
In this impressive, tightly argued, but not altogether successful book, Susan Hurley undertakes to bring together post-Frankfurt developments in responsibility theory with post-Rawls developments in distributive justice theory. She declares her aim to be the “modest” (p. 3) one of examining the implications of different conceptions of responsibility for different conceptions of distributive justice, in particular the so-called “luck-egalitarian” conceptions favored by John Roemer, G.A. Cohen, Richard Arneson, Ronald Dworkin and others. Her aim may be modest. But her results are not. Hurley’s analysis leaves luck egalitarianism largely in ruins. An egalitarian herself, Hurley concludes by suggesting her own alternative “cognitivist” (p. 256) foundations for an egalitarian theory of distributive justice. On this alternative, Hurley recasts Rawls’s familiar original position argument as an attempt to neutralize not luck as a substantive distributive force but rather bias as a cognitive distortion on our determination of what justice truly requires (p. 258).

Luck egalitarians generally maintain that a just society is one within which inequalities in holdings are acceptable only to the extent that they flow from choices for which persons are responsible rather than from matters of brute luck for which they are not responsible (p. 1). The latter include each person’s natural and social endowment. The former range over each person’s voluntary choosings. Thus, in one slogan, luck egalitarians are said to favor an “ambition-sensitive and endowment-insensitive” distribution of holdings. Luck egalitarianism appears egalitarian in two respects. First, it posits an egalitarian baseline from which inequalities arising out of ambition, choice or other conditions for which persons are responsible are permissible. Second, it supposes that by neutralizing luck within the distribution of benefits and burdens in
society holdings will be made more equal than they would otherwise be (and certainly more
equal than they are now), and, conversely, that by making everyone more equal in holdings luck
will be neutralized as a distributive force.

The relatively recent ascent of luck egalitarianism within academic discussions of
distributive justice is not difficult to understand. Luck egalitarianism coopts the political right’s
rhetoric of responsibility and puts it to work in an apparently left-leaning, egalitarian theoretical
project with a Rawlsian pedigree. It aims at building egalitarianism out of Reaganism and
Thatcherism from within.

Elizabeth Anderson was perhaps the first to subject the family of luck egalitarian
conceptions of distributive justice to sustained and foundational critical scrutiny (E. Anderson,
in this book by focusing carefully on the idea of responsibility so central to the luck egalitarian
project to see whether it can do for luck egalitarians what they ask of it. Hurley concludes that
considerations of responsibility can neither specify nor justify an egalitarian (or perhaps any
determinate) distributive pattern (pp. 179-80). Indeed, they cannot even specify or justify an
egalitarian baseline against which permissible inequalities are identified (p. 166). They can in
principle specify or justify a class of goods eligible for redistribution (namely those for which no
one is individually responsible). But, Hurley concludes, assigning responsibility considerations
even this currency role within the theory of distributive justice creates more problems than it
solves (pp. 230-1).

In the end, Hurley argues, considerations of responsibility properly bear on issues of
distributive justice in two respects. First, widely-held beliefs about responsibility are relevant to
determining the expected level of incentive-seeking by the naturally talented. Since these beliefs are not fixed exogenously, egalitarian theorists of distributive justice concerned to constrain such incentive-seeking will have reason to attend to them (p. 233). Second, since beliefs about responsibility are ingredient in individual levels of well-being – for example, individuals are happier to the extent that they regard their successes as matters for which they’re responsible – egalitarian theorists concerned with individual levels of well-being will have reason to attend to beliefs about responsibility (p. 243). So, considerations of responsibility are relevant for egalitarians to issues of distributive justice, but not in any foundational sense (or indeed in any sense unique to egalitarian conceptions of distributive justice; though Hurley fails to notice, utilitarians will have reason to attend to both of these responsibility considerations she identifies as relevant to issues of distributive justice). Egalitarians must look elsewhere for their foundational commitments, to considerations of fairness or impartiality, for example.

Hurley is surely correct about all this, and she makes her case, in Part II of her book, in an exceedingly careful and often illuminating way, taking pains to assess the ability of several rival candidate conceptions of responsibility to do what various luck egalitarians – Roemer and Cohen get the most attention – require. These rival candidate conceptions she sets out, and assesses simply *qua* conceptions of responsibility, in Part I of her book. Drawing on the work of Frankfurt, Klein, Wolf, Fischer and Ravizza, and others, Hurley carefully distinguishes between (so as to more forcefully and clearly reject) “ability to do otherwise” and “regression” requirements of responsibility. She continues recent criticism of the former by generalizing on the intuition at work in so-called Frankfurt cases to argue that “alternative sequence requirements” are never relevant to issues of responsibility (p. 79). Responsibility is solely a
function of one or another feature of the actual causal sequence through which an agent is linked to an action or state of affairs. With respect to “regression” requirements – e.g., I am responsible only for the effects of my choices, and therefore responsible for my choices only insofar as they are the effects of my earlier choices, and so on back in time – Hurley maintains that they ought to be rejected because they are both unnecessary to make sense of our responsibility beliefs, attitudes and practices and they threaten to render responsibility impossible if we affirm them. Hurley settles on a (compatibilist) “actual sequence” conception of responsibility according to which the “reason-responsiveness” of the causal mechanism linking an agent with an act or state of affairs (rather than choice or control) underwrites that agent’s responsibility (p. 105). Reason-responsiveness, of course, can be understood in various ways, e.g., as responsive to subjective or objective reasons. In characteristic fashion, Hurley carefully sets out the merits and demerits of the possibilities. The first three chapters of Part I are a superb introduction to the contemporary literature on responsibility theory. They will prove useful to those working on issues in punishment theory or on compensatory and corrective justice. There considerations of responsibility plausibly play a more fundamental role than they play with respect to issues of distributive justice.

