

How generous should egalitarians be?¹

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When does the fact that someone's various concerns go unfulfilled give rise to a claim for egalitarian redistribution? Lippert-Rasmussen's equality of concern gives a new luck egalitarian answer to this question.² Luck egalitarians standardly need to answer a series of questions before concluding that a given difference between people – for example, someone is poor when someone else is rich – counts as an instance of a genuine inequality disadvantage that must be eliminated. First, of each difference they standardly ask whether it arose due to luck or choice. Second, they also ask what type of shortfalls are potential disadvantages: Does having a less fulfilling life than others, less wealth, a health condition, not being well-known, having an uglier house, being shorter, being slimmer, being less happy, failing to realise one's dream of a career on stage count as disadvantages?³ Depending on the answer to this second question, they may also need to ask a supplementary third question of how far the potentially disadvantageous shortfall needs to be eliminated for there to be no genuine disadvantage: must the difference be fully eradicated or compensated for, or can a more modest egalitarian transfer suffice to eliminate genuine disadvantage?

In what follows I will put the first question to one side. I will focus, instead, on the final two questions to evaluate Lippert-Rasmussen's equality of concern. Against its two main luck egalitarian rivals – equality of opportunity for welfare (or welfare equality for short), as developed, say, by Arneson and equality of resources, as developed by Dworkin⁴ – equality of concern can be said to give the most generous answers to both these questions. These answers are generous in the sense that they see many differences as potential calls for compensation. Thus in section 1, I report that equality of concern departs from equality of welfare and expands the set of differences that could be seen as disadvantages. In section 2, I argue that equality of concern departs from equality of resources regarding how extensive the compensation for differences needs to be for there to be no disadvantage left. Is this generosity justified? I claim (without argument) that it is against welfare equality but I argue that it is not against resource equality. However, we should also reject equality of resources and so, in section 3, I argue that a hybrid of equality of concern and equality of resources would be the more attractive luck egalitarian view. Section 4 adds a complication to this view and section 5 concludes.

I reserve the term 'disadvantage' to refer only to those differences between people that are seen as troubling by a given account of equality. I call the redistributive transfer aimed at eliminating differences an equalising transfer or compensation, even if the transfer/compensation does not eliminate the difference entirely but, rather, eliminates it to the extent that there is no disadvantage. When I say that there is a shortfall in one's concerns being fulfilled (or 'shortfall' for short), I mean that someone's concerns are more unmet than someone else's, not merely that they are not fully met.⁵ When I say that concerns that people have matter, I mean by this that shortfalls in the fulfilment of

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² Kasper Lippert-Rasmussen, *Luck Egalitarianism*, Bloomsbury 2016. Henceforth: *LE*.

³ The answer to this question has come to be known as 'the currency of egalitarian justice', though sometimes the phrase designates the answers to both the 1st and the 2nd question.

⁴ There are also alternative accounts of equality, including Cohen's composite of welfare and resources, Sen's capabilities account and (other) objective list accounts. I focus on the two most important alternatives here.

⁵ I will uniformly refer to shortfalls, even if ultimately any given shortfall should be seen as amounting to a mere difference rather than a disadvantage.

what people care about trigger the need for egalitarian transfers. A concern that triggers such a need is a 'qualifying concern'. The term 'concern' stands for anything that people care about.⁶

1. What to compensate for?

According to Lippert-Rasmussen's equality of concern, all of a person's non-instrumental and not-unreasonable concerns matter.⁷ The proviso that the concern be non-instrumental is meant to take care of the fetishism objection that can be advanced against egalitarian views. According to the objection, only an account that equalises *what truly matters* is appropriate; equalising how much money, say, everyone has would fetishize money since money only matters as an instrument for something else. To avoid the objection, Lippert-Rasmussen requires that concerns that trigger egalitarian redistribution should be held non-instrumentally. Lippert-Rasmussen does not say much about the other proviso – that the concerns be not-unreasonable – but we can discern that the requirement is not meant to be thickly normative but rather ensure only that the concerns appropriately reflect what matters to the person and are not 'badly misinformed'.⁸

