

TAKING RESPONSIBILITY FOR VOLUNTARY DISADVANTAGES

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Responsibility plays a key role in our thinking about how people should be treated; roughly, it seems that people should take responsibility for those things for which they were responsible, and that no one should expect others to take this responsibility for them. However this “responsibility-tracking intuition” – i.e. the intuition that how we treat others should track their responsibility – has harsh consequences. For instance, it leads some to think that those who suffer liver cirrhosis due to years of heavy alcohol consumption should be placed lower down the list of potential liver transplant recipients than those who are not responsible for their own ill health. Similar claims are also made about smokers, those who eat a bad diet and get no exercise, and those who engage in dangerous recreational activities and who consequently suffer health problems. Even more surprisingly, this intuition seems to lie at the core of luck egalitarian thinking, and it leads luck egalitarians to harsh conclusions too. However, I argue that it is far from clear that people’s entitlements should “track their responsibility”, because the mere fact that someone was responsible for something shows neither that they should now take responsibility for it, nor that they should do so in some specific way. On my account, whether and how responsibility should be tracked is a normative issue to be settled through normative debate, not through mere appeals to claims about people’s responsibility. One upshot of my arguments is that settling the issue of whether someone is responsible for their own deprivation or not, at best only gets us half of the way towards figuring out how they should now be treated, because to determine how someone should be treated we must also take into account a possibly wide range of often unstated but highly influential normative considerations. A more general consequence of my argument for luck egalitarianism is that paying due respect to the ideals of responsibility need not necessarily entail treating people as harshly as the above liver transplant example suggests.

§1. TRACKING RESPONSIBILITY, LUCK EGALITARIANISM AND WELFARE POLICY

Intuitively, it seems right that a gambler who gambles away all of their money and is now living in squalor should have a weaker entitlement to claim benefits to remedy their poverty than someone else who was born into poverty, and the reason for this seems to be that the gambler is presumably more responsible for their own deprivation than the person who was born into it. Whether gamblers are indeed responsible or not is not the issue; my point is rather that *if* we think them responsible *then* we will likely also think that they have a weaker claim to financial assistance than others who were not responsible for their otherwise similar financial strife.

Arguably, the same underlying intuition about how people's entitlements should *track their responsibility* also finds expression in some versions of the luck egalitarian position. For example, to luck egalitarians like Eric Rakowski and Richard Arneson, responsibility plays a fairly straight forward regulatory role in shaping people's entitlements. Rakowski believes that if someone is responsible for their own deprivation then they and not anyone else should suffer the burdens associated with that deprivation. This interpretation of Rakowski's (1991) position is suggested by Elizabeth Anderson who argues: 'Consider an uninsured driver who negligently makes an illegal turn that causes an accident with another car. Witnesses call the police, reporting who is at fault; the police transmit this information to emergency medical technicians. When they arrive at the scene and find that the driver at fault is uninsured, they leave him to die by the side of the road. According to Rakowski's doctrine, this action is just, for they have no obligation to give him [publicly funded] emergency care; and i]f the faulty driver survives, but is disabled as a result, society has no obligation to accommodate his disability' (Anderson 1999:295-6).

Although Arneson's responsibility-catering prioritarian account is more sophisticated – roughly, he believes that priority should be given to helping those people who were not responsible for their own deprivation over those who were, and that the funds used to help them should preferably be obtained from those who were not responsible for their own good fortune rather than from those who were – on his account people's entitlements should still track their responsibility. For instance, Arneson argues that it is better to help the unlucky than the imprudent because the former are not responsible for their own deprivation, and that it is better when those who pay for making others better off are less responsible for their holdings rather than

more responsible because the former are less entitled to their holdings than the latter (Arneson 2000:344). In a sense, Arneson's responsibility catering prioritarianism recommends that those who are responsible for their own situation (whether good or bad) should be largely left alone wherever possible (because whatever they have, they are largely entitled to it), and that redistribution should mainly take place between those who are not responsible for their situation (again, whether good or bad), with resources flowing from the undeserving rich to the undeserving poor.

Thus, on both Rakowski's and on Arneson's accounts, it is largely automatic that if someone *was* responsible for their own deprivation then their entitlements to assistance should be affected because they rather than others should *take* responsibility for it, and the main difference between their positions is in how closely people's entitlements will track their responsibility. On Rakowski's account responsibility entails ineligibility to claim benefits, and on Arneson's account responsibility affects who gets priority over whom, both in terms of eligibility for receipt of benefits as well as liability to provide the funds for the payment of benefits to others.¹

Others also think that something like the responsibility-tracking intuition sits at the core of luck egalitarianism. For instance, in discussing luck egalitarianism Susan Hurley argues that '[w]hen responsibility plays a ... role in distributive justice, it tells us ... that goods are exempt from redistribution to the extent to which people are responsible for them and that distributive justice is only concerned with redistributing goods that are a matter of luck for people' (2002:63). Feiring summarizes this idea as follows: "The concern of distributive justice is 'to eliminate so far as possible the impact on people's lives of bad luck that falls on them through no fault or choice of their own'. Inequalities generated by the individual's voluntary choices are, however, acceptable and do not give rise to redistributive claims on others. Nobody is required to mitigate the effects of these choices" (2008:33). This also seems to be the point of Gerald Cohen's suggestion that "genuine choice excuses otherwise unacceptable inequalities" (1989:931). Alexander Kaufman also attributes this intuition to luck egalitarians when he speaks of "[t]he luck egalitarian intuition that egalitarians should compensate only for disadvantage for which persons cannot reasonably be held

