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## DOES LIBERAL EGALITARIANISM DEPEND ON A THEOLOGY?

Paul Weithman

John Rawls's argument for egalitarianism famously depends on his rejection of desert. In *The Theology of Liberalism*, Eric Nelson contends that Rawls's treatment of desert depends on anti-Pelagian commitments he first endorsed in his undergraduate thesis and tacitly continued to hold. He also contends that a broad range of liberal arguments for economic egalitarianism fail because they rest on an incoherent conception of human agency. The failure becomes evident, Nelson says, when we see that proponents of those arguments unknowingly assume the anti-Pelagianism on which Rawls relied. Nelson concludes that egalitarianism must be given a different political and theoretic basis than Rawls and his followers have provided. I argue that Nelson misreads Rawls and that egalitarians can avoid inconsistency without staking a theological claim they want to avoid.

The unexpected publication of John Rawls's undergraduate thesis a decade ago immediately led readers to look for continuities between the thesis and Rawls's mature work.<sup>1</sup> The overtly theological character of the thesis, entitled *A Brief Inquiry into the Meaning of Sin and Faith*,<sup>2</sup> naturally raised a question about what continuities there seemed to be: Did positions common to the earlier and later work depend upon religious premises that were explicit in the thesis and that the later Rawls tacitly continued to accept?<sup>3</sup>

In their introduction to *Brief Inquiry*, Joshua Cohen and Thomas Nagel identified "a particularly striking continuity" between the thesis and *A Theory of Justice*: "the rejection of merit." In the thesis, Rawls followed Augustine of Hippo in denying—against Augustine's contemporary and antagonist Pelagius—that human beings can merit salvation by their own action. What might appear to be the bases of merit, such as the good that

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<sup>1</sup>Thanks to Eric Gregory, Jennifer Herdt, John McGreevy, Eric Nelson, Robert Goodin and the editor and referees of *Faith and Philosophy* for helpful advice and comments on an earlier draft.

<sup>2</sup>Rawls, *Brief Inquiry*.

<sup>3</sup>Berkowitz, "God and John Rawls."



we do and the virtues we develop, depend on the gift of fortunate circumstances. As Cohen and Nagel observe, these claims seem to anticipate Rawls's later rejection of desert as the basis of distributive justice and his arguments for the difference principle. Though the young Rawls says that "[m]erit is a concept rooted in sin,"<sup>4</sup> Cohen and Nagel say that *Brief Inquiry's* rejection of merit "can be given a purely secular significance."<sup>5</sup> But what they do *not* to say is that it "can be given a purely secular basis." And this is precisely what some readers of Rawls have doubted.<sup>6</sup>

These doubts have recently been given powerful expression by historian and political theorist Eric Nelson. In his *The Theology of Liberalism*, Nelson contends that *Theory's* rejection of desert and its argument for the difference principle depend crucially upon Rawls's tacit anti-Pelagianism.<sup>7</sup> Nelson's book is not just a provocative exercise in the history of ideas. Given Rawls's influence, the dependence of his argument on suppressed religious premises would raise the question of whether the egalitarian philosophies that have developed in his wake are similarly dependent.

Nelson presses just that question, contending that a broad range of liberal arguments for economic egalitarianism fail because they rest on an incoherent conception of human agency. The failure becomes evident, Nelson says, when we see that proponents of those arguments unknowingly assume the anti-Pelagianism Rawls staked out in his senior thesis and never really abandoned. Nelson boldly concludes that egalitarianism—to which he himself seems sympathetic—must be given a different political and theoretic basis than Rawls and his followers have provided.

Because the linchpin of Nelson's book is his analysis of arguments for the difference principle that Rawls advanced in *A Theory of Justice*, that analysis will be my focus here. I begin with Nelson's interpretation of the relevant passage from Rawls. I will show why Nelson thinks that passage and others from *Theory* support his claims about Rawls's anti-Pelagianism and about the inconsistency of Rawls's egalitarian arguments. Part of what makes Nelson's analysis of interest is his claim about the source of that inconsistency: Rawls's allegedly asymmetric treatment of distributive and retributive justice. I offer a reading of the passage in *Theory* that differs from Nelson's and that suggests how Rawls can avoid inconsistency without staking a theological claim he and other egalitarians would want to avoid.

While my primary aim is to rebut Nelson's sweeping critique of egalitarianism, the question of how to justify the asymmetric treatment of distributive and retributive justice is of independent interest. Other philosophers have taken it up. I conclude by showing that my response to

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<sup>4</sup>Rawls, *Brief Inquiry*, 241.

<sup>5</sup>Rawls, *Brief Inquiry*, 19.

<sup>6</sup>Galston, "Driven Up the Rawls."

<sup>7</sup>Nelson, *Theology of Liberalism*.

Nelson furnishes a necessary supplement to the deepest and most interesting of their answers.

