

# Responsibility-Sensitivity in Theories of Justice: A Luck Egalitarian Response to the Abandonment Objection

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## Abstract

This article attempts to reintegrate the role of responsibility-sensitivity within egalitarian theories of justice by comparing two approaches to distributive justice: luck egalitarianism and the capability approach. Three major shortcomings of the capability approach are outlined: its absence of a consistent basis of equality; its propensity to foster paternalist practices; its commitment to sufficientism, potentially leading to stalemates in compensating individuals. Subsequently, the article proposes a redefinition of the concept of responsibility, allowing to define an enhanced version of luck egalitarianism potentially capable of including forward-looking concerns in a mostly deontological theory of justice.

**Keywords** responsibility, luck egalitarianism, capability approach, abandonment objection, sufficientism.

## 1. Egalitarianism and Responsibility-Sensitivity: Luck Egalitarianism and the ‘Capability Approach’

Egalitarianism is an influential and widespread theory of justice. Despite its appeal as a relatively homogeneous category of theories, its aim to reflect an equal concern for individuals is open to sharply different interpretations, as realizing equality along one dimension always implies inequality along all the others (Sen, 1995). This issue, baptized the ‘equality of what’ debate by Sen (1980), gave birth to a spectrum of approaches with reference to the target of their egalitarian proposal – the ‘currency of egalitarian justice’ (Cohen, 1989).

Rawls (2005) has given an important contribution to this query, by highlighting that the primary concern of a theory of justice should be to neutralize morally arbitrary inequalities and only allow for morally ac-



ceptable inequalities. Many of the factors which require compensation in Rawls' scheme are also non-chosen, as his 'difference principle' points out: it is morally fitting to redistribute individual gains deriving from innate talents, since disparities in natural-born talents do not compel to different distributive entitlements – being the former non-chosen. This connection between distributive justice and individual choice paved the way to the so-called luck egalitarians, specifically identifying (the lack of) responsibility as the hallmark of inequalities which justly require a compensation.

Dworkin refines this intuition distinguishing between 'option luck', deriving from "deliberate and voluntary gambles" (Dworkin, 2002, p. 73) and 'brute luck', unrelated to deliberate risk taking. He admits that "the difference between these two forms of luck can be represented as a matter of degree, and we may be uncertain how to describe a particular piece of bad luck" (*ibidem*). Nevertheless, as Cohen recognizes, "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" (Cohen, 1989, p. 933).

Luck egalitarians have been specifically concerned with prescribing compensation for brute luck. To characterize luck egalitarianism in short, we could refer to the two orthogonal criteria proposed by Arneson (1989) and aiming at qualifying the general features of any egalitarian theory: the target of equalization or *equalizandum* – e.g. welfare, resources – and the equalization metric – e.g. straight equality, equality of opportunity (p. 88). As regards the *equalizandum*, luck egalitarians can be welfarists or – following Dworkin – *resourcists*, if they reject equality of welfare (due to its purely mental notion of utility) in favor of equality of resources. Defining a resource (e.g. Dworkinian resources, social primary goods, advantage, ...) is what distinguishes resourcist theories from one another. As regards the equalization metric, luck egalitarians are committed to equality of opportunity by definition, because "it is morally fitting to hold individuals responsible for the foreseeable consequences of their voluntary choices" (*ibidem*).

So far, responsibility-sensitivity has proved to be intuitively appealing both as a proper philosophical ground for distributive claims as well as a commonsense idea (Tinghög, Andersson, & Västfjäll, 2017).



Nevertheless, the commitment to a responsibility-based theory seems to lock distributive justice in the long-standing metaphysical debate over free will, which seems far from being settled by metaphysicians. Is it really possible to charge individuals for their actions, without having permanently defused the threat of causal determinism?

Other approaches apparently eschew the commitment to the metaphysics of moral responsibility. Growing support has been accorded to the ‘capability approach’, originally developed by Sen as “a natural extension of Rawl’s concern with primary goods, shifting attention from goods to what goods do to human beings” (Sen, 1980, pp. 218-219). What Sen complains about ‘Rawlsian equality’ is its ‘fetishism’: his theory would fail to go beyond primary goods, which embody advantage but do not provide an unambiguous metric to weigh advantage itself. In fact, primary goods and resources are insensitive to the ‘conversion rate’ of each individual, thus benefitting those who better convert resources into valuable states or activities.

Sen gets around the issue by defining the basic states which can be achieved by each individual as ‘functionings’, varying from “being well-nourished, avoiding escapable morbidity and premature mortality [...] having self-respect, being able to take part in the life of the community, and so on” (Sen, 1995, p. 5). In order to promote a free achievement of one’s valuable functionings, the *equalizandum* must be some notion of ‘basic capabilities’, which comprise the effective freedom to achieve a functioning regardless of the actual achieved level.

The capability approach (CA) replaces resources with capabilities, thus accounting for a third *equalizandum* other than welfare and resources as a possible target of distributive justice. By favoring the opportunity to achieve over the actual achievement, CA aims at placing emphasis on choice while still prescribing the pursuit of actual equality – the equality of basic capabilities.

It is questionable whether such an emphasis is sufficient to claim that CA is truly responsibility-sensitive, as I will argue. Additionally, adopting capabilities as the currency of egalitarian justice does not seem to rule out luck egalitarianism (as an equalization metric) as a matter of course. However, CA theorists have tended to adopt a responsibility-insensitive distributive scheme, proposing straight equality (if not sufficiency) of capabilities. Why so?

