

## The Symmetry of Responsibility<sup>1</sup>

The idea that it's at least sometimes (perhaps always) fair to hold individuals responsible for the anticipated consequences of their choices is a familiar and intuitive one. Even if we think equality is important, many share the intuition that individuals' own responsible choices might give us a reason to allow, and even favour, some being better or worse off than others. And, indeed, the role and implications of affirming a commitment to holding individuals responsible for their choices has increasingly occupied a central role in literature on egalitarianism.<sup>2</sup>

The complexity of the multitude of considerations that bear on whether, when and in what ways it would be appropriate to hold individuals responsible for their choices is considerable. One seemingly sensible intuition many share, however, is that if we take responsibility seriously then insofar as we think individuals ought to enjoy the benefits of their good choices, by the same token they ought to bear the costs of their poor ones. Of course, this simple intuition conceals a myriad of further subtle possible questions and difficulties, but the rough thought, broadly construed, is that the reasons we have for allowing individuals to prosper from good choices also commend holding them liable for costly ones. In that very general sense there is no systematic asymmetry between benefit-enjoyment and cost-liability when it comes to holding individuals for the consequences of their choices.

This thought has recently been challenged by Avner de-Shalit and Jonathan Wolff who offer what they term the 'weak asymmetry thesis': "*that people should be allowed to benefit from their*

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<sup>1</sup> An earlier version of this paper was presented at a Glasgow University workshop on 'Disability and the Welfare State'. I am very grateful to the participants of that workshop and to two anonymous reviewers for their helpful comments.

<sup>2</sup> For influential contributions that are often seen as sparking this move see Dworkin (1981); Cohen (1989); and Arneson (1989).

*choices that turn out well to a greater extent than they should have to bear the costs of those that turn out badly.*"<sup>3</sup> As I intimate above, given the number of possible factors that bear on the question of when and in what ways it is appropriate to hold individuals responsible for their choices in this way, it is only natural to expect a wide variety of possible bases for supporting the thesis that de-Shalit and Wolff defend. The list of bases is further multiplied in virtue of the fact that de-Shalit and Wolff make their argument under terms of what they and many others refer to as non-ideal theory.<sup>4</sup> This has the consequence that, rather than being abstracted away, contingent dimensions of the real world are taken seriously as possible elements that bear on the question with which one is engaged, in this case whether there is an asymmetry within a defensible view of what we ought to hold individuals responsible for. Fortunately, my case here will not be as ambitious as to argue that the weak asymmetry thesis is false but will be to challenge the basis de-Shalit and Wolff offer for affirming it. As such, the burden of argument is not to show that none of the multiplicity of conditions, circumstances and values that bear on questions of responsibility *could* support an asymmetry thesis of this kind but rather that the specific account de-Shalit and Wolff does not.

## THE WEAK ASYMMETRY THESIS

To restate, the Weak Asymmetry Thesis (WAT) maintains that "*people should be allowed to benefit from their choices that turn out well to a greater extent than they should have to bear the costs of those that turn out badly.*"<sup>5</sup> The primary support that de-Shalit and Wolff offer for the WAT is that "*for reasons of **fairness** there can be grounds for not holding individuals to the negative consequences of some of their freely made choices, while there is no mirror image*

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<sup>3</sup> de-Shalit and J. Wolff (2011, 216).

<sup>4</sup> *Ibid.*: 219.

<sup>5</sup> *Ibid.*: 216.

*argument from the same grounds to preclude people from enjoying the benefits of their choices.”<sup>6</sup>*

To motivate this contention, they offer an example:

*“[Consider] an unemployed single mother who receives an offer of a low-paid full-time job, for which she has to travel quite far from her home. Suppose she chose not to accept the offer on the grounds that she feels it would be bad for her children if she was around for them less, and when around, would be too exhausted by work and travel to give them the quality of attention they need. There is no doubt in this example that she has chosen to decline the job, and a crude interpretation of ‘luck egalitarian’ theories of responsibility would say that once she has turned down the job offer she is unemployed by choice and should therefore bear the consequences of that choice, which in many societies would be forfeiting any unemployment benefit she currently receives. However, there seems little doubt that those sympathetic to egalitarianism would argue that such punitive measures are quite unfair, and hence she should be shielded from some consequences of some of her choices.”<sup>7</sup>*

This example is a compelling one and de-Shalit and Wolff rightly conclude that there are reasons of fairness against holding the mother responsible for the consequences of the choice she makes, such as the forfeiture of unemployment benefits. What’s more, as I will explain, I believe that de-Shalit and Wolff are right about the reasons why it would be unfair to hold the mother liable for these consequences. This much, however, is insufficient for the WAT. For that thesis, de-Shalit and Wolff require (at least) the further claim that there are no ‘mirror image’ reasons of fairness that commend limiting the benefits people ought to be allowed to enjoy as a result of their choices. It is this claim that I want to critically interrogate in the following.

