

Equality of Resources and the Demands of Authenticity

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Abstract

One of the most distinctive features of Ronald Dworkin's egalitarian theory is its commitment to holding individuals responsible for the costs to others of their ambitions. This commitment has received much criticism. Drawing on Dworkin's latest statement of his position in *Justice for Hedgehogs*, we suggest that it seems to be in tension with another crucial element of Dworkin's own theory, namely, its endorsement of the importance of people leading authentic lives - lives that reflect their own values. We examine this tension between responsibility and authenticity, and some strategies Dworkin does and could deploy to defuse it, which we think are unsuccessful. We then propose a solution for reconciling the demands of responsibility and authenticity, which is, so we claim, friendly to Dworkin's fundamental commitments but which leads to a revisionist interpretation of the demands of equality of resources.

Introduction

Two principles are at the centre of the edifice of values Dworkin builds in *Justice for Hedgehogs*,¹ the principle of self-respect and the principle of authenticity. They state, respectively, that 'each person must take his own life seriously: he must accept that it is a matter of importance that his life be a successful performance rather than a wasted opportunity' (203); and that '[e]ach person has a special, personal responsibility for identifying what counts as success in his own life; he has a personal responsibility to create that life through a coherent narrative or style that he himself endorses' (204).

According to Dworkin, the principles of self-respect and of authenticity together amount to a conception of human dignity (204), and, in slightly different versions, appear in Dworkin's edifice as ethical principles (they state what is required

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for people to live well), moral principles (they justify what we owe others) and political principles (they state the conditions for a government's legitimacy and the demands of justice that citizens can make on one another).² Throughout the different domains of ethics, morality and politics, the two principles fix people's rights and their responsibilities in what is supposed to be a seamless web of integrated and mutually supporting requirements.

In this paper we ask whether the integration of values Dworkin seeks can be achieved between the compartments of authenticity and responsibility. More specifically, we ask whether the commitment to respecting people's authenticity may require us to subsidise others' choices in a way that seems in tension with the requirement that people be held responsible for those costs (that is, that they bear those costs themselves), which requirement, so Dworkin claims, is entailed by his fundamental principles. This question presents itself across all three realms in which the two principles of dignity are at work, but in what follows we focus mostly on the political realm, where the question we raise has already engaged political philosophers for some time in the following guise: can we duly respect people's autonomy while also heeding the demands of responsibility?³

So in this paper we take a good look at some 'old wine', but also at the new bottles it is in (328). We aim to examine a particular aspect of the case for the unity of value that is the focus of *Justice for Hedgehogs*, but also hope to illuminate an ongoing debate on the merits of rendering equality sensitive to responsibility. After presenting Dworkin's position and formulating the charge that there is an internal tension between authenticity and responsibility (Section 1), we proceed to consider and reject two possible ways of resolving that tension (Section 2 and 3). We then suggest that Dworkin can provide a way of reconciling, and indeed integrating, the

demands of authenticity and responsibility, but highlight how this requires viewing his theory of justice somewhat differently from how it is often viewed, and arguably, also differently from how he himself initially presented it and, in places, still packages it (Section 4). On this view, Dworkin's theory turns out to be more accommodationist than is often assumed.⁴ We conclude by showing how this stance is in line with respecting responsibility.

1. Dworkin on authenticity and responsibility

The principle of authenticity has various implications for judgements concerning people's responsibility, reflecting the fact that there are different senses of 'responsibility'.⁵ In particular, as Dworkin himself notes, there are three senses of responsibility for which endorsement of the principle of authenticity is relevant.

First, the principle of authenticity has implications for 'assignment responsibility': the principle 'fixes an assignment' (287) for individuals, namely that of identifying what counts as success in their own lives – in this sense Dworkin says we each have a special responsibility for ourselves.

Second, the principle justifies attribution of 'judgemental responsibility' to a person, that is, it makes it 'appropriate to rank [her] on some scale of praise or criticism' (103). As Dworkin writes, 'I do not treat an act as my own, as issuing from my own personality and character, unless I regard myself as judgementally responsible for it (...) dignity requires owning up to what I have done' (210).

Third – and this is what concerns us in what follows – authenticity also seems to have implications for liability responsibility, that is, for settling questions of who should bear the consequences of various choices and acts. Dworkin asks: '...if it is part of living well not only to make choices but also to live with the consequences of

those choices, do I have reason to distinguish what I need because I have cancer from what I need because I chose not to work? Does it matter whether my needs are basic (...) or spiritual?' (211)⁶. Accepting to bear the costs of one's choices or ambitions – as opposed to costs arising from bad brute luck - may be part and parcel of living well.

In the domain of political morality, this question amounts to a key issue concerning distributive justice, and it is Dworkin's contention that as a matter of justice, people are to be held liable for the costs of their ambitions or choices, where those costs are measured in terms of how much others would be willing to pay for those resources assuming everyone has equal purchasing power. How much a person should pay in order to pursue his ambition of building a house on a hill with beautiful views, for example, depends on how much other people value that plot of land as measured by their willingness to pay for it. Thus, as Dworkin writes, equality of resources ensures that what each person has 'is fixed by his own choices, given the choices others make from an equal base' (357).⁷ This way, equality of resources 'charge[s] people the true opportunity costs of their choices', and treats everyone with equal concern and respect by giving pride of place to, and treating equally, their ambitions or choices. Against this background, Dworkin holds, famously, that '[w]e cannot expect others to subsidise the expensive choices we make' (275). As Dworkin observes, equality of resources 'presumes only that we treat people with equal concern when we allow each to design his own life, aware that his choices will have, among other consequences, an impact on his own wealth. However, it is crucial to this understanding that the character and degree of impact reflect the effect his choices have on the fortunes of others: the costs to others, in lost opportunities for themselves, of the various decisions he has made' (363). And again: 'People are not responsible

unless they make choices with an eye to the costs to others of the choices they make. If I spend my life at leisure, or work at a job that does not produce as much as I could of what other people need or want, then I should take responsibility for the cost this choice imposes: I should have less in consequence'(3). It is a defect of competing conceptions of justice, such as equality of welfare and other *ex post* conceptions,⁸ that they not compatible with 'the right respect for individual responsibility' (360).

