

## EGALITARIAN JUSTICE AND THE IMPORTANCE OF THE FREE WILL PROBLEM

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Political philosophy has tended to discount the importance of the free will problem. Even when the problem has been mentioned, this has usually been done in a cursory and dismissive manner. There are here very few exceptions. That political philosophy has indeed avoided this issue can be easily seen, by noticing the use of the term 'libertarian': if discussions of distributive and political justice had taken serious account of the free will problem, a large measure of confusion - following from the very different meanings of this central term in the free will and political discourses - would have been inevitable. I believe that this attitude towards the free will problem taken by recent political philosophy is of great importance, and that the implications of this problem have a profound significance for our understanding of issues such as distributive justice. As a first instalment in defending this claim, I will consider in this paper egalitarian conceptions.<sup>1</sup> By discussing what I take to be the most intuitively coherent form that egalitarianism has taken, G.A. Cohen's, I hope to show the crucial importance of a real engagement with the free will issue, for the egalitarian agenda.

Cohen has recently offered a new way of thinking about the measure of equality, the 'currency of egalitarian justice'.<sup>2</sup> He argues that it is not e.g. 'equality of welfare' or 'equality of resources' that egalitarians ought to see themselves as aiming at, but 'equality of access to advantage'. In the egalitarian ideal, according to Cohen, virtually the only way in which inequality could be excused would be if the inequality resulted from 'genuine choice'.<sup>3</sup> The centrality of the issue of choice for such a conception of justice would seem to bring up

the issue of free will immediately. Cohen thinks, in the end, that political philosophy can bypass this contentious issue. But his case at this point is weak, and this will be seen to be important in various ways.

Cohen's suggestion seems to me, in light of his detailed arguments, much more plausible than the other suggestions that have been made by those who share the egalitarian agenda (such as Dworkin's 'equality of resources'). Defending this judgment here would require a very lengthy discussion, which would not contribute much beyond Cohen's detailed exposition. Thus I will not defend this judgment here, and will simply assume its correctness. (Since Cohen's formulation is clearly one of the main forms of egalitarianism, it is in any case already worth considering.) If my criticism of Cohen's position with regard to the free will problem is convincing, and if egalitarians must follow, by and large, in Cohen's footsteps (in understanding the basic intuition behind egalitarian justice and in interpreting the 'currency' of egalitarian justice) - it appears that all egalitarians must confront the free will issue in a serious manner. Much of my criticism of Cohen's position could be applied to other egalitarian formulations, but to do so would only encumber this discussion unnecessarily.<sup>4</sup>

I will now consider Cohen's position with respect to the free will problem, in some detail. To his credit, Cohen does not avoid the troublesome free will issue altogether: he recognizes that 'Someone might say that to make choice central to distributive justice lands political philosophy in the morass of the free will problem'.<sup>5</sup> He goes on to say that perhaps matters are not reassuring: 'we may indeed be up to our necks in the free will problem, but that is just tough luck'.<sup>6</sup> However, he seems to conclude that there is a 'reassuring' way out of the need to consider the free will issue; the fact that the presence of choice is clearly a matter of degree makes distinctions in terms of 'genuine choice' possible, and that is all that the egalitarian political theorist requires.<sup>7</sup>

How are we to interpret this notion of 'genuine choice'? It could of course be interpreted either incompatibilistically or compatibilistically, i.e., taking 'genuine choice' to require or not to require libertarian free will, respectively. Cohen elsewhere claims to be an incompatibilist.<sup>8</sup>

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But in the paper that concerns us such an interpretation does not seem to fit well with the way Cohen talks about 'genuine choice'. And even more importantly, an incompatibilist interpretation would make here little sense - for clearly Cohen would not consider the existence of libertarian free will obvious. While we could not strictly speak about a philosophical consensus that libertarian free will does not exist, the situation is not very far from that, and a great many philosophers have argued that the very notion of libertarian free will is incoherent. If 'genuine choice' were to be taken as requiring libertarian free will the likelihood that we have such choice would be very much reduced. For Cohen to pin the hopes of egalitarianism on libertarian free will would simply be suicidal. And in any case, bringing in the libertarian option would make the necessity of tackling the free will problem undeniable. I will thus assume in this paper that when Cohen speaks about 'genuine choice' (which is 'a matter of degree' and that we clearly have), he refers to compatibilist free will.