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<sup>6</sup> Ibid.: 225 – 226, my emphasis.

<sup>7</sup> Ibid.: 226.

de-Shalit and Wolff argue that it would be unfair to hold the mother liable for the consequences of her choices because hers is a case where, while she faces options that are formally open to her (the choice to accept employment), it is unreasonable to expect her to take up the options. Specifically, it is unreasonable because the costs to other aspects of her life from taking the option would be too high. Because of this, should the mother choose to decline employment, it would be unfair to hold her liable for doing so by way of depriving her of unemployment benefits. They summarise this by stating that *“there is a specific type of choice the consequences of which people should not be held to account for: effectively, if it would be unreasonable (because too risky to other functionings) to expect an individual to make an alternative choice, then socially we should behave as if that option is not there at all.”*<sup>8</sup>

de-Shalit and Wolff frame this argument in terms of a negative demand for responsibility (NDR) – where individuals are required to bear the negative costs of their choices – and a positive demand for responsibility (PDR) – where individuals are allowed a significant share in the benefits to which their choices give rise. In this language, the WAT is that the fairness considerations against NDR do not also count against PDR.<sup>9</sup> More specifically, for de-Shalit and Wolff it is unfair to make NDR of an individual when it is unreasonable to expect that individual to have made an alternative choice. That is, however, as far as de-Shalit and Wolff go in respect of explaining why, under such conditions, NDR are unfair. They do not offer a fuller explanation as to *why* it is unfair to make NDR of individuals who cannot reasonably be expected to choose otherwise. Partly because of this, de-Shalit and Wolff do not proffer an account as to why there is no mirror unfairness in respect of PDR. Instead, they simply argue that *“it is not at all clear, however, that there is a counterpart situation on the positive side.”*<sup>10</sup> I suggest that there is a

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<sup>8</sup> Ibid.: 228.

<sup>9</sup> At least not to the same extent.

<sup>10</sup> Ibid.: 228.

further explanation that can be given as to why NDR are unfair under conditions in which it is unreasonable to expect an individual to make an alternative choice, and that this explanation shows that it can be unfair to make PDR. In this way, the basis for the WAT that de-Shalit and Wolff invoke fails to support it.

I begin by drawing attention to the specifically egalitarian character of the argument de-Shalit make in favour of the WAT and explain how it concerns the responsibility persons have for their being comparatively better or worse off than others. I then offer a supporting rationale for the conclusion that it would indeed be unfair to hold the single mother in de-Shalit and Wolff's case liable for the consequences of her choice to decline employment. Drawing on this rationale, I contend that it applies to the fairness of both PDR and NDR. In support of this, I offer several cases where persons have PDR that are, I argue, unfair in virtue of issuing from a situation in which the persons lacked reasonable alternatives to choice. Finally I consider and cast doubt on an alternative non-comparative basis for the WAT.

#### REASONABLE ALTERNATIVES TO CHOICE

First, it's worth emphasising that de-Shalit and Wolff present the weak asymmetry thesis as one addressed to those sympathetic to egalitarianism.<sup>11</sup> That is, it is for reasons that egalitarians should recognise as important ones that the asymmetry thesis is supported. Distributive egalitarians, of the kind that it appears de-Shalit and Wolff address, are concerned, *qua* their egalitarianism, with *comparative* disadvantage. In this context, then, they are concerned with whether responsible choices justify individuals being *better or worse off* than others. For responsibility-sensitive egalitarians of this sort, it is unfair for an individual to be better or

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<sup>11</sup> *Ibid.*: 226 – 227.

worse off than others unless their responsible choices justify their being better or worse off. So, for such egalitarians, NDR concern whether an individuals' choices justify their being *worse off* than others in the form of the liabilities to which they are held in virtue of their responsible choices. On the flip-side, PDR concern individuals being *better off* than others. Given this, the relevant question for egalitarians in the case of the unemployed single mother is whether it would be fair for her to be worse off than others in virtue of her choice to decline employment. It will be helpful to keep this comparative dimension of the egalitarian position in mind in the course of the following.

As I have said, I agree with de-Shalit and Wolff that if the alternatives the single mother faces to accepting the low-paid offer of employment are unreasonable ones then it would be unfair to hold her liable for the consequences of the choice to decline that employment. Her choice would not justify her being worse off than others to the extent of whatever such liabilities might be incurred (such as the forfeiture of unemployment benefits). Why should this be? After all, the mother makes a responsible choice and the undergirding thought for a *responsibility-sensitive* egalitarian view is that choices make a crucial difference to the justifiability of inequalities. To see why this is, I offer a sketch of an account of the importance of reasonable alternatives. To see why this is, I draw upon an account of the importance of reasonable alternatives for which I have argued elsewhere.<sup>12</sup> I maintain that the extent to which an agent's choices justify their liability depends on how far that agent's choice reflects a way in which they are an evaluative arbiter over the direction their life takes. When an agent does not face reasonable alternatives between which to choose this limits the sense in which the direction that individual's life takes is determined by an evaluative arbitration that agent themselves exercises but is, rather and to a greater extent, determined by the very character of the option set the agent faces.<sup>13</sup> Absent

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<sup>12</sup> Elford (2011).

