

Erasmus

# Erasmus Student Journal of Philosophy

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## Editorial

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For this second issue, the editorial board was delighted to receive so many submissions. Upholding our high quality standards, however, we could only accept a small number of essays that offer our readers the very best. We strive to publish essays that – besides solid argumentation and analysis – make creative and original use of existing philosophical work and contain contributions that are distinctly the author's own. Students are therefore strongly encouraged to write essays that make interesting and original contributions to the existing literature or a more general topic of interest for the completion of their courses.

Again, there are many people to thank for making this second edition possible: the lecturers who nominated the best essays written for their courses; our anonymous referees for their excellent comments and advice; prof. dr. Wiep van Bunge, dr. Patrick Delaere and dr. F.A. Muller for being on our supervisory board; Amanda Koopman for her help with our website and communications; Ivo Jeukens for his help with the layout; and, of course, our editors, Thijs Heijmeskamp, Julien Kloeg, Myrthe van Nus, Volker Ruitinga and Tjeerd Visser for all their hard work in putting together this second issue of the ESJP. My deep-felt gratitude goes out to all of them.

Finally, there are some impending changes to our editorial board that should be announced. Our editor Volker Ruitinga graduated in March, and I expect to do the same later this year. For editors of a student journal, this, unfortunately, means that we are forced into retirement. After this issue, other students will take over our positions on the editorial board. On behalf of the editorial board, I would therefore like to thank Volker for his editorial work and his proactive involvement in both strategic and practical matters. He has been a great help in the founding and further development of the ESJP. And to conclude, I would like to personally thank everyone who has helped to make the ESJP possible one last time. It has been a

deeply gratifying experience for me to see so many people come together and invest their free time and energy in transforming a small idea into what the ESJP is today. My hope is that for many years to come future generations of editors will continue to increase the philosophical value of the ESJP and enjoy it as much as I did.

Daan Gijsbertse  
*Editor-in-Chief*

## About the Erasmus Student Journal of Philosophy

The Erasmus Student Journal of Philosophy (ESJP) is a double-blind peer-reviewed student journal that publishes the best philosophical papers written by students from the Faculty of Philosophy, Erasmus University Rotterdam. Its aims are to further enrich the philosophical environment in which Rotterdam's philosophy students develop their thinking and to bring their best work to the attention of a wider intellectual audience. A new issue of the ESJP will appear on our website (see below) every July and December.

To offer the highest possible quality for a student journal, the ESJP only accepts papers that (a) have been written for a course that is part of the Faculty of Philosophy's curriculum and (b) nominated for publication in the ESJP by the teacher of that course. In addition, each paper that is published in the ESJP is first subjected to a double-blind peer review process in which at least one other teacher and two student editors act as referees.

The ESJP highly encourages students to write their papers for courses at our faculty with the goals of publishing in our journal and appealing to a wider intellectual audience in mind.

More information about the ESJP can be found on our website:

[www.eur.nl/fw/esjp](http://www.eur.nl/fw/esjp)

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### Disclaimer

Although the editors of the Erasmus Student Journal of Philosophy have taken the utmost care in reviewing the papers in this issue, we cannot exclude the possibility that they contain inaccuracies or violate the proper use of academic referencing or copyright in general. The responsibility for these matters therefore remains with the authors of these papers and third parties that choose to make use of them entirely. In no event can the editorial board of the Erasmus Student Journal of Philosophy or the Faculty of Philosophy of the Erasmus University Rotterdam be held accountable for the contents of these papers.

## In this issue

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The second issue of the ESJP sees its contributors engage critically with diverse strands of normative thought to arrive at counterintuitive conclusions about some of the most accepted Western institutions.

In ‘The Paradox of Religious Neutrality’, Sébastien de la Fosse puts Donald Loose’s provocative thesis that western secular states are inherently biased towards Christian values to the test. Confronting this idea with the works of Robert Post and Ronald Dworkin on the secular state, he raises critical questions about the preconditions of current conceptions of democracy and the secular state with what most people will consider a surprising answer.

In ‘The Alignment of Morality and Profitability in Corporate Social Responsibility’, Joanna Semeniuk challenges the claim that the interests of society and market goals converge. This central claim behind some approaches to Corporate Social Responsibility – which nowadays figures so prominently in corporate communication – is shown to perpetuate the neoliberal doctrine of subjecting stakeholder interests to shareholder interests, without solving the tensions that exist between the two in capitalism.

In ‘Luck Egalitarianism and Procreation’, Johanna Thoma applies the normative framework of luck egalitarianism to the questions of what children are owed and who should pay for them. This provides a rigorous account of (the limits of) parental responsibility under conditions of inequality, proposing that, in principle, parents should be fully responsible for the costs of raising their children: Only those parents who suffer the disadvantages of existing inequalities that are not a result of choices that they can be held responsible for should receive relative compensation for the costs of raising their children.

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# The Paradox of Religious Neutrality

Sébastien de la Fosse

## 1. Introduction

Philosopher and theologian Donald Loose argues that western liberal democracy is a product of inherently Christian societies. Broadly speaking, his reasoning is that owing to the fact that modern secular democracy arose in societies marked by Enlightenment, and because Enlightenment arose in European societies marked by Christianity, modern secular democracy is inevitably and transitively influenced by Christianity. Since Christianity and democracy are historically intertwined in this way, it may be argued that the Christian faith is more compatible with the values of democracy than other religions, such as Islam or Judaism. In other words, according to Loose, modern secular democracy is biased toward Christianity.

This is a bold claim with ramifications that threaten the very conception of secularity in modern political thought. In my opinion, such a claim should not go unchallenged. For this reason, the purpose of this paper is to evaluate to what extent this argument may be countered by alternative theories on the relationships between religion and the secular state, within the boundaries of the specific case of free speech on religious issues, which includes expressions of faith and expression of opinions on religions and their believers.

Although I do not consider myself a proponent of Loose's account, I shall nevertheless grant it significant leeway and view it in the most favourable light possible, in order to make a fair assessment of its validity. To this end, I shall present two alternative accounts that explicitly support the (religious) neutrality of the modern secular state (by Robert Post and Ronald Dworkin, respectively), and juxtapose these with Loose's position. In this confrontation, Loose's account will receive the benefit of the doubt,

meaning that it will be treated as valid until proven wrong by the alternatives, and that the burden of proof for such a disproof lies with the opposing positions.

One of the implications of this benefit of the doubt is that if a confrontation between Loose's position and an alternative view amounts to nothing more than disagreement without any significant shared arguments or assumptions, this is not sufficient to reject Loose's position. What is necessary for an evaluation of the validity of Loose's position within these confines is a minimal degree of compatibility or shared assumptions between the two positions, which should then be used to build an argument leading to the conclusion that one position is more tenable than the other.

In the first section of this paper, I shall present Loose's argument for the historical connection between modern secular society and Christianity, as well as his argument that this entails a bias towards Christian values within modern democracies.

In the sections that follow, I shall challenge this position by presenting two alternative views on the secular state. The first of these is Robert Post's conception of the secular state, introducing the principle of democratic legitimacy. I shall first summarize his evaluation of arguments for and against limiting freedom of speech on religious issues, and subsequently compare Post's position to the picture painted by Loose, evaluating to what extent Post's arguments have been shaped by Christian (moral) standards, and to what extent expressions on both Christian and non-Christian religiosity may be evaluated differently using Post's standards.

Subsequently, I shall discuss Ronald Dworkin's distinction between the tolerant religious and the tolerant non-religious or secular state, attempting to evaluate to what extent western liberal democracy can be regarded as a tolerant secular state. Additionally, I shall investigate to what extent Dworkin's position is compatible with Loose's point of view, based on the various possible ways of connecting these two theories.

In the final section of this paper, I shall present my conclusion on the validity of Loose's argument. Based on this evaluation, I shall argue that free speech in Enlightened secular democracies is unconsciously biased towards the Christian faith at the expense of other religions, and that this is both unavoidable and undesirable given the current conceptions of state and democracy.

## 2. Donald Loose's Criticism of Religious Neutrality

Donald Loose argues that Christianity cannot be eliminated from modern liberal democracy (Loose, 2007a). In order to understand this somewhat paradoxical statement, we need to first consider the history of liberal democracy.

Loose reminds us of the great number of religious wars that took place in Europe, starting as early as the 11th century and culminating in both the French Revolution and the American War of Independence. These events gave rise to the founding of a secular state, which was capable of ending this religious strife by separating the public domain from citizens' private spheres, while simultaneously maintaining strict neutrality towards the various warring religious factions within this public sphere (Loose, 2007a: 20). By banning the dominance of any specific religious doctrine from the public sphere, this newly created nation state could effectively govern its people, despite irreversible religious heterogeneity within the private sphere.

The two most exemplary models of governing religion in the public domain within contemporary liberal democracies are the French policy of "*laïcité*" and the American "marketplace of ideas". The French policy consists in severely limiting all explicit expressions of religion in public life,

thus banishing religion in its entirety to the private sphere of the citizen. By contrast, the American policy is the exact opposite of this: by giving all religious expressions equal and unfettered opportunities for expression within the public forum, religious doctrines compete with one another like vendors in the marketplace, thus preventing any single religion from claiming the public sphere as its own. In practice, many states adopt a policy somewhere in between these two extremes.

One problem Loose identifies in these doctrines of the secular state is that it leans heavily on the (artificial) separation of public and private space. Religion, however, will not let itself be fully confined to the private sphere, as evidenced by citizens' increasing rebellion against this delineation: as Loose argues, citizens expect the social norms and moral convictions that apply in their private domain (which tend to be based on religious tenets) to be extended to public life (Loose, 2007a: 20). This may be especially true for second-generation immigrants, who are shaped both as citizens in a secular state and as members of a (minority) religious community (Loose, 2007a: 32-33). In practice, these two identities may not always be reconcilable, resulting in friction and conflict, both in the private and the public sphere. This shows that religion cannot be totally banished from public life as in the French policy model, since by limiting religious expression in public life, citizenship runs the risk of becoming so restrictive that many citizens may feel excluded from it (Loose, 2007a: 21-22).

The main fallacy in the reasoning of the secular state is thus the assumption that all people are first citizens, who may subsequently subscribe to a religious ideology within the confines of their private lives. People never choose their religious background, however, as they are always shaped in a certain religious environment (or absence thereof). For many, the requirement to discard or disregard their religious identity when they enter public life is simply not realistic, as it is their religious identity upon which their identity as citizens is founded. Loose (2007b: 141-142, 147-148) considers this especially true both for Islam, which focuses on individual piety without a unified vision of the state, and for Judaism, which has doctrinal reasons for distancing itself from politics and thus citizenship.

Although Loose (2007a: 20) explains that the separation between church and state originates in the modern conception of the state, the secular state's attitude towards religion may itself be argued to have originated from its interaction not with religion in general, but specifically with Christianity, including both the claim to universality of the Roman-Catholic Church, and the Reformation, which arguably played a significant part in bringing about Enlightenment in Europe. A similar argument can be made for such secular values as justice, charity, tolerance, and favouring the meek (Loose, 2007b: 169). These are moral values grounded in Christianity that have been incorporated into Enlightenment, and subsequently adopted as Enlightenment values. This illustrates that Enlightenment in Europe as a whole has been historically shaped against a background of Christian religious beliefs.

The secular state and its Enlightened values are thus a reminder of the Christian doctrine that is still implicitly present and prevalent in European culture, law and (political) thought. Loose strives for a greater awareness of the Christian roots of the secular state, for this may remind us that the neutrality of the secular liberal state is a more problematic position than it may be perceived to be at first glance.

This is the basis of the difficulty of the American policy model in adjudicating fair opportunities to all religious expressions in the public domain. For within this system, some religious expressions may be more disruptive and disturbing to prevalent and implicitly Christian secular values than others. In adjudicating these issues, the state is faced with the dilemma to either favour its own cultural history, thus compromising its neutrality, or to maintain its neutrality but to ignore its moral values, thus abandoning its claim to a secular morality (Loose, 2007b: 130-131).