Now, even a sophisticated hard determinist (i.e. an incompatibilist who thinks that there is no libertarian free will) would not want to deny the possibility of making distinctions in terms of the degree of choice present, in some senses of 'choice' - e.g., the difference between the compulsive drinker and the person who occasionally drinks a beer. Such a hard determinist would just say that for moral purposes, e.g. for justifying punishment, such distinctions cannot do the work that they are supposed to do. So the existence of degrees of choice does not suffice in itself to make Cohen's 'reassuring' answer convincing. This answer can be attacked by focusing on the term 'genuine choice', by arguing that '*genuine* choice' is just not the sort of choice which we clearly *do* have. To say that the sort of choice that we have is the required sort of choice is already to say something contentious in terms of the free will problem.

But I do not want to put too much emphasis on the term 'genuine choice'. For the main objection to Cohen's 'reassuring' answer (to the effect that the free will issue can continue to be set aside) emerges from something much more central; it follows from the very intuition which prompts him to put a high value on the idea that we ought to consider whether there has been 'genuine choice', in examining issues of political justice. In the end, the problem with inequality that does

not result from 'genuine choice' is a moral problem, the problem of the injustice of the arbitrary way people end up lacking advantages. On this Cohen writes as follows: 'a large part of the fundamental egalitarian aim is to extinguish the influence of brute luck on distribution. Brute luck is an enemy of just equality, and, since effects of genuine choice contrast with brute luck, genuine choice excuses otherwise unacceptable inequalities'.<sup>9</sup>

Here however Cohen lays himself open to a familiar hard determinist moral argument: if people lack the sort of self-creating ability which only libertarian free will might have provided us with, then ultimately everything - including a person's choice - must be viewed as arbitrary, and cannot ultimately be seen as up to the person. When we consider a person as a 'given', without enquiring after the causes of her actions, we naturally say that she often chooses freely. But if we take a deeper look we can see that, being whoever she happened to be, with her specific desires and beliefs, she could not have ended up choosing anything else. She could not have ultimately chosen to be (or not to be) this very person, who would choose as she did. The woman's choices are an unfolding of what she is, of what she just happened to be. It is as brute luck as you can get. And speaking about self-creation cannot help here: perhaps we can make sense of the idea of people creating themselves by their choices, but in the end - if there is no libertarian free will - there was an original self, with all the inclinations to create (or not to create) itself, for which the later selves cannot be responsible. This original self, from which the later selves follow, could not have created itself, but was rather most arbitrarily 'given'.

Such a hard determinist position of course directly threatens Cohen's conception of justice. The hard determinist might agree with Cohen that we ought to avoid the morally arbitrary, but would take the latter to encompass in some sense all human action. Starting from a presumption of equality in what people ought to get, a hard determinist conception of justice would see any unequal well-being (or some such criteria) as unjust; Cohen's idea that there can be the sort of non-arbitrary 'genuine choice' which could justify some inequality would be simply seen as mistaken.

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I do not claim that such arguments should convince everyone; the free will debate after all is raging as furiously as ever. My own view is that we ought to attempt and formulate a more complex dualistic approach to the free will problem, according to which the lack of libertarian free will means that we cannot continue to talk in the same way about e.g. ultimate desert, but can nevertheless make some good sense of the notions of choice and moral responsibility, and so provide some moral grounding for a choice-based approach such as Cohen's. Such a dualistic position, combining the insights of compatibilism and of hard determinism, would enable us both to see why a political order such as Cohen envisages might well be in some sense less arbitrary - and more just - than our current ones; and to recognize the significant level of arbitrariness - and injustice - that would remain even in such an order.