It may be suggested, however, that the requirement that people pay the price of their expensive tastes, far from being required by or even simply compatible with the principle of authenticity, is actually in tension with the latter. As a general point, we may advance the familiar observation that a commitment to respecting the importance of people's leading authentic lives - lives that reflect their values - may in fact require 'accommodation', or the subsidisation of 'expensive tastes'. Both the formation or identification of one's ambitions, and one's ability to live in accordance with those ambitions, may be variously expensive. For example, somebody who is by inclination reflective and who, in early adulthood, feels alienated from the milieu he has been brought up in and the life trajectory he has started, may find it necessary, in order to identify his true values, to try out more than one option, break off from his family environment, and acquire new and different qualifications. A fellow 20 year old, by contrast, may find he embraces the values that have shaped his life and opportunities to date. Somebody may, in order to lead an authentic life, require an expensive education in science, or years off work while looking after his children, while somebody else embraces the life of a Trappist monk. Shouldn't the confused twenty year-old and the aspiring scientist have more resources, in the name of authenticity?⁹ If so, the requirements of authenticity seem to conflict with the requirement to hold people liable for the costs, to others, of their choices.

There are two immediate objections to the proposed construal of the demands of authenticity and the claim that there is a tension between authenticity and responsibility which we should address right away.

First, it might be said that the putative tension between authenticity and responsibility only arises because we focus on the demands of authenticity in isolated cases, and overlook that what we are committed to is *equal* authenticity. If we are concerned with equal authenticity, we must recognise that the demands each one of us may make must be compatible with respecting the equal demands of others. The 20 year old who needs retraining and the aspiring scientist may be denied extra resources because of the need to respect the equal authenticity claims of others.

We do not overlook the egalitarian dimension of the demands of authenticity, however: we do not suggest that it would be legitimate for the individuals who claim subsidies to make an exception of themselves, and claim resources that allow them to lead more authentic lives than others. We agree that they should pay the opportunity costs, to others, of their having more resources, but we insist that the opportunity costs to others of their having more resources be measured in terms of how others' effective opportunity to lead comparably authentic lives is affected.¹⁰ On Dworkin's interpretation of the principle of authenticity, two person's authenticity counts as having been equally respected although they are very unequally capable of leading authentic lives, even if this is due to factors outside their control. On the view we are sketching, by contrast, equal respect for two person's authenticity ideally requires that they receive whatever resources are necessary in order for them to be placed in a position in which, short of their making imprudent choices, they are able to lead equally authentic lives.

At times, we may be drawn to this very interpretation of the demands of authenticity by reading *Justice for Hedgehogs*. Dworkin writes, for example, that authenticity ‘means expressing yourself in your life’. ‘What is crucial,’ he adds, is ‘that you live your life in response to, rather than against the grain of, your situation and the values you find appropriate.’ (209-10) He gives the following examples of values that one might seek to express in one’s life: the commitment to a revered tradition; loving, providing for, and educating children. Don’t people need to be supported so that they may reflect adequately on, and then be capable of pursuing, the life plans that express their values?

A second objection to our construal of the tension between authenticity and responsibility is that our interpretation of the ideal of authenticity is too demanding. Our interpretation presents authenticity as requiring that our lives reflect our own values in the strong sense that they actually succeed in maximally fulfilling those values. It might be suggested, however, that authenticity requires something less, namely, that the choices through we give shape to our lives reflect our own values, a requirement that can be met even if our lives fulfil our values only to a small degree. Suppose, for example, that restricting Louis to an equal share of resources enables him to purchase and enjoy only the occasional bottle of fine wine, whereas the ideal life, for him, would consist of fine wine on a daily basis. Even if Louis is unable to fulfil the ideal life as he sees it, shouldn’t we still conclude that he lives an authentic life just insofar as his choices about how to use his restricted share of resources have been guided by his own values? If we adopt this less demanding interpretation of authenticity, it is not clear that the tension between authenticity and responsibility would be a serious one.

Our response to this objection is that the interpretation of authenticity it proposes is too weak. If all that matters for authenticity is that our lives unfold as a result of choices that reflect our own values, then we would have to conclude that a person whose choices are dramatically limited is still able to live an authentic life – indeed, as authentic a life as he could have had if his circumstances enabled him to fully shape his life by his values. Consider the example of a man who has fallen into a pit that happens to contain a large supply of food. This man is able to choose which variety of food in the pit he should eat each day, yet despite the fact that he is able to give shape to his life through his own choices, his life doesn't live up to the ideal that authenticity tries to capture. The example of the man in the pit highlights that the ideal of authenticity requires, as we have suggested, that we have resources and opportunities that enable us to fulfil our ideal of a good life.¹¹

In what follows, we discuss three proposals for reconciling liability responsibility with authenticity. These approaches differ in how broadly they interpret the demands of authenticity. We begin with the proposal that authenticity be interpreted very narrowly, so as to require only that persons be free from a certain sort of deliberate interference – specifically, interference intended to guide one's life in accordance with someone else's conception of a good life. While this proposal, which Dworkin defends, avoids the tension between authenticity and responsibility, we argue that it is implausible to interpret authenticity this way. We then turn to a second, more demanding interpretation of authenticity, on which the latter requires that an individual be able to engage in ethical deliberation of a certain kind, and on which, it has been argued, authenticity conflicts with responsibility (Shiffrin, 2004). We consider the proposal, which is available to Dworkin, that holding people responsible for the costs of their choices in fact does not undermine their capacity for adequate

ethical deliberation, but we show that this proposal is unsuccessful. Even if it could be shown that liability responsibility is compatible with adequate ethical deliberation, this second proposal for reconciling liability responsibility and authenticity still faces the problem that adequate ethical deliberation is not sufficient for authenticity. This is because authenticity is a matter of how successfully a person's choices fulfil her own convictions, and not just a matter of how successfully she is able to deliberate in arriving at her convictions.