A negative reason to keep CA out of the family of theories qualifying as luck egalitarian – i.e., a reason to avoid the commitment to responsibility-sensitivity – is the so-called ‘abandonment (or objection’, proposed by many authors in different shapes. For example, Anderson (1999) complains that luck egalitarianism is prone to discriminating among the badly-off, being essentially a “starting-gate theory” (p. 308), and gives the example of the uninsured driver severely injured by a car crash who is denied medical care because he is found at fault for the accident. He is victim of bad *option* luck, twice: by forgoing insuring at first, and by taking a risk (to drive negligently) which led to a predictable bad outcome. Within a luck egalitarian scheme he would have no claims to compensation. Another setting is provided by Fleurbaey (1995, pp. 40-44), whose example of the motorcyclist Bert reveals him to be undoubtedly responsible for his own injuries. Both the authors highlight the self-evident unacceptability of such an abandonment of the badly-off – yet accountable – individuals.

Anderson also provides a positive reason to embrace CA at the expense of luck egalitarianism. In her view, individuals must be entitled to an equal provision of basic capabilities in virtue of their *universal moral equality*. Only if individuals are provided with an equal share of basic capabilities, regardless of the bad outcomes they can be accounted for, it is possible for them to enjoy a fully-fledged political equality which reflects their moral equality. “Democratic equality” is how Anderson defines the end-state established by her theory of justice, given the prior moral equality of human beings.

In outline, CA theories prescribe a straight equality (or sufficiency) of basic capabilities in the pursuit of a valuable end-state which is the ultimate goal of a theory of justice. If luck egalitarianism is a ‘starting-gate theory’, CA can be defined as an ‘end-state theory’, and the reason seems to be deontological rather than teleological: a certain end-state is desirable in virtue of the actual moral equality of individuals.

In the following, three major problems of CA will be outlined: the problem of the ‘basis of equality’, that of ‘paternalism’, and that of ‘sufficientism’. Having examined these problems, I will suggest a re-definition of luck egalitarianism, which seems to have the potential to overcome the ‘abandonment objection’ and to accommodate much of the forward-looking concern of end-state theories.



## 2. Why Equality?

CA is based on the firm assertion of universal equality of human beings, hallmark of egalitarianism as a whole. Despite its historical appeal, though, any finer examination of this assumption proves it to be not as obvious an ideal, or perhaps even a false one (Brennan, 2002). At most, humans may be *similar* and not equal, as they display the same features, yet differing in their magnitude: height and weight, strength and health, rationality and judgement. If we pledge to the research of a proper basis of human equality, we need to identify a feature (property  $p$ ) satisfying two conditions: being possessed by each individual and to the same degree. The former restricts to human beings exclusively the fact of belonging to the ‘community of equals’; the latter is required to assert the equality – and not mere similarity – of individuals within the identified set. Finding such a property  $p$  has turned out to be an extremely challenging quest. This being the case, how do CA and luck egalitarian theorists address the issue of basic equality?

In actual fact, both have made barely any efforts towards defining such a basis. Sen is aware that egalitarianism demands an answer to two interdependent yet different questions: namely, ‘why equality?’ and ‘equality of what?’. Nevertheless, he is convinced that arguing for equality of  $x$  is equivalent to arguing for the fundamental equality of human beings, although restricted in that peculiar form. In this sense, there would be “no ‘further’, no ‘deeper’, question to be answered about why—or why not ‘equality’” (Sen, 1995, p. 12).

Pace Sen, this argument seems at best to be upturned, and there are solid reasons to reject it. It is hard to see how arguing *normatively* for equality (of  $x$ ) can also qualify a substantive, *descriptive* equality (“with  $x$  as a standard of comparison”, *ibidem*). Neither does Sen provide any reasons to untie the assertion of a *normative* equality of  $x$  from a prior *descriptive* equality of human beings: in other words, to drop the Aristotelian principle that ‘equals must be treated equally whereas unequals must be treated unequally’. According to this principle, descriptive equality seems logically prior: not only to identify a proper *equalizandum*, but also – and more importantly – to validly prescribe an equal distribution of it, i.e., to justify the commitment to egalitarianism in general no less than to a particular equalization metric.

Other CA theorists assume basic equality instead of arguing for it. For example, Anderson admits that egalitarians “base claims to social and political equality on the fact of universal moral equality” (1999, p. 313), and commits herself to the same assumption, inasmuch as the end-state pursued by her theory of justice is legitimized by universal moral equality. If this is the fact on which egalitarians base their claims to a normative equality (of  $x$ ), arguing for it in the first place seems to be specially important. As we have seen, though, Anderson merely assumes such a descriptive equality, proving its necessity in theorizing but not its subsistence.

However, the equal moral worth searched for by Anderson and others has the merit of being an extremely relevant property  $p$ . This ideal has been pursued for centuries, culminating in Kant’s assertion of persons as ‘ends in themselves’. As a descriptive statement, though, it seems *prima facie* clearly false that human beings have equal moral worth, if what is meant by this is that “everyone equally has the power to develop and exercise moral responsibility, to cooperate with others according to principles of justice, to shape and fulfil a conception of their good” (Anderson, p. 312). On the contrary, assuming we want to avoid any transcendental deduction of moral dignity (the Kantian solution) and we opt for an empirical basis of moral dignity, we come up with a bundle of fickle properties which do not seem to endow humans with equal amounts of moral worth.