<sup>13</sup> *Ibid.*: 455

reasonable alternatives to an option, the sense in which an agent can put that option into question and give it serious evaluative consideration against other options is more limited. Insofar as the selection of the sole reasonable option is in some sense strongly rationally determined it is the character of the option set that determines (albeit not fully) what will be chosen; rendering the agent's own evaluation and choice less significant as explanatory reasons as to why an agent encounters some set of consequences as a result of selecting the only reasonable option.<sup>14</sup> On the basis of an account along these lines I propose that only when an agent chooses between reasonable alternatives is it fair to hold them liable for the consequences of their choices.<sup>15</sup>

The explanation entails that the power of choice to justify inequality is more limited in cases in which individuals lack reasonable alternatives because, in such cases, the choices in question lack (to the same extent) the relevant quality (of reflecting an agent's own evaluative arbitration) that is necessary to justify inequalities that result from those choices.<sup>16</sup> The conclusions de-Shalit and Wolff draw in the case of the single mother cohere with this explanation. There is a choice present but, given the option set within which it is made, it lacks the qualities necessary to justify any inequality. This is a familiar and intuitive reaction to such a situation. Whilst the mother does in the technical sense have a choice, there is a sense in which she could legitimately feel like she has 'no choice' but to decline employment, given the costs taking the low-paying job have for her ability to care for her family. Of course, it might be argued

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<sup>14</sup> Ibid.: 458

<sup>15</sup> Strictly speaking the relevant question is not, precisely, whether the alternatives are in fact reasonable but whether they are recognised by the agent as having a character such that they are reasonable. For instance, if an agent faces a choice between leaving a room or remaining in it they face reasonable alternatives, however if they (mistakenly) believe that the only exit is electrified and will kill them should they attempt to leave, the option to leave is not recognised in a form that would make it reasonable. I refrain from including this qualifier in what follows as it does not affect the substance of the argument.

<sup>16</sup> This is consistent with holding that the justification of inequality is a matter of degree which varies with the extent to which an agent exercises evaluative arbitration between the alternatives with which they are faced; a matter which itself might be a function of the degree of unreasonableness of the alternatives they face. I leave this qualifier behind in what follows as it does not affect the substance of the argument.

that the mother does have a 'choice' in the relevant sense and for that reason she should be held liable for declining the employment. However, the intuition that she ought to be held liable could be explained by a supposition that the option to take employment, even at the expense of quality of care for her children, is nevertheless a reasonable one. If the employment in question involves working a job that has a 75% mortality rate amongst workers then the idea that the mother should be held liable for declining that employment is less intuitive. If so, then the objection is not grounded in a rejection of the importance of reasonable alternatives but reflects a particular view about what qualifies as a reasonable alternative.

#### POSITIVE DEMANDS FOR RESPONSIBILITY AND REASONABLE ALTERNATIVES

With such an explanation in mind as to why NDR would be unfair in cases like that of the single mother, I want to suggest that PDR can be unfair for similar reasons. To start the ball rolling on the case in favour of this claim consider an adapted version of an example that de-Shalit and Wolff offer in their paper. In order to motivate a possible objection to the WAT, they consider an example of two twin children who are given the same pocket money at the beginning of the week and who, having spent it differently, would not be expected, on grounds of fairness, to redistribute their remaining money to eliminate any wealth differentials that result from their different spending choices. Whether each of the children fare well or fare badly, it seems intuitive to think that they keep only and all the money they each end up with and, hence, there is no plausible asymmetry of responsibility in such a case. Now, instead of supposing that the two children – call them Sergio and Miguel – are given equal amounts of pocket money let us suppose that they are each given the option of entering a lottery in which the winner gets all of the pocket money and the loser gets nothing. If they choose not to enter the lottery they simply don't receive any pocket money. Sergio and Miguel both enter the lottery and Miguel wins and Sergio loses. I submit that it is unfair for Miguel to be better off than Sergio. To frame that claim

in de-Shalit and Wolff's terms, to accede to Miguel's PDR would be unfair. Both Sergio and Miguel made a choice but because the alternative to entry in the lottery was not a reasonable one, the same considerations that made the single mother's choice insufficient to ground the fairness of a NDR in her case also make it the case that Miguel's choice to enter is insufficient to ground the fairness of the PDR in that case.

