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Martin Marchman Andersen

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Health, personal responsibility, and distributive justice

PhD dissertation

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Frederiksberg, Tuesday, 10 February 2013

Martin Marchman Andersen

Introduction, motivation, and content

The question of personal responsibility for health is increasingly discussed. As epidemiological research shows a number of diseases to be associated with particular lifestyle characteristics – most relevantly smoking, drinking, lack of exercise, and over-eating – it is obvious to raise questions on whether the *individual*, holding such lifestyle characteristics, is responsible for her higher risk of getting these diseases, and therefore, for instance, should be held responsible for the related health care costs. According to a recent Danish study, when asked about whether weight loss surgery should be financed by the public or the obese themselves, 46,5 % responded that weight loss surgery is to be financed by the obese themselves (20,3 % responded that they did not know). Most interestingly, however, 74,5 % of these respondents held the view that if there is evidence that the patient is *not* responsible for the obesity then they would change their mind about the former.[1]

This study confirms an expectation of mine, namely that many people find personal responsibility central to distributive justice. Many people simply believe that if an individual herself is responsible for some unfortunate state of affairs then it somehow counts as a constraint on what society owes to that individual in terms of compensation – also when it comes to matters of health and health care.

In this PhD-dissertation I consider the matter of personal responsibility because of its relevance to distributive justice. I aim to answer three focal questions:

1) What role ought personal responsibility to play in distributive justice in health and health care?
2) What does it take for an individual to be responsible for her own health condition (or responsible in general)?
3) And what is the relation between responsibility and cost-responsibility?

These are the questions this PhD-dissertation pertains to.

[1] Lund, TB, Sandøe, P, Lassen, J; "Attitudes to Publicly Funded Obesity Treatment and Prevention"; *Obesity*; 2011; 19**;** 8; 1580–1585.

Motivation

Not just many laypersons find personal responsibility central to distributive justice. Among contemporary political philosophers it is widely agreed that if an individual is worse off than others through no responsibility of her own, then that difference is arbitrary from a moral point of view. In particular, this observation is the kernel point in the theory of *luck egalitarianism*, which essentially states that it is unjust for an individual to be worse off than others due to no responsibility of her own.[2] In a context of health (care) policy this is crucial since if an individual gets a disease for which she *is* responsible, say a lung cancer due to smoking, it may, for instance, imply that:

> She should be held responsible for the hospital-expenses related to surgery etc. of her disease.
>
> She escapes general political aims to reduce (social) inequality in health.
>
> Research in diseases that (typically) are caused by lifestyle should have lower priority than diseases that are not caused by lifestyle.

These potential implications may seem frightening to many, and we may therefore ask whether distributive justice in health and health care ought to be sensitive to responsibility at all? Prominent contemporary political philosophers from the Rawlsian tradition, such as Norman Daniels and Elisabeth Anderson, argue that we should not.[3] One central reason for this is exactly

[2] See: Cohen, GA; "On the Currency of Egalitarian Justice"; *Ethics*; 1989; 99, no. 4; p. 906-44. And: Knight, C; *Luck Egalitarianism: Equality, Responsibility, and Justice*; Edinburgh; Edinburgh University Press; 2009. And: Arneson, RJ; "Equality and Equal Opportunity for Welfare"; in: L.P. Pojman and R.B. Westmoreland (eds.); *Equality: Selected Readings*; Oxford; Oxford University Press; 1997; p. 229-41.

[3] Anderson, E; "What is the point of equality?"; *Ethics*; 1999; 109; p. 287-337. And: Daniels, N; *Just Health: Meeting Health Needs Fairly*; New York; Cambridge University Press; 2008.

the potential conflict between responsibility and the ideal of free and equal access to health care, which is roughly illustrated in Anderson's *abandonment objection*:

> Consider an uninsured driver who negligently makes an illegal turn that causes an accident with another car. Witnesses call the police, reporting who is at fault; the police transmit this information to emergency medical technicians. When they arrive at the scene and find that the driver at fault is uninsured, they leave him to die by the side of the road.[4]

We should note, however, that this objection and my listed potential implications may not be as frightening as they first seem to be. First, holding individuals responsible for the costs of diseases they themselves are responsible for (or partly responsible for) may be done *ex ante* rather than *ex post*. This means, for example, that when a smoker ends up in a hospital with, say, lung cancer, then she and her fellow smokers have already paid for the treatment through taxes imposed on each single pack of tobacco. It therefore seems possible never to *abandon the imprudent*, and yet pass on the costs of imprudent behaviour to the imprudent individuals themselves. Second, we should note that even a plausible theory of distributive justice may not speak decisively about what a society ought to do, all things considered. For instance, Shlomi Segall, whose writings are essential to this dissertation, defends luck egalitarianism in a health context, and argues that we do *not* have *justice-based* reasons to provide health care to individuals who fall ill due to their own responsibility, but that we have other moral reasons to do so, nonetheless, namely reasons of *meeting basic needs*.[5]

Third, if responsibility matters, then I find it difficult to see why it should not matter in a health context:

> Imagine two boys, who in the age of 18 have the exact same natural skills and the exact same social background. After high school one of them chooses (fully informed) to spend his youth travelling around in the Far East. The other chooses

[4] Anderson; 1999; ibid; p. 295.

[5] Segall, S; *Health, Luck, and Justice*; Princeton; Princeton University Press; 2010; p. 64.

> (fully informed) to go to business school. Afterwards he gets a well-paid job in a bank. Ten years after they meet for coffee. Is it difficult to follow the former if he complains about the income-inequality between the two in reference to justice?[6] If so, then I do not see any morally relevant difference between this case and the following:
>
> Imagine two boys who in the age of 18 have the exact same natural skills, social background, and genetic disposition for all relevant diseases. After high school one of them adopts (fully informed) a *Rock'n'Roll*-lifestyle: He hangs around in bars, drinks a lot of alcohol, smokes many cigarettes, and eats fatty junk food, when he wakes up in the afternoon. The other chooses (fully informed) to eat healthy food, not to smoke, a lot of exercise, and only rarely to drink alcohol. When they meet many years later would it not be, at least similarly, difficult to follow the former if he complains about the health-inequality between the two in reference to justice?

Therefore, if responsibility matters (ultimately), I fail to see why it should not matter in a health context, *ceteris paribus*.

Procedure and content of the dissertation

The dissertation consists primarily in the following four articles:

1) "Social inequality in health, responsibility, and egalitarian justice"
2) "Reasonable avoidability, responsibility, and lifestyle diseases"
3) "Obesity and personal responsibility"
4) "What does society owe me if I am worse off due to my own responsibility?"

I will first briefly explain the content of each of these articles and how they aim to answer my three focal questions. Secondly, I will proceed by offering some general comments and clarifications. This pertains a) to the phenomenon of social inequality in health, and very briefly how it is explained, b) to some fundamental disagreements about (luck) egalitarianism (or

[6] This example is a slightly modified loan from Kasper Lippert-Rasmussen. See Lippert-Rasmussen, K; "Lige muligheder og ansvar"; in Holtug, N. and Lippert-Rasmussen, K. (eds.); *Lige muligheder for alle;* Frederiksberg; Nyt for Samfundsvidenskaberne; 2009.

distributive principles more broadly), and how my articles relate to these, and c) to *responsibilization* in health politics, which regards *reasons* to hold individuals cost-responsible in different ways for certain behaviours apart from considerations about whether they in fact are responsible for these certain behaviours. *Thirdly*, I offer a section on my methodology, and *fourthly* I bring in the four articles.

Presentation of the articles

Recall the three focal questions I aim to answer:

1) What role ought personal responsibility to play in distributive justice in health and health care?
2) What does it take for an individual to be responsible for her own health condition (or responsible in general)?
3) And what is the relation between responsibility and cost-responsibility?

In my first article – "Social inequality in health, responsibility, and egalitarian justice" – I, and several co-writers, bring recent political philosophical discussions of responsibility in egalitarian and luck egalitarian theory to bear on issues of social inequality in health and access to health care. The article focuses on focal question 1 and 2:

There is substantive inequality in health between different socio-economic groups in all societies. Roughly speaking, lower morbidity and mortality increase proportionally with higher income and education. However, a considerable part of social inequality in health can be explained by differences in lifestyle, and if lifestyle is something the individual herself is responsible for then the health inequalities that stem from lifestyles are not in tension with luck egalitarianism. As luck egalitarianism also implies that individuals, who fall ill due to lifestyle for which they are responsible, do not have a *justice-based* right to health care, many philosophers deny the plausibility of luck egalitarianism and favour instead theories of distributive justice, which are *in*sensitive to responsibility (at least regarding access to health care). But these theories, however strong they might be, are rather avoiding the question of responsibility than answering it. If individuals are responsible for lifestyle choices, which lead to increased risks of certain diseases, then we can hold them cost-responsible, via a system of *ex ante* taxation, without therefore

abandoning them. Pertaining to my first focal question, we therefore argue that the *abandonment objection* is not a decisive reason to avoid sensitivity to responsibility in matters of health and health care.

However, it is far from obvious that we are ever responsible for anything, including lifestyle choices, which lead to increased risks of various diseases. Pertaining to my second focal question, we suggest – but do not fully establish – that at the most fundamental level people are never responsible in such a way that appeals to individuals' own responsibility can justify inequalities in health. If this is so, then following the luck egalitarian principle – that it is unjust for an individual to be worse off than others through no responsibility of her own – we are able not only to explain why we should give free and equal health care access to individuals affected by diseases for which lifestyle choices are a risk factor, but also why we have *justice-based* reasons to reduce social inequality in health.

In my second article – "Reasonable avoidability, responsibility, and lifestyle diseases" – I investigate and object to some arguments put forward by Shlomi Segall, who in his book *Health, Luck, and Justice* defends a luck egalitarian approach to justice in health care. The article concerns the question of how to understand the notion of responsibility in luck egalitarian theory, and therefore touches on both my first and my second focal question.
Segall suggests that the notion of responsibility should be replaced with a principle of *Reasonable Avoidability* so that the luck egalitarian principle states that:"It is unjust for individuals to be worse off than others due to outcomes that it would have been unreasonable to expect them to avoid."[7] He takes this to imply that we do not have *justice-based* reasons to treat diseases brought about by imprudent behaviour such as smoking and over-eating. While I seek to investigate how more precisely we are to understand this principle of Reasonable Avoidability, I also object to it. First, I argue that Segall neither succeeds in showing that individuals quite generally are responsible for behaviours such as smoking and over-eating, nor that responsibility is ultimately irrelevant for the principle of Reasonable Avoidability. Second, I object to an argument of his, according to which the size of the health-care costs related to smoking and obesity is irrelevant for whether society reasonably can expect individuals to avoid smoking and obesity. Finally, I come up with a

[7] Segall, S; 2010; ibid.; p. 13

suggestion as for how to modify the principle of Reasonable Avoidability: For something to be reasonably avoidable, say smoking, 3 conditions must be satisfied: 1) individuals *in general* must be responsible for smoking, 2) smoking must lead to higher costs than non-smoking, and 3) we cannot have other relevant societal reasons not to find smoking reasonably avoidable.

In my third article – "Obesity and personal responsibility" – I, and my colleague Morten Ebbe Juul Nielsen, ask what it fundamentally takes for an individual to be responsible for overweight or obesity? Specifically it therefore pertains to my second focal question:

Morten and I examine what in the philosophical tradition appear to be the three basic approaches to responsibility: First what we call a *naturalistic* approach, secondly a *true identity* approach, and last a *reason-responsiveness* approach. These are different fundamental theories of what responsibility ultimately requires, and they are basic in the sense that they are generic and form the kernel of the philosophical discussion of responsibility. To illustrate the implications of each of them we introduce a made-up obese test person, Sam, who eats too many high fat cakes. We show what it takes, according to each of these theories, for Sam to be responsible for being obese. We show that only one of them – what we call the naturalistic approach – can justify the widespread intuition that much causal influence on obesity, such as genetics and social circumstances, diminishes or even completely undermines personal responsibility. However, accepting the naturalistic approach most likely makes personal responsibility impossible, since it depends on the truth of agent-causality, which is the view that individuals (agents) are able to start new causal chains that are neither pre-determined, nor completely random. We argue that agent-causality is implausible, and that we therefore need either to reject some widely shared general intuitions about what counts as responsibility-softening or -undermining, or accept that there is no personal responsibility – neither for overweight and obesity. However, as we also note some outstanding difficulties with both the *true identity*- and the *reason-responsiveness* approach, we argue that the best explanation actually is that responsibility is impossible. Finally, we briefly elaborate on the political implications of the latter.

Even though I thus deny the possibility of responsibility, I nevertheless proceed under the assumption that responsibility *is* possible. This is for two reasons: 1) I may be wrong, and 2) even if I am not wrong then it does not follow that I therefore can convince everyone. In my fourth article

– "What does society owe me if I am worse off due to my own responsibility?" – I therefore address the relation between responsibility and cost-responsibility, and I thereby answer my third focal question:

The principle of luck egalitarianism – that it is unjust for an individual to be worse off than others due to no responsibility of her own – does not tell us much regarding the fate of the individual, who is worse off than others due to her own responsibility. Suppose, for instance, smokers are responsible for smoking and a smoker gets lung cancer (partly) because of her smoking. Does the principle imply that society owes her absolutely no compensation for surgery expenses? Or is there more to the question, for instance because smoking is not the only cause of her lung cancer? In other words: The luck egalitarian literature offers many sophisticated discussions on how to understand the notion of responsibility, choice or option luck, and thus *when* more precisely it is (or is not) unjust for an individual to be worse off than others. But it does not offer any answer to the question of what more precisely the self-responsible worse off individual ought to be held cost-responsible for. I therefore discuss two parallel questions: 1) if an individual is worse off than others due to her own responsibility then what benefits, if any, does society have *justice-based* reasons to provide her? But if there are benefits which society does not have *justice-based* reasons to provide her, in terms of e.g. coverage of surgery expenses, then who should cover them? Her? Or her *and* other individuals behaving in the same way, e.g. other smokers? Therefore: 2) if an individual is worse off than others due to her own responsibility then what benefits, if any, does society have *justice-based* reasons to hold *that* individual (uniquely) cost-responsible for? I come up with different suggestions to this question, but argue, ultimately, for the following: For each self-responsible worse off individual we need to compare 1) the (hypothetical) cost of the universalization of her behaviour, that is if everyone (in our moral scope) did as she did, and 2) the (hypothetical) cost of the universalization of prudence, that is if everyone did not self-responsibly behave in any health-damaging ways. If the cost in the former case is higher than in the latter, then what society does *not* have *justice-based* reasons to cover, and to hold that individual (uniquely) cost-responsible for is the difference between 1 and 2 divided by the number of individuals that are part of the universalisation.

These articles are the main content of the dissertation. But before I bring them in, I will first offer a section of general comments and clarifications, and then, second, a section on my methodology. The general comments and clarifications, which I will offer now, pertains a) to the phenomenon of social inequality in health, and very briefly how it is explained, b) to some fundamental disagreements about (luck) egalitarianism (or distributive principles more broadly), and how my articles relate to these, and c) to *responsibilization* in health politics, which regards *reasons* to hold individuals cost-responsible in different ways for certain behaviours, apart from considerations about whether they in fact are responsible for these certain behaviours. I find it appropriate, and hopefully useful to the reader, to consider these questions here, and explain how my findings relate to them. Also, by doing so I get the opportunity to add some comments and observations, which the reader might find missing in the articles.

General comments and clarification

Social inequality in health

Social inequalities in health have been reported since the early stages of the industrialization of western societies.[8] Although medical science has improved enormously over the latest centuries, and though European societies have had health policies since the 1930s, the inequalities have not been equalized.[9] In fact, health is still standing as one of the largest indicators of social inequalities in modern societies. Roughly speaking, lower morbidity and mortality increase proportionally with higher income and education. To wit:

> Life expectancy for men in England and Wales from 1992-1996 was for respectively social class 1 and social class 5 approx. 78 and approx. 68 years.[10]

However, it is not just that the poor dies earlier than the rich. Rather, for every step up the socio-economic scale morbidity and mortality decrease. A Swedish study shows that people who hold a BA degree have higher mortality than people who hold a Master degree, who again have higher mortality than people who hold a PhD degree.[11]

Even though social inequality in health is an uncontroversial fact, the details are numerous and the questions of explanation are still subject to disagreement. Three types of explanations of social inequalities in health have originally been given. These are: (1) *natural or social selection*, (2) *the materialist explanation*, and (3) *the cultural or behavioural explanation*. On many occasions, however, these are not mutually exclusive.

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[8] Siegrist, J. and Marmot, M. (eds.); *Social Inequalities in Health;* Oxford University Press; 2006; p. 1.

[9] Leon, D and Watt, G; *Inequality and Health;* Oxford University Press; 2001.

[10] Drever, F. and Whitehead, M; *Health Inequalities: Decennial Supplement;* Series DS No. 15; 1-257; London; The Stationery Office, Office for National Statistics; 1997.

[11] Erikson, R; "Why Do Graduates Live Longer?"; In Jonsson, JO. and Mills, C. (eds.); *Cradle to Grave: Life-course Change in Modern Sweden*; Durham; Sociology Press; 2001.

Natural or social selection claims that the focus should be turned around so that health determines social position.

The materialist (or structuralist) explanation states that when the distribution of material goods is unequal the disadvantaged groups will have lesser opportunities to avoid distressing work and unhealthy housing.

The cultural or behavioural explanation states that cultural influences shape health-damaging and health-promoting behaviour through processes of socialization that are socially graded. Smoking, lack of exercise and fatty food are more common in groups of lower socio-economic status, and as these behavioural features are well-documented causes of different kinds of cancer and cardiovascular diseases, and therefore lower survival rates, the explanation seems largely plausible. However, in most studies an unexplained social gradient remains even after adjustments have been made for behavioural risk factors.[12]

These explanations, however, are not exhaustive. Also psychosocial circumstances are suggested to have an (unequal) impact on morbidity and mortality of different social groups. In one of the various *Whitehall* studies, based on London offices of the British civil service, it was found that even if individuals of the highest employment grade (administrators) and individuals of the lowest employment grade (other) smoked the same number of cigarettes, it is three times more likely that individuals of the latter get lung cancer than individuals of the former.[13] A further hypothesis therefore goes on *differential vulnerability* such that if an individual is exposed to more risk factors, these factors have an impact on each other, such that each single risk factor increases.

Even though it is a controversial matter how much of the existing social inequality in health the behavioural explanation actually can explain – depending on whether we measure absolute or

[12] Siegrist, J. and Marmot, M. (eds.); 2006; ibid.

[13] Marmot, M. et al.; “Inequalities in Death – Specific Explanations of a General Pattern?”; *Lancet* 1; 1984; no. 8384; p. 1003-1006.

relative inequality suggestions range from approx. 70-80%[14] to approx. 33%[15] – this is the relevant explanation in this dissertation. This is because it most obviously gives rise to the claim that the social differences in health are indirect results of individual choices in the disadvantaged groups. It gives rise to the claim that the worse off individuals themselves are responsible for being worse off to the extent this explanation is true, and that claim is very much what this dissertation is about.

Equality of what, how, when, and between whom?

Everyone who addresses egalitarianism, or distributive principles more broadly, needs ultimately to consider (at least) the following five questions. **1**) Is it inequality between individuals or groups that is unjust? **2**) Does it matter how a certain outcome, e.g. inequality, is brought about? In the case of health distribution, this may be whether a certain deviation is brought about by natural or social causes. **3**) What is it ultimately that we ought to distribute? What is our currency? **4**) What pattern of distribution ought we to apply? E.g. egalitarianism or utilitarianism? And finally **5**) within what time-span ought we to consider 1-4? Even though I primarily insist on addressing the matter of responsibility, I find it appropriate, and hopefully useful to the reader, to consider these questions here, and explain how my findings relate to them. Also, doing so gives me the opportunity to add some comments and observations, which the reader might find missing in my articles. From the top:

1: Social inequality in health is the fact that different socio-economic *groups* enjoy different levels of health. An instance of social inequality in health is that the *group* of individuals holding a PhD degree has lower mortality than the *group* of individuals holding a BA degree.[16] Suppose social inequality in health is unjust, and that this inequality therefore is unjust. Then some may hold that what is unjust is that one group is better off, health-wise and education-wise, than another

[14] Lynch, JW. et al.; "Explaining the social gradient in coronary heart disease: comparing relative and absolute approaches"; *Journal of Epidemiology and Community Health*; 2006; 60; p. 435–441.

[15] Marmot, M; *The Status Syndrome*; New York; Times Books; 2004; p. 45.

[16] Erikson, R; 2001; ibid.

group.[17] I disagree. Consider the following two groups, A and B, representing respectively the groups of individuals holding a PhD and the group of individuals holding af BA. Each group consists of three individuals with different ages at their day of death:

A:	I_1: 60	I_2: 60	I_3: 120	Average: 80
B:	I_4: 70	I_5: 70	I_6: 70	Average: 70

Now, why should we, morally speaking, focus on groups? Social inequality in health is a two-point measurement. Even though all individuals in A are better off education-wise than all individuals in B, most individuals in B are better off health-wise than most individuals in A. Now, I do not mean to suggest that these numbers are statistically representative of the real world, but I do mean to suggest that if inequality is unjust, then it is inequality between *individuals*, not groups, that is unjust. Thus, even though I do not fully establish why, I hold, in line with both a general liberal and luck egalitarian tradition, that if inequality (or some other distributional state of affairs) is unjust, it is inequality between individuals that is unjust.[18] However, for at least two reasons, this does *not* mean that we should ignore measurements of group inequalities, including social inequality in health.

First, the fact that individuals from lower socio-economic groups statistically are worse off health-wise than individuals from higher socio-economic groups gives us, under the (often plausible) assumption that there is no (or very little) significant genetic difference between large (number) groups, reason to believe that much health inequality is caused by social factors, i.e. the way we organize the society. There are simply instrumental scientific reasons to study group inequalities. By doing so we gain useful knowledge whether we wish to reduce health inequalities, or just, e.g., maximise health.

[17] For instance, Rawls holds that social and economic inequalities are to be arranged so that they are to the greatest benefit of the least-advantaged group. See: Rawls, J; *A Theory of Justice*; Oxford; Oxford University Press; 1971; p. 95-100.

[18] For further introduction to this question see Holtug, N. and Lippert-Rasmussen, K.; “An Introduction to Contemporary Egalitarianism”; In: Holtug, N. and Lippert-Rasmussen, K. (eds.); *Egalitarianism: New Essays on the Nature and Value of Equality*; Oxford University Press; 2007.

Second, if this is so, then it also gives us reason to believe that much of the health inequality between individuals is caused by social circumstances *rather than* choices, which is of paramount importance in order to determine whether this inequality is unjust, *ceteris paribus*, according to luck egalitarian theory. This is in particular so regarding (much of) the social inequality in health that remains after adjusting for well-known individual risk-factors, such as smoking and eating- and exercising habits, but also, though with less certainty, regarding the social inequality that actually stems from differences in 'exposure' to such well-known individual risk-factors. This is for the following reason: If we have two large (number) groups exposed to very different socio-economic circumstances, and we know that the choice of e.g. smoking is much more common in one of these groups than in the other, then we also have reason to believe that the difference in socio-economic circumstances can causally explain the difference in the smoking frequency between the two groups. The alternative would be either to hold that the difference in smoking-frequency between the groups is an expression of differences in individuals' free choices, or that it is a pure coincidence. But both these alternatives seem unsatisfactory when we have large numbers. Therefore, insofar we hold an understanding of responsibility that implies that external causal influences count as responsibility-softening, we also have reason to believe that smoking is *not just* a matter of individuals' own responsibility.[19]

2: A very influential article in the literature of inequality in health is 'The concepts and principles of equity and health' written by Margaret Whitehead.[20] Whitehead suggests that health inequalities that stem from *natural, biological variations* should not be considered as inequities, i.e. unjust. Behind this suggestion is a widespread intuition that social inequality in health is unjust *because* (or to the extent that) it is caused by social factors, i.e. the way we organize society. In opposition to this, I, in line with the luck egalitarian literature[21], consider such distinction to be morally arbitrary. Consider the following case:

---

[19] Not all understandings of responsibility in the philosophical literature are sensitive to such external causal influences. I will explain this more carefully in my third article.

