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Equality, Luck and Hierarchy

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In a recent article in this journal, Professor Samuel Scheffler criticizes what he takes to be an important new movement in political philosophy: “luck egalitarianism.”<sup>1</sup> He identifies me as a luck egalitarian, and I challenge that characterization here. But I have a more general worry about his thesis. He complains that luck egalitarians subordinate social and political equality to economic equality: he says that my own account of economic equality, for example, is “administrative” and presupposes a hierarchical society. He, on the contrary, takes social and political equality to be fundamental, and supposes that economic inequality is objectionable only if and to the extent that it undermines that social and political equality.<sup>2</sup> The impulse to see one or another dimension of equality as fundamental is misconceived, however. A genuine society of equals must aim at equal stake as well as equal voice and equal status for its citizens. We must build conceptions of these different dimensions of equality that fit with and draw upon one another, not suppose that either economic or political or social equality is more fundamental than the others.

## I

Although Scheffler identifies me as a luck egalitarian, his definition of that movement in fact excludes me. I do believe that luck should play

1. Samuel Scheffler, “What is Egalitarianism?” *Philosophy & Public Affairs* 31 (2003): 5–39. Scheffler’s article appeared too late for me to be able to respond to it in a general response I recently published to a variety of comments on my book *Sovereign Virtue*. See “*Sovereign Virtue Revisited*,” *Ethics* 113 (2002): 106–43. That article treats in more detail some of the issues I mention briefly here. Scheffler takes the term “luck egalitarian” from Professor Elizabeth Anderson. See Anderson’s “What is the Point of Equality?” *Ethics* 109 (1999): 287–337. I discuss Anderson’s arguments in my “*Sovereign Virtue Revisited*.”

2. See Scheffler, p. 23.

less of a role in fixing the distribution of wealth than it now does in, for example, the United States. But I do not hold the much more extreme view he attributes to the movement. He says that “[Luck egalitarianism] has different variants, but the central idea is common to all of these variants. The core idea is that . . . inequalities deriving from unchosen features of people’s circumstances are unjust.”<sup>3</sup> I did not defend that “core idea” in my book, *Sovereign Virtue*.<sup>4</sup> “The general ambition of equality of resources, . . .” I said, “is to make circumstances equal under some appropriate version of the envy test.”<sup>5</sup> I then argued, over many pages, that the appropriate version of that test requires not, as Scheffler’s “core idea” suggests, that people be fully compensated for any bad luck after it has occurred, but rather that people be made equal, so far as this is possible, in their opportunity to insure or provide against bad luck before it has occurred, or, if that is not possible, that people be awarded the compensation it is likely they would have insured to have if they had had that opportunity.<sup>6</sup> That latter goal is not a compromise or second-best solution that accepts some injustice out of necessity. It is what equality, properly understood, itself requires.<sup>7</sup>

Scheffler says that “luck egalitarianism denies that a person’s natural talent, creativity, intelligence, innovative skill, or entrepreneurial ability can be the basis for legitimate inequalities.”<sup>8</sup> I argued that such inequalities are perfectly legitimate if a scheme of redistributive taxation is in place that mitigates those inequalities by indemnifying people who lack such skills in the amount most of them would have insured to receive had insurance been available on fair terms.<sup>9</sup> He says that luck egalitarianism holds “that any extra income deriving from people’s choices should, in principle, be exempt from redistributive taxation.”<sup>10</sup> I argue for a progressive income tax that is modeled on hypothetical insurance and therefore

3. Scheffler, p. 5.

4. *Sovereign Virtue: The Theory and Practice of Equality* (Cambridge, Mass.: Harvard University Press, 2000), hereinafter SV.

5. SV, p. 140.

6. See particularly SV, chap. 2, 8, and 9.

7. See the discussion in SV, pp. 340–46.

8. Scheffler, p. 6.

9. SV, chap. 2 and 9.

10. Ibid.

falls on total income with no exemption of that kind. Luck egalitarians, he says, insist that “the fact that a person’s urgent medical needs can be traced to his own negligence or foolishness of high-risk behavior” makes it “legitimate to deny him the care he needs,” and that “people automatically forfeit any claim to assistance if it turns out that their urgent needs are the result of prudent or well-considered choices that simply turned out badly.”<sup>11</sup> I argued that equal concern requires that everyone be given the benefit of a hypothetical insurance regime that would meet the “urgent needs” he has in mind.<sup>12</sup> He says that luck egalitarianism “encourages . . . fellow citizens both to scrutinize the deepest aspects of her self and to arrive at heavily moralized judgments about the degree of responsibility she bears for her own misfortune.”<sup>13</sup> But the insurance scheme just mentioned has no such effect: it no more invites citizens to scrutinize their “deepest aspects,” and demands no more by way of personal moralizing, than any other insurance scheme that asks people not to lie. So I am not a luck egalitarian, though perhaps others whom Scheffler lists hold more of the views he takes to define that general position.

