," whatever may be the importance it has to the individual himself.[78] Hence, by a roundabout route, the suggestion that expensive tastes have no claim on us because they are deliberately cultivated is transmuted into the idea that they are of objectively secondary significance, however high the person himself may rank them: in a word, justice should not cater to *idiosyncrasy*, whatever its genesis may be.

One may say that, according to Scanlon, the liaison between interest and volition has implications for justice because of the following argument:

1. Sometimes people choose to develop a certain interest.
∴2. It is the sort of interest that a person could develop as a matter of choice.
∴3. It is an interest that might not develop: it is objectively peripheral.
∴4. It is an interest not commanding the urgent attention of justice (whether or not it was developed as a result of choice).

The final inference in this argument appears to me to be questionable. Scanlon himself raises a question about it: "Could there be an interest which . . . people might or might not happen to have—but which, if a person had it, would be the basis for urgent claims? . . . I cannot come up with an example. . . . Religion might seem to be an example. In our society some people are concerned with religion, others are not. Yet the claims of one's religious preferences not to be interfered with are thought to have a special urgency. But would this be so if it were not thought that religion *or something like it* has a central place in anyone's life?"[79]

77. Quoted material from ibid., p. 665, my emphasis.
78. Ibid.
79. Ibid., pp. 665–66.

In assessing Scanlon's claim that there is no urgent interest which is not universally shared, we have to be careful about the level of generality at which interests are individuated. Faced with the putative counter-example of religion, Scanlon regresses to a higher level of generality: he says that we think religion merits certain forms of protection because "religion *or something like it* has a central place in anyone's life." But now one has to ask: like religion in what way? And the answer cannot be: like it in mattering so much to the person in question, for that would return us to the subjective welfare ordering which Scanlon is seeking to eschew: "central place," at the end of the foregoing passage, has to be taken objectively. But then I cannot see what thing relevantly similar to religion appears in every normal person's life. And I therefore disagree with Scanlon's suggestion that religion fails to provide a counter-example of the required kind.

I do not, in conclusion, disacknowledge the need for objective assessment in arriving at distributive decisions: I recognized its inescapability at the beginning of this section. It is necessary for the purpose of deciding what an advantage is. My more limited conclusion is that the apparent importance for justice of facts about volition with respect to the genesis of a disadvantage deriving from preference is not a confused surface reflection of the priority of objective assessment.

VI. SEN ON CAPABILITY

How does *equality of access to advantage* relate to what Amartya Sen has called *capability equality?*

As I am using 'access,' a person enjoys access to something which he does not have only if he has both the *opportunity* and the *capacity* to obtain it, in the ordinary senses of those words, under which they name distinct requirements, neither of which entails the other. Now, even if 'capability,' in its ordinary meaning, differs from "capacity," it too nevertheless fails to entail "opportunity" (one might be capable of swimming without having the opportunity to swim), and from that one might conclude that my access is more demanding than Sen's capability and that our readings of equality consequently differ. But Sen's capability is not ordinary capability. It requires possession of external wherewithal, and it covers opportunity too: sometimes, indeed, Sen uses the very word 'opportunity,' in an extended sense, to mean what he more usually uses the word 'capability' to mean.[80] Hence the ordinary meanings of the words 'access' and 'capability' do not establish that our two readings of equality are distinct.

80. Immediately after introducing the notion of "*capability* to function" in his Dewey lectures, Sen shifts to the alternative language of "opportunity" to express the same idea (see "Well-Being, Agency and Freedom," pp. 200–201). Compare Sen, *Commodities and Capabilities,* p. 59, *The Standard of Living* (Cambridge: Cambridge University Press, 1987), p. 36.

It would, however, be premature to conclude that they are identical, for several reasons. One of them is that there is a substantial ambiguity in Sen's use of the term 'capability,' which makes it hard to be sure exactly what his conception of equality implies. For in his seminal "Equality of What?" Sen identified two ways of assessing a person's condition under the single name "capability," and the unnoticed and confusing duality has persisted in his subsequent writings. Both dimensions of assessment should attract egalitarian interest, but at most one of them merits the name "capability." The identification of the other dimension constitutes a striking contribution to normative understanding, but just that dimension is hard to perceive in Sen's exposition, because it is not felicitously described in the language (of "functioning" and "capability") which Sen uses to characterize it.

Sen arrived at what he called 'capability' through reflection on the main candidates for assessment of well-being which were in the field when he gave his 1979 lecture, to wit, utility, or welfare, and Rawlsian primary goods.[81] Sen pleaded for a metric of well-being which measured something falling *between* primary goods and utility, in a sense that will presently be explained, a something which had, amazingly, been largely neglected in previous literature. He called that something 'capability.'

Right from the start, however, 'capability' was used to denote two things, one of which was larger than the other, and 'capability' was not a felicitously chosen name for the larger one.

Sen said that "what is missing in all this framework[82] is some notion of 'basic capabilities': a person being able to do certain basic things."[83] But that relatively narrow characterization of the missing dimension was different from another which he offered in the same text, and which was more in keeping with his *argument* for the new perspective.

