

ANARCHAL EGALITARIANISM: EQUALITY, HAPPINESS

AND

A DENIAL OF SELF-OWNERSHIP

BY

EVAN FOX-DECENT

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Submitted to the Faculty of Graduate Studies
in Partial Fulfillment of the Requirements
for the Degree of

MASTER OF ARTS

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ABSTRACT

I defend anarchal egalitarianism, the three tenets of which are (i) a denial of self-ownership (proper) as a principle, (ii) a weak equality claim, and (iii) a weak utilitarian claim. Self-ownership proper is the irreducible view that each person is the morally rightful owner of herself, and that a fortiori, she should be free to do as she chooses so long as she does not cause harm to others. The weak equality norm is constrained by considerations of overall utility, and reflects the egalitarian idea that the moral value of a gain in welfare is inversely proportionate to one's pre-gain welfare level. The weak utilitarian norm is constrained by the egalitarianism captured by weak equality, and is itself defined in two parts. First, a weak utilitarian claim asserts that individuals, ceteris paribus, should be given equal consideration regarding how welfare is to be distributed. Second, weak utilitarianism claims that outcome X is morally better than outcome Y if (not if, and only if) ceteris paribus the total welfare in X is greater than the total welfare in Y.

I contrast anarchal egalitarianism with the liberal egalitarian views of Gerald A. Cohen and Richard Arneson. Cohen and Arneson wish to co-opt self-ownership into their respective egalitarian programmes. I argue that rather than self-ownership, egalitarians should attempt to bring weak utilitarianism into their ken. In denying self-ownership proper, I also reject libertarian views which presuppose it, such as Robert Nozick's.

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Chapter I: The Setup

The point of anarchal egalitarianism is to make all persons as happy as possible, consistent with a norm of equality. The ideal anarchal egalitarian world is one in which burdens and benefits are distributed so as both to maximize overall happiness and render persons equal in the level of welfare they enjoy. In this chapter I will set out more precisely what I take anarchal egalitarianism to be. Anarchal egalitarianism is defined by three features:

1. a denial of self-ownership (proper) as a principle,
2. a weak equality claim, and
3. a weak utilitarian claim.

The substantive argument which supports this view will come in the remaining chapters. In Chapter II, I will argue that welfare is the appropriate standard for egalitarians to use when they decide whether or not a particular outcome is just or unjust. In Chapter III, I will reject the self-ownership thesis; i.e., I will deny that each individual is the morally justified owner of herself and (a fortiori) should be free to do as she chooses just so long as she does not harm or threaten to harm non-consenting others. In Chapter III, I will also defend a weak equality norm that demands equality if the cost in overall utility is not too exorbitant. In Chapter IV, I will argue that although utilitarianism offers substantial equality, egalitarians should not give up a weak equality norm in favour of mere utilitarianism. We begin now with a brief description of the three tenets of anarchal egalitarianism.

The self-ownership thesis finds its roots in Locke. Locke's description of the state of nature suggests a notion of self-ownership. According to Locke, people in the state of nature are in a "State of perfect Freedom to order their Actions, and dispose of their Possessions, and Persons as they think fit, within the bounds of the Law of Nature, without asking leave, or

depending upon the Will of any other Man."¹ Robert Nozick is the chief contemporary defender of the self-ownership thesis and its offspring, libertarianism. Nozick views self-ownership as the preeminent moral right of the individual such that

a minimal state, limited to the narrow functions of protection against force, theft, fraud, enforcement of contracts, and so on, is justified; that any more extensive state will violate persons' rights not to be forced to do certain things, and is unjustified; and that the minimal state is inspiring as well as right.²

Regarding property appropriation, Nozick claims that "a process normally giving rise to a permanent bequeathable property right in a previously unowned thing will not do so if the position of others no longer at liberty to use the thing is thereby worsened."³ We will return to this proviso on appropriation in Chapter III.

Self-ownership construed as a right implies two related but separable general rights. First, each person has the right to do as she wishes, just so long as she does not harm or threaten to harm non-consenting others. Second, each person has the right not to be harmed or threatened with harm by others.⁴ Gerald A. Cohen illustrates nicely what self-ownership involves using an analogy of a slaveholder's rights over his slave:

¹ J. Locke, Second Treatise of Government, para. 4, in Two Treatises of Government, ed. Peter Laslett (New York: New American Library, Mentor Book ed., 1963), p. 309.

² R. Nozick, Anarchy State and Utopia (New York: Basic Books, 1974) p. ix.

³ Ibid., p. 178.

⁴ See R. Arneson, "Liberal egalitarianism and world resource distribution: two views," The Journal of Value Inquiry 23 (1989): 172.

[E]ach person is the morally rightful owner of himself. He possesses over himself, as a matter of moral right, all those rights that a slaveholder has over a complete chattel slave as a matter of legal right, and he is entitled, morally speaking, to dispose over himself in the way such a slaveholder is entitled, legally speaking, to dispose over his slave. Such a slaveholder may not direct his slave to harm other people, but he is not legally obliged to place him at their disposal to the slightest degree: he owes none of his slave's service to anyone else. So, analogously, if I am the rightful owner of myself, and therefore of this right arm, then, while others are entitled to prevent it from hitting people, no one is entitled, without my consent, to press it into their own or anybody else's service, even when my failure to lend it voluntarily would be morally wrong.⁵

Anarchal egalitarianism denies this principle of self-ownership. This denial is, in a nutshell, why my view is not "liberal egalitarianism," which is defended admirably (and separately) by Cohen and Richard Arneson.⁶ Cohen and Arneson deny, for different reasons, that the self-ownership principle entails the sorts of private property rights which produce the inequalities Nozick believes are legitimate. They stop short, however, of rejecting the idea of self-ownership. This reluctance, I take it, is a substantial part of what makes their brand of egalitarianism liberal. Cohen and Arneson offer versions of egalitarianism which are at least consistent with the self-ownership principle, and which embody the sort of freedom liberalism prizes. Now, the egalitarianism I am proposing is (in part) anarchal not because it does not value freedom, for it does, but because it views property relations (whatever they may be) as merely parasitic on a moral view which seeks to maximize happiness in a manner consistent with considerations of justice. On my view, there are no fundamental or basic rights to property,

⁵ G.A. Cohen, "Self-Ownership, World-Ownership, and Equality," in F.S. Lucash ed., Justice and Equality Here and Now [Ithica, NY: Cornell University Press, 1986], p. 109.

⁶ See especially R.J. Arneson, "Liberal egalitarian and world resource distribution: Two views," The Journal of Value Inquiry 23 (1989): 171-190; "Lockean Self-Ownership: Towards a Demolition," Political Studies 39 (1991): 36-54; "Property Rights in Persons," Social Philosophy and Policy 9:1 (1992): 201-230; G.A. Cohen, "Self-Ownership, World-Ownership, and Equality" in F.S. Lucash, ed., Justice and Equality Here and Now (Ithica, New York: Cornell University Press, 1986) pp. 108-135; "Self-Ownership, World-Ownership, and Equality: Part II," Social Philosophy and Policy 3:2 (Spring 1986): 77-96; "On the Currency of Egalitarian Justice," Ethics 99 (July 1989): 906-944; and "Are freedom and equality compatible?" in J. Elster and K.O. Malone eds., Alternatives to Capitalism (Cambridge: Cambridge University Press, 1989) pp. 113-126.

including the property rights over oneself that self-ownership entails. Since this is largely what distinguishes my view from liberal egalitarianism, I have included the denial of the self-ownership principle as part of what defines anarchal egalitarianism.

I choose to modify the egalitarianism I am defending with "anarchal" because my view lends support to the sort of social institutions left-wing anarchists typically favour. The variety of anarchism I have in mind does not rule out a priori institutional organization or federations, but is highly critical of capitalist states and many of the institutions capitalism nurtures. The anarchist critique of capitalist social institutions censures the inherent anti-democratic concentrations of power these institutions are alleged to foster, and proceeds something like this.⁷ Concentrations of power are possible because limitless acquisition of private property is possible. Limitless acquisition of private property is both anti-utilitarian and unjust. So, the only possible justification for gross and private concentrations of wealth issues from a property principle according to which individuals have a fundamental right to limitless property acquisition. Proudhon sums up the anarchist attitude toward property with the familiar slogan "Property is theft!" Proudhon's claim is merely that injustice generally will be served if individuals are permitted to gather resources either to the exclusion of others or for the exploitation of others. Thus, anarchists (and others, such as Cohen and Arneson) reject the primacy of private property rights and, I will argue, anarchists should reject the self-ownership principle to boot.

In Chapter III, I will discuss Cohen's reasons for keeping self-ownership, and address his worries over the denial of self-ownership. I will argue that the self-ownership principle either collapses into some variety of utilitarianism or is prescriptively impotent; i.e., incapable of justifying any particular welfare distribution. For these and other reasons, self-ownership should

⁷ See J. Clarke, The Anarchist Moment (Montreal: Black Rose Books, 1984) especially chapters 4 and 5 for an excellent review of past and current trends in anarchist thought.

be rejected as a basic principle on which social institutions are to be grounded.

A certain type of socialist egalitarian could accept this denial of self-ownership, as well as the norms of weak equality and weak utilitarianism, which I will address shortly. So, the difference between anarchal and socialist egalitarianism, at this level, may not amount to very much. A difference between the two views may arise at the point of implementation. The anarchist will doubt that power must be concentrated in the hands of a relative few to effect and sustain the changes she proposes. The anarchist believes that power corrupts even the well-intentioned, and so centralized concentrations of power tend to impinge on the realization of her goals. The socialist may not share the anarchist's suspicion of power, and he may suppose that power must be concentrated to a greater extent than the anarchist will admit. So, while the socialist and the anarchist may share the same ends with regard to desired outcomes, the practical means they are willing to adopt to attain those ends may be quite different. I have limited the positive discussion of anarchal egalitarianism in this thesis to, essentially, the clarification and defence of its fundamental principles. I will not argue for the means one might expect an anarchal egalitarian to adopt to satisfy those principles. Thus, a socialist egalitarian who accepts the principles I defend could claim that the arguments here support his view as well as my own. Until more is said regarding anarchist means versus socialist means of achieving similar outcomes, the general position I defend here may not be one that is any more anarchal than it is socialist. Nevertheless, this is still a good starting place from which to initiate the development of a substantive anarchal egalitarian theory. No one will be convinced of anarchist means if the ends themselves are not worth pursuing.

The second tenet of anarchal egalitarianism is a weak equality claim. The desire for equality is rooted in a commitment to mitigate the effects of bad luck, such as genetic handicaps and unfortunate socio-economic circumstances. The idea here is that equality is a value and

should be realized, but that it is subject to constraints which arise from other values. This is a vague characterization which I will refine when I defend the claim later. But, for the sake of some immediate clarity, we might compare a weak equality claim to a strong one. A weak claim here is distinguished from a strong claim in that the latter view of equality and not the former demands that equality prevail no matter what. Now, consider the following two person worlds in which the numerals in the ordered pairs represent the welfare levels of specific individuals such that the larger the numeral, the better off are the individuals. Assume further that a welfare level of $\langle 15 \rangle$ indicates a comfortable, middle-class lifestyle. World A has a welfare profile $\langle 20, 20 \rangle$ and world B has a welfare profile $\langle 49, 51 \rangle$. Strong equality prefers A over B because A exhibits perfect equality and B does not. A strong equality claim is insensitive to overall utility, since equality is all that counts. Thus, even $\langle 1, 1 \rangle$ is preferable to B $\langle 49, 51 \rangle$ on grounds of strong equality. The crucial feature here of a strong equality claim is not that it merely neglects total utility, but that it bars utilitarian (and any non-equality) considerations from entering the picture. So, any theory based solely on this view would not only prefer $\langle 1, 1 \rangle$ to B, but would be indifferent between $\langle 1, 1 \rangle$ and $\langle 50, 50 \rangle$, since perfect equality obtains in both. This indifference suggests rejecting strong equality.

A weak equality claim is compatible with lauding B $\langle 49, 51 \rangle$ over A $\langle 20, 20 \rangle$. True, welfare is not as equally distributed in B as in A, but if B were the only feasible alternative to A, utilitarian considerations (for instance) could trump equality. A weak equality claim is thus consistent with moving from A to B, at least until some non-utilitarian reason were defended which mandated A over B.⁸

⁸ Cohen draws a similar distinction in terms of what he calls equalisandum claims in Cohen, "On the Currency of Egalitarian Justice," p. 908: "An equalisandum claim specifies that which ought to be equalized, what, that is, people should be rendered equal in. An unqualified or strong equalisandum claim, which is the sort that an uncompromising egalitarian asserts, says that people should be as equal as possible in the dimension it specifies. A qualified or weak equalisandum

A weak equality claim might itself do work if the worlds compared were C $\langle 10, 20 \rangle$ and D $\langle 15, 15 \rangle$. Here the total welfare sums are the same $\langle 30 \rangle$, but D exhibits perfect equality and C does not. So, a weak equality claim would pick D over C.

Up to this point I have more or less assumed that what a weak equality claim seeks to equalize is welfare or happiness. I will defend this assumption in the next chapter, although the focus of my thesis will centre on why we should want equality to serve as a guiding principle at all. I will also discuss, in Chapter IV, the extent to which we can expect equality and the maximization of total happiness to coincide. This brings us to the third and last tenet of anarchal egalitarianism, a weak utilitarian claim.

A weak utilitarian claim differs from a strong one in a manner analogous to the difference between strong and weak equality. A weak utilitarian claim is one that asserts that we should maximize total happiness, but that this imperative can be constrained by other values. A strong utilitarian claim, on the other hand, requires us merely to maximize total happiness. The weak view permits pluralism, the strong view does not. This sort of strong utilitarian claim is, I believe, the core of utilitarianism. Due to the richness and plausibility of utilitarian theory, a strong utilitarian claim cannot be dismissed with the same ease with which strong equality was rejected. In Chapter IV I will elaborate on some of the resources utilitarianism can muster to appeal to egalitarians, but will deny that utilitarianism is sufficient for a political theory concerned about equality. So, what I am about to say should not be viewed as a decisive argument against utilitarianism, but rather as an illustration of the difference between weak and strong utilitarian claims.

Consider again the worlds A $\langle 20, 20 \rangle$ and B $\langle 49, 51 \rangle$. Weak and strong utilitarian claims

claim says that they should be as equal as possible in some dimension but subject to whatever limitations need to be imposed by other values: those limitations are not specified by the claim in question."

urge B over A, with the difference being that the strong view requires B regardless of what other values one may possess. In this case we would probably agree that B is a better world than A even if we held a weak equality claim, since both people do far better in B than in A. Plausibly, total utility trumps the worth of equality, so here strong and weak utilitarian claims move us to B. However, compare again C $\langle 20, 10 \rangle$ with world D $\langle 15, 15 \rangle$. A strong utilitarian claim would consider C and D of equal moral worth, since they exhibit the same total welfare sum $\langle 30 \rangle$. A weak utilitarian claim, however, is consistent with recommending D over C. This is what anarchal egalitarianism would mandate, since perfect equality obtains in D and total happiness is maximized. Pure utilitarianism does not rule out D when compared only to C, but neither does it give us a reason to prefer D to C.

Nevertheless, it is far from clear that anarchal egalitarianism will in every case unambiguously select a particular outcome. Consider world E $\langle 10, 25 \rangle$. One person does worse in E than in D ($\langle 10 \rangle$ vs. $\langle 15 \rangle$), but the other gains by twice the margin the worst-off in D loses ($10 - 15 = -5$, $25 - 15 = 10$, thus $\langle -5 \rangle$ vs. $\langle 10 \rangle$). There is greater equality in D, but greater total happiness in E. It is not obvious whether anarchal egalitarianism would mandate D over E, the contrary, or nothing at all with regard to their rank ordering. Note that strong utilitarianism readily commends E over D, since E exhibits greater total happiness than D. Comparing D and E illustrates a typical problem for pluralistic theories such as the one I support: by adopting a principle to handle cases where a simple principle seems inadequate, they fall prey to problem cases where the principles conflict. So, anarchal egalitarianism, at present, suffers from a certain prescriptive ambiguity. Its equality claim favours D, which violates the spirit of its utilitarian claim which recommends E (which in turn violates the spirit of its equality claim). In the course of my discussion in Chapter IV on how equality can be reconciled with total utility, I will consider this worry at greater depth.

I do not intend to provide much argument for the weak utilitarianism I am endorsing here.

So, I am assuming two principles which define the utilitarian claim I hold. They are:

- (U1) Individuals, ceteris paribus, should be given equal consideration regarding how welfare is to be distributed; and
- (U2) Outcome X is morally better than outcome Y if (not if, and only if), ceteris paribus, the total welfare in X is greater than the total welfare in Y.

Both principles are expressly normative and logically independent from one another. (U1) does not assume that welfare should be distributed equally, but merely that there is no a priori reason to promote the happiness of one person instead of any other. This is basically Henry Sidgwick's view that

the good of any one individual is of no more importance, from the point of view...of the Universe, than the good of any other; unless, that is, there are special grounds for believing that more good is likely to be realised in the one case than in the other.⁹

So, (U1) generally rules out things like egoism, sexism, racism and other arbitrary features of the world that might lead one to promote the interests of an arbitrarily selected group over the interests of another.¹⁰

The aspect of (U2) that deserves further attention is the manner in which the rank orderings of outcomes is specified. First, X can be better than Y if something obtains other than greater total welfare in X vis-a-vis Y. This is a function of the "if (not iff)" part of (U2), which excludes nothing as possible grounds for inferring that X is better than Y. Second, X could have a greater total welfare sum than Y and Y could be a better outcome than X, if the ceteris paribus condition of (U2) were violated. I have intentionally left the scope of the ceteris paribus rider open such that it can rule out (among other things) gratuitous injustice. For instance, unequal distribution might count as a violation of the ceteris paribus clause. And, one can imagine that

⁹ Henry Sidgwick, The Methods of Ethics [reprinted in Indianapolis, Indiana: Hackett, 1981] p. 382.

¹⁰ It is this impartiality that is probably responsible for the common but false belief that utilitarians are a cold, brooding and insensitive lot.

if the difference in total welfare between X and Y were not too substantial, Y might be preferred on grounds of justice. I will consider this possibility at greater length in Chapter IV.

To contrast my weak utilitarian claim with a strong utilitarian claim (utilitarianism), I think utilitarianism would countenance (U1) but would change (U2) in two respects. A utilitarian would, first, explicitly rank order outcomes by virtue of total welfare such that only total welfare could stand as evidence for which outcomes were better. The "if" in (U2) thus would become "if, and only if." Bentham, for instance, claims that

[n]ature has placed mankind under the governance of two sovereign masters, pain and pleasure. It is for them alone to point out what we ought to do, as well as to determine what we shall do...The principle of utility recognizes this subjection, and assumes it for the foundation of that system, the object of which is to rear the fabric of felicity by the hands of reason and law.¹¹ (emphasis mine)

Furthermore, strong utilitarians would limit the scope of the ceteris paribus clause such that it would exclude considerations of welfare distribution. Distribution does not figure in utilitarian principles since utilitarians treat overall welfare or utility, in Mill's words, "as the final appeal on all ethical questions."¹² For Mill, justice is essentially (U1), which he thinks

is involved in the very meaning of utility, or the Greatest Happiness Principle. That principle is a mere form of words without rational signification, unless one person's happiness, supposed equal in degree (with the proper allowance made for kind), is counted for exactly as much as another's. Those conditions being supplied, Bentham's dictum, 'everybody to count for one, nobody for more than one,' might be written under the principle of utility as an explanatory commentary.¹³

I will argue in Chapter IV that utilitarianism (weak or strong) can furnish a cornucopia of egalitarian benefits. By adopting weak utilitarianism, the egalitarian can get much of the

¹¹ J. Bentham, Introduction to the Principles of Morals and Legislation in The Works of Jeremy Bentham, ed. J. Bowring, 11 vols. (1838-1843; reprint ed., New York: Russell and Russell, 1962), Vol. I, p. 1.

¹² J.S. Mill, On Liberty (London: Everyman Edition, 1910; reprinted, 1948), p. 74.

¹³ J.S. Mill, Utilitarianism (London: Everyman Edition, 1910; reprinted, 1948), p. 58.

equality she cherishes. In effect, I hope to do with weak utilitarianism what Cohen seeks to do with self-ownership. As we shall see in Chapter III, Cohen believes that self-ownership has considerable antecedent appeal, and that this appeal lends self-ownership a fair measure of polemical force. Cohen infers that adopting self-ownership as part of the egalitarian platform will add to the persuasiveness of egalitarianism. Now, I think the view that people ought to be treated impartially and that the general happiness ought to be maximized has at least as much pre-philosophical intuitive appeal as the view that people ought to be free to do as they choose so long as they do not harm others. That is, weak utilitarianism has at least as much antecedent appeal as self-ownership. As a consequence, an egalitarian view which adopts weak utilitarianism will enjoy a polemical advantage at least as great as the advantage gained by an egalitarian-plus-self-ownership theory. This argument, of course, is based on unexamined intuition, and lacks the resources necessary to reply to those who do not share the intuitions evoked (Cohen's or mine). Furthermore, the argument here is consistent with antecedent appeal lending no polemical force to either utilitarian or self-ownership versions of egalitarianism. 'At least as much' can equal zero. So, without committing to whether self-ownership or weak utilitarianism have any antecedent appeal, I offer this line of reasoning merely to show that the pro-utilitarian egalitarian can use the antecedent appeal and the consequent polemical force of weak utilitarianism (if any) as readily as Cohen employs antecedent appeal and polemical gain with regard to self-ownership. For this reason, and for arguments I will submit in Chapters III and IV, I think that, pace Cohen and Arneson, it is weak utilitarianism and not self-ownership that egalitarians should attempt to co-opt.

