

Cambridge University Press

978-1-107-07901-4 - Distributive Justice and Access to Advantage: G. A. Cohen's Egalitarianism

Edited by Alexander Kaufman

Excerpt

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Introduction

Alexander Kaufman

What is the proper measure of a person's condition for the purposes of determining what we owe each other, as a matter of justice? Should egalitarians seek to equalize welfare, resources, opportunity, or some other indicator of well-being? Since Amartya Sen problematized the currency of egalitarian justice question in his "Equality of What?" Tanner Lectures of the late 1970s, the question has been the subject of a continuous stream of articles, monographs, and extended studies.¹ Research interest in the area continues to accumulate momentum, with new books by G. A. Cohen, Ronald Dworkin, Martha Nussbaum, Samuel Scheffler, and Amartya Sen published in the last five years.²

Cohen's classic articles, "On the Currency of Egalitarian Justice" and "Equality of What? On Welfare, Goods, and Capabilities," offer one of the most influential responses to the currency-of-justice question. In developing his response, Cohen aims to present a conception of egalitarian justice that is capable of accommodating two fundamental egalitarian concerns. The first concern reflects the intuition that the aim of egalitarian justice is to extinguish the influence of bad brute luck on the

¹ See, for example, R. Arneson, "Equal Opportunity for Welfare," *Philosophical Studies*, 56 (1989): 77–93; G. A. Cohen, "On the Currency of Egalitarian Justice," *Ethics*, 99 (1989): 906–944; R. Dworkin, "What Is Equality? Part 2: Equality of Resources," *Philosophy and Public Affairs*, 10 (1981): 283–345; M. C. Nussbaum, "Human Functioning and Social Justice: In Defense of Aristotelian Essentialism," *Political Theory*, 20 (1992): 202–246; D. Parfit, "On giving priority to the worse-off," unpublished manuscript, Oxford, 1991; J. Roemer, "Equality of Talent," *Economics and Philosophy*, 1/2 (1985): 151–188; T. Scanlon, "Preference and Urgency," *Journal of Philosophy*, 72 (1975): 665–669; A. Sen, "Well-Being, Agency and Freedom: The Dewey Lectures 1984," *Journal of Philosophy*, 82 (1985): 169–220.

² G. A. Cohen, *On the Currency of Egalitarian Justice, and Other Essays in Political Philosophy* (Princeton, NJ: Princeton University Press, 2011); R. Dworkin, *Justice for Hedgehogs* (Cambridge, MA: Harvard University Press, 2010); M. Nussbaum, *Creating Capabilities* (Cambridge, MA: Harvard University Press, 2011); S. Scheffler, *Equality and Tradition: Questions of Value in Moral and Political Theory* (Oxford: Oxford University Press, 2010); A. Sen, *The Idea of Justice* (Cambridge, MA: Harvard University Press, 2009).

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distribution of social goods. The second concern reflects the intuition that egalitarian justice should only correct for inequalities of condition for which it is inappropriate to hold the person responsible.

In response to the first concern, Cohen argues that it is the presence or absence of choice that determines whether a disadvantage is properly viewed as merely the product of bad brute luck, for which it is appropriate to compensate the person, or as the product of option luck, for which it is not. An acceptable egalitarian theory should therefore aim to discriminate between cases of disadvantage that are the product of free and genuine choice and those that are not. Thus, for example, a person whose disadvantage derives from expensive tastes should not forfeit his claim for compensation merely upon a showing that his tastes are expensive; it must be shown, in addition, that the person could have avoided imposing costs on the community and *chose* to impose those costs – that is, it must be shown that those tastes are *wantonly* expensive. It is the presence of choice, Cohen argues, that is morally significant, not the expensiveness of the taste. Cohen qualifies this view, however, by arguing that egalitarians *should* compensate persons for disadvantage that is the result of free choice *if* the person identifies with the choice, *but not* with the resulting disadvantage. For example, Cohen argues that a person with expensive tastes in music (e.g. she prefers Berg to be-bop) may assert a tenable claim to compensation for resulting disadvantage because, even if she can reasonably be held responsible for forming the taste for Berg, she can reasonably deny responsibility for the fact that greater expense is required in order to satisfy that taste.

In response to the second concern, Cohen argues that egalitarians should hold a person *responsible* for disadvantage generated by her free choices only if the resulting disadvantage is so intrinsically connected to the person's commitments that the person would not choose to be without it. Even if such choices are, in fact, affected by the contingent influence of context or genetic endowment, the intrinsic connection of the preferences grounding the choice to the person's constitutive commitments can be understood to transform such choices from merely contingent to genuinely autonomous. Thus, for example, the egalitarian should not compensate a religious believer for religiously induced feelings of guilt, since the person would not choose not to be without the guilt if she could.