[20] Whitehead, M; "The Concepts and Principles of Equity and Health"; *International Journal of Health Services*; 1992; 22, no.3; p. 429-445; pp. 433. According to *google scholar* this article is quoted 1129 times (09-01-2013).

[21] Knight, C; 2009; ibid.

> John is in his late thirties and Brian is in his late sixties. They both live healthy without tobacco, too much alcohol, and fatty food. Now John gets diagnosed with colon cancer, and Brian gets diagnosed with lung cancer. In their respective diagnoses it appears that John's colon cancer most likely has genetic causes, while Brian's lung cancer most likely is caused by many years of exposure to asbestos (a work circumstance which Brian was not aware about). Both diseases can be cured if surgery will be made immediately. However, at the hospital, unfortunately, there is only one physician, and as both surgeries are demanding, and need to be done immediately, she cannot give surgery to both John and Brian. Who ought she to give it to?

Now if socially caused inequality in health is unjust, while inequality in health that stems from natural or biological variation is not, then justice suggests that she should give surgery to Brian. This, however, is extremely counter-intuitive, or so I maintain. Brian already lived for approx. 30 years longer than John. Whitehead, of course, may hold that we have other reasons to give the surgery to John, for instance reasons of efficiency in terms of more expected life years due to their age difference. Still, however, this is what *justice*, according to her proposal, suggests us to do. But I fail to see why this is just, and therefore why we for *justice-based* should give the surgery to Brian. Therefore I hold, accordingly, that the distinction between socially and naturally caused inequalities in health is morally arbitrary.

3: (Luck) egalitarians have come up with different suggestions as to what it is that people should have equal shares of. The general suggestions are welfare, resources and capabilities[22], and they all seem to imply that we should be concerned about the distribution of health, either as a means to welfare, one resource among others, or as a capability. Even more, they all seem to imply that we should be concerned about *social* inequality in health. This is because those who are worse off health-wise, statistically, also are those who are worse off socio-economically speaking. However, some philosophers also hold that health is *special*. Norman Daniels, for instance, argues, roughly,

[22] See respectively: Cohen, GA; 1989; ibid. And: Dworkin, R; "What is Equality? Part II: Equality and Resources"; *Philosophy and Public Affairs*; 1981; 10, No.4; p. 283-345. And: Sen, A; "Equality of What?"; *The Tanner Lectures on Human Values*; Cambridge University Press; 1980; p. 197-220.

that health has strategic importance in our lives because health has fundamental affect on our ability to pursue and realize life plans.[23] This involves that the distribution of health and health care is not fully compatible with the distribution of other resources. Health is somehow special. In my fourth article in this dissertation I ultimately translate my findings regarding health-related cost-responsibility to a currency of welfare. This is because many luck egalitarians hold welfare to be our currency, and so do I. However, I do not argue for this position, and my findings, I believe, are compatible with each of these four takes on the question.

4: A not less fundamental question regards what distributional pattern we ought to follow. As much of this dissertation is framed in a context of luck *egalitarianism*, I also generally frame my arguments as if *equality* (with responsibility as a constraint) is our distributional pattern. Egalitarianism, however, is fragile, since its' advocates in one respect, namely in respect of equality, is forced to favour an even outcome, between e.g. two individuals, say 10, 10, over an unequal outcome where everyone is better of, say 50, 60. But no rational person would favour the first outcome over the latter, all things considered. A more plausible version of egalitarianism therefore needs to go hand in hand with some additional concern for efficiency. Therefore, when most of what I write in the articles in this dissertation is framed in a context of luck *egalitarianism*, it is for reasons of simplicity, more than because equality is a position I wish to defend. Rather, I wish to stay silent on the question of what general distributional principle we ought to apply. What I write regards primarily the matter of responsibility as a constraint on our distributive principle, whether this principle otherwise is egalitarian, prioritarian[24], sufficientarian[25], or even utilitarian. Thus, the principle I ultimately would like to follow is that it is unjust for an individual to be worse off than she ought to be, according to a responsibility-*in*sensitive version of the correct distributional principle, through no responsibility of her own. In other words we may add the 'luck'-component in luck egalitarianism to other distributional principles, getting luck prioritarianism, luck sufficientarianism, and even luck utilitarianism. Much of my writing, though,

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[23] Daniels, N;"Justice and Health Care"; In: Van De Veer, D. and Regan, T. (eds.); *Health Care Ethics;* Philadelphia; Temple University Press; 1987; p. 312.

[24] See Holtug, N; *Persons, Interests, and* Justice; Oxford University Press; 2010.

[25] See Frankfurt, HG; "Equality as a Moral Ideal"; Ethics; 1987; 98; no. 1; p. 21-43.

for technical reasons, perhaps not everything, should be compatible with these different principles.

5: A fifth fundamental distributional question regards time.[26] If e.g. equality is our distributional principle, then we need to know within what time-span equality ought to be obtained. There are different suggestions to this question. The most promising answer (in my view) is that of equality of lifetime advantage, which is satisfied between two individuals if they at the end of their lives have (had) equal shares of the relevant distributional currency.[27] However, I do not defend this view, and my findings, I believe, are compatible with different takes on this question.

Responsibilization

Before I move on to the question of methodology, I would like to add some comments about *responsibilization*. This regards *reasons* to hold individuals responsible in different ways for certain behaviours, apart from considerations about whether they in fact are responsible for these certain behaviours. When considering whether we ought to hold individuals responsible for X, the question of whether individuals *are* responsible for X is namely only one concern. To put it differently, we may have reasons to hold individuals responsible for X, even if they are not responsible for X. We may namely have reasons of efficiency to hold individuals responsible. I comment slightly on such reasons in some of my articles, but only slightly, so I would like to address them here. This is because they pose a necessary part in an *all things considered*-analysis of whether we ought to tax different unhealthy products or behaviours, but also because I believe it is important to keep these considerations in mind in order to isolate them from specific considerations about *responsibility*.

To illustrate our potential *efficiency-based* reasons to hold individuals responsible, let us begin at some more personal level. Suppose responsibility is ultimately impossible, such as I suggest it in article 1 and 3, and that a person, call her Sam, complains about her overweight at some get-together over coffee whereupon she stretches out for her third piece of cake. Ignoring reasons of politeness, nothing seems more obvious than to ask her: why don't you just leave it? But in

[26] This question does not (plausibly) regard utilitarianism.

[27] For a challenge of this view, see: McKerlie, D; "Equality and Time"; *Ethics*; 1989; 99; no.2; p. 475-91.

considering whether we ought to ask her so, we should, if responsibility is impossible, remember that she is *not* responsible for eating the third piece of cake. But it does not follow that we therefore should not somehow *hold* her responsible, e.g. in terms of blame or restrictions. For instance, to the extent we have reasons to believe the chances of a change (for the better) in her eating-behaviour will increase if we blame her, we ought to blame her – *ceteris paribus*. Similarly, if we have reason to believe she will change behaviour if we encourage her, or otherwise praise her, then we have reason to do that – *ceteris paribus*. Whether individuals are responsible for behaviours leading to increased risks of diseases is thus only one concern in determining whether we ought to *hold* them responsible. Other concerns regards what we have reason to believe will be the consequences of holding them responsible in different ways, which to a large degree is a matter of empirical questions. I will consider whether holding individuals *cost-responsible* in different ways is a way to improve health (or ultimately welfare) outcomes. When doing so, it is appropriate to begin in insurance theory where we recognize the notion of *moral hazard*.

Moral hazard and *ex post* cost-responsibility

The notion of *moral hazard* is the hypothesis that (here framed in a health context) individuals tend to have a higher tendency to gamble with their health insofar they know the bill from their health care services is completely covered by the health care system. If this hypothesis is true it counts as one *prima facie* reason to hold individuals *ex post* cost-responsible for hospital costs, if these are brought about by diseases that are sensitive to behaviours – again, regardless of the answer to the questions of whether they in fact are responsible for these behaviours. Such cost-responsibility may also follow an *ex ante* model of taxation, which I will discuss afterwards. Both the *ex post* and the *ex ante* model may initially seek a justification in a paternalistic motive or in an aim to reduce (health care) costs. The *ex post* model first:

Empirical evidence only supports our reasons to believe that health care insurance coverage reduces preventive effort to a very small degree. A recent study compares lifestyles before and after the age of 65 of those insured and those not insured pre the age of 65. It shows that there is no clear effect of the receipt of Medicare or its' anticipation on either alcohol consumption or smoking behaviour, but that the previously uninsured do reduce physical activity just before

receiving Medicare.[28] This evidence, however, may not be decisive. We therefore ought to consider why we would believe moral hazard is present in regards to health insurances?

I think it is important to remember that the cure for most lifestyle-related diseases, that contemporary medicine is able to provide, is not complete. Even though much can be done about many cancer diseases and many heart diseases, it is the rule, rather than the exception, that the cure is *not* complete. Even after successful heart surgeries the patient remains a patient. So even though health care (and surgery) is better than no care, it still seems odd, and indeed irrational, if e.g. a smoker reasons that quitting would not be worth the effort, since if diseases occur then the doctors will simply cure her. I do not think this is widely held reasoning.[29] However, it may still be the case that to some small degree individuals tend to care less about health preventive effort if they are insured than if they are not, and it may therefore be the case that the sum of health preventive effort is higher in a system where individuals are held *ex post* cost-responsible for their lifestyle diseases. Again, to hold individuals *ex post* cost-responsible for their lifestyle-related diseases based on an argument that it increases their health preventive effort may initially seek two kinds of justification. The first is paternalistic, and the second is to reduce (health care) costs.

If our aim is paternalistic in the sense that we want individuals to take more health preventive effort for their own good, then, most importantly, we will have to be rather sure that such policy in fact is for the individuals' own good, all things considered. But this does not seem to be the case. The health preventive effect of *ex post* cost-responsibility will have to be compared with the negative (welfare) effect of leaving individuals with unaffordable hospital bills or no health care at all. As the evidence on any preventive effect is so limited this seems to be very hard to justify. Furthermore: Even if it is true that fear of hospital bills (or no health care at all) increases individuals' health preventive effort *as such* that fear most likely also has a negative effect: To fear

[28] de Preux, LB; "Anticipatory ex ante moral hazard and the effect of medicare on prevention"; *Health* Economics; 2011; Vol 20; Issue 9; p. 1056-1072.

[29] Of course we cannot exclude the possibility that a complete cure is attainable in the future, such that e.g. just a pill or a very simple surgery could exterminate all cancer cells in some organ leaving the patient with no side effects at all. If so, then it is definitely one reason to revise our considerations about moral hazard.

not being able to pay for a hospital bill is simply an unsafe circumstance, which, via the effect of stress on heart diseases, probably is not beneficial health-wise.[30]

If our aim is not paternalistic, but merely to reduce health care costs, then we would first need to know whether more preventive effort *in fact* will lead to health care savings, or more broadly, socio-economic savings. As for what regards *health care* savings, this is a rather controversial question. In the case of smoking, there is a study that suggests that smokers cost more health care-wise than non-smokers[31], but there are indeed also studies that suggests the opposite, namely that smokers cost less than non-smokers.[32] If we broaden the scope to socio-economic savings, all things considered, I believe it is crucial to consider who, socio-economically speaking, it is that mostly fail to make health preventive efforts. As I state it in my second article in this dissertation:

> It might very well be a loss for society if high income-groups went from fountain water and fitness to cigarettes and whisky, but we know from studies of social inequality in health that smoking and obesity is more common the lower we go down the socio-economic hierarchy.[33] Per definition these are the groups that contribute less, if at all, to the economy, and insofar their net contribution is negative, then the sooner they die the cheaper – *ceteris paribus.*

However, this is an empirical question and I may be wrong. If more health preventive effort does lead to socio-economic savings, then in order to know whether we therefore ought to hold individuals *ex post* cost-responsible for diseases that are sensitive to behaviours, we would need to balance the moral value of these savings with our general distributive principle. If this principle is *equality*, then it seems very difficult to justify that costs associated with these behaviours should

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[30] Offer, A. et al.; "Obesity under affluence varies by welfare regimes: The effect of fast food, insecurity, and inequality"; *Economics and Human Biology*; 2010; vol. 8; issue 3; p. 297-308.

[31] Rasmussen, SR. et al.; "The total lifetime health cost savings of smoking cessation to society"; *European Journal of Public Health*; 2005; 15; no. 6; p. 601–606.

[32] See: van Baal, PHM. et al.; "Lifetime medical costs of obesity: prevention no cure for increasing health expenditure"; *Plos Med*; 2008; 5; 2: e 29. And: Oster, G. et al.; "The economic costs of smoking and benefits of quitting for individual smokers"; *Prev Med*; 1984; 13; p. 377–89. And: Barendregt, JJ. et al.; "The health care costs of smoking"; *N Engl J Med*; 1997; 337; p. 1052–1057.

[33] See e.g. Lynch, JW. et al.; 2006; ibid.

be held exclusively by individuals having these behaviours (assuming these individuals to a large degree are worse off in terms of our general currency). If our principle is prioritarianism or sufficientarianism, or, given the principle of marginal utility, even utilitarianism, I guess such model of *ex post* taxation would be similarly difficult to justify.

Moral hazard and *ex ante* cost-responsibility

If there is ample room for health care savings, if individuals take more health preventive efforts, then we ought to remember that holding individuals *ex post* cost-responsible is not the only potential way to account for these savings. It seems e.g. to be evident that, at least to some degree, increase in tobacco prices reduces tobacco consumption.[34] We may therefore want to increase tobacco prices (as already seems to be the case in at least the western world) just as we may want to impose taxes on other unhealthy products, such as alcohol, sugar, and animal fat. Such policies may be a way to hold individuals *ex ante* cost-responsible for behaviours leading to increased risks of diseases, and they need not necessarily have a paternalistic motive. We might just say to the individual, no, we do not impose these consumer taxes on you for your own well-being – we just want to reduce our health care budget. Again, however, the moral value of such eventual socio-economic savings need to be balanced with our general distributive principle, and may therefore, and given the fact of social inequality in health, not be easy to justify.

Finally, *ex ante* taxation on unhealthy behaviours may of course have a paternalistic motivation (or a combination of paternalism and an aim to reduce health care costs). If this is so, then, again, we would have to be rather sure that the taxation *in fact* is for the better for those on whom this tax is imposed. Again, we have reason to believe that if tobacco prices increase then tobacco consumption drops. Given the tobaccos' enormous health-damaging effect this is a *pro tanto* reason actually to increase tobacco prices. However, it is not obvious that this would be a decisive reason. We need not only to know more about the size of the effect, but, depending on our distributional principle, also to know more about the distribution of this effect: Who, socio-economically speaking, will actually quit or reduce their tobacco consumption? If equality in health is a value, and smokers among the worse off do *not* reduce tobacco consumption, then there is

[34] Guindon, GE. et al.; "Trends and affordability of cigarette prices: ample room for tax increases and related health gains"; *Tob Control*; 2002; 11; p. 35-43.

not only no health benefit for them, but also, due to the increase in tobacco taxation, a reduction in their financial circumstances, *ceteris paribus*. Thus, in order to justify *ex ante* taxation of unhealthy behaviours for paternalistic reasons we would not only need to know more about the effect of such policies and the socio-economical distribution of that effect, but also how more precisely that knowledge fits with our distributional principle, e.g. equality. Due, not the least, to many empirical variables, I cannot speak decisively about these questions.[35]

To sum up: Assuming some plausible distributional principle, such as egalitarianism, prioritarianism, sufficientarianism, or utilitarianism, then given the limited evidence of health-related moral hazard, and the mixed evidence on socio-economic savings, it seems hard to justify holding individuals *ex post* responsible for the cost of diseases that are sensitive to behaviours for *efficiency-based* reasons. This seems so regardless of whether our motive for doing so has paternalistic roots, or stems from an aim to reduce costs.

Again, assuming some plausible distributional principle, and given mixed evidence on socio-economic savings, also *ex ante* taxation of health-damaging behaviours seems difficult to justify if the aim is to reduce costs. The most promising *efficiency-based* reason to hold individuals cost-responsible is a model of *ex ante* taxation on health-damaging behaviours for paternalistic reasons. The justification for such a model, however, is sensitive to complicated empirical questions regarding not only the size of the effect, but also, depending on our distributional principle, the distribution of the effect.

The question, then, is whether we should hold individuals cost-responsible for health-damaging behaviours if they are responsible for health-damaging behaviours? And if so, then we need to know whether individuals *in fact* are responsible for such behaviours, and we need to know more about the relation between responsibility and cost-responsibility. These are the focal questions that my articles aim to answer. Before that, however, I will elaborate on my methodology.

[35] It is interesting to note that if such justification can be provided, then it may seem conceptually disturbing to call such policy a policy of holding individuals *ex ante* cost-responsible for unhealthy behaviors. This is because there is no logical relation, though perhaps a contingent relation, between the costs of unhealthy behaviours and the exact tax-price level of different behaviours' proper paternalistic effect. In other words: the relation between tobacco prizes and tobacco consumption is independent of the costs of tobacco-related diseases.

Methodology

Most, if not all, arguments in philosophy are controversial, at least to different degrees. This may lead some, indeed non-philosophers included, into a mood of scepticism about philosophical justification. To this, (at least) two things are worth noting. First, fundamental doubt and scepticism are simply parts of philosophy's nature. Philosophy deals with questions, different answers to which most non-philosophers, rightly or wrongly, simply take for granted. Second, philosopher's scepticism is not limited to what we generally call philosophical questions, such as what is (morally) right, what is truth, and what is knowledge. Rather, as these questions are fundamental to all academic and intellectual disciplines, the philosophical scepticism goes straight into the heart of all such disciplines. For instance, if we cannot know what it takes for a method to be reliable, how can we trust any scientific activity? Ultimately, all scientific truth relies on the truth (or at least the justification) of answers to certain philosophical questions.

Following Nils Holtug I believe the methodology in (reliable) analytical political philosophy is characterized (primarily) by four elements. These are 1) conceptual analysis, 2) consistency, 3) rationales and 4) intuitions.[36] I will explain these elements, how I use them in my articles, and how they work in a coherence theory of moral and political justification.

Conceptual analysis

Conceptual analysis plays a substantive part in this dissertation. Conceptual analysis simply regards analysis of the concepts we use, which (mostly) is a matter of determining the necessary and sufficient conditions for correct use of the concepts that we use.[37] A prime example regards one of my core questions, which is what it takes for an individual to be responsible for behaviours that lead to increased risks of diseases. When addressing this question we need namely know what it ultimately takes for an individual to be responsible for something. To answer that question we therefore need to analyze the concept of responsibility. Usually this proceeds as some kind of 'dialectical' game between suggestions and counter-examples. For instance, here is the traditional

[36] Holtug, N; 2010; ibid. And: Holtug, N; "Metode I politisk filosofi"; *Politica*; 2011; 3; p. 277-296.

[37] See e.g. Jackson, F; *From Metaphysics to Ethics. A defence of Conceptual Analysis*; Oxford; Claredon Press; 1998.

suggestion as for what it takes for an individual to be responsible. It is called *the ability to do otherwise*-requirement:

> A person P is responsible for an act (or omission), X, only if P had the ability to do otherwise, that is not to perform X.[38]

In order to test whether the *ability to do otherwise*-requirement of responsibility is correct, we look at its' implications. If someone comes up with a case where a person is (e.g.) not responsible according to this definition, but where this seems intuitively wrong, it gives us (at least) one *pro tanto* reason to reconsider the definition. Harry Frankfurt has given such case:

> Black wants Jones to kill Sam. Black is an excellent brain surgeon and is able to manipulate Jones brain processes. The next day, however, Jones decides for himself to kill Sam. Had he not decided to kill Sam, Black would have manipulated his brain so that he would have decided to do so. Now Jones kills Sam, and could not have done otherwise. Yet, Frankfurt claims, Jones is responsible for killing Sam, since he did it as a result of his own free will.[39]

Frankfurt himself takes this case to imply that the *ability to do otherwise*-requirement is wrong. I, and others, do not, since if determinism is true then Jones cannot have a free will in the relevant sense, and even though it was not Black, who caused him to kill Sam, he still killed Sam due to (other) reasons that ultimately is beyond his control. The point here is of course not to settle this question, but to exemplify how conceptual analysis works. A main methodological element in discussions of responsibility is thus to establish exactly what it means to be responsible for something, and that is (at least partly) a matter of *conceptual analysis*.

Consistency

Consistency is, as in all intelligible thinking, a fundamental requirement of justification. Consistency requires first of all, but not only, freedom from contradiction. Quite trivially, P and non-P cannot both be true. But consistency also requires universalizability of a moral principle.

[38] Hurley, S; *Justice, Luck, and* Knowledge; Cambridge; Harvard University Press; 2003; p. 15.

[39] Frankfurt, HG; "Alternate Possibilities and Moral Responsibility"; *Journal of Philosophy*; 1969; 66; 23; p. 829-839.

According to Hare this means that a judgment about one situation should be the same as a judgment about another situation in which all the moral relevant circumstances are identical.[40] For instance, in the introduction to this dissertation I wrote that if responsibility matters as a constraint on what society owes to an individual in general, then it is hard to see why it should not matter in regards to health and health care. If it is not unjust that two individuals are unequal in terms of income and education because that inequality is due to choices, which the worst off is responsible for, then why should this principle not apply to inequality in health? Thus, if someone holds that responsibility matters in relation to income, but not in relation to health, then he needs to point out the relevant moral difference. If he cannot do so, then his judgment about justice in relation to health is inconsistent with his judgment about justice in relation to income and education. The point here is not to argue that there is no moral difference that could justify such division, but only to illustrate the implications of the requirement of consistency.

Rationales

Rationales refer to attempts to give more fundamental theoretical justifications for (political) principles, i.e. *rationales*.[41] More precisely, our reason to believe in a (political) principle will be strengthened if it is justified (or even better, implied) by another more general principle. In my second article in this dissertation, “Reasonable Avoidability, responsibility, and lifestyle diseases”, I address the claim, put forward by Shlomi Segall, that: ”It is unjust for individuals to be worse off than others due to outcomes that it would have been unreasonable to expect them to avoid.”[42] In seeking to understand the notion of Reasonable Avoidability, I argue that responsibility is a necessary condition for Reasonable Avoidability, such that it cannot be reasonable to expect an individual, I, to avoid X, unless I is responsible for X. I thus argue for a principle of Reasonable Avoidability, which entails responsibility as a necessary requirement. In support of this principle I refer to a more general principle, namely the very luck egalitarian principle, which states that it is unjust for an individual to be worse off than others due to no responsibility of her own. By doing so, I thus offer a rationale for my suggested principle of Reasonable Avoidability. I strengthen the justification of my suggested principle by showing that it is implied by a more general principle,

[40] Hare, RM; *Freedom and Reason*; New York; Oxford University Press; 1963.

[41] Holtug, N; 2011; ibid.

[42] Segall, S; 2010; ibid; p. 13.

namely the principle of luck egalitarianism. Thus, if responsibility is not a necessary condition for Reasonable Avoidability then Reasonable Avoidability does not exclude the logical interpretation where it is in conflict with the principle of luck egalitarianism – it would leave open the possibility that it is reasonable to expect an individual, I, to avoid X, even though I is not responsible for X.

Intuitions

A significant methodological element in political (and moral) philosophy is the appeal to *intuitions*. Given the very question addressed in this discipline – how ought society be? – this is necessarily so, since, contrary to empirical disciplines, we do not have any empirical counterpart due to which we can test our theories. At least, so is it traditionally considered to be, and I will not argue otherwise.[43] Rather, I believe we ultimately cannot go without appeals to intuitions. But intuitions should be challenged and tested: Given the fact of a plurality of contradictory intuitions among political philosophers, and indeed non-philosophers, it is namely so, that some of these *must* be wrong insofar we take political philosophy to be an intelligible discipline. How do we ultimately decide which intuitions are justified?