One final complication of the liberal, secular society is that it has an ideological drive to incorporate the totality of social reality, and thus to subjugate all social dealings to the divide between the public and the private, including those elements that reject this liberalism itself. This is an ideological strategy that is similar to the one traditionally employed by the Roman-Catholic church within the domain of faith: via the rhetorical claim that one given doctrine has universal validity, all opposing positions are implicitly reduced to subordinate variants of the universal doctrine.

Loose argues that this claim of universal primacy of the divide between public and private is directly descended from the claim of universal primacy of Roman-Catholic faith, and that therefore secular liberalism can be seen as an extension of Roman-Catholicism, revealing the secular society as only one evolutionary step away from the Christian society. In the words of Loose:

‘Whoever refrains from claiming efforts towards the common good as one's own exclusive patrimony out of a religious inspiration, proves at the same time that he or she acknowledges the autonomy of the secular and the religious, and is thus fundamentally marked by Christianity (Loose, 2007b: 130-131).’<sup>1</sup>

This implies a more than significant compatibility of the Christian faith with the secular state, and indeed raises the question whether non-Christian religions can be compatible with the secular state to a similar extent.

### 3. Robert Post's Theory of Legitimate Democracy

The next step in this investigation consists of reviewing a number of alternative theories on the relationship between religion and freedom of speech in modern secular societies, to test their compatibility with Loose's position, and to examine to what extent Loose's argument remains tenable. The first such position is presented by Robert Post (2007), who makes a clear delineation of the extent to which secular democratic governments should regulate or limit freedom of expression on religious issues.

Post posits one major assumption, specifically that the secular societies under review are democracies, by which is meant a state in which citizens govern themselves, or as defined by Bobbio (1989) and quoted by Post (2007: 73): ‘Democratic forms of government are those in which the laws are made by the same people to whom they apply.’

Post also identifies a necessary condition for democracy, which is open public discussion. He argues that it is not enough for democratic self-government if citizens merely shape the actions and behaviour of the state through collective decision-making; they must also identify with the state.



This means that citizens must experience themselves not just as voters, but also as authors of the state and its laws. The primary way to attain such authorship according to Post (2007: 75-76) is through public discussion, in which citizens may actively and collectively influence the state's policies and decisions. Obviously, freedom of expression is a key condition for such public debate. Without sufficient liberty or opportunity to enter into public discussion, citizens become alienated from public policy and society may no longer be called democratic. For this reason, freedom of expression should be allowed as much space as possible in the public sphere.

Applying this to the discussion of issues of faith and religion, it is clear that citizens must not only have the freedom to express their own religious faith and opinions, but also to express their opinions on other religions than their own. The cost of this freedom, however, is that some of these opinions may be perceived as insults to those whose religion is the subject of public debate, creating the possibility of conflict and polarisation in the public domain.

Post acknowledges that these costs will sometimes outweigh the benefits of absolute freedom of expression. Consequently, he identifies and outlines three arguments that have been used to limit these liberties in liberal democracies, and he evaluates each of these arguments' practical value for actual public expressions of opinions on religions.

The first of these is the argument that religions should be protected from insult and blasphemy (Post 2007: 77-78). This is a protection afforded not to believers or religious groups, but to the religions and deities themselves. The reasoning behind this argument is that certain sacred tenets of faith should never be defiled by denouncement or ridicule, as they are values that outweigh those of freedom and the state. Post argues that this limitation may have value in certain states, specifically those who only aspire to govern a people who homogeneously accept the religious tenets that are regarded as sacred. However, since most modern states do not have such a homogenous population, Post concludes that this limitation of free speech is mostly unacceptable.

Secondly, Post (2007: 78-82) states the argument that religious groups should be protected from insult and humiliation. This is different from

the previous argument in that it refers to the believers and the integrity of their religious feelings, and not to the sacredness of religion itself. What this argument entails in its purest form is that all members of society have a fundamental right not to be subjected to public insult, criticism or denouncement of the religious beliefs and practices they uphold. Since such a restriction silences any critical remarks on any religion, it effectively stifles free public discourse on religious issues, thus endangering democratic legitimacy.

As a result, a number of limitations of this broad 'blanket ban' on expression of opinion on religious issues exist. Post mentions the claim of general tolerance within democracies, and the condition of only excluding those opinions on religious issues that are gratuitously insulting and do not further public debate, only to subsequently counter them both. He argues that the aforementioned 'spirit of general tolerance' within democracies should only apply to actions, not words, meaning that a democracy should only actively enforce citizens not to act contrary to social public order (e.g. '[w]e must not riot or murder in defence of our beliefs' (Post, 2007: 79-80)), while allowing them the right to insult their fellow citizens. And regarding the issue of gratuitous insults, he maintains that the criterion of 'gratuitousness' (and thus not furthering public debate) is too subjective to effectively apply to judging controversial expressions in a rational and objective way. He concludes that the argument of protecting religious groups from insult is only valid in societies not committed to democratic legitimacy, or in specific cases where 'keeping the religious peace' is considered more important for social stability than the values of democracy (Post, 2007: 79-80).

The third and final limitation on free speech on religious issues Post (2007: 82-84) lists is the argument of preventing discrimination. Contrary to the previous argument, this refers to the social standing of specific religious groups, preventing them from being marginalised within society and public debate through (intentional) incitement of public opinion against them as a group. Post readily admits that the prevention of discrimination is a prerequisite of democratic legitimacy, as this is enhanced by a broad spectrum of participants/authors in public discussion. Alienating any (religious) group from public life detracts from the legitimacy of democracy.

However, he also argues that this argument of silencing some in the name of equality should not be overused, in order to prevent the state from misusing it to protect the political interests of those in power, or to stifle public discussion out of political correctness. Post therefore supplies two criteria for the justified use of this restriction on freedom of speech: The first of these is the condition that there be no plausible alternative for limiting citizens' free speech in combating inequality and discrimination (such as education or affirmative action). The second criterion is the condition that the offensive expressions would qualify as 'hate speech', i.e. they should have both the intent to discriminate, and a damaging effect to the discriminated parties. Post concludes that these conditions would ensure responsible use of the argument of preventing discrimination on religious and other issues.

Post's argumentation shows that in his theory of democracy, free speech should be given as much space as possible, and that it may only be restrained in exceptional circumstances. When overlaying this view with the picture provided by Donald Loose, it becomes apparent that Post is a proponent of what Loose calls the American policy on religious expression; Post advocates virtually no limitations on public discussion of religious matters, turning the public debate of religion into a "marketplace of ideas". Despite the problems Loose has identified with this position (i.e. the assumption of the supremacy of citizenship over religious identity, and the greater compatibility Christian values have with those of the secular state over the values of non-Christian religions), Post's position can be complementary to his own: Post's description of democracy legitimized by public debate can be used as a further clarification of Loose's liberal secular state, while Loose's analysis can be used as a test of the neutrality of Post's model of democracy.

A number of observations can be made from this combination. The major issue that I shall discuss in the remainder of this section is that it appears plausible that Christian groups generally fit Post's model of society better than other religious groups. This can be seen by recalling that Post's Enlightenment value of democracy through self-governance relies on unfettered public discussion, while also minding Loose's point that this Enlightenment value arose in Christian societies and has therefore been

shaped in part by Christian values. I shall make this clear by reviewing Post's three (countered) exceptions to freedom of expression on religious issues in light of this peculiar position of Christianity.

The argument of preventing blasphemy should not be applicable to modern secular democracies, since secular Enlightenment has replaced religion as the conceptual foundation of the state. Although Christian values still implicitly underlie Enlightened Reason, these are no longer embraced as the exclusive values of Christianity, but as belonging primarily to Reason. Since these values are already protected as allegedly neutral elements of the secular state itself, no special protection is required for them as religious tenets.<sup>2</sup>

However, because non-Christian religions maintain a set of sacred values that do not all coincide with those of Enlightened Reason, it may be the case that the sacredness of these religions is less widely acknowledged throughout society than that of Christianity, and that these religions are not treated with the same (unconscious and unrecognised) consideration as Christianity. In this way, non-Christian religions may be seen as disadvantaged in public debate as compared to Christianity.

Post's position on the second limiting argument, that of unconditionally protecting believers from insult, is similarly biased towards Christianity. With regard to this issue, Post presupposes that insulting citizens in their religious identity does not necessarily damage their standing as citizens (which would be a breach of democratic legitimacy). This assumption may hold for those citizens who are either non-religious or have a religious background – such as Christianity – that does not place the foundation of citizenship in religious values. However, for those citizens who adhere to a religious doctrine that does base the legitimacy of their citizenship on religious beliefs, Post's assumption does not hold, causing Post's position to deny them any protection from attacks against the foundation of their civic legitimacy. What this shows is, again, the hidden premise of the divide between religion and public life, as identified by Loose, once again unmasking the secular state as one built on Christian foundations.

Many non-Christian religious groups, such as Muslims or Jews, derive the virtues of citizenship from their religious virtues. Indeed, such groups might argue from this point of view that a state that allows its citizens to insult and ridicule the beliefs (and thus the absolute virtue) of others could hardly be considered legitimate at all. However, by criticizing the implicit Christian bias in the secular state – and thus making a stand for a different conception of citizenship – these groups risk being themselves accused of rejecting the principles of citizenship altogether.

The final argument Post reviews, the argument of preventing discrimination, is less criticised than the other two, as Post more readily acknowledges its use, even though he warns of its overuse. At first glance, this balancing act between the right to express one's opinion in public and the right to have one's place in public life protected by law appears to be a truly neutral tenet, which does not favour Christians over non-Christians in any way. The bias is still there, however, hidden in one of Post's restrictions on the use of this argument, specifically the condition that both discriminatory intent on the part of the speaker and the damaging effect of the insult should be established.

An argument for this statement can be found with Jill Gordon and Markus Johnson (Gordon & Johnson, 2003), who argue that defining discrimination<sup>3</sup> as an intentional act is an injustice. They emphasize that it is not conscious discrimination, but unconscious discriminatory speech that is both most common and most harmful in excluding minority groups from public life. In their view, a better definition of discrimination would not include the speaker's intent as a necessary condition, but would rather place more emphasis on the interlocutor's affect in experiencing speech as discriminatory. In this light, it can be seen that Post utilizes a hidden premise in his limiting of the restrictions on free speech, which is the premise of innocence until proven guilty. Although this is an admirable value to maintain in determining objectively perceivable intentional acts, it may not be in the case of determining subjective perceptions and experiences. The reason for this is that, in the case of possibly discriminatory or insulting speech, the interlocutor is assigned the burden of proof to establish the speaker's discriminatory or insulting intent, which typically requires access to the speaker's private thoughts. This makes it a nigh-impossible task for

the interlocutor to meet the conditions for determining that he or she has been discriminated against.

The question remains whether or not this implicit assumption favours the Christian faith. In my opinion, this is often but not necessarily the case. Discrimination is a broad cultural phenomenon that is not merely limited to religious differences, but rather appears to be a near-universal (if unpleasant) characteristic of human culture and identity-shaping. It even appears to have a social function, in that it allows similar or like-minded individuals to define themselves as a group – or even a community – through opposition to others, while simultaneously defining the identity of these others in terms of the emerging newly-dominant community.<sup>4</sup> Because of this community-defining characteristic of discrimination, it can be argued that discriminatory speech tends to exclude minorities from a dominant majority.

Applied to freedom of expression on religious issues, it can be seen that in secular democracies the majority generally favours Enlightenment values, which have a significant overlap with the Christian values from which they evolved. What this means is that unintentionally discriminatory speech tends to favour Christians over non-Christians, but only because Christian religious values are already dominant as a result of their overlap with Enlightenment values. Therefore, Post's restrictions on silencing discriminatory speech does not in itself cause a secular society to favour Christianity over other religions, but does play a role in maintaining such inequality.

This discussion shows that an explicitly secular doctrine of democracy still harbours deep-seated Christian values and is therefore not truly neutral in religious matters. Clearly, Post's approach of using democracy and self-authorship as non-religious political values does not provide a defence against the implications of Loose's claims.