Rawls conveys a similar view, as he takes moral persons to have two fundamental moral powers: “the capacity for an effective sense of justice, that is, the capacity to understand, to apply and to act from (and not merely in accordance with) the principles of justice” and “the capacity to form, to revise, and rationally to pursue a conception of the good.” (Rawls, 1980, p. 525). In addition, though, he attempts to get rid of the problem of interpersonal variation by introducing the idea of moral personality as a ‘range property’, meaning a property which supervenes over certain relevant substantive properties which can be ‘scalar’ (Rawls, 2005, p. 508). Individuals within the relevant range share the common property of being moral persons, i.e., of being included in the range itself, and are therefore equals in that regard in spite of their substantive differences. Although Rawls admirably attempts to hold on to moral personality as the property  $p$ , it is not clear why

should the substantive scalar properties become irrelevant after meeting the chosen threshold. On the contrary, the selection of a range property seems a completely arbitrary theoretical choice unless it is combined with an independent rationale to overlook the scalar properties on which it supervenes.

Such an argument is provided by Carter (2011), who also takes the basis of equality to be agency understood as a range property supervening on the fact of meeting a defined threshold of agential features (the ‘bases of the basis of equality’, p. 548). But he additionally claims that, at least regarding the public relations between political institutions and citizens, the latter’s property of being a moral person requires the former to adopt an ‘opacity respect’, impeding to attempt intrusive evaluations of the degree of individuals’ agential autonomy. Opacity respect comprises an independent rationale to overlook the magnitude of agential capacities as soon as they meet the defined threshold, and therefore prohibits political institutions from assessing the competence of agents.

Carter’s account may leave some unsolved issues, such as how to define a threshold which is not arbitrary, or how to include marginal cases such as victims of severe cognitive disabilities without opening up to “cats and oysters” (p. 541). However, its coverage is sufficient to test its consistency with CA. This can be done through what Carter calls the ‘opacity test’, passed by any egalitarian practice “if and only if the carrying out of that practice neither constitutes nor presupposes any violation of the requirement of opacity respect” (p. 561). If we put CA through Carter’s account of basic equality, straight equality of capabilities does not pass the opacity test. In fact, inequalities in basic capabilities are also generated by unequal agential capacities, and taking account of their actual levels (as necessary to equalize them) implies intrusive judgements on the moral personality of individuals. Even more so if we consider that some authors support the promotion of agential capacities explicitly, e.g. by targeting the capacities for voluntary choice (Nussbaum, 2006, pp. 172-173).

The opacity test could be passed only through an *indirect* pursuit of equality of capabilities, by providing “certain universal and unconditional external benefits” (p. 565) which must empirically show a positive correlation with the extent of individuals’ basic capabilities. Nonetheless, it is reasonable to assume that some inequality of capabilities

would always take place because, for an equal provision of universal benefits, social product would be distributed to the advantage of the ‘most competent’ agents. After all, as long as redistribution is limited to compensate only ‘inspectable’ inequalities, i.e. any inequalities but the ones deriving from the unequal competence of agents, individuals will be compensated for disadvantage related to circumstances and held responsible for disadvantage deriving from the free exercise of their agency. But, by definition, anytime an egalitarian practice makes individuals evenly well-off depending on their responsible choices, such a practice is responsibility-sensitive. Therefore, an indirect pursue of equal capabilities would result, to a certain extent, in equality of fortune: some individuals would be worse-off just because they are deficient in their agential capacities, as they would be charged for their responsible choices the same as competent agents are. In other words, let assume that capabilities are a good *equalizandum*: nevertheless, if we commit to universal moral equality of individuals in virtue of their moral personality, it seems necessary to avoid straight equality in favor of responsibility-sensitivity.

The argument above is derived from the convincing assumption that moral personality is the proper basis of equality. But also from the assumption that basic equality is necessary to ground an end-state theory, such as CA. That is to say, adopting a deontological approach to egalitarian end-states, meaning that their desirability follows as a morally fitting consequence of the substantive basic equality of individuals. Yet, it is also possible to adopt a teleological approach and claim that an egalitarian end-state is *intrinsically* valuable, so as to drop the assumption regarding basic equality without giving up capabilities as the *equalizandum*. Such an allegation would require an independent defense for the intrinsic value of a certain end-state, which has not been provided by CA theorists so far. However, such an argument would prescribe the pursuit of an end-state regardless of the potential basic equality of individuals, thus bypassing the critique above. Therefore, it is worth considering it briefly.

Even that being the case, it is questionable whether end-state theories are helpful in their teleological form. The reason is that agency as the basis of equality may leave us without a reason to assume capabilities as the *equalizandum* at all. Consider an end-state such as Anderson’s, in

which persons stand in relationships of democratic equality. She admits that “certain patterns in the distribution of goods may be instrumental to securing such relationships, follow from them, or even be constitutive of them” (1999, pp. 313-314). If political status in a society (as the *equalizandum* of Anderson’s theory) depends on the endowments of certain goods, it is hard to see how unequal endowments of those goods could lead to equal political status. Instead, it seems reasonable to infer that they affect the political status of an individual all the way. Such an interdependence of distributive goods and political status makes their relationship at least undetermined, being very hard to detect which one is logically prior to the other.

Moreover, the main reason to adopt capabilities as the *equalizandum* is their sensitivity to the conversion rates of different individuals, which is supposed to eschew the fetishism of resource theories. As said though, adjusting a distribution on interpersonal conversion rates implies intrusive judgements on individuals’ moral personality. So, agency as the basis of equality constrains capabilities equalization to an indirect pursuit, and consequently CA turns out to be indistinguishable from equality of resources: not only in force of an inescapable responsibility-sensitivity of the former, but also underemphasizing the alleged fetishism of the latter. It may truly be that “Sen’s theory is only equality of resources in a different vocabulary” (Dworkin, 2002, p. 303).