I do hold one position that Scheffler takes to be characteristic of luck egalitarianism: I believe that the distinction between people’s choices and their circumstances is of central importance to justice. Scheffler argues, on the contrary, that this distinction is not morally compelling, and that my own way of drawing it faces “difficulties.” In my view, people are entitled to receive some form of compensation when they are handicapped or lack marketable talent, but not when and just because their tastes or ambitions are expensive to satisfy.<sup>14</sup> The distinction is justified, I claim, because people can choose whether to satisfy their expensive ambitions. Critics have objected that people no more choose to have expensive ambitions than they choose to have handicaps. I agree, but reply (with common sense, I think, but against the opinion of many theorists) that the pertinent question is not whether people have chosen to have some property, but whether having that property makes them unable to choose among combinations of occupation and income that people without it are free to choose among.<sup>15</sup>

11. Scheffler, pp. 18–19.

12. SV, chap. 2 and 9. See also “*Sovereign Virtue Revisited*,” p. 113.

13. Scheffler, p. 21.

14. See SV, chap. 2 and 7.

15. The fullest discussion of the issue is in SV, chap. 7.

Someone who is seriously handicapped or without much marketable talent is for that reason unable to choose many occupations that are open to others. Someone blind from birth cannot make art history his profession, and that is not the consequence of any choice he made. But someone who yearns for a life of leisure, or thinks such a life particularly appropriate for him, is nevertheless free to choose among other occupations and the rewards they bring. He may comb beaches and give up a chance for wealth. Or he may become a lawyer and leave combing beaches to others. He may regret that he cannot have both leisure and wealth, but his choice between the two prospects is in no way less a choice. Nor is it less a choice because he did not choose to value leisure more than other people do, but just finds he does. Whatever he becomes—poor beachcomber or rich lawyer—he chooses to become one and could have chosen to become the other. His career is therefore his choice, not part of his circumstances. It is not less his choice if his decision is influenced by traits of character. Most lazy people have not chosen to be lazy, but they are free to overcome their laziness, even though they must sometimes make extra effort at the cost of “welfare” to do so.

This distinction between choice and circumstance is, as I said, familiar in everyday life. It is subject, however, to well-known complications and borderline cases. Certain strong forms of determinism deny that the distinction is ever real: they say that no one is ever free to choose other than as he does choose. My argument rejects that position. Even if strong determinism is false, some ambitions are actually obsessions, and some unfortunate traits of character are actually cases of mental disease. I conceded that special account must be taken of these, and that the distinction might be hard to draw in certain cases, though I added that the hypothetical insurance device might make drawing a line in some of those cases unnecessary.

Scheffler’s account of the “difficulties” my distinction faces does not take up the argument I have just summarized, but is rather based on a few independent remarks I made. He points to my comment, for example, that someone’s character traits “affect his pursuit of his ambitions,”<sup>16</sup> and he objects that so do his talents or lack of them.<sup>17</sup> But I used that phrase in a discussion of the relation between character and ambition.

16. SV, p. 322.

17. Scheffler, p. 20.

I did not intend to distinguish in that way character from lack of talent, both of which of course affect how successful one is. He also notes that I say that people usually “identify” with their ambitions and take “consequential responsibility for their own personalities.”<sup>18</sup> He objects that many people also take consequential responsibility for their exceptionally great talents because they think they deserve to keep all the income these produce.<sup>19</sup> My point in the passage he refers to, however, was only that ordinary people do not think themselves absolved from moral responsibility because they have not chosen the motives out of which they act, and of course that also applies to the choices they make in deploying their talents. He says that people identify with their exceptional talents.<sup>20</sup> Yes, they do, in the sense that they think of these as advantages they want to keep, and that help to define what is important and central to their lives. But it does not follow that they identify with their handicaps or lack of talent, which is the issue now in point. Surely all but a few of those who suffer in those ways would prefer that their handicaps were cured and that their talents were improved.<sup>21</sup>

## II

Scheffler’s main charge is that luck egalitarianism ignores the traditional heart of egalitarian theory. Luck egalitarians, he says, argue over scholastic differences among themselves, but make no effort to defend their general view against critics of their whole approach, or to locate their opinions in any deeper and more embracing account of equality as a