In line with John Rawls and Norman Daniels I hold that we must try to create *coherence* between our (considered) moral intuitions (judgments), moral principles and relevant background theories (this is generally known as the method of wide reflective equilibrium).[44] In line with these philosophers (and many others) I hold that coherentism is our general principle of justification, contrary to e.g. foundationalism. An intuition (in political philosophy) simply gains justification if it is *coherent* with other intuitions, principles (including rationales) and relevant background theories, and the more of such it is coherent with, the better it is justified, *ceteris paribus*. An intuition which is not coherent with other intuitions, principles etc. is therefore worth very little, justificationally speaking. Thus if we are to choose between two intuitions that contradict each other, we should trust the one that is coherent with most other intuitions, principles and

[43] See e.g. Matthew, LS; "A Defence of Intuitions"; *Philosophical Studies*; 2008; 140; p. 247-62.

[44] See Daniels, N; *Justice and Justification Reflective Equilibrium in Theory and* Practice; Cambridge; Cambridge University Press; 1996. And: Rawls, J; *A Theory of Justice Revised* Edition; Oxford University Press; 1999.

background theories, *ceteris paribus*.[45] This, we may note, is very close to the method of inference to the best explanation.

I appeal to intuitions, implicitly and explicitly, several times in this dissertation. In my fourth article, for instance, I set up a provisional suggestion as for what individuals should be held cost-responsible for, health care cost-wise, if they are (partly) responsible for getting a disease, e.g. due to smoking. I provisionally suggest that an individual should be held cost-responsible for the difference between the costs of all her diseases and the costs of all her diseases in the nearest possible world where she (responsibly) behaves in no way that increases her risks of any diseases. Then I reject this suggestion by arguing that it is counter-*intuitive*, since it implies that two individuals, who behave in the exact same way as regards responsibility, e.g. by smoking, can end up being held differently cost-responsible due to random differences in their respective nearest (non-smoking) possible world. I thus appeal to the intuition that behaviours which, in terms of moral relevance, are equal, e.g. smoking and smoking, requires equal treatment, i.e. equal cost-responsibility.

Ceteris paribus

Especially regarding intuitions, there is an important methodological tool I believe should be explained. This is the *ceteris paribus* clause, i.e. the clause of holding everything ells equal or constant. I stress this since my use of this clause is extensive. In economical theory the clause is used to rule out the possibility of other factors that could influence the relation between a cause and an effect. For instance, increased tobacco price decreases tobacco consumption, *ceteris paribus*. By adding the *ceteris paribus* clause we acknowledge that there may be other causal reasons for an eventual decrease in tobacco consumption, or that there may be other factors that may cause absent of a decrease in tobacco consumption, even if the tobacco prize increases. In the methodology of political philosophy the *ceteris paribus* clause plays a similar role. Take for instance the luck egalitarian principle:

[45] I here use the *ceteris paribus* clause to acknowledge that some intuitions may be stronger than others. It may not be irrational to be less willing to give up a strong intuition than a less strong intuition. Thus, there remains a challenge in ascribing different epistemic weight to different intuitions.

> It is unjust for an individual to be worse off than others due to no responsibility of her own, *ceteris paribus*.

We simply use the *ceteris paribus* clause to isolate the moral (or political) relation between equality and responsibility. The principle states that if an individual is not responsible for being worse off than others, then in absence of other relevant reasons, it is unjustified that she is worse off than others. The inequality is unjustified, *ceteris paribus*. But we add the *ceteris paribus* clause, because there may be other moral (or political) reasons that could justify that an individual is worse off than others due to no responsibility of her own. Imagine, for instance, a society that consists of two individuals, John and Brian, who are not responsible for anything. Then imagine we can choose between the following two outcomes, where the numbers refers to each individual's possession of our distributive currency:

A:	John: 10	Brian: 10
B:	John: 50	Brian: 60

In B there is inequality and in A there is no inequality. Since both John and Brian are not responsible for anything, the luck egalitarian principle cannot justify B. But, indeed, we have other moral reasons to prefer B over A, for instance a moral reason to prefer more of a certain good than less. Thus, even though luck egalitarianism cannot justify B, B may be justified *all things considered* (and even if the principle of luck egalitarianism is otherwise justified). The *ceteris paribus* clause simply enables us to analyze a moral question, here the relation between equality and responsibility, isolated from other (relevant) factors.

Final remarks of methodology

Thus, my methodology consists, roughly, in four basic elements, namely conceptual analysis, consistency, rationales and intuitions. They are elements in a coherence theory about moral and political justification. It is worth noting that the first three of them obviously also are elements in any coherence theory about *descriptive* matters (contrary to normative matters such as morality and politics); conceptual analysis is necessary in order to synchronize different views about the

semantic content of any concept; freedom from contradiction is a fundamental logic requirement of all intelligible activities; and seeking to give justificational force to a political or moral principle by appealing to a rationale does not differ from giving a rationale in support of one interpretation of empirical data over another. Interestingly, these elements may be controversial in the field of philosophy, but does not seem (at least similarly) controversial in most sciences.

The controversial element is the appeal to intuitions, and the lack of empirical testability. I would like to mention two things disregarded:
First, when I postulate that we cannot go without appeals to intuitions, I actually do not mean to limit that postulate to the field of moral and political philosophy. I apply the postulate to all intelligible thinking, including all sciences. As I stated in the beginning of this section, philosophical scepticism and doubt go straight into the heart of all scientific disciplines. Let me illustrate this point in terms of an example that is related to the problem of responsibility: That events have causes is basically an intuition.[46] It is not something we *directly* can go out and test empirically in the same way as we can go out and test whether it is raining right now outside my office window here at University of Copenhagen, Southern Campus (provided that we agree on what it takes to be raining). However, I believe it is a very plausible intuition and so, hopefully, do most people. Why? Because we have quite a few *indirect* reasons to believe so. By assuming that, at least, most events have causal causes we can simply explain much more of what seems to be going on in this world. Were we to choose between two explanations of a natural or social phenomenon, where one of these contains the assumption that events have causes and the other the assumption that events do *not* have causes, I feel sure postulating that the first explanation in the majority of cases, regardless of our object, and even without forgetting quantum mechanics, would have much more explanatory force. That events have causal causes is simply most often an assumption that is contained in the best explanation. Furthermore: without this assumption many scientific investigations would be meaningless, since many, if not most, scientific investigations simply look for causal explanations of different phenomenon. I write this to remind us that we should not fear

[46] Hume, D; *Enquiries Concerning Human Understanding and Concerning the Principles of Morals*; Third Edition; New York; Clarendon Press; 1975.

intuitions *as such*. What we should fear, justificationally speaking, is only intuitions that are not supported by extensive reasons to believe in them.

Second, the reason as for why moral and political judgments cannot be empirically tested is simply that moral and political questions are not ultimately empirical questions. Roughly speaking, it is not as if morality is out there in the space in the same way as atoms and animals. And it would not help us much to test how many percent of a certain population agrees in a certain moral or political statement. This is because many peoples' judgments about moral and political statements rest on nothing but loose intuitions, many of which would not last long if made subject to analytical philosophical investigations. This, however, does not mean that we cannot systematically investigate moral and political questions. Moreover, if we deny that moral and political judgments can be justified, it ultimately implies that normative discussions to a large degree are meaningless. Without the assumption that moral and political principles can be justified, we are left with few (if any) meaningful options when insisting that our objections to the holocaust is not reducible to questions of how we like our coffee.

Articles

Social inequality in health, responsibility, and egalitarian justice[47]

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Abstract

Are social inequalities in health unjust when brought about by differences in lifestyle? A widespread idea, luck egalitarianism, is that inequality stemming from individuals' free choices is not to be considered unjust, since individuals, presumably, are themselves responsible for such choices. Thus, to the extent that lifestyles are in fact results of free choices, social inequality in health brought about by these choices is not in tension with egalitarian justice. If this is so, then it may put in question the justification of free and equal access to health care and existing medical research priorities. However, personal responsibility is a highly contested issue and in this article we first consider the case for, and second the case against, personal responsibility for health in light of recent developments in philosophical accounts of responsibility and equality. We suggest – but do not fully establish – that at the most fundamental level people are never responsible in such a way that appeals to individuals' own responsibility can justify inequalities in health.

[47] This article has been accepted for publication in *Journal of Public Health.*

Introduction

The aim in this essay is to bring recent political philosophical discussions of *responsibility* in egalitarian and luck egalitarian theory to bear on issues of social inequality in health. We will consider how personal responsibility affects the question of when social inequalities in health are unjust. An answer to this question is of relevance to issues of how to prioritize within institutions of health and health care, including access and coverage of universal health care and the allocation of medical research funds.

A considerable part of social inequality in health can be explained by differences in lifestyle. In the case of e.g. cardiovascular disease, the majority of the absolute differences (~70-80%) between social groups can probably be attributed to traditional risk factors which are related to lifestyle.[48] So we know that smoking, lack of exercise, eating fatty food etc. lead to increased risk of various diseases, and that such lifestyle-behaviors are more common among the socio-economically worse off. We therefore *know* that some health inequalities stem from differences in lifestyle. But are such differences not a matter of individuals' own responsibilities? So why are social inequalities in health unjust, insofar as they reflect differences in lifestyle?

Such intuitions seem pretty common. In the epidemiological literature we find perhaps most famously Whitehead's article on "The concepts and principles of equity and health"[49], in which she distinguishes between "health-damaging behavior if freely chosen, such as participation in certain sports and pastimes" and "health-damaging behavior where the degree of choice of lifestyles is severely restricted". She suggests health inequality stemming from the former not to be viewed as inequities (unjust), but only those stemming from the latter. The intuitions furthermore seem to match a widespread theory within modern political philosophy known as *luck egalitarianism*: the

[48] Lynch, JW, Davey Smith, G, Harper, S, et al.; "Explaining the social gradient in coronary heart disease: comparing relative and absolute approaches"; *Journal of Epidemiology and Community Health*; 2006; 60; p. 435–441. And: Kivimäki, M, Shipley, MJ, Ferrie, JE, et al.; **"**Best-practice interventions to reduce socioeconomic inequalities of coronary heart disease mortality in UK: a prospective occupational cohort study"; *The Lancet*; 2008; 372; p. 1648-54. And: World Health Organization; *Commission on social determinants of health – final report. Closing the gap in a generation: health equity through action on the social determinants of health*; Geneva; WHO; 2008. Available at: http://www.who.int

[49] Whitehead, M; "The Concepts and Principles of Equity and Health"; *International Journal of Health Services*; 1992; 22, no.3; p. 429-445; pp. 433.

idea that it is unjust for a person to be worse off than others through no choice or fault of her own.[50] This may imply that if she is worse off due to her own choices, then the inequality is *not* unjust.

The essay will run as follows: We will first frame the luck egalitarian intuition and contrast it with theories of justice in health that are *in*sensitive to responsibility. Second we will consider the challenge of responsibility and discuss an attempt to moderate the claim that individuals *generally* are responsible for their lifestyle-related diseases. Third, we will consider some metaphysical discussions of responsibility. Here we will suggest the strong claim that responsibility, in the sense that affects *distributive* justice, is impossible. Fourth, as this is a strong claim, we will elaborate on what it implies. First, however, a few remarks of clarification:

First, we will assume that insofar as we are concerned with inequality, we should be concerned with inequality in health. (Luck) egalitarians have come up with different suggestions as to what it is that people should have equal shares of – including welfare[51], resources[52] and capabilities[53] – but each of these suggestions seems to imply that we should be concerned about the distribution of health. Second, (luck) egalitarians are most often value pluralists as there are difficult issues of balancing concerns of equality with efficiency. It is beyond the scope of this article to come up with suggestions as for how to balance these concerns. What we are concerned with is whether there are *individual responsibility-based* reasons not to care about some inequalities in health. Third, though it is common in social epidemiology we will not use the term *inequity*. This term is usually associated with a distinction between socially caused inequalities and biological variations, such that the latter are not to be considered *inequities*. In line with the luck egalitarian literature, where this distinction is generally considered to be morally arbitrary (because we are responsible

[50] Cohen, GA; "On the Currency of Egalitarian Justice"; *Ethics*; 1989; 99, no. 4; p. 906-44. And: Knight, C; *Luck Egalitarianism: Equality, Responsibility, and Justice*; Edinburgh; Edinburgh University Press; 2009.

[51] Cohen, GA; 1989; ibid.

[52] Dworkin, R; "What is Equality? Part II: Equality and Resources"; *Philosophy and Public Affairs*; 1981; 10, No.4; p. 283-345.

[53] Sen, A; "Equality of What?"; *The Tanner Lectures on Human Values*; Cambridge University Press; 1980; p. 197-220.

neither for the social environment or the genes we are born with), we will address whether inequalities are *unjust*, and this they may be for both social *and* biological reasons.[54]

The luck egalitarian intuition

Imagine that Peter and Thomas are equally capable of performing, and Peter decides to only be part-time employed in order to get more time to cultivate his garden. We may then tend to believe that the resulting income inequality between the two is *not* unjust. Similarly, we might say that the potential health inequality between the two is not unjust, if it results from Peter's decision to smoke, and Thomas' decision not to smoke. Even though many people seem to share the luck egalitarian intuition,[55] initially it seems we have reason to be *more* concerned about inequality in health than in income when these are due to lifestyles. One reason for this is the potential conflict between responsibility and the ideal of free and equal access to health care, which is roughly illustrated in Elisabeth Anderson's *abandonment objection*:

"Consider an uninsured driver who negligently makes an illegal turn that causes an accident with another car. Witnesses call the police, reporting who is at fault; the police transmit this information to emergency medical technicians. When they arrive at the scene and find that the driver at fault is uninsured, they leave him to die by the side of the road."[56]

Contemporary discussions therefore often focus on whether distributive justice in health should be sensitive to responsibility at all.[57] If one denies responsibility in health, the challenge is to justify health as *special* in the sense that it avoids matters of responsibility. But such theories, however strong they might be, are rather avoiding the question of responsibility than answering it, and more importantly, it is far from clear that the *abandonment objection* is a decisive objection to luck egalitarianism.

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[54] Knight, C; 2009; ibid.

[55] Lund, TB, Sandøe, P, Lassen, J; "Attitudes to Publicly Funded Obesity Treatment and Prevention"; *Obesity*; 2011; 19**,** 8; 1580–1585.

[56] Anderson, E; "What is the point of equality?"; *Ethics*; 1999; 109; p. 287-337, pp. 295.

[57] Daniels, N; *Just Health: Meeting Health Needs Fairly*; New York; Cambridge University Press; 2008. And: Anderson, E; 1999; ibid.

In a recent book Shlomi Segall has defended a luck egalitarian approach to justice in health and health care. He concludes that in order not to *abandon the imprudent*, luck egalitarianism needs to be combined with a model of meeting basic needs.[58] But insofar as it is possible, he maintains, costs associated with imprudent behavior, such as smoking, eating fatty food and dangerous sporting-activities, can fairly be passed on to the imprudent themselves. For a broad range of reasons, however, the costs should be charged *ex ante* and not *ex post*. This means, for example, that when a smoker ends up in a hospital, with say lung cancer, then she and her fellow smokers have already paid for the treatment through taxes imposed on each single pack of tobacco. It therefore seems possible never to *abandon the imprudent*, and yet pass on the costs of imprudent behavior in accordance with the luck egalitarian intuition.

However, personal responsibility for health does not only affect the question of access to health care. It determines whether and when inequalities are unjust. So if we accept that individuals are responsible for (some) lifestyle choices, such as smoking, then it follows that the inequality in health between those who smoke and those who do not is not unjust. To accept this may have quite serious implications, e.g. on publicly funded research: why give a high priority to say research on lung cancer, if, as suggested, 95,1% of lung cancer patients are smokers or former smokers, and hence, *ex hypothesi*, responsible for their own situation?[59]

This, however, is not a conclusive objection. It can be argued that such research should have a high priority, but that the costs should also be paid *ex ante* by smokers. It seems therefore that responsibility-sensitive universal health care (and research) is possible without *abandoning the imprudent*. But again, this is not an answer to the basic question: *are* individuals responsible for their increased risk of lifestyle-related diseases, and if not, then following the luck egalitarian intuition, we would not want them to pay themselves for the treatment of and the research into these diseases.

Of course, we might be willing to accept selective taxation of unhealthy lifestyles for paternalistic reasons. For example, it has been shown that tobacco consumption goes down when the tobacco

[58] Segall, S; *Health, Luck and Justice*; Princeton; Princeton University Press; 2010.

[59] Wiencke JK, Thurston SW, Kelsey KT, et al.; ”Early age at smoking initiation and tobacco carcinogen DNA damage in the lung”; *J.Natl.Cancer Inst*; 1999; 91, (7);614-9.

prices go up.[60] By taxing tobacco we can potentially reduce the number of smokers for the smokers' own good. But accepting such a policy is possible quite independently of considerations of personal responsibility, and it is likely that we will recommend different levels of taxation depending on whether our aim is to prevent smoking or to hold smokers responsible for the costs of their smoking. Therefore, in order to consider how personal responsibility affects the question of when social inequalities in health are unjust it is important to keep these matters apart.

Degrees of responsibility

However elegant the solutions we find to secure responsibility-sensitive universal health care, personal responsibility for health and the luck egalitarian intuition still imply that social inequalities in health are not unjust when stemming from differences in lifestyles. So, if we believe that it is unfair to hold smokers responsible for the costs of their smoking, it might be better to challenge the assumption that smokers are, or always are, responsible for their smoking. We might instead ask whether lower socio-economic groups' higher risk of morbidity and premature death is a result of their social circumstances or of their lifestyle choices?

Making this distinction seems to be Whitehead's ambition when considering the difference between "health-damaging behavior if freely chosen (…)", and "health-damaging behavior where the degree of choice of lifestyles is severely restricted".[61] How then, can we capture such a difference in a responsibility-sensitive theory of justice? The American economist John Roemer has suggested that degrees of personal responsibility may be sensitive to social class. If say a university professor and a steelworker have smoked the same amount of cigarettes for an equal number of years, then the university professor is simply more responsible than the steelworker, since smoking is more common among steelworkers and the single steelworker therefore is more exposed to circumstances where smoking occurs.[62]

[60] Guindon, GE, Tobin, S, Yach, D; "Trends and affordability of cigarette prices: ample room for tax increases and related health gains"; *Tob Control*; 2002; 11; p. 35-43.

[61] Whitehead, M; 1992; ibid.

[62] Roemer, J; "A Pragmatic Theory of Responsibility for the Egalitarian Planner"; *Philosophy and Public Affairs*; 1993; 22, no.2; p. 146-166.

This approach, however, is sensitive to serious objections. As Norman Daniels has pointed out there seems to be something counter-intuitive about letting responsibility be sensitive to what others do. For example, since skiing is more common among rich people, the approach would imply that a poor person is more responsible for his broken leg in a skiing accident than is a rich person.[63] This seems counter-intuitive.

Conditions for responsibility

A more fundamental examination of the question of personal responsibility for health needs to consult the more direct philosophical attempts to find the right conditions for responsibility. What, basically, does it take for a person to be responsible?

In the philosophical literature it is traditionally said that a person must control her actions in order to be responsible: she must *be able to do otherwise*. But whether a person can do otherwise inevitably depends on whether her actions are caused by herself. An often raised objection is therefore that if the world is deterministic, then she cannot be causing her own actions.

However, in contemporary philosophy it has been argued that we need not settle the question of determinism before assessing responsibilities.[64] Determinism rests on the assumption that if we have complete knowledge of the world at time T1, then that knowledge in conjunction with complete knowledge of the laws of nature enables us (in principle) to know everything about the world at any later time, T2.[65] But we need not accept such a strong claim to rule out responsibility. This is because of another idea that underlies the thought that determinism makes responsibility impossible, namely what Susan Hurley has labeled the regression-requirement:[66]

For a person to be responsible for something, X, she must be responsible for the causes of X.

This requirement matches the *common sense* intuition that we cannot be responsible for something we have not caused (controlled or influenced), like the color of our eyes. Responsibility

[63] Daniels, N; 2008; ibid.

[64] Hurley S; *Justice, Luck, and Knowledge*; Cambridge, MA; Harvard University Press; 2003.

[65] Van Inwagen P; *Metaphysics*; Oxford; Oxford University Press; 1993.

[66] Hurley, S; 2003; ibid.

therefore seems to require responsibility for causes in the regressive sense, which means that in order for a person to be responsible for the causes of X, she must also be responsible for the causes of these causes and so on.

Now, if we (quite plausibly) assume every event to be a result of previous causes – whether the world is deterministic or merely probabilistic – then the requirement has quite far-reaching consequences: Whatever we do is a result of previous circumstances such as social circumstances and our genetic composition. Since the requirement is regressive it implies that we should be responsible for not only these circumstances and that composition, but also the causes thereof – things that happened even before we were born, which is clearly implausible. We can never meet the condition of regression, and we can therefore never be responsible at the most fundamental level.[67]

The point is therefore not that there are social circumstances under which individuals are more responsible than under other such circumstances, which otherwise seems plausible from a sociological point of view. Rather, we are never truly responsible for anything, and luck egalitarianism therefore implies that all (relevant) inequalities are unjust, *ceteris paribus*.

However, this conclusion only follows on the assumption that *causality-regression* is what responsibility requires. But this is contestable. Very prominent in contemporary political philosophy has been the suggestion that what matters for responsibility is rather whether a person's acts are consistent with what she really wants (or who she really is).[68]

Ronald Dworkin has thus suggested that we can theoretically test for responsibility by offering a preference-changing pill.[69] If we are to determine whether a smoker is responsible for smoking, we need to know whether she would take such pill if it existed, such that she would then no longer prefer to smoke. If she is willing to take the pill then she is not responsible, but if she is not willing to take it, then she is. In the latter case, being a smoker is then to be viewed as a part of who she really is.

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[67] Strawson, G; "The Impossibility of Moral Responsibility"; 1999; In Pojman, LP, McLeod, O; *What Do We Deserve? A Reader on Justice and Desert*; New York; Oxford University Press; 1999.

[68] Frankfurt, HG; "Freedom of the will and the concept of a person"; *Journal of Philosophy*; 1971; 68, no. 1; p. 5-20.

[69] Burley J, (Editor); *Dworkin and his Critics*; Blackwell Publishing; 2004.

If such an approach is plausible, then even though it is possible to ascribe responsibility to some individuals, it is noteworthy that it hardly implies that individuals in general are responsible for their increased risk of lifestyle-related diseases. Rather, it seems, behaviors leading to increased risk of diseases are often characterized by something the individual – at least to some extent – aims to suppress. An American study shows that 79% of those who smoke would like to give it up.[70]

Nonetheless, this approach to responsibility is vulnerable to different objections. Most importantly, if we perform all our acts for reasons beyond our control, then what we hypothetically would do (whether we would take the pill) seems similarly to be a result of reasons beyond our control. This seems to match the common sociological view that *what we want to be* is heavily influenced by social attitudes in our environment. The approach therefore needs to account for how a person can come to form beliefs about what she wants in hypothetical scenarios in such a way that is not decisively vulnerable to this objection.

Implications

Many people tend to find the conclusion that responsibility is ultimately impossible somewhat unattractive. It is contestable what it fundamentally takes for an individual to be responsible, and in this article we can therefore by no mean fully establish this conclusion. But given it's strong plausibility, it is important to clarify what it actually implies. T.M. Scanlon has made a very useful distinction between what he calls *attributive* and *substantive* responsibility. Responsibility in the former sense simply implies that it is appropriate to make a person subject for moral appraisal. In the latter sense responsibility regards substantive claims about what people are required to do for each other.[71] This distinction is very useful since if *real* responsibility is impossible, then it does not follow that we should not be subject to moral criticism. Rather it is a good thing to criticize each other, insofar there are reasons to believe we thereby change our behavior in desirable ways. Similarly, the impossibility of responsibility does not imply that we cannot have a system of

[70] http://www.gallup.com/poll/7270/most-smokers-wish-they-could-quit.aspx

[71] Scanlon, TM; *What We Owe to Each Other*; Cambridge, MA; Harvard University Press; 2000; p. 251.

punishment, but only that the criminal is not ultimately responsible. Naturally we would still want to punish the criminal, since we would still want to prevent crime.