Hurley concludes Part I by arguing that for luck egalitarians, luck must be understood as simply the inverse correlate of responsibility, however responsibility is ultimately understood. Thicker conceptions of luck – for example, the notion of lottery luck – are problematic insofar as they quite obviously cannot be made to do all the work luck egalitarians require. To drive the point home, Hurley considers at some length the now familiar talk of the constitutive luck tied to the “natural lottery” through which natural and social endowments are distributed. She rightly
maintains that trying to spell out our nonresponsibility for our natural and social endowments in terms of such a thick conception of luck simply invites confusion (p. 117). Lottery luck presupposes determinate and enduring beings who face fixed (even if unknown) odds with respect to fixed (even if unknown) outcomes. But these presuppositions are not satisfied in the case of the so-called natural lottery (pp. 118-124). Prior to my natural and social endowments, I do not exist. And even if I did exist in some sense (as a “bare self”), the odds and outcomes confronting me would not be fixed or determinate. Thus, luck egalitarians ought to treat luck simply as the inverse correlate of responsibility. Whatever persons are not responsible for is for them a matter of luck. It follows, then, that luck egalitarians cannot get by without specifying and defending a determinate view of what persons are responsible for (pp. 127-8). The “black box” of responsibility must be opened and the implications for luck egalitarianism of candidate conceptions – most notably the “actual-sequence reason responsiveness” conceptions Hurley favors – assessed.

The most significant defect of Hurley’s otherwise impressive work begins to suggest itself in her discussion of “natural lottery” talk in distributive justice theory, a discussion she uses to make the transition from her Part I review of responsibility theory to her part II study of luck egalitarianism. Hurley takes such talk, initially introduced in Rawls’s work, to be about persons’ nonresponsibility for their natural and social endowments. She then goes on to assimilate Rawls to the luck egalitarian camp (pp. 133-136). By so doing she effectively excludes Rawls’s work as a source both for criticisms of and egalitarian alternatives to luck egalitarianism. This is unfortunate, for had Hurley attended more carefully to Rawls’s work, starting with his references to the “natural lottery,” she might have made a more substantial
That justice is a matter of giving each what she deserves is a familiar notion. Rawls undertakes to identify the rules constitutive of a just basic social structure understood as a system of social cooperation (organized production, distribution of the social product across social strata, allocation of goods to individuals, and consumption) between participants who regard themselves democratically as free and equal. Arguably, then, these rules should reflect and embody participants’ desert bases as free equals. One possible desert basis any participant might invoke is her differential position in the distribution of natural or social endowments. It is this potential desert basis for the basic social structure that Rawls is keen to set aside through his talk of the natural lottery (see, e.g., Rawls, *A Theory of Justice*, rev’d ed., Harvard University Press, 1999, pg. 89). He is concerned neither with responsibility (a matter distinct from desert, as Hurley herself notes, p. 201), nor with whether participants deserve their natural or social endowments. His point is simply that no one deserves to have a different natural or social endowment than anyone else (by virtue of what could one deserve an endowment different from anyone else’s?). Indeed, it is hard to see how natural and social endowments could be differentially valued without assuming precisely what is at issue, namely some determinate basic social structure as the morally appropriate evaluative context. Properly understood, then, nothing in Rawls’s discussion of the natural lottery suggests that distributive justice is somehow about neutralizing luck. Indeed, Rawls argues in the other direction, maintaining that the rules of a just basic social structure will put endowment differences that are a matter of luck to work for the mutual benefit of all and the maximal advantage of those least advantaged by such mutual benefit (Rawls, p. 87), and that within the constraints of such rules persons are entitled to (as
distinct from deserve) whatever their natural and social endowments can deliver them (Rawls, p. 89).

Hurley seeks to get to the difference principle as an egalitarian requirement by construing the original position, with its veil of ignorance, as a “bias neutralizing” device meant to screen reasons stained by bias from deliberation over issues of distributive justice. She then invokes a weak aversion to uncertainty and a general Pareto preference, as a general facts of rational human nature, to provide good objective reason for, first, an egalitarian default, and second a maximin difference principle, when it comes to distributive justice (pp. 270-3). But Hurley’s argument remains incomplete, for there is no reason to suppose that a general preference for an adequate minimum with a shot at higher shares unconstrained by any Pareto requirement is any less rational or consistent with a weak aversion to uncertainty than a general Pareto preference. Thus, while Hurley is right to insist that egalitarians must find their foundations beyond the luck neutralizing aim of luck egalitarianism, she fails to show that they can find it in her cognitivist concern to neutralize bias in our reasoning about distributive justice. My suspicion is that Rawls was correct in his final judgment. The difference principle – which is a principle fairly structuring fundamental economic relations, including relations of production, so that allocations of income and so on to individuals may be based on entitlement and accepted as a matter of pure procedural justice – cannot be justified through reference solely to original position considerations concerning rational choice under uncertainty. To justify the difference principle as ingredient in the best interpretation of egalitarian commitments one must appeal to considerations of reciprocity, publicity, stability and fraternity, all within the context of democratic self-understandings (see Rawls, Justice as Fairness: A restatement, Harvard
University Press, 2001, pp. 119-130). Here I think lies the democratic rather than cognitivist basis for a more compelling alternative to the luck egalitarianism Hurley so ably discredits.

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