18. SV, p. 290.

19. Scheffler, p. 20.

20. Ibid.

21. Scheffler also endorses Professor Anthony Appiah’s remark that it is difficult to reconcile my view that handicaps are grounds for compensation with a claim I make in a different part of *Sovereign Virtue* (see SV, chap. 6) which is that people should take their general circumstances into account as “parameters” in deciding how to live. (See Scheffler, n. 40, referring to K. Anthony Appiah, “Equality of What?” *The New York Review of Books*, 26 April 2001, 63–68.) Appiah did not explain the difficulty he saw; and neither does Scheffler. There is no obvious inconsistency: I emphasized, in my discussion of ethical parameters, that “[w]e cannot describe the challenge of living well, that is, without making some assumptions about the resources a good life should have available to it. We must therefore find some suitable account of the way in which resources enter ethics as parameters of the good life, and we have, I think, no alternative but to bring justice into that story by stipulating that a good life is a life suited to the circumstances that justice requires” (SV, p. 264).

general social and political virtue.<sup>22</sup> He generously says that I am “one writer who can be interpreted as attempting to anchor luck-egalitarian principles in an ideal of equality . . . the ideal of treating people as equals.”<sup>23</sup> But he adds immediately that “[Dworkin’s] ideal of equality is not the same as the social and political ideal I have described.”<sup>24</sup> My ideal, he says, is a hierarchical administrative ideal. My claim that “equal concern” is a sovereign virtue of government shows a preoccupation with the question of how powerful officials should distribute the community’s wealth to their subjects and ignores the more basic social and political dimensions of equality.

Scheffler’s reading of *Sovereign Virtue* is explicable, I believe, only on the dangerous assumption I described earlier, which is that the dimensions of equality are somehow competitive, so that my emphasis on economic equality in two early chapters of that book signals an indifference to social and political equality and therefore a tolerance of hierarchy, in spite of the rest of my book. In fact he supports his claim with only two arguments. He says, first, that “it is noteworthy, I think, that when, in his famous two-part article, ‘What is Equality?’, Dworkin first broaches the question of how the ideal of treating people as equals might best be applied to issues of distribution, he does so with reference to the example of a wealthy man who is deciding how, in drawing up his will, to divide his wealth among his children, each of whom has different needs, ambitions, and tastes.”<sup>25</sup> Although deconstructive literary theory makes much use of critical maneuvers of this kind—calling attention to an author’s images and examples and arguing that these betray a hidden agenda—I thought philosophy happily free of that particular strategy. In any case, the testator example is hardly an important one. The chapters of *Sovereign Virtue* Scheffler has in mind are dominated by a very different image: that of a group of settlers agreeing among themselves how best to divide common resources, with no hint of autocracy.

Scheffler’s second argument notes that I reject what I call equality of political influence as a goal, and then adds, “The upshot is that Dworkin’s ideal of equality does not require or even permit an equal distribution of

22. Scheffler, pp. 13–15.

23. Scheffler, p. 34.

24. Ibid.

25. Scheffler, p. 35.

power; and the kind of equal distribution of resources that it does require is not incompatible with social hierarchy or even, as he himself says, with ‘benevolent tyranny.’”<sup>26</sup> But I define “influence” as a technical term: someone’s political influence is his power to affect how other people vote.<sup>27</sup> Bill Gates and Kenneth Lay both have had much greater than average political influence. But so did Thomas Jefferson, Walter Lippmann and Martin Luther King. We want to eliminate, to the degree we can, extra influence that comes from money.<sup>28</sup> But we certainly do not want to eliminate extra influence that comes from a powerful mind or infectious idealism, and that is why I reject equality of influence as a goal.<sup>29</sup> It could be realized, in any case, only through an extravagant totalitarianism that forbids any political discussion at all. In fact, I emphasize rather than denigrate the importance of political equality understood in a more satisfactory way. Scheffler twice refers to my statement that distributive equality might be produced by a “benevolent tyrant,” but then acknowledges in a footnote that I would reject a benevolent tyranny “for other reasons.”<sup>30</sup> In fact, my reasons are exactly those he denies I have: I say that “no tyranny could advance the participatory goals any egalitarian community would also aim to secure.”<sup>31</sup>

Scheffler cites John Rawls as a theorist who differs from me because Rawls’s “question is which principles of justice are most consistent, in modern conditions, with the freedom and equality of persons.”<sup>32</sup> Scheffler says that my own project “contrasts sharply with an egalitarianism that begins from the question of what relationships among equals are like and goes on from there to consider what kinds of social and political institutions are appropriate to a society of equals.”<sup>33</sup> I must therefore take this opportunity to say that I did mean to address those questions, not, it is true, by selecting one political value as fundamental so that others are subordinate—not by designating a particular value as the one with which one “begins”—but through an interpretive method that emphasizes