Scanlon's distinction is therefore helpful since the conclusion that responsibility is impossible mostly affects *substantive* responsibility, which is what regulates *distributive* justice. But it leaves it open for us to ascribe *attributive* responsibility to individual actions, and assess them as blame- or praiseworthy.

So regarding "lifestyle diseases" it is also clear that there is nothing wrong *per se* about appealing to individuals' own responsibility for taking care of their health. The point is rather that whether we should do so ultimately depends on whether it actually leads to good consequences, i.e. whether individuals actually tend to change behavior as intended, which is an empirical question.

If we accept the conclusion that responsibility is fundamentally impossible it follows from luck egalitarianism that all otherwise relevant inequalities are unjust – *ceteris paribus*. The latter reservation, however, is quite important, since we may have other reasons not to correct for inequality, such as reasons of efficiency, incentive regulation and, especially important in a health context, how to balance our aim for equality with respect for personal freedom. Clear-cut suggestions are beyond the scope of this essay. If one does not wish to put too many restrictions on the freedom to smoke, one might be left with a rather limited scope for policy making. But even though there might then be nothing we can legitimately do about the health inequality between e.g. smokers and non-smokers it should not be thought that the inequality is just – *ceteris paribus*. First, given medical progress there might later be something we can do about it. Second, when this inequality is unjust, it explains why we should give free and equal health care access to individuals affected by diseases for which lifestyle choices are a risk factor. Or, at least, we do not find *responsibility-based* reasons not to do so.

Reasonable Avoidability, Responsibility, and Lifestyle Diseases[72] [73]

Martin Marchman Andersen

Abstract

In "Health, Luck and Justice" Shlomi Segall argues for a luck egalitarian approach to justice in health care. As the basis for a just distribution he suggests a principle of Reasonable Avoidability, which he takes to imply that we do not have justice-based reasons to treat diseases brought about by imprudent behavior such as smoking and over-eating. While I seek to investigate how more precisely we are to understand this principle of Reasonable Avoidability, I also object to it. First, I argue that Segall neither succeeds in showing that individuals quite generally are responsible for behaviors such as smoking and over-eating, nor that responsibility is ultimately irrelevant for the principle of Reasonable Avoidability. Second, I object to an argument of Segall's, according to which the size of the health-care costs related to smoking and obesity is irrelevant for whether society reasonably can expect individuals to avoid smoking and obesity. Finally, I come up with a suggestion for how to modify the principle of Reasonable Avoidability so that it can answer my objection.

[72] For valuable comments, recommendations, and discussions related to this article or earlier versions of it I would very much like to thank Dan Wikler, Nir Eyal, Norm Daniels, Alex Gosseries, Xavier Landes, Claus Hansen, Morten Ebbe Juul Nielsen, Kasper Lippert-Rasmussen, Søren Flinch Midtgaard and not least Shlomi Segall and Nils Holtug.

[73] This article has been published in Ethical Perspectives. See Marchman Andersen, M; "Reasonable Avoidability, Responsibility and Lifestyle Diseases"; *Ethical Perspectives*: Symposium on Shlomi Segall's Health, Luck, and Justice; 2012; Issue 19/2; 295-307.

Introduction

In his book *Health, Luck, and Justice,* Shlomi Segall argues that people with risky lifestyles place unnecessary burdens on the health care system.[74] He therefore suggests a luck egalitarian approach to justice in health care based on a principle of *Reasonable Avoidability* (henceforth: RA):

> It is unjust for individuals to be worse off than others due to outcomes that it would have been unreasonable to expect them to avoid.[75]

He maintains that we can reasonably expect individuals to exercise, not to smoke, drink, overeat, and the like, and therefore justice does not require society to bear the costs related to such risky behaviors. In order not to *abandon the imprudent*, however, he suggests a model of *meeting basic needs* to complement the luck egalitarian distribution of health care. To compensate society for the latter, alcohol, tobacco, fatty food etc. should be taxed *ex ante* proportionally such as to cover the expenses related to the diseases they bring about (hospital expenses etc.).

In this article I will investigate and object to Segall's principle of RA as the basis of a just distribution of health care. First I briefly outline Segall's use of, and arguments for, RA. Second, I suggest that in order to justify the claim that society does not have *justice-based* reasons to treat diseases stemming from behaviors such as smoking and over-eating, Segall must either show that individuals *quite generally* are responsible for smoking and over-eating, or (as it is possible to read him as implying this) that responsibility is irrelevant for RA. I argue that the latter clashes with our basic (luck egalitarian) intuitions and that it therefore may be better for Segall to demonstrate the former. Segall further argues that the size of the costs related to a certain behavior (such as smoking) is irrelevant for our considerations about whether we should count that behavior as reasonably avoidable. Third, I object to this argument and discuss four potential solutions to it. Finally I suggest a modified principle of RA. I will henceforth exemplify primarily in terms of cases of smoking, but this is mainly because smoking serves as an excellent clear-cut case. I believe my arguments hold *in principle* for most, if not all, behaviors leading to increased risks of diseases.

[74] Segall, S; *Health, Luck and Justice*; Princeton University Press; 2010; p. 1.

[75] Segall, S; 2010; ibid; p. 13.

The *Abandonment Objection* and the idea of RA

The standard objection to a luck egalitarian approach to justice in health care is the *abandonment objection* given by Elisabeth Anderson:

> Consider an uninsured driver who negligently makes an illegal turn that causes an accident with another car. Witnesses call the police, reporting who is at fault; the police transmit this information to emergency medical technicians. When they arrive at the scene and find that the driver at fault is uninsured, they leave him to die by the side of the road.[76]

Segall's response to this objection is based primarily on his value pluralism, which consists of a combination of luck egalitarianism and a model of *meeting basic needs*. The idea is this: since we can reasonably expect individuals e.g. not to smoke, justice does not require that we treat e.g. lung cancer patients, when their disease is due to smoking. But, quite importantly, this does not mean that morality demands that we do not treat such patients, but only that we do not have *justice-based* reasons to do so. There might be other moral reasons to treat them, and according to Segall there is a moral reason to meet individuals' basic needs.[77] When we do so, however, we can fairly pass on the costs of such treatments to the imprudent individuals themselves in terms of *ex ante* taxation of tobacco, alcohol, fatty food etc.

In order, in fact, to avoid the *abandonment objection*, however, it seems we would need not just to pass on the costs of such treatments, but also the costs of rather far-reaching medical research programs in e.g. lung cancer, since research in such diseases otherwise would have a very low priority. Why would we give any high priority to research in lung cancer, if 9 out of 10 instances are brought about by smoking and we reasonably can expect individuals not to smoke? A plausible system of *ex ante* taxation would therefore need to include such research costs.

Assuming that this in fact can be done in a plausible manner, and that Segall therefore meets the *abandonment objection*, the crucial question remains: which diseases do we have *justice-based* reasons to fund the research of and treat?

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[76] Anderson E; "What is the point of equality?"; *Ethics*; 1999; 109: 287-337, p. 295.

[77] Segall, S; 2010; ibid; p. 64.

Segall suggests more precisely that we should "… replace 'responsibility' with a more plausible understanding of what constitutes a case of brute luck." Thus, he maintains, we should understand 'brute luck' as an "…*outcome of actions (including omissions) that it would have been unreasonable to expect the agent to avoid (or not to avoid in case of omissions)*." And he stresses that 'expectation' is to be understood as a normative expectation rather than an epistemic one: "We are not inquiring here into what people are *likely* to do, but rather what it is that society can reasonably expect of them."[78]

But which principle, then, should guide us in deciding which outcomes of actions it is unreasonable to expect individuals to avoid? Unfortunately, Segall is not very informative here, though he provides us with a number of examples of what *is* reasonably avoidable:

1) People residing in certain parts of California are (often) responsible for choosing to live on a geographical fault line. However, it would be unreasonable to expect them not to settle in these areas owing to the slight chance of being hit by an earthquake.[79]

This, Segall continues, is in contrast to smoking:

2) A geographical choice of residence is different from the decision to smoke, for example (as the latter does involve what most people would consider a legitimate trade-off between prudence and pleasure).[80]

So according to Segall individuals are responsible for where they reside and for their choice of smoking. But RA would, *ceteris paribus*, require that we compensate individuals in case of an earthquake, but not in case of e.g. smoking-induced lung cancer. Why, more precisely, this is so seems to be a bit unclear. It seems to me that if RA should replace responsibility as the basis for our account of luck in a principle of just health care distribution, then we would need to know more about it in order to justify (for instance) this distinction between smoking and earthquake risks. So what is it reasonable to expect individuals to avoid? An initial suggestion might regard

[78] Segall, S; 2010; ibid; p. 20

[79] Segall, S; 2010; ibid; p. 20

[80] Segall, S; 2010; ibid; p. 21

what is in the individuals' best interest[81], but this can hardly be Segall's intention, since his principle of RA has a non-paternalistic motivation:

> In that sense imposing the costs of treatment on the imprudent is not a paternalistic policy. Rather, according to my proposal those costs are passed on to the imprudent not because they have failed to take good care of themselves as such, but rather because they have avoidably burdened the public health care system.[82]

I will get back to the question of how to read RA. First I will seek to clarify how RA relates to responsibility.

Does RA Require Responsibility?

A main point in replacing responsibility with RA seems to be this: there are several cases in which we intuitively find it unreasonable to expect an individual, A, to avoid something, X, *even though* A *prima facie* seems to be responsible for X. To take some of Segall's examples: It is unreasonable to expect A not to reside in certain parts of California *even though* A is responsible for residing there. Or *even though* firefighters are responsible for incurring burns, it would be unreasonable to expect them to avoid them.[83] I believe there are many such cases. But these cases are premised on the assumption that individuals *in fact* are responsible for where they reside or for becoming firefighters. Similarly, when Segall maintains that it is reasonable to expect individuals to avoid smoking, overeating, inactivity etc., it seems to be based on the assumption that individuals *in fact* are responsible for such activities and omissions. But is this really so? And does it matter for RA?

Again, Segall states that RA is based on a normative societal expectation, and when doing so he refers to Ripstein's article on "Equality, Luck, and Responsibility".[84] In this article Ripstein states that:

> In purely naturalistic terms, there is no obvious place to stop in tracing back the causes of behavior.[85]

[81] See Vallentyne, P; "Brute Luck, Option Luck, and Equality of Initial Opportunities", *Ethics*; 2002; 112; p. 529-57, pp. 533.

[82] Segall, S; 2010; ibid; p. 78.

[83] Segall, S; 2010; ibid; p. 22.

[84] Segall, S; 2010; ibid; p. 20, note 25.

This point seems to be broadly accepted (among contemporary philosophers), since *agent-causality*, which is the idea that individuals can somehow start new causal chains that are not pre-determined, has been shown *not* to be plausible. Any attempt to justify responsibility on a premise of *free will*, where *free will* means that individuals are free to determine their own will (not whether they are free to do what they want), seem therefore based on a false premise.[86] In this sense, whatever we do is due to reasons beyond our control.

However, Ripstein accepts this, but states that:

> The appropriate response (…) is not to give an anti-naturalistic metaphysical account of responsibility, nor to naturalize the notion. It is rather to change the subject, and make responsibility a question that is – to borrow a phrase from Rawls – political, not metaphysical.[87]

A crucial question is therefore whether Segall hereby suggests that responsibility is irrelevant for RA? Recall that he suggests a replacement of responsibility with RA. But does this mean that we should avoid the concept of responsibility? Or merely that responsibility is one condition for a just basis of distribution, but that more conditions are required? Again, there seems to be a potential gain in replacing responsibility with RA when it comes to the following type of sentence, call it sentence-type A:

A) It is unreasonable to expect A to avoid X, *even though* A is responsible for X.

The opposite, however, seems less appealing. Call it sentence-type B:

B) It is reasonable to expect A to avoid X, *even though* A is *not* responsible for X.

If Segall means to suggest that responsibility is irrelevant for RA, then RA implicitly allows for sentence-type B. It may be that he (and Ripstein) would prefer something like a sentence-type C:

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[85] Ripstein, A; "Equality, Luck, and Responsibility", *Philosophy and Public affairs*; 1994; Vol. 23; no.1; p. 3-23, pp. 5.

[86] See e.g. Hurley, S; *Justice, Luck, and Knowledge*; Harvard University Press; 2003. And: Strawson G; "The Impossibility of Moral Responsibility", in Pojman, L.P. & McLeod, O. (Eds.); *What Do We Deserve? A Reader on Justice and Desert*; Oxford University Press; 1999. Or Nagel, T; *Moral Questions*; Cambridge University Press; 1979.

[87] Ripstein, A; 1994; ibid; p. 10.

C) It is reasonable to expect A to avoid X, if X is conventionally accepted to be reasonably avoidable.[88]

But such a formulation does not escape the logical conclusion: If C does not premise that responsibility is a necessary condition, then it necessarily allows for sentence-type B.

Now, imagine the following (by reframing a Frankfurt-case):[89]

Jones is a smoker who considers quitting rather often. Black however, who is an excellent brain surgeon, wants Jones to continue smoking. Therefore, without Jones' knowledge, Black implants a mechanism in Jones' brain so that he can supervise and intervene in his brain-processes. The next day Jones in fact decides to quit smoking, but shortly after Black activates the mechanism in Jones' brain, so that Jones decides to undo his decision and hence lights up another cigarette.

Here it seems obvious that Jones is *not* responsible for smoking. But can we reasonably expect him not to smoke? I think this expectation clashes with our basic (luck egalitarian) intuitions. It simply seems counter-intuitive to allow for sentence-type B when looking for the basis of a just distribution. There may be particular cases where we would allow for sentence-type B, but they would require particularly good other reasons. I will get back to this in the conclusion.

However, if RA on the other hand does require responsibility, and sentence-type B therefore is not an issue, then Segall needs to point out in virtue of *what* individuals are responsible for smoking, over-eating, inactivity etc. There are several concepts of responsibility claiming to be compatible with the nonexistence of free will. One way to go is to follow Frankfurt, which seems very prominent in contemporary political philosophy,[90] and suggest that what matters for responsibility is whether a person's acts are consistent with what she really wants (or who she really is).[91] If such an approach is plausible, then it is important to note that it hardly follows that individuals *in general* are responsible for smoking, physical inactivity and over-eating. Rather, it seems, such behaviors are often characterized by something the individual – at least to some extent – aims to

[88] Segall, S; 2010; ibid; p. 20, note 25.

[89] Frankfurt, HG; "Alternate Possibilities and Moral Responsibility"; *Journal of Philosophy*; 1969; 66; 23; p. 829-839.

[90] Think of Ronald Dworkin, Dworkin, R; *Justice for hedgehogs*; Harvard University Press; 2010.

[91] Frankfurt, HG; "Freedom of the will and the concept of a person"; *Journal of Philosophy*; 1971; 68, no. 1; p. 5-20.

suppress. In fact an American study shows that 79% of those who smoke would like to give it up.[92] Thus, in Dworkin's terms, the taste for smoking is one with which smokers do not in general identify, and to that extent it is therefore comparable to a handicap.

It seems Segall must either show that responsibility is irrelevant for RA, or argue for some concept of responsibility in virtue of which individuals *quite generally* are responsible for behaviors leading to increased risks of diseases.

If Responsibility, then Responsibility for What?

Now suppose, *ex hypothesi*, individuals *are* responsible for smoking, over-eating, physical inactivity (etc.) and therefore for their increased risks of diseases. Then what follows? What should this responsibility be linked to? Segall's answer to this question is 'avoidable burdens of the public health care system'.[93] But are smokers, over-eaters and the physically inactive really burdening the public health care system? And how should we understand the idea of a burden?

In 2008 van Baal et al. published a study showing that the ultimo lifetime health care costs are higher for 'healthy' people than for smokers and for the obese.[94] The explanation behind this, perhaps surprising, study is mostly that smokers and the obese die early and therefore avoid many diseases that individuals otherwise get, when they grow older. Now suppose these results are true. Would it change the perspective regarding whether we have *justice-based* reasons to treat diseases stemming from these behaviors? In fact Segall considers this objection:

> Suppose, however, that it does turn out that smokers save the health care system money, and that those pursuing healthier lifestyles are the ones who burden the system. Would the implications be embarrassing for the luck egalitarian health care system?[95]

He rejects this and maintains that:

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[92] http://www.gallup.com/poll/7270/most-smokers-wish-they-could-quit.aspx (assessed May 6. 2011)

[93] Segall, S; 2010; ibid; p. 78.

[94] van Baal PHM, et al.;"Lifetime medical costs of obesity: prevention no cure for increasing health expenditure"; *Plos Med*; 2008; 5(2): e 29.

[95] Segall, S; 2010; ibid; p. 82.

> The justification for passing on the costs of treatment to the imprudent was based on the premise that they *unnecessarily* burden the health care system.[96]

So we might say that whenever someone enters a hospital with a need for treatment, then the system is burdened. And burdens stemming from behaviors that we reasonably can expect individuals to avoid are *unnecessary* burdens. As such the price is irrelevant. If your need for treatment stems from a behavior that it would be unreasonable to expect you to avoid, then it is a *necessary* burden. But why is this distinction relevant seen from a societal perspective, if the necessary burdens are more expensive than the unnecessary burdens? Consider the following case:

Suppose Peter lives in a Valley, where there are 2 villages, A and B. Peter resides in B and B is smaller than A. Returning from the hill Peter discovers that a dam is about to crack, so a flood is about to come. B is closest to the hill. Just outside of it there is a Y-cross in the river with a removable dam. Now peter faces 2 relevant options. 1: He can use the dam to lead the flood away from B, and thereby also protect his own house. But the flood will then be directed to A – the larger village – and, Peter has reason to believe, cause more damage. 2: He can use the dam to protect the larger village A by leading the flood into B, but he will thereby also damage his own house. Option 2 will lead to fewer costs for the Valley than option 1.

Suppose Peter chooses option 2. Does the Valley have a *justice-based* reason to deny him compensation for the damage on his house? Is the damage on his house an *unnecessary* burden? It is indeed hard to see why, and if not, then how is this case different from the case of smokers, or over-eaters? I can think of four possible answers:

1: Paternalism

There seems to be a widely accepted definition of paternalism offered by G. Dworkin[97]: X acts paternalistically towards Y by doing (omitting) Z, iff:

A Z (or its omission) interferes with the liberty or autonomy of Y.

[96] Segall, S; 2010; ibid; p. 83.

[97] http://plato.stanford.edu/entries/paternalism/ (assessed May 6. 2011).

B X does so without the consent of Y.

C X does so just because Z will improve the welfare of Y (where this includes preventing his welfare from diminishing), or in some way promote the interests, values, or good of Y.

Paternalism may motivate an attempt to justify a relevant difference between the *Peter and the dam*-case above and the case of smoking: Holding smokers cost-responsible for smoking may serve as an incentive to quit smoking. However, as Segall includes a premise of non-paternalism in RA this is not an available solution for him. I will get back to this in the conclusion.

2: The Size of Risk

So how can it be plausible to tax smokers even if smoking generally leads to savings, and for non-paternalistic reasons? Is it somehow unfair to let others pay for particular instances of imprudent behavior? Is it a matter of the size of the risk rather than the size of the costs and rather than what the risk regards? Does RA regard the very risk of burdening the public health care system?

Now recall Segall's claim that it is unreasonable to expect individuals not to settle in certain parts of California owing to the slight chance of being hit by an earthquake. So some 'avoidable' burdens are unreasonable to expect individuals to avoid, and some are not, e.g. those stemming from smoking. If we assume that the very risk, i.e. the accidence-frequency, of burdening the health care system due to smoking is higher than due to earthquakes in California, then we may explain why we do not have *justice-based* reasons to treat the former, but only the latter: It is unreasonable to expect individuals to avoid X, if the risk (accidence-frequency) of burdening the health care system, due to X, is lower than Y.

Consider the following case:

Imagine a new product entering the market. Call it Cigrays. It's a kind of a gum – addictive, just as smoking, which soon 20% of the population comes to like. As it turns out after some years 99% of those who have been enjoying Cigrays simply die when they are in their late sixties. They simply die from what look like very effective heart attacks, and they therefore never arrive at the hospital with any needs. The remaining 1%, however, gets terribly sick – equally in their late sixties – and

will thus be in need of treatment. The treatment is possible, but so expensive that the net health care costs for Cigrays-users are higher than for any other societal groups.

Now as it turns out, the fact that 99% of those enjoying *Cigrays* simply die, the risk of burdening the health care system due to *Cigrays* is lower than Y. Segall would simply have to say that it is unreasonable to expect individuals to avoid *Cigrays* due to the slight chance of burdening the health care system. Smoking, on the other hand, the related accidence-frequency of which we assume to be higher than Y, would still be a reasonably avoidable behavior, irrelevant to the costs. I do not think this is what Segall means to suggest.

3: Societal Interest

It has been suggested to me that what we should consider *(un)reasonable* should be considered in light of what society has an interest in promoting. If we imagine skiing, smoking, giving birth and driving to work are equally dangerous activities, then society still only has an interest in promoting the latter two. There might be a high health-related risk in the latter two activities, but it is somehow a vital societal interest to promote them.[98]

Now, whereas this may sound promising at a *prima facie* level, I think we are just moving from one ambiguous concept: *reasonable avoidability* – to another: *vital societal interest*. However, if we nonetheless accept that driving to work and giving birth are somehow activities of vital societal interest, whereas smoking is not, then it still does not seem to follow that we should exclude treatment of smoking-related diseases from the scope of justice.

Smoking may not be a vital societal interest, but this does not imply that it is a vital societal interest that individuals do *not* smoke. Suppose again that smoking is not a financial net burden, and recall Segall's premise of non-paternalism. On which ground can society consider non-smoking a vital interest if it is cost-saving and if it is not for the good of the smokers, i.e. to promote their welfare? In order to answer this, we must ask whether society is more than the sum of individuals? If we hold that it is not, and if smoking leads to cost-savings, then it is difficult to see why society should consider non-smoking as a vital interest. It seems such an approach falls back on paternalism, since a societal interest in non-smoking most likely can be reduced to the interest

[98] Thanks to Shlomi Segall for this point.

of those who actually smoke – assuming, quite plausibly, that it is in the smokers' interest to quit smoking.

I see three possible objections to this conclusion:

First, Segall might claim that society somehow is more than the sum of individuals. A discussion of this question is beyond the scope of this article, but in a liberal tradition – a tradition endorsed by Segall himself – it seems to be a very controversial assumption. However, even if society is more than the sum of individuals – that is, if we have moral obligations to society in a way that cannot be reduced to individuals – then it must still be argued why non-smoking is a *vital* interest – why it is decisively important.

Second, it might be argued that society has a vital interest in non-smoking, since it has an interest in preventing secondhand smoking. Whereas this is an interesting objection, it is also a contingent objection. Following the trend from most of the western world, we might suggest that smoking should be illegal in public places, or somehow limit smoking to places where non-smokers are sufficiently warned before entering. Furthermore, this objection is not relevant in all cases of imprudent behavior, e.g. over-eating and physical inactivity.

Third, some might think we should not just worry about secondhand smoking, but also about whether smokers may function as role-models and therefore cause others to start smoking. But such a worry would be hard to justify, since Segall already seems to assume that smokers are responsible for smoking. This issue, of course, would be irrelevant if RA is insensitive to responsibility, but as I have argued, such an approach seems to have its own problems of justification.

Insofar as smoking is not a financial burden, and insofar we wish to avoid paternalism, it therefore seems difficult to find justified reasons to consider non-smoking a vital societal interest.

4: Other Costs

There is, however, one objection that seems more convincing and that may justify the relevant difference between smoking and my case of *Peter and the dam*. It might be suggested that not only health care costs should be considered, but also matters such as a loss in productivity.

I am unsure whether it goes beyond what we owe to each other in a liberal society to include non-health care costs in deciding this question. But even if we allow for it, I am not sure it would change the conclusion. On the one hand it seems reasonable to assume that smokers and the obese statistically take more days sick than do 'healthy' people, which may lead to a loss in productivity. But the consequences of living an unhealthy life often occur late in life, and we therefore, on the other hand, might gain significantly due to a drop in pension expenses (minus taxes of these unpaid pensions).