This broader interpretation of authenticity is accepted by the third proposal for reconciling liability responsibility and authenticity, which we put forward in this paper, and which we develop in line, so we claim, with some fundamental Dworkinian convictions. The key contention in our proposal is that individuals would endorse funding an insurance scheme that makes some weighty ethical choices effectively available to them throughout their lives. This scheme would, for example, offer subsidies to individuals who choose to become parents. As we elaborate below, were the social policies of the state to mimic this insurance scheme— by taxing individuals so as to fund subsidies for key ethical choices in line with the terms of that insurance – then it could plausibly be maintained that individuals can both live authentic lives and be held responsible for the costs of their choices.

2. Authenticity and usurpation

The first strategy for reconciling responsibility and authenticity consists, in a nutshell, in narrowing one's interpretation of authenticity, so that the range of constraints that are seen to constitute a threat to authenticity is also reduced. In particular, we could argue that the difficulty, costliness, ineligibility or even impossibility of engaging in ethical deliberation or of pursuing the values one

endorses do not necessarily compromise authenticity. The latter only requires that we not be interfered with intentionally by others who specifically intend to replace our judgment with theirs, or make sure that it is their judgement, not ours, that guides our lives.

This seems to be a strategy that Dworkin pursues in *Justice for Hedgehogs*. Dworkin emphasises that authenticity requires ‘ethical independence’, that is, not being ‘made to accept someone else’s judgement in place of his own about the values or goals his life should display.’ (212) Authenticity is thus incompatible with ‘domination’ and ‘usurpation’, but compatible with various forms of ‘influence and persuasion’, and ‘limitations of nature or circumstance’, including option-removing interference with people for which there can be a justification that does not involve the goal of usurping their judgement: ‘What matters is not how many options a person has, but whether *he* designs the life he has given whatever options he has’ (211). When discussing one of the two capacities agents must have in order to be able to live well (the capacity to match one’s decisions to normative personality, which Dworkin discusses in the context of the conditions for judgmental responsibility but which seems clearly necessary for people to achieve authenticity), Dworkin remarks that ‘[i]t destroys that capacity (...) when others take over my decision-making capacity to serve their own ends: when I am hypnotized or governed through electrodes in my brain. That usurpation disconnects my decisions from my personality, so that it is at best an accident when these match’ (245). But that capacity, he says, is not compromised when people act under duress (250). When teasing out the implications for morality of the principle of authenticity, Dworkin draws a distinction between bare ‘competition harm’, which refers to the unintended ways in which we negatively affect others as a result of pursuing our ambitions, and ‘deliberate harm’; only the

latter, he holds, is impermissible. And in the domain of political morality, Dworkin notes that to hold people liable or responsible for the costs of their ambitions, as equality of resources proposes we must, does not amount to an encroachment on the principle of authenticity, since people's choices here are 'not limited by any collective judgement about what is important in life (...)' (356).

However, to characterize the demands of authenticity as requiring only that one's judgment about how to live one's life not be usurped by others is unsatisfactory. It seems compatible with many forms of interference that intuitively do undermine the authenticity with which a person can live his life. Imagine a family that warns one of its members that it will ostracize him if he is open in their community about his sexual orientation. Suppose they threaten him in this way only because they want to avoid the consequences *they* would have to face if the family's reputation were 'stained'. They may say to him: 'We don't ask you to change what you believe or even to change how you behave. We simply ask you to not let it be known. If you let it be known, you'll have to live with the consequences. You will no longer be welcome here.' This man now faces the harsh dilemma of either losing his family's support in his attempt to live an open life in his community or of keeping his sexual orientation secret. It seems to us that in threatening to ostracize him, his family does threaten his authenticity, even though they have not actually 'usurped' his judgement about how he wishes to live his life (recall, their intention is not to guide his life by their own conception of the good life). Their conduct has made it far more costly for him to live his life by his own ethical lights, and to do that is enough to threaten his authenticity.¹²

On closer analysis, Dworkin himself seems to allow for the fact that authenticity is threatened by more than interference of a merely usurping nature.

Dworkin believes there are some decisions we as individuals must confront in our lives that are ethically foundational, or, in his words, ‘of intimate and serious personal importance’. An example is the decision of whether or not to have an abortion.¹³ He argues that when decisions in this select class are constrained for *whatever* reason, that is, regardless of whether or not this is done in an attempt to usurp our authority to decide these matters for ourselves, our ethical independence, and hence authenticity, is threatened. As he puts it: ‘Some coercive laws violate ethical independence because they deny people power to make their own decisions about matters of ethical foundation... These include choices in religion and in personal commitments of intimacy...’ (Dworkin: 368-9).¹⁴

Furthermore, as Dworkin himself remarks in one place, it is a further condition for authenticity that people have control over their life, body and property: ‘Our responsibility requires at a minimum that we be in sole charge of what happens to or in our bodies. The prohibition on deliberate injury to property is less important but also central’ (289, endnote omitted).¹⁵ But arguably, on a plausible conception of control, our control over our lives is undermined by what would seem, on Dworkin’s view, to count as mere ‘competition harm’; other people’s choices that do not count as deliberate harming, for example, the choices fellow workers might make to work at any time of day or night if necessary, can worsen the prospects of a worker whose caring responsibilities render him unable to match their preparedness to work. This latter worker may plausibly be said to lack the requisite degree of control over his fate. If he is forced by the competition of others to sacrifice too large a portion of his caring responsibilities, then we could say that he has been forced to do things that go against his best judgment of what is of value in his life.¹⁶ In sum, if control is necessary for authenticity, and some accommodation is necessary for control, then the

tension between liability and authenticity seems to appear again. And indeed, in some of Dworkin's own comments on what giving people control requires, we think it appears that he himself believes that in order to give people control, it may be sometimes necessary to share the costs of their choices rather than to ask them to internalise those costs.¹⁷

We come back to examine the possibility of formulating a Dworkinian argument for accommodation in section 4. First, in the next section, we discuss a second, non-accommodationist strategy for reconciling authenticity and liability, which Dworkin's writings do not explicitly elaborate but which seems Dworkinian in spirit, and which aims to provide a direct answer to Seana Shiffrin's challenge to Dworkin's understanding of the demands of responsibility.