#### 4. Ronald Dworkin's Two Models of the Tolerant State

A different approach to this discussion is Ronald Dworkin's (2006) view on the democratic state. Dworkin distinguishes between two conceptions of modern democracies: the tolerant religious state and the tolerant secular state. He defines the tolerant religious state as 'a religious nation, collectively committed to the values of faith and worship, but with tolerance for religious minorities including nonbelievers' (Dworkin, 2006: 56), while by contrast the tolerant secular state is conceived as 'a nation committed to thoroughly secular government but with tolerance and accommodation for people of religious faith' (ibidem). While the factor of tolerance is an important and fundamental similarity between these two conceptions of the state, Dworkin argues that the two models are still fundamentally different in their conception of citizenship, and additionally that the tolerant religious model is incoherent. In the following, I shall present Dworkin's argument.

The similarity between the model of the tolerant religious state and the tolerant secular state is not merely the subscription to the ideal of tolerance, but also to two basic principles of human dignity. These are the principle that each person's life is of equal intrinsic value, and the principle that every person has the same personal responsibility for their own life (Dworkin, 2006: 70). In applying these principles of the individual to society, Dworkin argues that society is only justified to constrain citizens' liberty 'on sound distributive or sound impersonally judgmental grounds' (Dworkin, 2006: 73). What is excluded from these is constraints on 'personally judgmental grounds', which Dworkin defines as 'laws that violate dignity by usurping an individual's responsibility for his own ethical values' (Dworkin, 2006: 72), in other words paternalistic policies that impose moral values on citizens. Such measures would violate the principle of citizens' responsibility for their own lives and should, in this account, be disallowed for that reason.

However, Dworkin indicates that such personally judgmental policies are actually held within the tenets of the tolerant religious state, since such a state explicitly subscribes to certain religious principles and seeks to actively promote these through policy. The tolerant religious state tolerates citizens' choices not to subscribe to these principles, but it states that

it would prefer them to. Dworkin concludes that this type of paternalism in the tolerant religious state is incompatible with the principles of human dignity that it claims to adhere to.

Although this paternalism is a recognisable feature of the tolerant religious state, it is not, according to Dworkin, the main reason why the tolerant religious state is incompatible with the principles of dignity. Rather, it is its cultural majoritarianism, which is the circumstance within tolerant religious states where a majority of the population that shares certain religious values wishes to impose these on public life, not for the sake of the minority (which would be paternalism), but for the sake of their own ideal of public life. In effect, the religious majority shapes the public sphere according to their own religiously inspired values, converting these to civic values (Dworkin, 2006: 74). This forces minority religious groups as well as nonbelievers to adopt these same values in order to function as citizens. These minorities are therefore still free to reject these values as their religious identity, as long as they acknowledge them as the prevalent doctrine in public life.

Dworkin's tolerant secular state, by contrast, does not impose any such values on its citizens. Instead, it takes pains to shape public life according to civic virtues that do not have a religious foundation. Applying his analysis to the case of the United States of America, Dworkin concludes that American society actually shows more properties of a tolerant religious state, than of the tolerant secular state that it claims to be.

When comparing Dworkin's position to that of Donald Loose, it is unclear at first whether these two analyses are compatible, as is required in order to perform a meaningful comparison. In my opinion, there are three possible approaches to connecting these two positions. The first two such approaches consist of applying Loose's point to Dworkin's tolerant secular state on the one hand, and applying it to Dworkin's tolerant religious state on the other. The third position is a more subtle one, requiring an alteration of Dworkin's model. I shall make a case for each of these approaches and subsequently compare the three scenarios.



The first approach – applying Loose’s argument that the secular state is influenced by and biased towards Christian thought to Dworkin’s conception of the tolerant secular state – implies that the tolerant secular state model is founded on Enlightenment values that implicitly grew from Christian values. If we then accept Loose’s analysis, we are led to a two-fold conclusion. First, we can see that Dworkin’s review of the tolerant religious state is not relevant to this discussion, because this account of the state does not claim secular values as its foundation. Secondly, on this view, Dworkin’s distinction between a tolerant religious state and a tolerant secular state would be reduced to a distinction between an explicitly religious state and an implicitly religious one, making it next to meaningless. Effectively, Dworkin’s position has been undermined by Loose’s account through a claim to universality inherent in the chosen approach: by equating Loose’s argument of a pro-Christian bias in the secular state to Dworkin’s tolerant secular state, Dworkin’s position has been neutered and presented as a dissenting voice in Loose’s system. If I were to choose this approach to combine the two theories, this would amount to a decision on my part to reject the validity of Dworkin’s distinction. This would go well beyond giving Loose’s position the benefit of the doubt, and would amount to explicitly favouring it over Dworkin’s views, especially in light of the fact that this is not the only possible approach to relate these two viewpoints.

An additional problem with this approach is that Loose’s description of the American policy on religious expression as a “marketplace of ideas” would become inaccurate, since Dworkin’s model reduces this American situation to either personally judgmental government policy to promote religiosity (in the United States as a tolerant religious state), or to one that tries to reduce religious expression in the public sphere more similar to the French policy of “*laïcité*” (within the picture of the United States as a tolerant secular state). Dworkin clearly prefers the latter.

The closest alternative to this scenario consists of applying Loose’s statements to Dworkin’s tolerant religious state. This would provide more justification for Loose’s description of the “marketplace of ideas” policy in its appeal to tolerance, against Dworkin’s denouncement of the religious core of American society. However, this view also offers a potential

challenge to Loose’s claim that the secular state is predisposed towards Christian values, in that it leaves open the possibility that a secular state could be capable of maintaining a neutral position towards Christianity as compared to other religions. The problem of the cultural dominance of implicit Christian values in public life is thus relegated to Dworkin’s tolerant religious state. However, this approach would not do Loose’s point justice, as it fails to explain in what way Dworkin’s tolerant secular state could overcome this challenge. Therefore, choosing this approach would enable Dworkin’s position to evade Loose’s points by stipulation, which would entail opposing Loose’s arguments through begging the question.

As can be seen from these two separate attempts at comparing Loose’s and Dworkin’s respective positions on religion and public life, these positions remain incompatible to some extent, as Dworkin would argue that Loose’s analysis is inaccurate in stating that the American “marketplace of ideas” policy would fit the policy of a secular state, while Loose would deny that Dworkin’s distinction between a tolerant religious state and a tolerant secular state could be made in a meaningful way, because in his opinion secular societies are still subconsciously marked by (Christian) religious values. This last consideration, however, provides the starting point for a third attempt to connect these two analyses.

The third approach to combining Loose’s and Dworkin’s theories requires a further distinction within Dworkin’s theory. Dworkin’s tolerant religious state and tolerant secular state both refer to a state’s conscious selection of its stance towards any or all religious doctrines. However, what I propose is to include not merely the conscious position of the state, but also the unconscious position of the public in a definition for Dworkin’s distinction between religious and secular. This is an alteration inspired by the perception of discrimination raised by Jill Gordon & Markus Johnson (2003); if we exclude unconsciously discriminatory remarks from the definition of discrimination, this definition would be too narrow. Similarly, if we exclude unconsciously non-neutral opinions on religious issues from the state position of religious neutrality, this religious neutrality of the state cannot be considered complete.

The ramifications of this interpretation are quite far-reaching for Dworkin’s model. It implies that Dworkin’s arguments are limited in their

application to political reality, as unconscious social undercurrents that draw on historically Christian cultural influences have given rise to an overly narrow conception of the secular state. More charitably, it can be said that Dworkin's model is an idealization that leaves problems pertaining to the position of religion in public life unaddressed. The resulting image is similar to the one painted by the first approach, in that it leaves Dworkin's position with a significant burden of proof, but it does not invalidate his distinction between the tolerant religious state and the tolerant secular state and still leaves a coherent view on the American "marketplace of ideas" policy.

Based on the above investigation, the first two scenarios show a limited extent of compatibility between Loose and Dworkin, which would result in either subjugating one theory to the other for the sake of compatibility, or denying their compatibility altogether, rendering meaningful comparison impossible within this study's parameters. The third scenario, however, does not pose any serious limitations on the premises on either theory, although it does require some flexibility on the part of Dworkin's assumptions. As a result, the (non-stipulated) possibility of an unbiased tolerant secular state and Loose's claim of modern secular states' predisposition towards Christian values do not exclude one another. For this reason, this third approach allows for the greatest degree of compatibility between Loose's and Dworkin's respective positions, which in turn allows a meaningful evaluation of their validity, without resorting to judgements by stipulation. For this reason, I argue that this approach is the most fruitful in terms of both academic impartiality and meaningfulness within the confines of this study. Finally, based on this approach to connect Loose's and Dworkin's respective positions, it can be concluded that Dworkin's views do not meet the burden of proof required to disprove Loose's argument.

## 5. Conclusion

The investigations above have shown that Donald Loose's deconstruction of the religious neutrality of the modern secular state poses serious problems for the conception of the secular state. Loose argues that secular democratic governments' claim to religious neutrality is built on a foundation of Christian beliefs and values, showing this position of neutrality to be tenuous at best. I have challenged this position with two alternatives, each of which needs to possess sufficient compatibility with Loose's theory.

Applying Loose's analysis of the secular state to Robert Post's conception of democracy as a political value, I have shown that Post leans heavily on the assumption of absolute religious neutrality, revealing that his argument for a mostly unrestricted freedom of expression in public discussion of religious issues does indeed favour the religious values of Christianity within this public debate over those of other religions. It should be noted, however, that this is not merely caused by the cultural history of the concept of the secular state (as Loose argues), but it is also maintained through the systematic discounting of unconscious discrimination of minority opinions, a dynamic identified by Jill Gordon & Markus Johnson, who argue that such disregard for unconscious considerations is a failing of current theories of morality and justice.

Dworkin's distinction between the (tolerant) religious state and the (tolerant) secular state is a position that is partially incompatible with Loose's views and requires a reinterpretation of at least one of the theories in order to make a meaningful comparison. Applying Gordon & Johnson's distinction between conscious and unconscious discrimination to Dworkin's conception of the tolerant secular state results in an image that presents Dworkin's model as an idealized version of the conception of the state, which does not address the issue of unconsciously religious premises in the concept of the religiously neutral state. Dworkin thus models the ideals of the secular state rather than its real problems.

Both challenges to Loose's criticism of the secular state have therefore failed. For now, the claim that secular governments have a significant inherent predisposition towards Christian values and opinions in their conception of the state stands. However, it is made clear by both Post and

Dworkin that a breach of religious neutrality on the part of the state is not desirable. As Post would argue, a state predisposition towards a certain religion would impose a severe limitation on public debate, resulting in a reduction of democratic legitimacy. Conversely, Dworkin would claim that a state that systematically favours certain religious views over others is not only paternalistic, but also culturally majoritarian, and violates the principles of human dignity. Surprisingly, Loose refrains from commenting on the desirability of this situation, with the exception of his appeal for greater awareness within modern secular democracies of their own cultural and religious history. While this appeal may merely be meant to stimulate participants in public debate to become better informed on the nature of public life itself,<sup>5</sup> it may also be taken by some as an implicit approval or justification of the privileged position Christian values enjoy in modern western societies.

What I have shown in this paper is twofold. On the one hand, free speech in modern secular democracies is inevitably and unconsciously biased towards the Christian faith at the expense of other religions. This is in line with Loose's position, which was not disproven through confrontation with either Post's or Dworkin's respective alternative positions. On the other hand, however, I have shown that this bias is undesirable and unjust from the point of view of the modern secular state, as both Post and Dworkin argue. In addition, though, a further extrapolation of Gordon & Johnson's argument provides an even more fundamental support for this conclusion: an exclusive focus on conscious intent of the speaker entails not only a passive disregard for the perceptions and interpretations of the interlocutor, but also for the unconscious biases of the speaker; both these disregards are injustices. Perhaps they are even inherent weaknesses of the very Enlightenment that is the foundation of the secular state.

The final remaining question is whether any possible solutions may still be found for this compromised religious neutrality of the non-religious state. Two possible strategies are available: on the one hand, societies may seek to foster awareness of the inherent flaw in their neutrality and seek to minimize it, while on the other hand the concept of democracy and the secular state could be rethought. The former is a task for those political philosophers who subscribe to the ideals of Enlightenment, while the lat-

ter is best left to more unorthodox thinkers, as it requires a new conception of the state, of political thought, and of Enlightenment itself, preferably one that has no genealogical ties to Christianity. Perhaps the recent political upheaval and subsequent tentative rise of democracy in some Middle Eastern and North African countries may (eventually) provide fuel for a new account of Enlightenment.