However, these are contingent and empirical questions, and we can only hope that someone will do the study. Perhaps the most important variable concerns the question of who in the socio-economic hierarchy actually leads unhealthy lives. It might very well be a loss for society if high income-groups went from fountain water and fitness to cigarettes and whisky, but we know from studies of social inequality in health that smoking and obesity is more common the lower we go down the socio-economic hierarchy.[99] Per definition these are the groups that contribute less, if at all, to the economy, and insofar their net contribution is negative, then the sooner they die the cheaper – *ceteris paribus.*

Redefining RA

In this article I have first argued that in order to justify that society does not have *justice-based* reasons to treat diseases stemming from smoking, over-eating etc., Segall must either show that responsibility is irrelevant for RA, or that individuals *quite generally* are responsible for these behaviors. I have argued that it is counter-intuitive to allow for a principle of distribution from which it follows that it can be reasonable to expect A to avoid X, *even though* A is *not* responsible for X. Segall may therefore want to argue for a concept of responsibility from which it follows that individuals *quite generally* are responsible for smoking, over-eating etc. But, as I have also suggested, this might be a difficult challenge.

Second, I have argued that it is hard to see that the total size of the costs related to a certain behavior, such as smoking, is irrelevant for our consideration of whether we should count that

[99] See e.g. Lynch, JW, Davey Smith, G, Harper, S, et al.; "Explaining the social gradient in coronary heart disease: comparing relative and absolute approaches"; *Journal of Epidemiology and Community Health*; 2006; 60; p. 435–441.

behavior as reasonably avoidable. Moreover, when RA is premised on non-paternalism, I find it difficult to see how non-smoking eventually can be a vital societal interest – this is under general liberal assumptions and as long as smoking is (net) cost-saving. Here lies an important empirical question in determining the general costs of smoking (and other risky behaviors) as well as an important normative question in determining how to do the calculation, i.e. determining which costs to include.

I endorse Segall's intuition, according to which it can be unreasonable to expect A to avoid X, *even though* A is responsible for X. This intuition gives some reason to believe that responsibility is insufficient as the basis of a just health care distribution, and therefore must be replaced with something like RA. For these reasons I suggest a modified (and quite demanding) version of RA:

Justice does not require society to bear the costs (health-care costs or general costs) stemming from a behavior, X, iff:

a) Individuals *are* responsible for X

b) X, generally speaking, leads to higher costs (health care or general) than non-X

c) We do not have other relevant reasons to find it unreasonable to expect individuals to avoid X (such as our reasons to find it unreasonable to expect women in general not to get pregnant)

It remains to be asked whether Segall could justify his version of RA by giving up his premise of non-paternalism. I do not think so (though I do not otherwise believe we should avoid paternalism). Suppose individuals are not responsible for smoking. This would not mean that (e.g.) raising the tobacco-prizes will not result in less tobacco-consumption – *ceteris paribus*, which therefore may be a *pro tanto* reason in fact to raise them.[100] But not all smokers will quit or smoke less, when the prize goes up. If such a paternalistic motive was included in RA, it would follow that we do not have *justice-based* reasons to treat smoking-related diseases, even though smokers are not responsible for smoking.

[100] Guindon GE, Tobin S, Yach D; "Trends and affordability of cigarette prices: ample room for tax increases and related health gains"; *Tob Control*; 2002; 11; p. 35-43.

For similar reasons I believe attempts to allow for sentence-type B ultimately fail. I acknowledge that there might be certain situations, when we would appeal to something like *reasonability* without responsibility. But this would be cases of exception, typically cases of necessary incentive regulation. Consider, as Segall does[101], something like China's one-child policy in case of increased population. In such case we may want to appeal to *reasonability* regarding how many children couples get. Contrary to Segall, however, I believe it would be a conceptual mistake to include such *reasonability*-appeal in RA. Suppose a woman ends up pregnant without being responsible for it (due to rape, say). If RA allows for sentence-type B, it follows that we do not have *justice-based* reasons to support her birth-giving. Paternalistic policies and other policies of incentive regulation seem therefore better kept separated from our luck egalitarian sentiment.

[101] Segall, S; 2010; ibid; p. 22

Obesity and personal responsibility[102]

Martin Marchman Andersen and Morten Ebbe Juul Nielsen

Abstract

What does it take for an individual to be personally responsible for overweight or obesity? This question is of paramount importance for an ethical assessment of current and future practices of health care, public health programs etc. Philosophers working on the question of responsibility disagree on what it ultimately takes for an individual to be responsible. We examine three basic approaches to responsibility and spell out what it takes for a person, according to each of the approaches, to be responsible for obesity. We show that only one of them – what we call the naturalistic approach – can accommodate some widely shared intuitions to the effect that much causal influences on obesity, such as genetics or certain social circumstances, diminishes or even completely undermines personal responsibility. However, accepting this naturalistic approach most likely makes personal responsibility impossible. We therefore need either to reject some widely shared intuitions about what counts as responsibility-softening or -undermining, or accept that there is no personal responsibility – for obesity or, for that matter, anything. Finally, we briefly elaborate on the political implications of the latter alternative.

[102] We would very much like to thank Nils Holtug for helpful comments to this article.

Introduction and conceptual clarification

Imagine that you are a member of an ethical advisory board, giving advice and guidance to a big hospital. An eccentric billionaire decides to donate a very large sum of money to the hospital on the following condition: either the money goes into a new ward specializing in treatment of obesity-related diabetes, or it goes into treatment for some congenital disease. Imagine, moreover, that apart from questions of *personal responsibility*, there are *no* morally relevant differences between the expected outcomes of either alternative: expected increases in welfare, whether one thinks in terms of DALY's, QALY's, longevity, ICER's etc. are the same. Long term costs are the same etc. Clearly, one is not responsible for being born with a congenital disease. But it might be the case that (some) obese diabetics are wholly, or partly, personally responsible for their condition. Does that make a difference? Many would probably be inclined to opt for the second option because they see the question of personal responsibility as a tie-breaker: when we can choose between benefitting those who under no circumstances are responsible, and those who are responsible, we should opt for helping those who for sure have no personal responsibility for their plight. We want to argue that, ultimately, questions of personal responsibility should not count morally, because they rest on implausible claims.

Many believe that most individuals are *personally responsible* when being overweight or obese.[103] (Obesity, we use the term obesity to cover the relevant cases from now on, is taken to be one of the "grand challenges" of the near and long term future which is one of the reasons why we want to focus on that.[104] However, our discussion can easily be applied to other "life-style related" diseases that correlate with, e.g., consumption of tobacco or alcohol, or with a sedentary life).

[103] See: O'Brien, KS, Latner, JD, Halberstadt, J. et al.; "Do antifat attitudes predict antifat behaviors? *Obesity*"; *Silver* Spring; 2008;16 Suppl; 2: p.87-92. And: Allison, DB, Basile, VC, Yuker, HE; " The measurement of attitudes toward and beliefs about obese persons"; *Int J Eat* Disord; 1991;10; p. 599–607. And: Crandall, CS; "Prejudice against fat people: ideology and self-interest"; *J Pers Soc Psychol*; 1994; 66; p. 882–894. And: Lund, TB, Sandøe, P, Lassen, J; "Attitudes to publicly funded obesity treatment and prevention"; *Obesity*; 2011; 19; 8; p. 1580-1585.

[104] See: "A framework to monitor and evaluate implementation: Global Strategy on Diet, Physical Activity and Health"; http://www.who.int/dietphysicalactivity/M&E-ENG-09.pdf, (accessed 31-01-2013). And: "A Strategy for Europe on Nutrition, Overweight and Obesity related health issues"; accessible via http://europa.eu/legislation_summaries/public_health/health_determinants_lifestyle/c11542c_en.htm, (accessed 31-01-2013).

Many also believe that when an individual is responsible for some unfortunate state of affairs, then society does not owe that individual compensation for this unfortunate state of affairs. This view is namely well-founded in the theory of luck egalitarianism[105], and quite a few laypersons seem to agree.[106] However, few are probably ready to accept the implications of that line of reasoning. If both assumptions are correct, then the ideal of equal free access to health care may be challenged: If some persons are responsible for their own health, and we do not owe such persons a duty of compensation, then persons that suffer as a consequence of their (*ex hypothesis* self-chosen) obesity (or any other such self-chosen condition) do not have a (justice-based) right to free health care.

But most persons are probably inclined to say that an individual is, for the most part, at least *partially* responsible for his or her habits and behavior as regards diet, exercise and other relevant aspects of obesity. To wit, ten Have et al. write:

> Overweight is the result of a complex web of causal factors, many of which are outside the individual's control. It is partly the result of personal and voluntary choices, and partly the result of social and environmental characteristics.[107]

We venture that many scholars in the field of bioethics, medical philosophy, public health ethics and related areas hold some such "mixed" conception of responsibility. Hence, many discussions of just access to health care, allocation of resources etc. have a decidedly "luck egalitarian" slant: they focus on questions of choice and circumstances, and then proceed to a discussion of social justice relying, roughly at least, on the luck egalitarian intuition that we ought to hold persons accountable for their choices, but not their circumstances. In principle, we have no problems with that account. But we want to go into the moral philosophical discussion about responsibility rather than the political philosophical one to show just how troublesome it is to argue for the possibility of personal responsibility in the first place. This is of course compatible with a number of other

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[105] See: Segall, S; *Health, Luck and Justice*; Princeton University Press; 2010. And: Knight, C; *Luck Egalitarianism: Equality, Responsibility, and Justice*; Edinburgh University Press; 2009.

[106] Lund, TB, et al.; 2011; ibid.

[107] ten Have, M, de Beaufort, ID, Teixeira, PJ. et al.; "Ethics and prevention of overweight and obesity: an inventory"; *Obesity Reviews*; 2011; Volume 12; Issue 9; p. 669-679.

reasons (reasons apart from the issue of personal responsibility) to *hold* different people accountable in various ways. But we postpone that discussion to the final section.

We also venture that many (if not most) scholars hold the classic view that free will is what makes us responsible. Hence, Glannon argues that, even though most of us are causally influenced by various external factors (for which we cannot be responsible), we are able to causally influence outcomes, and this suffices for at least some forms of moral responsibility.[108] But even Glannon admits that there are cases (of *acting*, e.g., drinking heavily) where outside causal factors are so strong that responsibility is undermined. Thus, those who rely on an affirmative view of personal responsibility often admit that responsibility can be undermined by certain causal factors.

Indeed, many factors *do* seem to soften, or even completely undermine, the assumption that individuals are responsible for overweight or obesity: For instance, it seems that having obese parents is the largest predictor of childhood obesity[109], and it seems indeed wrong to say that children are responsible for choosing their parents. Many other factors – for which the individual hardly can be responsible – are suggested in the literature, ranging from genetic and epigenetic factors over mental illnesses and addiction to cultural, economic and advertising issues.[110] We shall later return to what we call "the naturalistic approach" to responsibility as the only plausible candidate for explaining *why* such factors should count as responsibility-undermining, and draw the – perhaps surprising – implications of adopting this view. For now, note the widespread assumption (or intuition) that these factors *can* undermine responsibility.

Our main aim in this article is therefore to lay out what seems to be the three basic approaches to responsibility, philosophically speaking:[111] First what we call a *naturalistic* approach[112], secondly *true identity*, and last *reason-responsiveness*. These are different fundamental theories of what responsibility ultimately requires. To illustrate the implications of each of them we introduce a

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[108] Glannon, W; "Responsibility and Priority in Liver Transplantation"; *Cambridge Quarterly of Healthcare Ethics*; 2009; 18; p. 23–35.

[109] http://www.news-medical.net/news/2004/07/09/3201.aspx, (accessed 31-10-2012).

[110] Sharkey, K, and Gillam, L; "Should patients with self-inflicted illness receive lower priority in access to healthcare resources? Mapping out the debate"; *J Med Ethics*; 2010; 36; p. 661-665.

[111] Matravers, M; *Responsibility and Justice*; Malden; Polity Press; 2007.

[112] Ripstein, A; "Equality, Luck, and Responsibility"; *Philosophy and Public* affairs; 1994; Vol. 23; no.1; p. 3-23.

made-up obese person, Sam, and show what it takes, according to each of these theories, for Sam to be responsible for being obese.

Our main claim is as follows: insofar one is inclined to accept that, e.g., genetic make-up, childhood conditioning, social-economic status or many others of the standard factors that are suggested to undermine responsibility really *do* undermine responsibility then the naturalistic approach provides the only plausible explanation. In other words, accepting a range of responsibility-undermining factors goes hand in hand with the naturalistic approach. However, the most plausible rendering of the naturalistic approach leads to a denial of the possibility of personal responsibility. Hence, if one accepts that, e.g., having a certain genetic make-up, or having a strongly obesogenic social background, or some combination thereof, *does* undermine personal responsibility (wholly or partially) then one should probably accept that personal responsibility is, at the end of the day, impossible in general.

Overview of the argument to follow

First, we will lay out what we call the *naturalistic approach* to responsibility. This approach essentially requires Sam to be the very *cause* of the obesity in order for Sam to be responsible for it. More precisely, Sam is responsible if Sam 1) is able to do otherwise, i.e. not to overeat, and 2) if Sam is responsible for the *causes* of overeating. These requirements cannot be satisfied in a world of determinism or quantum mechanics, but depend on the truth of *agent-causality.* We argue that agent-causality, understood in a way that satisfies these requirements, is implausible. Therefore, we will not only conclude that Sam most likely is not responsible for being obese, but more generally that Sam most likely cannot be responsible for anything.

Second, we present the *true identity*-approach to responsibility, which for Sam to be responsible requires a “mesh” (roughly, an overlap) between Sam’s first order desires, e.g. to overeat, and Sam’s second order volition, which is who Sam *really wants to be*.[113] Thus, Sam is responsible for being obese to the extent Sam identifies with those actions that lead to obesity. A brief look at the market for diets makes it most likely that Sam is not responsible for Sam’s obesity, given Sam’s second-order volitions are similar to those held by most people. However, as some obese

[113] Frankfurt, HG; “Freedom of the will and the concept of a person”; *Journal of Philosophy*; 1971; 68, no. 1; p. 5-20.

individuals may in fact identify with those of their actions that lead to obesity, the conclusion here is rather that some obese individuals are responsible whereas others are not.

Third, we present the *reason-responsiveness*-approach to responsibility, which for Sam to be responsible requires Sam to be appropriately sensitive to reasons when acting in ways that lead to obesity.[114] We conclude that, on this account, it is most likely that Sam *is* responsible for behaviors leading to obesity, barring extreme cases. However, as regards the two latter, so-called *compatibilistic*, approaches, we shall note some outstanding difficulties which provide good reasons to be at least somewhat skeptical about their cogency.

Fourth, we show what kind of empirical findings that may soften or undermine responsibility according to each of the three approaches. We argue that insofar one is inclined to find it responsibility-softening, or undermining, when, e.g. social epidemiological studies suggest different social circumstances to have a causal impact on obesity rates, or knowledge about genetic determinants of obesity reveals a connection between genes and obesity, then it is very likely that we already have the intuition that the naturalistic approach is what responsibility requires. Responsibility, according to the two latter approaches, is namely not really threatened by such findings. So if we hold the intuition that one of the two is what responsibility requires, then we cannot justify holding such findings in social epidemiology or genetics to be responsibility-undermining. Moreover, if we *do* find such findings to be responsibility-undermining, then, given the implausibility of individuals' ability to make ultimately *free choices*, we most likely ought to conclude that personal responsibility for obesity, or anything at all, is impossible.

Sixth and finally, we will briefly elaborate on some implications of this conclusion. Whether individuals such as Sam are responsible for obesity in the way discussed here is namely only one potential matter when considering whether and to which extent we ought to *hold* individuals accountable (*i.e.*, cost-wise) for behaviors leading to obesity. There might be other factors beyond personal responsibility that pertain to that matter.

[114] Fischer, JM, Ravizza, M; *Responsibility and Control: A Theory of Moral Responsibility*; Cambridge University Press; 1998.

1: The naturalistic approach to responsibility

In our daily practices it seems natural that we hold each other responsible for our actions, including at least some of our 'lifestyle characteristics'. Suppose our test person, Sam, complains about being obese at some get-together over coffee, and then reaches out for a third piece of cake. Ignoring reasons of politeness, nothing seems more obvious than to ask: "why don't you just leave it?" Perhaps we recognize that Sam may find it difficult to overcome the desire to eat a cake, but nonetheless we assume that the possibility to act (or do) differently *is* within Sam's control.

However, if we allow ourselves to ask *why* Sam eats this third piece of cake it is not very obvious that Sam in fact *can* act differently. Consider Galen Strawson's "basic argument":

(1) It is undeniable that one is the way one is, initially, as a result of heredity and early experience, and it is undeniable that these are things for which one cannot be held to be in any way responsible (morally or otherwise).

(2) One cannot in any later stage of life hope to accede to true moral responsibility for the way one is by trying to change the way one already is as a result of heredity and previous experience.

(3) For both the particular way in which one is moved to try to change oneself, and the degree of one's success in one's attempt at change, will be determined by how one already is as a result of heredity and previous experience.

(4) And any further changes that one can bring about only after one has brought about certain initial changes will in turn be determined, via the initial changes, by heredity and previous experience.[115]

Now if we ask *why* Sam eats the third piece of cake, it seems that whatever cause we will find to explain it will itself be an effect of another cause, which also will be an effect of a cause and so forth. We will soon realize that when Sam is eating the third piece of cake it is the result of a chain of causes and effects involving not just Sam's earlier experiences, but in fact events and states

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[115] Strawson, G; "The Impossibility of Moral Responsibility"; In Pojman, LP, McLeod, O (Eds.); *What Do We Deserve? A Reader on Justice and Desert*; Oxford University Press; 1999.

before Sam was born, such as genes and epigenetic influences. Sam simply eats the third piece of cake due to reasons that are ultimately beyond Sam's control, and, similarly, if Sam *changes* eating-behavior and somehow manage to eat less cake, it would also be due to reasons that are ultimately beyond Sam's control. How could Sam, or anyone else, ever be responsible for that?

However, it may be too hasty to assume that every change in the way Sam behaves is necessarily causally determined by earlier events. Strawson therefore continues:

(5) This may not be the whole story, for it may be that some changes in the way one is are traceable not to heredity and experience but to the influence of indeterministic or random factors. But it is absurd to suppose that indeterministic or random factors, for which one is *ex hypothesi* in no way responsible, can in themselves contribute in any way to one's being truly morally responsible for how one is.[116]

So the point is this: every change in Sam, and in the world for that matter, is either determined by previous causes or random factors. But, as Strawson points out, it is absurd to suppose that something completely random – think of something like a quantum leap – can be linked to someone's responsibility, since, if something is completely random, it is beyond anyone's control. Following the argument of Strawson, the point is that Sam must be *the very cause* of eating the cake in order to be responsible for it. But how can that be the case?
The naturalistic approach to responsibility can be expressed in two formal requirements:

A person P is responsible for an act (or omission), X, only if:

1) P had the ability to do otherwise, that is not to perform X (the ability to do otherwise- requirement).[117]

If every event in the world is determined by prior causes, then Sam can never do otherwise. However, we do not know if every event in the world is determined by prior causes. There may simply be random factors. If this is so, then Sam may have had the ability to do otherwise. But we

[116] Strawson, G; 1999; ibid.

[117] Hurley, S; *Justice, Luck, and* Knowledge; Cambridge, MA; Harvard University Press; 2003.

are not looking for the ability to do otherwise due to random factors – we want *Sam*, not some random factors, to be the very cause of the action. We are looking for Sam's *self-determination*, and we therefore need a second requirement:

2) P is responsible for the causes of X (regression-requirement).[118]

Combining the *ability to do otherwise*-requirement with the *regression*-requirement, we cannot ascribe responsibility to Sam in cases where Sam *could* have done otherwise, but only due to random factors. If Sam's choices and actions are determined or random, then Sam cannot be responsible. This seems indeed intuitively plausible, and if this is so, then responsibility begins to look impossible. However, there is one alternative remaining that may make responsibility possible given our two requirements. This is the possibility of *agent-causality*. Just like God in theology has been assumed to be the cause of everything without being caused by anything we ought to consider whether individuals (agents) can act in such ways.

Agent-causality is simply the view that agents are able to start new causal chains that are neither pre-determined nor completely random. This, we may say, corresponds to a naturalistic concept of *free will*. To choose something as a matter of free will would ultimately require that we choose it freely such that it is neither random nor caused by previous events. If the *ability to do otherwise*-requirement and the *regression*-requirement is what it takes for an agent to be responsible, and agent-causality is true, then responsibility *is* possible: Agent-causality would allow for Sam to be responsible for eating the cake, since Sam can start – in a non-arbitrary manner – new causal chains, which satisfies the *ability to do otherwise*-requirement. And if Sam's cake-eating is in fact an agent-causal performance, then there is no further causality regression – Sam is the very cause of the cake-eating, and the *regression*-requirement is therefore satisfied. Hence, Sam is responsible for eating the cake.

[118] Hurley, S; 2003; ibid.

However, agent-causality is highly contestable and no one seems to have given any fully satisfactory explanation of how it is supposed to work.[119] It is of course difficult, if not impossible, to demonstrate the falsity of agent-causality, but following a method of *inference to the best explanation*, agent-causality is probably ruled out. Let us try to illustrate the problem:

If Sam eats five high fat cakes as an agent-causal performance it follows that there is no further causal explanation as for *why* Sam did so other than *Sam doing so*: Sam did it, and that is the *cause*. But this seems to be a complete denial of the very strong and wide-spread intuition that events, including human acts, happens for causal reasons (or, if we allow for quantum mechanics, random factors). If Sam eats five cakes, it seems, in light of our general scientific worldview, to be a rather unsatisfying explanation just to say that Sam ate the cakes because *Sam did so*. Few would probably agree that Sam's decision to eat five cakes has *no* further causal explanations, such as psychological conditions and social circumstances.

However, agent-causal performances may occur even if it is true that *Sam eating five cakes* was affected by other factors, such as psychological conditions, social circumstances and so on. This, we may believe, does not exclude the possibility that Sam has a free choice in the following sense: For each event in Sam's life we may admit that Sam is affected by these factors, but still insist that Sam faces a set of options in which Sam can make a radical *free choice*. However, even though this explanation is partly compatible with causal explanations, it does not escape the problem of explaining *why* Sam chooses as Sam does. It only minimizes the scope of the problem. Per definition, agent-causal performances cannot have any causal explanation, and therefore agent-causality is incompatible with any scientific causal explanation of human behavior, whether psychological, sociological or biological.

Thus, agent-causality is probably false. This does not mean that we do not make choices, but rather that our choices are the result of random factors or causes that are linked to circumstances ultimately beyond our control. The conclusion that responsibility is impossible, however, is very

[119] For a contemporary philosopher who defends agent-causality, see: Kane, R; "Free Will: New Directions for an Ancient Problem"; In Fischer, JM (Eds.); *Free Will: Critical Concepts in Philosophy. Volume III: Libertarianism, Alternative Possibilities, and Moral Responsibility*; New York; Routledge; 2005.

radical. It does not only imply that Sam is not responsible for increased risk of various diseases due to intense cake-eating, but also that rapists and corrupt businessmen are not responsible for their criminal choices. But while the conclusion is difficult to avoid, it is only valid if it is true that responsibility requires *causality-regression* and the *ability to do otherwise*. But, as we shall see in the following, this is contestable too.

2: The *true identity* approach to responsibility

The philosophical landscape of responsibility is divided between *incompatibilists* who claim that responsibility is impossible if determinism is true and *compatibilists* who claim that responsibility is in some way, to be further specified, compatible with determinism. However, as we have seen from Strawson's basic argument, the mere existence of indeterministic factors does not help much if one would want to vindicate personal responsibility. Only *self-determination* – an agent's *ability to do otherwise* in a way that is within his or her control – does the trick. Nonetheless we now turn to the first of two such compatibilistic arguments – the true identity approach.