In the next chapter I will complete the last of the preliminary work. The issue to be addressed is that regarding which standard a political theory should use to determine the praise-worthiness of a particular world or outcome, where 'praise-worthiness' is defined in accordance

with the purposes of the theory and the metric the theory employs.

Chapter II: The Standard

I think welfare is the best standard by which to measure the praise-worthiness or goodness of particular outcomes. I will refer to the view held by those who endorse a welfare standard as welfarism. As we shall see, the standard one selects will have an important bearing on the possible resources one can gather to defend a favoured political theory. I will discuss some of the reasons different theorists give for rejecting welfare and adopting another metric. Also, I will consider and reject two alternatives to the welfare metric -- resources and opportunity for welfare. Objections to welfarism are interesting because they offer good motivation and a commodious setting for refinement of anarchal egalitarianism, the principles of which I will defend in Chapters III and IV.

I take a person's welfare to be determined by his or her present and expected happiness. Happiness here is measured in terms of preference satisfaction. So, ceteris paribus, G is happier than H if G is closer to her most preferred world than H is close to H's most preferred world. Happiness is construed as a relative property such that G's happiness is measured in terms of G's relative position between her least preferred and most preferred worlds. And, following (U1), individuals' least preferred and most preferred worlds are given equal weight. I think this view of well-being is a plausible starting place for political theory since it identifies the basic concern of politics with what Hume calls the "ultimate ends:"

It appears evident that the ultimate ends of human actions can never, in any case, be accounted for by reason, but recommend themselves entirely to the sentiments and affections of mankind, without any dependence on the intellectual faculties. Ask a man why he uses exercise; he will answer, because he desires to keep his health. If you then enquire why he desires health, he will readily reply, because sickness is painful. If you push your enquiries farther, and desire a reason why he hates pain, it is impossible he can ever give any. This is an ultimate end, and is never referred to any other object.

Perhaps to your second question, why he desires health, he may also reply, that it is necessary for the exercise of his calling. If you ask, why he is anxious on that head, he will answer, because he desires to get money. If you demand Why? It is the instrument of pleasure, says he. And beyond this it is an absurdity to ask for a reason. It is impossible there can be progress in infinitum; and that one thing can always be a reason why another is desired. Something must be desirable on its own account, and because of its immediate accord or agreement with human sentiment and affection.¹⁴

So, my view is that because appeals to welfare provide the ultimate sanction or censure of a proposal, welfare should be used as the standard by which worlds or outcomes are judged. This is not to say that resources cannot sometimes be used as proxies for welfare. And, welfarism is consistent with the idea that wealth or income plays a large role in determining welfare. But, the justificatory work regarding any particular distribution will be done by welfare. This is basically a utilitarian doctrine.¹⁵

Rawls disputes welfarism. He argues that an adequate theory of justice must correct for and distribute resources like income, wealth, opportunities and powers.¹⁶ Rawls labels these things

¹⁴ Hume, An Enquiry Concerning the Principles of Morals, pp. 134-135.

¹⁵ See footnotes 11 and 12 in chapter 1 for a sample of the primacy of happiness in the utilitarianisms of Bentham and Mill.

¹⁶ John Rawls, A Theory of Justice, p. 92. Rawls also considers self-respect a primary good, since, he claims, "[w]ithout it nothing may seem worth doing, or if some things have value for us, we lack the will to strive for them." (440) For Rawls, then, self-respect should be provided to all citizens as a background condition against which other goods, like wealth, can be distributed. Specifically, Rawls claims that "what is necessary is that there should be for each person at least one community of shared interests to which he belongs and where he finds his endeavors confirmed by his associates." (442) Rawls' view of self-respect seems plausible. On this view, whether or not social structures provide self-respect is relatively all-or-nothing. Either there is a "community of shared interests" or there is not. Note that as a consequence of Rawls' view, counting self-respect as a primary good will not have much bearing on how other primary goods, such as income, are to be distributed.

"primary goods" and supposes that "[r]egardless of what an individual's rational plans are in detail, it is assumed that there are various things [i.e. primary goods] which he would prefer more of rather than less."¹⁷ My view is that we can imagine cases in which the distribution of primary goods, such as income but not health, is insufficient to guarantee a just outcome. Such cases give us reason to abandon resources as the unique factors used in determining whether an outcome is just.

For Rawls, an outcome is just if it has been generated by a process designed to correct for the unjust and arbitrary contingencies of nature. As Rawls puts it:

¹⁷ Ibid. If someone, say a Jesuit, desired to live in poverty and have less money rather than more, it is not clear how Rawls might respond. Rawls' view is not that anything we need or desire in some particular quantity is something that ought to count as a primary good. Food and shelter, for instance, are not primary goods. So, it would not be enough for Rawls to point out that the Jesuit does need some money. For Rawls, something is a primary good only if it is something that any individual 'would prefer more of rather than less.' Rawls might suggest that behind the veil of ignorance, the Jesuit would not know that he is a Jesuit who wants a life of poverty. If it turned out that he were not a poverty-seeker after the veil was lifted, he generally would want more money than less. And, even if he turns out to be a Jesuit, he might not mind having money as a primary good since when the veil is lifted he simply can give the money away. But, this reply would not convince the Jesuit to consider money a primary good after the veil is removed. Having more money is unlikely to help the priest to have less. Hence, Rawls loses his claim that "whatever one's system of ends, primary goods are necessary means," (93) and thus Rawls also loses his criterion for picking out what ought to count as a primary good. Notice that under the I-can-give-it-away-after-the-veil-if-it-does-not-help-me criterion, virtually anything can count as a primary good. Behind the veil I can imagine people who want to fly. Jumbo Jets fly. Jumbo Jets should be primary goods that I can give away after the veil is lifted if they do not help me. Such a view is absurd, since virtually anything now can count as a primary good. Thus, Rawls owes us a principled reason not to hold as an end the preference of less rather than more of his primary goods.

The basic structure [of society] is the primary subject of justice because its effects are so profound and present from the start. The intuitive notion here is that this structure contains various social positions and that men born into different positions have different expectations of life determined, in part, by the political system as well as by economic and social circumstances. In this way the institutions of society favour certain starting places over others. These are especially deep inequalities...It is these inequalities, presumably inevitable in the basic structure of any society, to which the principles of social justice first apply.¹⁸

The interesting principle that Rawls develops for the purpose of achieving justice is the difference principle, which demands that "[s]ocial and economic inequalities are to be arranged so that they are both (a) to the greatest benefit of the least advantaged and (b) attached to offices and positions open to all under conditions of fair equality of opportunity."¹⁹

Consider now the following case. Alex is happy in his work and enjoys a comfortable life. One day Alex is told he has cancer and will need extensive radiation and chemotherapy. Alex lives in a society where medical service is not provided by the government, and while he is not among the least advantaged in terms of primary goods, he has nowhere near the resources necessary to pay for such treatment. It seems that Rawls' system of justice cannot do much for Alex if it only corrects for inequalities in the distribution of primary goods. Of course, using resources as the standard for determining justice does not rule out the possibility of treating Alex's cancer. But, it seems that ceteris paribus, Rawls' conception of justice would not mandate institutions that treated Alex's cancer over institutions that did nothing for Alex's disease. This is a worrisome consequence of employing merely primary goods as the notches on the yardstick of justice. The problem here is that judgements about what is just are, quite plausibly, open to warrant from resource-independent grounds (e.g., Alex's cancer) as well as considerations of primary goods (e.g., Alex's income). Using merely a resource standard precludes egalitarian

¹⁸ Ibid., p.7.

¹⁹ Ibid., p.83.

redistributions on the basis of primary good-independent welfare, and thus Alex's cancer goes untreated. Furthermore, what is true of health in this regard is also true of any goods which affect resource-independent welfare, like workplace safety, potable water and clean air. It seems that if we rely entirely on a primary goods standard, these goods are not assured even in principle.

Rawls could reply that accounting for primary good-independent welfare in the calculus of justice presupposes some form of welfarism, and is illegitimate without a defence of welfarism to support it. However, even if this were true, the difficulty here can be cast into terms of justice qua a theory to correct for the arbitrary contingencies of nature, which is what Rawls believes a theory of justice ought to do. Now, the general problem with using merely a resource standard, as we have seen in the case of Alex, is that such goods are differentially useful to people, depending on their needs. This point deserves emphasis, for it is the principal reason that egalitarians, given their aims, should not adopt a primary goods metric. Egalitarians desire to mitigate the effects of arbitrary contingencies or bad luck, such as the hardship that results from being born sickly, poor or untalented. So, if an individual has the bad luck to contract cancer, merely distributing an equal share of resources to that person may not be enough to relieve his suffering. He may need more than the average allotment, given the cost of making his life bearable. The specific argument against Rawls, then, could run as follows:

- P1. Alex's cancer is an arbitrary and unpleasant contingency of nature.
- P2. If a system were just, it would correct for such a contingency.
- P3. Rawls' system corrects for only those arbitrary contingencies that can be determined by measuring the quantity of primary goods an individual possesses.
- P4. Alex's cancer is not this kind of contingency.
- C1. Therefore, Rawls' system will not correct for Alex's cancer-contingency.
- C2. Therefore, Rawls' system is not just.

Rawls could respond by denying P3. He could claim that, although Alex may not be covered by the difference principle which operates on a primary goods metric, health care and a minimal level of welfare could be provided by his first principle of justice, which protects rights

and liberties. But, it is not at all clear that this first principle does provide such a minimal threshold of welfare. The rights and liberties to which Rawls refers are political in nature, such as the right to constitutional representation, free speech, freedom of assembly, and so on.²⁰ Given these rights and liberties, an individual could be as free as possible but still unable to feed herself.

Instead of relying on his first principle, however, Rawls could deny P3 on the grounds that health is a primary good and, as such, the difference principle could provide health care via taxation. In fact, Rawls does suggest that health is a "natural" primary good, but qualifies this claim with the view that "although [health] is influenced by the basic structure, [health] is not so directly under its control."²¹ This qualification suggests that, for Rawls, health is not a principal concern of justice. Recall Rawls' view that the primary subject of justice is the basic structure of society. If health is 'not so directly under its control,' then the principles of justice which shape the basic structure may not have much to say about health. The view that health is not so directly under the control of the basic structure is a view Rawls should develop further if he wants to provide health care using the difference principle. Rawls could hold that some health care could be provided by the basic structure, yet point out that some medical problems may be incurable such that no amount of money will help the victim.

But, if that is Rawls' view on health, he should not ignore this "natural" good when he comments on the primary goods available for distribution via the difference principle.²² Let us assume that Rawls does not believe that health should be distributed according to the difference principle. Even if this assumption is false, it is useful to us here, since what really matters in this discussion is whether or not resources can serve as an appropriate metric. Notice that for Rawls,

²⁰ Ibid., p.61.

²¹ Ibid., p.62.

²² See footnotes 16 and 17.

justifying the provision of health care to someone like Alex seems to commit him to employing considerations of an individual's resource-independent welfare, such as Alex's cancer. So, without an objective or welfare-independent measurement of health, Rawls in effect would be admitting that a primary goods standard is not enough, and that considerations of welfare are also necessary to ensure justice. Thus, Rawls could not deny P3 without relying on resource-independent welfare. However, if he were to employ even a partially welfarist metric, he would lose one of his objections to utilitarianism, namely, that welfare is an inappropriate metric for deciding questions of justice.²³ Therefore, given that Rawls wants primary goods to be the unique standard used to determine the justness of a world, he cannot provide health care to Alex. Rawls cannot reject P3 without giving up his anti-welfarist objection to utilitarianism.

These considerations, together with those aforementioned, give us some reason to doubt the adequacy of resources as the metric for determining and securing justice in an egalitarian world.

Arneson agrees that resources are not the appropriate standard, but nevertheless rejects welfare in favour of opportunity for welfare. Arneson thinks that welfare is important, but he believes that merely equalizing welfare has deleterious consequences for egalitarians. Arneson offers four arguments to contest the welfare metric and to support his notion of opportunity for welfare. First, Arneson enjoins us to consider the following case:

²³ Ibid., pp. 90-91.

Imagine that a society contains a large class of fraternity brothers and sorority sisters who conform to a perhaps unfairly derogatory stereotype of the group: they are all wealthy, educationally advantaged, intelligent, good-looking, and happily devoted to the single-minded pursuit of boorish pleasures. According to many indices of well-being they are well off, but their rational preference satisfaction levels are below average for the society. They attain a splendid level of satisfaction of their actual preferences, but these would not withstand rational scrutiny. (Recall that rational preference satisfaction is satisfaction of one's actual preferences insofar as they would withstand ideally rational deliberation with full relevant information.) When their preference satisfaction levels are duly adjusted to reflect the divergence of their actual preferences from their hypothetically rational preferences, these fraternity and sorority members would have to be counted among society's underprivileged. Egalitarian welfarism would then appear to be committed to the claim that government policy should be designed so as to (*inter alia*) transfer resources from other sectors of society to the fraternity and sorority members, so that they attain rational preference satisfaction levels closer to the average for society. The objection suggested by the example is that welfarism picks out an inappropriate measure of well-being for determining who should be the beneficiaries of egalitarian-inspired resource transfers.²⁴

Arneson concludes that "society should be held responsible for providing all its members a fair share of effective opportunities for welfare, rather than for guaranteeing that any member reaches any particular level of welfare."²⁵ I think there is reason to deny both the force of the case and the alleged consequence for egalitarian welfarism.

Let us concede that the fraternity and sorority members' actual preferences would not withstand ideal deliberation, and that this class of people enjoy a far lesser degree of rational preference satisfaction than the average member of their society. I think that egalitarian welfarism may be committed to compensate the boorish students, but that the compensation would not take the form of a resource transfer as Arneson suggests. The sorority and fraternity members are already wealthy. The further utility bestowed on them by any pecuniary transfer probably would be too little to justify it. Suppose the students could get more boorish pleasure by water-skiing behind an oceanliner instead of a yacht. This pleasure, like all boorish pleasures, would count for

²⁴ Arneson, "Property Rights in Persons," p. 208.

²⁵ *Ibid.*, p.209.

naught by virtue of Arneson's view of rational preference formation, which is necessary to motivate the claim for compensation. And, there is no guarantee that more money will help the youths to cultivate rational preferences. So, the fraternity and sorority members would be compensated not by heaping riches on them, but by education, or whatever would be needed for rational preference formation.

Moreover, since I am not defending strong equality (i.e., equality, and only equality, no matter what), but rather weak equality, if the resources necessary to improve the lot of the wealthy could produce greater utility elsewhere, utilitarian considerations could trump the demand that wealthy individuals with low welfare receive monetary compensation. So, it is unlikely that, in a world of scarce resources and poverty, the fraternity and sorority members would receive transfer payments on grounds of weak equality.

Arneson also argues that if someone had the opportunity to enter a high-paying profession which assured a high welfare level, but chose instead to work in a low-paying occupation which resulted in a low welfare level, then egalitarian welfarism would recommend transfer payments to the low wage earner and thereby generate an injustice. Arneson claims:

...Smith and Jones are choosing their life strategies from identical ranges of options, but Smith is seeking to maximize his utility (pleasure, satisfaction of self-interested preferences) whereas Jones is not. Smith chooses to be a banker and Jones chooses a missionary life, which is known to be associated with a lesser lifelong expected utility. Why should our ethics urge the state to intervene to overturn these voluntarily chosen outcomes? One might contend that the principle of welfare egalitarianism, rightly stated, is that, other things equal, it is bad if some people are worse off than others due to factors beyond their voluntary control. Instead of equality of welfare, an egalitarian should be striving to achieve equal opportunity for welfare.²⁶

Notice that Arneson assumes that it is not preference satisfaction in general that concerns the welfarist, but merely the satisfaction of 'self-interested preferences.' This assumption presupposes that the satisfaction of merely self-interested preferences can be separated from the satisfaction

²⁶ Arneson, "Liberal egalitarianism and world resource distribution: Two views," p.185.

of preferences which are not merely self-interested. If Arneson cannot make the separation, or if he cannot motivate a concern for only self-interested preferences, then not redistributing to Jones is not a problem for the egalitarian welfarist. On the assumption that Jones's preference (self-interested or not) for a missionary life over banking is not irrational, then Jones's level of general preference satisfaction is more or less the same as Smith's. If welfare levels are approximately equal, there is no egalitarian welfarist reason to equalize incomes. The egalitarian welfarist is concerned merely with equalizing welfare.

But, let us suppose that Arneson can separate merely self-interested preferences from other sorts of preferences, and that he can justify a concern for only the former. In this case, the welfare egalitarian is committed, at least prima facie, to redistribute from Smith to Jones. This redistribution, however, would not entail overturning the career choices of Smith and Jones. It merely would entail giving some of Smith's money to Jones.

There also may be compelling utilitarian reasons to redistribute. And, once again, these reasons are admissible and matter, since we are seeking a standard for weak and not strong equality. First, it is possible that increasing Jones's wage would give others incentive to engage in burdensome work that has a positive effect on total welfare. Second, suppose Smith earned so much, say \$500,000 a year, that the loss of \$20,000 had a negligible effect on his expected welfare. If \$20,000 would make Jones much happier than she would be otherwise, then the right thing to do, according to weak utilitarianism, is take \$20,000 from Smith and give it to Jones. That is to say, we should move from a world K that merely equalizes opportunity for welfare, such as one where the banker is not taxed, to a world L that takes overall welfare into account, such as a world in which the banker is taxed. If K has a utility profile of <Smith-20, Jones-15>, then we might plausibly assume that L has a profile <Smith-19, Jones-17>, reflecting the differential effects of \$20,000 on the banker and the missionary. K exhibits a total welfare score

of <35>, whereas L's total is <36>. The important thing to note here is that the move from K to L would not be justifiable if the unique measure for justice were equal opportunity for welfare, since equal opportunity yields merely "identical ranges of options," and hence merely K. Only the welfare metric allows moving from K to L, on egalitarian and utilitarian grounds.

The third and fourth arguments²⁷ Arneson presents against the welfare standard ride on the supposition that "[i]ndividuals can arrive at different welfare levels due to choices they make for which they alone should be held responsible."²⁸ The third argument alleges that gamblers pose a special problem for those who distribute goods on the basis of mere welfare. Cohen makes a similar argument, but uses a feckless shopper as the vehicle. Cohen also offers some interesting comments on exploitation, which he relates to his feckless consumer. So, I will present Arneson and Cohen's arguments, and then briefly discuss exploitation before evaluating their case against welfarism.

Arneson gives the following scenario:

[I]magine two persons of identical tastes and abilities who are assigned equal resources by an agency charged to maintain distributive equality. The two then voluntarily engage in high-stakes gambling, from which one emerges rich (with high expectation of welfare) and the other poor (with low welfare expectation).²⁹

Arneson thinks that the welfarist is committed to providing compensation to the loser and that any such compensation is inappropriate. One could argue that a welfarist need not compensate the loser since the loser prefers a life in which high-stakes gambling plays a role to a life in which it is absent. And, if the dice were not loaded and the stakes were not too high, it is likely that

²⁷ Arneson treats these two arguments as members of the same family, but it will be useful to separate them here, as more can be said for them independently than Arneson offers. Furthermore by separating the claims it will be easier to evaluate Arneson's views in tandem with Cohen's, as Cohen makes similar arguments and separates the points as I am doing here.

²⁸ Arneson, "Equality and Equal Opportunity for Welfare," Philosophical Studies 56 (1990): 83.

²⁹ Ibid., pp. 83-84.

income-generated welfare (or illfare) of gamblers will be largely similar to that of non-gamblers, as the winnings and losses balance out over the long run. But let us assume the stakes are such that the loser could not possibly win back what she lost with a similar gamble, and as a result of her loss she has low welfare expectation. One could still respond that the loser preferred to live the life of a gambler before the loss, and although the loser would be far better off had she won, she is still in a world she prefers more than a world devoid of gambling. This seems unsatisfactory. The loser after the loss might then prefer her previous welfare level but without the gambling component. And, egalitarian welfarism is prima facie committed to equalizing welfare. The problem is that it seems wrong to transfer resources to the loser, in this case, since the loser alone seems responsible for her plight. Arguing in favour of opportunity for welfare, Cohen suggests that "[i]f a person's welfare is low because he freely risked a welfare loss in gambling for a welfare gain, then, under the opportunity form of the principle, he has no claim to compensation."³⁰

Cohen, however, discusses Arneson's worry about gamblers via another sort of person, the "feckless," who poses a similar difficulty to welfarism. The feckless are, for instance, those who "buy their food at Fortnum's because they cannot be bothered to walk up to the Berwick Street market."³¹ So, like gamblers, the feckless seem responsible enough for their plight to warrant their exclusion from compensation. Cohen puts a neat egalitarian objection to the feckless: "when other people pay for his readily avoidable wastefulness, there is, pro tanto, an exploitative distribution of burden which egalitarians should condemn."³² Cohen supposes

³⁰ G. A. Cohen, "Equality of What? On Welfare, Goods, and Capabilities" Recherches Economiques de Louvain 56 (1990): 358.