Cohen's views were developed in the context of an intense engagement with Ronald Dworkin's contribution to the egalitarian literature, and Cohen proposes alternative accounts of both the measure of a person's condition that egalitarians should employ in forming judgments of justice and the criterion that egalitarians should employ in assigning

responsibility for disadvantage. In order to provide an overview of Cohen's most important contributions to egalitarian thought, I will discuss (1) the relation of Cohen's account of equality to Ronald Dworkin's theory of equality of resources, (2) Cohen's theory of equal access to advantage, (3) Cohen's views on the justification of claims of justice, and (4) objections to Cohen's approach from the current literature.

Cohen's immanent critique of Dworkin

Cohen describes his theory as the product of his intellectual engagement with Dworkin's theory of *equality of resources*. While endorsing Dworkin's view that *responsibility for disadvantage* must constitute the central concern of an acceptable egalitarian theory, Cohen criticizes Dworkin's account of the point at which responsibility attaches. Dworkin, Cohen notes, holds people responsible for inequalities traceable to their tastes and preferences, but not for inequalities deriving from their resources and capacities. This *cut* between preferences and resources, Cohen notes, contrasts with equality of access to advantage in two ways. First, Dworkin's approach compensates only for resource deficits, and not for pain and other forms of disutility. Second, Dworkin does not stress absence of choice grounded in genuine and free preferences as a necessary condition of just compensation.

The appropriate cut, Cohen argues, is between responsibility and bad luck, not between preferences and resources. While Dworkin's theory focuses on redressing unfortunate resource endowments, a more satisfactory egalitarian theory would, in addition, compensate for endowment with an unfortunate utility function. The grounding idea of Dworkin's theory, Cohen argues, is that no one should suffer because of bad brute luck. However, Dworkin's position that people should not be compensated for well-being deficits that result from expensive tastes, even if those tastes are not within the person's control, would allow the person to suffer disadvantage because of bad brute luck. There is, Cohen insists, no relevant moral distinction between a person who blamelessly develops an expensive taste and a person who blamelessly loses a valuable resource. In compensating for well-being deficits that derive both from unequal resource endowments and unfortunate utility function endowments, Cohen argues, equality of access to advantage is therefore more faithful to Dworkin's fundamental moral intuitions than Dworkin's own theory of equality of resources.

Cohen's aim, in generating his account of equal access to advantage, is to provide a fully adequate account of the appropriate role of considerations regarding *responsibility* in egalitarian judgment. Cohen rejects

Dworkin's conclusion that such considerations require that egalitarians focus on the distribution of a homogeneous category of resources. Rather, Cohen argues, careful reflection regarding the question of responsibility suggests that the egalitarian analysis must focus on the space of *advantage and disadvantage*, a space whose dimensions include both welfare and resources. Disadvantage may exist in either or both dimensions; and the "touchstone" for determining whether or not such disadvantage is acceptable is a set of questions regarding the responsibility of the agent.

Equal access to advantage

Underlying Cohen's argument is the intuition that the purpose of egalitarianism is to eliminate disadvantage that is truly involuntary. The proper measure of a person's condition for the purposes of determining what we owe each other as a matter of egalitarian justice, Cohen argues, is *access to advantage*. Egalitarian theory should focus on *advantage*, rather than welfare or resources, because egalitarian concerns regarding the appropriate method for assessing quality of life are not adequately captured by the categories of welfare and resources. And egalitarian theory should focus on *access*, rather than opportunity, because persons may be unequally situated in their ability to exploit opportunity. Finally, it is a necessary implication of Cohen's approach that an acceptable egalitarian theory will be heterogeneous in its attention to welfare and resource deficits. The subject of egalitarian concern, Cohen argues, cuts across both dimensions (and perhaps others) and is unified by its focus on questions relating to responsibility for disadvantage.

Advantage. Egalitarian theory, Cohen argues, requires a currency of well-being that is broader than either the currencies of welfare or resources. The unacceptable narrowness of a *welfare* currency becomes evident when we consider the response that such a welfare equality approach recommends to disadvantage deriving from disabilities. Equality of welfare directs us to measure the victim's level of disutility and to compensate her sufficiently to eliminate any welfare deficit deriving from the disability. Yet, Cohen argues, this response is inconsistent with egalitarian intuitions. In the case of a man with paralyzed legs, the appropriate egalitarian response to the person's disability is to give him a wheelchair, not to compensate him precisely for the welfare deficit that his paralysis produces. When confronted with disability, Cohen argues more generally, egalitarian intuitions do not require that we distinguish between and compensate precisely for the different levels of disutility that disabled persons with different utility functions will experience. Rather, egalitarian

intuitions require “compensation for the disability *as such*.”³ Equality of welfare thus provides misleading guidance when confronted with the problem of disability, because it directs us to focus our attention exclusively on utility deficits.

