CHAPTER I

Reconciling equality and choice

My aim in this book is to take a fresh look at two widely accepted ideas, and in so doing to shed new light on some old questions of distributive justice.

The ideas I have in mind – that all persons have equal claims to whatever benefits their society provides and that each person's choices should play a central role in shaping his own life – have both been accommodated, in one way or another, by every theory of justice of which I know. However, the theory that has addressed them most explicitly is the one that has become known as luck egalitarianism. In its simplest form, luck egalitarianism asserts that inequalities are just if and only if they are not due to luck. Put a bit more precisely and decomposed into conjuncts, it asserts, first, that all inequalities that cannot be traced to the parties' own choices are unjust, and so should be evened out, but, second, that any inequalities that *are* due to differences in the parties' choices are indeed just (or at least consistent with justice) as long as the options among which the parties chose were themselves sufficiently equal.[1]

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[1] The literature on luck egalitarianism is voluminous, but any short list of important texts would include Gerald Cohen, "On the Currency of Egalitarian Justice," *Ethics* 99 (July 1989): 906–47; Richard Arneson, "Equality and Equal Opportunity for Welfare," *Philosophical Studies* 56 (1989): 77–93; Richard Arneson, "Luck Egalitarianism: An Interpretation and Defense," *Philosophical Topics* 32 (2004): 1–20; John Roemer, *Equality of Opportunity* (Cambridge, MA: Harvard University Press, 1998); and Eric Rakowski, *Equal Justice* (Oxford University Press, 1991). For two more recent book-length treatments, see Susan Hurley, *Justice, Luck, and Knowledge* (Cambridge, MA: Harvard University Press, 2003) and Carl Knight, *Luck Egalitarianism* (University of Edinburgh Press, 2009). For important critical discussion, see Elizabeth Anderson, "What Is the Point of Equality?" *Ethics* 109 (1999): 287–337,

I think, in fact, that luck egalitarianism is untenable for a variety of reasons, and that any theory that successfully integrates the claims of choice and equality will have to abandon its conjunctive approach in favor of some different structure. However, although luck egalitarianism has had plenty of critics, the difficulties that I view as most serious have received surprisingly little attention. For this reason, I will devote the first half of this book to a critical discussion that brings those difficulties into the open. Then, guided by what has emerged, I will propose and defend an integrated account of a very different sort.

<center>I</center>

Although Ronald Dworkin rejects the label "luck egalitarian," that view has its origins in his magisterial "What Is Equality" essays, first published in 1981.[2] At a somewhat greater remove, the view obviously draws inspiration from Rawls's influential claims, advanced in *A Theory of Justice* in 1971, that the distribution of talents and abilities among persons is "decided by the outcome of a natural lottery" which is "arbitrary from a moral perspective,"[3] and hence that "[t]here is no more reason to permit the distribution of income and wealth to be settled by the distribution of natural assets than by historical and social fortune."[4] Since the publication of Dworkin's groundbreaking essays, there has been a steady outpouring of work, written by some of the best political philosophers of our time, refining and elaborating his attempt to reconcile justice with choice. This work has addressed such questions as exactly where to make the cut between just and unjust

   and Samuiel Scheffler, "What Is Egalitarianism?" *Philosophy and Public Affairs* 31 (2003): 5–39.

[2] Ronald Dworkin, "What Is Equality? Part 1: Equality of Welfare," *Philosophy and Public Affairs* 10 1981): 185–246, and Ronald Dworkin, "What Is Equality? Part 2: Equality of Resources," 10 (1981): 283–345. Both essays are reprinted as chapters in Ronald Dworkin, *Sovereign Virtue* (Cambridge, MA: Harvard University Press, 2000).

[3] John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), p. 74.

[4] *Ibid.*

inequalities,[5] how we can best operationalize the idea of the proportion of a person's income that is due to his own efforts,[6] and whether what should replace an unchosen inequality is a fully equal distribution or only the movement toward equality that results from assigning priority to the well-being of the less well off or providing a satisfactory minimum for everyone.[7] In addition, philosophers working within the rubric of luck egalitarianism have continued to advance the debate about which goods are most directly relevant to distributive justice.[8]

But while luck egalitarians have indeed devoted much energy and attention to working out the details of their position and rebutting objections to it, they have devoted far less to the rationale for either its egalitarian or its inegalitarian conjunct. It is more or less common ground among them that inequalities that are due to luck are unjust; that any inequality that is unchosen is *ipso facto* a matter of luck; and that justice therefore requires the mitigation if not the elimination of all such inequalities. I believe, and will argue at length in what