¹ More precisely, what is tracked is the *extent* of people's responsibility, since responsibility is not a light switch (an *on/off* thing) but something that comes in *degrees*.

responsible” (2004:822). Similarly, Maureen Ramsay argues that luck egalitarians “share a common commitment to the intrinsic moral importance of holding people responsible for what they freely choose to do”, because to their mind “unequal distributive consequences that are due to ... voluntary choices [are things] for which people are responsible” (Ramsay 2005) — i.e. on her account luck egalitarians believe that it is just to hold people responsible for those things for which they were responsible. Some might take an even harder line and argue that not only is it *not compulsory* to eradicate such departures from strict equality, but that we *ought not* eradicate them. For instance, Daniel Markovits’ seems to commit himself to this more hard-line position when he claims that the two aims of egalitarianism (i.e. choice preservation and luck eradication) compete with one another, and that when they come into conflict with one another the former aim should never be sacrificed for the sake of the latter aim (2003).

Consequently, luck egalitarians may endorse a social welfare policy under which a smoker who refuses to quit and consequently becomes ill, would have a weaker entitlement to receive publicly funded medical treatment than someone else who suffers similar health problems but not due to things for which they are responsible. The reason why on their accounts this person’s entitlements should be lower is precisely because the smoker is allegedly responsible for their own deprivation whereas the other person is not.² That is, given the scarcity of medical resources, if some people must miss out on receipt of medical treatment, then it should surely be those who were responsible for their own ill health rather than those who were not. This seems to be the point of Arneson’s reply to Anderson’s critique when he argues that considerations of responsibility *must* play a role in determining people’s entitlements, for otherwise ‘some individuals [who] behave culpably irresponsibly, again and again, [will end up] draining resources that should go to other members of society’ (Arneson 2000:349). Claims along similar lines are also made about alcoholics who due to their excessive consumption of alcohol develop liver cirrhosis and now need a liver transplant; here it is claimed that their position on the waiting

² I am not endorsing any particular claims here about who is responsible for their respective health problems and who is not, but rather I am only reporting that others think that some smokers, alcoholics and obese people are responsible for their health problems, and that to take account of this responsibility their entitlements to utilize public health care should be reduced.

list for a liver transplant should be demoted in relation to others who are not responsible for their liver cirrhosis. This, for instance, seems to be Walter Glannon's position – he argues that given the scarcity of medical resources “entitlements to healthcare for a diseased condition are inversely proportional to control and responsibility” – and he also claims that “[t]his view is supported by the egalitarian ethic espoused by certain political philosophers [he names Rawls, Dworkin, Arneson and Roemer] who argue that society should indemnify people against poor outcomes that are the consequences of causes beyond their control, but not against outcomes ... for which persons are responsible” (1998:35). Finally, similar claims about how some people's entitlements should be reduced on account of their responsibility for their own ill health are also made about people who become obese because of poor eating habits and insufficient exercise and who now also need expensive medical treatment for such conditions as type two diabetes and coronary heart disease. For instance, the World Health Organization (WHO) claims that there are causal links between obesity and “increases in blood pressure, unfavourable cholesterol levels[,] coronary heart disease, stroke, diabetes mellitus, and many forms of cancer” (2002:9), and although the WHO does not itself endorse such a harsh public health care disentanglement policy, Martens (2001:172-3) points out that this kind of argument could be mounted.

It seems fair to say that the responsibility tracking intuition – i.e. the intuition that people should *take* responsibility for those things for which they *were* responsible, and that no one is entitled to expect others to take this responsibility for them – has some rather harsh consequences.

§2. PREVIOUS ATTEMPTS TO AVOID THESE HARSH CONCLUSIONS

Various strategies are employed in an attempt to avoid these harsh consequences, and in this section I will briefly summarize some of these strategies, as well as explain why I find them unsatisfactory.

For instance, ever since Elizabeth Anderson's (2008) influential paper on this topic, critics of luck egalitarianism have argued: (i) that a luck egalitarian society would be terribly *intrusive*, since to ensure that nobody had more or less than what they were entitled to, the state would need to send out inspectors to periodically check on everyone to check whether they had been the beneficiaries of some undeserved good fortune or the victims of undeserved bad luck, or else to make moralising

judgments about the way in which people have chosen to live their lives; (ii) that all of this checking would be very *wasteful*, because too great an administrative cost would need to be borne by society to unearth all of the undeserved burdens and benefits; (iii) that what luck egalitarians ask us to do – namely, to pull apart those effects which are due to people’s choices from those effects which are due to people’s luck – can not really be done since our choices are far too *intertwined* with luck for them to ever be pulled apart; and (iv) that luck egalitarianism is a *callous* and thus a morally unattractive doctrine, because even if it were possible to determine with any amount of certainty who was responsible for what portion of their current deprivation, it would still surely be awful to abandon someone in their time of need and to offer them little or even no aid just because they were responsible for their current plight.