### 3. Political Liberalism and Political Perfectionism

Political liberalism, stemming from Rawls’ writings, justifies political power only by principles which must be acceptable to all reasonable citizens, who are accorded wide freedom to live as they choose. On the contrary, political perfectionism commits to distributing an *objective* list of goods which are such for any person. Whether an egalitarian practice aims at securing reasonable principles accepted by all citizens or at distributing the goods present on an objective list, it can be labeled as *paternalistic* if the carrying out of that practice interferes with persons’ wills in order to benefit them.

Compared to perfectionism, political liberalism seems able to reflect more closely the moral personality of individuals, by allowing a freer



choice about what life to live. It also follows that liberalism is more compatible with the moral personality of individuals, whose foundational importance in defining the basis of egalitarianism has been defended in the last chapter. This means that, in principle, liberalism will not allow paternalism aiming at promoting specific ideas of the good – as perfectionism does – but only, at worst, aiming at preserving the basic ideas of the right. Consequently, liberal theories of justice find a special impediment in paternalism and strive to avoid it. Of course, different assumptions regarding the rationality of individuals and different goals of a theory of justice may entail different paternalistic practices, affecting individuals in different ways.

Although almost every theory of justice may give place to paternalistic fallouts, CA is especially struggling with it, as it aims at promoting a perfectionist view of the good life (by setting an objective list of basic capabilities) while simultaneously trying not to give up political liberalism. In fact, it is even questionable whether CA is a liberal theory at all: some theorists argue that liberalism should be dropped for the benefit of a stronger capability theory (Arneson, 2020). To assess this claim is beyond the scope of this writing. In what follows, we will simply assume that paternalism is a shortcoming in political theory, as it is in tension with the full recognition of the moral personality of individuals. Two paternalistic flaws of CA will be explored briefly.

Paternalism may appear in different shapes and be more or less objectionable depending on its features. A helpful taxonomy is provided by Cholbi (2017), who orders paternalistic practices on the basis of the affected rational powers of the paternalized. He comes up with three powers of practical rational agency, namely “the power to recognize ends as minimally choiceworthy, the power of recognition [...]; to rationally select which goods to endorse and thereby render objects of rational pursuit, the power of discrimination [...]; the exercise of instrumental rationality, the power of satisfaction” (p. 134). In doing so, he also manages to clarify the distinction between hard and soft paternalism: the former is more objectionable “because it intercedes in a more fundamental rational power – the power of discrimination – than does soft paternalism, which is aimed at ensuring that agents are exercising their power of satisfaction in accordance with their rationally chosen ends” (p. 150).

It is worthwhile to survey the ‘capability paternalism’ by putting its practices (i.e. the capabilities/functionings promotion) through Cholbi’s taxonomy. The notions of capability and functioning may include almost any possible pursuit or purpose, and if CA theorists do not restrict the extent of their *equalizandum*, “it will no longer be clear why the capability approach is not identical to welfarism (or at least to a theory prescribing opportunity for welfare), given the consequent necessity of falling back on preferences for the selection and/or the relative weighting of functionings” (Carter, 2014, p. 79). Selecting a ‘list’ of capabilities/functionings has thus originated a large debate among CA theorists (Claassen, 2020).

Let assume first that valuable *functionings* ought to be promoted. Given this restriction, the special difficulty for CA theorists to deal with paternalism immediately stands out: selecting a list of valuable functionings would always intercede the most fundamental rational power (the power of discrimination), being objectionable for it promotes a perfectionist view of the good human life. How to carry out an objective list promotion without affecting a rational power as fundamental as the power of discrimination? A solution consists in abandoning functionings and, instead, promoting capabilities – the ‘standard move’, as addressed by Claassen (2014). Capabilities express the freedom to achieve a functioning, and a capability-promoting theory (unlike a functioning-promoting) does not force individuals into specific functionings, seemingly avoiding hard paternalism.

Nevertheless, this view is somehow problematic. In first place, Claassen (2014) himself points out that the standard move is questionable in itself. Based on Nussbaum’s (2000) account of CA, he identifies five categories of cases in which a straightforward promotion of functionings is in any case necessary – namely, in case: of absence of capacities for voluntary choice; of capabilities which require training; of capabilities which require ‘supportive functionings’; of capability surrender (when the lack of a functioning is intertwined with a lack of capabilities, e.g. in emotional health); and of capability participation (e.g. voting and public decision making). Some of these categories are very broad, largely extensible, and positively correlated. As Claassen concludes, “a capability theory with a more extensive list prescribes a more comprehensive vision of the good life. [...] Such a more perfectionist list gen-

erates more instances of paternalism as well” (2014, p. 71), as a direct promotion of functionings would be increasingly inescapable.

Capability paternalism does not become unproblematic by simply assuming that CA resists targeting functionings and it concentrate exclusively on capabilities. Following Carter (2014), there is a sense in which even a pure capability-promoting theory would still be paternalistic to a certain extent. Equalizing a bundle of capabilities out of a list would still imply that “people enjoy certain specific capabilities, not that they enjoy capability as such, and in order to identify such specific capabilities we shall still need to refer to a list of independently specified functionings. The value of freedom therefore remains dependent upon its content” (p. 91).

In conclusion, CA is vulnerable to a twofold paternalistic charge. First, the *objection from paternalism*, as “despite its own intentions the capability approach cannot escape the promotion of functionings”. Secondarily, the *objection from perfectionism*, which – according to Cholbi’s taxonomy – still implies (softer) paternalistic practices, as “the identification of specific capabilities (and not others) as moral and political requirements favors some people’s conceptions of the good life over others and thus is insufficiently neutral” (Claassen, 2014, pp. 59-60). This makes CA less appealing compared to theories which adhere more easily to a liberal view of the good life such as welfarism and resourcism.