3. Authenticity and ethical deliberation

We have seen that the first way of avoiding the tension between authenticity and responsibility relies on too narrow an understanding of authenticity. One way in which to broaden one's interpretation of authenticity is to argue that authenticity requires that an individual be able to engage in ethical deliberation of a certain kind. As Shiffrin has argued (2004), an individual's ability to engage in correct ethical deliberation – which we take to be deliberation about matters of fundamental ethical value, about the values that should guide one's life, and which one may plausibly see as necessary for authenticity – is threatened by the demand that she bear all the costs of her choices. In particular, we take Shiffrin's central claim to amount to the following: correct deliberation about ethical matters requires that people consider and respond to relevant reasons affecting those matters. Considerations about the price, or costliness, of pursuing different values are sometimes not relevant reasons in favour

or against the adoption of those values, and yet they understandably act as weighty considerations which individuals cannot reasonably be expected to ignore. Shiffrin writes (2004: 291): ‘It is valuable to have the opportunity to engage with a particular value, in some degree of isolation, to determine its significance to oneself and respond appropriately to the reasons it presents.’ Examples of accommodation that might be justified by this concern include the accommodation of Sabbatarians for whom special arrangements might be made to enable them to work fulltime. Another example is the accommodation of parenting through the tax-funded provision to parents of the resources needed for successful child-rearing. Without these forms of accommodation, it may be the case that the persons in question are unable to reflect adequately on the merits of the ethical choices in question – on following a particular religion, or on deciding to start a family.

So, according to Shiffrin, the reason there is tension between liability responsibility and authenticity (or, in her terms, between cost-internalisation and self-reflection) is that accommodation is necessary if a person’s ethical deliberations are to respond to the right and relevant reasons about ethical matters. Although such accommodation displaces costs onto others, ‘[w]e may think it important that a person’s deliberations about whether to be observant should not be clouded by considerations about whether she will lose her job’ (Shiffrin, 2004: 289).¹⁸

In response to Shiffrin’s argument, Paula Casal has argued that a person’s ethical deliberations may in some cases be aided when that person is made to internalise the costs of his choices.¹⁹ For example, if the environmental costs of products are registered in the price of goods, conscientious consumers will be able to choose their products based purely on consumer criteria safe in the knowledge that the

price will reflect its environmental costs, thus freeing them from the additional burden of having to investigate the consequences of their consumption choices.

One might generalise the point (we do not attribute this following point to Casal) and argue that it is *always* the case that internalizing the costs of choice (at least against a fair background context) helps a person's ethical deliberations. After all, isn't it hugely relevant to those deliberations that I am, by adopting a certain lifestyle, impacting my fellow citizens' ability to do likewise? Dworkin certainly agrees that yielding to certain pressures on deliberation distorts authenticity. He writes: 'Someone who prizes his dignity must refuse to shape his ethical values out of fear of social as well as political sanction; he might decide that he lives well when he conforms to the expectations of others, but he must make that decision out of conviction, not laziness or that kind of fear' (212).²⁰ But, he might add, it does not distort authenticity to take into account, and be motivated by, considerations about what opportunity costs one's choices have for others.

The plausibility of this strategy may seem greater when we note that upholding it is compatible with accepting that in some of the cases Shiffrin mentions, accommodation may indeed be owed. Dworkin could deal with some of these cases, in which it seems that the costs of choices should not be internalised, as follows: these cases do not teach us that ethical deliberation needs to be insulated from costs under just background conditions, but that the background context that gives rise to the costs in question is somehow unfair. Consider, for example, the Sabbatarian case, and suppose we add the following piece of information: the Sabbatarian is unable to find suitable work because the six-day week he is often required to work is shaped by a Sunday closing law. Dworkin might argue in this case that the cost of the Sabbatarian's religious commitment arises in part due to a law that would not exist in

a fair background context, and that, to the extent that we find it intuitively plausible to accommodate him, this is not due to our wanting to relieve him of the costs of his religious commitment but of costs that ought not to arise for his religious commitment according to equality of resources.²¹

However, we doubt the plausibility of the second strategy of reconciling liability and authenticity. First, contrary to what that strategy proposes, there are cases in which adequate ethical deliberation is indeed threatened by the prospect of having to bear the costs of one's choices. Consider, for example, the choice people may face when, tired of their marriage, they are considering whether to stay together or separate. In these circumstances, they should not have to give weight to the difficult circumstances their marriage partners would find themselves in were they to break up with them. They want their decisions about whether to persist in a marriage to be based more purely on the value of the relationship. That is not to say that people should simply disregard the effects their divorce choices have on each other. (If those costs are unavoidable for one of the partners, it may well be the case that they should, in light of those costs, not divorce the partner.) Rather, it is to say that there is reason to eliminate or reduce those costs, if necessary by transferring them onto or sharing them with others, so that their deliberations are insulated and they are able to focus on various aspects of the value of their relationship as the determining reasons in making their choice of whether to stay together or separate.