There are multiple points of disagreement among luck egalitarians regarding which shortfalls to compensate for. Here I want to single out the issue of impersonal concerns (in section 3, I will consider oppressive concerns). Equality of concern sees shortfalls in impersonal concerns as triggers for egalitarian redistribution.⁹ An impersonal concern is best understood in relation to the role it is meant to play in Lippert-Rasmussenian thought: it is meant to distinguish, at least in part, his currency of egalitarian justice from equality of welfare. Welfare equality only cares about the fulfilment of preferences that bear on one's welfare with the latter usually defined independently of the fulfilment of all one's preferences. That is, even if welfare is seen to consist in preference fulfilment, only some preferences qualify; on any plausible independent definition of welfare, the satisfaction of some of the preferences one has will not affect one's welfare. For example, meeting my preference that one day in the distant future humanity learns whether there is life on other planets or whether John Stuart Mill and/or Harriet Taylor burnt Thomas Carlyle's sole draft of his 'History of the French Revolution' book manuscript on purpose,¹⁰ will not affect my welfare. Call all preferences that do not bear on one's welfare impersonal preferences.¹¹

As defined here, then, equality of welfare does not think that impersonal concerns matter. But, Lippert-Rasmussen argues – intuitively in my view, though he does not elaborate on it – that '[t]aking account of people's...[impersonal] concerns is a way of respecting them.'¹² I agree. It is respectful to people to take into account what matters to those whose lives are at stake. The fact that people may care as much or even more about the fulfilment of their impersonal preferences as their personal ones makes it hard for egalitarians to insist that only welfare matters to equality; the move seems arbitrary. The move cannot be motivated, for example, by considerations of keeping the extent of redistribution down; it would be ad hoc for welfare egalitarians to invoke worries about the extent of redistribution

⁶ Although equality of resources uses the language of resources, ultimately compensation requires that people care about the shortfalls. Thus the language of concerns, preferences and tastes is appropriate there too.

⁷ Lippert-Rasmussen, *LE*, 99-100.

⁸ Lippert-Rasmussen, *LE*, 100.

⁹ Against equality of welfare and equality of resources, Lippert-Rasmussen also expands qualifying concerns to include oppressive preferences. I discuss this in section 3.

¹⁰ Rachel Cohen, 'Can You Forgive Him?', *The New Yorker*, 8 November 2004.

¹¹ It is tricky to establish which preferences are impersonal in this sense. Is my preference for the health of my children impersonal? Is my preference that no evil person has a statue erected in his or her honour impersonal? On standard interpretations, they are. The difficulty with such standard interpretations lies in the fact that we can readily imagine that if I care deeply enough about these outcomes, they may become my projects around which I structure my life, always keeping a score on their success; if so, having them advanced, even if not by me, may affect me. In what follows, however, I assume, with Lippert-Rasmussen that preferences about others and about states of the world that I have no preference to bring about myself count as impersonal.

¹² Lippert-Rasmussen, *LE*, 101. Grammatically, it might be that it is the concerns (not their bearers) that are respected but this would amount to a restatement rather than an explanation so I opt for the more natural interpretation.

when they themselves exhibit no such worry regarding their own accounts. I think that we should side with equality of concern on whether impersonal concerns should matter to egalitarians.

Dworkin's equality of resources seems to dismiss impersonal concerns as irrelevant to equality. When discussing equality of welfare, he makes the general claim that

'[o]f course people do care, and often care very deeply, about their... impersonal preferences. But it does not seem callous to say that insofar as government has either the right or the duty to make people equal, it has the right or the duty to make them equal in their personal situation or circumstances, including their political power, rather than... in the degree to which their differing visions of an ideal world are realized. On the contrary, that more limited aim of equality seems the proper aim for a liberal state, though it remains to see what making people equal in their personal circumstances could mean.'¹³

A natural reading of the passage is that equality of resources limits itself to focusing on shortfalls that arise in meeting personal, rather than impersonal, concerns.¹⁴ More precisely, according to equality of resources, equality requires that people are in position to advance any permissible concerns of theirs to the same extent as they would if they started with an envy-free distribution of external resources (such as land) and could insure against certain personal shortfalls (such as poor health) in an ideal insurance market. It holds that equality of resources obtains when one's ability to have as fulfilling a life as others is not frustrated either because (1) one has fewer external resources than one would have when bidding for them against others at a one-off auction at which all had equal amounts of money or because (2) one has less compensation for a lack of an internal resource such as health or marketable talent than one would receive after insuring in a fair and egalitarian insurance market. So while people can pursue impersonal concerns with their resources, the insurance market is not open to insurance for shortfalls in impersonal concerns (or, for that matter, in all personal ones). In what follows I suggest that Dworkin should extend his insurance scheme to allow some compensation for shortfalls in the ability to meet one's impersonal concerns.