Anderson levels the first charge when she writes that a luck egalitarian “system requires the state to make grossly intrusive ... judgments of individual's choices. Equality of fortune thus interferes with citizens’ privacy” (1999:310). The second and third charges are discussed by Maureen Ramsay who claims that even if we could disentangle luck from choice, in political philosophy any “procedure [used to accurately determine the extent of people’s responsibility] would be ... *prohibitively costly*” (2005:446, my emphasis). And as regards the third charge, Ramsay claims that Rawls and Dworkin do not satisfactorily disentangle choice and luck from one another – that they still have “difficulty [in] determining [what is] genuine choice” – and she frames Arneson, Cohen and Roemer’s positions as attempts to find a better way of negotiating the “inter-relatedness between abilities and ambitions” (2005:434). However, she then goes on to argue that neither of them offers an acceptable way to disentangle choice from luck, where being *acceptable* is to be judged in terms of the internal consistency of each theorist’s account of what people are responsible for with the rest of their general theory, because neither of them on her account offers us an acceptable way to “separate out the relative contributions of heredity, environment and voluntary choice to estimate the extent to which anyone is justifiably advantaged or disadvantaged because of their own actions or behaviour” (Ramsay 2005:444). Finally, the fourth charge is yet again exemplified in Elizabeth Anderson’s arguments – she asks “If much recent academic work defending equality had been secretly penned by conservatives, could the results be any more embarrassing for egalitarians?” (1999:287), and in response she charges luck egalitarians with having

lost sight of truly egalitarian aims such as addressing “the concerns of the politically oppressed”; redressing “inequalities of race, gender, class and caste”; and eradicating “nationalist genocide, slavery and ethnic subordination” (Anderson 1999:288) – but Kristin Voigt (2007:394) and Cappelen & Norheim (2005:477) also cite this objection.

On the other hand, those engaged directly in the public health policy debate – i.e. not necessarily *via* the debate about luck egalitarianism – usually attempt to avoid the harsh conclusions by denying that the parties concerned were indeed responsible for their own ill health. Here, the addictive nature of tobacco and alcohol, the unavailability of reasonably priced healthy food alternatives as well as the proliferation of unhealthy but inexpensive junk food (and advertisements for such), and the declining number of public parks and other recreational facilities within large and densely populated cities where people could engage in physical activity, are among the most commonly cited reasons for why these people are allegedly not responsible for their own ill health.

However, I find these attempts to avoid the harsh conclusions problematic. In a way, the first three objections to luck egalitarianism – i.e. the *intrusive*, *wasteful* and *intertwined* objections – sound more like endorsements of what luck egalitarians are saying than like genuine critiques. After all, they do not resist the basic assertion that this is how those who are responsible for their own deprivations should be treated – i.e. that they should take responsibility rather than expecting others to do this – but rather there is only the sad resignation or lament that unfortunately we will not be able to treat them as we ought to because doing so would either result in a terribly intrusive society, in resource wastage, or because it is simply humanly impossible to untangle luck and choice from one another. Although these objections have not gone unaddressed by the theorists whose positions they target – for instance, Ramsey (2005) and Feiring (2008) mention various luck egalitarian responses – in the end I think that much of this back-and-forth argument is wasted effort because these objections miss the point or skirt around the main issue. At the end of the day those who raise these objections will still have to concede that luck egalitarians’ hearts are in the right place because *if only we could* untangle choice from luck in an economically efficient way and without unduly intruding into people’s lives, then we

should after all do precisely what luck the egalitarians recommend, and thus the only thing that saves people's bacon are these practical limitations!

The strategy employed by those who wish to oppose the severe public health policy, but without necessarily directly engaging with the luck egalitarian debate, is also rather unsatisfying. One reason for this is that it is surely implausible to maintain that these people bear absolutely *no* responsibility whatsoever for their current state of health – for instance, that the alcoholic with liver cirrhosis is no different *at all* as regards their responsibility for their current ill health than someone whose liver packs it in due to a genetic liver degenerative disorder – and yet that is the sort of thing which opponents of this harsh policy would have to maintain if they really wished to establish that these people should be treated no worse than everybody else. But secondly, even if it were not implausible to claim that these people are completely innocent, the other reason why I do not think that this is a promising line of argument is because if I get their sentiments right, then their concern is not just to establish that everyone who is *not* responsible for their own ill health should be cared for equally under the public health system, because this is not something that luck egalitarians would take issue with. Rather, their core concern is surely that even those who *are* responsible for their own ill health should not be abandoned, and that the public health system should take just as good care of them as it does of the rest of us. And if I am right in thinking that *this* is indeed their core concern, then all of the debate about whether alcoholics, smokers and the obese *are* in fact responsible for their health problems or not is really just a distraction, since the real issue is not what should happen to those people who are *not* responsible for their own ill health, but rather what should happen to those who *are* responsible! Put another way, the real question seems to be who should take responsibility for *voluntary disadvantages* — i.e. those disadvantages for which the affected parties *are* responsible?