26. Scheffler, pp. 36–37.

27. SV, chap. 4.

28. See SV, chap. 4 and 10.

29. SV, pp. 194–98.

30. Scheffler, p. 37, n. 76.

31. SV, p. 187.

32. Scheffler, p. 31.

33. Scheffler, p. 37.



interrelations and interdependencies among all the political values, supposing them to come together in an overall account of a society of equals.<sup>34</sup> *Sovereign Virtue* does try to develop egalitarian theory in some concrete legislative and institutional detail, and it therefore does suggest how political officials should and should not behave. But it steadily opposes hierarchy.

Scheffler rightly emphasizes the importance of the contemporary debate about racial, gender and other forms of discrimination.<sup>35</sup> But he underestimates, I think, the degree to which economic inequality both flows from and exacerbates these other challenges to equal citizenship. In any case, it is unclear why economic equality should not be supposed to have the independent authority that he seems to deny it. The distribution that any society achieves is a function of its laws and policies, not

34. The Introduction to *Sovereign Virtue* defines that interpretive ambition: it declares, as a fundamental principle, that human lives are of “equal importance” (SV, p. 5) and it looks toward “a plausible theory of all the central political values—of democracy, liberty and civil society as well as of equality—that shows each of these growing out of and reflected in all the others . . . and [in] even more basic commitments about the value of a human life and about each person’s responsibility to realize that value in his own life” (SV, p. 4). Chapters 1 and 2 set out an account of distributive equality and the rest of the book tries to show how this account is supported by and supports other dimensions of equality and other values. Chapter 3 explores how “the freedom and equality of persons” is best understood as supporting one another: that chapter argues “that liberty and equality are not independent virtues, but aspects of the same ideal of political association” (SV, p. 182). Chapter 4, on “Political Equality,” defends a conception of democracy that “blurs the distinction between input and output, between political equality and the other aspects of egalitarian theory” including distributive justice (SV, p. 188); that chapter argues that free and equal citizens must reject government by administrative mandarins and insist on independent moral agency one by one: “We do not engage in politics as moral agents unless we sense that what we do can make a difference, and an adequate political process must strive, against formidable obstacles, to preserve that potential power for everyone” (SV, p. 202). Chapter 10 defines and defends a “partnership” conception of democracy, according to which “government by ‘the people’ means government by all the people, acting together as full and equal partners in a collective enterprise of self-government” (SV, p. 358). Chapters 11 and 12 defend racially sensitive admissions and hiring policies not on traditional grounds of restorative justice, but by identifying the conditions of genuine social equality and insisting that affirmative action plans be judged on their practical power to help realize those conditions. Chapter 5, on “Liberal Community,” argues that “political communities have a communal life, and the success or failure of a community’s communal life is part of what determines whether its members’ lives are good or bad” (SV, p. 223), and Chapter 6, on “Equality and the Good Life,” that “ethical individualism” is an appropriate personal philosophy for members of a genuinely egalitarian community.

35. Scheffler, p. 38.

only its property and tax laws, but the full, complex legal structure that its citizens and officials enact and enforce. If the laws were different in even minor respects, the distribution of wealth would in consequence be different. Under any structure of laws that we can imagine, some citizens face bleaker prospects for their entire lives—or at least less glowing prospects—than others, and in a genuine community of equals the majority must explain to those whose prospects are worse why it has not chosen a different arrangement under which their prospects would be better.

It is hardly enough to say (although many political philosophers apparently think it is enough) that society owes everyone care for their most basic needs, but not economic equality. It is not a question of discrete prior obligation, but of equal status. If everyone's basic needs were met, but some citizens still had an opportunity to make their lives much more exciting, productive, varied or interesting than others could, the question would remain whether laws that distribute resources with that consequence are justified. Nor is it enough to say that if what Rawls called "constitutional essentials" are satisfied, then procedural fairness justifies whatever distribution the play of ordinary politics produces. Ordinary politics is a matter of people and their representatives voting in one way rather than another, and the issue persists, at every level of political decision, whether they should vote to change their laws so as more perfectly to recognize the equal importance of every citizen's life. It is an inescapable part of that question in what ways and to what degree people's resources should be permitted to vary with their luck. My answer, in *Sovereign Virtue*, is complex, and it is of course controversial. But the challenge I describe must be met in some way.