

Equality for Inegalitarians

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Luck egalitarians argue that the aim of justice as equality is to offset the disadvantage that results from sheer brute luck, on the premise that existing inequalities should only reflect a person's preferences and choices. Elizabeth Anderson has argued that luck egalitarianism cannot be a plausible theory of equality, as a direct application of its distributive aims to public policy would involve an undemocratic intrusion into persons' private lives, as well as permit the imprudent and irresponsible to become destitute.¹ In *Equality for Inegalitarians*, George Sher demonstrates the difficulties with justifying luck egalitarianism on a conceptual level before he jettisons the theory in favour of a distributive account that concentrates on providing persons with the equal opportunity to take advantage of their capacities, despite the natural or circumstantial inequalities that subsist.

The first half of Sher's book inventories the basic theoretical commitments of luck egalitarianism by building on Susan Hurley's evaluation of the argument. Hurley grants the commonly accepted assumption that unchosen inequalities are unjust, but notes that a separate argument is needed to justify the establishment of a distributive pattern to counteract these supposedly unjust inequalities. The argument for redistribution is conveyed by the egalitarian conjunct (*to (re)distribute the relevant goods to the party affected*) and the inegalitarian conjunct (*to defer the (re)distribution of goods to the party affected*). Sher explains that there are two ways a luck egalitarian could justify the conjunctions: either by providing a *pluralistic* or a *monistic* justification. He anticipates that a pluralistic solution would entail a qualified commitment to equality alongside a choice-related principle that determines when the demands of choice overrule those of equality. Alternately, the monistic solution would require a singular standard for adjudicating between claims of choice and equality.

Sher maintains that the project of deriving a pluralistic solution *vis-à-vis* the candidate notions of *control* or *moral desert* is implausible, because operationalizing these notions leads us to reject forms of inequality that luck egalitarians would most likely tolerate. His continuing search for a viable monistic solution leads him to Ronald Dworkin's egalitarianism, which is guided by the singular moral requirement that all persons are owed equal concern and respect. Sher regards this monistic requirement as the proper basis for distributive justice, and aims to identify the facts about individuals that make them candidates for equal concern. For Sher, our equal moral significance derives from the fact that our distinct subjectivities or standpoints are underscored by shared structural features giving rise to a sense of time, reasons-responsive conduct, and the interests that rational aims generate. After identifying these facets of human moral psychology, Sher boldly argues that a person's most fundamental interest is in "living effectively" (104). This interest is contingent on a rational ability to envision and act upon the standards that favour the achievement of our purposive activities,² and to

¹ Anderson, E., 1999, "What is the Point of Equality?," *Ethics*, 109: 287–337.

² In *Desert* (1989), Sher writes: "purposive activity aims not merely at achieving satisfactory results, but at achieving the best results that prevailing conditions allow" (122).

reassess these standards when there is a shift in our interests or a modification to our system of beliefs.

One might argue that there is a defect in the design of Sher's account that would (perhaps inadvertently) permit humans with subjectivities that lack these structural features to fall outside the scope of distributive justice. His first move toward a monistic justification is to demonstrate that the structural elements of rational subjectivities are determinants of equal moral status. Once this is proven, he infers a distributive imperative from this claim to equal moral status, and elucidates a distributive scheme that is sensitive to the structural elements of a rational moral psychology—more specifically, the aspects of moral practice and reasoning. However, modeling a distributive theory based on the rational practice of “living effectively” does not necessarily result in equal access to justice for all humans. This perceived problem of accessibility stems from the less than obvious point that the relevant goods for a person with a rational moral psychology are not the relevant or essential goods for all humans. There might still be conceptual space in Sher's account for including these vulnerable populations into the realm of justice. One possible way to devise a more inclusive minimal conception of justice that remains true to Sher's method is to explore and incorporate facts about vulnerable populations (material, moral, social, legal, etc. ...) that would help those targeted to “live effectively” in their own right. As it stands, the architecture of his moral and distributive account is restrictive in the ways I have suggested, and thus insensitive to some potentially serious violations of justice.