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## Notes

1. I have translated this quote from Dutch for the purposes of this paper.
2. It should be noted that various secular democracies still maintain laws banning blasphemy. However, these laws are increasingly seen as a relic of the past and have come under examination for elimination.
3. The authors' argument concerns racism, which is a specific form of discrimination. The point, I believe, can also apply to all other forms of discrimination without losing any of its merit. Additionally, as will be seen in the following section, I shall apply this argument to a different issue as well.
4. This is an adaptation of the argument that one's identity is defined through a naming act performed by another, developed by Butler (1997).
5. Donald Loose has embraced this interpretation in personal communication.

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# The Alignment of Morality and Profitability in Corporate Social Responsibility

Joanna Semeniuk

## 1. Introduction

Nowadays most of the big companies pride themselves on their social responsibility. When visiting the websites of IBM, Cisco, ING, Philips, BP, etc., one will easily find a tab called 'corporate social responsibility', or 'sustainability'.<sup>1</sup> Here, companies describe how they contribute to the community and balance their impact on the environment. Why do they do that? There is a long tradition of moral considerations for commerce. In the early days of capitalism, the goal of the business was solely to make profits. This changed when business was challenged by social movements and legislation (Carroll, 1991: 39). Nowadays, business is not only responsive to external pressure, but is rather proactive in its social responsibility. Companies keep extending their responsible agenda, often going beyond legislation. It appears that companies have adopted their ethical dimension. Corporate Social Responsibility (CSR) seems to have found a way to make capitalism work for societies, with businesses driving social betterment.

There is no unified approach to CSR. It consists of a myriad of diverse approaches. However, one popular stream of thought can be identified within CSR literature (Garriga & Melé, 2004: 53). This type of CSR theorising claims that the profitability of CSR supports a sustainable interface between business interests and social interests. It asserts that once it is acknowledged that the social and environmental responsibility of businesses pays off, aligning CSR with the shareholders' interest of making money, it will make the capitalist system work to society's advantage. In other words, provided that companies recognise the profit to be made by implementing CSR policies, their operations will, as usual, be self-interested, but serving society at the same time.

CSR became one of the leading frameworks to think about moral responsibility in business. From the perspective of moral philosophy, CSR can be regarded as a response to allegedly ineffective business ethics based on moral duty claims or appeals to values like equality, justice or rights. CSR has been addressed by companies, governments and supranational bodies like the European Union and the United Nations. CSR comes to the fore especially in areas where legal obligation ends but environmental and social needs remain unmet. So, with many arguing that CSR has already proven its social worth (e.g. Matten & Moon, 2008: 416), it appears that CSR could move the business sector to benefit our societies and our environment.

In order to see the bigger picture, we should, however, consider this claim within the context of changing relation between the state and the market.

There is a trend in the United States and Europe to transfer traditional state functions (education, transport, pension, environmental protection, etc.) to the business sector (Matten & Moon: 415). Scholars argue that this retreat of the state is caused by globalisation. Globalisation causes a 'partial denationalizing of national territory and a partial shift of some components of state sovereignty to other institutions, from supranational entities to the global capital market' (Sassen, 1996: 4). Therefore a distinctive feature of globalisation is a changed division of responsibilities between the state and the market. The state adopts the market ideology as part of the process of 'marketisation'<sup>1</sup> and the market takes on the ethical functions through its 'responsibilisation' (Shamir, 2008). 'Responsibilisation' responds to the missing or ineffective international regulations that would cover global corporate activities and to business lobbying against

coercive regulations, but in favour of self-regulation (in the form of CSR).

The retreat of the state doesn't mean that laws no longer work - they often do, but the law does not necessarily have to be at the forefront of social change. State-driven law is not the sole source of regulation anymore; on the contrary, there is a complex system of private and public sources of regulation (Shamir, 2008). In such a matrix, corporations can choose which regulation to apply, for instance which charter to sign or which ranking to participate in. What is more, they are involved in creating these regulations, for example by participating in multi-stakeholder consultations or by sponsoring the agencies that specialise in CSR reporting and accreditation. For that reason, critics of CSR (Shamir, 2008; Kuhn & Deetz, 2008) stress the dangers of an optimistic attitude towards CSR. They doubt that self-motivated and self-imposed regulations of corporate citizens are more effective than state-imposed regulations. It is therefore reasonable to ask: can moral philosophers advise on how to approach CSR, with social goals in mind? These issues can – and should – be investigated by moral philosophy.

In this paper I will examine the proposition that seems to be at the core of mainstream CSR: CSR can integrate market goals and the interests of society by mediating between the two in places where they traditionally come apart.<sup>2</sup> My thesis is that this integration is very unstable due to CSR's primary commitment to market goals. This position places me on one of the sides of the ongoing debate about whether CSR is a reaction to neoliberalism or its product (Lebano, 2010: 14). I suggest that the popular approach to CSR is much closer to a traditional neoliberal stance, most famously articulated by the title of Milton Friedman's in his 1970 article *The Only Social Responsibility of Business is to Maximize its Profits* – in which he claims that 'business needs no ethics', – than what the proponents of this popular approach to CSR would like to admit.

The next section defines what CSR is exactly and what its constitutive features are. The following section, called 'CSR and moral philosophy', places CSR in a wider philosophical debate. Subsequently, in the section on CSR and the business case, I explain what the CSR business case is and explore its relation to the neoclassical concept of market logic. Thereafter I present some instances of conflicting social and business interests - the

problem of CSR's empirical grounds, the issue of public opinion preferences and the risks of free riding mechanisms.

## 2. Defining CSR

The term 'corporate social responsibility' has been gaining popularity since the 1970s, and is associated with a wide range of corporate practices like employee diversity, carbon neutrality, support for local communities, improvement of working conditions in suppliers' factories, socially and environmentally responsible financial investments, etc. Sometimes it is referred to as Corporate Social Performance (Wood, 1991), Corporate Citizenship (Zadek, 2001), or Sustainable Business (Vogel, 2005: 16).

Alan Neal (2008), in his attempt to systematise various definitions of CSR, concluded that most authors agree that CSR makes a normative claim, since it says what ought to be done: '[...] businesses need to integrate the economic, social, and environmental impact in their operations' (2008: 465). The definitions also specify how this should be done - namely, CSR needs to be embedded in 'the way in which businesses are managed' (Neal, 2008: 465). This means that companies need to take into account other stakeholders' interests, such as local communities, customers or trade unions and incorporate CSR in a thorough manner – not as an add-on to their 'business as usual', but by integrating these considerations into the very core of their management strategy. However, these two features are not what makes CSR's concept different from other business ethics approaches. Neal reports the third constitutive feature of CSR – voluntariness and alignment with the organisation's own long-term interest: 'CSR is behaviour by businesses over and above legal requirements, voluntarily adopted because businesses deem it to be in their long-term interest' (2008: 465).

This last feature – voluntariness and being in organisation's interest – informs the 'business case for CSR', which I address in a later paragraph. I take the business case aspect as constitutive of CSR. I am aware that other interpretations of CSR exist which are more in line with traditional business ethics and do not include the business case aspect (see: ethical CSR theories in Garriga & Melé, 2004: 60). I will refer to them in the next

section as primarily based on another kind of reasoning – on duty, moral values, rights, etc. When I refer to CSR I will mean only the approach that has the business case at its centre.

But before I discuss the notion of the business case for CSR and its consequences, I would like to show where CSR lies within the wider discussion of relations between morality and business, as well as clarify key terms which will be used throughout the essay.

### 3. CSR and moral philosophy

CSR can be classified as one of the theories within business ethics. Business ethics is a branch of philosophy and is defined as an ‘applied ethics discipline that addresses the moral features of commercial activity’ (Marcoux, 2008). Business ethics, if understood broadly as a moral reflection on commerce, has accompanied trade since its origins (Marcoux, 2008). As a contemporary and independent discipline, business ethics is focused on business corporations. These are large, publicly traded enterprises that often operate internationally. In this essay I, too, will speak of corporations, sometimes referring to them as companies, or simply as businesses (when emphasising general market mechanisms which affect both small and big enterprises). In general, I will use these different terms as references to commercial organisations operating in a capitalist system that is characterised by the logic of capital accumulation and competition (Heilbroner, 2008).

Let us now look at how different moral philosophies approach the troublesome relation between commercial activity and morality. Subsequently I will try to position CSR within this context.

It is argued that there are currently three major approaches in normative ethics: virtue ethics, deontology and consequentialism (Hursthouse, 2010). Virtue ethics emphasises moral character. Applying this to business ethics, a moral philosopher who argues for morally bound corporations can do so by claiming that corporations, like natural persons, should have certain moral qualities and can be praised or blamed for behaving accordingly or not. From a deontological perspective, which puts duties or rules

in the centre, the philosopher would claim the existence of a certain moral duty that corporations have towards stakeholders. Finally, consequentialists, like deontologists, would argue for attention to stakeholders’ interests on different grounds – through an appeal to consequences of corporate actions.

All three moral philosophies can form the normative core of corporate responsibility. They all answer the question as to why ‘businesses need to integrate the economic, social, and environmental impact in their operations’ (Neal, 2008: 465), albeit in different ways.

In other words, they serve the same purpose of providing philosophically sound reasons for businesses to care about social interests.

How is it done in practice? For example, Adam Smith, in his *Theory of Moral Sentiments*, prescribes strong normative directives – entrepreneurs should act according to virtues like prudence, temperance, civility, industriousness and honesty. Without these virtues commerce would neither work in societies’ advantage nor provide ethical progress (Ashley, 2010: 8–9; Wells & Graafland, 2012: 321–323).

This moral quality can be applied not only to individuals but also to collective bodies like a university or a corporation by treating them like moral agents, as if they were individuals. Peter French (Marcoux, 2008) advocates this approach in order to argue that corporations also have a (collective) moral responsibility<sup>3</sup> towards societies and the environment.

An example of corporate responsibility based on the duty approach can be found in the stakeholder theory developed initially by Freeman (Garriga and Melé, 2004: 60). Here the very purpose of the firm is the coordination of and joint service to its stakeholders (Marcoux, 2008).

But CSR as defined by Neal doesn’t use virtue ethics or deontology as its justification. This is contrary to the fact that CSR has *responsibility* in its name, which suggests certain duties or obligations that business has towards the *society* (the latter also featuring in the name).

In fact, CSR takes its justification from the third type of normative approach towards business ethics - consequentialism. Consequentialism asserts that whether an act is morally right depends only on its conse-

quences (Sinnott-Armstrong, 2011). This entails that in a moral appraisal of an act we look solely at its consequences, not duties, the moral character of an agent or the intrinsic character of the act or circumstances.

A particular type of consequentialism is represented in Milton Friedman's 1970 article in the *New York Times Magazine*. Ever since, Friedman's words have been a point of reference for many articles on CSR (e.g. Bird et al., 2007: 190; Carroll, 1991; Garriga & Melé, 2004: 64; Matten & Moon, 2008: 405; Griffin & Mahon, 1997). Friedman argues that 'there is one and only one social responsibility of business - to use its resources and engage in activities designed to increase its profits so long as it stays within the rules of the game, which is to say, engages in open and free competition without deception or fraud' (Friedman 1970). This is predominantly a consequentialist approach because the activity is not appraised per se, but only compared to a particular end, which equals increasing profits.<sup>4</sup> We can say that Friedman provides yet another take on business ethics – a stand that business doesn't need any ethics, besides the minimum requirement of refraining from deception and fraud.

Why, then, does Friedman call this a *social* responsibility? Because, according to Friedman and all those who followed the neoliberal interpretation of the invisible hand theorem, the pursuit of shareholder value maximization by businesses in a free and competitive market will achieve maximum efficiency and optimally satisfy the needs of the greatest amount of people (Duska, 2007: 53). So the free market should produce the maximum amount of well-being, which is the ethical goal. Pursuing other goals than maximizing shareholders value, according to Friedman, would even obscure market mechanisms, and subsequently force companies into bankruptcy.