I cannot defend such a dualistic position here.<sup>10</sup> But this is in any case not the primary issue. The central point we must realize before we can progress further is rather that there is a distinct sort of notion of free will which is essential for Cohen's conception of political justice, and that this notion is disputable. Anyone putting forward a choice-based conception of political justice based on the moral idea that the arbitrary cannot count, cannot avoid the free will problem.

And so, to begin with, Cohen ought to modify his position somewhat: even without the unacceptable idea that the free will problem can be bypassed, most of what is crucial for (*some kind of*) an egalitarian conception of justice would still remain. The modified position might be as follows: 'Inequality in advantage can only be justified if it results from "genuine choice". Thus, if (or to the extent that) hard determinism is correct (i.e. the morally adequate sort of "genuine choice" cannot exist), inequality in advantage would be unjust'.

Here we must realize that such a revised position means that the form that the egalitarian conception of justice would take would crucially depend on the answer to the 'Compatibility Question' in the free will problem (again, assuming that libertarian free will does not exist). If we are inclined towards compatibilism we might make sense of the idea of 'equality of access to advantage'. But if (or to the extent

that) we are persuaded by hard determinism, it seems that we ought to endorse strict 'equality of advantage'.

And in the light of considerations such as I presented above it does not seem to me that Cohen's implicitly compatibilist position, with its one-eyed focus on the problem of the morally arbitrary, can stand as it is. In terms of the basic intuition behind Cohen's conception of distributive justice we might, at best, be able to defend only a partial choice-based conception of distributive justice. Because of the sort of ultimate 'constitutive' arbitrariness which we saw before, inequality in advantage is in some sense unjust even when it results from (compatibilist) choice. For 'in the real world there is always some difference in people's background which could be said to be the cause of their different choices.'<sup>11</sup> Even when there has been compatibilistically-free choice, those who end up worse off are in a sense *victims* of the forces that made them what they are, forces ultimately beyond their control.

If this is indeed the case then the difficulty Cohen faces goes much beyond the need to acknowledge the dependence of his position on a non-obvious form of compatibilism (a compatibilism which, as we saw, he elsewhere repudiates). The difficulty is that any egalitarian who would like to set out a conception of justice with the intuitive grounding presented by Cohen, must do so *while engaging in a detailed encounter with the insights of hard determinism*.

There are certainly other ways of defending a roughly choice-based conception of political justice, and other ways of defending egalitarianism, and such positions would perhaps be less open than Cohen's to a hard determinist moral attack of the sort that I have presented. The problem with Cohen's position lies however not in its intuitive grounding, in the attempt to avoid the morally arbitrary - it is one of the strengths of his position that it captures what seems to me to be a central intuition behind any adequate egalitarian theory of justice. Cohen seems to be on the right track in elucidating the basic intuitions behind egalitarian justice, it is just that this track unavoidably goes through the free will issue. Well, nobody promised that political philosophy was going to be easy.

Before we conclude, it might be useful to examine briefly what the possible recognition of the importance of the free will problem for

distributive justice is likely to do for the egalitarian case. On the one hand, it is anti-egalitarians that stand to gain most from the continuation of the prevalent muddle regarding the free will problem; in particular, from the prevalence of the assumption that people can deserve forms of treatment or situations in the strong sense of desert that only libertarian free will (if it could exist) would provide. Such a notion of desert lies behind much of the thinking that inequality of distribution can be morally justified.<sup>12</sup> But this is only part of the picture. Cohen says of Dworkin that he has 'performed for egalitarianism that considerable service of incorporating within it the most powerful idea in the arsenal of the anti-egalitarian right: the idea of choice and responsibility'.<sup>13</sup> And this indeed seems to be so, to the extent that we are inclined towards compatibilism. However, it is clear that much of the attraction would fade away were we to tilt towards hard determinism, i.e. if justice would be claimed by the egalitarian to require strict 'equality of advantage'. The idea of 'equality of access to advantage' mixes well with widespread views about the importance of personal choice and responsibility; and about the justness of 'equality of opportunity'. This idea is thus, truth aside, much more marketable than the idea of strict 'equality of advantage'. But perhaps the issue of marketability is in such a case minor - accepting a large measure of hard determinism would seem to require a transformation of so much of our thinking that all current conceptions of political justice would in any case be considered inadequate.