The fact that Sam is eating the cake is probably determined by heredity and earlier experiences, and perhaps also random factors. Unless agent-causality is possible, Sam is therefore never able to do otherwise in such a way that satisfies the regression requirement. But we may challenge the very claim that the *ability to do otherwise* is what responsibility requires, and that is what Harry Frankfurt famously has done. Here is the structure of his famous example in our re-writing:

Suppose the owners of some fast food restaurant chain, C, wants Sam to continue to eat their rather unhealthy food. They employ an unusually excellent brain surgeon, Black, who is able to manipulate Sam's brain-processes and the owners of C wants Black to do anything to make sure that Sam continues to buy and eat their food at a daily basis. The next day, however, Sam decides to go and dine at C. But had Sam not decided go and dine at C, Black would have manipulated Sam's brain so that Sam *would* have decided to do so. Therefore, Sam dines at C, but could *not* have done otherwise. Yet, Frankfurt claims, Sam *is* responsible for dining at C, since Sam acted in correspondence with what Sam really wanted to do.[120]

[120] Frankfurt, HG; "Alternate Possibilities and Moral Responsibility"; *Journal of Philosophy*; 1969; 66; 23; p. 829-839.

Intuitively we may therefore tend to think that it is irrelevant whether Sam actually could have done otherwise, since it seems that even if Sam *could* have done otherwise, Sam would still have dined at C. We may therefore tend to think that a *hypothetical* choice – “What would Sam really like to have done?” – is what responsibility requires.

Frankfurt thus provide us with a different concept of responsibility according to which the *ability to do otherwise* is irrelevant. Whether there are previous causes as for why we act as we do is irrelevant. Instead, he argues, responsibility requires a correspondence between a person’s first order desire and second order volition, which is a second order desire that one wishes should constitute one’s will – or one’s “true identity”.[121]

Suppose Sam is an over-eater. Then Sam has a first order desire to (over)-eat, at least occasionally. However, imagine furthermore that Sam also has a second order desire *not* to overeat, e.g. because Sam is aware of the evidence of harmful effects. Furthermore, Sam wishes that this second order desire should constitute Sam’s will, and Sam therefore has a second order volition *not* to desire to over-eat. According to Frankfurt, then, Sam is not responsible for over-eating, since if Sam could simply choose then Sam would choose *not* to over-eat. There is a conflict between what Sam does, and who Sam *really* wants to be; a conflict between effective desires and desired will or identity.

Now let us compare Sam to Vick, who, let us assume, similarly is an over-eater, and therefore similarly has a first order desire to over-eat. However, contrary to Sam, Vick has a second order volition *in fact* to desire to over-eat, which means that even if Vick actually and freely could choose not to over-eat, then Vick would still choose to over-eat. According to Frankfurt, Vick is therefore responsible for over-eating. To over-eat, Frankfurt would claim, corresponds to *who* Vick really is, to Vick’s *true* identity.

Frankfurt’s approach to responsibility has been subject to criticism.[122] If everything Vick does is a result of either random factors or heredity and earlier experiences, then it seems obvious to ask whether what Vick hypothetically would choose – e.g. to over-eat even if the choice not to over-

[121] Frankfurt, HG; 1971; ibid.

[122] Elster, J; *Sour Grapes*; Cambridge; Cambridge University Press; 1983.

eat really is available – is not *also* a result of either random factors or heredity and earlier experiences, and hence beyond responsibility.[123] It definitely seems so, so *if* Frankfurt is correct, then responsibility is bound to our hypothetical choices, our identities, and the *causes* of our identities are ultimately irrelevant. But this seems counter-intuitive, or so we maintain.

However, if we, despite the objection, accept this approach to responsibility, and implement it politically, then we should note that even though it becomes possible to ascribe responsibility to some individuals it hardly implies that individuals *in general* are responsible for over-eating (or other factors of obesity). Rather, it seems, over-eating is characterized by something that most individuals aim to suppress – just look at the market for diets. If this is so, then the taste for over-eating is one with which over-eaters do not in general identify, and to that extent it is therefore comparable to an unchosen handicap for which one is not responsible.[124]

3: The *reason-responsiveness* approach to responsibility

Another compatibilistic approach to responsibility focuses on whether an agent is appropriately *responsive to reasons*. There are several advocates of such an approach, but John Martin Fischer's version(s) seems to be the most developed one. Fischer shares the intuition behind Frankfurt's case in the sense that he also holds that Sam is – *ceteris paribus* – responsible for dining at C. His account, however, is different.

In Fischer's later work he joins partnership with Mark Ravizza. They state that in order for an agent to be responsible for an action two conditions must be satisfied. The first condition is the "epistemic condition": An agent must know the particular facts surrounding his action and act with the proper sort of beliefs and intentions in order to be responsible.[125] When it comes to obesity the obese agent must know, e.g., that there is a causal connection between what (and how much) one eats and one's body weight.

[123] Hurley, S; 2003; ibid.

[124] Burley, J (Eds.); *Dworkin and his Critics*; Blackwell Publishing; 2004.

[125] Fischer, JM, Ravizza, M; 1998; ibid.

The second condition is the "freedom-relevant condition". To satisfy this condition an agent must act from a mechanism that is the agent's own reasons-responsive mechanism.[126] This requirement leads to two questions: 1) what does it take for a mechanism to be reason-responsive? And 2) what does it take for a mechanism to be the agent's own?

1) Mechanisms that are reason-responsive are sensitive to rational considerations, whereas non-reason-responsive mechanisms are not: They are merely physical processes such as those in the central nervous system.[127] A mechanism is reason-responsive insofar the agent acting upon it would have responded differently in at least some circumstances in which the relevant reasons were different. An agent is reason-responsive if the mechanism on which he or she acts would in some possible world, in which there is reason to do otherwise, lead him or her to act on that reason, and hence do otherwise.[128] This should not be confused with any requirement of the *actual* ability to do otherwise. The point is merely that the agent's responsiveness in some counterfactual situations (possible worlds) is evidence that the mechanism upon which the agent acts is reason-responsive.

So let us go back to our coffee-get-together, where Sam is reaching out for a third piece of cake despite sufficient reason not to (Sam is obese and does not want to be so). Sam is reason-responsive if there is some possible world where relevant facts are different and where Sam would act differently. This seems easy to imagine. Suppose we promised Sam a million dollars if Sam refrains from eating the next cake. Sam would then most likely not eat the next cake, and therefore Sam *is* sensitive to at least some incentives (reasons) not to eat the next cake. The mechanism upon which Sam acts is therefore reason-responsive. If, on the other hand, Black, our brain surgeon, had manipulated Sam's brain processes so that Sam *no matter what* would reach out for and eat the next cake, then the mechanism operating would *not* be reason-responsive.

This may seem to be a much too permissive requirement. The mechanism upon which we act is almost always reason-responsive in this counterfactual way, since we are generally sensitive to *some* possible incentive to act differently. For instance, most would probably refrain from

[126] Fischer, JM, Ravizza, M; 1998; ibid.

[127] Fischer, JM; *The Metaphysics of Free Will*; Blackwell; 1994; p. 173-74.

[128] Hurley, S; 2003; ibid.

ascribing responsibility to a kleptomaniac, since we regard such a person to have a mental disorder when it comes to stealing. A kleptomaniac, we would say, is not reason-responsive, but suffers from a mental dysfunction. However, it is conceivable that even a kleptomaniac is reason-responsive if the incentive-pressure is strong enough. Even a kleptomaniac may refrain from stealing if he or she was convinced that God would punish mankind with a new flood if he or she did just a banal performance of shoplifting.[129]

In any event, the freedom-relevant condition for responsibility has a second requirement, namely that the reason-responsive mechanism is the agent's own:

2) Fischer and Ravizza ask us to imagine a scientist who secretly implants a mechanism in Judith's brain a few days ago. Employing this mechanism, the scientist electronically stimulates Judith's brain in such a way as to create a desire that is not literally irresistible, but nevertheless extremely strong, to punch her best friend Jane the next time she sees her. The desire is so strong that Judith would punch Jane under every possible circumstance except one in which she knows that if she were to punch Jane, she would thereby cause the deaths of a large number of innocent people.[130] Intuitively most would tend to think, we guess, that Judith is not responsible for punching Jane even though the mechanism upon which she acts is reason-responsive. But she is not responsible, Fischer and Ravizza maintains, because the mechanism upon which she acts is not her own.

Therefore, it is not enough that the mechanisms upon which we act are reason-responsive, they must also be our own, and this is only the case if we 'take responsibility' for them. For Fischer and Ravizza this involves three ingredients:

> (…) the individual must see himself as an agent: he must see that his choices and actions are efficacious in the world.
>
> Second, the individual must accept that he is a fair target of the reactive attitudes as a result of how he exercises his agency in certain contexts (…), and that it is not an arbitrary matter what those contexts are.

[129] This example is borrowed from Kasper Lippert-Rasmussen. See: Lippert-Rasmussen, K; *Viljens Frihed og Moralsk* Ansvar; København; Nyt Nordisk Forlag Arnold Busck; 1999; p. 167-68.

[130] Fischer, JM, Ravizza, M; 1998; ibid.

> (Third), the individuals view of himself specified in the first two conditions be based, in an appropriate way, on the evidence. (…) For example, the child's view of himself as an agent needs to be based (in an appropriate way) on his experience with the effects of his choices and actions on the world.[131]

So how does this help us when considering whether individuals are responsible for overeating etc.? Is Sam responsible when eating cake? This is most likely so: First, Sam (most likely) knows about the consequences of the relevant actions. Second, the mechanism Sam is acting upon is (most likely) reason-responsive (Sam would probably not eat the cake if we promised Sam a million dollars), and third, we can reasonably assume that Sam satisfies the requirement of the mechanism being one's own: Sam most likely sees the relevant actions as efficacious in the world and assumes the role of being a fair target of reactive attitudes. In other words, it seems that, barring some quite unusual cases, individuals *are* responsible for over-eating and other acts or omissions that lead to obesity.[132]

However, there are weighty reasons to remain skeptical about the plausibility of this conceptualization of responsibility. Even if one accepts that the reason-responsive-approach contains many interesting insights, Fischer and Ravizza's theory is subject to some important and substantial rejoinders.

First, basing responsibility in the real world on the mere "fact" that an agent would have responded differently in some possible world seems in some cases to be rather *outré*. What does it really prove if a heroin-addict would have responded differently in some possible world and not taken the next fix because he or she were convinced that his or her entire family would be tortured and killed if he or she took the fix? If this suggestion is true, then it implies that the heroin-addict is reason-responsive, even if he or she is, in this world, almost completely unable to control his or her addiction.

[131] Fischer, JM, Ravizza, M; 1998; ibid.

[132] Fischer and Ravizza end up favoring what they call moderately reason-responsiveness. Besides reason-responsiveness as we have explained it, it requires what they call reason-receptivity: an agent must show a coherent pattern of reasons-recognition. This is to avoid that it is merely a coincidence that the agent recognize a certain reason to act differently. See Fischer, JM, Ravizza M; 1998; ibid; p. 89-90. This, however, is not very important here.

Second, while it seems right when Fischer and Ravizza require the reason-responsive mechanism to be the agent's own, one may plausibly ask what follows from this. In daily practices, most of us see ourselves as agents and accept that we, at least to some extent, are fair targets of reactive attitudes such as blame and criticism – we do see and acknowledge that our choices and actions are efficacious in the world, and we do know that over-eating, lack of exercise etc. are unhealthy habits. By having these habits, we are thus responsible, according to Fischer and Ravizza. But there seems to be quite a few missed factors here, such as socio-economic and cultural circumstances or commercial influences that strike us as being responsibility-undermining, or at least responsibility-softening. If Sam grew up in a family of obese parents, where fatty cakes and junk food were the dishes of the day, these circumstances seem to be relevant for responsibility even though Sam's cake indulgence issues from Sam's *own reason-responsive mechanism*.[133] Even though one might readily admit that Sam's brain is Sam's brain, does it really follow that Sam is ultimately responsible for the ways in which Sam's ability to respond to reasons is formed? Fischer and Ravizza do not pay adequate attention to such factors.

Before proceeding to the matter of empirical evidence, we want briefly to comment on a structural problem that is shared by both the true identity- and the reason responsiveness approach. In essence, they can be said to be *a-historic* views of personal responsibility. Roughly, for the former, what matters is the match or mismatch between an agent's deeply held preferences ("identity") and first-order desires, and not the way in which this identity and these desires arose in the first place. For the latter, what matters is whether or not an agent would have responded differently to a counterfactual set of relevant reasons, and the *history* of the reasons-responsive mechanism is only captured by the requirement of the reason-responsive mechanism to be the agents' own. This a-historic tactic is probably necessary to avoid being entangled in a regress which will inevitably point back to some set of causal factors for which no individual can be responsible. However, it is also a weak spot in both theories, for it seems weird to ignore the past in an assessment of whether or not a given individual is responsible for his or her preferences, identity, or reason-responsiveness.

[133] See also Roemer, J; "A Pragmatic Theory of Responsibility for the Egalitarian Planner"; *Philosophy and Public Affairs*; 1993; 22; no.2; p. 146-166.

4: Empirical evidence and responsibility

As we have seen, personal responsibility is a very complex concept. As we hope to have shown, it is unclear what exactly it requires for an individual to be responsible in general; whether one can ever fulfill those requirements, and therefore also whether an individual can ever be responsible for behaviors leading to obesity. Part of our motivation for writing this article was that we asked ourselves what would count as evidence for the proposition that individuals are not responsible for their obesity. Obviously, this varies from one responsibility-approach to another. In turn:

Reason-Responsiveness: Starting from the latter approach, *reason-responsiveness*, we find three requirements that obese individuals may be shown *not* to satisfy.

First, the epistemic notion: An agent must know the particular facts surrounding his or her action and act with the proper sort of beliefs and intentions in order to be responsible. Considering the information-level of most citizens of the western world today, it is tempting to conclude that obese individuals *are* aware of the potential harmful effects of over-eating and lack of exercise. It seems implausible to postulate that individuals generally are not aware that green salads are healthier than deep fried chicken, or that there is a connection between exercise and body-mass. However, the question is to which extent this is actually true? Strikingly, 90% of Americans describe their diet as either “extremely”, “very” or “somewhat” healthy[134], and therefore this is of course open for empirical investigations.

Second, the requirement of reason-responsiveness: it seems that as for the part of obesity that is brought about by inappropriate diets and lack of exercise, we all respond to reasons, at least counterfactually, in the way envisioned by Fischer and Ravizza. It is easy to imagine various incentives that would make us act differently when we face choices of how and when to eat and exercise. It is therefore hard to imagine evidence suggesting that we do not satisfy the requirement of being responsive to reasons.

Third, the requirement of the reason-responsive mechanism involves that individuals must see their choices and actions as efficacious in the world, and accept that they are themselves fair

[134] http://www.consumerreports.org/health/healthy-living/diet-nutrition/diets-dieting/healthy-diet/overview/index.htm, (accessed 01-11-2012).

targets of reactive attitudes. Again, if an individual is aware of the causal connection between eating patterns and body weight, then he or she most likely also sees his or her actions as efficacious and acknowledges that he or she, at least in some weak sense, is a fair target of reactive attitudes.

Most interestingly, since the requirement of reason-responsiveness is bound to counter-factual scenarios, even massive evidence of causal connections between, e.g., social circumstances or psychological dispositions and eating and exercising habits would not count as evidence against responsibility for obesity. If some combination of Sam's psychological and genetic disposition and social circumstances is *the* cause of Sam's eating- and exercise behaviors, and therefore Sam's obesity, then it is still possible that Sam is both very well aware of the connection between behavior and obesity, and is responding properly to reasons when behaving in these ways. Even if Sam is completely determined to do what Sam does, Sam may still possess the required knowledge and be reason-responsive. For many, including the authors of this article, this seems wrong.

True Identity: Even massive evidence of causal connections or "pre-determinants" would not count as evidence against responsibility for obesity if the *true identity* approach is correct. This approach focuses exclusively on the connection between the individual's first order desires and second order volitions, and therefore the only evidence against responsibility would be if individuals are shown *not to identify* with those of their behaviors that lead to obesity. Such evidence may be found. We believe, however, that only very few obese persons *truly identify* with their (over)eating desires, and if so then they are not responsible, according to the true identity-approach.

The Naturalistic Approach: If we accept the naturalistic approach to responsibility, then agent-causality needs to be true in order for responsibility to be possible. Agent-causality, however, seems very hard to defend, though it also seems close to impossible to *prove* wrong.

But even though we cannot do so, it seems plausible to assume that a method of *inference to the best explanation* rules it out. Our scientific worldview is massively bound to the intuition that everything happens for a causal reason, and even if there are naturalistic processes that are probabilistic rather than determined, as suggested by the theory of quantum mechanics, it would,

as we have shown, not provide evidence for agent-causality. Furthermore, it is far from clear that we need the concept of agent-causality in order to explain how humans operate, whether we talk about biology, history or psychology. Most likely, the concept would make our basic theories unnecessarily more complicated without enabling us to predict more outcomes. Applying Ockham's razor undermines faith in agent-causality.

However, modern science is far from able to predict all human behaviors – especially not at an individual level. Are we really justified in ignoring the possibility of the existence of agent-causal performances? Perhaps this is not for us to conclude. But if so, then note that concrete evidence, as when having obese parents is shown to be a significant predictor of obesity[135], gives us reason to believe that even if agent-causality is true, then the obese person is not the *only* cause of obesity. This of course presupposes that the significant statistical correlation between obesity and having obese parents implies a causal connection, but this seems otherwise plausible. Therefore, the more such evidence we are able to provide, the smaller is the scope for potential agent-causal performances.

That aside, our general point is this: we believe that there is a widespread intuition that concrete evidence (such as strong statistical correlations, social, genetic, or otherwise) of causal influences on obesity *is in fact* responsibility-undermining. To wit Brownell. et al. write:

> Taken together, a great many studies have identified factors in the modern food environment that compromise or even hijack biological and psychological regulatory systems that govern eating and weight. These forces make it difficult to be "responsible." (…)
>
> Research on the determinants of smoking, exercising, and eating behavior reveals that these are not simply free and independent choices by individuals, but rather are influenced by powerful environmental factors.[136]

[135] http://www.news-medical.net/news/2004/07/09/3201.aspx, (accessed 31-10-2012).

[136] Brownell, KD, Kersh, R, Ludwig, DS. et al.; "Personal Responsibility And Obesity: A Constructive Approach To A Controversial Issue"; *Health Affairs*; 2010; 3; p. 378–386.

But insofar we *do* hold this intuition that concrete evidence (such as strong statistical correlations, social, genetic, or otherwise) of causal influences on obesity *is* responsibility-undermining, then – looking at the available options, as for what responsibility requires – this intuition can only be justified by the naturalistic approach. The other available approaches do simply not concern causality, and are therefore insensitive to such findings. Therefore conversely: if we deny the naturalistic approach to responsibility, then we *cannot* justify any intuitions to the effect that such causal influences count as responsibility-undermining. In that case we need to ignore such intuitions – something, we assume, few are really prepared to do. The intuition that responsibility *can* be undermined by genetic or social circumstances is simply too convincing to be scrapped.

We can therefore conclude that insofar we *do* hold the intuition that concrete evidence of causal influences on obesity is responsibility-undermining, then, given the improbability of agent-causality, we ought to take seriously the plausibility of the impossibility of responsibility. Needless to say, therefore we should also be open to the suggestion that there is *no* personal responsibility for obesity.

5: Implications, political relevance, and conclusion

In this article we have attempted to outline what seem to be the three fundamental approaches to moral responsibility and looked at their implications for the question of personal moral responsibility for obesity. The most plausible rendering of the *naturalistic* approach seems to make moral responsibility impossible. According to the *true identity* approach, only very few obese persons should be labeled as morally responsible because, we assume, very few *identify* truly with behaviors leading to obesity. Most accommodating of the belief that the obese person *is* morally responsible is the *reasons-responsiveness* approach. But, as we also have argued, this approach seems over-inclusive on many counts, and not ultimately convincing. Finally, we have argued that if one believes that factors beyond the individual's control, such as genetics or social circumstances can indeed soften or undermine responsibility, then the naturalistic account is the most, or indeed the only, plausible account of responsibility catering to that intuition. However, accepting the naturalistic approach makes personal responsibility very, very hard to defend in the first place. We wish therefore very briefly to follow up on some of the implications of the impossibility of responsibility in order to suggest further lines of enquiry.

Even though there is no logical or necessary connection between on one hand *moral* responsibility and, on the other, *holding* individuals responsible in terms of moral criticism, praise, blame, or cost-responsibility, a very influential theory of justice in the contemporary political philosophical debate – luck egalitarianism – holds, roughly, that inequalities are unjust except when they "track choice" – implying that it is only if we are indeed responsible for an outcome that we can be held cost-responsible, ceteris paribus[137], and quite a few laypersons seem to agree.[138] Following this theory, if the obese are *not* responsible, then eventual inequalities stemming from their obesity are indeed unjust – at least *ceteris paribus*. However, this latter clause is important, since there might be other reasons that could justify holding the obese *cost*-responsible. One key candidate here is efficiency: if it is indeed efficient, in terms of e.g. decreasing obesity rates (ultimately: in terms of aggregated welfare) to hold persons *cost*-responsible, then we are perhaps justified in doing so. Holding the obese *cost*-responsible may be done e.g. by imposing consumer taxes on fatty food, or, perhaps less sympathetic, self-payment on certain health care services related to obesity.

This raises three further sets of questions. First, *is* it efficient to hold individuals cost-responsible for consequences of obesity – does it forestall or reduce obesity, and does it do so in a way, which is better, all things considered, than other alternatives? Second, at what price to other values, such as personal autonomy, equal respect etc. can society pursue policies that hold the obese cost-responsible?[139] Third, given the starting point that the obese most likely are not *morally* responsible, how can society pursue such policies in ways that do not stigmatize the obese; policies that do *not* carry the message "you are to blame" even if it does hold them cost-responsible?

We believe all three lines of enquiry should be of great interest to scientists and scholars engaged with the question of obesity. They call both for justified theories of distributional justice, for a closer examination of public health interventions, and for extended empirical investigations.

[137] Segall, S; 2010; ibid. And: Knight, C; 2009; ibid.

[138] Lund, TB, et al.; 2011; ibid.

[139] Fleck, LM; "Whoopie Pies, Supersized Fries – ''Just'' Snacking? ''Just'' Desserts?"; *Cambridge Quarterly of Healthcare Ethics*; 2012; 21; p. 5-19.

What does society owe me if I am worse off due to my own responsibility?[140]

Martin Marchman Andersen

Abstract

The luck egalitarian literature offers many sophisticated discussions on how to understand the notion of responsibility, choice or option luck, and thus when more precisely it is (or is not) unjust for an individual to be worse off than others. But it does not offer any answer to the question of what more precisely the self-responsible worse off individual ought to be held cost-responsible for? In this article I discuss two parallel questions: 1) if an individual is worse off than others due to her own responsibility then what benefits, if any, does society have justice-based reasons to provide her? And 2) if an individual is worse off than others due to her own responsibility, then what benefits, if any, does society have justice-based reasons to hold that individual (uniquely) cost-responsible for?

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Introduction

Luck egalitarianism is essentially the view that it is unjust for an individual to be worse off than others due to no responsibility of her own.[141] This principle, however, does not tell us much on the fate of the individual who is worse off due to her own responsibility. Suppose for instance smokers are responsible for smoking and a smoker gets lung cancer (partly) because of her smoking. Does the principle imply that society owes her absolutely no compensation for surgery expenses? Or is there more to the question, for instance because smoking is not the only cause of her lung cancer? In other words: The luck egalitarian literature offers many sophisticated discussions on how to understand the notion of responsibility, choice or option luck, and thus *when* more precisely it is (or is not) unjust for an individual to be worse off than others. But it does not offer any answer to the question of what more precisely the self-responsible worse off individual ought to be held cost-responsible for? Luck egalitarianism needs to answer the question of what benefits, if any, society, or whoever it is that has a duty to bring about justice, owes to the individual who is worse off due to her own responsibility. In this article I will therefore discuss two parallel questions: 1) if an individual is worse off than others due to her own responsibility then what benefits, if any, does society have *justice-based* reasons to provide her? Call this question *Alpha*. But if there are benefits which society does not have *justice-based* reasons to provide her, in terms of e.g. coverage of surgery expenses, then who should cover them? Her? Or her *and* other individuals behaving in the same way, e.g. other smokers? Therefore: 2) if an individual is worse off than others due to her own responsibility, then what benefits, if any, does society have *justice-based* reasons to hold *that* individual (uniquely) cost-responsible for? Call this question *Beta*.