2. How much to compensate?

Even if we settle the question of which concerns should matter to egalitarians, the question of just when to see concerns as equally fulfilled is logically distinct. Each account must offer some answer to this question. Consider a version of welfare egalitarianism that sees welfare as the mental state of happiness. According to this view, equality requires that each person's concerns be advanced as much as necessary to achieve equal mental states. Or consider next a version of welfare egalitarianism that sees welfare as the satisfaction of personal preferences. On this view, each person's personal preferences – possibly once ordered by their importance to the person – are meant to be met to the same extent as those of others or one qualifies for full compensation for the shortfall.¹⁵

Call the view according to which each person's concerns (preferences) need to be met to the same extent, or a full compensation for the shortfall is due, the full compensation view. What this amounts to is, of course, unclear without a sense of how to measure if concerns are met to the same extent. We cannot just ask each person what value they assign to each shortfall since there is no way of making sure that people use the same metric. We could try to measure if a given preference is 100% met or met to some specific lesser extent. Assessing this is difficult. If I have a preference to publish a book, at which stage is my preference 50% fulfilled? Is it when I have a contract and 50% of the manuscript, or at the earlier stage when I merely have my brilliant idea and a new, shiny laptop on which to type it up? This difficulty notwithstanding, the idea that there is a continuum in the fulfilment of preferences between them being fully met and not met at all seems intuitive. As it

¹³ Ronald Dworkin, *Sovereign Virtue*, Harvard 2002, 28.

¹⁴ Strictly speaking it's shortfalls in resources; see fn. 6.

¹⁵ To be accurate, what matters to luck egalitarians is whether preferences are left unmet due to bad luck, but I simplify here. Arneson writes: 'I take welfare to be preference satisfaction. The more an individual's preferences are satisfied, as weighted by their importance to that very individual, the higher her welfare...'. Richard Arneson, 'Equality and Equal Opportunity for Welfare', *Philosophical Studies* 56: 77-93; quote at 82 (quoted in LE, 20).

happens how the idea is elaborated will not make a difference to my argument here just as long as the full compensation view does not rely on the Dworkinian market- or hypothetical market-based measure to establish the extent of compensation that is due.

Lippert-Rasmussen does not explicitly address the issue of how to measure whether concerns are met to the same extent. However, given his affinities with and positive remarks about Arneson's theory,¹⁶ I interpret equality of concern as a full compensation view where the qualifying concerns are all of peoples' non-instrumental and not-unreasonable concerns.

One implication of marrying the full compensation view with compensation for shortfalls in impersonal concerns is that achieving equality involves considerable redistribution. We may face 'concern monsters': people whose concerns are incredibly difficult to satisfy to an equal extent as those of others since impersonal concerns can be about anything. For example, Lippert-Rasmussen invites us to think of someone whose impersonal concern is to protect Roman architecture.¹⁷ Advancing the fulfilment of this concern sounds pretty costly.

But even independently of this worry, Dworkin's rejection of welfare equality¹⁸ offers (many) arguments against the full compensation view. They focus on the implausibility of any of its elaborations. Consider one difficulty. For simplicity, suppose we consider just one concern per person, the one she deems most important to her. Although each concern is most important to each person, it does not follow that each person cares equally that the concern be fully satisfied. Suppose my most important concern is to publish one academic paper while your most important concern is to write a novel that surpasses those of Nabokov. It is possible, then, given the fact that my goal is modest and yours so ambitious, that I (and you) will consider my life a failure unless I meet my goal fully while you (and I) will consider your life a success if you advance your goal just a bit (say, you publish a very good novel). And suppose we would say that you've advanced your goal by a quarter while I advanced my goal by three quarters (say I have a positive R&R). Is it defensible to require me to give up some of the resources I need to advance my goal so that you can advance your goal further? After all, we agree that my life is more of a failure. Even if we concede that such a transfer advances *a form* of equality, this response invites the obvious rejoinder that we have no reason to think that this is a unique understanding of equality.