Similarly, *resource* equality provides misleading guidance in the case of a different kind of disability – a disability involving chronic pain that does not interfere with a person’s ability to work. Cohen illustrates this form of disability with the example of a man who regularly experiences severe pain after completing his work. The pain does not interfere with his ability to work, so that his lack of medication to control the pain does not constitute a resource that he requires in order to pursue his life plans. And, Cohen notes, a resource egalitarian who described the man’s lack as the resource of being able to avoid pain would in fact be invoking the idea of equal opportunity for welfare. Nevertheless, Cohen argues, the appropriate egalitarian response would take note of his welfare deficit and, as a result, would subsidize his pain medication. Equality of resources would provide misleading guidance in such a case because it would direct us to disregard utility information that is relevant to the appropriate egalitarian judgment.

These examples, Cohen concludes, illustrate the unacceptable narrowness of both the welfare and resource currencies. The disabilities example establishes that the appropriate egalitarian response to disadvantage, in some cases, will be to address a resource deficit; while the chronic pain example establishes that in other cases, the appropriate egalitarian response will be to address a welfare deficit. An acceptable account of egalitarian intuitions, Cohen concludes, must take account of deficits in both dimensions of well-being. The currency of advantage takes account of deficits in both dimensions, and therefore provides a more adequate informational basis for egalitarian judgment. While advantage is heterogeneous in its focus on welfare and resources, Cohen argues that a coherent and unified account of the character of egalitarian concern can be generated from such an informational basis through a theory that focuses on a set of questions regarding responsibility.

Access. Cohen argues from the assumption that an egalitarian theory that focuses on *opportunity for welfare* can satisfactorily address many of the objections that undermine the appeal of theories of welfare equality and resource equality, since such an approach takes relevant welfare deficits into account while holding persons responsible for expensive tastes. Nevertheless, Cohen asserts that egalitarian theory should focus on *access* rather than *opportunity*, because persons may not possess equal

³ Cohen, “On the Currency of Egalitarian Justice,” 918.

ability to exploit opportunities. A person's opportunities are the same, Cohen notes, whether the person is strong or weak, clever or stupid. Inequalities of personal capacity must be of concern to egalitarians, he argues, because shortfalls in these capacities detract from *access* to valuable things, even if they do not diminish the *opportunity* to achieve them. A currency of egalitarian justice that focuses on access rather than on opportunity will, therefore, provide a more adequate informational basis for an egalitarian theory that aims to reduce or eliminate involuntary disadvantage.

Heterogeneity. Cohen's theory shares with Amartya Sen's capabilities approach the foundational assumption that an adequate informational base for an egalitarian theory must acknowledge that more than one aspect of a person's condition should count in a fundamental way in assessing how well the person is doing. Cohen's theory views the dimensions of *welfare* and *resources* as equally fundamental, while Sen views *agency information* and *well-being* information as equally fundamental. Cohen views the heterogeneous character of both theories as a matter for embarrassment, noting that "[o]ne hopes that there is a currency more fundamental than either resources or welfare in which [egalitarian concerns] can be expressed."⁴ Sen does not view heterogeneity in a theory as problematic, asserting that "informational monism . . . is not required for an integrated, complete structure [of moral reasoning]."⁵

If the pluralism of either Cohen's or Sen's account *is* problematic, the problem must derive either from the fact that a theory with such a heterogeneous focus: (1) offers a confused interpretation of egalitarian concerns; or (2) is necessarily indecisive over a wide range of practical questions. Sen responds to the first concern persuasively: the assignment of fundamental status to more than a single set of fundamental interests, Sen argues, is necessary if information regarding those interests is equally fundamental to the egalitarian assessment of the quality of life. Quality of life is a complex and ambiguous notion; and "if an underlying idea has an essential ambiguity, a precise formulation of that idea must try to *capture* that ambiguity rather than hide or eliminate it."⁶

What about the concern that heterogeneity regarding fundamental values could lead to practical indecisiveness? Sen again offers a plausible response, simply dismissing the idea that indecisiveness should be regarded as a serious theoretical defect. Decisiveness over all possible cases, Sen argues, cannot be an a priori requirement of a theory of

⁴ *Ibid.*, 921 ⁵ Sen, "Well-Being, Agency and Freedom," 178.