This leaves us with the fourth objection – i.e. Anderson's *callousness* objection – to keep the harsh conclusions at bay, but this objection also strikes me as unsatisfactory because the luck egalitarian's point is not that it is a *nice* thing to do to abandon someone who has fallen on hard times, but it is rather that these people have no entitlement or claim on the rest of us *as a matter of justice* to help them out. Whether there are other reasons to help these people out is besides the point, because the luck egalitarian's rather minimal position is that equal treatment *qua equal* does

not entail that we must eradicate *all* departures from strict equality, but *only those* departures for which those people who are affected by them are not responsible, and that nobody has a legitimate claim on the rest of society *as a matter of justice* to eradicate their voluntary disadvantages (e.g. see Kaufman 2004:830). Thus, although Anderson (1999) for instance has argued that such severe responsibility-based disentitlement clauses would be thoroughly inegalitarian because they fail to take up the cause of the needy, those luck egalitarians who endorse such disentitlement clauses see them as merely an expression of the seemingly plausible intuition which allegedly lies at the heart of all egalitarian thinking – namely, that equality requires the preservation of people’s choices, but only once those choices have been cleansed of the distorting effects of luck (e.g. see Markovits 2003; or Vincent 2006a), or what I also referred to above as the responsibility tracking intuition – and hence they maintain that there is therefore nothing inegalitarian about their recommendations, even if there is something cold, brutal and uncaring about them. On their account, at the heart of the luck-egalitarian position lies the plausible intuition that people’s entitlements should track their responsibility, and luck egalitarians seem to believe that when the practical implications of this intuition are fully drawn out, we will realize that the entitlements of those who were responsible for their own deprivations should indeed be reduced to take account of that responsibility.

§3. A DIFFERENT APPROACH

Neither the typical criticisms levelled at luck egalitarianism, nor the independent counter arguments levelled at the severe public health policy, are particularly effective at warding off the harsh conclusions. So can anything else be done to stave off the harsh conclusions?

I think that something else can be done – namely, despite its initial intuitive appeal, I propose that we should reject the responsibility tracking intuition – and in what follows I present a two stage argument to do just that. First, I will argue that claims about what outcomes or states of affairs people *are/were* responsible for having brought about refer to a very different kind of responsibility concept than claims about *taking* responsibility. Secondly, I will argue that since these two claims refer to two different kinds of responsibility concepts, that claims about the former kind of responsibility need not necessarily entail anything about the latter kind of

responsibility. On my account, if we wish to deduce conclusions about how people should be treated from premises about what they have done, then some kind of normative bridging premises will also need to be cited. But since normative premises themselves stand in need of justification – for instance, we can't just state that all murderers should be executed without citing any supporting arguments, because as the literature on this topic has shown while utilitarian considerations may support treating people in one way, deontological considerations may justify some completely different sort of treatment – it is therefore far from clear that a finding that someone was responsible for their own ill health will automatically lead to the harsh conclusion that their entitlements to have that deprivation remedied should now be reduced.³

(I) SIX DIFFERENT RESPONSIBILITY CONCEPTS

Responsibility is more of a “syndrome” than it is a single concept; there is not just one single concept which answers to the name “responsibility”, but rather there are many different though related concepts each of which under various circumstances – e.g. depending on what we are trying to express – legitimately answers to that name. To see this, consider this parable about Smith the ship captain (adapted from Kutz 2004:549; adapted from Hart 1968:211):

(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. However, 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 barman who served him the drinks and Smith's transient depression were *responsible* for his misconduct, (5) but the prosecution's medical experts confirmed that Smith was fully *responsible* when he started drinking since he was not suffering from depression at that time. (6) Alas, his employer will probably have to take *responsibility* for this tragedy, since the victims families' claims for damages far outstrip the limits of Smith's personal indemnity insurance policy.

The word “responsibility” is used in this passage in at least six different ways. First, there is a claim about his *virtue responsibility* — Smith was normally a dependable person, someone who took their duties seriously, and who normally did

³ Despite some superficial similarities between Feiring's (2008) recent argument and the argument which I will present here, our arguments are in fact very different because while Feiring's claims are based on Hurley's (2002) previously-cited analysis of what we ought to do about *involuntary* disadvantages, my analysis relates *voluntary* disadvantages.