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[5] In "On the Currency of Distributive Justice," Cohen influentially criticizes Dworkin's claim that the crucial distinction is the one that divides actions that originate in the agent himself from those whose sources are external, while others have questioned the relevance of Dworkin's brute luck/option luck distinction. On the latter issue, see Kasper Lippert-Rasmussen, "Egalitarianism, Option Luck, and Responsibility," *Ethics* 111 (2001): 548–79; Peter Vallentyne, "Brute Luck Option Luck, and Equality of Initial Opportunities," *Ethics* 112 (2002): 529–57; and Martin Sandbu, "On Dworkin's Brute-Luck – Option-Luck Distinction and the Consistency of Brute-Luck Egalitarianism," *Politics, Philosophy and Economics* 3 (2004): 283–312.

[6] John Roemer explores this question in a number of works including *Equality of Opportunity* and "Equality and Responsibility," *The Boston Review* 20 (1995): 3–7.

[7] From his early essay "On the Currency of Distributive Justice" through his last major work *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008), Gerald Cohen was a consistent champion of straight equality. For defense of equality against a prioritarian challenge, see Larry Temkin, "Egalitarianism Defended," *Ethics* 113 (2003): 764–82. By contrast, Arneson now favors a view which he calls "responsibility-catering prioritarianism": see Richard Arneson, "Luck Egalitarianism and Prioritarianism," *Ethics* 110 (2000): 339–49.

[8] In addition to the familiar alternatives of welfare, resources, and opportunities, a number of hybrid candidates have emerged. Thus, in "On the Currency of Egalitarian Justice," Cohen straddles the line between welfare and resources by urging the equalization of a hybrid good, "advantage," which combines the two; while in "Equality and Equal Opportunity for Welfare," Arneson argues that what should be equalized are opportunities to satisfy preferences.

follows, that what Susan Hurley calls "the luck-neutralizing aim" rests on a fundamental misunderstanding of the roles of both choice and contingency in human affairs. However, for now, it is sufficient to note that even if we grant that aim, we will still have a lot of ground to cover before we are entitled to accept either conjunct of luck egalitarianism.

For, as Hurley has correctly pointed out, it simply does not follow, from the premise that an unchosen inequality is unjust, that it is any more just to (re)distribute the relevant goods equally among the affected parties. It would take some further argument to establish equality (or any other distributive pattern) as the default position. In addition – a separate point – the premise that unchosen inequalities are unjust also does not imply that all (or even any) of the inequalities that *do* reflect the parties' choices therefore *are* just. There is nothing inconsistent about maintaining both that all unchosen inequalities are unjust and that all inequalities that can be traced to the parties' choices are unjust as well.

Thus, even if we agree that all unchosen inequalities are unjust, we will still need two further arguments, one to justify the luck egalitarian's egalitarian conjunct and another to justify his inegalitarian conjunct. Moreover, at least offhand, these justifications seem likely to be in tension with each other, since the stronger the case for distributive equality becomes, the harder it becomes to defend deviations from it. This raises the important (though rarely asked) question of how the justifications of the two conjuncts might be related.

There are two basic possibilities, in that the justifications might be either independent or linked. On the one hand, they will be independent if the case for the egalitarian conjunct rests on some general principle of equality while the case for the inegalitarian conjunct rests on some further choice-related principle or value – for example, one which demands that each person get what he deserves or what he is responsible for bringing about. By contrast, the two justifications will be linked if it is the case either that one is somehow implicit in the other or that they can both be traced to the same deeper principle or value. In what follows, I will refer to justifications of the first sort as pluralistic and the second as monistic.

Because the normative foundations of luck egalitarianism are so underdiscussed, it is often hard to discern which justificatory approach its proponents have in mind. However, given the paucity of attempts to produce a unified justification, it seems safe to assume that most luck egalitarians are pluralists. This, I think, is to be expected; for our moral vocabulary contains a rich array of choice-related notions – control, responsibility, and desert are three of the most prominent – which have no obvious connections with equality. These notions are ready to hand, and many find them compelling. Also, of course, to ground the inegalitarian conjunct of luck egalitarianism in an apparently free-standing moral notion is not to rule out the possibility of unearthing a deeper connection between that notion and equality at some later point.

II

Is there a convincing pluralistic justification of luck egalitarianism? I think, in fact, that the answer is "no," but I will not be able to explain why until I have confronted the main pluralistic options in Chapters 2 and 3. Thus, for now, I will offer only a few general reasons for skepticism.