The matter of personal responsibility for smoking is widely discussed, and smoking also seems to be a very good case of luck egalitarian illustration. I therefore frame my questions – *Alpha* and *Beta* – by applying luck egalitarianism to justice in health care, such that I (for reasons of clarity)

[141]There are several versions of the formulation, but for reasons of clarity, this one is preferable here. See: Cohen, GA; "On the Currency of Egalitarian Justice"; *Ethics*; 1989; 99, no. 4; p. 906-44. And: Knight, C; *Luck Egalitarianism: Equality, Responsibility, and Justice*; Edinburgh; Edinburgh University Press; 2009. And: Arneson, RJ; "Equality and Equal Opportunity for Welfare"; in: L.P. Pojman and R.B. Westmoreland (eds.); *Equality: Selected Readings*; Oxford; Oxford University Press; 1997; p. 229-41.

take *access to health care* to be our (luck) egalitarian currency. Towards the end of the article, however, I will adjust my findings to a more plausible currency, namely *welfare*.

I will assume that there are behaviours, call them *R-ways*, which 1) lead to increased risks of diseases, and 2) are something individuals themselves are responsible for. I assume smoking, over-eating, drinking etc. to be *R-ways*. I do not take a precise stand on what responsibility requires, though I minimally assume an epistemic notion, such that e.g. a smoker must know about the risks of smoking in order to be responsible for smoking. I will ignore what other reasons society may have to help out needy individuals, and only discuss what society has *justice-based* reasons to do. This includes that I ignore potential other societal reasons to hold individuals cost-responsible for certain behaviours, than them being responsible. We may namely do that for other reasons, for instance reasons of paternalism – that is to help individuals quit (or not to begin) smoking (if) for their own good. The underlying intuition I will follow is (initially) that it *ceteris paribus* is unfair for individuals who *do not* self-responsibly impose risks on their own health, by e.g. smoking, to bear the costs of those who *do* self-responsibly impose risks on their own health, by e.g. smoking. This intuition, however, will later be revised.

Overview of the article

In *Health, Luck, and Justice* Shlomi Segall works out a comprehensive attempt to justify luck egalitarianism applied to justice in health care under the assumption that individuals *are* responsible for behaviours leading to increased risks of diseases, such as smoking, drinking, over-eating etc.[142] He argues that even though we *do* have reasons, such as reasons of *meeting basic needs*, to provide health care to individuals who fall ill due to such behaviours, we do *not* have *justice-based* reasons to do so, and the costs related to these diseases can therefore fairly be passed on to the responsible individuals themselves. However, there is here a crucial question of just what these costs are.

[142] Segall suggests that responsibility should be replaced with a concept of *reasonable avoidability*, since also e.g. firefighters are responsible for injured burns and women for becoming pregnant, but yet we do not consider such behaviours as reasonably avoidable. Whether he is correct or not, I will for reasons of simplicity just talk about responsibility. Segall, S; *Health, Luck and Justice*; Princeton; Princeton University Press; 2010; p. 20.

Based on Segall's arguments I *first* come up with a first suggestion to *Alpha*. This is roughly that for each health care needing individual, if there is an *R-way*, then what society has *justice-based* reasons to cover is the health care costs minus some percent, which corresponds to the *R-ways'* causal influence on the individuals' health condition. However, unless we are willing to accept that e.g. a blood clot is caused by just a short period of high fat food, this suggestion presupposes our ability to establish to which extent a disease is caused by a certain *R-way*. *Second*, I argue that this suggestion fails on grounds of justice: Even though an *R-way* evidently has some causal influence on an individuals' health condition, it does not follow that the individual therefore burden the society in the relevant sense. I therefore come up with a second suggestion to *Alpha*, arguing that what are relevant to compare is the actual health care costs of an individual behaving in *R-ways* minus the counter-factual costs had she *not* behaved in any *R-way*. If the actual costs are higher than the counter-factual costs, then society does not have *justice-based* reasons to cover the difference. Having established *Alpha*, we need to answer *Beta*. I therefore *third*, borrow a distinction made by Segall between *standard luck egalitarianism* and *all luck egalitarianism*. The former is the view that if an individual is worse off than others due to her own responsibility, then justice does not require anything. Inspired by this view I come up with a first suggestion to *Beta*: For each individual, behaving in *R-ways*, if there are costs that society does not have *justice-based* reasons to cover, then these costs are also what society has *justice-based* reasons to hold *that* individual (uniquely) cost-responsible for. All luck egalitarianism, on the other hand, is the view that if an individual is worse off than others due to her own responsibility, then justice requires her (bad) option luck to be equalized between her and other individuals behaving in the same way. Inspired by this view I *fourth* object to standard luck egalitarianism and come up with a second suggestion to *Beta*: If the costs of the group of individuals sharing an *R-way* is higher than the same groups' counter-factual costs had they not behaved in that *R-way*, then what society has *justice-based* reasons to hold each *R-way-individual* cost-responsible for is this cost-difference divided by the number of individuals in the *R-way-group* proportionally to consumption. *Fifth*, I give two objections to the all luck egalitarian view, one of which by showing that costs, according to this calculation, may be unjustly affected my morally arbitrary matters such as socio-economic circumstances. I therefore label a third luck egalitarian view on this matter – *universal luck egalitarianism* – and come up with a third suggestion to *Alpha* and *Beta*: What is relevant to

compare, for each individual, is the universalisation of that individuals' exercise of *R-ways*. In order to know both what society has *justice-based* reasons to cover and what society has *justice-based* reasons to hold that individual cost-responsible for, we need to compare the costs if all individuals in society exercised the same *R-ways*, and to the same degree, as that individual, with the costs if all of the same individuals behaved in no *R-ways*. If the former costs are higher than the latter, then what society has *justice-based* reasons to hold the individual cost-responsible for is the difference divided by the number of individuals in the universalisation. *Sixth*, I adjust my findings to *welfare* as our luck egalitarian currency. *Finally* I conclude.

The problem and the first suggestion to *Alpha*

In applying luck egalitarianism to justice in health care Segall argues that if an individual gets a disease due to behaviours for which she herself is responsible, say smoking, then the costs related to the treatment of this disease can fairly be passed on to that individual herself. However, it is not obvious what the costs are. For instance, a study made by van Baal et al. shows that the ultimo lifetime health care costs are higher for non-smokers than for smokers.[143] Letting himself be confronted with this finding, Segall states that:

> The justification for passing on the costs of treatment to the imprudent was based on the premise that they *unnecessarily* burden the health care system.
>
> (…) Or to put it differently, the luck egalitarian view of health care justifies imposing on patients the financial burden of their *imprudent* conduct.[144]

According to Segall, it is therefore irrelevant if, as this study suggests, the health care costs of smokers are higher than the health care costs of non-smokers. Smoking leads to unnecessary burdens of the health care system. Thus, following this intuition, as long as there are individuals who are worse off due to some *R-way*, there is a cost that society *does not* have *justice-based* reasons to cover.

[143] van Baal, PHM. et al.; "Lifetime medical costs of obesity: prevention no cure for increasing health expenditure"; *Plos Med*; 2008; 5; 2: e 29.

[144] Segall, S; 2010; ibid; p. 83.

Segall does not give any precise answer to the question of what these costs are, but following his line of thoughts I will come up with a first suggestion to *Alpha*. To do that we first need an understanding of direct costs, DC:

> For each health care treatment of an instance of a disease, D, there is a direct cost, DC, which is the actual health care expenses brought about by treatment, care, administration etc. of D.

But DC is not all we need to establish in order to determine *Alpha*. This is because it is not obvious that a certain *R-way* is the only event which brings a certain disease about. First, it seems obvious that only few diseases are bound causally to one *single* behaviour. A broken ankle due to a risky jump from a bridge may be one example. However, when it comes to smoking-related diseases it gets more complicated (and probably not less complicated when it comes to diseases related to over-eating). Even though smokers get various diseases earlier, and die earlier, than non-smokers, most individuals will sooner or later get cancer or heart-diseases, no matter if they smoke or not. We simply face a problem of determining to which extent a disease, D, is caused by an *R-way*.

Suppose John has smoked 20 cigarettes a day since he turned 15 years. On his 60th year he gets hit by a blood clot. He reaches the hospital in time and gets an angioplasty operation. He lives on, but has to go to some routine-check, say 6 times a year, for the rest of his life. Now the direct health care costs of John's disease seems rather unproblematic to add together. The problem is how to determine to which extent John's blood clot is caused by smoking rather than unavoidable matters, such as ageing? I will discuss this, but first come up with a first suggestion to *Alpha* in a way that is compatible with Segall's arguments. How much of John's health care costs does society have *justice-based* reasons to cover?

For any instance of a disease, D, there may be previous *R-ways*, which have had causal influence, CI, on the occurrence of D. Call this RCI. If there is no RCI on D, then RCI equals 0%. If RCI is the only cause of D, then RCI equals 100%. We can now establish a first suggestion to what it is that society has *justice-based* reasons to cover.

First suggestion to Alpha:

> For all diseases, D_1-D_n, there is a cost which society has *justice-based* reasons to cover, X, and
>
> X= DC - (RCI * DC)

Given that there are direct costs, DC, related to all health care we can for each D conclude that there *is* a cost, i.e. a positive amount of money, that society has *justice-based* reasons to cover, unless RCI is 100%.

But as mentioned the problem with this suggestion is how more precisely to determine RCI. For most instances of heart diseases (and many cancer diseases) which smokers get, we have reasons to believe that smoking has had some causal influence. But which causal influence? What shall we tell John about the causal influence of his smoking on his blood clot? Here is one preliminary suggestion:

> John got the blood clot at the time T1. The causal influence of his smoking consumption is 100%, since had he not smoked, then he would, we may plausibly assume, not have had the blood clot at time T1, even though he may get it at any later time T2.

Given the enormous evidence on smoking's impact on heart diseases, this suggestion seems right in the sense that it is very unlikely that John would have got a blood clot exactly at time T1 had he not smoked. However, the suggestion corresponds to saying that for all diseases, D_1-D_n, which an *R-way* has causal influence on, then if D_1-D_n occurs to an individual behaving in *R-way*, then RCI is 100%. But this seems wrong exactly because it is rather likely that had John not smoked, then he would have got a blood clot at some later time T2, and in all cases he would have got some disease at some later time T2. Moreover, the suggestion is insensitive to the number of cigarettes John is smoking:

1) John smokes 20 cigarettes a day in 45 years. Then he gets a blood clot at time T1. Had he not smoked 20 cigarettes in 45 years, then he would get a blood clot at time T3.

2) John smokes 20 cigarettes a day in 5 years. Then he gets a blood clot at time T2. Had he not smoked 20 cigarettes in 5 years, then he would get a blood clot at time T3.

Following this suggestion RCI lies constant at 100% in both cases, since in both cases John would most likely not have got the blood clot at neither time T1 nor T2 had he not smoked. Assuming that most of us have, at least shorter, periods in our lives where we eat slightly too much, exercise too little, or what have you, it seems that for quite a few of the disease we most likely will get there is an *R-ways'* causal influence, RCI, such that we would not have got these diseases *at the exact time we get them* have we not behaved in *R-ways*. In principle, even a couple of days on heavy cholesterol food may cause your blood clot to set in when you e.g. are 67 years and 17 days rather than when you are 67 years and 18 days, *ceteris paribus*. Holding RCI constant at 100% in all such cases seems strange, and would most likely imply that the majority of all diseases in society would be caused by different *R-ways* – behaviours for which we, *ex hypothesei*, are responsible.[145] Is this plausible?

Well, if we define a disease *in time* and if John smokes 20 cigarettes a day in 45 years, and if smoking speeds up the process of vein calcification, then it actually does seem plausible to say that smoking caused John's blood clot; it caused the very blood clot he got at the very time T1. Consider a rock lying on the edge of a cliff. Geologists estimates that in 50 years the rock will fall down the valley due to natural pressure. However, next Sunday I go to the rock and push it down the valley. Would we not believe I caused the rock to fall down the valley? If so, then smoking caused John's blood clot just as I caused the rock to fall down the valley.

However, defining RCI *in time* would not only imply that society owes nothing in terms of *justice-based* compensation to Thomas who gets a blood clot, but only smoked in two months during high school, but also that it cannot on *justice-based* ground distinguish Thomas from John who smoked 20 cigarettes a day in 45 years.

As a matter of justice I therefore take it that we need to qualify degrees of RCI, such that e.g. John smoking 20 cigarettes a day in 45 years equals a RCI at, say, 60%, whereas RCI in the case of Thomas, who smoked only in two months, equals something much lower. But I not only fail to see

[145] Again, Segall suggests that we replace responsibility with what he calls 'reasonable avoidability'. Some behaviours, which we may be responsible for, may not count as 'reasonably avoidable'. However, the notion of 'reasonable avoidability' is dubious. See Marchman Andersen, M; "Reasonable Avoidability, Responsibility and Lifestyle Diseases"; *Ethical Perspectives: Symposium on Shlomi Segall's Health, Luck, and Justice*; 2012; Issue 19; 2; p. 295-307.

an obvious way to do this, but will also argue that even if there is an otherwise plausible way to do it, then the suggestion fails on grounds of justice:

Objection and second suggestion to *Alpha*

Suppose society claims it does not have *justice-based* reasons to cover 60% of the surgery expenses of John's blood clot, because 60% of it is caused by smoking. Then I believe there is a valid objection for John to raise:

> Yes, this is true, but had I not smoked, then I probably would still have got the disease just somewhat later. Even more likely, I would have got some disease at some point later. If I did not smoke, then I would most likely still cost something for the health care system. If the costs of my smoking-related disease(s) are lower than the costs of the disease(s) I would have got *had I not smoked*, then I do not burden the health care system *all things considered*. If the costs of my smoking-related disease(s) are higher than the costs of the disease(s) I would have got *had I not smoked*, then I will pay the difference.

I take this to be a very strong reason to reject my first suggestion to *Alpha*. Why should there be some costs in John's disease-pattern that society does not have *justice-based* reasons to cover, if his *R-way(s)* does not burden the health care system, all things considered?

Recall the intuition I initially appealed to: it is *ceteris paribus* unfair for individuals who *do not* self-responsibly impose risks on their own health, by e.g. smoking, to bear the costs of those who *do* self-responsibly impose risks on their own health, by e.g. smoking. I believe we should revise this intuition, and more precisely hold that it is *ceteris paribus* unjust for individuals who *do not* self-responsibly impose risks on their own health to bear *potential additional* costs of those who *do* self-responsibly impose risks on their own health.

Thus, what is relevant to compare is for each individual the difference between the actual costs related to diseases brought about, or partly brought about, by *R-ways* and the counter factual costs related to the diseases the individual would have got if she had not behaved in any *R-ways*. Therefore, from this revised intuition I provide a second suggestion to what it is that society has *justice-based* reasons to cover if individuals need health care due to *R-ways*, *Alpha*.

Second suggestion to Alpha:

> For each individual, I, behaving in *R-ways*, R_1-R_n, there is a cost, which is DC of all diseases in I's life. Call this X.
>
> For each individual, I, behaving in *R-ways*, R_1-R_n, there would be a cost, which is DC of all diseases in I's life, had I behaved in no *R-ways*. Call this Y.
>
> For each individual, I, behaving in *R-ways*, society has *justice-based* reasons to cover X if $X \leq Y$. If $X > Y$, then society has *justice-based* reasons to cover $X \div (X \div Y)$.

Clarification: Y refers to the sum of health care costs of I's life in the nearest possible world where I behaves in no R-ways. If in the actual world an individual smokes, then our relevant possible world is the nearest possible world where I does not smoke, nor behaves in any other *R-ways*. If in the actual world I smokes and over-eats, then our relevant possible world is the nearest possible world where I does not smoke, nor over-eats, nor behaves in any other *R-ways* (if, for each I there are 2 or more equally near possible worlds where this requirement is satisfied, then Y refers to the average health care costs of I's lives in these worlds).[146]

Standard luck-egalitarianism and the first suggestion to *Beta*

Thus, having determined *Alpha* we need second to know what society has *justice-based* reasons to hold the *individual* (uniquely) cost-responsible for, that is question *Beta*.

In the luck egalitarian literature there is a thorough discussion on whether society ought to neutralize 1) only brute luck, or 2) brute luck as well as option luck, such that justice requires individuals who take the same choices to risk pool with one another. Segall has labelled these positions *standard luck egalitarianism* and *all luck egalitarianism,* respectively. According to the former, a position which Segall defends himself, if an individual gets sick due to some *R-way*, his fate is simply beyond the scope of justice (justice does not require anything).[147] According to the

[146] Regarding possible worlds see: Lewis, D; *On the Plurality of Worlds*; Blackwell Publishing; 1986.

[147] Segall, S; 2010; ibid; p. 45-57.

latter, justice requires individuals sharing the same *R-way* to risk pool with one another.[148] More precisely, the difference between the two is the following: if two individuals are worse off, but unequally worse off, due to the same behaviour, for which they are responsible, then standard luck egalitarianism is silent in this inequality, while justice, according to all luck egalitarianism, requires their bad (option) luck to be equalized. I will suggest an answer to *Beta* based on each of these versions of luck egalitarianism. I will argue that the latter version is more plausible than the former, but ultimately suggest a third version, which I will label *universal luck egalitarianism*.

If my second suggestion to *Alpha* is correct, and we follow the intuition from standard luck egalitarianism, then the answer to *Beta* is straightforwardly the following[149]:

First suggestion to Beta:

> What society has *justice-based* reasons to hold each individual, I, behaving in *R-ways*, cost-responsible for is:
>
> If $X \leq Y$, then 0
>
> If $X > Y$, then $X \div Y$

Thus, what society for each individual, I, does not have *justice-based* reasons to cover is also what it has *justice-based* reasons to hold I (uniquely) cost-responsible for. An objection to this proposal, however, is obvious: Imagine John and Brian, each smoking 20 cigarettes a day in 45 years. In the age of 60 they both get lung cancer with which they struggle in and out of the hospital in three years at a rather high cost. After the three years they both die and their lives have had the same rather high lifetime health care costs, say 100 at some price-index. Actual costs:

John: 100

Brian: 100

[148] See e.g. Lippert-Rasmussen, K; "Egalitarianism, Option Luck, and Responsibility"; *Ethics*; 2001; 111; p. 548-79. Or: Barry, N; "Reassessing Luck Egalitarianism"; *Journal of Politics*; 2008; 70; p. 136-50. Or: Otsuka, M; "Luck, Insurance, and Equality"; *Ethics*; 2002; 113; p. 40-54.

[149] I do not mean to suggest that 'standard luck egalitarians', such as Segall, are committed to say these reasons are *decisive*, all things considered.

However, had neither John nor Brian smoked, then their lives would have went on very differently. John would have been hit by a truck some few years later, smashed completely with no hope for survival, and his lifetime health care costs would therefore only account for some few vaccine meetings with his doctor, and his death certificate. His counter-factual lifetime health care costs are therefore very small, say 5. Brian, on the other hand, would have got colon cancer 5 years later with which he would struggle in and out the hospital for some years at a rather high price. Then he would die with lifetime health care costs at 100. Counter-factual costs are therefore:

John: 5

Brian: 100

My first suggestion to *Beta* implies the following regarding respectively John and Brian's *cost-responsibility*:

John: 100 ÷ 5 = 95

Brian: 100 ÷ 100 = 0

John and Brian behave (responsibly) in the exact same way and burden the society to the exact same degree (*ceteris paribus*), and yet they are held differently cost-responsible. Is this counter-intuitive? At first glance it seems so. What they counter-factually would cost for the health care system if they did not smoke (or performed in any other *R-way*) seems indeed to be a matter of brute luck – something completely out of their control. Why should John be held more cost-responsible than Brian simply because he, if he did not smoke, would have been hit by a truck and therefore counter-factually only would have brought about low health care costs for the society to cover? Following the intuition from standard luck egalitarianism there may be a reason:

> What an individual would cost health care-wise if she behaved in no *R-ways is* a matter of brute luck. However, this only becomes an issue if the individual *chooses* to behave in *R-ways*. If John's actual/counter-factual cost difference is higher than Brian's, it is therefore a matter of bad *option luck*. By choosing to smoke, John himself brings about the relevance of his counter-factual health care costs. By

> choosing to smoke John and Brian simply brings themselves beyond the scope of justice.[150]

However, why should we accept that this is all justice requires? The appealing idea about luck egalitarianism is that luck is morally arbitrary. Choices however are not. What justice requires is therefore to make sure that equal choices result in equal outcomes. It may be unfair for the rest of the society to bear potential additional costs of smokers' self-imposed diseases, and John may therefore not have a valid complaint against society, if his lifetime health care costs are higher, than if he did not smoke. This, however, does not exclude him from having a fair complaint against Brian, with whom he in all morally relevant aspects, i.e. choices, is completely identical. He may say to Brian: 'we smoke the same and therefore we pay the same – as what regards you and me, the difference between us is a matter of *only* brute luck'.[151]

All luck egalitarianism and the second suggestion to *Beta*

I fail to see why justice should not require John and Brian to risk pool with one another, but it is beyond the scope of this article to fully establish why. If I am wrong, then my first suggestion to *Beta* seems to be the answer, if any, to the question of what society has *justice-based* reasons to hold the individual (uniquely) cost-responsible for. However, if I am right then in order to know what society has *justice-based* reasons to hold the individual cost-responsible for, we need first to define the cost of a group sharing an *R-way*. That is:

> For each group of individuals, I_1-I_m, behaving in an *R-way*, R_1, there is a cost, which is DC of all diseases in the lives of I_1-I_m. Call this X.
>
> For each group of individuals, I_1-I_m, behaving in an *R-way*, R_1, there would be a cost, which is DC of all diseases in the lives of I_1-I_m, had I_1-I_m not behaved in *R_1-way.* Call this Y.

[150] Standard luck egalitarians may argue that individuals sharing an *R-way* should risk pool with one another, but not for *justice-based* reasons. Thus, this seems somehow to be Segall's suggestion as for how to compensate society for meeting imprudent individuals' basic needs. Segall, S; 2010; ibid; p. 75 - 78.

[151] It may be objected that the gambler loser can say the same thing to the gambler winner, but I do not regard *R-ways* to be proper gambling, but quasi-gambling. The difference is simply that the thrill of gambling is not intrinsic to *R-ways*. See Lippert-Rasmussen, K; 2001; ibid; p. 555.

The cost of *group* I_1-$I_m(R_1)$ is Z_G, and $Z_G = X \div Y$.