the right thing. Second, there is a claim about Smith's *role responsibility* — in his role as the ship's captain Smith had certain duties to various parties, both on and off his ship (these are sometimes referred to as our “responsibilities”). Third, there is a claim about his *outcome responsibility* — it is alleged that various states of affairs or outcomes, such as the loss of the ship and many of its passengers and crew, are rightfully attributable to him, as something that he did. Fourth, there are two claims about *causal responsibility* — Smith's defense lawyer alleged that Smith's aberrant behaviour was caused by his depression and by the barman's actions. Fifth, there is a claim about Smith's *capacity responsibility* — since Smith was not suffering from depression at that time, the prosecution therefore argued that his mental capacities were fully functional, and hence that his moral agency was fully intact. And finally, comments are made about *liability responsibility* — about who should now do what in order to “take” due responsibility for what has happened; in this case financial liability is mentioned because this is apparently one way in which responsibility might be “taken”, but we might also suppose that to take due personal responsibility Smith should apologise to the bereaved families and then spend a term in prison.⁴

(II) BACKWARD-LOOKING AND FORWARD-LOOKING RESPONSIBILITY CONCEPTS

However, these various responsibility concepts can be roughly apportioned into the following three groups, the last two of which are particularly relevant to the point which I shall make: while some of these responsibility concepts are largely *descriptive* (i.e. virtue- and capacity responsibility), others look *backwards* in time towards things which have allegedly already happened in the past (i.e. causal- and outcome responsibility), and others look *forward* in time towards things that allegedly ought to be done in the future (i.e. role- and liability responsibility).

For instance, Thomas Scanlon notices the different directional orientation of the concepts that fall into the latter two groups when he argues that “[t]o say that a person is responsible, in th[e backward-looking] sense, for a given action is only to say that it is appropriate to take [that action] as a basis of moral appraisal of that person[; on the other hand], judgments of responsibility [in the forward-looking sense] express substantive claims about what people are required ... to do for each other” (Scanlon

⁴ For indepth discussion of these different responsibility concepts as well as of the relationships which obtain between them see (Vincent 2006b).

1998:248).⁵ Peter Cane and Antony Duff also note the different directional orientation of responsibility claims that fall into the latter two groups. For instance, Cane draws a distinction between attributions of what he calls “historical responsibility” which allocate responsibility to people “for past conduct”, and claims about what “prospective responsibilities” are imposed upon someone by the law (Cane 2004:162). Cane argues that “[i]n a temporal sense, responsibility looks in two directions. Ideas such as accountability ... look backwards to conduct and events *in the past*. ... By contrast, the ideas of roles and tasks look *to the future*, and establish obligations and duties” (Cane 2002:31, my emphasis). On the other hand, Duff distinguishes “*prospective* responsibilities [which] are those I have before the event, those matters that it is up to me to attend to or take care of” and which look forward in time, from “*retrospective* responsibilities [which] are those I have after the event, for events or outcomes which can be ascribed to me as an agent” and look backwards in time (1998:290-1, original emphasis).⁶

Even if we only carve up the domain of responsibility claims in the roughest of ways, we should at least notice their inherent temporal directionality — while some responsibility claims aim to report something about the past, other responsibility claims aim to make some sort of a prescription for the future. Thus, my first point is that in the sort of debates with which this article concerns itself, claims about what people *are/were* responsible for refer to a different kind of responsibility concept than claims about *taking* responsibility — they are different responsibility concepts because they have very different content — and this leads me to think that the responsibility tracking intuition which states that *if* you are responsible for something *then* you (and not others) should take responsibility for it, cites *two different* responsibility concepts — outcome responsibility is cited in the antecedent and liability responsibility is cited in the consequent. Thus, more accurate statement of the responsibility tracking

⁵ Scanlon uses the terms “responsibility as attributability” and “substantive responsibility”, but I think that these are equivalent to my outcome responsibility and liability responsibility respectively. Christopher Kutz (2004:549), Stephen Darwall (2006:91-1, notes 5 & 7) and E. Feiring (2008:36) also seem to interpret Scanlon as I have, and Feiring even adopts Scanlon’s term “substantive responsibility” to refer to this forward-looking responsibility concept.

⁶ Duff elaborates on this in a later article (2004-5). In actual fact, Cane and Duff carve up the domain of responsibility concepts somewhat differently to the way that I do, but at least the main idea that responsibility concepts can look in two temporal directions is still the same.

intuition would therefore read something like “if you are outcome responsible for something then you (rather than others) should take liability responsibility for it”.

(III) THE TRANSITION FROM OUTCOME RESPONSIBILITY TO LIABILITY RESPONSIBILITY

The reason why it is important to observe that the responsibility tracking intuition makes use of two different responsibility concepts rather than just one generic concept, is because it is not immediately obvious how the consequent claims about liability responsibility are meant to be derived from antecedent claims about outcome responsibility.