That is, because declining to enter the lottery is in no way better (there is no possibility of gaining more pocket money by not entering than by entering) and in some respect worse than entering the lottery (there is lower – zero – probability of getting any pocket money) it is not a reasonable alternative to entry.<sup>17</sup> Whilst declining to enter is not, itself, as I would put it, 'unacceptably bad' (not having pocket money does not represent significant damage to some functioning, as de-Shalit and Wolff put it), it is nevertheless unreasonable because *unequivocally worse* than the other option the children face.

To support the intuition that Miguel's PDR is unfair consider the same lottery between the children but where there is no option to exit. For responsibility-sensitive egalitarians any inequalities emergent from said lottery would be unfair. The mere fact that the odds of winning the lottery are equal is insufficient to ground the fairness of any PDR or NDR claims. It is hard to see what the addition of an option to withdraw from lottery adds when that option is in no respect better than remaining in the lottery. To be sure it offers the possibility of choice but, for my money, this illustrates that the mere presence of choice isn't decisively important, rather than showing that the inequalities from the lottery are transformed into fair ones.

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<sup>17</sup> Here I assume that there are no normative considerations against entering such as, for instance, an objection to the wrongness of inequalities generated by lotteries. If there are normative considerations against entering then it's not the case that there is no respect in which declining to enter is better than entering. This is not sufficient to establish that declining to enter is a reasonable alternative but it does show that if it is unreasonable, this is not down to its failure to count as in any respect better.

To briefly recap, then, the argument is that there are cases in which the absence of reasonable alternatives renders PDR unfair. Because it is generally true that the absence of reasonable alternatives undermines the inequality justifying power of choice this can manifest itself with respect to both NDR and PDR.

Perhaps an objections can be levelled against the above example of the pocket money lottery. It might be claimed that because a lack of pocket money does not reflect damage to important functionings it does not represent an unreasonable alternative. Rather, only what I have labelled unacceptably bad options count as unreasonable. Alternatively it might be said that even if unequivocally worse options count as unreasonable, it is only unacceptably bad options that limit the inequality justifying power of choice. Either way, the argument goes, because it is unacceptably bad options that prevent choices from justifying inequalities it is only NDR that are blocked and hence the WAT is preserved.

More must be said, however, in order to avoid begging the question against the view that the unequivocal worseness of an option suffices for its undermining the inequality justifying power of choice. But perhaps more can be said. Perhaps when individuals face only unacceptably bad alternatives their choices lack *voluntariness* in a way that's not true when they face acceptable but merely unequivocally worse alternatives.

Consider Serena Olsaretti's convincing explanation of the voluntariness of an action; that an action or choice is voluntary, "*if and only if it is not made **because** there is no acceptable*

*alternative to it.*<sup>18</sup> Drawing on this understanding of voluntariness it might be argued that the single mother's choice to decline employment is not voluntary. It is plausible to read her situation as one in which she chooses to decline employment only because there is no acceptable alternative to doing so. This is not true of the Sergio and Miguel in the pocket money lottery. Sergio and Miguel surely enter the lottery voluntarily. Even though the alternative they face is unequivocally worse it is, in the relevant sense in question, an acceptable one. If all of this is true then non-voluntariness explains the unfairness of an NDR in the case of the single mother but in the case of the pocket money lottery there are not those same grounds to condemn any PDR on behalf of Miguel.

As a preliminary I would maintain, pace the objection above, that the intuitive unfairness of the inequalities in the pocket money lottery suggests that voluntariness is not the *fundamental* explanation for unfairness in cases where individuals lack acceptable alternatives to choosing what they do. Rather, choices that lack the quality of voluntariness, as defined by Olsaretti, fail to justify inequalities because, in lacking that quality, they fail to reflect the kind of evaluative arbitration on the part of the agent that is necessary to do so. And, as I have argued above, that evaluative arbitration can be absent even in the case of voluntary choices, as it is in the pocket money lottery. However, even if it is accepted that *only* non-voluntary choices fail to justify inequalities, this will not support the basis for asymmetry that de-Shalit and Wolff affirm. This is because there are cases of non-voluntary choices that fail to justify PDR as well as NDR claims.

Consider the following two examples:

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<sup>18</sup> Olsaretti (2004, 139, her emphasis).

### *Willingness to Work:*

Jackie and Linda are identically skilled members of an employment agency that finds jobs for its members. They are both currently unemployed and receiving unemployment benefit. Under the benefits scheme in question if a person is offered a job and they decline it they are deprived of further benefits. Circumstances for both Jackie and Linda are such that without benefits they will quite quickly fall into poverty and destitution. The employment agency finds a local company that agrees to take them both on and Jackie and Linda both agree to accept the offer of work with the company. The company needs to fill two roles, a clerical role and a management position, the latter of which is a better paid and more rewarding job. Jackie and Linda are equally well qualified for both roles so the company randomly assigns Jackie to the clerical role and Linda to the management position. Now, while both Jackie and Linda choose to accept the job, despite this, I submit that, as described, it is unfair for Linda to be better off than Jackie.