But secondly, and more fundamentally, the problem with the second strategy is that authenticity demands more than adequate ethical deliberation. The proposal that liability responsibility is compatible with authenticity on the grounds that such responsibility ensures adequate ethical deliberation thus falls short of showing that liability responsibility can satisfy the demands of authenticity. For example, imagine a

person with ‘robust’ skills of deliberation: this is a person who is sufficiently self-possessed and clear-sighted to be able to insulate the relevant from the irrelevant reasons that bear on the value of a particular ethical choice he faces in life, say the choice of whether or not to work on his Sabbath. Now suppose he concludes that ideally he should not work on that day – that this is the right choice - but that the costs he would face were he to make this choice are too high. He has not decided that resting on his Sabbath lacks merit when considered in isolation from the costs that come with that choice. He is able to discern, on the basis of all the relevant reasons, that he should rest on his Sabbath; but he decides that he simply cannot do that given the costs. It seems to us that those costs threaten this person’s authenticity, even if his ethical deliberations are unaffected; what matters for a person’s authenticity is, ultimately, that he is able to act in a way that fits with his convictions.

4. Authenticity and second-order choices

We now present a third option for reconciling the tension between authenticity and liability responsibility. We argue that treating everyone’s ambitions equally does not require that everyone internalise the costs of their own choices. Our proposal is not that equality of ambition makes room for subsidies for choices in a way that happens accidentally to match our convictions about the need for accommodation. Rather, it makes room for such subsidies as a matter of principle. That is, it is part of our best understanding of what it means to treat everyone’s ambitions equally that we should subsidise some choices of deep ethical significance.

The argument we shall make suggests that we should adopt a model analogous to the hypothetical insurance model Dworkin famously advocates for determining the compensation people are owed in case of bad brute luck, but extend it to address the

question of what people are owed for making their ethical choices. We believe this proposal is already implicit in some of Dworkin's works, although it is not stated or endorsed explicitly by Dworkin. So after sketching the proposal, we highlight the parts of Dworkin's work in which we believe it is present.

In order to see why we might have reason – within the ideal of treating people's ambitions equally – to subsidise ethical choices, it is helpful to begin by noting a distinction between two kinds of choices, which we call *first-order* and *second-order* choices. Some of our choices are about particular goals: we train for a particular career, such as, for example, becoming a chef, or we endorse a particular religion, or we decide to become parents. These are examples of *first-order* choices. First-order choices, in other words, are choices about what activities or goals to pursue. Some of our choices, however, are not about particular goals or activities, but about choices themselves; sometimes we make choices to protect the possibility of choice. Let us call these *second-order* choices. A first-year student whose main interest in her academic studies is the natural sciences might nevertheless ensure that she has an option to study an arts subject in her third year just in case she might find something worthy in doing that at that later point. A cancer patient who is about to undergo radiotherapy and who could not at present contemplate having children might choose to ensure that some of her *ova* are extracted and frozen, in case she overcame her cancer and changed her mind about wanting to have children.

Second-order choices are choices to protect the possibility of first-order choices. Making second-order choices involves taking measures to ensure that certain first-order choices are possible, or that they are not prohibitively expensive according to our own best sense of what makes a choice prohibitively expensive. We protect the possibility of a choice when we ensure that the choice is one we would not be deterred

from making by unduly high costs. That does not mean that we need to be alleviated of all of those costs. It only means that we need to be alleviated of those costs to the extent that we deem sufficient for us to be undeterred by them.

Authenticity figures among the various possible reasons for protecting the possibility of first-order choices. Authenticity involves commitment, to be sure, but it also involves openness to new possibilities, and sometimes a preparedness to abandon a commitment that we no longer believe in. Changing one's mind can sometimes be a form of self-betrayal, but so can not changing one's mind when new experiences lead one to appreciate values that one had hitherto disregarded. The value of protecting the possibility of first-order choices is that we protect ourselves against inauthenticity by ensuring that we are able to respond to our appreciation of value in the future.

To see this point forcefully, imagine a society in which everyone, near the beginning of their adult lives, makes a set of choices about how their whole lives should unfold.²² This society has set aside a week for this purpose – *Lifetime Decision Week* – during which all 21-year olds must decide the kind of career they would like to pursue during their lifetimes, whether they want to marry, whether they want to have children, what kind of religion they will follow, if any, and so on. Suppose now that at the end of the week, once all young adults have made their choices about these things, they voluntarily take a pill that ensures that they never change their minds about their choices in the future. In this society, people's lives will be, in good measure, the results of their own choices. In fact, in one sense – a shallow and mistaken sense – their lives are paradigm lives of authenticity, for their lives embody to a very great degree their own sense of what counts as success in life.

And yet it is difficult to accept that people's lives, in this case, embody the value of authenticity, when that value is properly understood, and indeed, it is more

plausible to say that they have acted in a way that offends against that value. This intuition, we believe, illustrates the appeal of protecting first-order choices: we do not lead authentic lives by having our earlier selves make choices that affect and bind our later selves, independently of the attitude which our later selves have towards those choices, so that our whole life, or as much of it as possible, is the result of an early choice. Rather, what matters, for our authenticity, is that our lives are endorsed as lived, and that we continuously affirm the plans of life that we pursue as we pass through all the stages of our lives.

If indeed protecting the possibility of a range of first-order choices at each stage of our life is necessary for our authenticity properly understood, the question arises as to which range of first-order choices we should protect at each stage of life. We can distinguish two approaches to answering that question. A choice-insensitive approach determines that range without appealing to people's choices about what that range should be. Such an approach might isolate some range of first-order choices, or some particular first-order choices, as particularly important on the basis of a perfectionist ideal of human flourishing. It might hold, for example, that protecting the possibility of having and raising children is important because having and raising children is an essential part of a good life, and therefore a choice that people should be able to pursue if they should wish to (at least under circumstances in which pursuing that choice would be good for them).

A choice-insensitive approach would militate against the value of authenticity, which requires, recall, that '[e]ach person has a special, personal responsibility for identifying what counts as success in his own life.' (204). This approach is therefore incompatible with the underlying commitments of Dworkin's theory of distributive justice, and so we do not consider it here. But we believe a choice-sensitive approach,

by contrast, is compatible with authenticity. This approach determines the range of first-order choices we should protect at different stages of life by appealing to people's second-order choices, and thus in a manner that is sensitive to how they identify what counts as success in life.