One source of the problem here is that if these are indeed two very different responsibility concepts – one that looks backward in time and is used when we wish to report something about the past, and the other which looks forward in time and which is used to make prescriptive claims about the future – then it is not clear why claims about the former (i.e. outcome responsibility) should indeed be taken to tell us anything about the latter (i.e. liability responsibility). What sort of transition is it that is allegedly made when we move from the backwards-looking claim that some state of affairs is rightfully attributable to a particular person, to the forward-looking claim that this person should now respond by doing various things? Is the idea meant to be that claims about liability responsibility are already contained within claims about outcome responsibility? Given that each of these concepts has a radically different kind of content – one looks forward in time while the other looks backwards in time – I can not see how this could be so, and Scanlon also urges that it is crucially important to clearly distinguish these senses of responsibility from one another, precisely because a failure to do so “leads to the view that if people are responsible ... for their actions [in the backwards-looking sense] then they can properly be left to suffer the consequences of these actions’, or even that nobody else has the responsibility to help them out. However, he argues that this conclusion “rests on the *mistaken* assumption that taking individuals to be responsible for their conduct [in the backwards-looking sense] ... *requires* one to also say that they are responsible for its results in the [forward-looking] sense” (Scanlon 1998:293, my emphasis). On his account these are two separate issues — conclusions about a person’s forward-looking (i.e. liability) responsibility are not already contained within prior claims about their backward-looking (i.e. outcome) responsibility.

Similarly, Robert Goodin also argues that “[t]ask responsibility [which appears to be the name that he gives to what I call liability responsibility] is often thought to flow, automatically (indeed, analytically), from blame responsibility [my outcome responsibility]. To determine whose responsibility it should be to correct some unfortunate state of affairs, we should on such logic simply determine who was responsible for having caused that state of affairs in the first place. Those who are responsible for causing an unfortunate situation are responsible for fixing it. ... Nothing, it seems, could be simpler, more analytically straightforward” (Schmidtz and Goodin 1999:151). However, on subsequent pages he points out that it is far from obvious that this assumption is justified.

Alternatively, is the idea perhaps meant to be that conclusions about liability responsibility are logically deduced from premises about outcome responsibility? A number of authors have argued that if this is indeed meant to be a logical transition, then it is one that will only be valid if we also include some normative bridging premises in the deduction. For instance, Howard Klepper has argued that since these are two very different responsibility concepts, the transition from claims about outcome responsibility to claims about liability responsibility must therefore be some form of *moral* implication — presumably what he means is that a person’s outcome responsibility does not *automatically* entail any particular conclusion about their liability responsibility unless we also add some further moral premises about what duties befall those people who are outcome responsible for some kind of state of affairs (Klepper 1990:235-9). However, if Klepper is right, then somewhere between our premises about outcome responsibility and the conclusions about liability responsibility we must also find some further normative premise which specifies what should be done to outcome responsible parties. Hence, if we wish to derive claims about liability responsibility from premises about outcome responsibility, then we will also need to cite some further normative premises over and above claims about these parties’ outcome responsibility, and since the responsibility tracking intuition assumes that this transition happens automatically – that it is obvious that those who *are* responsible should *take* responsibility – it must therefore be rejected.

A related kind of problem with the responsibility tracking intuition can be observed when we notice that claims about taking responsibility are not generic, because whenever someone claims that another person should take responsibility for

something, they nearly always have some specific kind of treatment in mind – some specific things which those parties should allegedly now do – in order to now take the responsibility which they think it is their due to take. Suppose for instance that I am responsible for causing a car accident in which your child is seriously injured or maybe even killed; precisely *how* should I now take responsibility for what I have done? Exactly what should I now do in order to take the allegedly due responsibility? Would it be enough, for instance, if I just rang my insurer and arranged for them to compensate you for the medical and special care costs that you will now incur, or for the funeral costs, and perhaps a little extra something in addition to cover your family’s pain and suffering? No? Well, if that would be a bit too light, then perhaps I should instead (or also?) be made into your child’s permanent carer (if they survived); would that suffice as me taking responsibility for what I have done? Or maybe I should be punished in some way? The point is that even if we agree *that* I should now take responsibility on account of having been responsible for your child’s misfortune, we will still be very far from figuring out precisely *how* I should now take that responsibility, because this depends to a great extent on a wide range of normative considerations which concern themselves with determining what would be an appropriate way of responding to this kind of tragedy.⁷ Thus, my second point is that even if we thought that claims about liability responsibility do automatically follow from (or are already contained within) premises about outcome responsibility – i.e. that we do not need to cite normative bridging premises to deduce *that* someone should take responsibility from the fact that they were responsible – then there would still be another role for normative bridging premises — namely, to shed light on precisely *how* the responsibility should now be taken.

(IV) REACTIVE NORMS, THE NORMATIVE PREMISES THAT BRIDGE THE GAP

Hence, there are at least two reasons to reject the responsibility tracking intuition. Firstly, we have insufficient reason to suppose that by themselves claims about a person’s outcome responsibility entail *that* they should now take or accept liability responsibility. Secondly, even if claims about outcome responsibility alone were

⁷ For instance, Feiring also points out that “[i]t is ... not obvious *exactly* what [it] means” to say that “people should be held responsible for their medical condition in virtue of their prior conduct” (2008:33, my emphasis).

sufficient for the derivation of conclusions about liability responsibility, then they would still not be sufficient to determine precisely *how* the party in question should now take their liability responsibility. On my account, the fact that someone *was* outcome responsible for something entails neither *that* they should now take liability responsibility for it, not that they should take liability responsibility for it *in some specific way*. Thus, for both of these reasons I urge that to derive conclusions about liability responsibility from premises about outcome responsibility, we must also make reference to some normative premises. These premises which help bridge the inference gap between the backward-looking outcome responsibility and the forward-looking liability responsibility will presumably look something like “those who are outcome responsible for X should take liability responsibility in manner Y”, and given that the duties which they confer will befall only those who we have already established are outcome responsible – i.e. one will only ever incur those duties as a reaction to being outcome responsible – I shall refer to them as *reactive norms*, since they are *norms* that govern our *reactions* to outcome responsible parties.