⁶ A. Sen, "Capability and Well-Being," in M. C. Nussbaum and A. K. Sen (eds.), *The Quality of Life* (Oxford: Clarendon, 1993), pp. 30–53, at pp. 33–34.

distributive justice.⁷ Indeed, as Sen points out, there is no guarantee that an approach that avoids heterogeneity by employing a single principle of valuation can avoid incomplete rankings of alternatives.⁸ In fact, imposing completeness as a necessary condition for the acceptability of a moral theory reverses the proper order of priorities: the question of whether a complete ranking of states of affairs is possible can only be determined *after* the nature of an acceptable moral theory has been determined.⁹ Sen's discussion of this issue, however, concedes that a theory that recognizes heterogeneity in its account of fundamental value will necessarily leave significant issues unresolved. This is not a concession that a defender of Sen's or Cohen's theories need to make.

Heterogeneity in an account of fundamental value may take two forms: (1) informational pluralism and (2) principle pluralism. If the heterogeneity in question takes the form of equally fundamental *principles*, practical indecisiveness may constitute a significant problem, since no privileged authority will generally be available to resolve conflicts among equally fundamental principles. Even in the case of principle pluralism, however, indecisiveness may be avoided if one principle is assigned the status of umpire with the authority to resolve conflicts among other equally fundamental principles.

Both Cohen's and Sen's theories suggest a plausible basis for such an umpire principle. Cohen's theory holds that a person may only possess a claim to compensation for deficits in either dimension of value (e.g., welfare or resources) if it is not reasonable to view the person as responsible for the deficit. The principle of responsibility for disadvantage is therefore available to serve as an umpire principle to regulate conflicts regarding interests in welfare and resources. In the case of such a conflict, the principle would assign priority to addressing the deficit in well-being for which it is least reasonable to hold the person responsible. Sen views agency and well-being interests as of fundamental concern *because* they are constitutive of the person's freedom to lead one form of life or another.¹⁰ It is therefore plausible to suggest that an

⁷ "Yielding complete orders cannot be an a priori requirement of the legitimacy of a moral principle. . . . It is not a matter of getting metamoral passmarks" ("Well-Being, Agency and Freedom," 180).

⁸ *Ibid.*, 179.

⁹ Incompleteness is not, in fact, a special problem associated only with heterogeneous moral theories; homogeneous theories (e.g., utilitarianism) often produce incomplete rankings. For example, since interpersonal utilities cannot be fully compared, "a pure utilitarian would have to *assert* the incompleteness of moral rankings as the correct moral position" (Sen, "Well-Being, Agency and Freedom," 179).

¹⁰ The "underlying idea of the [capability-based] conception of justice" is that "individual claims are. . . to be assessed in terms of. . . the freedoms [persons] actually enjoy to

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appropriate umpire principle would resolve conflicts between principles relating to agency and well-being interests by requiring the resolution that would most effectively advance such freedom. Even if the heterogeneity of Cohen's or Sen's accounts involved principle pluralism, then, practical indecisiveness would not necessarily be unavoidable.

Neither Cohen's account of equal access to advantage nor Sen's account of capabilities equality, however, is characterized by principle pluralism. Rather, the heterogeneity of each account derives from the pluralism of its *informational base*. Cohen and Sen both take account of interests that are of equal fundamental concern not because they ground competing principles but because focusing on each of these interests provides *information* that is of fundamental importance to egalitarians.

Unlike principle pluralism, informational pluralism is not inconsistent with practical decisiveness. For example, while a physician requires a heterogeneous information set (including information regarding nutritional intake, organ function, physical performance status) in order to provide medical care, the weight and significance of each item of information is determined by the principles of medical practice. A theory employing a plural informational base may therefore remain practically decisive as long as the theory specifies the weight to be assigned to particular kinds of information.

Both Cohen's and Sen's accounts set out at least a rough framework specifying the relative weight to be assigned to well-being and agency interests. In Cohen's account, the weight to be assigned to information regarding welfare and utility is determined by the manner in which a deficit in either dimension affects the person's access to advantage. If the lack of a specific resource (a wheelchair) constitutes the principal obstacle to the pursuit of advantage by a person with paralyzed legs, for example, then Cohen's theory will assign decisive weight to his interest in receiving that resource. In Sen's account, *well-being* interests are assigned priority in the consideration of claims relating to the distribution of basic and essential resources "in such matters as . . . poverty alleviation [and the] removal of gross economic inequality," while *agency* interests are privileged in the evaluation of "the person's actual *use* of her well-being freedom."¹¹ Both theories specify principles determining the weight to be assigned to claims reflecting each set of interests, thus avoiding the problem of practical indecisiveness.

choose lives that they have reason to value" (*Inequality Reexamined* (Cambridge, MA: Harvard University Press, 1992), p. 81).