#### 4. The Sufficentarian Mirage

Luck egalitarianism still seems endangered by the ‘abandonment objection’. What really is at stake with the abandonment of the badly-off is a whole array of forward-looking concerns which seem relevant for a theory of distributive justice, even if responsibility-sensitive. Picking up from it will allow to display one last flaw of CA and also to outline an enhanced version of luck egalitarianism with the potential to overcome it. In first place, it is necessary to reexamine the objection and its possible ways out.

An attempt to come around the argument is proposed by Knight (2015), who considers seven supplemented versions of luck egalitar-

ianism able to rebut the objection. Most of those versions display a common weakness: the reference to a sufficiency threshold in order to justify the prevention of the abandonment, which induce Knight himself to reject them.

In accordance with Knight's conclusions, I argue that sufficientism is unattainable from a luck egalitarian standpoint, for it is incompatible with the latter's fundamentals. In a nutshell, luck egalitarians want the distribution of resources to be independent of the innate talents of individuals, being these non-chosen. Simultaneously, they do not want any compensation for the level of 'effort', that is meant to be comprised of the traits individuals are responsible for (Hausman, McPherson, & Satz, 2016, p. 212). These two principles are called, if we follow Fleurbaey (2008, pp. 15-72), the 'compensation principle' (equal effort should make equally well-off) and the 'liberal reward principle' (distribution of external resources should be independent of individual effort). Whenever these conditions are unfulfilled, a distributive scheme can no longer be defined as luck egalitarian. As a result, providing needy individuals with sufficient bundles of  $x$  and compensating individuals for a lack of  $x$  if and only if unaccountable for it seem two alternative and hardly compatible approaches. At the best, any combination of the two would imply a lexical priority of one principle over the other. Therefore, which one should be the dominant principle of distributive justice?

If we consider some expansions of the abandonment objection, important reasons to adopt the luck egalitarian as the prior principle come up. By supplementing the setting with resource constraints, it becomes clear that sufficientism is a not self-sufficient theory of distributive justice. Sufficientism assumes there are people above the threshold who can transfer resources without falling below the threshold, or in general that there are resources which can be more justly distributed than they are. This assumption is not innocuous and arguably false. In fact, at any given threshold for a certain good, there may not be enough resources to guarantee sufficient endowments to the entire population. The abandonment objection seems flawless in the absence of scarcity but fails to provide an unequivocal principle of distribution in case of conflicts or trade-offs, which are likely to arise and not negligible in a theory of distributive justice. The abandonment objection overlooks the fact that the allocation of goods towards one individual always implies taking

them away from another, and in many contexts such a redistribution would not be clearly regulated or even impossible to carry out without any additional rationale.

Let us clarify this remark with a couple of examples. Suppose to be assisting an overwhelming number of individuals under scarcity: for example, to be about to dispense the last unit of a medical treatment to one of two needy individuals. Resources are insufficient for assisting both of them, and according to the sufficientist doctrine it is impossible to make a choice. Now, let us imagine that one of them is injured because of imprudent driving, whereas the other one is victim of a congenital disorder. Intuitively, it would be deeply unjust to abandon the victim of brute luck (the latter) to the advantage of the victim of option luck (the former), and responsibility-sensitive considerations seem necessary to help the indecisiveness.

Now, let us drop a scarcity setting and imagine a tax system compensating the victims of option luck to a certain extent. Such a system would allocate resources to the advantage of risk-loving individuals and promote risky behaviors to the unjust expense of the risk-averse.

The concern of CA theorists with an equal provision of basic capabilities reveals a subtle commitment to sufficientism, as long as they detach the distribution of goods from legitimate claims and entitlements whose indispensability becomes evident when facing resource constraints and trade-offs. Consistently, most of the capability theorists turn out to adopt (openly or *de facto*) sufficientist distributive principles (Anderson, 1999; Nussbaum 2006).

Moreover, thresholds not only tend to be fixed, but are fixed by necessity, as a result of a conventional settlement. Clearly, there are some capabilities whose sufficiency levels are only specified by local convention (such as appearing in public without shame). But also the most fundamental capabilities (being well nourished, having access to water or a roof over one's head) depend on the actual wealth of a society. A theory of justice must fit unambiguously wealthy modern societies as well as premodern or poorer societies, which may lack commodities now considered basic needs, such as electricity, heating, running water, adequate clothing. Sufficientism seems unusable in such contexts, and it must be considered at least a non-autonomous theory. The idea of a sufficiency threshold would be flawed.



Finally, if we agree about undesirable side-effects in the second scenario (the promotion of risky behaviors), it appears that the forward-looking concerns of CA are misinterpreted or at least too limited, as long as they can give place to undesirable conducts.

To sum up, the bare possibility of rejecting a responsibility-sensitive distributive scheme is apparent and due to the overall wealth of modern societies. Forward-looking concerns – such as preventing the abandonment of the badly-off –, far from being an alternative to backward-looking theories, must comprise a second theoretical layer of distributive justice, as the magnitude of a sufficiency threshold is always dependent on the actual endowments of a society. At the same time, the general aims of a theory of justice cannot be limited to guaranteeing the minimum level of endowments or capabilities. Instead, they must include the promotion of positive behaviors by setting rules whose compliance delineates a more just society. Forward-looking concerns ought to supplement rather than be opposed to a responsibility-sensitive political theory.