Once reactive norms are added to this picture, it ceases to be a mystery how the transition from backward-looking claims about outcome responsibility to forward-looking conclusions about liability responsibility is made — the fact that the latter are forward-looking whereas the former are backward-looking is no longer a problem because reactive norms help bridge this temporal and logical inference gap. So, for instance, if one of our reactive norms stated that someone who is outcome responsible for another’s quadriplegia should become that person’s carer, then that is indeed what those who are outcome responsible for others’ quadriplegia could now be asked to do. Likewise, if another one of our reactive norms stated that those who slander others shall be publicly flogged, then that too is what could be done to those who slander others. Finally, if another one of our reactive norms stated that those who are outcome responsible for another’s losses shall compensate them for the full extent of those losses, then that too is how outcome responsible parties could be treated.

(V) NORMATIVE CONSIDERATIONS AND THE JUSTIFICATION OF REACTIVE NORMS

However, this now raises the question of where such reactive norms might come from, because even if we grant that some sort of normative premise is indeed required to bridge this inference gap (i.e. the gap between the backward-looking claims about

outcome responsibility and forward-looking conclusions about liability responsibility), given that in the end such premises will justify treating people in various (often coercive) ways, these premises must surely also themselves stand in need of justification.

To see how reactive norms might be justified, let us momentarily look at what goes on in debates within the criminal law where people address the question of whether (e.g.) the death penalty is a fitting sentence for certain horrendous criminal offences. This question is often approached from two different angles: while some approach this question from the utilitarian angle and argue that such severe punishments can only be justified if in the end their benefits (e.g. deterrence of others from committing similar crimes and prevention of those who have already committed those crimes from re-offending) will outweigh their costs (e.g. from a utilitarian perspective, killing a criminal is itself an evil), others approach this question from the deontological angle and argue that such severe punishments can only be justified if considerations of (e.g.) retributive justice warrant them. However, what is significant about this debate is that what people involved in it are doing is that they are trying to settle the question of whether a particular reactive norm of the criminal law – in this instance, the death penalty – is justified by either utilitarian (deterrence) or deontological (justice-based) arguments.

Presumably, in other areas reactive norms are justified in a similar manner too. For instance, in tort law one reason why we might expect outcome responsible people to compensate their victims for their losses, is because of the deterrent effect that the knowledge that liability will be imposed onto us if we are found to be outcome responsible for another's losses will have on everyone's actions — namely, presumably people will take greater care while driving. Or, this same reactive norm might also be argued for by citing the alleged requirements of corrective justice, and here there is plenty of room for disagreement about whether corrective justice supports this reactive norm or not. Never the less, this discussion is only intended to provide a sketch of what role arguments about justice or utility (and presumably other normative considerations such as beneficence, caring and so on) can play in disputes about responsibility – namely, they are often intended to inform our beliefs about what *reactive norms* there is most reason to endorse – and those reactive norms are in turn needed to support drawing subsequent conclusions about how people should be

treated (i.e. about their liability responsibility) on account of what they have allegedly done (i.e. on account of their outcome responsibility).

(VI) THE RELEVANCE OF THE ABOVE DISCUSSION FOR MY ASSESSMENT OF LUCK
EGALITARIANISM AND FOR PUBLIC HEALTH POLICY DEBATES

In the foregoing discussion I introduced a lot of new terminology, and I hope that this has not obscured the path that I have taken or the destination at which I think we have now arrived. But just in case, here is a quick summary of the above discussion, followed by an explanation of how I think this bears on the debate about luck egalitarianism's harshness and on what we should say to supporters of the severe public health policy.

I introduced the new terminology to help us notice, and to keep it in mind, that the deceptively simple-looking responsibility tracking intuition lacks justification — i.e. that it is far from clear that if you are responsible for something then you should indeed take responsibility for it, or that you should take responsibility for it in some specific way. To be justified in deducing conclusions about how people should be treated from premises about what those people are responsible for having done, we must also cite some relevant reactive norms, but those will themselves also stand in need of justification through normative arguments. But since the responsibility tracking intuition assumes that the transition from outcome responsibility to liability responsibility is automatic, it therefore assumes without any justification that normative considerations need not be consulted to determine how people should be treated once we have determined that they were indeed outcome responsible for something.