In response to this worry, one option for revising the full compensation view would be to require that each concern should be advanced to the extent it facilitates an equally fulfilling life. There would then be no need for redistribution from me to you since you (with your very good novel) are closer to a fulfilling life than I am. This move, admittedly, would likely be rejected by Lippert-Rasmussen since it would not allow compensation for shortfalls in concerns, such as the concern not to feel pain, if these did not bear on having a fulfilling life.¹⁹ In any case, Dworkin's rejoinder is that to have a sense of whether advancing a concern facilitates a fulfilling life, we need already to know what we are entitled to.²⁰ There is some intuitiveness to this point. Learning that realising one's vision for a fulfilling life requires murder should lead one to discard the vision as mistaken; advancing it won't make one's life fulfilling. By the same token, one needs to know that advancing one's concerns would not mean commanding a grossly disproportionate share of resources: if it did, it would not facilitate a fulfilling life. But, if so, we need to be able to assess what is a fair share of resources prior to realising if advancing the concern would facilitate a fulfilling life.

Dworkin's equality of resources is meant to establish what is everyone's fair share of resources without appeals to whether the share allows everyone to equally satisfy their concerns. Equality of resources obtains when, first, people have an equal amount of external resources (as measured by an envy-free distribution the details of which I put to one side) and, second, they are compensated for

¹⁶ See Lippert-Rasmussen's positive references to Richard Arneson's model. Cf. *LE*, 19-22 and 100.

¹⁷ Lippert-Rasmussen, *LE*, 100.

¹⁸ Dworkin, *Sovereign Virtue...*, ch. 1.

¹⁹ Lippert-Rasmussen, *LE*, 105-106. See also fn. 33.

²⁰ Dworkin, *Sovereign Virtue...*, 48 and ch. 1.

shortfalls in some internal resources to the value of what would be their insurance pay out had they insured in an idealised market where individuals did not know their specific risks. The internal resources for the presence or absence of which people can insure are disabilities (including cravings) and marketable talents. The hypothetical market works by aggregating information about people's valuations to set the fair price for the insurable conditions. Following the individual insurance decisions, those who have or develop the conditions receive the insurance pay outs to the value of their insurance, while those who avoid the condition pay the premium they signed up for. Ideally, the premiums should be paid by and the pay outs paid to only those who would insure, but institutionalising such a scheme is impossible, so Dworkin ends up applying the average value of insurance to all individuals. Leaving aside this caveat, the extent of egalitarian compensation is set by how much people would insure themselves for regarding qualifying concerns at the idealised market price. The remaining shortfalls in qualifying concerns do not count as disadvantage and removing them would be unfair.

The main innovation of the view is to use the idealised market to try to capture the fact that in any egalitarian scheme a person occupies a dual position: that of an agent who can receive compensation and that of an agent who stands to fund it. Dworkin sets the extent of compensation to reflect how much a person cares about her unfulfilled concerns, as reflected by her insurance purchase decisions, when the idealised market sets the insurance price. So while Dworkin forgoes full compensation for shortfalls the rationale for the move is still egalitarian: offering compensation both extends and limits people's opportunities.

All in all, in comparison to Lippert-Rasmussen's equality of concern, Dworkin's scheme limits compensation in two ways: it limits how much compensation is given for each shortfall²¹ and limits which shortfalls can trigger compensation. But, as I argue below, we can accept (a version of) the first limit without accepting the second. That is, we can accept that equality of resources – contra equality of concern – is right to advocate some limits on the extent of compensation for qualifying concerns but is wrong to limit what counts as a qualifying concern the way it does. This is what I turn to next.

3. The best of both worlds: an extended hypothetical insurance market

One obvious question – posed originally by G.A. Cohen²² – is why Dworkin does not expand the idealised market further. Why not, say, allow people to insure against having concerns (such as a taste for opera or rare eggs) that are expensive to meet? Dworkin's answer can be thought to come in two parts.²³ First, he argues that we cannot insure against our tastes being expensive. At times Dworkin seems to be suggesting that we cannot develop tastes at all unless we know in advance how much fulfilling them would cost vis-à-vis what we are entitled to.²⁴ This seems a stretch. I can certainly develop a taste for George Clooney marrying me whether or not I know if I am asking for more than I am entitled to. It seems more plausible that in the absence of knowledge of what we are entitled to we cannot develop tastes prudently, i.e. ensuring that we would not suffer on their account and reasonably, i.e. ensuring we do not hope for more than another's fair share of resources. Why should she develop prudent and reasonable tastes? Because, second, Dworkin argues that we need to take responsibility for our tastes: insuring would mean we do not take responsibility for what we value. Tastes set standards by which we evaluate our lives rather than something that can qualify for compensation.²⁵

²¹ Since Lippert-Rasmussen does not offer an account of when concerns are met to the same extent this is a conjecture on my part. However, since he does not explicitly postulate any limits on compensation (beyond it being equally available to all) equality of resources is bound to be more restrictive.