One might ask whether Friedman's quote is not outdated and no longer representative of the proponents of CSR in today's competitive market. After all, no one who wants to seriously advocate CSR would phrase his or her argument as Friedman did. The fame of Friedman's words comes partly from his influence on the discipline of economics, and partly from the bluntness of his formulations, but also from the fact that they encapsulate the whole neoliberal conception of the function and legitimacy of the business. We have to remember here that in accordance with neoclassical

economics, the law in most capitalist countries obliges corporations to create maximum wealth for its owners – the shareholders (Heilbroner, 2008). Therefore Friedman's quote does represent the status quo of the 1970's as well as of today, as the corporate fiduciary duty towards owners, known as the 'shareholder theory', roughly equals Friedman's position (Marcoux, 2008). As I will discuss in the next chapter, the position of the business case proves that CSR is in line with shareholder theory. This means that Neal's and Friedman's definitions of CSR are not so far from one another. Both statements come down to the primacy of profit – Friedman's explicitly and Neal's implicitly.

In this section I have suggested that the concept of CSR is closer to consequentialist shareholder theory than to deontological and virtue ethics approaches to the relation between business and society. Subsequently, I will show that the commitment to CSR based on its profitability for business shares the shortcomings of the shareholder theory represented by Friedman.

#### 4. The Business case for CSR

The business case for CSR postulates that socially responsible behaviour brings material benefit to the company. Bob Willard (2002), a promoter of CSR's business value, writes: 'Saving the world and making a profit is not an either/or proposition; it is a both/and proposition. Good environmental and social programs make good business sense.' (Willard, 2002: 3). Duska summarises the business case line of thinking with a slogan 'Good Ethics is Good Business' (2007: 57). Numerous publications discuss the benefits that CSR brings to companies (Orlitzky et al., 2003). The most popular ones are the following: easier hiring and higher retention of top talent, increased employee productivity and innovation, reduced manufacturing expenses, reduced expenses at commercial sites, increased revenues and market share, reduced risk and easier financing (Willard, 2002). Empirical research on these benefits, however, does not always verify the alleged correlation between ethical and financial performance (Bird et al., 2007: 191-193; Crane et al., 2008: 4; Griffin & Mahon, 1997; Trebucq & D'Arcimoles, 2002). Some studies confirm the correlation, some deny it



and others find that it is limited to certain areas of responsibility (Kurucz et al., 2008; Bird et al., 2007). Despite this academic dissensus, CSR is a popular theory and a widespread practice. It seems that CSR has gained popularity because of the way it attempts to commit businesses to social and environmental causes. Since duty-, rights- or virtue-based appeals to the business often remain unanswered, the bottom line argument appears to be a good, workable alternative. CSR is associated with the 'soft' (as opposed to 'hard', i.e. legally forced), self-binding and self-perpetuating regulations driven by the market itself. The need for market-fit ethics is described by Heath (2007), who criticizes existing business ethics for being ineffective, anti-capitalist and too demanding (2007: 360). Heath calls for another kind of business ethics that would be compatible with the logic of free market competition. His 'adversarial ethics' (Heath, 2007) aims to stay within this logic, but to arrive at the 'greater good' result. The business case approach to CSR seems to be in line with Heath's objective of aligning goals of competitive players with the greater, common good. CSR should work like this: once the market recognises that CSR pays off and there is 'money on the table', companies will compete to be the most responsible and a 'race to the top'-effect will be triggered. As a result, everyone benefits.

As we can see, CSR rests on a premise that goals of the market and social responsibility are compatible. However, critics of CSR stress that business interests and the interests of society can converge, but may also clash. For example, in his book on CSR and virtue, David Vogel describes this relation as follows: 'CSR is sustainable only if virtue pays off. The supply of corporate virtue is both made possible and constrained by the market' (2005: 2–3). To illustrate, when corporate social or environmental impact suggests doing 'x', but the imperative of profit maximisation points to the opposite, 'y', a corporation is obliged to do 'y' by its shareholder duty. As Duska puts it, 'when good ethics is not good business, so much the worse for good ethics' (2007: 57). He explains that CSR warrants ethical behaviour as long as it makes a profit. What is more, the interests and claims of stakeholders are clearly not weighed equally to those of shareholders. I would like to point out that this is opposed to the concept of CSR as suggested in our definition, initially proposed by Neal ('businesses need to integrate the economic, social, and environmental impact in their

operations'). In this light, the concept of CSR seems contradictory: on the one hand it contains a normative claim for respect of other stakeholders' interests, but on the other hand it is based on the primacy of one group over others. One could argue that integrating social impact doesn't necessarily imply equating shareholder and stakeholder interests.<sup>5</sup> That brings us back to the shareholder theory. This situation opens up a difficult question for contemporary business ethics: for how much do certain stakeholders' interests count in the absence of the incentive of profit (Marcoux, 2008)?

In this section I have shown how the business case for CSR leads to specific moral challenges. I also brought up CSR's paradoxical nature. CSR's definition asks for the impossible – to satisfy both the duty to shareholder and stakeholder interests. In the next section I present a brief discussion of some areas of concern. By doing this, I will try to show that CSR does not ensure sustainable commitment to social responsibility from businesses.

## 5. Problems with CSR

### 5.1 Empirical research

I will start with the problem of empirical research into the benefits of CSR. Since the business case is at the core of CSR, the data that supports it is crucial. However, over the years the research results change, new studies are published and previous assumptions are falsified.<sup>6</sup> This makes the business justification for social responsibility unstable. What if in the future some or all of the currently accepted business benefits of CSR are overturned? The business incentive for responsible behaviour would then be empirically unsupported. Unfortunately, the history of empirical research into CSR performance is full of studies which question the positive correlation between the CSR performance and financial performance.

Interestingly, a study by Bird et al., exploring which CSR practices are rewarded by the market, concludes that only certain CSR activities result in market value increase (e.g. doing the minimum in areas of diversity and the environment, but being proactive in employee relations), while some result in market value decrease (e.g. being proactive in community and environmental protection) and other don't have any effect (2007:

201–204). As we can foresee, a manager wanting to maximise shareholder revenue would follow certain CSR activities, while neglecting or actively avoiding others. In such a case, following the logic of the popular approach to CSR, corporations implementing CSR are unlikely to undertake an action that ‘only’ has moral advantages. Therefore, CSR can have a negative effect on actions which lack bottomline justification, but do have ethical value.

I would like to emphasise here not only the possible negative consequence, but also the risk of changing recommendations – both of which indicate that the business case for CSR provides no safe ground for social responsibility.

## 5.2 Shareholder interest

Secondly, I would like to illustrate the supremacy of shareholder interest over stakeholder interest in a situation where CSR is believed to be implemented. It is generally recognised that employee diversity is part of good corporate responsibility. The competitive advantage of having a diverse workforce is discussed in CSR literature, but there is no sound empirical data proving that it brings tangible profits (Tanis et al., 2010). However, on top of the advantage of having diverse teams, a corporation is encouraged to employ members of minorities who may help them to target customers from that same minority. This commercial gain is often mentioned in CSR argumentation for diversity.

In 2005 a case study was conducted in one of the Dutch banks where managing diversity was implemented (Subeliani & Tsogas, 2005). ‘Findings show that diversity management has been used primarily to attract ethnic customers to the bank, rather than to advance the quality of working life and career prospects of ethnic minority employees’ (Subeliani & Tsogas, 2005: 831). This example shows that corporations might decide to use the CSR findings and its rhetoric to advance only their interests and not necessarily the interests of the stakeholder – the employees.

In another situation, a company can choose to ignore the possible financial gains from CSR, if those are outweighed by the gains from other strategies. This can be observed when a company weighs the costs

of lawsuits or fines and reputation loss amongst a population that values responsible behaviour in companies against these gains. CSR is treated here as one of the factors in the cost-and-benefit-analysis, performed from the shareholder perspective (Vogel, 2005).

This can be illustrated with the issue of the number of women on corporate boards (Doldor et al., 2012). Even with the business case supporting gender diversity in the boards, companies still don’t decide to follow suit. More is at stake – the interests of current board members, training costs, etc. Responsible behaviour is not given any priority just because of its moral value. Companies estimate the revenue on socially responsible behaviour and consider it against other, non-ethical issues.

## 5.3 Consumer preferences and public opinion

Now I will discuss the issue of consumer preferences. In the CSR-business case motivation model, companies pursue CSR because it increases their profits. Companies can increase profits in a direct way, for example by sustaining or increasing the natural resources that they exploit. A fishing company, for instance, would have a long-term interest in keeping the waters clean, so that the fish population remains stable or grows. Here, the state of natural resources presents an operational risk. But CSR literature also gives a lot of attention to another source of profits, namely reputational gain or risk. Here, a company’s good name and image are at stake, in other words – its “goodwill”. Since profits come from consumer’s choices that are influenced on the image of companies, the perceived moral character of a business is thought to translate into material gains or losses. This CSR model is dependent on consumer preferences.

The obvious shortcoming is that the dependency on goodwill doesn’t apply to corporations with no visible brands and most “business to business” companies. These organisations are less susceptible to public pressure because they do not sell directly to consumers, who, in turn, are not aware of or have less interest in the social performance of the latter organisations.

This, however, could still be remedied – in part – by transparency of a supply chain, so that the suppliers of known companies are visible to the public. Various CSR standards and “best practices” introduce such trans-

parency, so that more and more companies are in the public eye.

But there is another problem with the reputational risk model: even if consumers had enough information to judge that certain company's actions are against their collective interests, it might be that consumers just don't care or don't want to identify themselves with interests of the community that transcend their group or country. In a similar vein, people disagree about facts and solutions to environmental and social issues. Therefore, their consumer choices would send different messages to the companies.

A way to tackle these issues could be to agree with Hausman and McPherson that preferences that are shaped by mistaken popular beliefs should be confronted by eliciting preferences based on our best-supported estimates of facts and consequences of activities (2006: 286). There are hundreds of active watchdog organisations, governmental or non-governmental, trying to yield this preference change by providing information that customers might lack and trying to explain collective interests (e.g. Bankwijzer in the Netherlands, or Clean Clothes Campaign worldwide). Bankwijzer in its mission statement writes:

“The aim of the tool is to initiate a ‘race to the top’ between banks on the subject of corporate social responsibility (CSR). Ideally, a self-reinforcing process will develop in which social, environmental and economic standards are raised continuously.”<sup>7</sup>

However, the non-profit sector faces obstacles to the real “race to the top”, such as the reporting quality, lack of corporate transparency, incompatible data or biased answers submitted by corporate CSR departments.

Moreover, CSR competition (via indexes, comparisons, public shaming) doesn't guarantee that the responsible behaviour is internalised. First of all, there are problems inherent to the competition mechanism, described in the next section (trying to only appear responsible and score well). Secondly, it is not proven that an organisation will internalise the moral principles after a certain time of external pressure. This means that watchdogs would always need to keep guard over businesses to provide the missing incentive for CSR performance.

In this section I have shown that CSR performance depends on customer preference, information and willingness to enact customer's choice. This adds yet another variable to the unstable justification of social responsibility based on the business case.

## 5.4 Free market competition

Another group of issues that CSR may face stems from CSR's dependency on free market competition. This set of problems is generic to the competition mechanism. Free riding strategies are the collective action problems immanent to competition. This is because rational decision entails finding ways to increase profit and free riding fits into the model. Competition for CSR will have the same side-effects as competition in any other unregulated market.

Frank (2008), Heath (2006) and Wells & Graafland (2012) describe a big range of instances where competition goes wrong. I will mention just a few relative to CSR: ‘gaming’ the regulations means that competitors are prone to doing the minimum and/or finding loopholes. Moreover, competition in profitable CSR can result in a whole range of competition-related side effects, like lying, window-dressing, and dishonesty (see Wells & Graafland's, 2012 discussion on virtues' distortion).

Here I would like to recall Friedman's statement that even the free market needs to adhere to some basic ‘rules of the game, which (...) engages in open and free competition without deception or fraud’ (Friedman, 1970). However, the problem here is that these extrinsic rules don't follow from his market competition logic, which assumes rational choice. Sometimes it is rational to act dishonestly, if there is a gain. Friedman assumes a minimal legal framework, but it doesn't prevent gaming the rules. The same could be said about the business case approach to CSR – in the first place, companies are encouraged to involve in actions beneficial to them.