### *Economic Collapse:*

Carpenters Tom and Aaron are citizens of a state whose economy has recently collapsed. As a result they are left with no possibility of work, no prospect of enjoying social security benefits and therefore no means of feeding themselves or their families. Fortunately for Tom and Aaron, a neighbouring state with a thriving economy has adopted immigration laws that permit their migration. They both move to the neighbouring state to find work. Like Jackie and Linda, they are identically skilled and Tom finds a well-paid job working for a construction company whereas Ryan is finds only a low-wage job at a furniture factory. Whilst Tom and Aaron both chose to move to the neighbouring state to find work, the mere fact that they did so does not render Tom's being better off than Ryan fair.

In both Willingness to Work and Economic Collapse the agents in question make choices that result in their being better off than they were before. This, I take it, makes it a matter of PDR rather than NDR. That is, the question for de-Shalit and Wolff is whether Linda and Tom should be allowed a significant share in the benefits to which their choices give rise. Here it is important to bear in mind that the relevant question for responsibility sensitive egalitarians is whether Linda and Tom's choices justify their being better off (in this regard, in respect of this choice, rather than overall) than others. Linda and Tom are both faced with option sets in which by stipulation they lack acceptable alternatives to the courses that they respectively choose. Linda faces the prospect of poverty and destitution, Tom faces the prospect of being unable to feed himself and his family. Under that description it would seem plausible to see their choices as lacking the quality of voluntariness, given Olsaretti's definition of what voluntariness entails.<sup>19</sup> It should be clear, then, that neither Linda nor Tom are justifiably better off in virtue of the choices that they make.<sup>20</sup>

Astute readers will have noticed that all of the above examples – the pocket money lottery, Willingness to Work and Economic Collapse – involve some form of choice with an *ex ante* equal probability of gain for each chooser and an *ex post* inequality. The reason for this is that if there are *ex ante* inequalities in prospects (in contrast to equal probabilities) then the concern might

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<sup>19</sup> In any case, if one doubts that Linda and Tom's choices are non-voluntary then those same doubts will in all likelihood apply to the case of the single mother as well. So if one rejects the unfairness of Linda and Tom's PDR claims on grounds that would also call for the rejection of the unfairness of the single mothers' NDR claims then this will not, in any case, support the WAT, precisely because, on the basis of that rejection, there is no ground for unfairness in the NDR case that is absent in PDR cases.

<sup>20</sup> The foregoing cases also illustrate how it's not necessarily the case that the alternatives individuals face in the context of PDR are more reasonable than those in cases of NDR; accounting in some way for any putative asymmetry. It is arguable, for instance, that, in Tom's PDR case, losing the means to feed himself and his family is less reasonable as an alternative than the potential damage to quality family time that the single mother confronts. As such, the WAT can't be saved by the claim that the option set the agent faces is necessarily less reasonable in cases of the latter type. Nor will it do to maintain that *all other things equal* PDR cases are ones in which agents are less responsible because the agents necessarily enjoy options which involve a positive outcome. Short of a further supporting argument to support this claim, it's unclear how far this differs from simply asserting the WAT.

be that this *ex ante* inequality explains any intuitive sense that it would be unfair for those who prosper to a greater extent from those choices.<sup>21</sup>

Having this structure might expose the examples to an alternative concern regarding the source of our intuitions. That is, the worry might be that any intuitive sense that the inequalities in the examples are unfair derives from a feeling that inequalities between persons *making the same choices* are unfair. If two persons choose the same thing and end up with different rewards it might be thought that the inequality (between these persons and in respect of this choice) are determined by luck in a way that responsibility sensitive egalitarians should view as being unfair.<sup>22</sup> From this perspective it's not the persons' respective choices that determine their being better or worse off than others but the fallout of luck subsequent to those choices. I will not venture so far as to extensively discuss whether it's true that inequalities between persons who make the same choices really are unfair. I want to argue, however, that even if it *is* true, the absence of reasonable alternatives strengthen the case for the unfairness of inequalities resulting from choice.