²² G.A. Cohen, 'On the Currency...' and 'Expensive Tastes Rides Again' in J. Burley (ed.), *Dworkin and His Critics*, Blackwell 2004, 3-29.

²³ Dworkin, *Sovereign Virtue...*, chs 1, 2 and 6, and his *Justice for Hedgehogs*, Harvard University Press 2013, 421.

²⁴ Dworkin, *Sovereign Virtue...*, ch. 6.

²⁵ Dworkin, *Sovereign Virtue...*, 81-83.

It is for this reason, of course, that Dworkin attempts to draw a distinction between tastes and cravings/obsessions. Tastes qualify as cravings (and obsessions) if, when unsatisfied, they cause someone 'frustration' and 'pain' (acting as obstacles in leading a fulfilling life) and, moreover, the person repudiates and wishes she did not have them.²⁶ Thus cravings, unlike tastes for which Dworkin insists people need to take responsibility, are a form of obstacle in our lives rather than standards by which we evaluate if it is going well and for which we take responsibility. What if a person repudiates her (pain and frustration causing) tastes, however, in order not to take responsibility for wasting all the resources she was entitled to?²⁷ For example, she may repudiate her preference to watch TV hours on end because it is hard to take responsibility for a wasted life. If repudiation can be merely a form of escape from responsibility, then Dworkin should either further limit compensation for cravings or expand the availability of his insurance to cover tastes.

More fundamentally, we may question whether we should take full responsibility for our tastes.²⁸ Is it possible to conceive of a more permissive equalisation scheme that is still Dworkinian in spirit in that it limits the extent of compensation, but that allows transfers for a broader range of concerns?²⁹ If our tastes – and lives in general – only cost others as much as we ourselves would be willing to pay for them at a price that reflects the valuations of others, this weakens any case for excluding impersonal concerns from the calculus of equality.

What might such a more permissive scheme look like? Suppose it would still require an envy-free distribution of external resources and hypothetical insurance.³⁰ But it would allow people to insure against anything they wish subject only to the constraint that they could reasonably expect to be able to meet the fair market premium. Following on from Dworkin's model, people would know the specific tastes they currently have but not if they might change them and how expensive they might become,³¹ nor would they know their specific health risks, only the generic risks of developing a given disability.

To see the implications, consider some of the things that people might insure against in addition to all the things they would insure for in Dworkin's scheme. For example, would people insure against having certain tastes (personal and impersonal)? Take, first, what we might call neutral tastes, in that they are neither approved of nor disapproved of by morality or society, such as a taste for football or crime fiction or for wine or beer or for Roman architecture being preserved, and note that we are asking, here, whether people would insure against liking and/or valuing a certain thing rather than against it being expensive to live according to the preference. Assuming having the taste itself is not embarrassing or troubling, it's unlikely that people would want to insure against having it. After all, it is unclear why it would seem a good deal to have to pay the premium in case one does not have the taste for the sole benefit of receiving the pay out, to the value one insured for, in case one does.

²⁶ This seems to allow compensation for shortfalls arising due to impersonal preferences but compensation would be for the frustration, not the shortfall itself.

²⁷ I am suggesting this can be an unconscious process, akin to the process through which we develop adaptive preferences. Conversely to the above example, the obsessed may fight for a sense of dignity and control by denying they would rather not have the obsession they have. Both possibilities are captured in Michael Frayn's novel 'Headlong'.

²⁸ As is familiar from the Cohen vs. Dworkin debate. Cf. fns 22 and 23.

²⁹ I do not address here the many general worries about the hypothetical insurance market. See, for example, Colin M. Macleod, *Liberalism, Justice, and Markets*, Oxford University Press 1998.

³⁰ Lippert-Rasmussen objects to it being a disjointed currency, so that equality of external resources is determined differently to equality of internal resources (cf. *LE*, 101-111), but the rationale for such a bifurcated currency is Dworkin's insight that full compensation (in the sense advocated by welfare equality) for internal resources would misrepresent the true opportunity cost of doing so, including to those who end up with the shortfalls.