³¹ Cohen, "On the Currency of Egalitarian Justice," p. 911.

³² Ibid.

egalitarianism to be motivated by two impulses, a concern to redress bad luck and a desire to eliminate exploitation, where exploitation is what occurs when one person takes unfair advantage of another.³³ I agree that considerations of exploitation will give us some reason not to compensate the feckless, if that exploitation entails a sub-optimal or inequalitarian outcome. There would be good utilitarian grounds, however, to give the feckless more if resources were unlimited such that compensating the feckless would place no further toil on the non-feckless. But, given scarcity, one could ensure that no one is exploited by banning exploitation entirely unless there are special grounds which license it. Cohen seems to have this sort of a move in mind, and this is where I part ways with him.

I do not believe it is necessary to burden a political theory with an anti-exploitation principle to ensure that exploitation obtains only under conditions where it is necessitated by other values. I will refer to exploitation which is not justified by the values of an adequate political theory as illicit exploitation. So, by the lights of anarchal egalitarianism, illicit exploitation is possibly any exploitation which is inconsistent with either equality or maximizing happiness.³⁴ I think it is this sort exploitation which is of particular concern to egalitarians, since it is vicious in the sense that it tends to victimize the poor and unfortunate. Notice that in the actual world, if Z takes unfair advantage of A, it is usually necessary for Z to have a certain power over A. Since power is generally a function of wealth, it is usually the wealthy who exploit the poor. This sort of vicious exploitation would be ruled out by anarchal egalitarianism on grounds of equality and utility. First, exploitation in the actual world depends on preconditions such as unequal and

³³ Ibid., p.908.

³⁴ This is somewhat unclear at present, as I have not suggested how or to what extent equality and happiness could be reconciled with one another. So, for now, let us assume merely that if exploitation is inconsistent with either equality or maximizing happiness, then possibly it is illicit on anarchal egalitarian grounds.

sub-optimific distributions of power and wealth. Anarchal egalitarianism would question the legitimacy of these sub-optimific and unequal preconditions and any policy or activity which did not seek to eliminate them. Second, the resources generated from an actual exploitative relationship, if they were distributed to the exploited-poor rather than the exploiting-rich, would typically benefit the poor more than the rich. So, the outcomes of actual exploitative relationships will tend to be sub-optimal in terms of overall utility. Third, given the typical correlation of wealth and power, it is rare for equality to be generated in actual cases of exploitation. Thus, there are usually equality-based reasons for criticizing exploitation in the real world. But, if exploitation were necessary to achieve equality and a maximization of total welfare, then according to anarchal egalitarianism, we should exploit.³⁵ However, if my next argument works, the gamblers and the feckless will pose no special threat to welfarism, and we will have reason to believe that vicious exploitation can be criticized without the cost of adopting another principle or norm.

Consider a typical exploitative relationship in which (i) F benefits from NF's doing x, (ii) doing x is a burden to NF, (iii) NF does not benefit as much as NF could from doing x, and (iv) it would harm NF more not to do x than to do x. This would be the relationship of the feckless to the non-feckless were the non-feckless forced to compensate the feckless for their wastefulness. If the feckless were compensated, the non-feckless would incur a burden and, quite plausibly, would not benefit themselves at all. And, the feckless would be subject to no burden and would profit from the labour of the non-feckless. Let us now consider two scenarios in which this sort of exploitative relationship might obtain.

First, consider the two characters Feckless and Non-Feckless. Feckless shops at Fortnums

³⁵ This is a controversial position and forms the basis of an objection to my view I will call the "slavery of the talented" objection. It is an objection which Nozick raises against theories which advocate some measure of equalization. I will consider it at some length in Chapter IV.

which is a high-priced convenience store. Non-Feckless shops at the Berwick Street Market because he prefers low-price to convenience. Plausibly, the post-fecklessness and pre-exploitation utility profile of Feckless and Non-Feckless is one of equality $\langle 15, 15 \rangle$, because the welfare Feckless loses in high prices, he gains in convenience. When Feckless exploits Non-Feckless, Non-Feckless has a welfare level of $\langle 15 \rangle$ less the burden of compensating Feckless, and Feckless has a welfare level of $\langle 15 \rangle$ plus the benefit of Non-Feckless' sacrifice. On the assumption that Feckless will gain what Non-Feckless loses, we could get a utility profile like $\langle 17, 13 \rangle$. But, this is ruled out by a weak equality claim which mandates equality when there is no loss in overall utility. Recall that anarchal egalitarianism will censure exploitation if such a relationship entails a non-utility maximizing outcome or an outcome which either departs from equality or increases inequalities.

Consider now a second set of circumstances in which the pre-fecklessness utility profile of Feckless and Non-Feckless is $\langle 15, 15 \rangle$, and the post-fecklessness and pre-exploitation profile is $\langle 13, 15 \rangle$ such that Feckless has $\langle 13 \rangle$ and Non-Feckless has $\langle 15 \rangle$. This is the kind of scenario that worries Cohen. However, the case presented is problematic only if it is a feasible scenario; i.e., only if Feckless actually would suffer a loss in welfare by doing what he prefers to do -- act fecklessly. But, if there is nothing inherently irrational about his preference for fecklessness, then, given a preference-satisfaction criterion of welfare, it is unclear that Feckless's welfare goes from $\langle 15 \rangle$ to $\langle 13 \rangle$ when Feckless does what he prefers.

Nevertheless, suppose the feckless do in fact suffer a loss in welfare by being feckless. Perhaps fecklessness is a kind of irrational short-sightedness such that Feckless suffers by doing what he prefers. If not compensating Feckless were sufficient to compel him to stop being feckless, then egalitarian welfarism need not compensate him. Not compensating here returns Non-Feckless and Feckless from $\langle 15, 13 \rangle$ to the pre-fecklessness utility profile of $\langle 15, 15 \rangle$. But,

if Feckless cannot help acting fecklessly, given his character and upbringing, then the egalitarian welfarist must compensate Feckless if the cost is not exorbitant. This view is simply an instance of a more general egalitarian intuition which insists, as Arneson claims, "that when people's lives go badly through no fault or voluntary choice of their own, it is morally incumbent on others to offer aid to the disadvantaged so long as the cost of providing aid is not excessive."³⁶ So, Feckless may be entitled to compensation, but only because Feckless qualifies for assistance on general egalitarian grounds. There is nothing special about the welfare metric which entails redistribution in these sorts of cases. Rather, it is egalitarianism which does the work. Notice that on an opportunity for welfare metric, if Feckless irrationally lost an opportunity for equal welfare through no fault of his own, and if the cost of compensating Feckless was not excessive, then egalitarianism would require that Feckless be compensated with new or different opportunities. So, in this case, if Cohen's worry regarding the feckless can cut against welfarism, then it can also undermine the opportunity for welfare metric. Welfarism, therefore, places no special burden on the egalitarian. Furthermore, this conclusion may be plausible even if we assume both that Feckless suffers on account of his fecklessness, and that he is himself responsible for his suffering.

If one believes that Feckless ought not to receive compensation given that Feckless is to blame for his unhappiness, then whether one denies Feckless equal welfare or equal opportunity for welfare makes no difference. In both cases, Feckless receives nothing. Cohen and Arneson claim that the opportunity for welfare standard is better than welfarism largely because merely equalizing opportunities avoids having to redistribute to those who are responsible for their own suffering. However, it does not follow from their worry (i.e., that those responsible ought not to be compensated) that an opportunity for welfare metric is necessary to deny compensation to those responsible for their own lower welfare levels. The welfarist could adopt Cohen's view that

³⁶ Arneson, "Property Rights in Persons," p. 209.

Feckless should be excluded from compensation, and still equalize the welfare of those who suffer due to no fault of their own. The welfarist could modify her egalitarianism such that she compensates only those who suffer due to events beyond their control. If Cohen and Arneson can assume that responsibility warrants the denial of compensation, then it seems that the welfarist should be allowed the same assumption. With this assumption, the welfarist can constrain the compensation that people receive. The idea here is that if Cohen's complaint against compensating a responsible Feckless is legitimate, then rather than dropping the welfare standard, it is better to keep this metric and employ the force of Cohen's worry to constrain one's welfarism from helping Feckless. We now will return briefly to the problem of the high-stakes loser, after which I will argue that, in the final analysis, egalitarians ought not to embrace Cohen and Arneson's worry regarding the compensation of those responsible for their own hardship.

Setting aside a possible bar against compensating those who are morally to blame for their own lower welfare levels, anarchal egalitarianism would compensate the high-stakes loser. The motivation is in part utilitarian: Given initial equality and the diminishing marginal utility of resources, the winner is likely to get less from his winnings, than the loser is likely to suffer from his losses. The principle of diminishing marginal utility states that an increase in the resource bundle of an individual will increase that person's welfare in an inverse proportion to the size of the individual's starting bundle. This is the principle that justifies progressive tax systems and the plausible view that \$100.00 generally is more useful to you than to the millionaire. So, in the case of high-stakes gambling, overall utility might be maximized by compensating the loser. There also could be a simple equality-based reason to compensate: if the pre-gambling welfare levels of the gamblers were equal, equality could be restored by returning the winner's gains to the loser. In this case, as in the case of the feckless, the charge of exploitation seems intact. But, the anarchal egalitarian would argue that it is in just these sorts of cases that exploitation is

justified.

A relevant but more general point is worth noting here. Many of Arneson and Cohen's cases (e.g., the banker vs. the missionary, the gamblers, the feckless vs. the non-feckless) depend on a voluntary/involuntary distinction, or on claims of responsibility. Hence, compensation goes to only those who suffer due to no fault or voluntary choice of their own. Arneson and Cohen view the missionary, the high-stakes loser and the feckless as being responsible for their circumstances in the sense that each of them voluntarily chose lifestyles which can yield low welfare levels. This is a risky line for an egalitarian. Specifying instances in which individuals are responsible for their welfare levels undercuts a strong platform for egalitarianism, the natural lottery argument. I will defend a version of this argument in the next chapter, and discuss it then in some detail. For now, we can take the lottery argument to hold simply that individuals are not (for the most part) responsible for their personal welfare levels because these levels are the result of character traits and social circumstances for which they can claim no credit or responsibility. This argument is useful to egalitarians because it entails that the rich have no or little desert claim to their wealth, and that the poor do not deserve the heavy burden of their penury. So, if one's egalitarianism depends on the lottery argument, then the voluntary/involuntary distinction evaporates or loses much of its normative force.

If the distinction retains its force, then an egalitarian argument other than the lottery argument is required to confront libertarians. The more someone is responsible for her own welfare, the less forceful may be the call to equalize. A typical libertarian response to egalitarianism is to insist that individuals are responsible for their welfare, and that the state should not usurp this responsibility by taxing some to help others. Opportunity for welfare egalitarianism requires this sense of responsibility, and concedes to libertarians a crucial libertarian tenet which egalitarian welfarism need not concede. The egalitarian welfarist can demand that the

libertarian make a case for responsibility, whereas Arneson and Cohen surrender responsibility outright. For egalitarians, then, this must count as a further advantage of adopting a welfare metric rather than an opportunity for welfare standard.

Cohen could reply that, in the absence of a convincing case for determinism, the most we can assume from the natural lottery argument is that character and circumstances influence or partially determine a person's welfare level. Thus, the argument might proceed, it is possible that Feckless is responsible for his hardship, if acting fecklessly is one of those acts which is performed freely by Feckless, and is not determined by Feckless' character and environment. But, if Cohen takes this approach, then it will be difficult for him to argue against the libertarian claim that the poor are to some extent responsible for their penury because they voluntarily choose indolence. If Feckless can choose to act non-fecklessly, then it is unclear how Cohen might respond to the libertarian charge that the poor could choose to work overtime or start a business, but instead choose poverty. It is better for egalitarians to insist that the libertarian specify and defend actual cases, such as fecklessness, as instances of free acts for which one ought to be held responsible. I discuss this further in the next Chapter, as I develop the natural lottery argument in greater depth.

The last argument Arneson gives against the welfare metric, which is also found in Rawls and Cohen,³⁷ can be thought of as the problem of expensive preferences. Arneson claims that if a person were to "voluntarily cultivate an expensive preference (not cognitively superior to the preference it supplants)," then "it would be inappropriate to insist upon equality of welfare when welfare inequality arises through the voluntary choice of the person who gets lesser welfare."³⁸

³⁷ See Rawls, "Social Unity and Primary Goods," in *Utilitarianism and Beyond*, ed. A. Sen and B. Williams (Cambridge: Cambridge University Press, 1982), pp. 168-169; and Cohen, "The Currency of Egalitarian Justice," pp. 912-914.

³⁸ Arneson, "Equality and Equal Opportunity for Welfare," p. 84.

Arneson concludes that "[t]his line of thought suggests taking equality of opportunity for welfare to be the appropriate norm of distributive equality."³⁹ I disagree.

Arneson again depends on the voluntary/involuntary distinction, and so is subject again to the egalitarian worry raised earlier regarding this dependence. Second, if, for example, Epicure voluntarily (or involuntarily) cultivated an expensive taste that was not excessively costly to satisfy, then there may be egalitarian grounds for providing more resources to Epicure than to those with less expensive tastes. Epicure's welfare, according to anarchal egalitarianism, should be kept equal with others at least until sustaining her at an equal level begins to impact on the general happiness. If raising Epicure's welfare to the level of others would greatly diminish overall welfare, then Epicure is out of luck. Generally, anarchal egalitarianism will encourage people to cultivate less expensive tastes, since these are more readily satisfiable with scarce resources. It is important to note that Arneson's worry is not lethal to anarchal egalitarianism, because this sort of egalitarianism defends weak and not strong equality. Utilitarian considerations can trump the demand for equality if such a demand is based on expensive preferences, and if the satisfaction of those preferences entails a sub-optimific outcome. I will discuss the problem of reconciling utilitarian considerations with equality in Chapter IV.

While I have certainly not reviewed all the objections to welfarism, I have commented on many of those which contemporary theorists believe to be telling. Amartya Sen, Ronald Dworkin and Cohen offer alternatives to welfarism which I have not discussed.⁴⁰ But, Sen, Dworkin and Cohen preface and motivate their positive agendas with the unpersuasive critiques

³⁹ Ibid.

⁴⁰ See Cohen, "Equality of What? On Welfare Goods and Capabilities;" Ronald Dworkin, "What is Equality? Part 1: Equality of Welfare," Philosophy and Public Affairs 10, no. 3: 185-246; "What is Equality? Part 2: Equality of Resources," Philosophy and Public Affairs 10, no. 4: 284-345; and Amartya Sen, "Equality of What?" in ed. S. McMurrin, Tanner Lectures on Human Values, vol.1 (Cambridge: Cambridge University Press, 1980).

of the welfare metric I have evaluated here. The two most obvious replacement proposals -- resources and opportunity for welfare -- offer little advantage in return for abandoning the welfare standard. So, now that the hors d'ouerves are over, it is time for main course.

Chapter III: The Argument

In this chapter I will defend the first two tenets of anarchal egalitarianism. Recall that anarchal egalitarianism is a political theory characterized by the exhaustive conjunction of three central claims:

1. a denial of self-ownership (proper) as a principle;
2. a weak equality claim, which is broadly defined by a preference for an equal distribution of benefits and burdens constrained by (3); and,
3. a weak utilitarian claim, which is defined by:
 - (U1) Individuals should be given equal consideration regarding how welfare is to be distributed; and
 - (U2) Outcome X is morally better than outcome Y if (not if, and only if) ceteris paribus the total welfare in X is greater than the total welfare in Y.

Self-Ownership

The self-ownership thesis affirms that every individual is the morally rightful owner of themselves and should be free to do as they choose so long as they do not harm others. Nozick assumes self-ownership and argues that it entitles individuals to unequal resource holdings and, a fortiori, unequal welfare levels. Cohen and Arneson think self-ownership is worth preserving, but deny that it licenses inegalitarian distributions. While I will not examine the particular strategies Cohen and Arneson develop to co-opt self-ownership, I will consider Cohen's motivation for adopting it. I will argue that self-ownership faces a dilemma. On the first horn, self-ownership collapses into a form of utilitarianism. Resisting the collapse, as Arneson and Nozick do, impales self-ownership on the second horn: prescriptive impotence. On this horn, self-ownership is incapable of licensing any particular outcome in a world with scarce resources, and therefore self-ownership is unable to serve as a foundational principle for a political theory. Much

of what I have to say here will focus on the 'do not harm others' proviso. The meaning of this condition lies at the centre of the Nozick-Cohen-Arneson controversy. The setting of the debate is a state of nature in which scarce resources are not owned, but instead are available for common use. Against this backdrop, Nozick considers under what circumstances a person ought to be free to privatize scarce but common resources; i.e., what should (and should not) count as causing others harm in the context of private appropriation.

Nozick claims that private appropriation of a resource by S is legitimate if, and only if, it is not the case that 'the position of others no longer at liberty to use the thing is thereby worsened.'⁴¹ If someone's position were worsened by virtue of an appropriation, that person would have to be compensated such that she suffers no loss in net welfare. The following story will illustrate how the self-ownership principle is supposed to work by Nozick's lights, and will be useful as a touchstone scenario for later discussion.

Imagine that Forbes lives in a small hamlet with Crafty and Humble. They reside near a stream and in the state of nature. Forbes and Crafty are fit and enjoy relatively comfortable lives with welfare scores of <15>. Humble is sickly, undernourished and somewhat untalented, with a low relative welfare figure of <7>. Forbes stakes out a small section of the stream and its banks, claims it as his, and builds a bridge across it. However, this piece of the stream is the only bit within a kilometre which is shallow enough to wade across. So, according to Nozick's proviso on appropriation, Forbes cannot forbid his neighbours to wade across his section of stream without compensating them, since that would make them worse off than they would have been had the stream remained unowned and in common use. But, Forbes can exact whatever toll he chooses to set for crossing the bridge. Say Forbes charges three eggs, and on a daily basis collects more eggs than he can eat. Let us also assume that Crafty is delighted to pay three eggs to cross the

⁴¹ See footnote 3 in Chapter One.

stream without a wetting, but would not pay four. Humble cannot afford even one egg, and must continue to wade through the shallows. As a result, the appropriation of the parcel of stream has benefitted both Forbes and Crafty. And, if Humble is still free to cross the waterway under the bridge, then no one is worse off than before Forbes made his entrepreneurial grab.

Now, on Nozick's view of self-ownership, if any of the members of Forbes' community were malnourished, Forbes would be under no obligation to share the eggs he collected as toll. In fact, Forbes would be perfectly within his rights to throw any eggs he did not want into the stream and let his neighbours starve. This is a corollary of Nozickian self-ownership: Forbes is under no non-contractual obligation to assist anyone, no matter how dire are their circumstances. Forbes is only constrained to make the hungry no worse off than they would be without his appropriation.

If Nozick's conception of self-ownership is all that guides the development of Forbes' community, it is easy to spin the yarn a little further to include fairly clear cases of exploitation.⁴² Let us imagine that, at another village, Forbes is able to barter some of the eggs he collects for corn and beans. Forbes then encloses a field and uses eggs to pay Humble, who is malnourished, to plant and harvest corn and bean crops. Humble, who was underfed, is now better off than he was, and Forbes benefits by having more resources at his disposal. At this point Forbes is effectively doing no work and lives as comfortably as he could given the modest surroundings. His welfare is generally about <30>, whereas the welfare of Humble is an uncomfortable <10>. But, recall that before he provided Humble with a job, Humble had been malnourished and suffering with an average welfare of <7>.

Cohen points out that "a common left response to Nozick is to recoil from the inequality

⁴² It could be argued that Forbes is already exploiting Crafty and Humble, since Forbes could charge Crafty less than three eggs and let Humble cross the bridge for free given Humble's situation. I will not pursue this here.

his view allows, to affirm some sort of equality of condition as a fundamental value, and to reject (at least unqualified) self-ownership because of the inequality of condition it supposedly generates."⁴³ Cohen thinks this reply to Nozick is wanting in two respects. First, Cohen believes this line is unlikely to persuade many of Nozick's followers, since "they have not failed to notice that their view contradicts (what Nozick would call) the end-state egalitarianism here pressed against it."⁴⁴ Perhaps Cohen is right; the egalitarian must do more than merely affirm equality of condition to convince the unconverted. Second, Cohen thinks that "the thesis of self-ownership has, after all, considerable intuitive strength."⁴⁵ Cohen tries to motivate sympathy for self-ownership with the following remarks:

[Leftists] do not immediately agree that, were eye transplants easy to achieve, it would then be acceptable for the state to conscribe potential eye donors into a lottery whose losers must yield an eye to beneficiaries who would otherwise be not one-eyed but blind. The fact that they do not deserve their good eyes, that they do not need two good eyes more than blind people need one, and so forth; the fact, in a word, that they are merely lucky to have good eyes does not always convince them that their claim on their own eyes is no stronger than that of some unlucky blind person.⁴⁶

I disagree with the spirit of Cohen's argument, although I strongly concur with the letter of Cohen's second point. The fact that I am merely lucky to have good eyes never convinces me that my claim on these good eyes is no stronger than that of some unlucky blind person. Were I to be convinced of this, then I would have to accept that the blind person's claim to a good eye were merely as strong as my claim to both good eyes. My undeserved fortune to have been born with good eyes convinces me that my claim on both these eyes is weaker than the blind person's claim on one good eye. This view is defensible on both weak utilitarian and weak equality

⁴³ Cohen, "Self-Ownership, World-Ownership, and Equality (Part I)," pp. 110-111.