The importance for authenticity of second-order choices justifies, we believe, a subsidy-scheme that is analogous to insurance against bad brute luck. Indeed, we believe that subsidies for first-order choices which reflect people's second-order choices can be justified on the same basis as compensation for bad brute luck that reflects people's attitudes to risk. To see this, we should remind ourselves that the basis for the hypothetical insurance model is that it satisfies Dworkin's famous envy-test for an equal distribution of resources in the right way. The envy-test deems a distribution equal only if no person would prefer another person's share of resources to his own. The attractive feature of the test is that it gives each person's preferences, or ambitions, an equal and decisive role in determining a just distribution, and thus ensures that distributions of resources show equal respect for each person's authenticity.

Now it is important to notice that adopting the hypothetical insurance model for determining how to compensate individuals for bad brute luck does not satisfy the envy test by ensuring that there is no envy between persons at every specific point in time.²³ Plainly, compensation in line with hypothetical insurance does not achieve *that* result; only compensation that fully makes up for the loss inflicted by brute luck – i.e. compensation that equalizes between persons *ex post*, or after bad brute luck has struck - would achieve an envy-free distribution at each moment in time. Rather, what justifies our identifying rights and obligations of compensation in line with the hypothetical insurance model is that this ensures that there is no envy between

persons *ex ante* of bad brute luck – i.e. at the moment when persons face as yet unmaterialized risks, and when their preferences about how much risk they should expose themselves to in life can determine the distribution of resources between them over the course of their whole lives. Because the hypothetical insurance model identifies an envy free distribution of resources that is sensitive to people’s preferences about risk, it ensures that distributions of resources are overall more ambition-sensitive, and thus better respects people’s authenticity, than would an envy-free distribution secured *ex post*. As Dworkin writes, whereas the *ex post* approach to compensating people for bad brute luck, ‘would end by crippling our own responsibility for our choices’ (p. 359), the *ex ante* approach, which adopts the hypothetical insurance model, constitutes ‘an understanding of compensation that is compatible with the right respect for individual responsibility.’ (p. 360)

We believe the same considerations justify subsidies for first-order choices that reflect our second-order choices. Note that an envy-free distribution of resources is possible both in the presence and in the absence of such a subsidy-regime. There would be no envy between persons in a very accommodationist regime in which people were all guaranteed the same generous subsidy for a particular first-order choice, such as generous unemployment benefits in case they should chose to quit a job, or generous support for childrearing in case they chose to have children. And there would be no envy between persons if these generous subsidies were uniformly removed from persons.²⁴ But, as the previous paragraph pointed out, the aim, on Dworkin’s view, is an envy-free distribution that is maximally sensitive to people’s ambitions. Subsidies for first-order choices are more accommodating of people’s ambitions than their absence *if* such subsidies reflect the second-order choices people make as to which first-order choices they would protect.

Before considering an objection to our proposal it may be helpful to provide a few examples. Consider the following three.

First, parenting benefits. On our view, parents would be entitled to receive subsidies to help pay for the costs of childrearing if it is reasonable to assume that most people would insure so as to protect the possibility of choosing to become a parent in their future. It seems reasonable to assume, for example, that people would pay for a means-tested subsidy that helped cover periods off work during their children's early years, and there may also be other benefits individuals would insure to receive in case they chose to become parents, such as subsidised education.

Secondly, consider the case of retraining benefits. It seems plausible to us that people might wish to protect the possibility of changing their career by funding means-tested provision of adult education. We agree with Dworkin that people need to bear the costs of their 'investment luck', including their choices about which career to pursue, on pain of their not being responsible for their lives (359). But we believe that subsidizing adult education for people who chose to change career is not an abandonment of responsibility but a fulfilment of responsibility *if* people would make the second-order choice and fund it through tax-contributions to protect their future possibility of changing a career.

Thirdly, consider the case in which individuals decide to end a marriage. It is possible that many people would insure against the financial vulnerability they might expose themselves to in seeking a divorce with their partner. There are many ways in which such insurance might strike a balance between the responsibilities of the former partner and the state in supporting the more vulnerable partner, but it seems plausible that individuals would want to guarantee for themselves some form of support in case

they should chose to end a marriage and this left them in a position of financial vulnerability.

To summarise, we believe that it is possible to reconcile authenticity with liability responsibility if we interpret authenticity as permitting, and indeed requiring, people to pay for second-order choices that protect the possibility of first-order choices. This permission enables individuals to live authentically in a deep sense by enabling them to remain open to and instantiate in their lives their evolving appreciation of what values to guide themselves by. Furthermore, it fulfils their liability responsibility in the sense of that responsibility that is relevant for treating their ambitions equally, for it makes each pay the price of his second-order choices. Authenticity and liability responsibility are thus reconciled compatibly with our being able to uphold intuitively compelling forms of accommodation.

Our proposal faces the objection that it unreasonably extends the application of the hypothetical insurance model. It might be accepted that the model should be applied in cases where an inequality due to bad brute luck is at stake, for example when some individuals suffer disadvantage due to a congenital disease, since in these cases individuals would not be equally able to choose whether to protect themselves with an actual insurance policy. But it isn't clear why the model should also apply to inequalities against which individuals can decide to insure from an initial situation of equality. For example, assuming that everyone is equally placed to begin with, it might seem more appropriate to allow individuals to determine, each for him or herself, whether to purchase actual insurance that covers the need they might have for retraining benefits in the future, than to forcibly enroll individuals into a collective insurance scheme based on the hypothetical insurance decision most individuals would make regarding that risk.

There are two replies to that objection. First, in the real world individuals do not start off with an equal ability to insure; under such non-ideal circumstances, it is not just that the future needs of individuals are to be supported on the basis of an actual insurance market as opposed to a hypothetical insurance model that tells us how they would insure on the assumption that they have an equal ability to insure.