To conclude. It cannot be denied that there have recently been major advances in the elucidation of the egalitarian case. These have, however, been marred by a striking neglect to examine the significance of the free will problem, for the egalitarian agenda. This omission, and in particular the failure to confront the implications of the strong case for (at least partial) hard determinism, is of central importance. I have attempted to bring this out by considering G.A. Cohen's persuasive exploration of the basic moral intuitions behind egalitarianism and his formulation of the 'currency' of egalitarian justice. I have argued for the following claims: (i) Firstly, we cannot accept the assumption that people obviously and uncontentiously have the type of free will required by such an egalitarian conception as Cohen's. (ii) Secondly, the egalitarian case has much to gain from the clarification of the

importance of the free will problem for questions of distributive justice (and more specifically, from the recognition of the implications of the lack of libertarian free will). However, one's judgment about the possible widespread attractiveness of egalitarianism would be very much influenced by one's position on the 'Compatibility Question' of the free will problem. (iii) Thirdly, the *form* of egalitarianism which will be considered adequate crucially depends on the position taken with regard to the free will problem. (iv) Finally, it is very doubtful whether egalitarianism can come out of the free will problem in quite the way Cohen hopes. It is very doubtful whether, in the light of the strength of the case for hard determinism, the specific form of egalitarianism which Cohen endorses, 'equal access to advantage', ought to be accepted even by egalitarians.<sup>14</sup>

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#### NOTES

- <sup>1</sup> Determining exactly what makes a conception of distributive justice 'egalitarian' is not crucial for the purposes of this paper. Roughly, I will treat as egalitarian those conceptions which take any inequality in peoples' condition to be *prima facie* bad.
- <sup>2</sup> G.A. Cohen, 'On the Currency of Egalitarian Justice' *Ethics* 99 (1989), pp.906-944.
- <sup>3</sup> p.931.
- <sup>4</sup> Consider for example Dworkin's position. A hard determinist stance would be destructive, e.g. in reducing all explanations of differences in welfare into differences in resources, hence eliminating the distinction. See Larry Alexander and Maimon Schwartzschild, 'Liberalism, Neutrality, and Equality of Welfare vs. Equality of Resources', *Philosophy and Public Affairs* 16 (1987), p.108. See also my 'Nagel on the Grounds for Compensation', *Public Affairs Quarterly* 9 (1995), pp.63-73.
- <sup>5</sup> Cohen p.934.
- <sup>6</sup> *ibid.*
- <sup>7</sup> *ibid.*
- <sup>8</sup> G.A. Cohen, *History Labour and Freedom* Oxford: Clarendon, 1988.
- <sup>9</sup> Cohen 'On the Currency...' p.931.

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- <sup>10</sup> I begin to do this in my 'Does the Free Will Debate Rest on a Mistake?', *Philosophical Papers* 22 (1993), pp.173-188.
- <sup>11</sup> See Will Kymlicka, *Contemporary Political Philosophy* Oxford: Clarendon, 1990, p.153. But Kymlicka's position does not seem to be sufficiently affected by this insight. He consistently supports a choice based approach. See e.g. p.75f.
- <sup>12</sup> See Ted Honderich, 'Determinism and Politics' *Midwest Studies in Philosophy* 7 Minneapolis: University of Minnesota Press, 1982.
- <sup>13</sup> Cohen op. cit. p.933.
- <sup>14</sup> I am very grateful to G.A. Cohen, Galen Strawson and Avner De-Shalit for comments on drafts of this paper.