What are the alternatives? Robert Frank (2011), for example, argues that intervention in competition is necessary for good functioning of groups or societies. Competition mechanism can drive groups against their collective interest (collective action problems). Therefore, a group must steer the competition in an all-benefiting direction by means of

laws or incentives. Certain regulations are necessary to solve collective action problems that are likely to occur in a competitive environment.

## Conclusion

By presenting the four types of problems above, I have tried to show that CSR based on a business case doesn't always work in the best interest of society. Initially, CSR seems to promise that businesses will always pursue social goals, because in the long run, they all pay off. However, not all social interests pay off. Sometimes other commercial pursuits would be more profitable than ethical ones, unethical business can appear responsible to the public, or certain ethical behaviour can be proven to be unprofitable.

Why is this problematic? Even if CSR doesn't cater to all the social needs, aren't there other mechanisms that take care of them?

The limitations of CSR are indeed not problematic, so long as there are other institutions that deal with the areas that CSR leaves out. These institutions are mostly managed by the state.

But if we consider the retreat of the state from the moral or social domain and the freedom that the voluntary regulation grants businesses, as described in the introduction, it is possible that certain social interests would be addressed by neither the state nor businesses. This is because the state might not be the main regulator anymore in certain social areas, while businesses would not choose to cater to these interests because of their weak business case.

In conclusion, I have argued here that CSR does not always bring together the market goals and interests of society. I explored the alignment of ethically good and profitable actions of the business and concluded that it is theoretically unstable and leaves space for unethical business behaviour. CSR inherits some of its weakness from its constitutive elements, like competition, shareholder supremacy and the assumption of a rational consumer. The next question arising from these conclusions is whether in order to make capitalism truly work to our advantage, the goals of the business world would have to be shifted.

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## Notes

1. 'The term "marketisation" refers both to market ideologies and market-oriented reforms. A market ideology reflects the belief that markets are of superior efficiency for the allocation of goods and resources. [...]Market-oriented reforms are those policies fostering the emergence and development of markets and weakening, in parallel, alternative institutional arrangements' (Djelic, 2006: 53).
2. Employee protection and environmental externalities are the examples of business interests and social interests coming apart. While greater employee protection and minimising the negative externalities are in the interest of society, it is usually against the interest of businesses.
3. Collective moral responsibility refers to arrangements appropriate for addressing widespread harm and wrongdoing caused by the actions of groups (Risser, 2004).
4. It could be argued that Friedman's position is not entirely consequentialist because it also includes the minimal procedural constraint of having to conform to the legal framework and basic ethical custom of society (Carroll, 1991). I would argue, however, that the consequentialism of increasing profits clearly has a ruling position here and even the basic constraints can be subject to the main objective of profit making, because the constraints are not grounded in any other meta-justification, i.e. a normative core of neoliberalism. The profitmaking is in the normative core of neoliberalism. Therefore laws and ethical custom could also be subordinated to this consequentialist principle.
5. Stakeholder theory claims that shareholder and stakeholder interests are equal. 'Normative ethical stakeholder theory articulates the view that a business firm ought to be managed in a way that achieves a balance among the interests of all who bear a substantial relationship to the firm – its stakeholders. In Freeman's account, the very purpose of the firm is coordination of and joint service to its stakeholders' (Marcoux, 2008).
6. For example, the two important studies (Griffin & Mahon, 1997; Orlitzky et al., 2003) which assessed the methodological accuracy of the existing empirical research on financial performance and CSR, came up with different results – one of them claimed that most of the studies didn't prove financial viability, and other one denied it.
7. [www.eerlijkebankwijzer.nl](http://www.eerlijkebankwijzer.nl) [accessed 23 January 2012].



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# Luck Egalitarianism and Procreation

Johanna Thoma

## 1. Introduction

In most European countries, fertility rates dropped below the replacement level of 2.1 children per woman in the 1970s. In many countries, such as Germany, Italy and Spain, there has been a steady decline ever since (Grant et al. 2004). In the wake of this decline, policies dealing with financial support for families and the subsidisation and organisation of child care have gained in importance and are much debated. Philosophers, too, have thought hard about the question of whether the community at large should be responsible for bearing the costs of raising the next generation. There is an active field of research dealing with the following two questions:

1. What are children owed?
2. Who should pay for the children?

Much of this literature is very applied and policy-oriented, such as Alstott (2004), Brighouse (2005), Folbre (2008), Garofalo and Robeyns (2009) and Daly and Rake (2003). But surprisingly little has been written on what the dominant theories of justice might respond to these questions. I want to explore the implications of luck egalitarianism as one of the major frameworks in contemporary political philosophy with regard to these questions – both because it is one of the intuitively most plausible views on justice, and because questions of procreation pose some interesting problems for this framework.

Luck egalitarianism is the view that people should be equally well off as everybody else in a society, unless differences are due to choices they can be held responsible for. On first inspection, luck egalitarianism does

indeed seem to imply answers to both the questions posed above, namely that children are owed equal life prospects to everybody else, and that parents should pay. However, the combination of these answers would be overly demanding in the realm of non-ideal theory, that is, theorising which takes into account existing injustices: it is too harsh towards parents who are themselves disadvantaged in an unjust society. Luck egalitarianism is an ideal theory in the sense that we usually assume a just society of perfect equality as a starting point and then see whether differences are caused by conscious choice. It is this assumption that gives rise to the counterintuitive responses to the above questions. So the luck egalitarian will have to adapt her answers to a non-ideal world, or so I will argue.

This is no attack on the luck egalitarian framework: As most comprehensive theories of justice, luck egalitarianism remains mostly silent on what justice implies for a non-ideal world (see Swift 2008). In fact, this may be a reason why the literature dealing with questions of procreative justice is more policy-oriented, and relatively detached from debates about comprehensive theories of justice.

The purpose of this paper is to show that despite these problems, luck egalitarianism can still provide a valuable insight: many of the costs of children are costs which arise from the children's rights of egalitarian justice. Even when we hold parents responsible for their procreative decisions, there may be reasons in non-ideal theory to refrain from holding parents responsible for these particular costs in full. It seems unacceptable to make parents pay the full costs of egalitarian justice when they themselves have been disadvantaged in an unequal society. This provides a distinct argument for some form of joint responsibility for children.

## 2. Luck egalitarianism and responsibility

To motivate luck egalitarian answers to our guiding questions of what children are owed and who should pay for them, this section introduces the luck egalitarian framework and its central intuition. We will not have to go into much detail of the different accounts of luck egalitarianism to motivate these answers, so the discussion will remain fairly general.

Luck egalitarianism is still one of the dominant strands of egalitarianism amongst contemporary theorists of justice, counting R. Dworkin, R. Arneson and G. Cohen amongst its proponents. It also expresses some of the most widely held intuitions about egalitarian justice. With this wide base of support, it is inevitable that there is much diversity within luck egalitarianism. What I want to do here is just to give a general impression of the main tenets of luck egalitarianism. Along with Knight (2009a), and arguably also Anderson (1999), I take the main idea to be this: luck egalitarianism holds that people should be equal with respect to a metric of justice (such as resources or welfare) unless differences are due to choices people can be held responsible for. Let us see how this idea encompasses some of the main luck egalitarian distinctions and internal debates.

A common distinction within luck egalitarianism is that between option luck and brute luck, first established by Dworkin:

‘Option luck is a matter of how deliberate and calculated gambles turn out—whether someone gains or loses through accepting an isolated risk he or she should have anticipated and might have declined’.

Accordingly, brute luck is

‘a matter of how risks fall out that are not in that sense deliberate gambles’ (Dworkin, 2000: 73).

For instance, being born with a severe disability is a matter of brute luck. But a well-informed hobby parachutist ending up disabled after a parachuting accident is a matter of option luck. Using this terminology, luck egalitarianism holds that people should be compensated for differences due to brute luck alone.

Another way of characterising the luck egalitarian intuition, also from Dworkin, is that distributive principles should be ambition-sensitive, but endowment-insensitive. Endowments include the initial resources available to people, as well as their natural advantages or disadvantages, such as disabilities. When a distributive principle is endowment-insensitive, then the final distribution should not reflect initial differences in endowments. All differences should be due to differences in ambition.

Looking at Knight’s (2009a) characterisation and the two characterisations based on Dworkin’s distinctions, saying that (1) people should be compensated for disadvantages they are not responsible for, (2) people should be compensated for differences in brute luck, and (3) our distributive principles should be ambition-sensitive but endowment-insensitive may not be equivalent ways of spelling out the luck egalitarian intuition – depending on how the crucial terms in these characterisations are spelt out exactly. However, I want to argue that there is some ground for holding that (1) is basic to luck egalitarianism, and that (2) and (3) are different interpretations given to it by theorists like Dworkin. Like Knight, I want to focus on responsibility. There are two reasons for the claim that responsibility is basic: thinking about responsibility helps us make sense of internal debates within luck egalitarianism, and an appeal to responsibility is what makes luck egalitarianism normatively compelling.

To start with the first, the centrality of the notion of responsibility for theorists of luck egalitarianism becomes apparent, for instance, in the debate about expensive tastes. We speak of expensive tastes when people have tastes that make it more expensive to make them equal to everybody else with regard to the metric of justice. For instance, if I need champagne before my dinner in order not to be completely miserable, then it will be very expensive to keep me as happy as the rest of us. Luck egalitarians all agree that we should compensate for disadvantages caused by physical or mental handicaps. However it is not clear how expensive tastes are relevantly different from such handicaps – some of my tastes may be as entrenched as physical handicaps. There is an active debate about whether and how expensive tastes may be different from natural disadvantages (see Knight 2009b). What is important for my point is that this debate appears to revolve around the notion of responsibility: What luck egalitarians want

to say is that while we can never be held responsible for inherited handicaps, it may be that we can be held responsible for some of our expensive tastes. Cohen, for instance, holds that expensive tastes we would now choose not to have can be used as the basis for compensation, but not others (see Cohen 1989, 2004). Dworkin (2000) uses a stricter criterion, and puts all ‘ambitions’ on the side of tastes we can be held responsible for, and works out a number of specific criteria to distinguish ambitions from natural endowments.

One interpretation of Cohen and Dworkin is that they aim to establish what makes a person responsible for their choices. In Cohen’s case, we are responsible when our preferences are such that we would now choose to have them. And in Dworkin’s case, we are responsible for our ambitions. This interpretation is not only intuitively appealing; it is also rendered more plausible by the observation that both Dworkin and Cohen invoke the idea of personal identity. Dworkin does so directly by speaking of ambition as belonging to somebody’s personhood. He writes that

‘[i]t is true that this argument produces a certain view of the distinction between a person and his circumstances, and assigns his tastes and ambitions to his person, and his physical and mental powers to his circumstances.’ (2000: 81)

Cohen invokes an idea of second-order preferences – preferences over the preferences that guide our behaviour. The latter is very much reminiscent of Frankfurt’s (1971) account of moral responsibility, which also intimately links responsibility with personal identity, and conceives of personal identity as higher order preference. Roughly, he thinks that our intimate self is constituted by the wishes we have about what our preferences in everyday situations should be, our preferences over preferences. Moral responsibility, too, has to do with higher-order preferences, in that we are responsible for an action if that action is in accordance with our higher-order preferences, with those preferences that constitute our personal identity. Frankfurt represents a tradition that views responsibility and personal identity as closely interconnected. In the light of this tradition it makes sense to interpret the debate about expensive tastes to revolve around when something is considered one’s own responsibility. Obviously there is much disagree-

ment about what responsibility implies, but this disagreement aligns well with the disagreements within luck egalitarianism itself.

Turning to the second reason, responsibility is central to the normative appeal of luck egalitarianism. When one is told that people should be compensated for natural disadvantages alone, or for differences in brute luck alone, it is not unreasonable to ask why this should be the case. Further justification may be called for. An appeal to responsibility may provide such further justification. For instance, we could say that it would be unjust for people to be worse off *through no fault of their own*. This justification argues from an appeal to responsibility to egalitarianism. Alternatively, we may say that we presuppose a strong egalitarian intuition, but then appeal to responsibility to limit it. While we should generally compensate for differences, it would be unjust to make everybody pay to compensate somebody who is worse off *through their own fault*. In any case, if we were to accept that people are not responsible for their natural disadvantage, or that they are not responsible for their brute luck, appeal to responsibility can normatively justify why Dworkin’s two distinctions should matter for egalitarian justice. It is hence normatively more basic. Of course, again, it is very much an open question what people can be held responsible for. All I am saying is that Dworkin’s appeals to option luck and to ambition should be understood as specific answers to that question.