⁴⁴ Ibid., p. 111.

⁴⁵ Ibid.

⁴⁶ Ibid.

grounds. Two individuals with one eye, ceteris paribus, are more equally well-off than one individual with two eyes and another person who is blind. Furthermore, given the modest reduction in eyesight incurred by the person who loses an eye, and the tremendous benefit gained by the blind person who gets an eye, overall welfare is increased by robbing from the vision-rich and giving to the vision-poor. Thus, allowing me to keep the two good eyes I was born with on grounds of self-ownership would produce an outcome that was both sub-optimific and unequal.

In addition, even if we set aside these considerations, it is not clear that Cohen's eye example has the force it may initially appear to possess. Plausibly, what is repugnant in the case Cohen presents is the notion that the state should have so much power that it would be permitted to distribute a person's organs. If people were asked whether they thought it a morally good thing to give up an eye for someone who would otherwise be blind, they may well respond that this sort of act is morally good. Typically, we think of the GI that falls on a grenade to save his buddies as a hero, and laud him (posthumously) with praise. So, although our intuitions may sometimes condemn sacrifices when the state demands them, we still think that there is something to be said for sacrifices when they are made from a sense of duty rather than coerced from us. So, rather than inferring that we ought not to require eye transplants, perhaps the lesson from Cohen's example is that we ought to develop institutions that foster a greater sense of community. When people care more for one another, they are more willing to sacrifice without the threat of state sanctions. However, for the sake of argument, let us suppose with Cohen that an egalitarian theory would be more robust (at least polemically) if it could incorporate self-ownership.

Instead of rejecting self-ownership, Cohen attempts to co-opt it into an egalitarian framework, and claims that self-ownership "does not warrant the inegalitarian distribution of

worldly resources with which Nozick combines it."⁴⁷ Cohen argues that Nozick misidentifies what should count as harm to others in the context of private property appropriation in the state of nature. Nozick's condition that others be made no worse off in the case of an appropriation, Cohen thinks, is too weak. Recall the hamlet of Forbes, Crafty and Humble. Suppose Crafty, worried that Forbes might appropriate the crucial bit of stream, were to pre-empt Forbes and appropriate the shallow part of the stream himself. Then, Crafty could do exactly what Forbes did; he could build a bridge, collect eggs, employ Humble and live happily ever after. If this were possible, then, Cohen suggests, it is unclear why Crafty should "be required to accept what amounts to a doctrine of 'first come, first served.'"⁴⁸ And, Cohen queries, if Crafty abstained from appropriating out of regard for Forbes, "[o]ught [Forbes] to profit only because he is more ruthless than [Crafty]?"⁴⁹ So, Cohen thinks these possibilities indicate that further argument is needed to support Nozick's view that Forbes' appropriations are justified.

Cohen also argues that Nozick's proviso warrants Pareto-inferior outcomes. An outcome is Pareto-inferior if a set of persons {S} is worse-off than they need to be, and all others would be no worse-off in a world in which {S} were better-off. So, <11,12> is Pareto-inferior to <12,12>, but is not Pareto-inferior to <11,11>. <11,12> is Pareto-superior to <11,11>. Assume that Crafty is egalitarian in spirit, and a better manager and worker than Forbes. In this case, it is possible that Crafty, Forbes and Humble would all do better had Crafty appropriated instead of Forbes. For instance, suppose Crafty had appropriated and worked the fields with Humble so that more corn and bean were produced than under Forbes' arrangement. Imagine also that Crafty divided the harvest equally between the three such that each had much more than they would have

⁴⁷ Ibid., p 118.

⁴⁸ Ibid., p. 128. Cohen uses bushels of wheat and a two-person scenario, but the point is the same.

⁴⁹ Ibid.

had if Forbes had appropriated. Even Forbes himself would be better off than if he had appropriated, since he would have more total resources but still do no work. On this basis, Cohen suggests that:

Nozick's proviso is, nevertheless, satisfied [if Forbes appropriates], since whether or not it is satisfied is unaffected by anything that might have happened had [Crafty] appropriated. And this means that Nozick's condition licenses and protects appropriations whose upshots make each person worse off than he need be, upshots that are, therefore, in one good sense, Pareto-inferior. [Forbes], if sufficiently ignorant or irrational to do so, would be entitled to prevent [Crafty] from taking what [Forbes] had appropriated, even if both would become better off if [Crafty] took it.⁵⁰

Cohen points out that the case against Nozick can be put more strongly than this. Let us assume that Forbes is doltish, and that the desperate Humble is an intelligent inventor and organizer. After Forbes appropriates the shallow bit of stream and a parcel of farm land, he demands that Humble design and build the bridge, and later work the fields for him. Preferring exploitation to starvation, Humble accepts. Cohen remarks that

[Forbes'] appropriation is still justified under Nozick's proviso, even though here it is the case not merely that [Humble] could also have engineered a productivity gain but that he actually is the one who brings it about...To reap all the benefits from any enhancement of production that results from privatization, [Nozick's] just appropriators need not do anything to resources beyond making them their own.⁵¹

I think that Cohen's argument does show that Nozick's proviso is too weak, since Nozick's condition can licence sub-optimal and unequal outcomes. Nozick could reply via an attack on Cohen's methodology. Nozick could argue that the possible outcomes Cohen illustrates are irrelevant because they depend on consequentialist analyses which derive their force from utilitarian-like or egalitarian premises. Nozick rejects utilitarianism and egalitarianism across the board largely because he thinks these theories can justify violations of a person's rights. Nozick's

⁵⁰ Ibid.

⁵¹ Ibid., pp. 128-129,

general argument for keeping an extant private property system that includes some who are indigent and propertyless, as Cohen puts it, is that "anyone has the right to appropriate private property when that makes nobody worse off, and appropriation of private property in general makes everyone better off (and therefore not worse off)."⁵² However, Cohen is right to respond that because Nozick "depends on an empirical minor premise, Nozick's defense of private property turns out to be...potentially vulnerable to empirical counterargument."⁵³ And, as a consequence, Nozick must give a further reply to defray the polemical cost of feasible outcomes Pareto-superior to those which he allows.

Nozick could admit that some outcomes may be Pareto-superior to outcomes he licenses, but that he forbids moves to outcomes Pareto-inferior to the state of nature. For instance, Forbes cannot deny Humble access to the shallows without compensating him. Nozick guarantees that property acquisition in general can occur only if the result is either Pareto-superior or Pareto-equivalent to the state of nature. Recall that Forbes' appropriation produced an outcome of $\langle 30, 10 \rangle$ for Forbes and Humble, which is Pareto-superior to the pre-appropriation state of nature profile of $\langle 15, 7 \rangle$. Furthermore, allowing people to appropriate just so long as they do not make others worse off than they would be in the state of nature has the effect of protecting the property rights of property holders. Forbes' assets cannot be taxed because they were acquired justly and

⁵² Ibid., p.131. Evidence of the minor premise can be found throughout Anarchy, State and Utopia, but especially on p. 177: "Here enter the various familiar social considerations favoring private property: it increases the social product by putting means of production in the hands of those who can use them efficiently (profitably); experimentation is encouraged, because with separate persons controlling resources, there is no one person or small group whom someone with a new idea must convince to try it out; private property enables people to decide on the pattern and types of risks they wish to bear, leading to specialized types of risk-bearing; private property protects future persons by leading some to hold back resources from current consumption for future markets; it provides alternate sources of employment for unpopular persons who don't have to convince any one person or small group to hire them, and so on."

⁵³ Ibid.

are now his.

Cohen objects that Nozick's proviso is arbitrary in the sense that it ignores without warrant rival theories of ownership other than 'institutionally primitive common ownership.' Cohen more or less insists on the arbitrariness here with the question "why should institutionally primitive common ownership be the only alternative to capitalism which is allowed to count, and not also more structured noncapitalist arrangements?"⁵⁴

One might expect Nozick to respond to the arbitrariness worry by pointing out that his view of appropriation, unlike utilitarian or egalitarian theories, confers rights which protect property owners from redistributions which can harm them. Nozick lets Forbes keep everything; utilitarianism would redistribute from Forbes to Humble if that increased total happiness; egalitarianism would redistribute from Forbes to Humble if that yielded greater equality. So, protecting the rights of property holders may offer a non-arbitrary motivation to adopt Nozick's proviso on appropriation. But, Nozick cannot justify his proviso merely on the grounds that it is necessary to protect the rights of property holders, because it is exactly these rights his proviso itself would establish. To warrant that which confers a right by merely appealing to that right begs the question. It seems Nozick would put the cart before the horse were he to justify his proviso on the basis of a property right which can exist only if that proviso is satisfied. Since Nozick's proviso is a necessary condition of Nozickian property rights, the proviso must be defended independently of the rights it can procure and protect. To assume such rights is merely to assume the proviso, and in no way gives an argument for it.

Nozick could concede this much, and admit that his proviso is just a means of ensuring the property rights he treasures. This is an important concession, however, for it suggests that Nozick's proviso does not have the independent justificatory force regarding property

⁵⁴ Ibid., p.132.

appropriation that Nozick takes it to have. Furthermore, Nozick must provide a separate argument for the sanctity of (Nozickian) property rights if such rights ultimately are supposed to motivate his proviso. The conclusion here is far from trivial, for it places a burden on Nozick to make us care about Nozickian property rights without appeal to his proviso on appropriation. If a concern for property rights justifies Nozick's proviso, then his proviso cannot be used to show that we ought to care about property rights.

Nozick could fall back on empirical claims such as 'private appropriations generally make people better off.' But, this is plausible only if appropriations are mediated by (at least) Nozick's proviso that no one be made worse off by an appropriation. Since Nozick cannot appeal to his proviso in this context, there is little reason to believe that private appropriations generally will make people better off. Appropriations may make people better off, but they may not. Whether appropriations make people better off depends crucially on the proviso that regulates appropriations. Without any proviso, Forbes could appropriate everything and enslave Humble and Crafty, making them far worse off than before his appropriation. However, let us suppose that for whatever reason, people generally will do better after private appropriation than before it.

Even with this assumption, it is still not clear that Nozickian property rights ought to be privileged. If the basis for caring at all about property rights is a Pareto-superior gain in welfare, then it does seem arbitrary to concern oneself with Pareto-superior welfare gains only up to the point at which people are no worse off than they would be without appropriation. To hold this (Nozick's) view, one would have to defend the idea that considerations of welfare give us reasons up to point x (say, up to the institutionalization of private property), but fail to give us reasons beyond point x. And, since property rights would be parasitic on considerations of welfare, it would take considerable smoke and mirrors to invoke these rights to trump welfare. So, if

considerations of Pareto-superior outcomes justify any system of property holding, then it seems an appropriate system for these considerations to justify is one that selects the Pareto-superior outcome which maximizes total welfare. Therefore, if Forbes and Humble are at <15,7> in the state of nature, it is better for them to move to <29,29> than to <30,10>. Starting from <15,7>, Nozick is indifferent to <29,29> and <30,10>; anarchal egalitarianism picks <29,29>.

This argument is much like the utilitarian Collapse Argument against the Harm Principle. The Harm Principle is similar to the thesis of self-ownership in that both require that agents be free to do as they please so long as they cause no harm to others. Mill defends this sort of view and claims that "the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others."⁵⁵ But, Mill's view of not causing harm differs substantially from Nozick's:

If any one does an act hurtful to others, there is a *prima facie* case for punishing him, by law, or, where legal penalties are not safely applicable, by general disapprobation. There are also many positive acts for the benefit of others, which he may rightfully be compelled to perform; such as, to give evidence in a court of justice; to bear his fair share in the common defense, or in any other joint work necessary to the interest of the society of which he enjoys the protection; and to perform certain acts of individual beneficence, such as saving a fellow creature's life, or interposing to protect the defense-less against ill-usage, things which whenever it is obviously a man's duty to do, he may rightfully be made responsible to society for not doing. A person may cause evil to others not only by his actions but by his inaction, and in either case he is justly accountable to them for the injury.⁵⁶

To be sure, Mill thinks that there are relatively few cases in which one person harms another by not making that latter individual better off than she would be otherwise. So, Mill claims,

⁵⁵ Mill, *On Liberty*, p. 9.

⁵⁶ *Ibid.*, p. 11.

To make any one answerable for doing evil to others, is the rule; to make him responsible for not preventing evil, is, comparatively speaking, the exception. Yet there are many cases clear enough and grave enough to justify that exception.⁵⁷

Mill's view here typifies the standard utilitarian treatment of the Harm Principle. The utilitarian asserts first that there is no reason to care about someone's welfare up to the point at which one causes them no harm, and then be indifferent to their prospects beyond that point. Furthermore, the utilitarian claims there is no principled basis on which to draw a distinction between not causing harm and causing benefit. What matters to the utilitarian is maximizing overall welfare. So, within this framework, Forbes can always be said to be causing harm to Humble unless Forbes is doing whatever she can to maximize the welfare of Humble.

Similarly, a weak or strong utilitarian could argue that Nozick misconstrues what constitutes not causing harm. Nozick's view of harm is the pre-philosophical or common-sense notion that Forbes harms Humble only if Forbes causes a drop in Humble's welfare or causes Humble to be worse off than he would otherwise be. Arneson defends this view of harm in relation to self-ownership, and claims that

a self-ownership doctrine that insists that people should be left free to do whatever they choose unless they harm non-consenting others must deny that your private appropriation harms me just because I would have been better off if your appropriation had never occurred and instead some alternative dispensation of the land had been instituted under which the steward of that land would have laboured on it and given me aid from its proceeds. From a self-ownership perspective, this comparison is not appropriate, because it involves a transfer of benefit to the non-appropriator and self-ownership denies that anybody owes anybody any such benefits. It might be that the worst off under laissez-faire would be better off under the operation of Rawlsian principles of justice regulating a property-owning democracy and better off still under various democratic socialist constitutions. So what? If we are wondering whether your action harms me the fact that an alternative action which you might have performed would have lavished great benefit on me is not germane to the issue.⁵⁸

Arneson, like Nozick, thinks that Forbes is not, in any relevant sense, causing harm to Humble.

⁵⁷ Ibid.

⁵⁸ Arneson, "Lockean Self-Ownership: Towards a Demolition," p.45.

Indeed, Forbes could point out that Humble is better off now than before Forbes' appropriations. This view of harm has intuitive strength, and is a commonplace of liberal thought. The Economist's standard justification of exploitive capital investment in underdeveloped countries is that the workers, while miserably underpaid, are generally better off than before the factory came to town. I think the wrong leftist response to this claim is to deny it on empirical grounds by noting happenstances like the Union Carbide disaster in Bhopal, India. This reply is misguided, for most people do prefer exploitation to starvation, and a fortiori, most third world workers are better off exploited than starved.⁵⁹ Cohen's response to Nozick is better, and, for the reasons I will now offer, I think a utilitarian reply conjoined with a different conception of harm is better still.

The pre-philosophical notion of harm is not the function of an analytic truth or a semantic rule, but instead reflects a conceptual intuition. As such, an intuition-based thought-experiment will be useful for generating insights into what should count as causing harm. Suppose that after World War II the Allies decided to continue operating the death camps and carried on with Hitler's "final solution." The internees of the camps would have been no worse off with the Allies than they were with the Nazis, but nevertheless it is counter-intuitive to imagine that the Allies would not be harming them. (In fact, few would doubt that Stalin's actual treatment of the Jews after World War II was anything less than harmful, although they were better off under Stalin than Hitler.) One might object here that the Allies would be making the prisoners worse off than they would otherwise be under "normal conditions." However, it will be necessary to employ normative considerations in order to specify "normal conditions." In this case, it may not

⁵⁹ This may be a little strong. My experience with some who have worked on sugar and coffee plantations is that they themselves would rather starve than work under slave-like conditions for a miserable wage. But, these people were Catholic Salvadoreans who married young and had many children. So, preferring exploitation to their families' starvation, they took what they could get.

be very difficult, since the prisoners were largely part of mainstream liberal democratic society before the Nazi ascendancy. But, it still will be necessary to judge (say) the liberal democratic West as the appropriate standard, and not Nazi Germany. Consequently, the prisoners would have been harmed by the Allies in the hypothetical scenario because they would have been denied the welfare they ought to have been able to enjoy. This normative conception of harm is substantially different than the common-sense notion. The normative view of harm does not set the baseline of comparison used for determining whether a person is harmed at the level of the person's actual welfare, but rather, at the welfare level that person could expect under a normatively acceptable political system.

One might agree that the Allies would have harmed the camp internees if the Allies treated them as the Nazis had, but insist on a finer distinction than the one offered above. Note that if the Allies did not help the prisoners, the Allies would be failing to rescue them from a desperate predicament. So, one might reject Nozick's common-sense view of harm, but decline my replacement proposal in favour of something between it and Nozick's: Forbes harms Humble, if, and only if, Forbes either makes Humble worse-off or fails to rescue Humble from an intolerable or life-threatening situation. This would not be Nozick's view, as he would argue that Forbes owes nothing to Humble. But, it could be the view of a libertarian who is less extreme than Nozick and sensitive to the difficulty that rescue cases pose to the pre-philosophical conception of harm. This view is useful to a moderate libertarian, since rescuing does not appear to entail that we should provide the rescuee with a decent life. So, the wealthy, on this view of harm, may be protected from egalitarian transfers to the less fortunate who are not in dire need. It is worth noting that it is not enough for the moderate libertarian to claim merely that we can distinguish between rescue cases and cases in which we benefit someone who enjoys a decent life. She must give us some reason to believe that failing to benefit someone in a rescue case causes

harm, whereas failing to benefit someone in a non-rescue case does not. Presumably, the moderate libertarian is relying on the intuition that if two people enjoy relatively decent lives, neither harms the other if each fail to benefit one another.

I share this intuition, but do not believe it justifies the moderate libertarian's conception of harm. First, the normative view of harm I defend, quite plausibly, is compatible with the intuition that two individuals with decent lives do not harm each other if they fail to benefit one another. The assumption here is that a normatively acceptable political theory would insist on the welfare level of a decent life, if possible, but would not claim that someone is harmed if they were not better off than the decent life that is sanctioned by the theory. On my view, someone is harmed only if they are not as well off as they ought to be, given the appropriate normative theory and available resources. Second, the very idea of a decent life is fraught with normativity. Specifying what we should regard as a decent life depends on our moral or political theory, and the resources at hand to implement the theory. For instance, what counts as a decent life for an African-American in the southern United States today is different than it was 150 years ago. Similarly, an acceptable childhood no longer includes the possibility of working twelve hour days bent double in a coal mine. A third and related point is that what counts as being in need of rescue also depends on our normative theory and resources. We may think that slaves and coal-mining children are harmed if not rescued. Some nineteenth century societies disagreed. The same is true of the internees of Nazi concentration camps. We think they ought to have been rescued, the Nazis did not. The upshot of these remarks is that the distinction between a decent life and being in need of rescue is fundamentally a normative distinction. Thus, the distinction between what counts as harm and what does not is itself a distinction which rests on our moral or political theory. As a consequence, we need to go beyond mere intuitions about harm to settle what counts as harm. We must rely on our normative theory.

This last point is important, for suppose the moderate libertarian agrees that what counts as being in need of rescue and a decent life depends on our moral theory and available resources. She might argue that once we have adopted the proper theory, we can then distinguish between a decent life and being in need of rescue. We harm those we do not rescue, and we do not harm those who we fail to benefit if their welfare levels reflect a decent life, by the standards of our moral theory. The reply to the moderate libertarian is merely to agree, because if one has a decent life, then one has a level of welfare that one ought to enjoy by the lights of the appropriate moral theory. This follows from the view that in any given set of circumstances, our moral theory determines what counts as a decent life. Thus, according to the normative conception of harm, an individual is not harmed if that person has a decent life. Moreover, the normative basis of being in need of rescue and a decent life precludes the moderate libertarian from being able to claim that we do not harm if we do not benefit someone who does not have a decent life, but is nonetheless not in need of rescue. This move is precluded because if someone does not have a decent life, then that person has a morally unacceptable welfare level, and therefore ought to be rescued. It is worth clarifying here that the basis for believing that failure to rescue counts as harm is that not rescuing is unacceptable by the lights of our normative theory. So, if we believe that not rescuing counts as harm because it is morally unacceptable, then to be consistent we must count as harm any case in which we do not improve the lot of someone whose welfare level is morally unacceptable. This is exactly the normative conception of harm which I endorse.