The remainder of this article will attempt to cast aside sufficientism, without renouncing its forward-looking concerns, and try to subordinate it to a more comprehensive doctrine of moral responsibility.

## 5. The Concept of Responsibility

Most of the difficulties with incorporating a principle of responsibility into a theory of justice depend on the metaphysics of moral responsibility. Assuming a metaphysical account of responsibility is necessary to carry out even straightforward distributions. As an example, consider the long-established controversy among luck egalitarian theorists regarding ‘expensive tastes’. If we do not embrace any precise notion of responsibility, it is unclear whether to rectify persons’ preferences, and to what extent. As a matter of fact, people seem unaccountable for their innate expensive tastes, and if they display an unwanted propensity towards the enjoyment of an expensive good, their taste ought to be considered the same as a handicap and thus compensated. Nevertheless, there is something intuitively wrong in taking shares of the social product away from frugal citizens to the advantage of the prodigal. To

make matters worse, it is also extremely difficult to tell innate (and thus unchosen) tastes from those which are soaked in judgement or need one to be schooled at. This dilemma reveals the need of a clear-cut distinction between tastes which are due to voluntary choices and those which are due to circumstances, i.e. to adopt a proper account of moral responsibility.

Grounding his theory on the distinction between brute and option luck, Dworkin (2002, pp. 287-291) is especially concerned with this issue. He suggests a connection between identification and responsibility: what marks voluntary tastes is that individuals identify with them and would not renounce them. However, there are many cases in which people strongly identify with beliefs which do not seem chosen and whose attendant preferences severely harm them (e.g. Jehovah's Witnesses' 'preference' for refusing blood transfusions). It is questionable whether such tastes are voluntary and not due to circumstances, or even whether, despite being voluntary, they should still be compensated.

The connection operated by Dworkin between identification and responsibility is generally not accepted, and what is the hallmark of voluntary choice is still an open question. Scheffler (2005) develops a clear overview of the moral responsibility issue in egalitarianism, and argues that the substantive thesis about the distributive consequences allegedly entailed by voluntary choice is more plausible within an 'incompatibilist' interpretation of free will rather than a 'compatibilist' one: according to the former, voluntary choices are part of a different metaphysical category than other causal factors. Few authors are willing to support such a demanding and counter-intuitive theory. If we instead try to adopt the widespread 'compatibilist' conception of voluntary choice – so the argument goes – we end up lacking a theory capable of disambiguating voluntary choices from circumstances. Hence, Scheffler concludes, the luck egalitarian metaphysical account of responsibility is not plausible: and the program of responsibility-sensitivity is misconceived.

In spite of the metaphysical debate over free will, I argue that the interpretation of responsibility associated with that debate is misleading. If we take responsibility to be a condition entirely due to previous physical and mental states, it does seem difficult to combine with the forward-looking concerns pointed out by the abandonment objection.

Nonetheless, that of responsibility may be a more sophisticated concept, incorporating an array of different interests, and not only backward-looking.

To explore the potential interpretations of the concept of responsibility, I will make use of Vincent's (2011) *structured taxonomy of responsibility concepts*, which identifies six possible senses in which to call someone 'responsible'. The following parable<sup>1</sup> will give an overview of them:

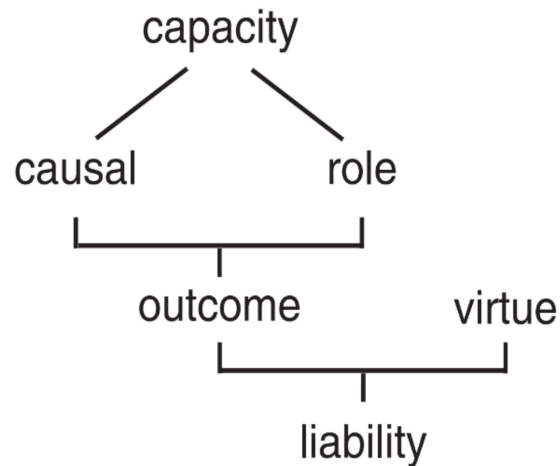
(1) Smith had always been an exceedingly responsible person, (2) and as captain of the ship he was responsible for the safety of his passengers and crew. But on his last voyage he drank himself into a stupor, (3) and he was responsible for the loss of his ship and many lives. (4) Smith's defense attorney argued that the alcohol and his transient depression were responsible for his misconduct, (5) but the prosecution's medical experts confirmed that he was fully responsible when he started drinking since he was not suffering from depression at that time. (6) Smith should take responsibility for his victims' families' losses, but his employer will probably be held responsible for them as Smith is insolvent and uninsured.

The six meanings above are respectively defined by Vincent as: (1) *virtue* responsibility, (2) *role* responsibility, (3) *outcome* responsibility, (4) *causal* responsibility, (5) *capacity* responsibility, and (6) *liability* responsibility. The sense that Scheffler and philosophers in general seem to have in mind when they examine the metaphysics of moral responsibility is that of *outcome* responsibility. Yet, the sense that luck egalitarians and political philosophers seem to be searching for is that of *liability* responsibility. It is necessary to define what is *outcome* responsibility comprised of; then, we will inquire what is required to turn *outcome* responsibility into the involved *liability* responsibility.

Being all different hyponyms of a common equivocal notion, these senses should still be related. Indeed, Vincent proposes a taxonomy as the one represented in the following graph (Vincent, 2011, p. 19):

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<sup>1</sup> As the author writes, the parable is an adapted version of (Kutz, 2004, p. 549), who in turn derived it from Hart (Hart, 1968, p. 211).