The most obvious problem with the pluralistic approach is its lack of specificity. By this I mean not merely that the pluralistic luck egalitarian needs to specify which of the relevant choice-related notions he takes to ground his inegalitarian conjunct, but also, and more importantly, that he owes us an explanation of when, and why, the normative demands of choice dominate those of equality and when and why they are dominated by them. This last point is important because any luck egalitarian who lacks a principled account of the conditions under which choice-related considerations take precedence over equality will also be incapable of drawing a principled line between those inequalities that are and are not just. Because pluralism is theoretically unambitious, and provides no overarching account of the relative strength of the principles or values it identifies as relevant, its proponents will have difficulty responding both to those critics who view equality as so important that it always takes precedence over all

competing values and to those others who are willing to accept any
amount of social or economic inequality as long as it can somehow be
traced to the parties' earlier choices. By contrast, if luck egalitarians
can manage a monistic defense of their position, then they may indeed
be able to answer both sets of critics; for if the demands of equality and
inequality are unified at some deeper level, then it may be possible to
adjudicate between the claims of equality and choice by extracting an
account of the proper boundaries of each from their common source.

For these and other reasons, I regard the monistic approach as more
promising than its pluralistic rival. However, I also believe that it is
precisely by taking the monistic approach seriously that we can best
come to see what is wrong with luck egalitarianism. Although there
are in theory indefinitely many premises from which the two conjuncts
of luck egalitarianism might be derived, the leading contender (and,
indeed, the only live option) is the primal normative claim that persons
are moral equals in the sense that the interests of each are equally
important.[9] Thus, to assess the prospects for a successful monistic
defense of luck egalitarianism, we must ask whether that primal claim
can justify each of its conjuncts. However, when we do, we find
that the primal claim does not really support either a view with the
conjunctive structure of luck egalitarianism or the attitudes toward
contingency and choice that that view embodies.

Here again, my reasoning must await the argument that follows;
but here again, too, I can offer a brief summary of what I am going
to say. To get a grip on what the moral equality of persons can tell us
about distributive justice, I will begin by trying to identify the facts
about persons in virtue of which they *are* moral equals. Identifying
these facts is often said to be problematic because people differ along

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[9] Thomas Nagel, who endorses a version of luck egalitarianism in his book *Equality
and Partiality* (Oxford University Press, 1991), gestures at the idea that it is grounded
in the moral equality of persons when he writes that "if everyone matters just as much
as everyone else, it is appalling that the most effective social systems we have been
able to devise permit so many people to be born into conditions of harsh deprivation
which crush their prospects for leading a decent life, while many others are well
provided for from birth" (p. 64). In *Sovereign Virtue*, Ronald Dworkin explicitly
presents his distributive account as resting on (a version of) the view that all persons
are owed equal concern.

every empirical dimension; but I will argue that this objection misses
the point because the crucial fact about persons is not empirical at
all. It is, rather, that each person has a subjective perspective that is
uniquely his own. Although no two people have the same combination
of abilities, physical traits, and psychological propensities, each is
equally a complete and self-contained center of thoughts, feelings,
and experiences. It is, I will argue, precisely the fact that we are equals
in this respect – that each is a world unto himself – that best explains
why each person's interests are of equal moral importance.

Because our internal lives are inaccessible to others, they do not
lend themselves to empirical investigation. Nevertheless, because we
have compelling indirect evidence that each person's subjectivity
is organized around the same fundamental assumptions (about, for
example, the spatial and temporal structure of the world, the efficacy of
his decisions, the availability of theoretical and practical reasons, and
so on), it remains possible to generalize about the interests to which
the structure of our subjectivity gives rise. In particular, because
each person's consciousness is by nature oriented toward assessing
the available reasons and forming beliefs and acting on the basis they
provide, it is plausible to maintain that each person's most fundamental
interest consists of successfully performing just these activities. It
consists, in other words, of actively living his own life in whichever
way he thinks best. Although our judgments about our reasons give
rise to innumerable more specific interests, these are subordinate to,
and hence less fundamental than, our overarching interest in living
our own lives in our own way. And because a just society must attach
equal weight to each member's fundamental interest – this is just the
social version of the primal normative claim – it follows that a just
society must give each of its members an equal *chance* to live his own
life in his own way.

Although I have so far said nothing about the *distribution* of goods
among persons, this proposal can easily be reformulated in distributive
terms. To do so, we need only introduce a good that corresponds to
what I have identified as our most fundamental interest: the good,
roughly, of being able to live one's own life effectively. Although
this good is (even) more abstract than such familiar goods as welfare,

resources, opportunities, and capabilities, its distribution among a society's members is no less a function of the society's important institutions. And, in view of this, the proposal I have just advanced – that a just society must give each of its members an equal chance to live his life as he thinks best – will go over smoothly into the claim that a just society must distribute equally among its members the abstract good of being able to live their lives effectively.