However, a further refinement is necessary. Suppose that a political theory is capable of justifying several outcomes, such as $X \langle A-15, B-20 \rangle$ and $Y \langle A-20, B-20 \rangle$. Assume also that X and Y are warranted to just the same degree, and that $\langle 15 \rangle$ and $\langle 20 \rangle$ both represent decent lives according to the theory that licenses X and Y . If A were forced to accept X , then I think A could legitimately complain that she was being harmed. A 's grounds are that she would be worse off

than she could be in Y, which is morally and politically equivalent to X. Since there is no moral or political reason to prefer X to Y, it would be morally arbitrary to insist on X over Y. And, A could argue that because there is no moral difference between X and Y, her preferences ought to be taken into consideration. To disregard her interests in this context would be to harm her, as she would be forced to be worse off than she could otherwise be in a morally equivalent outcome. One could respond to A by pointing out that once she is in X, she is receiving the welfare level she ought to receive by virtue of the theory that put her there. Thus, she is not really being harmed. A's reply is that if there is another outcome morally equivalent to X in which she could do better, such as Y, then she is being harmed. Her argument, again, is that prudential considerations ought to be taken into account given that, ex hypothesi, acting on them will have no effect on the relative moral value of Y compared to X. A is relying on the intuition that one ought to be permitted to have as high a welfare level as possible so long as there is not a moral prohibition to it. And, on the basis of this view and the normative conception of harm, it is plausible to suppose that someone is harmed if they are prevented from being as well off as they could be in the absence of a moral restraint. Therefore, a person is harmed if she is made worse off than she would be in the normatively acceptable outcome which maximizes her happiness.

Suppose that after the Allies liberated the camps, the internees could be reintegrated into countries of either the West or the Eastern Bloc. Let us also assume for the sake of argument that the proper normative theory would have justified equally their relocation into either the West or the East, and that both alternatives offered decent lives to the internees. The only difference is that the internees would have enjoyed an average welfare level of <20> in the West, whereas they would have received merely <15> in the East. Since there is no moral or political difference between them settling in the West or the East, they could claim with good reason that they would have been harmed were they forced to go to the East. Since there was no normative prohibition

to them settling in the West, it would have been arbitrary and injurious to them were they denied this possibility. So, on prudential grounds, they could have claimed that they were harmed were they forced to reintegrate in the East.

Let us now relate this view of harm to Nozickian appropriation. Recall that Nozick's proviso ultimately depends on property rights, which themselves depend on Pareto-superior welfare considerations. A more reasonable proviso on appropriation than Nozick's might state that anyone can appropriate so long as the appropriation is consistent with the most welfare maximizing Pareto-superior outcome. Thus, if Forbes could work in the fields with Humble and share the harvest equally with him such that the outcome was Pareto-superior and optimific, then Forbes' refusal to do so is harming Humble in a basic (normative) sense: Humble is worse off than he would be if Forbes acted in a manner consistent with allowing Humble to experience the welfare level Humble ought to be able to enjoy. Forbes' refusal to share the burdens and benefits appropriately with Humble is a sufficient condition of Humble's plight. So, inasmuch as sufficient conditions establish causal relationships, Forbes is causing harm to Humble. Therefore, we reach at least the imperative which Cohen arrived at earlier: Forbes ought not to be permitted to appropriate the shallows and the land, and exploit Humble as he does in the original story, because by hoarding the benefits and avoiding the burdens, Forbes is harming Humble.

Moreover, the weak or strong utilitarian response to Forbes is in some ways better than Cohen's. Notice first that the utilitarian can adopt all of Cohen's counter-arguments to Nozick. Utilitarianism can rule out the 'first come, first served' principle if it encourages ruthlessness which produces grave unhappiness. Pareto-inferior outcomes are ruled out when there are other Pareto-superior outcomes with greater total happiness. And, on the plausible assumption that Forbes' virtual enslavement of Humble does not maximize their cumulative welfare, such a state of affairs is also censured by utilitarianism. I think the strongest of the empirical replies to

Nozick here is that neither Forbes nor Humble are assured of doing as well as they could if they are governed by merely Nozick's doctrine. But, this argument has force only if one assumes that there is something to be said for optimific or at least Pareto-superior outcomes. Either weak or strong utilitarianism justifies optimific outcomes, and lends a coherent and principled justification to the upshot of Cohen's other arguments as well. As a consequence, the collapse argument against Nozick's theory of appropriation, if sound, shows that the thesis of self-ownership has no content apart from a veiled form of a utilitarian-like theory. This of course is not the sort of self-ownership Nozick wishes to defend, but it arises as a consequence of the objection raised against Nozick's common-sense view of what should count as causing harm.

Arneson attempts to meet this concern, and rejects both the utilitarian collapse against Nozick's proviso and Cohen's similar arguments. Arneson defends Nozick's proviso against Cohen's criticisms by attempting to draw a distinction between what is involved in harming and benefitting a non-appropriator. Arneson restates the familiar Nozickian self-ownership doctrine that an appropriator is not required to bestow a benefit on a non-appropriator. From this he concludes that it is inappropriate, from a self-ownership perspective, to compare (say) the actual world of Forbes and Humble with a world in which Forbes works and gives Humble aid. But, we need not compare the actual Forbes/Humble world with a world in which Forbes works to see that Humble could have done better than he actually does. Cohen's 'first come, first served' point is forceful here. The mere fact that Forbes and not Humble appropriated seems an arbitrary basis on which to let Forbes prosper and leave Humble worse off than he needs to be. However, let us set this worry aside and consider the general point on which Arneson's argument depends: providing a benefit is relevantly different than not causing a harm, and self-ownership is only concerned with the latter.

Arneson claims that 'If we are wondering whether your action harms me the fact that an

alternative action which you might have performed would have lavished great benefit on me is not germane to the issue.' I do not think that Arneson's view here is false, but it is irrelevant. It is irrelevant because we are not wondering whether one of Forbes' particular actions harms Humble, but rather, whether any of Forbes' actions harm Humble. In this case, a relevant action that could be said to harm Humble is Forbes' very active hoarding of scarce resources. Forbes' hoarding is a sufficient condition of Humble's penury. If we assume a proviso on appropriation that requires a Pareto-superior outcome which is optimific, that penury is a harm, since it causes Humble to be worse off than he ought to be. Now, I am not claiming that Forbes's appropriation cannot be described as not providing some benefit to Humble, since it raises Humble's welfare from $\langle 7 \rangle$ to $\langle 10 \rangle$. However, contra Arneson, the utilitarian would claim that there is no principled basis on which to distinguish 'not causing a benefit' from 'causing a harm,' since either may have a less than optimal effect on a person's welfare level. And, to reiterate a point made earlier, if the causing-harm/not-benefitting distinction is untenable and if part of self-ownership really carries a 'no harm' proviso, then self-ownership collapses into a utilitarian-like view.

Arneson could still respond that there is a set of harms I have as yet not duly considered, and that these harms are exactly the harms against which Nozick wants to protect appropriators. This set of harms are those which Forbes would incur if he were forced to share more of his resources with Humble than is necessary to get Humble to work for him. The move envisioned here may save self-ownership from collapsing into a variety of utilitarianism, but the cure, I will argue, is worse than the disease. Self-ownership, if it does not collapse into utilitarianism, will be prescriptively impotent. Hereafter, let us assume that self-ownership need not collapse, and call this non-collapsing thesis self-ownership proper. Self-ownership proper holds that anything Pareto-superior to the state of nature is justified, but carries an assumption that self-ownership does not collapse into a version of utilitarianism. The collapse may be avoided if we privilege

appropriators such that they are not required to relinquish any of the gains of their legitimate appropriations, since giving up any of their resources against their will would cause them to be worse off.

Nozick could argue further that non-appropriators do not suffer harm if self-ownership proper is assumed, because assuming self-ownership proper presupposes (i) a normatively acceptable political system that does not collapse into utilitarianism and (ii) a normative benchmark against which appropriations can be judged as causing or not causing harm. Thus, in the original story Humble could be thought of as enjoying the level of welfare he ought to possess when Forbes appropriates, because the outcome appears to be justified by self-ownership proper. Therefore, Humble does not appear to be harmed. However, Humble could point out that self-ownership proper does not rule out optimific and egalitarian outcomes so long as they are Pareto-superior to the state of nature. So, Humble could claim that he is being harmed when his position is compared to these outcomes which self-ownership proper also seems to warrant. As was argued earlier, given morally equivalent outcomes, someone can legitimately claim harm if they are not in that outcome in which they are doing as well as they could.

Nozick could reply that this case is different, for there is a moral bar against Humble doing better than he actually does -- Forbes would be harmed. But, Humble could make exactly the same point when Forbes attempts to appropriate and exploit Humble, since the appropriation is not licensed by self-ownership proper unless Humble is not harmed. Consider again the circumstances of Forbes and Humble. Forbes and Humble's utility profile before any appropriation is <Forbes-15, Humble-7>. After Forbes appropriates and develops the land, their welfare improves to <F-30, H-10>. Suppose, however, that Humble demands a division of

burdens and benefits that produces $\langle F-29, H-29 \rangle$ ⁶⁰, and appeals to the fact that self-ownership proper seems to license this outcome as well as the actual $\langle F-30, H-10 \rangle$. To deny Humble $\langle 29 \rangle$ is to harm him, because Humble is worse off in $\langle F-30, H-10 \rangle$, which is morally equivalent to $\langle 29, 29 \rangle$. Forbes could, with equal warrant by the lights of self-ownership proper, appeal to his right not to be harmed by Humble, and insist on the $\langle F-30, H-10 \rangle$ division. Not only does the Forbes/Humble argument reach an impasse, it seems in addition that self-ownership proper has no resources with which the debate could be furthered, let alone resolved.

The problem with self-ownership is that its dependence on the mere right not to be harmed renders it too crude to legitimize either $\langle 29, 29 \rangle$ or $\langle 30, 10 \rangle$. In either case someone is being harmed in that they are worse off than they justifiably could be, given that self-ownership proper seems to license both outcomes. And, this difficulty is generalizable. In any multi-person set of circumstances in which a finite amount of welfare can be affected, self-ownership proper can provide no guidance regarding how to distribute the benefits. The reason, again, is that ceteris paribus, any benefit to one person can be construed as a harm to someone else, since in a morally equivalent outcome this individual could have received the benefit instead of the person who actually received it. Thus, someone's Nozickian rights will always be violated. As a consequence, self-ownership proper exhibits true prescriptive impotence: it is unable to license any outcome Pareto-superior to the state of nature in which some goods (and their corresponding benefits) are scarce. But, the chief purpose of a substantive political theory is to ground institutions which will tend to produce particular sorts of outcomes in which at least some people do better than in the state of nature. Therefore, since self-ownership proper can warrant no such outcome, it should be denied as a principle of any political theory. It is also worth noting that

⁶⁰ Assume for the sake of argument that by virtue of diminishing marginal utility, it takes as great a quantity of resources to boost Forbes from $\langle 29 \rangle$ to $\langle 30 \rangle$ as it takes to increase Humble's welfare from $\langle 7 \rangle$ to $\langle 29 \rangle$.

as a consequence of its prescriptive impotence, self-ownership proper is incapable of protecting people against redistribution, because ultimately it is unable to license any sort of outcome. If self-ownership does collapse into a utilitarian-like theory, then it could be co-opted as a derivative part of any theory which accepts weak or strong utilitarianism. But in that case, self-ownership loses its distinctive flavour, and is hardly the foundational libertarian thesis Nozick wishes to defend.

Weak Equality

The equality claim I wish to defend is one which values an equal distribution of burdens and benefits among any set of individuals. It is a 'weak' or mitigable claim since it is constrained by another norm, maximizing the general happiness in accordance with weak utilitarianism. One of the more curious features of pro-egalitarian literature is the conspicuous absence of argument in support of equality. Typically, equality is assumed to be a norm worth adopting, and one which carries a prima facie assumption in its favour. Isaiah Berlin supposes that

[n]o reason need be given for...an equal distribution of benefits -- for that is 'natural' -- self-evidently right and just, and needs no justification, since it is in some sense conceived as being self-justified...The assumption is that equality needs no reasons, only inequality does so; that uniformity, regularity, similarity, symmetry,...need not be specially accounted for, whereas differences, unsystematic behavior, changes in conduct, need explanation and, as a rule, justification. If I take a cake and there are ten persons among whom I wish to divide it, then if I give exactly one-tenth to each, this will not, at any rate automatically, call for justification; whereas if I depart from this principle of equal division I am expected to produce a special reason. It is some sense of this, however latent, that makes equality an idea which has never seemed intrinsically eccentric...⁶¹

This sort of assumption is fine if one's audience is sympathetic, or if one is engaged in an 'in-house' dispute with egalitarians, say, over whether a welfare metric or an opportunity for welfare standard is most appropriate for egalitarian theory. However, to paraphrase Cohen, libertarians and strong utilitarians likely have noticed that their views are compatible with inegalitarian outcomes. An equality norm is not intuitively appealing to all. Nozick asks,

⁶¹ Isaiah Berlin, "Equality," reprinted in F.A. Olafson, ed. Justice and Social Policy (Englewood Cliffs, N.J.: Prentice-Hall, 1961), p. 131.

Why ought people's holdings to be equal, in the absence of special moral reason to deviate from equality? ... Why is equality the rest (or rectilinear motion) position of the system, deviation from which may be caused only by moral forces? ... [I]f I go to one movie theatre rather than another adjacent to it, need I justify my different treatment of the two theatre owners?⁶²

So, an argument is needed to address Nozick's concerns.

The argument I propose is in part negative and in part positive. The negative argument suggests that an individual's resource holdings and consequent welfare cannot be justified on the basis of either desert or Nozickian entitlement claims. The positive argument defends the view that there is a prima facie reason to value equality of welfare.

Mill adverts to the germ of the negative argument, what has been called the 'natural lottery argument':

[A] few are born to great riches, and the many to penury, made only more grating by contrast. No longer enslaved or made dependent by force of law, the great majority are so by force of poverty; they are still chained to a place, to an occupation, and to conformity with the will of an employer, and debarred by the accident of birth both from the enjoyments, and from the mental and moral advantages, which others inherit without exertion and independently of desert. That this is an evil equal to almost any of those against which mankind have hitherto struggled, the poor are not wrong in believing. Is it a necessary evil? They are told so by those who do not feel it -- by those who have gained the prizes in the lottery of life.⁶³

The natural lottery argument contends that the welfare level a person enjoys (or endures) is a result of the arbitrary contingency of the natural assets with which one happens to be born, such as native abilities and social circumstances. This is a central theme in Rawls and constrains his general view.⁶⁴ Here are two samples of the Rawlsian lottery argument:

⁶² Nozick, Anarchy, State, and Utopia, p. 223.

⁶³ J.S. Mill, On Socialism (Buffalo, N.Y.: Prometheus Books, 1987), pp. 62-63.

⁶⁴ See footnote 18 in Chapter II.

The existing distribution of income and wealth, say, is a cumulative effect of prior distributions of natural assets -- that is, natural talents and abilities -- as these have been developed or left unrealized, and their use favored or disfavored over time by social circumstances and such chance contingencies as accident and good fortune. Intuitively, the most obvious injustice of the system of natural liberty [one much like Nozick's] is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view.⁶⁵

It seems to be one of the fixed points of our considered judgements that no one deserves his place in the distribution of native endowments, any more than one deserves one's initial starting place in society. The assertion that man deserves the superior character that enables him to make the effort to cultivate his abilities is equally problematic; for his character depends in large part upon fortunate family and social circumstances for which he can claim no credit.⁶⁶

The lottery argument I wish to defend (NLA+) can be formalized as follows:

- NLA+ P1. S is born with a particular set of natural assets; i.e., native talents and social circumstances.
- P2. S's natural assets and their effects determine or influence⁶⁷ the welfare levels of S throughout S's life.
- P3. The fact that S has a particular set of natural assets is arbitrary from a moral point of view.
- P4. S neither deserves nor is entitled to (in Nozick's sense of entitlement) either that which is arbitrary from a moral point of view or the effects of something which is arbitrary from a moral point of view.
- C. Therefore, S neither deserves nor is entitled to either her natural assets or the effects of her natural assets (including any particular welfare level which depends on her natural assets or their effects).

P1 is a relatively uncontroversial statement of empirical fact, but the remaining steps require clarification and argument.

P2 is a presupposition to the remainder of the argument. P2 is necessary because if

⁶⁵ Rawls, A Theory of Justice, p. 72.

⁶⁶ Ibid., p. 104. Other references to the NLA can be found at pp. 7, 15, 102, and 312.

⁶⁷ Rawls, as Cohen argues, holds that natural assets merely influence (i.e., partially determine) one's resource holdings. See Cohen, "Equality of What? On Welfare, Goods, and Capabilities?," pp. 363-365.

natural assets and their effects neither determine nor influence welfare, then natural assets would not matter much to a theory concerned with equalizing and maximizing aggregate welfare. The first disjunct of P2 claims that S's native abilities and environment are together sufficient to determine S's welfare, which tends to be largely a function of S's resource holdings. A stock libertarian response to this sort of claim is that S can overcome deficits in her natural assets by choosing to work hard; the poor are poor in part because they choose indolence as a lifestyle. The fact that some make it from rags to riches is cited as evidence that others could do the same, and therefore the poor are themselves to some extent responsible for their penury. A standard left reply is to deny this claim. The mere fact that some have lived the Horatio Alger dream does not show that others can do the same; it merely shows that those who have "succeeded" are capable of success. While the effort required for success may be tremendous, the left might argue, effective industry is possible only if one has certain character traits, fortunate circumstances or some combination of both. Even if effort were under the control of a free will, which is not to say that it is, mere industry is seldom enough to slip the surly bonds of destitution.

The debate, then, appears to be about whether those who go through life in poverty could act other than in the way they do to improve their welfare. In short, the right's case seems to depend on free will, and the left's on determinism. But this is, in part, an illusion. If determinism is true, so much the better for P2 of NLA+: natural assets and their effects determine welfare. If determinism is false, P2 can be read as 'natural assets and their effects influence welfare,' by which I mean that natural assets and their effects partially determine welfare. P2 retains its import on the influence reading because, if NLA+ is sound, any morally arbitrary influence on welfare is an influence to which no one can claim to be deserving or entitled. And, the view that natural assets influence welfare is plausible, because as a general rule those born talented and wealthy do

better than those born untalented and poor.⁶⁸

An egalitarian might object that the 'influence' disjunct of P2 weakens that premise too much for the argument to deliver the kind of distribution she wants. By conceding that, possibly, natural assets partially determine welfare, the second premise admits that there could be some aspects of one's welfare that are not determined by one's natural assets. If it turned out that, in fact, some measure of welfare is determined independently of natural assets, then the libertarian could seize on this and claim that a person can improve her welfare level regardless of her natural assets. So, the demand to enforce equality begins to look too strong if it is possible for the unfortunates to improve their lot without taking from the better endowed. I have three replies.

First, P2 of NLA+ does not concede outright that, as a matter of fact, some portion of an individual's welfare is determined independently of natural assets. The 'influence' view is nested in a disjunction with the claim that natural assets and their effects (wholly) determine the welfare levels of individuals. So, strictly speaking, P2 asserts merely that it is possible that natural assets do not entirely determine welfare. Libertarians need at least the claim that natural assets actually do not wholly determine welfare. Egalitarians can admit the possibility of natural asset-independent welfare gains, but then demand that the libertarian give evidence to show that any such welfare gains actually exist. The problem with this reply, however, is that it places in question the motivation for including 'influence' in P2. The idea behind claiming that, possibly, natural assets only partially determine welfare is that this assumption does not commit egalitarians inextricably to a defence of determinism and a denial of free will. So, to then claim that acts of free will are possible, but do not occur in our world, commits the egalitarian to the view that, insofar as our world is concerned, determinism is true and free will does not exist. While the

⁶⁸ See B.N. Waller, "Uneven Starts and Just Deserts," Analysis 49 (October 1989): 209-213 for a nice defence of this view against D.C. Dennet, Elbow Room (Oxford: Oxford University Press, 1984) and G. Sher, Desert (Princeton, N.J.: Princeton University Press).

'influence' variant of P2 is saved in a strict sense, polemically, little is gained. The egalitarian would have to give some defence of determinism-in-our-world to make her view convincing to non-determinists.

A second response to the egalitarian concern over the apparent weakness of the 'influence' disjunct is to point out that natural assets do determine a substantial measure of an individual's welfare. One of the reasons that abilities and wealth, for instance, matter politically, is that these assets have a tremendous influence on the welfare levels people experience. Children of the rich enjoy relatively good health and education, children of the poor are less likely to receive these benefits. Similarly, those with special talents, such as greater intelligence or physical strength, are more likely to do better than the untalented. In short, in our world, wealth bestows benefits, poverty inflicts burdens, and some talents command a higher income than others. These claims are simply facts about our world that it would be implausible to deny, even if one believes that some measure of an individual's welfare does not depend on such factors. The libertarian is likely to dig in on the issue of effort, which he will claim is subject to a free will that is independent of one's natural assets. Nevertheless, it is unlikely that a person's innate disposition and environment have no effect on the effort that individual can produce. The 'influence' reading of P2 can account for any effort that depends on one's character or the character which develops as a result of one's surroundings. Moreover, given the practical difficulty of measuring how much effort issues from a free will as opposed to one's natural assets, the egalitarian could argue that it would be impractical to reward desert claims on the basis of effort. Rawls makes this sort of move:

... the effort a person is willing to make is influenced by his natural abilities and skills and the alternatives open to him. The better endowed are more likely, other things equal, to strive conscientiously, and there seems no way to discount for their greater good fortune. The idea of rewarding desert is impractical.⁶⁹

It is also worth noting that effort has little or no bearing on many of the injustices egalitarians hope to redress, regardless of what one supposes the basis of effort to be. If an individual is poor and uneducated, she may be doing all that anyone in her position could to survive, but in spite of her effort, she may suffer immensely. More importantly, even if the poor or untalented could do better via greater effort, that is no reason to assume that they ought to be compelled to make such an effort. This is especially true if a greater effort on the part of the lesser endowed is required merely because the talented are permitted to hold onto wealth to which they are neither entitled nor deserving. So, the 'influence' clause in P2 suggests that egalitarians can account for the possibility of free will without yielding to many libertarian objections to redistribution.