In the final two chapters, Sher justifies the conversion of a descriptive theory that secures the moral equality of individuals into an egalitarian theory that proscribes equal opportunity to live effectively as the best interpretation of the egalitarian ideal. Interestingly, Sher defends this conversion to an egalitarian theory of distributive justice with a *sufficitarian* principle: there is a minimal threshold persons must achieve in order for them to be able to exercise the capacities that both determine their moral status and permit them to live any sort of life effectively. Once the sufficitarian principle is established, Sher focuses on determining a maximal threshold, which he argues will render his account egalitarian. While he is cognizant of the fact that people have different upper limits to their capacities (reasoning, judgment, etc. ...), he believes that distributive justice ultimately results from providing persons with equal chances to achieve the upper limits of their capabilities.

Anderson has argued that the luck egalitarian mandate to counteract the effects of brute luck contributes to the harsh and denigrating treatment of individuals, and is thus averse to the ideal of equality. In response, Sher elucidates a distributive model that privileges factors like moral agency and human dignity through its toleration of some instances of brute luck. However, he convincingly argues that the problems with luck egalitarianism extend beyond its operationalization, demonstrating the lack of sufficient justification for the distributive principles on which it operates.

References

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Contre l'autonomie. La méthode forte pour inspirer la bonne décision

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Préface de Normand Baillargeon, traduction de Gérald Baril, Québec, Presses de l'Université Laval, 2014, 254 p.

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Contre l'autonomie. La méthode forte pour inspirer la bonne décision est paru aux Presses de l'Université Laval grâce au travail de Gérald Baril, qui nous offre une traduction fidèle de l'ouvrage de Sarah Conly. «Un livre polémique, mais nécessaire», soutient Normand Baillargeon, qui assure la préface de cette version française. Ce livre est nécessaire parce qu'il pose plusieurs questions importantes, d'où la pertinence de cette traduction. S'il est également polémique, c'est parce que Sarah Conly y propose une justification du paternalisme coercitif¹. Ce paternalisme est «un type de politique où des personnes disposant de l'information nécessaire pour faire un choix éclairé, mais choisissant tout de même d'agir à l'encontre de leur propre intérêt [...] peuvent être empêchées d'agir de la sorte» (p. 57). Une des prémisses principales sur laquelle repose l'argument de Conly est que, trop souvent, nous raisonnons mal, et que nos erreurs de raisonnement nous poussent à faire des choix qui vont à l'encontre de nos intérêts. Pour la philosophe, nous surestimons notre capacité à faire de bons choix pour nous-mêmes et nous nous considérons à tort les meilleurs juges de nos propres intérêts (p. 2). Nous devrions admettre que nous avons parfois besoin d'aide (p. 26). Cette aide pourrait, par exemple, empêcher plusieurs personnes de commencer à fumer, et éviter à d'autres de trop s'endetter.

Or, nous sommes plusieurs à refuser cette aide qui nous viendrait de politiques paternalistes. L'une des raisons qui justifie ce refus, selon Conly, serait que nous surestimons la valeur de l'autonomie parce que nous croyons que le respect de la dignité de la personne passe par le respect de son autonomie. Pour la philosophe, il n'est pas si clair que

¹ Le titre original anglais, *Against Autonomy: Justifying Coercive Paternalism*, rend mieux compte de cet objectif de l'ouvrage. Aussi, la traduction française du titre semble faire référence à l'ouvrage de Cass Sunstein et Richard Thaler, *Nudge: Improving Decisions About Health, Wealth and Happiness*, traduit en français par *Nudge : la méthode douce pour inspirer la bonne décision*. Or, bien que Sarah Conly critique l'ouvrage de Sunstein et Thaler, son livre représente bien plus qu'une réponse à celui-ci.