³¹ Can fair insurance for tastes be offered if people already know their tastes? Dworkin allows insurance for the marketability of talents, even when we know our talents, because of the risk that they may turn out unprofitable; we can think of this along analogous lines and assume that there is a risk one's tastes can change as can the implications of having them.

Would it make sense perhaps to insure against one's taste being expensive, even if we already had the option to insure for the unmarketability of our talents? It depends. Our taste may turn out prohibitively expensive. Any insurance worth buying here would need to offer a pay out of a magnitude that would allow us to pursue the taste to some extent. But if the premium for such an insurance is very high, it might preclude us from being able to afford pursuing other things we value or even from being able to engage in our (now revealed as) cheap taste since a high enough premium may mean we have to channel all our energy into earning money. Thus purchasing the insurance would likely make sense only for a limited set of cases. Perhaps a deeply committed violinist would want to insure against the cost of occasional access to a Stradivarius and a devout religious observer against the cost of travel to a holy sight. But for people with pluralistic tastes, or people who expect their tastes to become pluralistic, insurance would be unlikely to reduce the risk of not being able to have what they wished since needing to pay a premium would also eat into that. Still, the permissive insurance scheme allows for a more generous compensation vis-à-vis some shortfalls than Dworkin's does, bringing it closer to Lippert-Rasmussen's equality of concern.

What of tastes that might be frustrating on account of other things than their financial implications? Once again the permissive insurance scheme moves us closer to equality of concern. While we cannot expect people to want to insure against all frustrations (the costs of likely relevant premia making it self-defeating), we should expect some people to want to insure (at least a bit) against their tastes being seen by society as unacceptable. Even if one fully endorses one's tastes, she may want access to funds that may ease the frustrations that will inevitably arise.³²

This raises an interesting question of insurance for tastes that society finds unacceptable (even if they are widespread) with good reason. Consider then the case of oppressive tastes such as, for example, the taste for sexism or racism. I will assume that a taste is oppressive when the person who has it sees others as inferior and as entitled to less than they really are. According to Lippert-Rasmussen's equality of concern, shortfalls in the fulfilment of one's involuntary oppressive (or, to use his vocabulary, 'offensive') concerns may trigger the need for egalitarian transfers. As he writes, '...the luck egalitarian case for compensating the person with offensive preferences is very strong.'³³ We can imagine an oppressor who -- having become so involuntarily -- cares deeply that he should have more (money) than someone whom he sees as inferior, and suppose that the target of the preference can more easily meet all her concerns. If so, Lippert-Rasmussen's equality of concern would recommend transfers. To bolster his case, Lippert-Rasmussen can³⁴ point to the counter-intuitiveness (to luck egalitarians at least) of denying racists such compensation in circumstances where, let's assume, each time they manage to overcome their racism, they are involuntarily made racist again. It is worth highlighting here that on Lippert-Rasmussen's view the oppressive preference must be involuntary and that acting on the preferences would still be impermissible. Such transfers are, moreover, not a recommendation of an all-things-considered justice and not a policy proposal.³⁵

But is equality of concern right here? What remains objectionable at the bar of equality alone about any transfer towards the oppressor is that the victim ends up with lesser entitlement simply because the oppressor sees her as inferior and entitled to less.³⁶ So while the rationale for the position adopted by Lippert-Rasmussen is egalitarian -- avoiding shortfalls due to bad luck -- the required egalitarian

³² We may also expect people to insure against brute pain. I certainly would. If so, those who ended up with pain, would receive compensation (to the value of the insurance they purchased) while those without would pay the premium. Lippert-Rasmussen revisits the debate started by G.A. Cohen in his 'On the Currency...' and argues that egalitarians should compensate for brute pain and that Dworkin cannot do so, *LE*, 105-106.

³³ Lippert-Rasmussen, *LE*, 87-92, esp. 91-92; quote at p.92. This further distinguishes equality of concern from standard accounts of equality of welfare.

³⁴ I owe the example to Kasper Lippert-Rasmussen.

³⁵ See Lippert-Rasmussen, *LE*, 3, 6, 109. See also ch. 8 for a discussion of egalitarian justice vs. other values.

³⁶ This is most apparent if we assume a two people scenario (one oppressor and one oppressed) but it would extend beyond this simple case.

transfers end up accommodating oppressive preferences: they respond to oppressors -- who experience relevant shortfalls only because they want their victims to have less and themselves to have more -- by giving the oppressors some of what they want.