Two remarks of clarification: First, Y refers to the nearest possible world where each member of the group of smokers does not smoke, but behaves in the same other *R-ways*, if any, as in the actual world. This is important since different *R-way groups* plausibly overlap in the actual world. If there e.g. is an overlap between smokers and alcoholic drinkers, then the drinkers' eventual additional costs is to be accounted by the group of drinkers. Therefore, if we measure the cost of smoking, we need to hold all other *R-ways* constant on our counter-factual comparison. Second, if R_1 is smoking, then I take it that all individuals who smoke belong to the same group. Contrary, we could suggest that individuals who smoke e.g. 10 cigarettes a day are *one* group, while individuals who smoke 15 cigarettes a day are *another* group, etc. Such division could go very long, such that individuals, who in their entire life smoke exactly 292001 cigarettes, constitute *one* group. It would be a pure coincidence if we could even par two smokers into *one* group. In order for all luck egalitarianism to make sense, we need general *R-way* types, such that e.g. smokers constitutes *one R-way* group, I_1-$I_m(R_1)$, and alcoholic drinkers *another R-way* group, I_1-$I_l(R_2)$, etc. Having said this, I take it that we would want to make our suggestion to *Beta* sensitive to different degrees of different *R-ways*, such that we divide Z_G into its' lowest *Behavioural Entity* (e.g. grams of tobacco smoked). Call this BE. In order to determine what society has *justice-based* reasons to hold each individual behaving in different *R-ways* cost-responsible for, we simply divide the group cost, Z_G, of each *R-way* by the number of lowest behavioural entity, BE, that is performed in the group, which we multiply by the number of BE that the individual has performed. We continue to do this equation for each of the *R-ways* the individual behaves in and add the numbers together. Based on the cost of each *R-way-group* I thus suggest what society has *justice-based* reasons to hold each *R-way-individual* cost-responsible for:

Second suggestion to Beta:

$$\{[Z_G(R_1)/BE(R_1)] * I(BE(R_1))\} + \{[Z_G(R_2)/BE(R_2)] * I(BE(R_2))\} + \{[Z_G(R_n)/BE(R_n)] * I(BE(R_n))\} = Z_I$$

What society has *justice-based* reasons to hold the *individual(R_1-R_n)* cost-responsible for is:

If $Z_I \leq 0$, then 0

If $Z_I > 0$, then Z_I

Clarification: The suggestion accounts for individuals behaving in more than one *R-way*. It answers what an individual should be held cost-responsible for if she e.g. smokes, over-eats and drinks by adding together her proportional share of first the cost of smokers, second the cost of over-eaters, and third the group of drinkers. It is worth stressing that if the cost of one or more of these *R-way-groups* are negative, then it counts in her advantage, since then would also *her* proportional share be negative. This, however, only works until the point where Z_I is 0. It may be suggested that if an individual chooses some *R-ways* that generally leads to lower costs, such that Z_I is lower than 0, then she should have some cash benefit corresponding to the savings up to 0. This, however, is a mistake since it would make her better off than others in terms of our egalitarian currency, which here is access to health care. The reason for such intuition, I believe, is simply that when having this discussion we assume access to health care to be our distributive currency. But we only do that for reasons of clarity, not because it is a plausible currency, all things considered.

Furthermore: My second suggestion to Beta does not mean to imply that more of a given *R-way*, say smoking, equals more or less additional costs. In fact, I doubt that there is any linear connection here. Rather, the point is that if some *R-way* leads to additional health care costs, then according to my revised initial intuition, it is unjust for the rest of society to cover these additional costs. To distribute eventual additional costs of an *R-way* among the *R-way group*-members proportionally to consumption seems fair, since individuals' proportional consumption corresponds to the only thing that (here) is morally relevant, namely individuals' exercise of that *R-way*.

Given the possibility of two smokers having very different counter-factual lifetime health care cost, I believe my second suggestion to *Beta* is an improvement, *justice-wise*, since smokers here split their actual/counter-factual cost difference proportionally to their respective consumption. However, this does not mean there is no room for further improvements. Rather, I now present two objections to my second suggestion to *Beta* before I suggest my idea of universal luck egalitarianism, which involves a third suggestion to both *Alpha* and *Beta.*

2 objections to the second suggestion to *Beta*

I have at least two worries about all luck egalitarianism and my second suggestion to *Beta*. First, we should note that it is a contingent and morally arbitrary matter how many fellows, if any, a smoker has to risk pool with. What if there is only one smoker in society? Then inevitably my second suggestion to *Beta* collapses into my first suggestion to *Beta*, and all luck egalitarianism collapses into standard luck egalitarianism.[152] I believe it is fragile to have a principle of distributive justice to rely on such a contingent matter.

Second, recall my revised initial intuition: It is unjust for individuals who *do not* self-responsibly impose risks on their own health to bear *potential additional* costs of those who *do* self-responsibly impose risks on their own health. If this is so, then what we are looking for when establishing answers to *Alpha* and *Beta* is *additional* costs brought about by *smoking.* We are simply looking for a *causal* connection between *additional costs* and *smoking*. But calculations, according to my second suggestion to *Beta*, may be affected by morally arbitrary matters. For example, smokers may be more (or less) expensive than non-smokers, but for reasons that has nothing to do with smoking. Therefore, here is my second objection to all luck egalitarianism:

> Suppose a society consists of two groups, A and B. A constitute the upper half of the socio-economic scale, and B constitute the lower half of the socio-economic scale. 20% of the population smokes, but 80% of the smokers belong to group B. The society faces the following average health care cost-levels:
>
> Non-smokers actual health care costs: 100
>
> Smokers' actual health care costs: 120
>
> Smokers' counter-factual (non-smoking) health care costs: 90

Again, the point is that smokers' counter-factual costs, and their actual costs, may be higher (or lower) than the costs of non-smokers, but for reasons that has nothing to do with smoking. We simply know from social epidemiology that individuals in lower social groups have higher risks of various diseases than individuals in higher social groups even when adjusted for smoking and

[152] Segall, S; 2010; ibid; p. 51-54.

other well-known behavioural risk-factors.[153] Under the plausible assumption that socio-economic status is not an *R-way*, this is a problem for my second suggestion to *Beta* and the all luck egalitarian view. The group of smokers seems to have a fair complaint when objecting if for instance their counter-factual baseline is lower than the actual baseline of the group of non-smokers. This would namely mean that smokers are held cost-responsible for more than they are responsible for. For each single smoker it seems indeed to be a morally arbitrary matter whether her fellow smokers belong to lower or higher socio-economic groups, but that matter may plausibly affect her cost-responsibility.[154]

Universal luck egalitarianism and the third suggestion to *Alpha* and *Beta*

The two worries should not make us go back to standard luck egalitarianism. After all these worries change nothing about the unfairness between John and Brian who smoke the exact same number of cigarettes and yet end up being held very differently cost-responsible. The reason why this is unfair is that their counter-factual costs may be differently affected by morally arbitrary circumstances. But if this is so, then it also seems morally arbitrary and thus unfair if different *R-way groups*, say the group of smokers and the group of ski tourists, are affected differently by morally arbitrary circumstances, such as socio-economic status. According to our very luck egalitarian principle it is unjust for an individual to be worse off than others due to no responsibility of her own. Again, I assume socio-economic status not to be an *R-way*, but even if it is then it would indeed be weird to suggest that it is an *R-way* how many fellows an *R-way individual* has to risk pool with. I therefore suggest a principle of universal luck egalitarianism, which can account for these worries. When answering *Alpha* and *Beta*, affections from morally arbitrary matters ought to be as small as possible. Ideally, for each individual the only thing that is morally relevant is that individuals' exercise of *R-ways*, and therefore that, and only that, is what *Alpha* and *Beta* ideally should account for. Universal luck egalitarianism therefore involves a revision of both *Alpha* and *Beta*.

[153] Marmot, M; *Status Syndrome*; London; Bloomsbury; 2004.

[154] Neither the study of van Baal et al. nor a slightly earlier Danish study on the cost of respectively smokers and non-smokers, adjust for socio-economic status. Rasmussen, SR. et al.; "The total lifetime health cost savings of smoking cessation to society"; *European Journal of Public Health*; 2005; 15; 6; p. 601–606. In some societies we may also imagine such morally arbitrary affections from differences in genetics.

Third suggestion to Alpha:

> For each individual, I, behaving in *R-ways*, R_1-R_n, there is a cost:
>
> X = DC of all diseases in I's life.
>
> And there are two universalized costs, Y and Z:
>
> Y = DC of the lives of all individuals in society, had they all behaved in the very same *R-ways* to the very same degree as I.
>
> Z = DC of the lives of all individuals in society, had they all behaved in no *R-ways*.
>
> Furthermore:
>
> M = the number of individuals in society.
>
> What society for each I, behaving in *R-ways*, has *justice-based* reasons to cover is:
>
> If $Y \leq Z$, then X
>
> If $Y > Z$, then $X \div [(Y \div Z)/M]$

Clarification: If an individual smokes 10 cigarettes a day in 15 years, and behaves in no other *R-ways*, then Y refers to DC of all individuals in the society in the nearest possible world where they all smoke exactly 10 cigarettes a day in 15 years and behave in no other *R-ways*. Z refers to DC of the same individuals in the nearest possible world where they all behave in no *R-ways*. If Y is lower than or equal to Z, then the universalisation of the individuals' *R-ways* should not be taken as a burden on the health care system, and society therefore has *justice-based* reasons to cover X, even though some diseases are brought about or partly brought about by *R-ways*. If Y is higher than Z, then society has *justice-based* reasons to cover $X \div (Y \div Z)$ divided by the number of individuals that are part of the universalisation, M. *Beta* follows straightforwardly from *Alpha*:

Third suggestion to Beta:

> What society has *justice-based* reasons to hold each worse off individual, I, behaving in R-ways, cost-responsible for is:

If $Y \leq Z$, then 0

If $Y > Z$, then $(Y \div Z)/M$

I believe this third suggestion to *Alpha* and *Beta* is an improvement, *justice-wise*, compared to the former suggestions. Having the entire society represented in each baseline gives the benefit of large numbers, such that morally arbitrary affections will be highly reduced. The comparison is thus between the universalisation of the very *R-ways* the individual behaves in and the universalisation of *prudence*, which is the possible world where no individuals behave in any *R-ways*. The only difference between the two worlds is thus the very *R-ways* the individual behaves in – and that is the only thing that (here) is morally relevant. If the *R-ways* of an individual generally leads to higher costs than the world of prudence, then the individual will be held cost-responsible for her proportional share of these *R-ways*. As I generally have framed my questions in a societal context I also hold the society to by our moral scope. The suggestion, however, is straightforwardly expandable to a larger moral scope, such as the entire world.

From health to *welfare*

So far I have only focused on health care costs. However, a (luck) egalitarian discussion goes on what more precisely individuals ought to have equal shares off, whether or not adjusted for responsibility. Since even complete equality in access to health care is compatible with huge *in*equalities in resources or welfare, only few, if any, would probably argue that (opportunity for) health is that, and that only, which people should be equal in terms of. Unless we hold that health (care) is a separate sphere, it seems that the principles we find when examining justice in health care need ultimately to be translatable to a more plausible currency. Many luck egalitarians' answer to the *equality of what*-question is *welfare.* If so then our principle dictates that it is unjust for an individual to be worse off *welfare-wise* than others through no responsibility of her own. If an individual then is worse off *welfare-wise* due to her own responsibility, then we need to know what welfare-level justice requires her to have, *Alpha*.

Suppose Jim and Bob are equally well off *welfare-wise* at some time T1:

T1 Jim=100w Bob=100w

T2 Bob behaves in some *R-way* and as a consequence his welfare drops to 50:

Jim=100w Bob=50w

Then what welfare-level does justice require Bob to have? Initially we may tend to think 50, since the welfare drop is brought about by something for which he himself is responsible. But I think this is a mistake, and I think my arguments from the health care case illustrate why. Bob can simply say 'yes, it is true in one very narrow sense of causality, that my *R-way*, for which I am responsible, brought about my welfare loss of 50, but had I not behaved in *R-way*, then it is some uncertain assumption that my welfare-level would just have remained at 100'. Suppose therefore:

T2 (counter-factually): Had Bob not acted in *R-way*, some event would have occurred, which Bob himself is *not* responsible for, and brought his welfare-level down to 80.

Jim=100w Bob=80w

Following my second suggestion to *Alpha*, what society has *justice-based* reasons to cover is Bob's welfare loss when *R-way* minus the difference between his welfare loss and his (potential) counter-factual welfare loss if he behaved in no *R-way*. In this case it would be 50 ÷ (50 ÷ 20). Thus, society, according to my second suggestion to *Alpha*, has *justice-based* reasons to compensate Bob for 20 welfare-units; it has *justice-based* reasons to bring Bob up to a welfare-level of 70. However, both Bob's actual and his counter-factual welfare-loss may be affected by morally arbitrary matters. Suppose the reason for Bob's welfare-loss is that he smoked one and only one cannabis joint, which accidently brought him a cannabis psychosis. But had all individuals in society smoked one and only one cannabis joint then the average welfare-loss, if any, would be much lower. That Bob tracks a psychosis due to one joint is simply just very bad luck. Following my third suggestion to *Alpha* and *Beta* I therefore propose the first baseline to be the universalisation of Bob's *R-way(s)* and the second baseline to be the universalisation of no *R-ways*.

Fourth suggestion to Alpha and Beta (welfare):

> For each worse off individual, I, behaving in *R-ways*, R_1-R_n, there are two universalized average welfare-levels, Y and Z:
>
> Y = the average welfare level of all individuals in society, had they all behaved in the very same *R-ways* to the very same degree as I.
>
> Z = the average welfare level of all individuals in society, had they all behaved in no *R-ways*.
>
> If Y ≥ Z, then society has *justice-based* reasons to bring I up to the *actual* average welfare-level.
>
> If Y ≤ Z, then society has *justice-based* reasons to bring I up to the *actual* average welfare-level minus (Z ÷ Y).[155]

I take it that our currency is *welfare over life*, but do not think there is anything I have proposed that makes my suggestion incompatible with other views on the equality-*when*-question.

Conclusion and final remarks

In this article I have suggested different luck egalitarian answers to (*Alpha*) the question of what is it, if anything, that society has *justice-based* reasons to compensate individuals for, if they are worse off than others due to their own responsibility, and (*Beta*) the question of what is it, if anything, that society has *justice-based* reasons to hold individuals (uniquely) cost-responsible for, if they are worse off due to their own responsibility.

I have argued that it is difficult to estimate different *R-ways'* causal influence on a disease, but, moreover, that it fail on grounds of justice to claim that there for each disease, which an *R-way*

[155] A problem for the luck egalitarian concerns the question of *worse off than whom*? If luck egalitarianism holds that it is unjust for an individual to be worse off than others due to no responsibility of her own, then we need know more precisely what 'others' refers to. Is it 1) the best off person? 2) the average? Or 3) the average in the counter-factual society where no one acts in any *R-way*? If 1 or 2, then it seems that the worse off person who does not behave in any *R-way*, has a fair complaint, if she argues that it is unfair that the baseline is affected by *R-ways*. If other individuals did not smoke, drink, drunk-drive etc. then the average welfare level, to which the worse off individual's position should be compared, may be much higher. Why should the prudent worse off individual suffer from the *R-way individuals'* imprudent choices?

has had causal influence on, necessarily is a cost that society does not have *justice-based* reasons to cover. It is simply unjustifiable to hold individuals cost-responsible, if there is *in fact* no cost, all things considered. And the most plausible way to determine the cost of an *R-way* is to compare its' actual cost to the counter-factual cost if this *R-way* did not occur. This is the underlining principle we ought to apply when answering *Alpha* and *Beta*.

Having said this, it is not clear how to distribute eventual costs that society does not have *justice-based* reasons to cover. I have given three suggestions. First, standard luck egalitarianism does not require anything, if an individual is worse off due to her own responsibility. If this is so, then the obvious answer seems to be that for each individual, if there is something society does not have *justice-based* reasons to cover then this is also what society has *justice-based* reasons to hold that individual (uniquely) cost-responsible for. However, two individuals may have very different counter-factual health care costs, and counter-factual costs are defined to be costs if no *R-ways* at all. The answer therefore implies that two individuals can be held very differently cost-responsible even if they behave in the very same way. This is counter-intuitive, or so I maintain. Therefore, second, all-luck egalitarianism requires option luck between individuals behaving in identical *R-ways* to be equalized. I have argued that this view needs general *R-way* types, but can be, and ought to be, made sensitive to degrees of a certain *R-way*, e.g. different amounts of smoked cigarettes. While I regard the all-luck view to be an improvement, *justice-wise*, I have also objected to it since also *R-way groups* may be held differently cost-responsible for reasons that has nothing to do with the *R-way* in question – i.e. morally arbitrary matters. Therefore, third, I have suggested universal luck egalitarianism: In order to determine what society for each *R-way individual* has *justice-based* reasons to cover and what it has *justice-based* reason to hold that individuals cost-responsible for, we should compare the health care costs of the universalisation of that individuals' *R-way(s)* to the health care costs of the universalisation of no *R-ways*. If the former is higher than the latter, then what society does *not* have *justice-based* reasons to cover and to hold that individual cost-responsible for is the difference divided by the number of individuals that are part of the universalisation. Finally I have shown what universal luck egalitarianism implies if our currency is *welfare*.

Given the objections I have raised towards standard luck- and all luck egalitarianism I believe universal luck egalitarianism, as I have proposed it, provide us with the most plausible answer to *Alpha* and *Beta*. These answers thus provide a model as for what justice requires if individuals are worse of than others due to their own responsibility. The model is silent on what more precisely responsibility requires and can be filled out with different notions of responsibility that one wish to defend, such as free will, reason-responsiveness, or true identity.[156] It is also compatible with a notion of different degrees of responsibility simply by changing the *R-way* from being a constant to being a variable, such that if there is something the *R-way individual* is (e.g.) only half responsible for, then her eventual cost-responsibility should be multiplied by 0,5.[157]

Finally, given the use of possible worlds it may be objected to my suggestion that it is difficult, if not impossible, to comply with. But as the questions I discuss regards what justice requires, such objection is beside the point. First we need to know what justice requires then we can do the actual calculations, which may imply that we must settle with inaccurate numbers.

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[156] See respectively Kane, R; "Free Will: New Directions for an Ancient Problem"; in Fischer, JM (eds.); *Free Will: Critical Concepts in Philosophy. Volume III: Libertarianism, Alternative Possibilities, and Moral* Responsibility; New York; Routledge; 2005. And: Fischer, JM, Ravizza, M; *Responsibility and Control: A Theory of Moral Responsibility*; Cambridge University Press; 1998. And: Frankfurt, HG; "Freedom of the will and the concept of a person"; *Journal of Philosophy*; 1971; 67; 1; p. 5-20.

[157] See Roemer, J; "A Pragmatic Theory of Responsibility for the Egalitarian Planner"; *Philosophy and Public Affairs*; 1993; 22; 2; p. 146-166.

English resume

This PhD dissertation is a contribution to discussions about personal responsibility in relation to distributive justice in health and health care. It is a contribution to contemporary political philosophy in general, but in particular to luck egalitarian theory. I aim to answer three focal questions: 1) What role ought personal responsibility to play in distributive justice in health and health care? 2) What does it take for an individual to be responsible for her own health condition (or responsible in general)? And 3) what is the relation between responsibility and cost-responsibility? It consists in four articles, but I also offer, first, an introduction, second, a section on different efficiency-based political reasons to hold individuals cost-responsible for behaviours that leads to increased risks of diseases, and third, a section on the methodology I use. In my first article I bring recent political philosophical discussions of responsibility in egalitarian and luck egalitarian theory to bear on issues of social inequality in health, and access to health care. I argue that distributive justice in health and health care should be sensitive to responsibility, but also that individuals at the most fundamental level never are responsible in such a way that appeals to individuals' own responsibility can justify inequality. This explains why we should give free and equal health care access – also to individuals affected by diseases for which lifestyle choices are a risk factor. It also explains why we have *justice-based* reasons to reduce social inequality in health. In my second article I investigate and (partly) object to a suggestion put forward by Shlomi Segall, according to which we should exchange the notion of responsibility with a notion of Reasonable Avoidability in the luck egalitarian theory. I argue that the size of the health-care costs related to smoking and obesity is relevant for whether society reasonably can expect individuals to avoid smoking and obesity. In my third article I ask what it fundamentally takes for an individual to be responsible for overweight or obesity. I examine what (in philosophy) appear to be the three basic approaches to responsibility. To illustrate the implications of each of them I introduce a made-up obese test person, who eats too many high fat cakes, and I show what it takes, according to each of these theories, for her to be responsible for her obesity. I show that only one of these approaches can justify the widespread intuition that much causal influence on obesity, such as genetics and social circumstances, diminishes, or completely undermines, personal responsibility. This approach, however, most likely implies that personal responsibility is generally impossible. I argue, nonetheless, that this approach is plausible. In my fourth and final article I proceed under the assumption that responsibility is possible. I examine the relation between responsibility (for one's own health condition) and cost-responsibility (for health care expenses). This involves a discussion of what it plausibly means to burden the health care system, since, as I argue, if there is no burden then there is no *justice-based* reason for cost-responsibility, even if there is responsibility. I argue that we should understand the burden by comparing actual responsibility-tracking costs and counter-factual (nearest possible world) non-responsibility-tracking costs.

Dansk resume

Denne Ph.d.-afhandling er et bidrag til diskussioner om personligt ansvar i relation til fordelingsretfærdighed i sundhed og sygdomsbehandling. Den er et bidrag til politisk filosofi i almindelighed, men i særdeleshed til *luck egalitaristisk* teori. Jeg besvarer følgende tre spørgsmål: 1) Hvilken rolle bør personligt ansvar spille i relation til fordelingsretfærdighed i sundhed og sygdomsbehandling? 2) Er individer selv ansvarlige for deres egen sundhedstilstand? Og 3) hvis individer selv er ansvarlige for deres egen sundhedstilstand, hvilke implikationer har dette så i forhold til deres omkostningsansvar? Afhandlingen består af fire artikler, men jeg tilbyder først en general introduktion, et afsnit om forskellige *effektivitets-baserede* grunde til at holde individer omkostningsansvarlige for adfærd, som leder til øget risiko for sygdomme, og et afsnit om den metode jeg anvender. I min første artikel anvender jeg de seneste diskussioner om ansvar i politisk filosofi på emner vedrørende social ulighed i sundhed, og adgang til sygdomsbehandling. Jeg argumenterer for, at fordelingsretfærdighed i sundhed og sygdomsbehandling bør være sensitiv til ansvar, men også, at individer, på det mest fundamentale niveau, aldrig er ansvarlige på en sådan måde, at appeller til individers eget ansvar kan retfærdiggøre ulighed. Dette forklarer hvorfor vi skal give lige adgang til sygdomsbehandling – også til individer som er syge, som følge af (blandt andet) valg af livsstil. Det forklarer også, hvorfor vi har retfærdighedsbaserede grunde til at reducere social ulighed i sundhed. I min anden artikel undersøger jeg, og (delvist) argumenterer imod, et forslag fremsat af Shlomi Segall, om at bytte ideen om ansvar ud med en ide om *rimelig undgålighed* i *luck egalitaristisk* teori. Jeg argumenterer også for, at størrelsen af sundhedsudgifter, som er relateret til rygning og fedme, er relevant i forhold til spørgsmålet om, hvorvidt samfundet *med rimelighed* kan forvente, at individer undgår rygning og fedme. I min tredje artikel spørger jeg til, hvad det fundamentalt set kræver, for at et individ er ansvarligt for sin egen overvægt eller fedme. Jeg undersøger filosofiens tre grundlæggende tilgange til spørgsmålet om ansvar. For at illustrere implikationerne af hver af disse, introducerer jeg en (kunstig) test-person, som spiser for mange fedtholdige kager, og jeg viser, hvad hver af disse tilgange til ansvar kræver, for at denne person er ansvarlig for overvægt og fedme. Kun en af disse tilgange kan imidlertid retfærdiggøre den meget udbredte intuition, at kausal indflydelse på overvægt og fedme, såsom genetiske dispositioner og sociale omstændigheder, reducerer eller underminerer personligt ansvar. Men denne tilgang til ansvar leder, med meget stor sandsynlighed, til den konklusion, at personligt ansvar, helt generelt, er en umulighed. Ikke desto mindre argumenterer jeg for, at denne tilgang er plausibel. Jeg fortsætter dog under den antagelse, at ansvar er muligt, og tilbyder en fjerde artikel om forholdet mellem ansvar (for egen sundhed) og omkostningsansvar (for omkostninger til sygdomsbehandling). Jeg diskuterer, hvad det vil sige at være en (økonomisk) byrde for sundhedssystemet, fordi, som jeg argumenterer for, hvis et individ ikke er nogen økonomisk byrde, så er der heller ikke *retfærdigheds-baserede* grunde til at holde det omkostningsansvarligt, uanset om *det*, det er ansvarligt for, på triviel vis, medfører omkostninger. Jeg argumenterer for, at vi skal forstå ideen om en byrde ved at sammenligne aktuelle omkostninger, som er ansvarspådragende, med *kontra-faktiske* omkostninger, som ikke er ansvarspådragende.