Sen's argument against the primary goods metric was that differently constructed and situated people require different amounts of primary goods to satisfy the same needs, so that "judging advantage purely in terms of primary goods leads to a partially blind morality."[84] It is, Sen rightly said, a "fetishist handicap" to be concerned with goods as such

81. A notable further candidate not yet then in print was Dworkin's equality of resources. Dworkinian resources differ from Rawlsian primary goods in a number of ways. One is that they include a person's mental and physical powers. It would be a worthwhile—and difficult—exercise to distinguish each of the two Sen dimensions I shall describe from the Dworkin resources dimension. (For pertinent remarks, see Sen's excellent rebuttal, all of which strikes me as correct, of Dworkin's criticism of Sen's view, at pp. 321–23 of "Rights and Capabilities," in his *Resources, Values and Development* [Oxford: Basil Blackwell, 1984].)

82. That is, the framework of discussion restricted to the rival claims of primary goods and utility as measures of well-being, and, within "primary goods," to goods in the ordinary sense. That is the relevant subset of primary goods here, and also in Rawls's discussion of expensive tastes.

83. Sen, "Equality of What?" p. 218.

84. Ibid., p. 216.

to the exclusion of what goods "*do* to human beings."[85] Both hedonic and preference-satisfaction welfarists are free of that particular fetishism, since they are concerned "with what these things do to human beings, but they use a metric [utility] that focusses not on the person's capabilities but on his mental reaction."[86] And that mental reaction is an unsuitable guide to policy, if only because people adjust their expectations to their conditions. The fact that a person has learned to live with adversity, and to smile courageously in the face of it, should not nullify his claim to compensation.[87]

Capabilities were thereby identified with what goods do to (or for) human beings, in abstraction from the utility they confer on them. But that identification was a mistake. For, even when utility has been set aside, it remains untrue that all that goods do for people is confer capability[88] on them, or that the uniquely important thing they do for them is that, or that that is the only thing they do for them which matters from an egalitarian point of view. In naming his view "Capability Equality" Sen failed to recognize the true shape and size of one of the dimensions he had uncovered.

It is indeed false that the normatively relevant effect on a person of his bundle of primary goods depends entirely on his mental reaction to what they do for him. There is also what welfarists ignore: what they do for him, what he gets out of them, apart from his mental reaction to or personal evaluation of that service. Consequently, Sen was right that, in the enterprise of assessing a person's well-being, we must consider his condition or state in abstraction from its utility for him. We must look at something which is "posterior" to "having goods" and "prior" to "having utility."[89] We must look, for example, at his nutrition level, and not just, as Rawlsians do, at his food supply, or, as welfarists do, at the utility he derives from eating food.[90]

85. Ibid., p. 218. Compare this statement: "What people get out of goods depends on a variety of factors, and judging personal advantage just by the size of personal ownership of goods and services can be very misleading. . . . It seems reasonable to move away from a focus on goods as such to what goods do to human beings" (Amartya Sen, "Introduction," in his *Choice, Welfare and Measurement* [Oxford: Basil Blackwell, 1982], pp. 29–30). Compare Amartya Sen, "Ethical Issues in Income Distribution," in *Resources, Values and Development,* p. 294, *Commodities and Capabilities,* p. 23, and *The Standard of Living,* pp. 15–16, 22.

86. Sen, "Equality of What?" p. 218. "Mental reaction" must here cover not only a kind of experience but also a subjective valuation, to cater for the preference form of welfarism.

87. This argument against the utility metric was not fully explicit in Sen, "Equality of What?" It appears at *Commodities and Capabilities,* pp. 21–22, 29, "Rights and Capabilities," pp. 308–9, "Introduction," in *Resources, Values and Development,* p. 34, "Goods and People," in *Resources, Values and Development,* p. 512, *The Standard of Living,* pp. 8–11.

88. Even in Sen's acceptably extended sense of the term—see earlier in this section—which is the sense in which I use it here.

89. Sen, *Commodities and Capabilities,* p. 11.

90. Sen, "Introduction," in *Choice, Welfare and Measurement,* p. 30.

But this significant and illuminating reorientation is not equivalent to focusing on a person's capability, where that is what he is able, all things considered, to do. Capability, and exercises of capability, form only part of the neglected intermediate (between primary goods and utility) state. *What goods do to or for people is not identical with what people are able to do with them,* nor even with what they actually do with them. To be sure, it is usually true that a person must do something with a good (take it in, put it on, go inside it, etc.) in order to be benefited by it, but that is not always true, and, even when it is true, one must distinguish what the good does for the person from what he does with it.

Not all that matters and is not utility is capability or an exercise of capability or a result of exercising capability. And many states which are indeed a result of exercising capability have a (nonutility) value which is unconnected with their status as effects of capability exercise, and which is not clearly exhibited in its true independence of capability (properly so-called) by Sen. A further development and defense of these critical contentions will appear elsewhere.[91]

91. See n. 2 above.