III

Is it possible to derive both conjuncts of luck egalitarianism from the primal normative claim that persons are moral equals? At first glance, the answer may appear to be "yes." I have just suggested that the moral equality of persons calls for the equal distribution of a certain abstract good – the ability to live one's life effectively – which in turn is intimately bound up with the ability to make and implement reason-based choices. If the inegalitarian effects of people's choices were systematically thwarted – if the predictable consequences of those choices were blocked whenever allowing them to play themselves out would leave some better off than others – then people would exercise little real control over their lives. Thus, in any society whose members *are* able to live their lives effectively, the differences in what the parties choose are bound to lead to significant inequalities of welfare, resources, and opportunities. In addition, because a person's ability to live his life effectively depends in part *on* his level of resources and opportunities, the resulting differences in resources and opportunities can sometimes be expected to disrupt the equal distribution of that ability itself.

Because the claim that persons are moral equals thus supports a form of distributive equality which in turn leads to various distributive *in*equalities, that claim may appear to establish precisely the kind of internal connection between the two conjuncts of luck egalitarianism that the monist is seeking. However, on closer inspection, it does not; for neither main variant of the view that emerges has the same structure as luck egalitarianism. To see this, let us briefly examine each variant in turn.

Consider first the variant which asserts that because justice requires that persons be rendered equally able to live their lives effectively, it must also endorse whichever inequalities of welfare, resources, and opportunities arise through that ability's differential exercise. Put most simply, the reason this variant is not a version of luck egalitarianism is that the good whose equal distribution is called for by its first clause is not the same as the one whose unequal distribution is sanctioned by its second. Despite their disagreements about what Gerald Cohen has called the currency of distributive justice, all luck egalitarians agree that justice *has* a single currency, and that the unequal distribution of whatever good comprises it is just when it results from the parties' choices but unjust when it does not. By contrast, what the current claim asserts is that there is one sort of good (the ability to live one's life effectively) whose unequal distribution is unjust, period, but that precisely because of this there are various other goods, such as resources and welfare, whose unequal distribution *is* just as long as *it* stems from choice. Where the most fundamental good is concerned, this claim demands equality without exception, while where less fundamental goods are concerned, it allows inequality in accordance with choice. Thus, when we draw out the distributive implications of the moral equality of persons in this way, what we get is not a pair of conjuncts that exhaustively determine the distribution of a single crucial good, but rather a single principle that governs the crucial good and a number of subordinate principles, governing others, that follow from it. Even if this proposal is expressed in conjunctive terms, its conjuncts will remain stratified in a way that those of luck egalitarianism are not.

Consider next the variant which asserts that because societies must render their members equally able to live their lives effectively, they must allow people's choices to play themselves out in ways which sometimes lead to inequalities *in the distribution of that very ability*. Unlike its predecessor, this variant does not assert merely that the equal distribution of one type of good rules out the equal distribution of another. Instead, no less than luck egalitarianism itself, it focuses on a single good throughout. However, when luck egalitarians maintain that inequalities are just if they reflect the parties' choices but unjust

otherwise, they are merely asserting a biconditional which in itself calls neither for equality nor for inequality. By contrast, when I say that justice requires the equal distribution of an abstract ability whose exercise in turn causes it to be unequally distributed, I am making a claim which simultaneously calls for both. There are obvious questions about how we can best resolve this tension, but I need not go into these here. Instead, for now, the point is simply that this second variant of my view is no less structurally different from the standard versions of luck egalitarianism than is the first.

<div align="center">IV</div>

If my account differed from luck egalitarianism only in the underlying structure of its claims, but not in what it implies about which inequalities of welfare, resources, or opportunities are just and which unjust, then the difference would be of merely theoretical interest. However, in fact, the structural differences ramify widely, and the two accounts have very different substantive implications. To bring these into the open, it will be helpful to contrast the roles that contingency plays in the two accounts.

To the luck egalitarian, luck and contingency – we can for present purposes treat them as interchangeable – play a purely negative role. They are defined purely in terms of the absence of choice, and the inequalities to which they give rise are viewed merely as obstacles for justice to overcome. Whenever an inequality in two people's levels of resources or well-being can be traced to what is, from the parties' own standpoint, an uncontrollable contingency – whenever, for example, the reason one person has more than another is that he was born with a talent that is more in demand, has received a better education, or has remained healthy while the other got sick – the luck egalitarian will view the resulting inequality as unjust, and hence will seek its elimination. Under luck egalitarianism, contingency is the enemy of justice.

By contrast, if we subordinate the distribution of resources and well-being to the more basic requirement that all persons be rendered equally able to live their own lives effectively, then contingency