Consider a variant of the pocket money lottery. Two brothers, Smith and Jones, are told that unless they enter the lottery they will not only lose their pocket money anyway, they will also be grounded. Two other brothers, Bird and Fortune, face the choice to enter the lottery or keep their pocket money without any further consequence. All children have the same initial pocket

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<sup>21</sup> So the rationale for selecting examples involving *ex ante* equality of opportunity and *ex post* inequality resulting from the fallout of risk is in order to have examples whose intuitive unfairness is not underpinned by background inequality of opportunity. It is worth remarking, however, that de-Shalit and Wolff are not so concerned to isolate this in their example. In the case of the single mother they allow that the single mother might be *ex ante* worse off than others but maintain that if the egalitarian has to appeal to that *ex ante* inequality to explain the unfairness of a NDR claim in the mother's case this has potentially devastating consequences for the applicability of a responsibility-sensitive egalitarianism in general. See de-Shalit and Wolff – Asymmetry (2011, 226 – 227).

<sup>22</sup> For work that discusses this dimension of luck egalitarianism see, for example, Barry (2008); Lippert-Rasmussen (2001); Sandbu (2004).

money and all of the children choose to enter the lottery. The lottery results in two winners (of equal amount), Jones and Fortune, and two losers, Smith and Bird. Imagine that circumstances are such that we can only make one redistributive move and, what's more, we can only make this move between brothers (we cannot, for instance, redistribute from Fortune to Smith). If we are to make a redistributive move, who should that be between? I suggest that under such constraints it is intuitive to think we have strongest reason to redistribute by sharing Jones's winnings with Smith. Not only does Smith make the same choice as Jones to enter the lottery, he lacks reasonable alternatives to entering. This second aspect distinguishes his case from Bird. Like Smith, Bird also loses in the lottery and makes the same choice as another winner, Fortune, however Bird faces reasonable alternatives to entry. If I'm right that it is intuitive to redistribute from Jones to Smith, this suggests that even if one thinks that inequalities resulting from the same choice are unfair, the absence of reasonable alternatives nevertheless represents a further dimension of the situation that undermines the fairness of any inequalities.

It could be, however, that de-Shalit and Wolff have a further line of response to defend the asymmetry thesis from the examples I have offered. In contrast to their case of the single mother, I have offered examples involving multiple persons. Each of those examples involves a person whose PDR claim conflicts with fairness. It might be objected that insofar as the examples involve multiple persons, the claim that one agent's PDR claim conflict with fairness is simply the flipside of claiming that the other agent's NDR conflicts with fairness. So in the pocket money example for instance, to say that Child A's PDR claim is unfair is simply a way of reframing the fact that Child B's NDR claim is unfair. As such, each of the examples I have appealed to involves a claim about the unfairness of a NDR claim, rather than a PDR claim.

This is a mistake for a number of reasons. Take the first pocket money lottery. Sergio loses but, still, isn't held liable for anything in non-comparative terms. Sergio's loss simply results in him

being no better off than if he declines to enter the lottery. Of course, given Miguel's win, Sergio is *comparatively* worse off. Moreover he is *unfairly* comparatively worse off. But this is just another way of saying that *neither* the choices of Sergio nor Miguel justify the inequalities. What's more, for de-Shalit and Wolff the question concerning NDR and PDR claims is whether the choices of a given agent justify, respectively, disadvantages or advantages for *that agent*. So in the pocket money lottery, claiming that Miguel's PDR claim is unfair can't simply be a way of reframing the unfairness of Sergio's NDR claim simply because the former refers to a relation between comparative advantage and *Miguel's choice* and the latter between comparative advantage and *Sergio's choice*.

#### A NON-COMPARATIVE CASE FOR ASYMMETRY?

Prior to responding to a further and final objection, let me briefly take stock of the argument I have pressed against the WAT. For responsibility-sensitive egalitarians, in standard circumstances where persons face reasonable alternatives there is a case, on grounds of fairness, for holding persons liable for the costs of their choices. As de-Shalit and Wolff say, "[I]t would be unfair if other people had to share in the costs of these mistakes."<sup>23</sup> In those standard cases the very same fairness case holds in favour of allowing persons to enjoy the benefits of their choices. That is that it would be unfair to redistribute the benefits of persons' choices (unless doing so is a means to offset existing unfair inequality). So far, so symmetrical. I have argued that to the extent that persons lack reasonable alternatives the quality choice possesses as a justifier of inequality is absent. This is true both in the case of negative liability and in the case of positive entitlement – contesting the asymmetry case I identify in de-Shalit and Wolff's

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<sup>23</sup> de-Shalit and Wolff – Asymmetry (2011, 221).

work. So it is a specifically comparative, fairness case that de-Shalit and Wolff invoke in favour of the WAT and which I have challenged.

Perhaps it might be said that because all of the cases I have drawn involve multiple persons they depend too heavily on comparisons between the two persons that are in fact not present in the case de-Shalit and Wolff make for the WAT. After all, strictly speaking the WAT is stated in the non-comparative terms of people benefiting and bearing costs. And, indeed, the example of the single mother that de-Shalit and Wolff use to support the WAT is one which involves only a single person; perhaps suggesting that non-comparative considerations ultimately support it. Even though the case de-Shalit and Wolff offer for the WAT is one of fairness addressed to egalitarians, perhaps my examples involving multiple persons distort the WAT in a way that is illegitimate. I think, in fact, that this concern is unfounded.