Secondly, even if people *did* have an equal ability to insure, relying on an actual insurance market may be unsatisfactory if there is a good chance that individuals may come to regret their actual insurance decisions later in life. Recall that the justification for the using the hypothetical insurance model in the standard case is that it helps us identify policies that are more sensitive to people's attitudes to risk, and their ambitions, more generally. A policy of holding individuals to insurance decisions they deeply regret may not be ambition sensitive in the relevant sense, at least if the later ambitions that inform their regret are to be given weight. Extending the hypothetical insurance model by asking how individuals who give weight to the possibility of regret would insure against particular risks, may be a more promising device for identifying ambition sensitive policies for redressing those risks after they have materialized, *even if we assume that the individuals in question have an equal ability to insure.*²⁵

We believe the proposal for an extended insurance model is in fact already implicit in Dworkin's thought, even if it is not made explicit, either in his earlier work or in *Justice for Hedgehogs*. Dworkin introduces the possibility that people receive subsidies for what we call their first-order choices in response to what he calls the 'strategic problem' of distinguishing the impact of choice and luck on people's lives (322-5; 359). While still upholding his well-known, narrow, view that hypothetical insurance should be deployed only to determine what compensation people should get

for bad brute luck, Dworkin notes that often we cannot tell, not even with great difficulty, what respective roles a person's own choices and his bad brute luck have played in his ill fortune. This poses a problem for a view, such as his, that proposes that individuals be held responsible for their choices. His response to that problem in *Sovereign Virtue* is to accept that we can be required to compensate a person even if his condition was a cause of his choices *provided* such choice-caused conditions would be ones we would be prepared, under certain hypothetical conditions, to purchase insurance against (Dworkin 2000: 333).

Thus, when considering how his hypothetical insurance model would settle questions about the just scope of welfare policy, Dworkin asks us to imagine an idealised condition in which everyone has a fair share of wealth and is offered the opportunity to purchase insurance offering income benefits should they turn out either to be unemployed, or, employed at low-income occupations. Before speculating about what insurance package most people would buy, he remarks:

No matter what happened, there would be no ground for objecting that undeserving people, *who could work but didn't, or who could have trained themselves earlier or better but didn't*, were unfairly capitalizing on the efforts of those who did work. For whatever benefits were received would be the *upshot of market decisions* of various kinds that reflected the impact of everyone's choices on everyone's opportunities. No one could object, for example, if a woman who had purchased insurance received a stipulated compensation *if she chose to quit her job* during pregnancy because that is what the policy she purchased provided. She would have paid a premium reflecting the cost of that option to others. (Dworkin, 2000: 332; italics ours)

As the first and third italicised sentences in this passage suggest, the insurance package people buy could include compensation for first-order choices – the choice not to work, not to train, and to stop working during pregnancy. But, as Dworkin remarks, the scheme would still be choice-sensitive in one sense – it would be sensitive to second-order choices, in our words - in that, as the second italicised sentence emphasises, it would be the 'upshot of market decisions'.

In this passage Dworkin seems to us to come close to the position we are suggesting he should embrace explicitly. The extended use of the hypothetical insurance model can be defended for the very same reason that make the hypothetical insurance device appealing in its narrower use: that model provides a way of fleshing out the twin demands of responsibility and authenticity when these are interpreted as mutually supporting rather than as conflicting ideals.

Conclusion

The challenge that has preoccupied us in this paper is the familiar one of whether individuals can be held responsible for their choices in life and still live authentic lives, and whether there is therefore a tension in Dworkin's supposedly unified system of values. We have argued that Dworkin's own avowed way of resolving that tension is unconvincing. Authenticity requires more than freedom from usurpation and adequate ethical deliberation. It also requires that people be able to act out of their convictions, and that they be offered the conditions for doing so, compatibly with the equal claims of others. We have put forward a proposal for reconciling responsibility with authenticity as interpreted in that broader way which, we believe, Dworkin himself could and does endorse. On that proposal, individuals would receive support for the important ethical choices across different stages of their lives in line with their own commitment to pay in order to keep options open for themselves. This will not secure that people can live *completely* authentic lives, if by that we mean that they will be able to pursue *whichever* choices they may wish to make at *whichever* stage of their lives. But no scheme can secure that ideal. The realistic ideal we should be guided by is instead that everyone's authenticity matters and matters equally, or, in other words, that everyone should be equally able to live as authentic lives as

possible. That realistic ideal of authenticity can be fulfilled by adopting an extended hypothetical insurance model, in which individuals subsidize each other's first-order choices across the different stages of life in line with their second-order choices.

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¹All page references in the text, unless otherwise specified, refer to this book.

² As Dworkin writes, 'Ethics studies how people best manage their responsibility to live well, and personal morality what each individual owes other people. Political morality, in contrast, studies what we all together owe others as individuals when we act in and on behalf of that artificial collective person'. (328).

³ Dworkin draws a distinction between authenticity and autonomy. He maintains that for autonomy it matters what number of options a person has available, whereas, for authenticity, what matters is whether *she* designs the life she has within whatever options she has (211). In section 2 below we argue against Dworkin's thin interpretation of the demands of authenticity.

⁴ In this paper we follow common usage and talk of a theory being 'accommodationist' and of people 'subsidising' others' choices, although we believe that this language misleadingly hides from view that what costs attach to people's choices in the first place needs justification. For a discussion of the need to examine and justify competing structures of payoffs when assessing responsibility-sensitive egalitarian views, see Olsaretti (2009).

⁵ Dworkin identifies many senses of responsibility, and in what follows we focus on various aspects of what he calls 'relational responsibility', which is what we have in mind when we say '(...) that someone is or is not responsible for some event or consequence (...)'(103). This is contrasted with responsibility as a virtue, which is at stake when we say '(...) that someone behaved responsibly or

irresponsibly in acting as he did on some occasion (...) or that it is not characteristic of him to behave responsibly' (103).

⁶ Just before the passage we have just quoted, Dworkin comments that 'how far authenticity requires that I accept liability for my acts is a more complex question than that of whether it requires judgemental responsibility' (211), which is one of the kinds of responsibility in the virtue sense (see footnote 4).