Lastly, I think the egalitarian objection to the presence of 'influence' in P2 is in part undermotivated, since I do not take NLA+ to substantiate, by itself, an argument for egalitarian outcomes. Once NLA+ is defended, I will argue that it functions in an indirect role to support an independent egalitarian view that equality is worth pursuing. The purpose of NLA+ is to defuse the threat that desert and entitlement claims pose to this sort of egalitarian view. If this big picture stands up to closer scrutiny, then the determinist reading of P2 ensures that NLA+ can reject all desert claims.⁷⁰ This is the best route for the egalitarian, and if possible, she ought to convince her audience that some variety of determinism is true. Failing this, she can still claim considerable success via the 'influence' form of P2. On this head, the egalitarian can rebut non-effort-based desert claims, such as desert claims on inheritance or class privileges. The egalitarian

⁶⁹ Rawls, A Theory of Justice, p. 312.

⁷⁰ I separate desert from entitlement claims here, since the rejection of entitlement claims requires a different argument that is unrelated to considerations of desert and effort.

can level the playing field, so to speak, and distribute resources so as to eliminate the undeserved advantages of those born talented or into prosperity. And, it is up to the libertarian to separate the benefits of the effort caused by a free will from the benefits of the effort caused by one's natural assets. Without a principled separation, the libertarian can provide no reason to suppose that all effort is not, at least in part, the result of one's natural assets. So, even on the 'influence' reading of P2, the talented are unlikely to have clean and robust effort-based desert claims to shield themselves from the egalitarian call for equality. Clearly, however, it is still best for egalitarians first to take the determinist line, since no desert claims are less threatening than some messy ones. But, if one's audience denies determinism, the 'influence' version of NLA+ is useful, since much egalitarianism is better than none.

To digress for a moment, recall that last chapter I claimed that egalitarians, such as Cohen and Arneson, ought not to offer libertarians an inroad to free will by suggesting that the feckless or high-stakes losers are responsible for their lower welfare levels. The idea here is that egalitarians should resist specifying that individuals are themselves morally responsible for their welfare, since the egalitarian's strongest line -- the determinist reading of NLA+ -- entails that they are not. Notice, however, that the 'influence' form of NLA+ is consistent with claiming that the feckless are responsible for their situation. Nonetheless, the 'influence' variant does not entail that the feckless are responsible. So, there is no contradiction in denying that the feckless are at fault, and relying at the same time on the 'influence' rendering of NLA+. This is what egalitarians ought to do if, and only if, confronted with a resolute defender of free will. Moreover, we see again that egalitarians ought not to be tempted by an opportunity for welfare standard, since much of the motivation of that metric depends on specifying instances of responsibility.

Moving now to the third premise of NLA+, it alleges that S's possession of her natural

assets is arbitrary from a moral point of view. In this manner, P3 introduces the notion of arbitrariness. Nozick notes that a fact can be arbitrary from a moral point of view in at least two ways: "It might mean that there is no moral reason why the fact [S's natural assets] ought to be that way, or it might mean that the fact's being that way is of no moral significance and has no moral consequences".⁷¹ In P3, S's natural assets are arbitrary in the former sense: there is no moral reason why S ought to have been born with the natural assets with which she was born, it just turned out that way as a matter of brute luck -- a chance occurrence over which S had no control.⁷² To put the point another way, there is no moral reason that S rather than T was born with the natural assets with which S and not T was born. It was just the luck of the draw.

The fourth premise and the conclusion of NLA+ introduce desert and Nozickian entitlement. Rawls uses a lottery argument which takes as its target S's desert claims on her natural assets and their effects. Nozick thinks that while this argument may have something to say against desert claims, it nonetheless fails against S's entitlement claim on her natural assets. I will consider the case against desert, and then explore Nozick's reason for believing that entitlement is immune to NLA+. I will argue that NLA+ cuts against entitlement claims as well as desert claims, and so NLA+ is an effective weapon against Nozickian libertarianism.

Typically, S is held to deserve x only if there is some moral reason for S to get x. For instance, when S does something laudable or blame-worthy, we might say that S ought to be rewarded or punished via receiving x. P4 asserts that S does not deserve x or the effects of x if there is no moral reason for S to receive x, i.e., if x is arbitrary from a moral point of view. The conclusion of NLA+ states the deductive inference (via substitution of P3) that S deserves neither

⁷¹ Nozick, Anarchy, State and Utopia, p. 227.

⁷² cf. 'option luck:' the result of a gamble or a decision to take a risk on the part of S. For a lengthier treatment of the distinction, see R. Dworkin, "Equality of Resources," Philosophy and Public Affairs 10 (1981): 293.

her natural assets nor the effects which arise from them.

Nozick believes the NLA+ argument against desert claims is irrelevant to his general view because, he argues, questions of desert are beside the point. Nozick claims that people are "entitled to their natural assets even if it's not the case that they can be said to deserve them," and that "[w]hether or not people's assets are arbitrary from a moral point of view, they are entitled to them, and to what flows from them."⁷³ To be entitled to x is to have an exclusive property or ownership claim to x such that others cannot use x without consent of the owner. Nozick argues that "[p]eople's having the natural assets they do does not violate anyone else's (Lockean) entitlements or rights."⁷⁴ For Nozick, that is enough reason for people to be entitled to their natural assets. "Lockean" rights here refer to rights against force, fraud and other possible harms caused to others. So, Nozick's move is essentially an appeal to the thesis of self-ownership, which I have discussed in relation to property appropriation. I will argue now that self-ownership faces the same difficulties with regard to natural assets as it did in the context of appropriation.

First, Nozick's proviso on entitlement is as questionable here as it was in the case of appropriation. Suppose that in a small community Anaemic needs a pint of blood of a type which only Plentiful can provide. Giving the pint would cost Plentiful the discomfort of a needle-prick, but would save Anaemic's life. By Nozick's lights, Plentiful can demand of Anaemic any price for the pint of blood; all of Anaemic's holdings, a life time of slavery to Plentiful, and so on. Or, Plentiful can simply let Anaemic die. Nozick's view is that Plentiful does not violate Anaemic's rights or harm Anaemic by refusing him the blood. Whether Anaemic's rights are violated or not, this sort of possibility is a good starting place for the argument against Nozick, for it demonstrates

⁷³ Nozick, Anarchy, State, and Utopia, pp. 225-226.

⁷⁴ Ibid., p. 225.

at least that assuming S is entitled to S's natural assets is consistent with inegalitarian and sub-optimific results.

The force of these sorts of scenarios can be made more poignant still. Imagine that a small village of twenty people has to block a stream every morning or their community will be washed away and them with it. Suppose also that the only object which suffices to block the waterway is a large rock which can be moved into place only if every member of the village pushes or lifts at once. One morning Lazy wakes up with the false and incorrigible belief that only nineteen bodies are necessary to move the rock into place. Lazy prefers a life with rock pushing to death, but on the basis of his false belief he refuses to help. The remaining nineteen villagers try with all their might and wit to get the rock into place, but fail. The water rushes down on the village and kills everyone, including Lazy. Notice that Lazy's desire to stay in bed was irrational because it contradicted Lazy's preference of a life with rock pushing to the consequences of staying in bed -- death. In spite of this, the village could not have, in Nozick's view, forced Lazy to help, since that would have violated Lazy's entitlement to his rock pushing ability. According to Nozick, so long as Lazy did not violate a contractual obligation, he was fully within his rights to refuse the village his labour. Lazy was under no constraint whatever to justify his refusal to help. The fact that he was entitled to his natural assets was warrant enough for him to have denied his assistance to the village. So, by following Nozick's edict, Lazy's community is rewarded with a Pareto-inferior, inegalitarian and sub-optimific outcome in which all are condemned to death on account of Lazy's irrational desire.

Furthermore, suppose now that Lazy has no false beliefs about the necessity of his effort to move the rock, but is indifferent to a life with rock pushing versus death. One day Lazy refuses to help the rest of the village, and as a result everyone dies. Because Lazy did not prefer a life with rock pushing to death (he had no preference), there was nothing prudentially irrational

about his choosing death. And, according to Nozick, Lazy was entitled to withhold his service because he alone was entitled to this natural asset. Again we see that Nozick's theory (as Nozick envisions it) is consistent with Pareto-inferior, inequalitarian and sub-optimific outcomes.

I think these possibilities suggest that Nozick's proviso on S's entitlement to S's own natural assets is too weak, at least as Nozick interprets it. And, if part of the argument for Nozick's general view of entitlement and natural assets is that people are generally better off if they are entitled to their natural assets, then the counterexamples presented above cast doubt on the force of both Nozick's theory and the thesis of self-ownership it presupposes. Essentially, I am taking Cohen's strategy against Nozick's proviso on appropriation of external resources and I am applying it to Nozick's view of entitlement to natural assets. Cohen's strategy works as well against Nozickian entitlement to natural assets as it does against Nozickian entitlement to resources. This is a problem for Cohen, since he favours something like Nozickian entitlement to natural assets. In addition, I think entitlement to natural assets on the basis of self-ownership or "Lockean" rights is susceptible to a problem of prescriptive impotence similar to that which afflicts appropriation of resources on the basis of self-ownership.

Consider again the case Cohen presents of possible eye transplants, and let us take for granted self-ownership proper. Suppose Helen is blind, Peter has two good eyes, eye transplants are possible, and their utility profile is $\langle \text{Peter-15}, \text{Helen-5} \rangle$. If Peter gave an eye to Helen, let us assume their utility profile would change to $\langle 12, 12 \rangle$. Moving to $\langle 12, 12 \rangle$ from $\langle 15, 5 \rangle$ reflects the equality inherent in each of them having one eye, and the idea that Helen's gain in sight would outweigh Peter's partial loss of sight. To Helen's request for one of Peter's eyes, Peter replies that Helen has no right to force him to surrender an eye to which he is entitled. Peter claims to be entitled to both his eyes since his having both eyes does not violate Helen's general right not to be harmed by him, in both the pre-philosophical and normative senses of harm. First,

Peter does not make Helen worse off by keeping both good eyes. Second, Peter could argue that Helen is as well off as she ought to be, since if Peter gave her an eye, Peter's welfare would decline from $\langle 15 \rangle$ to $\langle 12 \rangle$. Self-ownership proper can only justify moves to outcomes Pareto-superior to the present. So, it seems that self-ownership proper cannot justify moving from $\langle 15, 5 \rangle$ to $\langle 12, 12 \rangle$, since $\langle 12, 12 \rangle$ is not Pareto-superior to $\langle 15, 5 \rangle$. The two outcomes are in fact Pareto-incomparable, since they are neither Pareto-superior nor Pareto-inferior to one another. In each outcome, one person does better and one person does worse than in the alternative. Two-person Pareto-superior and Pareto-inferior outcomes require that one person in an outcome does at least no worse than in any of the alternatives, while another person does either better or worse than they could have done in another outcome. Therefore, given (i) self-ownership proper, (ii) the view that self-ownership proper warrants moves to Pareto-superior outcomes only, and (iii) the fact that $\langle 12, 12 \rangle$ is not Pareto-superior to $\langle 15, 5 \rangle$, it seems that Peter's response to Helen is telling. Apparently, Helen is not being harmed in the normative sense of harm because Helen has the welfare level she ought to possess, given (ex hypothesi) a normatively acceptable political theory -- self-ownership proper.

Nozick could have the foregoing argument in mind when he supposes that self-ownership proper shields the innocent from utilitarian edicts that, for instance, could order an eye transplant if doing so increased overall utility. Nevertheless, the argument is misguided, as it is based on a false supposition. That assumption is that Peter already owns or is entitled to the natural assets (i.e., the good eyes) up for grabs. When determining the appropriate distribution and ownership of natural assets, one cannot assume that a person already owns the natural assets with which he was born. To presuppose that one owns or is entitled to such natural assets begs the question against the entire enterprise of deciding to whom particular natural assets ought to belong. The appropriate assumption at the starting point of the debate is that neither Peter nor Helen own or

are entitled to either eye. This is analogous to the state of nature assumption made at the beginning of the controversy over property appropriation. It would be question-begging in that debate to suppose, from the outset, that Forbes ought to begin with a bundle of property whereas Humble should start out with nothing. The point to both debates is to determine the appropriate conditions under which someone ought to be permitted to appropriate or claim entitlement to either resources or natural assets, and the effects of those resources or natural assets. So, the proper assumption for the start of the Peter/Helen dispute over the two good eyes is that the effects or the actual benefit Peter receives from the eyes ought not to count in specifying the pre-entitlement eye-dependent utility profile of Peter and Helen. This claim is expressly normative, and consistent with the fact that, for now, Peter is affected by the eyes and receives a benefit from them.

NLA+ pays rich dividends here in support of this view. Ex hypothesi, Peter is not entitled to the eyes and their effects until he has satisfied the proviso specified by self-ownership proper. Thus, Nozick cannot claim that Peter is entitled to the effects of the eyes at this point of the discussion. Furthermore, by virtue of NLA+, Peter does not deserve the benefit he now receives from the eyes any more than Helen would if the situation were reversed. On these grounds, and on the assumption of merely self-ownership proper, at the outset of the debate there is no moral difference between Peter having the eyes in his body, and the eyes being held in a vat such that Peter receives no benefit from them at all. Before entitlements to natural assets and their effects are determined, Peter neither deserves nor is entitled to the actual benefit the eyes bestow on him now. Therefore, it would be both argumentatively question-begging and morally arbitrary to count the benefit Peter receives from the eyes at the pre-entitlement stage of the debate. Nozick could reply that all that matters, even at the outset, is the brute fact of the benefit Peter receives from the eyes. But, again, since at the pre-entitlement stage this brute fact is morally arbitrary, any

entitlements which arise on account of it would themselves be arbitrary. Such a basis could hardly form the bedrock of the robust entitlement claims Nozick is after. So, at the level of pre-entitlement, the proper utility profile to begin with is something like $\langle 5, 5 \rangle$, which reflects the relatively equal and low welfare levels of both Peter and Helen without the benefit of eyes.

I have belaboured this point somewhat because it is important to the charge of prescriptive impotence I will now develop with respect to self-ownership proper and entitlement to natural assets. From the argument above, the appropriate pre-entitlement utility profile of Peter and Helen is $\langle 5, 5 \rangle$. Self-ownership proper seems to license (at least) three sets of entitlement to the eyes, all of which are Pareto-superior to $\langle 5, 5 \rangle$. These sets are (i) the actual world in which Peter gets two eyes and Helen receives none, yielding $\langle P-15, H-5 \rangle$; (ii) a world in which each receive one eye, yielding $\langle 12, 12 \rangle$; and, (iii) a world in which Peter receives no eyes and Helen receives both, yielding $\langle P-5, H-15 \rangle$. Now Peter's claim that Helen is not harmed if they move from $\langle 5, 5 \rangle$ to $\langle P-15, H-5 \rangle$ is, in a relevant sense, false. Relying on a normative view of harm, Helen can point out that she is being harmed in the sense that in $\langle P-15, H-5 \rangle$ she is worse-off than she could be in outcomes that are no less justified by self-ownership proper. Furthermore, if Peter suggested adopting $\langle 12, 12 \rangle$, Helen could resist this move since she is still being harmed in that she is denied the benefit of $\langle P-5, H-15 \rangle$, which, again, is as warranted as $\langle 12, 12 \rangle$ on grounds of self-ownership proper. Peter, of course, could make exactly the same claim in favour of $\langle P-15, H-5 \rangle$. $\langle P-15, H-5 \rangle$ is as justified as $\langle 12, 12 \rangle$ or $\langle P-5, H-15 \rangle$, and Peter is worse-off in $\langle 12, 12 \rangle$ and $\langle P-5, H-15 \rangle$ than he is in $\langle P-15, H-5 \rangle$. Thus, in a relevant sense, Peter would be harmed if he were forced to accept either $\langle 12, 12 \rangle$ or $\langle P-5, H-15 \rangle$. Therefore, if $\langle 12, 12 \rangle$ or $\langle P-5, H-15 \rangle$ were adopted, Peter's rights would be violated in that he would be harmed. But, if $\langle P-15, H-5 \rangle$ or $\langle 12, 12 \rangle$ were adopted, then Helen's rights would be violated because she would be harmed. So, self-ownership proper cannot license any of the outcomes Pareto-superior to $\langle 5, 5 \rangle$, because all

such outcomes would violate either Peter's or Helen's right not to be harmed.

It is plausible to infer, then, that Nozick's entitlement theory cannot entitle anyone to any scarce natural asset, since a gain on the part of someone is a loss on the part of someone else, and thus a harm in the context of outcomes with equal prima facie justification. Therefore, Nozick's theory of entitlement, and the self-ownership thesis it assumes, are prescriptively impotent.

Returning at last to NLA+, if Nozick's argument for entitlement to natural assets is unconvincing and there is no further moral reason for Peter or Helen to have their respective sight and blindness, then neither are entitled to sight and blindness. Sight and blindness are natural assets which, like other natural assets, are arbitrary from a moral point of view. Hence, by generalizing the point, neither Peter nor Helen are entitled to that which is arbitrary from a moral point of view. So, P4 of NLA+ holds: S neither deserves nor is entitled to either that which is arbitrary from a moral point of view or the effects of something which is arbitrary from a moral point of view. Thus, the full conclusion of NLA+ follows from its premises: S neither deserves nor is entitled to either her natural assets or the effects of her natural assets (including any particular level of welfare which depends on her natural assets or their effects).

One of the nice features of NLA+ is that it captures some fundamental egalitarian sentiments; sympathy toward those with less, suspicion of those with more. NLA+ suggests that the wealthy do not deserve nor are entitled to all their privileges, and that the poor do not deserve to shoulder the heavy burden of their malaise. NLA+ casts doubt on the view that some must endure hardship while others bask in opulence. But, this is not to say that NLA+ by itself gives us reason to value equality. The mere fact that no one naturally deserves anything (or, at least, very much) does not demonstrate that someone should get something, let alone that everyone should receive equal levels of welfare. However, while I think Nozick is right in claiming that the standard natural lottery argument does not in itself justify a prima facie case for equality, I

will argue that NLA+ helps to motivate a weak equality claim, but indirectly.

The justification is indirect because NLA+ itself does not warrant egalitarianism, but instead provides the conditions which are necessary for egalitarian sentiment to make weak equality plausible. I will flesh out what I mean by egalitarian sentiment, the role I take it to have in anarchal egalitarian theory, and finally how NLA+ lends credence to the normative force I attribute to this sentiment. The sentiment basis of anarchal egalitarianism is essentially an empathetic concern for anyone whose welfare is below an ideal level at which equality prevails and people are as well off as possible. This concern gives the anarchal egalitarian reason to design institutions and redistribute goods with the aim of progression toward the ideal. Empathy varies in degree, depending on how much someone (or some group) is below the paragon. So, egalitarian sympathy will be greater for, say, the homeless than for those whose wages and natural assets bring them to just under the ideal. But, if other things are equal and the ideal welfare level is a function of, for instance, a \$60,000 annual income, then there is no reason to suppose that egalitarian concern cannot be finely tuned enough to question why some should enjoy incomes of \$61,000 while others are at \$59,000.

It is worth noting that by relying on a sentiment-based account of egalitarianism, I am conceding that if someone had no sympathy for those with genetic or social handicaps, then there would be little that could be said to persuade her that weak equality ought to be a fundamental value. But, the intent here is not to assume that mitigable equality is tenable on the basis of merely a fundamental desire for it. Mere egalitarian sentiment is necessary but insufficient to justify weak equality because competing sentiments or intuitions may be just as strong. One such competing sentiment is the utilitarian concern for overall welfare, which is cashed out as an imperative to maximize the general happiness. In the next chapter I will argue that utilitarian and egalitarian sentiments tend toward outcomes which are more complementary than competitive, and

that egalitarians can gain much from utilitarian theory.

Another competing sentiment is one that might be called an aesthetic sentiment. Such a sentiment captures the value one might attribute to the rich tapestry of cultural life which modern liberal democracies offer. Part of the fear expressed by an aesthetic sentiment in this context is that moving toward equality will put us all in dull grey suits and boring row houses. However, this need not occur. Since anarchal egalitarianism values overall happiness as well as equality, people's aesthetic sentiments would be taken into consideration so as to maximize their overall level of preference satisfaction. If, for instance, on survey, people expressed a preference for maintaining large and beautiful estates over an alternative such as subdividing these estates to build many less impressive homes, then the mansions could be preserved. Possibly, occupancy of such estates would be determined by lot, and rotated regularly, so as to spread out the benefit of living in a mansion. This is too quick a gloss on how anarchal egalitarianism might co-opt various aesthetic sentiments, but it is sufficient to render some idea of how these sentiments would fit into the big picture.