The first thing to note is that it's difficult to characterise the specific case de-Shalit and Wolff make as a non-comparative one. Bear in mind that the case of the single mother is designed to show that although we *might have good reasons in general* to hold persons liable for the consequences of their choices, there are certain conditions (where the costs of a choice would be unreasonably high) under which this is not the case. But what good non-comparative reasons might one have in general holding for persons responsible for the consequences of their choices (in circumstances where they do enjoy reasonable alternatives)? One kind of reason is related to so-called moral hazard – that by failing to hold people substantively responsible for the consequences of choices we encourage socially costly behavior from those insulated through social insurance. Far from adducing this as a non-comparative basis for the WAT, de-Shalit and Wolff consider moral hazard as a possible challenge to it – that even when people lack reasonable alternatives, moral hazard might support NDR. Furthermore, they characterise the moral hazard argument as a *practical* argument against the WAT in contrast to the *moral* basis

for the WAT which is connected with fairness.<sup>24</sup> An alternative candidate non-comparative reason for holding people responsible for the consequences of their choices could be moral fittingness or desert. de-Shalit and Wolff do reflect on moral fittingness as a possible reason for holding persons liable for the consequences of their choices, however they explicitly consider it in terms of the unfairness of asking one person to bear the costs of another's choices.<sup>25</sup> What's more, it's not obvious, without much further argument, why moral fittingness or desert would support the WAT. If the lack of reasonable alternatives means that it isn't morally fitting or deserved for persons to be held liable for the consequences of their choices then we need an explanation as to why this doesn't undermine fittingness or deservingness in PDR cases as well.<sup>26</sup>

In any case, I believe that even if we abstract from specifically comparative dimensions of the case made by de-Shalit and Wolff for the WAT it is intuitive to think that the absence of reasonable alternatives undercuts both PDR and NDR. So, casting the WAT in a non-comparative light isn't likely to be more successful than the comparative case that de-Shalit and Wolff mount in its favour. In the case of Jackie and Linda, for instance, I emphasized the comparative unfairness of the inequality that obtains between them. Consider, though, Linda without Jackie. Linda accepts her management job, leading to well-paid and rewarding work. On the face of it, one might think there is no reason why Linda shouldn't enjoy the benefits of her choice, even though it wasn't made between reasonable alternatives. This would seem to indicate that (non-comparative) PDR aren't undercut by a lack of reasonable alternatives and would therefore appear to lend support to the WAT. In fact, this is misleading. Asking whether Linda should enjoy those benefits simpliciter is not quite the right question. Rather, the relevant question is whether Linda has, *in virtue of her exercise of responsibility, a stronger claim to those benefits*. Of

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<sup>24</sup> de-Shalit and Wolff – Asymmetry (2011, 223).

<sup>25</sup> de-Shalit and Wolff – Asymmetry (2011, 225).

<sup>26</sup> Not that such an argument is not possible, but that it is a different and further one that de-Shalit and Wolff do not supply.

course it's generally (and perhaps obviously) true that we have a non-comparative reason to allow people like Linda to enjoy such benefits – simply on the grounds that it is morally valuable to be better off rather than worse off. Just as obviously, we don't have such reason in favour of allowing people to bear burdens. But this general kind of asymmetry between benefits and burdens can't support the WAT because the WAT specifically concerns the responsibility persons have for bearing burdens or enjoying benefits.

The relevant question then is whether Linda's choices give her a stronger claim to benefits and, indeed, whether any choice-based claim she has to the benefits is stronger than any choice-based consideration in favour of her bearing burdens. However it's just not obvious that any *choice-based non-comparative* claim to the benefits of employment Linda might have is particularly strong when her only alternative to accepting employment was poverty and destitution. Similarly, applied to cases involving Sergio and Miguel, if individuals win big in a costless but avoidable lottery it's not obvious what the strength of their choice-based claim is against, say, being subject to redistributive taxation. Now one might cling obstinately to the idea that the fact that Linda chose to accept employment gives her a stronger claim to those benefits than she would have if she hadn't so chosen. However, I suspect that same kind of obstinacy might then simply apply to (non-comparative) *NDR* claims and entail the view that, no matter how unreasonable the alternatives a person faces, the mere fact that they chose something grounds a choice-based consideration in favour of their being liable for the consequences. If so, then the symmetry of responsibility is in any case preserved.<sup>27</sup>

## THE SYMMETRY OF RESPONSIBILITY

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<sup>27</sup> This much illustrates that the evaluative arbitration account I have offered can in fact be applied to both comparative and non-comparative views. To take a relevant example, one might hold a non-comparative view like Richard Arneson's 'responsibility-catering prioritarianism' and also maintain that we should only 'cater' to considerations of responsibility to the extent that persons exercise evaluative arbitration. See Arneson (2000).