The relevance of this to the debate about luck egalitarianism is that egalitarians should not be as quick as Rakowski and Arneson to reduce the entitlements of those who were outcome responsible for their own deprivations, because normative considerations also have a role to play in determining whether this should indeed be done or not, and these considerations are intrinsic to the egalitarian project and not extrinsic distractions from that project's main concerns. While luck egalitarians assume that people's entitlements should *automatically* track their outcome responsibility, on my account this is not automatic for two reasons: firstly, it is not automatic that people's entitlements should track their outcome responsibility because

whether someone's outcome responsibility should affect their entitlements or not depends on a possibly wide range of normative considerations, and some of these may recommend against doing this; and secondly, because it is also plausible that outcome responsibility may only be relevant to *other aspects* of how outcome responsible parties should be treated, but not to their *entitlements per se*.⁸

As regards the severe public health policy, what the above discussion has hopefully achieved is to show that we need not carry on the debate about how alcoholics, smokers and those who eat badly and get insufficient exercise should be treated in the way that this debate is typically conducted. Rather than endlessly debating the question of whether these people are outcome responsible for their own ill health, knowing in the back of our minds that if we lose this debate then some harsh public health policies may be put into place, we can now also pursue a new strategy — namely, we can now also argue that even if these people do turn out to be outcome responsible for their own ill health, then we may still have good reasons to not give them third-rate treatment. What these reasons might be is not something that I will delve into here since a wide range of considerations might give us reasons to treat people better (or worse) — for instance, some considerations could include (i) our desire to not live in such a brutal and heartless society which leaves some people for dead even though they need our help, or (ii) the fact that our interest in health is indeed more important than most of our other interests. However, I do wish to emphasize the importance of realizing that just because someone is deemed to have been outcome responsible for their own ill health, this does not automatically mean that we should now give them worse treatment than what we give to others. Various reasons might be cited to support the claim that everyone in similar need should be given similar treatment, and my intention here is just to point out that this other argumentative strategy can also be adopted by those who oppose the severe public health policies.

⁸ For instance, we may instead decide that those who are outcome responsible for their own ill health should be compelled to attend compulsory cooking classes, or that they should be involuntarily committed to drug detoxification clinics, but that they should still all get the same sort of medical treatment as others who are not responsible for their similar ill health.

§4. CONCLUSION

Many modern luck egalitarian theories rest on the claim that to obtain/maintain equality we must preserve the effects of choice while eliminating the effects of luck; on the luck egalitarian account, to treat people as equals we need not eradicate all departures from strict equality but only some, since people who are responsible for their own departure from strict equality should, wherever possible, be left alone. However, this claim presupposes some version of the responsibility-tracking intuition, and I have argued that this intuition is remiss because the mere fact that someone *was* responsible for some state of affairs is sufficient to establish neither *that* they should now take responsibility for it, nor that they should now take responsibility for it *in some specific way*. On my account, to establish either of these conclusions, in addition to premises about what someone was responsible for bringing about, we also need premises about what ought to be done to/by people who happen to be responsible for those sorts of things — i.e. we also need some normative premises and arguments to support them. But since luck egalitarians and those who favour the harsh public health policies think that conclusions about *taking* responsibility follow *automatically* from premises about *being* responsible, they may sometimes fail to notice good reasons to not hold people responsible, or to not hold them responsible in various specific ways.

This critique is useful for two reasons. First, it helps to explain precisely why the callousness objection is not merely a lament about the cold, stark and harsh nature of justice (i.e. an outsider's lament about the unkindness of justice), but rather why it is an objection to luck-egalitarianism on grounds of justice (i.e. an insider's complaint about the unjustness of luck-egalitarianism). The callousness objection is a justice-based objection because normative considerations – i.e. claims like “this is callous”, and their supporting arguments – play a key role in validating the transition from claims about a person's outcome responsibility to conclusions about their liability responsibility, and so such claims should be taken seriously by luck egalitarians. Put another way, although it may indeed turn out that people's treatment should in some way be affected by their outcome responsibility, it is far from clear either *that* or precisely *how* their outcome responsibility should affect their treatment because these things also depend on a wide range of normative considerations.

Second, as regards debates about how smokers, alcoholics and the obese should be treated, the foregoing discussion entails that more effort should be devoted (on all

sides in this debate) to exploring the reasons which allegedly support the harsh policy of restricting outcome responsible parties' access to publicly funded health care, because on my account the mere fact that someone is outcome responsible for their own ailment (where this is indeed the case) can never be sufficient to by itself establish either that they (rather than society) should now take responsibility for their own ill health, nor to tell us precisely how they should take that responsibility. Unfortunately, both sides in this debate have just assumed that the only point which needs to be settled is the one about these people's outcome responsibility, and so debates about whether such people are outcome responsible for their own situation or not tend to occupy centre stage in this field. But on my account, even if eventually both sides in this debate come to agree on who is outcome responsible for their own ill health and about the extent of their outcome responsibility, they will still need to reflect more on what this entails about how those people should be treated, because it is far from clear that what should now happen if they are to take due liability responsibility is that such people's access to publicly funded health care should be restricted. In essence, it is far from clear that even if smokers, alcoholics and the obese all turn out to be outcome responsible for their own ill health, then they should have their access to public health care restricted to take account of their responsibility, because this is just as much a normative issue as it is a matter of whether they were responsible for their own ill health or not.

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