What does the permissive insurance scheme say about oppressive preferences? Should it be possible for people to insure against being racist in a society that genuinely found it unacceptable?³⁷ Insuring could provide money to lessen the frustration at having unmet preferences so may seem worth it to some (at least to those who would see lesser frustration in such a case as morally permissible). The reason for not prohibiting such insurance is simply that people want it and would be prepared to pay the premium. On the other hand, such insurance would lessen the frustration racists experience in a just society. There are reasons not to lessen such frustration but it's a further question whether they would qualify as luck egalitarian. I am not certain egalitarians should permit such insurance, but even if they did I do not think that the permissive insurance scheme would end up accommodating racists the same way equality of concern does. This is because the pay outs for the racists would come from the premiums of those who fear (the frustration of) being racist themselves. Transfers would not be an accommodation of racist preferences, but a response to the fact that the racist saw (the frustration of) racism as worth insuring against. True, this may not mean that the racist necessarily objected to being racist but merely objected to the frustration. Moreover, admittedly, there is still a sense in which victims of racism could end up with less than they would had there been no racism (maybe the price of insurance for others things would have changed). Still, non-oppressors, including the victims, would end up with less not because others saw them as inferior but only because people would have purchased insurance against being racist themselves.³⁸

It is hard to know whether the permissive insurance scheme that allowed such insurance or equality of concern would end up advocating more extensive transfers. But the core of my case for preferring the permissive insurance scheme to Lippert-Rasmussen's position rests on the suggestion that the egalitarian credentials of an egalitarian account can turn on the rationale for a given transfer. If I am right, then equality of concern fails to offer an egalitarian case for any of the transfers in question, since in advocating them it directly accommodates the preference for oppression while the permissive insurance scheme merely directly accommodates the preferences for not wanting to have the oppressive preference and/or its associated frustration.

Let me take stock. The more permissive insurance scheme is less generous than Lippert-Rasmussen's equality of concern (when elaborated as subscribing to the full compensation view) and more generous than Dworkin's account regarding the availability and extent of compensation. It suggests that equality obtains neither when people get full compensation for shortfalls in qualifying concerns nor when they are given limited compensation only for the specific shortfalls Dworkin allows. It obtains when people can all equally get what they care about as measured by what they and others would be prepared to give up – through insurance decisions in an idealised market – in order to have their concerns fulfilled.

The rationale for the permissive scheme and such an understanding of equality is, again, the fact that any egalitarian scheme must recognise that each person occupies a dual position: that of an agent who can receive compensation and that of an agent who funds it. To recognise the latter role is important – and so we should abandon the full compensation view – but it does not require limiting the calculus

³⁷ If a person is not already a racist, she may choose not to insure on the grounds that racists should be worse off so if she becomes racist, she should be worse off too. But she may also decide that since the life of a racist is a worse life, insurance pay outs (assuming they could not be used to further racism) merely allow those whose lives are worse to mitigate some of the badness. I am grateful to Victor Tadros for this latter thought. I focus here on insurance decisions in a just society. People may also want to insure against being prejudiced in a prejudiced society.

³⁸ Of course, this would only work on certain institutionalisations of the scheme. Specifically, it would need to be the case that victims of oppressive preferences who do not hold oppressive preferences themselves pay into the scheme only if they would have insured themselves.

of equality, as Dworkin has done, to shortfalls in external resources, marketable talents and health. We can also take on board Lippert-Rasmussen's insight that shortfalls in a much broader range of concerns should qualify for compensatory transfers.

4. A complication: the indeterminacy of equality

In the end, sadly, however, things are even more complicated for luck egalitarians. Neither the insurance model (whether Dworkin's or the more permissive one) nor equality of concern (and the full compensation view) are able to determine uniquely what equality requires with reference to their egalitarian standards alone.³⁹ Let me introduce this problem with an example. Think of the (genuine) choice of some to be late for University classes. A University could design the system so that it responds in a variety of ways to lateness. It could offer catch up sessions to latecomers. Or it could ignore the fact that they arrived late and let them join in as if nothing happened. It could make them apologise. It could make them pay a fine. It could expel them. It could make them do extra exams. Or it could behead the late students and forbid any mention of their names for the rest of history. All these designs can be thought of as equal: everyone is facing the same set of options with regard to being late – those who do and those who do not end up late, so no one can complain of inequality. Any of those designs could be adopted by any system thoroughly committed to making sure that people must always bear the consequences of their choices.