The foregoing shows that the very same reasons that offer grounds for not holding individuals liable for the negative consequences of their choices also represent reasons to refrain from allowing them to benefit from their choices. de-Shalit and Wolf themselves offer a clue as to why this should be when they say that “*socially we should behave as if that option is not there at all.*”<sup>28</sup> The above account offers a rationale for that suggestion: that the absence of reasonable alternatives to choosing something constrains the extent to which the choice of that thing represents a manifestation of a kind of evaluative arbitration on the part of the agent. Yet that is true whether or not the agent enjoys a positive outcome of that choice. For responsibility sensitive egalitarians, if the absence of reasonable alternatives means we should behave as if there were no option there at all, this implies that *no inequality* would be justified as a consequence of the choice to decline that option, whether the inequality in question exists because the agent profited from the choice or because they lost. In this way, therefore, there is no systematic asymmetry of responsibility.

To reassert an important qualifier to the argument here; I do not take the foregoing to establish that there is in fact no asymmetry of responsibility, either on grounds of fairness or any other. Rather, the argument of the above demonstrates that the particular fairness grounds that de-Shalit and Wolff adduce in favour of the WAT fail, in fact, to support it. That’s not to say the fairness grounds that de-Shalit and Wolff appeal to aren’t intuitive ones. As I have emphasised, I believe they correctly identify a basis for objecting to the fairness of an individual’s being better or worse off than others, even when this is as a result of the individual’s own choices. What’s more there is, admittedly, something superficially intuitive to the WAT. After all, when an agent lacks *acceptable* alternatives this looks like a form of disadvantage. To paraphrase, we might assume that without acceptable alternatives an agent might be effectively forced down a path

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<sup>28</sup> de-Shalit and J. Wolff (2011, 228).

they would not otherwise have chosen. Surely it would only compound that disadvantage to then hold the agent liable for any further negative fallout from the (non-voluntary) choice that they make. Whereas should the agent's choice somehow turn out well for them we could hardly begrudge them these offsetting advantages.

However, that surface impression conceals complexities that, on further inspection, reveal its inadequacy. Firstly it is clear that an *ex ante* disadvantage can result in an *ex post* advantage. If in an unchosen lottery Bobby has a 10 per cent chance of winning 100 and Billy has a 90 per cent chance of winning 100 then Billy is *ex ante* better off than Bobby. But if we fast forward and Bobby wins 100 whereas Billy does not, then that *ex ante* disadvantage nevertheless yields an *ex post* advantage. This does not seem to be a sufficient basis for holding the *ex post* inequality to be a fair one and, hence, there does not appear to be a fairness reason against redistributing Bobby's winnings to Billy. Furthermore, and crucially, the egalitarian concern isn't for entitlements/liabilities *as such* but whether such entitlements/liabilities are *fair*, namely whether they reflect inequalities justified by individuals' choices. If an individual fares *better than others* because of factors other than the kind of choices (between reasonable alternatives) that reflect evaluative arbitration on the part of the agent faring better, then the inequality is to that extent unfair. Furthermore I have argued that the same reasons that undercut the inequality justifying power of choice when individuals lack *acceptable alternatives* also apply when individuals have only unequivocally worse alternatives, and the unequivocal worseness of an option does not itself imply anything about its absolute badness, only its badness compared with other options.

So the circumstances that undermine the inequality justifying power of choice – namely the absence of reasonable alternatives – are not essentially tied to circumstances of disadvantage in such a way that would suggest that only NDR are undercut. In other, rougher, words, it's not

only when agents lose by being effectively forced to choose something only to avoid an otherwise unacceptable outcome that their choices fail to justify inequality.

Of course I leave it open whether there are further reasons beyond those discussed above for thinking that the absence of reasonable alternatives, as circumstances which constrain the inequality justifying power of choice, have a general tendency to block NDR more frequently than PDR. It could be, for instance, that agents face only unacceptable alternatives more frequently than unequivocally worse ones and that lacking acceptable alternatives usually results in the agents faring badly as a result of their choices in such contexts. However this would be a matter of contingency and an importantly different kind of argument from the one that de-Shalit and Wolff present. Their claim is that the absence of reasonable alternatives undercuts the fairness of liabilities but not the fairness of benefits that result from choice; that there is no counterpart situation in the positive case, rather than the suggestion that the counterpart situation in the positive case merely obtains less frequently. This latter thought, however, is asymmetry on grounds of contingency, not fairness as such, and is therefore a very different kind of asymmetry indeed.

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