The first requirement for *outcome* responsibility is *capacity* responsibility, defined as a certain level of agential capacities which are supposed to embody the necessary and sufficient condition to assess an agent as such. Even if agential capacities come in degrees, we often set thresholds to label agents as fully responsible.

As the diagram shows, two additional assessments lead from *capacity* to *outcome* responsibility. The first requirement consists in *causal* responsibility. This is where the problem of the ‘compatibilist’ account of free will comes to light, consisting in the fact that there may be many factors causally contributing to a single outcome. Whether due to an epistemic barrier or to a conceptual obstacle, the presence of causal indeterminacy seems ineradicable from our assessments, making us unable to identify a subset of *outcome* responsible factors among the *causal* responsible ones.

According to Vincent’s taxonomy, another requirement comes to our aid in defining *outcome* responsibility, *role* responsibility: “claims about a person’s *outcome* responsibility seem to depend on prior claims about their *causal* responsibility and their *role* responsibility” (p. 20). As Vincent convincingly argues, our allegations of *outcome* responsibility always depend both on the causal efficiency of an agent and on her role in the action. Suppose that A shot B to death: this fact is not enough to blame A as *outcome* responsible. Assume that B was disguised for fun as a mannequin in a training military camp, where mannequins are supposed to be shooting targets for recruits such as A: the outcome

responsible for B's death would be B himself, as he would be the one violating his *role* responsibilities, whereas A would be acting conformingly. In Vincent's words, "to turn a finding of causal responsibility into the fully-fledged moral accusation of outcome responsibility, the party whose actions causally contributed to the said outcome must also have violated their role responsibilities in acting like that" (p. 21). *Outcome* responsibility stems not only from *capacity* and *causal*, but also from *role* responsibility.

Unlike the assessments about agential capacities or causal efficiency, roles do not say anything about the nature of one's action, such as concerning the deterministic or indeterministic origin of her decisions. They simply define the expected behavior of an individual within a certain context, given that her agential capacities meet a conventional threshold. Setting a threshold of capacities which mark full responsibility also depends partially on the expectations that are thrust onto the agents that will be deemed fully responsible. And similarly, defining one's role involves many evaluations about the general aims of social organization. What importantly follows from this analysis is that norm setting, secondary assessments, and the general aims of a theory of justice play an extremely significant role in defining what responsibility is.

This is a crucial conclusion, paving the way towards an original notion of responsibility which involves interests deflecting from the unpromising metaphysical debate over free will. In the upcoming section, the claim will be that norm setting evaluations are pivotal not only in charging someone of *outcome* responsibility, but also in defining the validity and the extent of *liability* responsibility.

## 6. A Question of Stakes

Luck egalitarians take responsibility as the necessary and sufficient condition for an agent to bear the consequences of her actions, i.e. the obligation to internalize the costs of her choices. *Liability* responsibility can be considered the ground on which luck egalitarians base their claims about just compensation. Holding someone liable for something requires in the first place that she is also *outcome* responsible for it, and scholars of responsibility have developed a considerable literature



regarding the grounds of liability (in our vocabulary, *outcome* responsibility).

However, most of them have completely neglected an accurate quest of what kind of consequences can be legitimately charged to an accountable individual, as if implying that those were self-evident. This view is strongly challenged by an inspiring article by Olsaretti, criticizing the fact that luck egalitarians mistakenly take for granted that certain straightforward consequences are associated with people's actions. Such an assumption can be traced in a large number of luck egalitarian theorists. According to Cohen, "genuine choice excuses *otherwise unacceptable inequalities*" (1989, p. 931); to Arneson, "If a person deliberately and voluntarily chooses to gamble she should live with *the results* even if they are bad for her" (2001, p. 86): both fail to clarify what comprises those *inequalities* and those *results*. In spite of that, Olsaretti argues that the attribution of liability responsibility appealed to by luck egalitarians necessarily requires the commitment to a *principle of stakes*, that is "an account of what consequences can justifiably be attached to features that are the appropriate grounds of responsibility" (Olsaretti, 2009, p. 167). Otherwise, it would be unclear to what extent the demands for compensation would be justified. Luck egalitarians have systematically omitted to express what principle of stakes they are referring to.

Let us consider Fleurbaey's example of the motorcyclist Bert. We may be uncertain whether the injured Bert should undertake the costs of his health care or not. If we think he should, that may be because we consider those costs to be a 'natural' consequence of Bert's voluntary behavior: that is what Olsaretti calls the 'natural approach to stakes'. However, it is not clear what consequences of a given action can be counted as 'natural'. Let us first suppose that all the consequences following a given event are 'natural'. Accordingly, if a passer-by decided to steal Bert's abandoned motorbike, that would also be a 'natural' consequence of Bert's choices. Few people would ever assert that such an outcome should go to Bert's disadvantage.

Let us instead claim that the consequences of one's actions are natural only if occurring *without anyone's intervention*. Olsaretti notices that

very few of the consequences people are of often held responsible for would count as natural, since, once again, most of the outcomes that we consider

to be consequences of one's actions obtain as a result of others' acting in particular ways after, as well as before, those actions have taken place. For example, if no one did anything after the dice are tossed, there would be no loss for the gambler to bear at all. (p. 175)

The problem associated with the costs of one's actions resembles Dworkin's dilemma regarding the costs of one's tastes. Tastes have variable costs, depending on whether they are majority or minority preferences: therefore, to a certain extent, such costs always depend on the actions of others. Similarly, the costs associated with a bad outcome are also dependent on other individuals' actions: for example, the costs of Bert's medical care are affected by demand and supply effects, so as to become more expensive if many people get injured on the same day, cheaper if many people work as healthcare professionals (and vice versa). What consequences are 'naturally' following an action is arguably unclear, and the 'natural approach' ought to be rejected for it can be proved to be at least naïve and most likely arbitrary.