The fact that choice-situations, and whole societies, could be structured in radically different ways, delivering different outcomes for (otherwise) identical choices means that even once we have determined what counts as a qualifying concern, how to set the extent of compensation (and how to identify genuine choice), our account is still indeterminate. Let me illustrate this with reference to the insurance scheme, since this is the view I am defending (but the same difficulty will apply to equality of concern).

We may think of the insurance scheme as already presupposing, for example, what people's rights are and, therefore, what range of outcomes they will be shielded from by them without the need to insure. For instance, if there is a right to a fair trial, then no matter what choices, including insurance choices, one makes, one is offered a fair trial (if needed). If so, however, then the insurance scheme is incomplete: it does not fully settle the extent of compensation for a given shortfall on its own; it needs to be married with an account of rights for us to know how to do so.

Alternatively, it might be tempting to interpret the insurance scheme as an attempt of rendering equality determinate and, on the way, settling what rights people have. The idea here would be that if insurance against some outcome is available then choice-situations should be structured in such a way that they reward the maximally prudent choosers. What do I mean by that?⁴⁰ Suppose a person is considering whether to walk home through a long well-lit route or a short dark alley where she might be mugged. And suppose she chooses the latter and gets mugged. Assuming the wrongdoer cannot be made to bear the costs, should she pay her medical bill and be asked to reimburse police for their work or does she have the right that the services be free at the point of use? The former set up might leave more medical and police resources for other, more prudent choosers – those who always choose the well-lit route. And if mugging insurance was available this may reduce the force of any complaint

³⁹ For a broader discussion of this point, see Marc Fleurbaey, 'Equal Opportunity or Equal Social Outcome?', *Economics and Philosophy*, 11 (1995): 22-55; Andrew Williams, 'Living as Equals: Right or Responsibility?', paper to Political Theory Research Seminar, Department of Politics, Oxford University, 8 June 2005; Matthias Hild and Alex Voorhoeve, 'Equal Opportunity and Opportunity Dominance', *Economics and Philosophy*, 20 (2004): 117–145, esp. 124; Serena Olsaretti, 'Responsibility and the Consequences of Choice', *Proceedings of the Aristotelian Society*, 109 (2009): 165-188; Zofia Stemplowska, 'Making Justice Sensitive to Responsibility', *Political Studies*, 57 (2009): 237-259.

⁴⁰ What follows draw on a text of mine: 'Rarely Harsh and Always Fair: Luck Egalitarianism and Unhealthy Choices', Zofia Stemplowska, in S. Matthew Liao and Collin O'Neil *Current Controversies in Bioethics*, Routledge 2016.

against needing to repay the medical and police bills. However, the victim of mugging could still complain on the grounds that there is no reason of equality to opt for the former, prudence-favouring set up. The set up is unappealing, to be sure, but my point here turns not on this, but on the fact that it does not uniquely capture what equality requires. The prudence-favouring set up privileges prudence over, for example, the freedom to ignore standard risks that attach to reasonably inescapable activities (such as walking home from work). We have no pure egalitarian reason to pick between those. To make our egalitarian commitments translate into determinate outcomes we have to set them within our broader account of justice and rights.⁴¹

5. Conclusion

Kasper Lippert-Rasmussen's masterful recent work on luck egalitarianism performs for luck egalitarians the considerable service of incorporating within it the idea of impersonal concerns. It thereby demonstrates that luck egalitarians can respect people as the more rounded individuals that they really are. But the generosity the account shows to people with impersonal concerns should and can be divorced from the generosity of compensation it seems to offer to those who are, due to bad luck, less well-placed to have them met. Before we become card carrying Lippert-Rasmussenians we need to know what would count as equally satisfied concerns. Following Dworkin, I have suggested that people are owed compensation only to the amount they would be prepared to insure for it at a price that reflects the valuations of all. But even once we settle this issue, we are still only offered an indeterminate product. That is not a reason not to be a luck egalitarian or a Lippert-Rasmussenian luck egalitarian, but rather it suggests that Lippert-Rasmussen should write a sequel.

⁴¹ Lippert-Rasmussen discusses how luck egalitarianism can conflict with non-egalitarian values in LE, ch. 8, but my suggestion here is that luck egalitarianism must appeal to some of these values to render its recommendations determinate.