⁷ In the moral domain, there is an analogous requirement that 'follows from the allocation of responsibility imposed by the two principles of dignity. It falls to each of us to design a life with an eye to the resources that he can expect will be at his disposal, at least if he is treated fairly. We cannot expect others to subsidize the expensive choices we make' (275).

⁸ *Ex post* conceptions of equality aim to render people equal along a favoured dimension (welfare, opportunity for welfare, access to advantage) *after* risks have fallen out. Dworkin's *ex ante* view, by contrast, places people in an equal position vis-à-vis risk.

⁹ In the vast contemporary literature on autonomy and authenticity, relatively little attention has been paid to questions concerning the precise distributive implications of a commitment to equal autonomy or equal opportunity for autonomy. One recent exception is Colburn 2009.

¹⁰ We would then be using a justice-based conception of opportunity costs, on which opportunity costs are defined wholly derivatively from our favoured theory of justice. In other words, we affirm that justice requires equality of X – in the case we are considering, equality of opportunity for authenticity – and then measure the costs to others of our having resources in terms of the extent to which their opportunities for authenticity are affected relative to ours by different allocations of resources. As Dworkin remarks, his notion of opportunity costs is not of this kind (479).

¹¹ We draw the example of the man in the pit from Joseph Raz, *The Morality of Freedom* (Oxford: Oxford University Press, 1986), p. 373.

¹² It might be argued that the local community in our example is *indirectly* usurping the homosexual's responsibility for how to live his life by influencing the family to put pressure on him. The interpretation of authenticity as mere freedom from usurpation thus does permit the conclusion, contrary to what we suppose, that the homosexual's authenticity has been undermined in our example. But suppose the local community would disassociate with the homosexual's family simply out of disgust, rather than out of a conscious attempt to get the family to put pressure on him, and that it is in response to this threatened disassociation that the family puts pressure on him to conceal his homosexuality. We think his authenticity would be undermined also in this case, and this suggests that an intention to get someone to change their way of life is not even indirectly necessary for his authenticity to be undermined.

¹³ Dworkin argues for the legal permissibility of abortion on the ground that what is ethically at stake in abortion is the sacred value of human life, a value that we must each be permitted to interpret for ourselves (Dworkin, 1993).

¹⁴ Perhaps Dworkin could also say, about the case we imagined, that the ethical environment in which he finds himself is not 'created under the aegis of ethical independence'. Such an environment is one 'created organically by millions of people with the freedom to make their own choices, not through political majorities imposing their decisions on anyone' (371). But we are imagining that the ostracism is created organically in this sense: individual members of the community all uphold certain norms that make it undesirable for each one of them to interact with this man. Nor, it seems, would these people be obviously in violation of the need to respect the first principle, about the equal objective importance of lives (see the discussion at 280-3). They may just think that his values and theirs are too discordant for them to want to interact with him (they may even be willing to give him some aid if he were starving, but not want to engage with him in the richer and fuller ways in which they treat like-minded fellows of their community).

¹⁵ Dworkin remarks that this right of control is not to be confused with the right to ethical independence. It is clearly a further condition of authenticity (288).

¹⁶ Dworkin, by contrast, states that 'granting people a personal responsibility for their own lives requires recognizing for each a zone of immunity from deliberate harm, though not an immunity from competition harm' (289). While we disagree with this, we agree with Dworkin's observation that '[n]o one could even begin to lead a life if bare competition harm were forbidden' (287). Instead, there must be only *some limitation* on bare competition harm.

¹⁷ Dworkin writes: 'I need control over my body and my property to identify and pursue what I take to be a life well lived, and I must grant a like control to you. What scheme of liability responsibility for my choices, and hence for the choices of everyone else, should I therefore endorse? That question demands further interpretation of our second principle. (...) It requires us to seek a scheme of risk

management that maximizes the control we can each exercise over our own fate, given that we must each recognize and respect the same control in others. We can rank schemes on a scale of risk-transfer magnitude. (...) In one sense I gain more control from schemes that are higher in risk transfer, because they leave my plans less impaired when I am accidentally injured than if my loss remained on me. But in another sense I gain more control from schemes lower in risk transfer, because such schemes make me less liable to compensate others for accidents to which I contribute and therefore freer to pursue my plans unchecked by the threat of such liability. (...) We should therefore aim to identify a scheme of liability responsibility that achieves the greatest antecedent control, trading off gains and losses in control from both these directions' (p. 290).

¹⁸ Colin Macleod makes a similar point in the context of a different critique of Dworkin's equality of resources (Macleod 1998: 37-45). Macleod points out that people's deliberations and ambitions vary depending on what deliberative conditions are in place, which in turn vary depending, among other things, on how resources are distributed. Macleod is interested in showing that Dworkin's reliance on people's preferences and ambitions to settle distributive questions is problematic, since such questions need to be settled in some way before people's preferences and ambitions are formed.

¹⁹ Shiffrin acknowledges Casal's point in footnote 30, p. 287.

²⁰ This passage, in our view, worryingly suggests that dignity can be had even in the presence of political sanctions, even those which, by Dworkin's own lights, actually do count as threats to ethical independence, and therefore dignity.

²¹ We believe this argument draws on Dworkin's own principle of correction (Dworkin 2000:155-158), which essentially requires interference with the market aimed at reversing the effects of distortions of the market process.

²² The material in this paragraph is drawn from (Bou-Habib 2011).

²³ For an instructive debate over the merits of Dworkin's hypothetical insurance model see Andrew Williams (2004) and Michael Otsuka (2004). In what follows we draw on Williams' reconstruction of Dworkin's view.

²⁴ Dworkin himself points out that we must choose between competing schemes of payoffs that give us different types of control. See footnote 17 above.

²⁵ This second reply needs to be elaborated in further detail. In particular, more needs to be said about how exactly we should 'give weight to the possibility of regret' when imagining the insurance decisions of individuals. For lack of space, we cannot address this issue here.