Neither does the 'contextualist approach to stakes' perform better, by prescribing to charge individuals for the consequences of an action only if that action was *foreseeable in a given context*. Let suppose that looting by the roadside was a widespread and, after all, an accepted practice: it would still seem intrinsically wrong for a victim of an accident to undertake such consequences, even if she was at fault for that accident.

Finally, some egalitarians may attempt to overcome the issue by supplementing the contextualist approach with some 'equality constraints', i.e., prescribing to "internalize all and only those costs which, if they were not internalized, would make [one's] shares greater than others" (p. 177). However, by many reasons the sturdiness of people's rights cannot be answered only by considerations about people's equal shares. This can be shown by a scenario depicted by Barry (1989, p. 224) and derived from Fishkin (1983, p. 57). Imagine a caste system randomly assigning babies to different socio-economic castes: such a system would conform to equality of opportunity, but it still seems an intuitively unjust system, as a similar lottery should never be at stake.

Olsaretti comes up with two original and alternative principles which are anyway, in her view, still both limited: the 'consequentialist' approach and the 'desert-sensitive' approach to stakes. The former asserts

that “the stakes of people’s choices should be just whatever stakes are required in order to promote independently desirable outcomes” (p. 183). The latter prescribes that “the consequences on people’s choices are those that are ‘fitting’, or deserved, for the choice in question” (pp. 183-184). In her view, both are superior to the contextualist approach, but still insufficient, as they both go only so far as to *limit* the role of responsibility (p. 186).

Although Olsaretti may have failed to provide an acceptable principle of stakes, her research leads to a crucial conclusion regarding the role of responsibility in distributive justice. What is relevant to a theory of justice is the attribution of liability responsibility, which depends to a great extent on norm setting and additional evaluations about the goals of justice. However, liability responsibility does not consist in a limitation of an allegedly ‘full’ outcome responsibility. On contrary, liability responsibility consists in an enhancement of outcome responsibility, so as to make previously indeterminate judgments of responsibility determinate. Without a principle of stakes, the idea of responsibility is hollow and incapable of grounding a responsibility-sensitive theory of justice.

## 7. Conclusions

This article argued that theorists who are skeptical about responsibility-sensitivity cannot dismiss this research program simply by pointing out the importance of forward-looking concerns. Hopefully, the arguments proposed in sections 2, 3 and 4 have contributed to this ambitious task.

Simultaneously, it attempted to point to a line of thought capable of refining the role of responsibility in luck egalitarianism by proving the necessity of norm setting and other political evaluations, in addition to the sheer metaphysical account of voluntary choice. In Olsaretti’s words, the pivotal goal of this article could be summed up in the idea that “the notion of responsibility a theory of justice employs is necessarily moralized, in that it must presuppose a view of what individuals owe to one another in order to determine the legitimate consequences of choices” (2009, p. 186). If this proposal were deemed to have potential, a couple of compelling questions would deserve further examination.



First of all, a plausible principle of stakes still needs to be stated. Olsaretti's 'consequentialist approach' may be promising to some extent, for it restores the ideal of an end-state theory without giving away responsibility-sensitivity. The 'consequentialist approach' to stakes may hopefully be capable of reconciling resourcist and capabilitarian theorists, by reducing their philosophical contrasts which mainly consist in "how they frame the debate about justice as a difference in the evaluative space that they defend" (Oosterlaken, 2020, p. 143). Nevertheless, such a versatile theory would also suffer from a persistent tension between its principle of responsibility and its principle of stakes, which may frequently end up prescribing conflicting policies. In a nutshell, the fact of being imposed huge costs for a voluntary but detrimental action may lead to desirable end-states, but on the other hand would fail to respect the connection with the principle of responsibility telling what an individual intuitively bears responsibilities for.

In the second place, Olsaretti notes that "although luck egalitarians think that people can be held responsible for both the positive and the negative consequences of their choices, I here focus on the latter only" (2009, p. 169). Nonetheless, distributive justice is expected to entirely regulate the distribution of the social product, which obviously depends on the total amount of that product: gains and losses should be considered altogether. Moreover, distributive principles may set the amount of one's compensation potentially apart from one's actual social contribution. Therefore, a plausible and systematic egalitarian theory is expected to provide principles capable of giving reasons both for the positive and the negative consequences of one's actions, so as to result, at the aggregate level, in a balanced budget. Let us call this the 'sustainability condition'<sup>2</sup>. Such a requirement is automatically satisfied by the 'natural approach' to stakes: if some consequences are naturally associated with one's actions, then the losses will always coincide with the gains, and the sum of the compensations will always match the total of the social product: one would always pay for the consequences of the actions one is responsible for, and no one would pay for others. However, if we

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<sup>2</sup> In this sense, the scarcity argument proposed in chapter 4 is a particular violation of the 'sustainability condition': sufficientism is an inadequate distributive principle inasmuch as it can lead to conditions of deficit.

dismiss the ‘natural approach’, such a perfect coincidence ceases to be guaranteed, and the ‘sustainability condition’ needs to be satisfied anew. In fact, a different principle of stakes may prescribe that one person’s gains contributed to someone else’s losses, and the equivalence between the social product and the sum of its dividends would be threatened. Distributive justice prescribes what must be justly taken away from individuals and what must be justly accorded to them: a responsibility-sensitive theory of distributive justice requires a principle of stakes in which revenues and expenditures are equalized so as to satisfy the ‘sustainability condition’.



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