Libertarian sentiments also compete with those of the egalitarian. Nozick's complaint with redistribution is not that it helps the poor, but that in his view it violates the rights of the not-so-poor. Indeed, one of the most vexing Gordian Knots of political theory is tied with the incompatible intuitions of those who appeal to the entitlement rights of the 'haves,' and those who decry the suffering of the 'have nots.' Egalitarians demand redistribution; libertarians proscribe it. Both believe that what they value should trump the other's norm. So, mere egalitarian sentiment should hardly be expected to convince the undecided (let alone libertarians) who may think there is something to be said for self-ownership and rights. Although egalitarian sentiment suggests weak equality as a provisional candidate norm, weak equality requires something more if ultimately it is to be accepted as a substantive component of a political theory.

Enter NLA+. NLA+ concludes that S neither deserves nor is entitled to either her natural assets or the effects of her natural assets (including any particular welfare level which depends on natural assets or their effects). A corollary of this conclusion is that S has no absolute rights to her natural assets or their effects, since these rights follow exclusively from desert or entitlement claims. S can still have rights on anarchal egalitarian grounds, but their license resides in their conduciveness to equality or optimific outcomes. These rights would be inviolable to just the extent to which they were consistent with equality and the maximization of happiness. So, S might have a right to private property up to but not beyond the point that such a right is consistent with the prescriptions of anarchal egalitarianism.

Given that NLA+ excludes entitlement and desert from justifying inegalitarian states of affairs, egalitarian sentiment is left with fewer competitors in the ring. The egalitarian motivation for the redistribution of natural assets and their effects cannot be rejected or neutralized by appeals to desert and entitlement. On this supposition, egalitarian sentiment renders weak equality plausible.

The general flow of this argument began in the first section of the chapter, in which I argued that self-ownership, if it did not collapse into a form of utilitarianism, is untenable as a principle on which to rest a political theory. Self-ownership proper, I claimed, is prescriptively impotent in that it can sanction no particular outcome in conditions of resource scarcity. This claim was rekindled above as I argued that not only does S not deserve her natural assets and their effects, S is not entitled to them either. As a consequence, the egalitarian sentiment on which weak equality depends is left unchecked by desert or entitlement claims. Thus, the motivation that weak equality receives from egalitarian sentiment becomes more substantive and less provisional.

In the next chapter I will consider some utilitarian objections to weak equality and anarchal egalitarianism. The objections are that strong utilitarianism can (i) accommodate the

worries I have raised with regard to libertarianism, (ii) justify significant equality, and (iii) resolve conflicts over distribution better than anarchal egalitarianism.

Chapter IV: Why not Utilitarianism?

Strong utilitarianism asserts that (1) each person should be given equal consideration regarding how welfare is to be distributed, and (2) the moral worth of outcomes is measured strictly on the basis of the total welfare of the individuals in the outcome under consideration. So, outcome X is morally better than outcome Y if, and only if, the total welfare in X is greater than the total welfare in Y.⁷⁵ I will argue first that utilitarianism is consistent with the criticisms I have made of self-ownership and libertarianism, and that utilitarianism can generate considerable equality. However, in some cases utilitarianism may not achieve equality. In such cases, I will argue, it is necessary to adopt a norm of weak equality if equality is (in part) what one desires. I will conclude the chapter with some remarks on the extent to which anarchal egalitarianism can reconcile its principles of utility and equality.

I have argued that the thesis of self-ownership faces at least two objections. The first is that self-ownership, much like the Harm Principle, can collapse into a utilitarian-like view. This line poses little threat to utilitarianism. Second, I have claimed that even if self-ownership did not collapse, it is prescriptively impotent. Self-ownership's impotence implies nothing about utilitarianism. So, like the first, the second objection to self-ownership is consistent with utilitarianism. Moreover, strong utilitarianism by itself offers grounds on which to deny self-ownership. The utilitarian could claim that Nozick's view of merely not making people worse off by an appropriation is undermotivated, since it is consistent with sub-optimific outcomes. I have also argued that NLA+ challenges the legitimacy of Nozick's entitlement claims. Once again, the utilitarian could argue that S may not be entitled to that which is arbitrary from a moral

⁷⁵ This theory is commonly known as merely "utilitarianism," and that is how I shall refer to it unless I am contrasting it to weak utilitarianism.

point of view, because Nozickian entitlement can sanction sub-optimal results. So, the utilitarian too can employ NLA+ against libertarianism.

An egalitarian might protest the sympathy expressed here toward utility theory on grounds that utilitarianism can offer merely utility-based reasons for disputing Nozick. Anarchal egalitarianism can question self-ownership on grounds of equality, as well as utility. This sort of complaint is unlikely to worry a utilitarian, however, since all she cares about is total happiness. Nevertheless, if the utilitarian cannot give some reason to discount egalitarian considerations, anarchal egalitarianism will have a heftier arsenal with which to defend itself against the libertarian.

A familiar utilitarian response to justice concerns is that if utilitarian theory were used to design social institutions, there would be far more equality than there is now. The argument here is based on the plausible empirical assumption of the principle of diminishing marginal utility: an increase in resources will increase a person's welfare in an inverse proportion to the size of the individual's starting resource bundle. Some evidence for the principle comes from the wide variety and rank-ordered nature of people's preferences; i.e., individuals generally have certain preferences for particular outcomes, and some outcomes are preferred to others. With \$100.00 Joe buys the meat-and-potato groceries his family most prefers to have in a week. Joe spends \$15.00 on a 10 kg bag of potatoes which will last the week. With \$115.00 he gets the shrimp ring as well. From the initial \$100.00, Joe might prefer the \$15.00 shrimp ring to any particular portion of the \$15.00 bag of potatoes, but Joe prefers having potatoes four times a week to having a shrimp ring once. Joe, in other words, gets less happiness from the shrimp ring than from the 10 kg of potatoes. Therefore, Joe gets less happiness from the additional \$15.00 he has to spend on the shrimp ring (given \$115.00) than he gets from the last \$15.00 of his \$100.00 budget. The marginal utility of \$15.00 decreases as the size of Joe's resource bundle increases.

I give these comments to motivate sympathy for the principle of diminishing marginal utility, but not with the idea that this constitutes an air-tight argument for it. If Joe's first preference were for something that cost \$115.00, then the first \$100.00 would be worth little to him, and the next \$15.00 would be worth a lot. So, refinements are needed, and more must be said to adequately defend diminishing marginal utility. I will not provide that argument here, but will nonetheless assume diminishing marginal utility on the strength of its prima facie plausibility.

Consider now a population of 10 individuals with $30n$ of resources. From the principle of diminishing marginal utility, let us assume that each n assigned to an individual produces x of happiness for that individual such that x equals the sum of the reciprocals of every number of n 's that individual gains. So, the first n received by an individual yields $1/1x$ of happiness, giving the holder of $1n$ a total welfare sum of $1x$. The second n received by an individual yields $1/2x$ of happiness, giving the holder of $2n$ a total welfare sum of $1.5x$ ($1x + 0.5x$). The third n received by an individual yields $1/3x$ of happiness, giving the holder of $3n$ a total welfare sum of $1.83x$ ($1.5x + 0.33x$), and so on. This simple interpretation of diminishing marginal utility captures mathematically the notion that gains in resources are inversely proportionate to one's holdings before the gain occurs. Notice now that if the $30n$ are divided equally among the 10 person population such that each receive $3n$, then the total welfare sum for the population is $10(1x + 0.5x + 0.33x) = 10(1.83x) = 18.3x$. A brief survey of some unequal distributions will suffice to demonstrate that, on the assumptions made here, equal resource distribution maximizes resource-dependent welfare.

Suppose 5 individuals get $4n$, and 5 individuals get $2n$. The total welfare sum equals $5(1.83x + 0.25x) + 5(1.5x) = 17.9x$; a slight decrease from the $18.3x$ outcome generated by equality. Consider now a greater shift away from equality, in which 5 people get $5n$, while the other 5 receive only $1n$. The total welfare score comes to $5(1.83x + 0.25x + 0.2x) + 5(1x) =$

12.28x. The drop in welfare from 18.3x is now quite pronounced. In cases as simple as this one, it seems that, ceteris paribus, total resource-dependent welfare will decrease in some positive proportion to the degree to which distributions deviate from equality, and vice versa. So, because utilitarianism seeks to maximize utility, it will exhibit a tendency to encourage resource-dependent equality of welfare.

One could object that the scenario above is underdescribed, and that without knowledge of how well individuals convert resources into welfare, sweeping claims about the equality of welfare generated by equal resource distribution are not well founded. It is surely true that the epicure needs a greater share of resources than the stoic if equality of welfare is to be obtained. The utilitarian could reply that this is so, but that pursuing a policy sensitive to expensive epicurean-like tastes could encourage the cultivation of expensive tastes, and therefore diminish the total utility that could be produced from a limited set of resources. Furthermore, it might be difficult to distinguish those with expensive tastes from those merely claiming to have such preferences. But, the utilitarian has an even better response.

The utilitarian can argue that, ceteris paribus, equal distributions of resources maximize expected welfare in the absence of knowledge regarding how well particular individuals convert resources into welfare. Expected welfare or utility is a function of the probability of an outcome multiplied by the actual welfare the outcome will generate if realized. Since, ex hypothesi, we do not know how much actual welfare individuals get from resources, in this context we can use expected welfare as the metric for determining the well-being of individuals and the moral worth of outcomes. The argument here is simple, but persuasive. If we do not know anything about how well someone can convert a resource into welfare, then it is likely that we also do not know how well that person can convert resources relative to others in her society. She could be a relatively good convertor, she could be a relatively bad convertor. Something we can assume,

however, is that some people in a population are better convertors than others. In fact, the worry that utilitarianism is unlikely to generate resource-dependent equality of welfare by dividing resources equally depends on this assumption. Without relatively good and bad convertors in a population, i.e., in a society in which people convert resources with like efficiency, utilitarianism will tend to produce resource-dependent equality as suggested above. So, to address fully the objection, let us assume that some convert better than others.

If some individuals in the society convert better than others, then we know that 50% of the population convert as well or better than the other 50%. Thus, there is a 50% chance that one person is as good or better at converting resources than someone else. If we knew that someone was a good convertor, we might give them less resources, and if we knew she was a bad convertor, we might give them more. But, we know neither of these things. Consider, then, the effect of distributing resources unequally, and on no special basis. On average, as many good convertors as bad convertors will receive greater than equal shares. And, from the principle of diminishing marginal utility we can infer that, on average, those who receive a greater than equal share will get less benefit from their above median allotment than those who receive a less than equal share will suffer. So, even in the absence of knowledge regarding the resource conversion abilities of particular individuals, utilitarianism mandates an equal distribution of resources, since that distribution probably will maximize total welfare. This argument can be put more formally, as I put it below. But, for those who are satisfied with the preceding analysis and do not enjoy mathy explanations, skip the next two paragraphs.

If we do not know how well Joe and Sally can convert $3n$ into welfare, we can nonetheless assume there is a 50% chance that they can get as much or more from $3n$ than the average person, and a 50% chance that they get as much or less welfare from $3n$ than the average person. This uncertainty can be represented in each of their expected welfare equations as

follows:

$$0.5(j)(1.83x) + 0.5(1.83x)/j$$

The "0.5's" stand for the probability of Joe or Sally doing better and worse than average. The "1.83x's" stand for the median welfare 3n produce. This could be any number, but I use "1.83x" for the sake of familiarity. The "j's" represent a variable factor by which Joe or Sally could do worse or better than average. I am assuming that in addition to not knowing whether Joe and Sally will do better or worse than average with any n, we also do not know the degree to which they might deviate from the average. Nor do we have reason to believe they are more likely to do better or worse by a differential margin; e.g., we do not know that if they are good resource convertors, they are likely to do better by a greater margin than they would do worse if they were poor resource convertors. So, in Joe and Sally's expected welfare equation, the j's cancel each other out, and half 1.83x plus half 1.83x equals 1.83x. So, Joe and Sally's expected welfare from 3n each, as best we can determine without knowing how they convert resources compared to the average person, is 1.83x. Their total expected welfare is 3.66x.

Deviating from equality by 1n in Sally's favour, Sally's expected welfare equals

$$1.83x + (0.5(j)(0.25x) + 0.5(0.25x)/j) = 2.08x.$$

The "0.25x" equals the average expected utility from a fourth n, and the "j's" again stand for the variable degree by which Sally's welfare could be improved or diminished. The "0.5's" represent the probability of Sally doing better or worse than the average person. But, if Sally gets an additional n, then Joe loses an n. His expected welfare is

$$1.83x - (0.5(j)(0.33x) + 0.5(0.33x)/j) = 1.5x.$$

The "0.33's" stand for the average expected utility from a third n, which is subtracted here from Joe's resource bundle. So, deviating from equality by a factor of 1n, and not knowing how well or poorly Sally and Joe can convert resources into welfare, Sally and Joe's total expected welfare

is $3.58x$, a decrease from the expected welfare of an equal distribution -- $3.66x$. If Joe and Sally deviated from equality by a factor of $2n$, such that Sally had $5n$ and Joe had $1n$, their total expected welfare would equal:

$$\{1.83x + [0.5(j)(0.45x) + 0.5(0.45x)/j]\} + \{1.83x - [0.5(j)(0.83x) + [0.5(0.83x)/j]]\} = 3.28x.$$

So, the spirit of the general rule defended earlier, on the assumption that each person converts resources equally well, seems to hold on the assumption that we do not know how well individuals convert resources into welfare: ceteris paribus, total resource-dependent welfare probably will decrease in some positive proportion to the degree to which distributions deviate from equality, and vice versa.⁷⁶

One might object, however, that other things are seldom equal, as required by the ceteris paribus clause of the general rule above. In some cases, we do know something about the resource conversion capabilities of individuals. We know, for instance, that the physically handicapped typically will need more resources than the non-handicapped to experience a level of welfare which approaches that of the non-handicapped. The utilitarian can justify giving the paraplegic a motorized wheelchair and ramps, since the disutility of not providing these goods is so high. Utilitarianism justifies providing assistance to the handicapped up to exactly the point at which overall welfare would diminish. This capacity to prescribe (at least in principle) unambiguous distributions in cases such as these must count in favour of utilitarian theory. Anarchal egalitarianism would countenance the utilitarian motive for distributing to the handicapped. But, once the general happiness is maximized, if the handicapped were still not at a level of welfare which equalled that of the non-handicapped, a question remains as to whether

⁷⁶ See R. Brandt, The Theory of the Good and the Right (Oxford: Clarendon Press, 1979), pp. 311 - 316 for a similar argument with more detail. The "probably" in this formulation of the general rule is included to reflect that the rule is derived from considerations of expected utility, which are based on probabilistic calculations.

or not the handicapped should receive more in spite of the consequent loss in overall utility. Later on, I will take a closer look at this difficulty.

For now, let us consider what, on utilitarian grounds, might constitute a bar to distributing income equally so as to maximize utility. It is often supposed that incentives must be offered to those who engage in useful work which is undesirable or difficult. Utilitarian and anarchal egalitarian theory alike would require that incentives are provided to compensate those whose work is especially burdensome. The interesting problem incentives pose, however, is not based on whether burdensome work should receive compensation -- it should. Rather, the difficulty is based on whether S should receive special incentives to work (on top of merely sufficient compensation) if (a) giving S incentives produces greater overall utility than not giving S incentives, and (b) the only reason giving S incentives yields more utility than not giving S incentives is that S refuses to work as hard (or at all) without incentives as he would work if he had incentives (say, at a rate of h). Notice that utility is maximized if S works at h , but does not receive the incentives. The resources S would have received from the incentives to work at h can go to feed the poor, or do something more useful than bloat S. Bear in mind that the incentives in question are special incentives in that they do not include the compensation S receives for the burden of working as hard as S would work at h . There is no question that S should receive some compensation for the hardship of the extra effort h requires. The dispute is whether S should receive special incentives which are above and beyond the incentives offered as compensation for hardship. The worry here is that utilitarianism favours special incentives if those are necessary to maximize total welfare. So, despite diminishing marginal utility, utilitarianism can produce inequalitarian distributions of resources. The table below captures the overall utility ranking of the cases above (special incentives = si):

Overall Utility Ranking

S's work & reward	1. h, no si	1
	2. h + si	2
	3. not h, no si	3

It is worthwhile to note that the people who are in a position to demand special incentives for h tend to be those with special talents or a monopoly on a desired resource. Doctors and large capital holders are two classes that generally fit this description; poor and unskilled labourers do not. The poor and unskilled tend to be in greater need of continuous income than the doctors or the capital rich. More importantly, there are far more unskilled labourers than doctors and investors, and they are less well organized as an economic class. So, the ability of the unskilled to withhold their resource (labour at h) is limited. If x worker refuses to work for n wage, y is hungry and often ready to take her place. These generalizations are extremely simplistic, but nonetheless tend to be true of our world.

For the past several years, people fed from the public purse in Canada have accepted wage freezes. This spring, emergency room doctors in Manitoba struck and settled a few days later for a 19% increase on their \$60,000 a year salaries. The contract freezes their wages for two years after the 19% increase. The doctors' bottom line was that if they were not given a substantial increase (they were asking for more than what they got), they would quit. Presumably, the doctors were unmoved by the likelihood that, if they quit before replacements could be found, patients would die waiting in understaffed emergency rooms. Most of the doctors who work in emergency rooms do it on a moonlighting basis to supplement their +\$100,000 a year salaries. And, they are generally young, mobile, and capable of earning comparable salaries or more in other provinces. So, the threat of quitting was credible, and the doctors received a substantial increase.

Let us suppose that the doctors' demand was for a special incentive, and that \$60,000 was sufficient to compensate them for the burden of their work. The utilitarian and anarchal egalitarian would resist giving a special incentive to the doctors because that incentive would produce a sub-optimific outcome (2 rather than 1 in the table above). But, if the doctors acted on their threat, they would cause emergency room patients to suffer more than those patients would otherwise, and therefore would produce a grossly sub-optimific outcome (something worse than 3 in the table above). So, one utilitarian response to the doctors' threat is to deny that they ought to be permitted to quit en masse. The utilitarian idea here is that doctors (and those with precious talents generally) should be given a choice between either no employment opportunities, or working for a wage consistent with maximizing happiness and achieving equality. The point is to create conditions under which the talented can be exploited; i.e., conditions under which it would be more painful for the doctors to opt out than participate in a society which maximized welfare and generated equality.

A practical problem with this solution, as noted earlier, is that doctors in our society tend to be mobile. So, if they could do better elsewhere, they might leave the anarchal egalitarian or utilitarian world for, say, Houston. Many Canadian doctors do this in any case. The utilitarian has at least three tactical replies to this contingency, all of which aim at rigging the pay-offs so that doctors would work without special incentives. First, she could increase the cost or risk of leaving her society. She could threaten to take away the doctors' Canadian billing numbers, so that once they left they could not return to practise if things went poorly for them outside Canada.⁷⁷ She could also threaten to take away their Canadian citizenship, and make return visits to Canada difficult. Second, the utilitarian could design the medical education process such that

⁷⁷ Canadian medical students who wish to specialize outside Canada are now forbidden to do so on pain of not being granted a Canadian billing number when they finish their residency.

entering medical students were committed to work in Canada for a number of years after their graduation. Third, she could petition outside Canada for other countries to adopt utilitarianism and scale back their pay to doctors. She could use all the arguments I have marshalled thus far, and she could argue further that because Canada does not give doctors greater remuneration than would nation x if it reduced its doctors' pay, x does not need to worry about its doctors fleeing to Canada. As more jurisdictions outside the utilitarian society became themselves utilitarian, this last consideration would become increasingly forceful, as greedy doctors would run out of places to turn to receive special incentives.

Now, to be sure, measures such as these would not guarantee that doctors in a utilitarian world could not ultimately make good on their threat to quit, and on the basis of that threat receive special incentives on utilitarian grounds. This is a problem for anarchal egalitarianism, which has to attempt to reconcile overall welfare with equality. For now, the anarchal egalitarian can point out that the utilitarian's responses to the doctors' threat plausibly would increase the cost to the doctors of acting on their threat. Thus, the utilitarian could pay the doctors less in special incentives, and would achieve a more egalitarian outcome than otherwise. And, it is still worth noting that if utilitarianism were adopted universally, special incentives could be eliminated to a large extent, because the threat to quit and go somewhere else that offered merely the same utilitarian dispensation would not be credible.

Another concern with insisting that doctors work without special incentives is that doing so enslaves them.⁷⁸ It is likely, however, that the "enslavement" here is far less severe than the enslavement which would afflict the propertyless in Nozick's minimal state. In such a state, those

⁷⁸ I raise this objection here as it is a complaint against the equalizing tendencies of utilitarianism, but the objection could also be raised against anarchal egalitarianism, for this view also requires the talented to work without special incentives. Please note that similar responses to those I will make on behalf of utilitarianism also could be offered in defence of anarchal egalitarianism.

without property are at the mercy of those with resources. If a property owner refuses employment or charity to the abject proletarian, the proletarian, under Nozick's view, has no philosophical recourse. If, and only if, property holders feel so inclined, the propertyless could face a choice between death and working under whatever conditions the property holder imposes. But, there is no reason to believe that even this bleak a choice must obtain for the propertyless, if for whatever reason property holders decided they would not grant employment or aid to the less fortunate.

A less extreme liberal than Nozick, however, might think that the lot of the talented under utilitarianism ought to be compared not with the propertyless in Nozick's state, but with the poor in something like the present system. In our state, the destitute will usually be kept from starvation by a social safety net. However, the justification of social assistance in general does not issue from the liberal thesis of self-ownership proper. One of the upshots of that thesis is that nobody owes anyone any sort of non-contractual benefit, such as social assistance. The justification of this assistance could reside in utilitarianism. So, the liberal might claim that this much utilitarianism is OK, but that any more would enslave the talented.