¹¹ *Ibid.*, pp. 71–72.

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Introduction

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Justice, institutions, and individuals

While Cohen's writings on the currency of egalitarian justice may constitute his most important and durable contribution to the literature of distributive justice, his final book focuses more generally on questions relating to the justification of claims about justice. Cohen argues against constructivism as a method of justification and against forms of constructivism that ground their arguments in facts or fact-dependent principles.¹² In particular, Cohen criticizes what he sees as compromises in John Rawls's account of distributive justice that derive from the dependence of Rawls's argument upon facts or fact-dependent principles as foundational considerations.

Cohen argues that constructivist approaches in general derive principles of justice from "considerations of pure non-justice," considerations that include both "facts about human nature and society" and judgments "about the right procedure for generating principles of justice."¹³ As a result, Cohen claims, constructivism deletes considerations of pure justice – the considerations that should be central to judgments of justice – from the set of factors relevant to the derivation of principles of social justice and, instead, attempts to derive those principles from "considerations that do not reflect the content of justice."¹⁴ Rawls's particular account of constructivism, Cohen claims, grounds its arguments in facts and fact-dependent principles. First, Rawls includes specific facts about human nature and society among the considerations that are considered relevant to the grounding of principles of justice and, in addition, Rawls's arguments appeal to the authority of fact-dependent principles (e.g., the Pareto Principle, the principle of publicity). Because of these aspects of his constructivist method, Cohen concludes, Rawls's account of justice does "not (really) investigat[e] the nature of justice as such"¹⁵ and "systematically confl[at]es other questions with the question of justice."¹⁶ In contrast, Cohen asserts, the grounding of his own account of egalitarian justice – which aims to reduce or eliminate involuntary disadvantage – appeals neither to facts nor to fact-dependent principles. Cohen's view is grounded, rather, in what he views as a principle of pure justice – the principle that bad brute luck should not determine the distribution of social goods.

¹² Cohen's institutional critique of Rawls, developed in the same book, relates primarily to the justification of theories of distributive justice, rather than theories of equality.

¹³ G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008), p. 281.

¹⁴ *Ibid.*, p. 283. ¹⁵ *Ibid.*, p. 301. ¹⁶ *Ibid.*, p. 3.

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An acceptable argument for a principle of justice, Cohen argues, must be grounded in a principle that is not fact sensitive. An argument for a principle of justice can therefore appeal to a fact only if it also appeals to a principle that is not fact sensitive. In criticizing constructivism in general, and Rawls's employment of constructivism in particular, Cohen thus advances a substantive thesis about the nature of successful political justification.

Recent criticism

Recent criticism, however, has raised a number of important objections to Cohen's arguments. First, a number of theorists¹⁷ have emphasized the significance of Cohen's concession that, in making the claim that egalitarianism should aim to compensate primarily for disadvantage that does not flow from a person's genuine choices, Cohen lands his argument "in the morass of the free will problem."¹⁸ While conceding that his critics are not unreasonable in raising this concern, Cohen responds that his theory does not require an absolute account describing the presence and absence of genuine choice. Rather, only a relative judgment is required, since egalitarian compensation is only required to the extent that disadvantage does not reflect genuine choice. For example, Cohen notes, while the degree to which choice is genuine is affected by the amount of relevant information that is available to the chooser, an egalitarian assessment does not require an account of the exact amount and sort of information available to the person. The egalitarian will simply judge that the more information that was available to the person, the weaker her claim for compensation for disadvantage resulting from the choice.

Second, critics argue, Cohen's approach may provide unreliable guidance in cases involving adaptive preferences.¹⁹ If Cohen's theory would refuse compensation for disadvantage that the person would not choose to be without, these critics ask, would his approach therefore deny assistance to the tamed housewife who has been socialized to identify with her position and its associated disadvantage? Cohen does not

¹⁷ M. Matravers, "Responsibility, Luck, and the 'Equality of What' Debate," *Political Studies*, 50 (2002): 558–572; A. Kaufman, "Choice, Responsibility, and Equality," *Political Studies*, 52 (2004): 819–36; Z. Stemplowska, "Making Justice Sensitive to Responsibility," *Political Studies* (2008): 1–23.

¹⁸ Cohen, "On the Currency of Egalitarian Justice," 934.

¹⁹ See M. C. Nussbaum, *Women and Human Development: The Capabilities Approach* (Cambridge: Cambridge University Press, 2000); J. Roemer, *Theories of Distributive Justice* (Cambridge, MA: Harvard University Press, 1996).