So for these reasons, luck egalitarianism is best characterised as follows: people should be equal with respect to the preferred metric of justice unless differences are due to choices people can be held responsible for. But we can say more than that. We have just seen that responsibility can be appealed to in two different ways to argue for this central luck egalitarian claim. Accordingly, luck egalitarianism can be characterised by its turning against two kinds of injustice. Most defences of luck egalitarianism take a case of inequality and argue that it is unjust when it is due to natural disadvantage. But we can also look at it from the other side. We could, for instance, start from the idea that equality of welfare is a good thing. The luck egalitarian position can then be motivated from a particular failing of this simple egalitarianism. If people know that equality of welfare will be restored following all their choices, they make these choices, and develop their ambitions without facing their true costs. The costs will be



spread amongst all. We could understand this as an externality problem. Consequently, the inherent structure of simple welfare egalitarianism can lead to situations that are both inefficient, in the welfare economic sense, and may seem unfair. There is a second kind of injustice that luck egalitarians turn against, namely the injustice of having to compensate somebody for choices they can be held responsible for. Dworkin is writing from this perspective in the sentence following the above quotation:

‘That is the view of a person [...] as someone who forms his ambitions with a sense of their cost to others against some presumed initial equality of economic power.’ (2000: 81-82)

As a rough characterisation, we can hence say that luck egalitarianism turns against two perceived classes of injustice: The injustice of being worse off than others through no fault of one’s own; and the injustice of having to compensate people for expensive choices they made willingly and knowingly, and with no input from those asked to compensate.

### 3. What are children owed?

What does luck egalitarianism have to say about procreation? Let us first focus on the children. What is unique about procreative decisions is that they result in the existence of persons who did not exist before, and who will be taken seriously as subjects in a theory of justice. Focusing on these newly created persons, luck egalitarians would presumably say that they cannot be held responsible for the circumstances they are born into. So, depending on one’s account of luck egalitarianism, one would either say that family background is a matter of brute luck, or part of one’s endowment. Considering the effect of a family’s socio-economic and educational background on the life prospects of a child (see Bradley and Corwyn 2002, Davis-Kean 2005, Mayer 2002), luck egalitarians would argue for compensation for differences in family background, and measures to keep the effects of background in check (see Segall 2011). This can provide an answer to the question of what children are owed: children are owed equal life prospects, an expectation to do as well as everybody else with regard to the metric of justice, independently of family background.

When it comes to correcting injustices, there are deontic and teleological interpretations of egalitarianism. Deontic egalitarians hold that those worse off through no fault of their own have a claim-right to compensation, while those better off have a duty to compensate. Teleological egalitarians think that equality is a value and that it is good for inequalities to be compensated when they are the result of brute luck. This avoids the language of claim-rights and duties, by putting the central egalitarian claims in terms of the value attached to certain pattern of distribution. Still, it can be said that this approach identifies the receivers as those with bad brute options luck and the donators as those who are better off. Temkin (1993) subsumes both approaches under one terminology by saying that the worse off have *complaints*. I will stick to the deontic account here, which is also the more common one – especially when equality is thought of as a matter of justice. This makes the following discussion more straightforward. It is possible, however, to think of everything I say in teleological terms as well. On this deontic interpretation, then, luck egalitarianism holds that every child has a claim-right to life prospects equal to those of the rest of the population. By having a child, parents create a person with such a right.

Next, we would like to answer the question of who should pay for the children. Before answering that question, it would be helpful to know what children cost. But the costs of children are at least partly dependent on what children are owed. In fact it is very hard to define the costs of children (see Folbre 2008). But at the very least, they include things that children have a moral right to, such as the care and means to cover their basic needs. According to luck egalitarianism, equal life prospects are amongst the things that children have a moral right to. So a luck egalitarian would have to say that the costs of children include whatever is needed to ensure these.

### 4. Who should pay for the children?

Focusing on the parents, a luck egalitarian would say that to the extent that procreation is a conscious choice, parents are responsible for their procreative decisions. At least in the developed world, procreation is often,

if not most of the time, a matter of choice, or the result of a risk taken willingly and knowingly, and would hence be counted as option luck. The luck egalitarian may conclude that in most cases, parents should not be compensated for the costs of children (see Casal and Williams 2004, Rakowski 1991).

While the luck egalitarian answer to the first question above, concerning what children are owed, is more consensual, there is much opposition to this luck egalitarian answer to the second question. That disadvantaged parents should be supported in raising their children is a very strongly held belief amongst many philosophers writing on these issues. Indeed, some have argued for this view from within the luck egalitarian framework, thereby denying that the luck egalitarian answer I just described is unavoidable. I address some of these arguments in the following, but will argue that they should fail to convince the luck egalitarian.

In her *No Exit*, Alstott (2004) argues that child-rearing should not be regarded as an 'expensive taste', and that appeals to the parents' responsibility are irrelevant in the case of child-rearing. The main theme of her book is that society has a mutual obligation to care for children, irrespective of parents' responsibility for their decisions. There is a 'no exit' command for parents to provide 'direct, intimate and continuous care' (2004: 38) for their children. According to Alstott, such care by at least one parent is essential for the child's well-being. She further argues that this restricts the parents' autonomy considerably, and uses this to justify state compensation for the parents' efforts, as well as enforcement of the caring commitment. While the parents should normally be the ones fulfilling the 'no exit' command, society has a mutual obligation that children are cared for, and should assist the parents. Alstott's argument does not appeal to the parents' responsibility for their procreative decisions, and she denies that responsibility can undermine her argument. This is where her argument that child-rearing is not an expensive taste comes in (2000: 61-63).

As we have seen, luck egalitarians usually appeal to expensive tastes to make an argument along the following lines: if somebody makes certain choices because she has tastes which are expensive to fulfil, she cannot expect the community to compensate her for the costs. Applied to children, this is an argument against state support for parents: parents make

the expensive decision to have children, and should not expect the community to compensate them. Against this conclusion, Alstott now claims that, firstly, often parenthood is not chosen, and, secondly, even in the cases where it is, child-rearing is expensive because it must be 'enforced'.

It is hard to interpret what she means by this second claim, or how this is an argument against holding parents responsible for the costs of children. I can see two possible interpretations of how enforcement makes child-rearing expensive. However, on neither does Alstott succeed to refute the expensive tastes challenge.

Firstly, we may interpret enforcement as something that only comes into play once parents have already failed to care for their children adequately. When parents have failed to care for their children by themselves, it is important that the state should act so that the children receive the care they need. In this case, Alstott has done nothing to refute the expensive tastes argument: the state support she argues for can in fact be interpreted as supplementary to the position that parents should be held responsible. We could view child-rearing as an expensive taste, the costs of which parents are responsible for. But of course people can always fail to live up to their responsibilities. The parents' failure to care for their children could be seen as a failure to live up to their responsibility, and the state would only come in to clear up the damages of the parents' moral failure. Enforcement matters when parents fail in their duties of responsibility. Alstott's argument would then simply be that parents frequently fail without enforcement.

On the second interpretation, enforcement is not merely associated with failure to fulfil duties. Rather, it is acknowledged by those to whom the enforcement is applied as a necessary incentive mechanism that helps them meet their commitments. This acknowledgement may spring from people's awareness of their own weakness of will or short-sightedness. Alstott clearly thinks that enforcement is necessary – so presumably it is possible for responsible and forward-looking parents to anticipate that they will need to be given incentives to meet their commitments on a day-to-day basis. But if this is the case, and parents still decide to have children, the expensive tastes argument would still apply. If we think it is valid, we would like to hold parents responsible even for the costs of enforcement.

As Brighouse (2005) notes, two conceptions of autonomy are at work in this debate. Alstott stresses the loss of autonomy for parents on a day-to-day basis. The caring commitment decreases their options. On her view, this is what makes child-rearing expensive and makes enforcement necessary. But Brighouse argues that this is not the kind of autonomy which matters, and that the caring commitment could in fact be seen as an expression of autonomy:

‘The person who is autonomous in the sense that matters, I think, is the person who is able to distance themselves from, and rationally revise, their emotional commitments and judgements.’ (2004: 279)

We can apply this to the expensive tastes argument by saying that this second kind of autonomy is also what matters when responsibility is at stake. When we make an autonomous decision in this sense, one that we can rationally reflect on, then we can be held responsible for it. So if the decision to procreate was an autonomous one in this sense, we can be held responsible for it – even if this decision in fact restricted our short-term autonomy as Alstott understands it. And then the decision to procreate would have to be seen as an expensive taste.

Some of Anderson’s (1999) critique of luck egalitarianism can be understood in a similar way to what Alstott is saying here. Take what Mason (2000) calls the ‘equal access view’, which implies that

‘a person’s decision to have a family may legitimately influence their employment and training opportunities. Equality of access may obtain even when individuals fail in competitions for jobs or promotions [...] as a direct or indirect result of their childcare commitments, so long as those commitments were incurred voluntarily.’ (2000: 231)

This claim sounds very much like the expensive tastes challenge to Alstott’s views. When childcare commitments were incurred voluntarily, then the resulting inequalities are not problematic from an egalitarian viewpoint. Mason claims that, in the spirit of Anderson (1999), Anderson would respond to this argument by claiming that it leads to the exploitation of those who see themselves under a moral obligation to care for dependents

– in practice mostly women – by not offering them support. Anderson and Alstott both appear to think that since parents are under a moral obligation to care for their children, caring is not like acting on an expensive taste for champagne and caviar – caring is not a lifestyle choice.

Alstott and Anderson are right in considering caring commitments special, but it cannot be because they are moral commitments that are hard for the parents to fulfil. It remains true that in the case of a deliberate decision to procreate, the parents need not have had children, and hence need not have taken up these obligations. There seems to be no relevant difference to the case of somebody willingly and knowingly signing a contract that commits them to regular payments. Here we would say the person has a moral obligation to pay, because she promised to. But at the same time she is responsible for having signed the contract, and other things being equal, seems to have no right to assistance from others. It may not be the case that caring for an existing child can be called an expensive taste. But what matters is the decision to procreate in the first place. When parents choose to have children, this is based on the parents’ preference for having children, and this ‘taste’ is expensive, because raising children, and fulfilling their rights is expensive.

The arguments I am ascribing to Alstott and Anderson here do not question the general validity of the expensive taste argument, although both are in fact critical of luck egalitarianism. Rather, they argue here that the expensive tastes argument does not apply, because child-rearing is not an expensive taste. I argued that both in a sense fail to see the importance of the distinction between child-rearing as the activity of fulfilling one’s moral obligations to existing children, and child-rearing as the original choice to have children, and to enter commitments. In the latter case, it is not so clear that child-rearing could not be regarded as an expensive taste.

If we accept the luck egalitarian distinctions, there only seem to be three ways for parents not to be held responsible, and to escape the conclusion that parents should pay for the costs of children. Firstly, the children may have been entirely unplanned, and not even the consequence of having taken a known risk. I have said this at least is not the norm in developed countries today. Secondly, the parents may have been unaware of the costs of children. This is also an unsatisfactory basis for compensat-



ing disadvantaged parents: it would be a sad state of affairs if a majority of parents could be regarded as stumbling into parenthood completely surprised by what it implies for their lives, especially since this would suggest many parents may regret their decision to have children, and fulfil their obligations reluctantly. Thirdly, we can regard the original desire to have children as something like a handicap, a desire the parents cannot be held responsible for. Again, this option does not seem very attractive. In Dworkin's vein, the desire to have children would not be an expression of our personhood, not part of our ambitions, but of our circumstances. Or in Cohen's version of the argument, parents would usually not choose to have the desire to have children if they could. This simply seems to be an inaccurate description of how parents usually feel about children, and the place children have in their life plans. It would also have troublesome implications for parent-child relationships.