I think that the talented would not be enslaved under utilitarianism in any relevant sense. First, if utilitarianism were adopted universally, resources would be distributed more or less equally by virtue of diminishing marginal utility. It is probable that the talented would be guaranteed a welfare level higher than that which the poor experience in our system. Second, by virtue of the natural lottery argument defended last chapter, the talented do not deserve nor are entitled to whatever special benefits they could accrue in the actual world. So, it is unclear that remunerating the talented with a fair share of resources (by utilitarian standards) should be thought of as enslavement. Third, the intuitive notion driving the enslavement worry -- that the talented would do better if they were not subjected to utilitarianism -- is not necessarily true. This

assumption may be true if the talented were in our society. But, there is no a priori reason to suppose that a system like ours is the one that should serve as the standard against which the talented ought to determine whether or not they are enslaved. It is easy to conceive of societies, such as those governed by malevolent dictatorships, in which most of the talented really would be enslaved. In these worlds, the talented (excluding perhaps the dictator) might have to work for the benefit of the dictator, and for far less reward than in the utilitarian world. We might also suppose that the dictator would threaten to kill the talented if they did not work at a certain rate. The utilitarian merely threatens the talented with unemployment, so the degree of force in the utilitarian world is far less than in the dictatorship. So, to push the slavery of the talented objection further, the liberal must provide a new argument (say, one not based on self-ownership) to show that the talented ought to receive more than they would under utilitarianism. I do not think it is a mark against utilitarian theory that the talented should have to work for a wage consistent with maximizing welfare. The talented will not wear chains, they merely will be required to downscale from Mercedes to Volkswagens.

Notice that the "slavery of the talented" could extend to forcing the talented into an occupation they do not want, if that is necessary to maximize overall happiness. In this regard, anarchal egalitarianism may fare better than utilitarianism, since the former and not the latter is concerned with equality of welfare. On the assumption that a person's life would be miserable if she had to do a job she disdained, the egalitarian demand for equality could protect her from having to take the position.

Nevertheless, given (i) utilitarianism's denial of self-ownership, (ii) its resistance to special incentives, and (iii) the consequences of maximizing welfare given diminishing marginal utility, utilitarianism suggests itself as a theory capable of yielding considerable equality of welfare. And, it does this without the cost of adopting equality as a fundamental value. However, I will argue

that there are some instances in which maximizing resource-dependent welfare does not guarantee equality of welfare. In these cases, utilitarianism is silent, and a principle of equality must be evoked if one desires equality to be part of an outcome.

Consider a small coal mining community (Mere Happiness) organized along utilitarian lines and composed of 5 managers and 15 miners. The managers do not do particularly skilful work. They work above ground, pushing paper and organizing logistical support for the mine. The miners do far more odious work in the mine, stooped over, digging coal and, in time, they contract Black Lung. The miners earn considerably more than the managers to compensate them for the special burden of their tasks and the deleterious effects of mining on their health. But, the managers are far better off than the miners, earning comfortable wages and enjoying relatively light work. An interesting aspect of life described by the principle of diminishing marginal utility is that money can buy only so much happiness. The gains in marginal utility that money produces diminish as holdings increase. Now, assuming that a welfare level of $\langle 15 \rangle$ is one of reasonable contentment, in spite of the salary advantage of the miners, the utility profile of Mere Happiness on any given day is $\langle \text{managers-}20x, \text{miners-}10x \rangle$. The total welfare sum of Mere Happiness on any day is

$$5 \text{ managers} \times 20x + 15 \text{ miners} \times 10x = 250x$$

For any week Mere Happiness exhibits a welfare score of $1750x$, and for any month (or four week interval) $7000x$. Let us also suppose that this is the most happiness that can be produced in Mere Happiness. So, the outcome is optimific and would be sanctioned by utilitarianism. Anarchal egalitarianism would recommend a different division of burdens and benefits.

Notice that anyone who mines for four weeks achieves a welfare score of $280x$, and anyone who manages for four weeks gets $560x$. In any month the miners' total welfare is $4200x$, and the managers' is $2800x$. What is important to note here is that these scores are fixed

regardless of whether a miner does a manager's job or a manager works in the mine. The monthly scores would be better labelled as the utility sums of four weeks of 15 people who work in the mine, and the utility sums of four weeks of 5 people who work as managers. So, imagine another small mining community (Equality) exactly like Mere Happiness except that the jobs were rotated such that everyone worked in the mine for three weeks per month, and as managers for one week per month. Each person in Equality would have a four week utility profile of:

$$21(10x) + 7(20)x = 350x.$$

The total welfare sum of Equality for a month (four weeks) is $20(350x) = 7000x$, exactly the same as the total monthly sum in Mere Happiness. The miners from Mere Happiness would benefit by $70x$ ($350x - 280x$) a month in Equality. The managers from Mere Happiness would lose $210x$ ($560x - 350x$) a month in Equality. This is the distribution anarchal egalitarianism would sanction.

Utilitarianism could license this outcome as well, but it would not mandate it over Mere Happiness, since the total welfare sums are equal. Nor would utilitarianism require Mere Happiness in favour of Equality. And, generally, utilitarianism will be incapable of specifying an equal distribution of outcomes when the welfare of the outcomes is determined by factors which are partially immune to the mitigating effects of extra resources, such as toil and health hazards. In response to the cynic's age-old question 'Who will collect the garbage after the revolution?', the egalitarian has the principled response that each will take their turn. The utilitarian may not have this reply, since for all intents and purposes, the utility (or disutility) of unpleasant tasks is unlikely to change much if the agents performing the task change. The utilitarian could object that an unpleasant job becomes more distasteful over time, and thus rotation is required on grounds of utility. But, this is a messy empirical reply: perhaps undesirable duties actually become less painful over time, perhaps they become easier to perform as one learns

the ropes and short-cuts. I think the utilitarian has to bite the bullet here, and be satisfied that utilitarianism is consistent with optimistic scenarios in which equality obtains, but does not mandate these circumstances over other optimistic outcomes.

The chief import of this criticism is that despite the considerable equality utilitarianism can generate via diminishing marginal utility, if equality is sometimes a desideratum of outcomes, then attaining those outcomes may require appeal to an egalitarian sentiment. Notice that what does the justifying to achieve Equality instead of Mere Happiness is egalitarian sentiment. Here that sentiment does not compete with the utilitarian's, since moving from Mere Happiness to Equality entails no loss in overall utility. However, it will be fruitful to distinguish egalitarian from utilitarian sentiment, to be clear about what is doing the justificatory work for anarchal egalitarianism with regard to other sorts of outcomes. Let us assume that Jane is fabulously wealthy and exceptionally happy, but that Mary is poor and relatively miserable. Their utility profile is $\langle J-40, M-7 \rangle$. Egalitarian sentiment is that sentiment which, if it could direct the allocation of a single additional unit of welfare, prefers to give that unit to Mary rather than Jane. A plausible normative consequence of this sentiment is that the moral worth of welfare gains diminishes as the pre-gain utility of the recipient increases. Conversely, the worse-off one is, the greater is the moral value of a gain in one's welfare.⁷⁹ So, the egalitarian sentiment I have in mind agrees with that of the utilitarian insofar as both suggest that every gain in welfare has some moral value. The difference is that the egalitarian sentiment gives one reason to believe that some gains in welfare have greater moral value than others. Utilitarian sentiment, in principle, is indifferent to who receives any single unit of welfare, since the unit has the same moral value regardless of who receives it. Nevertheless, note that if it were not welfare but income which

⁷⁹ For a defence of a similar idea under the name "Weighted Utilitarianism," see P. Weirich, "Utility Tempered with Equality," *Nous* 17:3 (September 1983): 423-439.

were to be distributed, as is typically the case with regulated dispensations to individuals, then the utilitarian would probably give the money to Mary, since it would likely do her more good than Jane.

Recall that the sentiment that anarchal egalitarianism relies on is not so strong in its egalitarianism that it mandates equality at all costs. The claim here is that this sentiment demands equality if, and only if, the cost in terms of overall utility is either zero or not too severe. Suppose that two individuals had a utility profile of $\langle 15, 15 \rangle$, and that the only feasible alternative to this outcome was $\langle 30, 15 \rangle$. For whatever reason, $\langle 22, 23 \rangle$ and other outcomes with greater equality than $\langle 30, 15 \rangle$ are not possible. If this were in fact the case, then I think that anarchal egalitarianism ought to license $\langle 30, 15 \rangle$, in spite of the departure from equality this entails. What is interesting here is that leaving equality is warranted on the basis of the sentiment that justifies a prima facie concern for equality in the first place. Welfare egalitarians care about equality because, for them, it tends to maximize the moral value of welfare distribution by providing more to those with less. So, it is not really equality which is the sacred cow, but rather maximizing the moral value of welfare distribution, for which equality is generally, but not always, a good proxy. Thus, $\langle 30, 15 \rangle$ is preferable to $\langle 15, 15 \rangle$ on egalitarian grounds because $\langle 30, 15 \rangle$ distributes more welfare than $\langle 15, 15 \rangle$ as equally as possible, and therefore has a higher egalitarian moral value than $\langle 15, 15 \rangle$. To put the point in slightly different terms, $\langle 30, 15 \rangle$ has all the egalitarian moral value of the welfare gains necessary to achieve $\langle 15, 15 \rangle$, plus the egalitarian moral value of boosting one person from $\langle 15 \rangle$ to $\langle 30 \rangle$. So, as odd as it may appear, on merely the egalitarian grounds that I am defending, $\langle 30, 15 \rangle$ beats $\langle 15, 15 \rangle$. Other cases are not so easy to finesse.

In the first chapter I promised to consider the difficulty anarchal egalitarianism faces if forced to choose between welfare distributions such as D $\langle 15, 15 \rangle$ and E $\langle 10, 25 \rangle$. There is equality in D, but greater happiness in E. The anarchal egalitarian first could respond that her

theory is intended to justify certain types of social institutions only, and that these sorts of choices are probably not the kind that those institutions typically would have to make. Anarchal egalitarian institutions might start by (i) lessening or eliminating special incentives, and (ii) distributing income relatively equally such that resource-dependent welfare would be maximized on account of diminishing marginal utility. If the anarchal egalitarian still had to choose between outcomes like D $\langle 15, 15 \rangle$ and E $\langle 10, 25 \rangle$, then her decision will be based on considerations of the egalitarian moral value that could be lost in favour of maximizing total happiness, and the amount of overall utility that could be lost in favour of increased egalitarian moral value. To weigh these variables against one another would require deciding approximately how much the egalitarian moral value of welfare gains fluctuated in relation to a person's pre-gain welfare level. It would also be necessary to standardize egalitarian and utilitarian moral values such that they could in principle be summed together to yield the net moral value of a particular distribution. Net moral values could then be compared in cases like D $\langle 15, 15 \rangle$ and E $\langle 10, 25 \rangle$ to decide the matter.

I do not deny that to work out the details of this sort of mechanism would be a daunting task. I do not have the space to perform it here. However, I do not think there is any reason to believe that it would be impossible, or that the result necessarily would be arbitrary. The norms of equality and utility both use the same metric, i.e., welfare. So, any welfare distributions under discussion already would be standardized in the sense that both norms use the empirical welfare metric. Of course, a certain degree of reasonableness and sensitivity would be required to set adequately the scale by which the egalitarian moral value of welfare gains itself diminishes with consecutive gains in a person's welfare. Similar care would be needed to relativize the egalitarian and utilitarian moral values of particular outcomes such that they would be commensurable with one another, and at the same time would reflect a roughly equal weighting of egalitarian and utilitarian values. But again, if one has the appropriate egalitarian and utilitarian sentiments, there

is no reason to believe that it would be impossible or arbitrary both to fix the egalitarian scale and to standardize the two norms' moral evaluations of outcomes.

Let us nonetheless assume for the sake of argument that anarchal egalitarianism, in principle, could not decide between welfare distributions such as D $\langle 15, 15 \rangle$ and E $\langle 10, 25 \rangle$. Even if this were the case, it is not too high a price to pay for an egalitarian theory which delivers as much as anarchal egalitarianism. Adoption of weak utilitarianism means that anarchal egalitarianism can maximize resource-dependent welfare and generate tremendous equality given the principle of diminishing marginal utility. So, it is really only resource-independent welfare that may be substantially problematic for anarchal egalitarianism to maximize and distribute equally. However, anarchal egalitarianism does not make a fetish of equality. It can justify moving away from pure equality if the alternative would maximize happiness and itself be as equal as possible. Thus, $\langle 30, 15 \rangle$ trumps $\langle 15, 15 \rangle$ if $\langle 30, 15 \rangle$ is the only feasible alternative to $\langle 15, 15 \rangle$. But, anarchal egalitarianism unambiguously mandates equality if doing so entails no decrease in overall utility. This may not matter to the utilitarian, but it is of utmost importance to those who share the egalitarian's sentiment. Furthermore, it is worth noting here that any particular egalitarian theory, unless it endorses strong equality, faces an analogous problem of reconciling equality with other norms. Cohen and Arneson, for instance, have to reconcile self-ownership with egalitarianism. So, on balance, anarchal egalitarianism displays a healthy capacity to make specific prescriptions.

The utilitarian could argue that his theory is more prescriptively potent than anarchal egalitarianism, since in principle he can always decide whether or not to move from one outcome to another, on the basis of where greater utility lies. The anarchal egalitarian may not be able to choose between D $\langle 15, 15 \rangle$ and E $\langle 10, 25 \rangle$, whereas the utilitarian could recommend E. Nevertheless, anarchal egalitarianism, and not utilitarianism, can mandate Equality over Mere

Happiness. That prospect should give someone with egalitarian sentiments reason to select anarchal egalitarianism over utilitarianism. If one holds equality as a virtue, then surely it ought to be instantiated if doing so would not diminish overall utility. For an egalitarian, then, utilitarianism is normatively inadequate, since it does not mandate equality under circumstances in which it ought to do so. Furthermore, it is only the addition of the assumption of weak equality that makes it more problematic for the anarchal egalitarian than the utilitarian to decide between D $\langle 15, 15 \rangle$ and E $\langle 10, 25 \rangle$. So, given that anarchal egalitarianism can make unambiguous prescriptions over a wide range of cases, and that it is not clear that the theory cannot prescribe either D or E, it would be curious if someone with egalitarian sympathies abandoned anarchal egalitarianism on account of a possible prescriptive ambiguity that only arises because egalitarian sentiment is harnessed to a norm of weak equality.

Utilitarianism offers those with egalitarian sentiments a possible advantage in prescriptive potency, as well as considerable equality, especially regarding resource-dependent welfare. But, candidate egalitarians ought to prefer the greater (egalitarian) normative adequacy of anarchal egalitarianism to the possibly greater prescriptive capability of utilitarianism. And, the weak utilitarianism which is part of anarchal egalitarianism offers the same egalitarian advantages the utilitarian presents: reduced special incentives and substantial resource-dependent equality of welfare. So, although weak utilitarianism in many ways strengthens and complements the weak equality claim of anarchal egalitarianism, mere utilitarianism is unlikely to be acceptable to an egalitarian as a replacement theory.

Conclusion

I have argued on behalf of anarchal egalitarianism, the three tenets of which are as follows:

1. A denial of self-ownership (proper) as a principle, where self-ownership proper is the irreducible view that a person is the morally rightful owner of herself and should be free to do as she chooses so long as she does not cause harm to others;
2. A weak equality claim such that the mitigable requirement for equality reflects the egalitarian idea that the moral value of a gain in welfare is inversely proportionate to one's pre-gain utility or welfare score; and,
3. A weak utilitarian claim, which is defined by:
 - (U1) Individuals ceteris paribus should be given equal consideration regarding how welfare is to be distributed; and
 - (U2) Outcome X is morally better than outcome Y if (not if, and only if) ceteris paribus the total welfare in X is greater than the total welfare in Y.

I prefaced the argument for anarchal egalitarianism with a defence of the welfare standard pitted against some of its competitors, resources and opportunity for welfare. The resource or primary goods metric of Rawls fails to allow egalitarianism to concern itself sufficiently with resource-independent welfare, such as welfare related to health. I also claimed that Arneson's opportunity for welfare standard is an inappropriate metric for welfarism, and that his and Cohen's arguments against welfarism are unconvincing. The opportunity for welfare metric gains its credibility by supposing that by equalizing welfare, the egalitarian does not recognize adequately a voluntary/involuntary distinction regarding people's behaviour. But, if this distinction is tenable, then the natural lottery argument may lose much of its force, and egalitarians have conceded to libertarians that people are to some extent responsible for their welfare levels. It is better for egalitarians to leave the voluntary/involuntary distinction as an open question, and to keep as robust a natural lottery argument as possible. Egalitarians, then, should use a welfare standard.

The denial of self-ownership (proper) is based on arguments which can be divided into three distinct categories. First, if one is not a self-ownership devotee, then one could be persuaded

to drop self-ownership on grounds that it is consistent with Pareto-inferior, sub-optimific and unequal outcomes. Second, there is reason to believe that self-ownership collapses into either a variety of utilitarianism or a view which mandates only that Pareto-superior outcome which exhibits the greatest overall happiness. Third, if self-ownership does not collapse, then it is prescriptively impotent in that it cannot license particular outcomes. This argument depends on a rebuttal of the pre-philosophical view of harm, and the defence of a normative conception, which asserts that someone is harmed if they are not as well off as they ought to be. The impotence charge also relies on the idea that if two or more outcomes are morally or politically warranted to just the same extent, and if someone could do better in one outcome than another but nonetheless is forced to stay in the outcome which for her is sub-optimal, then prudential reasons are sufficient for that person to rightly complain that she is being harmed. Given this, self-ownership proper is prescriptively impotent, for it appears to license all outcomes Pareto-superior to the state of nature to the same degree. And, someone can always do better in a different Pareto-superior outcome at another's expense. Thus, someone is always harmed in any of the possible Pareto-superior outcomes that self-ownership proper hopes to justify. As a consequence, self-ownership proper cannot warrant any outcomes Pareto-superior to the state of nature, since doing so would violate its proviso against causing harm.

The argument for weak equality proceeds in three stages. First, the natural lottery argument I defend, in conjunction with objections to self-ownership, disposes of desert and entitlement claims to natural assets and their effects. The argument here is that because people have the natural assets they do as a result of brute luck, there is no reason to suppose that they deserve them. As part of the natural lottery argument, I take the strategy used against self-ownership regarding property appropriation and apply it to self-ownership regarding entitlement to natural assets. The results are the same as before. Self-ownership proper again can be rejected

on grounds of the types of outcomes it justifies and its latent prescriptive impotence. So, the wealthy and the talented have two less barriers to erect against possible redistribution; they can claim neither that they deserve nor that they are entitled to their natural assets and the effects of those assets.

The second stage of the argument for weak equality is based on egalitarian sentiment. Assuming this sentiment presupposes a special concern for losers in the lottery of life; the poor, the less fortunate and others with lower welfare levels. This concern is combined with the natural lottery argument to suggest that we have a prima facie reason to distribute welfare equally.

The third tier to the argument involves defending weak equality combined with weak utilitarianism against external and internal criticism. An external objection is that strong utilitarianism can give the egalitarian most of what she desires, and can do it with a more prescriptively potent theory. So, the utilitarian suggests that the egalitarian adopt merely utility theory. The reply to the utilitarian is, in effect, to offer a compromise. The egalitarian agrees that by virtue of diminishing marginal utility, utilitarianism can both maximize resource-dependent welfare and offer the promise of resource-dependent equality of welfare. But, utilitarianism cannot guarantee resource-independent equality of welfare, since resource-independent welfare is unaffected by the diminishing marginal utility of resources. If two outcomes exhibit equal welfare levels, but only one provides equality, a norm of weak equality is needed to mandate the outcome with equality. So, the egalitarian keeps the weak equality norm, which can ensure equality in the scenario above, but accepts weak utilitarianism as part of her theory.

An internal worry is that the anarchal egalitarian has no principled method to choose between outcomes such as $\langle 15, 15 \rangle$ and $\langle 10, 25 \rangle$. The first response here is to assert that it may in fact be possible to make principled judgements between $\langle 15, 15 \rangle$ and $\langle 10, 25 \rangle$. If it turns out that this is not possible, the objection is still not a sufficient reason to drop anarchal

egalitarianism. Since resource-dependent equality of welfare is promoted by both the weak equality and weak utilitarian aspects of the theory, with regard to resource-dependent welfare distribution, there may not be much clash between (i) outcomes with less happiness and more equality and (ii) outcomes with less equality and more happiness. The conflict is likely to be limited to distributions of resource-independent welfare, which greatly reduces the scope of the worry. Furthermore, this sort of difficulty confronts any egalitarian theory which allows that, in some circumstances, equality could be trumped by other values.

I have not considered all the objections one could raise against anarchal egalitarianism. And, there are important structural details that must be developed and analyzed, such as a formal guideline for reconciling happiness and equality if at times they conflict. However, if one is sympathetic to the misery of the disadvantaged, and if one believes that in general it is better to give a like benefit to those who suffer rather than to those who do not, then anarchal egalitarianism has much to offer.

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