There may be one other route for Alstott and Anderson to avoid, rather than confront the luck egalitarian challenge. I said above that luck egalitarianism would suggest that parents cannot be compensated for the costs of children when they can be held responsible for the choice to procreate. However any compensation must be based on some *prima facie* distribution of the relevant metric of justice. So we already have to have assigned the costs of children to one party or another. To be compensated, parents would already have to have decreased prospects, i.e. already have to have been assigned to pay the costs of children. It is consistent to hold that while parents cannot be compensated, some of the costs of children are not to be covered by the parents in the first place, but, for instance, by society. This seems to very much fit what Alstott is arguing—she thinks we are all mutually responsible for children in society from the start.

However, this solution seems counterintuitive for a luck egalitarian. It would mean that some people can make a unilateral decision which causes costs for others in society. The parents' decision would cause an externality. Hence the second kind of injustice we identified luck egalitarianism as turning against occurs. Parents cause a cost to others willingly and knowingly and expect them to contribute. To have mutual costs without a mutual decision must seem unfair to the luck egalitarian.

In conclusion, the most plausible luck egalitarian interpretation of the decision to procreate is that parents should be held responsible for all child-rearing costs if they made this decision willingly and knowingly, as most parents do. In ideal circumstances, child-rearing costs hence seem to offer no grounds for compensating the parents. There is nothing about child-rearing as such that forces the luck egalitarian to give up her position or to admit that her distinctions do not apply.

## 5. Putting together costs and cost-bearers

We have now established what the luck egalitarian answers would be to the questions of what children are owed, and who should pay for the children. Put together, are these answers acceptable?

Firstly, we said that parents cannot be compensated for the costs arising from their considered procreative decisions. One of these costs entails providing the child with equal life prospects to everybody else. This would force the parents to spend a certain amount of their resources on their children. This amount would be independent of how well off the parents are to begin with, and depends only on differences in the child's needs and differences in child-rearing skill. I can see three possible objections to this conclusion: the first is practical, the second has to do with undermining family integrity, and the third has to do with fairness.

The practical problem is that families are integrated units in that household spending as a whole has a big impact on all members of the family. It may be hard to distinguish what is spent on a child, when the socio-economic standing of the parents has a big impact on the child's prospects. If the parents are forced to spend a large proportion of their resources on the child, in the form of schooling etc., their own standard of life may slip, which negatively affects the child. However, if we regard money spent on keeping up a certain standard of living for the whole family as money spent indirectly on the child's well-being, the practical difficulty disappears. Of course guaranteeing this standard of living may be impossible for some, but this only highlights that having children and fulfilling one's obligation to them is very expensive, and may be unaffordable for some.

The second objection focuses on the integrity of a family. It is a widely held belief that within the family, parents have certain rights over their children, and that the state should not normally interfere with the internal workings of a family (see Brighouse and Swift 2006). It also seems to be a common belief that, within limits, parents have the right to raise their children within their own social context, so that they might live a life similar to their own. Both of these rights may seem to be undermined by what I identified as the luck egalitarian position, since it imposes such strong restrictions on parents: parents have a duty to provide their children with life prospects that are equal to everybody else's.

With regard to the right to non-interference, the luck egalitarian may respond in the following way: on most views of what it is that ought to be equalised, equal life prospects are realisable in many ways. Firstly, people differ from one another, partly because of their upbringing, with regard to what they value in life. This affects what distribution of goods would constitute equality. Secondly, there are different ways of life that could be judged equivalent by one and the same person. Thirdly, there are different routes to arrive at any way of life. Hence parents are still guaranteed some freedom to decide how to raise their children. The demand for equal life prospects does not require uniformity in children's upbringing, or regulation of family life in a set way. Furthermore, while it is true that the duty we identified is very demanding, the luck egalitarian may decide against enforcement if that would interfere too much with the working of a family, which may be harmful especially to the children.

The second point, about parents having a right to bring children up in a way of life similar to their own, is harder to counter for the luck egalitarian. The parental freedom just described may not include bringing up the children in the same way of life they lead. Consider the strong sense of working class consciousness that existed in England until recently. Parents would consider it important to pass this consciousness on to their children. At the same time, class consciousness may keep the children from rising in the social ladder in later life. If we make those who are worse off today responsible for ensuring equal life prospects for their children, they are hit much harder: raising their children to live a life different from their own is more difficult, and means they cannot pass on their values and way

of life to their children.

The third objection I mentioned has a similar conclusion. The luck egalitarian position makes it relatively more expensive for those with fewer resources to have children. In fact, it may be unaffordable to the poor. We have said that ensuring equal life prospects for one's children probably requires keeping up a certain life-style for the family as a whole. But how should the worse off achieve that while also spending enough resources on the child? The luck egalitarian position sketched here basically makes the parents pay the costs of egalitarianism. But these costs are much too high for the worst-off. This seems unjust, especially when we consider how important and deeply meaningful the decision to procreate is considered by many. For instance, Dyck (1973) considers the right to procreate as fundamental as a right to life. It would be deeply counterintuitive if luck egalitarianism made it impossible or unacceptably expensive for the poorer in society to have children. But no luck egalitarian thinks that luck egalitarianism can be applied straightforwardly under non-ideal conditions, that is, conditions in which inequalities exist. To what extent could a luck egalitarian spirit carry over to a non-ideal situation?

## 6. Ideal and non-ideal theory

So far, we have ignored the distinction between ideal and non-ideal theory. This distinction is common in political philosophy at least since Rawls (1971). In ideal theory, we typically assume perfect compliance to those principles that make a society perfectly just (Robeyns 2008). Considering the distinction here is very relevant, since it is a major criticism of luck egalitarianism, especially Dworkin's variant, that it is not clear how it translates from ideal to non-ideal theory (see Swift 2008).

Luck egalitarianism is 'ideal' since we usually assume perfect equality as a starting point. Here, the problems we just described do not arise: parents are all in an equal position to begin with, and are equally capable of paying for the costs of children. They have to provide their children with life prospects equal to their own – which would also preserve family integrity as we described it. Hence, in ideal theory, it seems plausible that parents should be held responsible for the costs of ensuring equality in the

next generation.

In the case of non-ideal theory, it is not even clear what ‘equal life prospects’ would be and hence how much exactly children are owed. Are they life prospects equal to the average of the entire population when they are born? Life prospects equal to those that children born at the same time can expect? Maybe the answer closest to the luck egalitarian spirit is that they refer to how well off the child would be in a hypothetical situation of equality. But this may be hard to know. Let us assume, however, that we have at least a rough idea.

Given the confusion over the interpretation of luck egalitarianism in non-ideal theory, I just want to consider how a luck egalitarian might deal with the problem of procreation in an unequal society. While it does not seem problematic to hold parents responsible for the costs of egalitarianism if they live in an equal society, this seems deeply unfair in an unequal society. A luck egalitarian can acknowledge this, while still upholding that parents are responsible for their reproductive decisions.

We can distinguish those costs of children which arise from our theory of justice – like the cost of ensuring equal life prospects – from those which arise from rights the child has qua human being, like the right to basic care. It seems plausible that parents should be responsible for the latter fully, but not for the former when they are disadvantaged themselves. Of course, these costs may overlap. But all that is required is that we can fix some minimum that a child needs quite apart from egalitarian considerations, and that parents are definitely held responsible for. We can deduct this from the total costs of children and treat the remainder as the egalitarian costs of children, which should be treated differently as we will explore in the following.

Then how should the egalitarian costs of children be distributed? It seems to me to be most consistent with luck egalitarianism that the costs should be distributed in rough proportion to the family’s endowments. Each family’s responsibility would be to provide for the child prospects roughly equal to their own. Poor parents would have everything that goes beyond that paid for by richer parents, who are required to subsidise poorer parents on top of providing equal life prospects for their own child.

The advantage of such a distribution is that relative to the parents’ resources, the costs of having children are roughly the same. This approximates Dworkin’s ideal of how persons should form their ambitions. To quote again:

‘That is the view of a person [...] as someone who forms his ambitions with a sense of their cost to others against some presumed initial equality of economic power.’ (2000: 81-82)

Note also that poor parents are only subsidised by rich parents, not by everybody in society. In this way, nobody is incentivised more or less than others to have children – in a relative way, each takes into account the costs they are causing for others. At the same time, the childless would not be affected: Rich parents would be supporting poor parents to cover the costs of children. If the childless also had to compensate for the costs of poor parents’ children, they would again be asked to pay for the voluntary decisions of others to incur costs, which the luck egalitarian must find unjust. But rich parents make the decision to have a child, so we can expect them to contribute to the costs of ensuring equality in the next generation.

This proposal hence seems to not depart too much from the luck egalitarian spirit. At the same time, what some have described as a fundamental right or at least as deeply meaningful and important, the ability to procreate and care for children, seems ensured: relative to one’s resources, having children is not overly costly.

There are a number of complications that I have bracketed. Firstly, this proposal is insensitive to sources of current inequality, whether people can or cannot be held responsible for their social standing. On a theoretical level, my rough proposal may have to be revised to deal with this. However in practice, these sources are usually intractable and do not have any bearing on policy.

Furthermore, the policy only works when the poor do not have more children than the rich on average – in that case child-rearing would become very expensive again for the poor. Such differential birth rates should not be encouraged by the policy, however, since all parents would face similar costs relative to how well off they are. Still, for other structural reasons, this

may be the case anyway, as it is in many developed countries today. For instance, in Germany, childlessness amongst women who graduated from university (and who are hence likely to be more advantaged economically) is about three times as high (35-39%) as the total average (Dorbritz 2008). This highlights the limitations of focusing on just one policy in the realm of non-ideal theory. Of course, in non-ideal theory, luck egalitarianism also strives to reduce existing inequalities, and to limit the effects these inequalities have – of which differences in birth rates may be one. In practice, these other goals will also have a bearing on actual policy regarding child care. And then, even the childless may be asked to support child care.

There are further complications that I have bracketed, such as what to do in the case where children were truly unplanned and unexpected. It is not clear how to even identify these cases. Furthermore, children do not only cause costs, but come with benefits for all: they also have positive externalities. This has been used as an argument to tax the childless to support children (see Folbre 2008). Finally, I have focused on providing children with the care and education to ensure *at least* equal life prospects for them, and the difficulties for disadvantaged parents to achieve this. There is also the problem of advantaged parents who want to give their children a better start in life. There is an existing debate about gift-giving in luck egalitarianism which I cannot explore here. But in a sense, what I have proposed limits the extent of this problem, because rich parents are asked to subsidise poor parents and hence already have increased costs to child-rearing.

## 7. Conclusion

So what can we say now with respect to our two motivating questions:

1. What are children owed?
2. Who should pay for the children?

Disregarding existing inequalities, the luck egalitarian would say that children are owed equal life prospects, and that when having the child was a conscious decision, parents should be held responsible for guaranteeing

these equal life prospects.

Now thinking of an actual society where inequalities exist, in many cases, we can indeed hold parents responsible for their procreative decisions. Procreative decisions and the deliberate taking on of caring commitments can in fact be seen as an expression of autonomy. This has been underestimated by those advocating mutual obligations towards children. But procreative decisions are now very expensive for some if we hold, also in the luck egalitarian vein, that children are owed equal life prospects. This may make child-rearing unaffordable to some.

The insight which can help us resolve this problem is that many of the costs of children are costs of egalitarian justice and go beyond what children are owed qua human being. And these egalitarian costs of children cannot reasonably be borne by the poor in a society that is unequal. There are many complications regarding the question of how to divide these costs in non-ideal theory. Luck egalitarianism should strive to hold parents responsible for as much of the cost as is reasonable given their initial endowments, to reflect in a relative way the costs their decisions have for society. However, in actual policy, other goals on the way to achieving greater equality will play a role.

I believe that the recognition that many of the costs of children are costs of egalitarian justice is a useful one. In non-ideal theory, it provides a ground for sharing costs even when parents are fully responsible for their decision to procreate. We do not have to rely on arguments that children are unwanted, or that parents are all taken by surprise by the costs children cause, or that they frequently fail in their duties, to arrive at a mutual obligation towards children. The argument instead is that it is unfair to make parents bear the full costs of doing justice to their children when they are themselves disadvantaged in an unequal society.



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