### 1. *The Egalitarian Argument*

Nelson opens his chapter on Rawls by observing that “the central normative premise of recent Anglophone political theory [is] John Rawls’s idea of ‘moral arbitrariness.’” He continues:

Rawls and his many disciples regard society as a cooperative scheme among free and equal individuals, none of whom has any freestanding entitlement to a larger share of the social product than any other. These theorists concede that some citizens are more productive than others, but they deny that unusually productive members have a claim to the greater value that they produce. The fact that some citizens are more productive than others is dismissed as “arbitrary from a moral point of view,” on the grounds that we cannot be said to deserve, or be responsible for, the features of our person that cause us to be better or worse at producing value. These features include not only our degree of intelligence and our talents, but also (for some) our level of industriousness and commitment. All of these facts about us are regarded as “given” from outside, the products of some combination of heredity and environment. Egalitarianism has thus come to depend, for many of its proponents, upon the conviction that our actions and decisions in the realm of production cannot be attributed to us in the morally relevant sense; we cannot claim to have earned or merited the fruits of our labor, from which it is taken to follow that these fruits should be distributed by the ‘basic structure of society’ in an egalitarian fashion.<sup>8</sup>

The argument Nelson ascribes to “Rawls and his many disciples” is not easily extracted from this passage, but I believe he thinks it runs:

- (1) Citizens can earn or merit the fruits of their labor only if their “actions and decisions in the realm of production can be attributed to [them] in the morally relevant sense.”
- (2) “the features of our person that cause us to be better or worse at producing value,” including “not only our degree of intelligence and our talents, but also (for some) our level of industriousness and commitment” are “‘given’ from the outside, the products of some combination of heredity and environment.”
- (3) “we cannot be said to deserve, or be responsible for, the features of our person that cause us to be better or worse at producing value.”
- (4) “The fact that some citizens are more productive than others”—and so the “actions and decisions [undertaken] in the realm of production”—are “‘arbitrary from a moral point of view.’”
- (5) “our actions and decisions in the realm of production cannot be attributed to us in the morally relevant sense.”

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<sup>8</sup>Nelson, *Theology of Liberalism*, 49–50.

(6) “we cannot claim to have earned or merited the fruits of our labor.”

C: “the fruits of our labor” “should be distributed by the ‘basic structure of society’ in an egalitarian fashion.”

The third sentence of the passage says that (4) follows from (3), but the fact that we do not deserve or are not responsible for our productive capacities does not obviously imply that their *exercise* is “arbitrary from a moral point of view.” Here is a way to close the gap between (3) and (4) that makes explicit steps which will prove important later.

(2) and (3) lead to:

(3.1) The features of persons that cause us to be better or worse at producing value are given from the outside without regard to desert.

(3.1) together with

(3.2) If some features are given to us without regard to desert, then our possession of them is arbitrary from a moral point of view

supports:

(3.3) Our possession of the features that make us better or worse at producing value is arbitrary from a moral point of view.

(3.1) through (3.3) are not enough to close the gap between (3) and (4). Closing it requires a link between our possession of productive capacities and their exercise. That link can be provided by:

(3.4) If our possession of features is arbitrary from a moral point of view, then so is our exercise of them.

(3.3) and (3.4) get us (4). To say the least, (3.4) is not obviously true. But I shall suppose that this is the way Nelson would fill the gap between (3) and (4), and so the way he thinks Rawls and other egalitarians defend C. Call the resulting argument “the egalitarian argument” and C “the egalitarian conclusion.”

Let’s understand classical anti-Pelagianism as the view that salvation has to be granted to human beings without reference to desert because we cannot do anything to deserve it, and we cannot do anything to deserve it because of the effects of original sin on the will. The qualities and acts that look like grounds of desert themselves depend upon grace we cannot earn. The conjunction of (2) and (3.1) seems to express a secularized version of anti-Pelagianism, since it says that what look like grounds of desert—now for economic rather than spiritual rewards—are really “‘given’ from outside” without regard to desert. This version of anti-Pelagianism leads—via (3.2), (3.3) and (3.4)—to the claim about moral arbitrariness expressed in (4). That claim, Nelson says, is the “central normative premise” in the egalitarian argument. So, with the egalitarian argument in hand, we can see why Nelson thinks the later Rawls and other egalitarians are tacit anti-Pelagians of a sort.

Thinking that the Rawls of *Theory* derives his central premise from the anti-Pelagianism of (2) and (3.1), Nelson says that the egalitarian argument of Rawls's *A Theory of Justice* "essentially replicates" the anti-Pelagianism of his undergraduate thesis. Thinking that productive capacities are given by what Rawls calls "the natural lottery," Nelson says that the difference between the classical anti-Pelagianism of the young Rawls and the version relied on *Theory* is that in the latter "grace has become chance."<sup>9</sup> From Princeton to *Theory*, Nelson avers, Rawls's "essential anti-Pelagianism remained intact as a habit of mind."<sup>10</sup>

So far, it is hard to see that Rawls's argument for egalitarianism depends upon a *theological* claim. For since chance has replaced grace in (2) and (3.1), their conjunction expresses a claim that is *reminiscent* of theological anti-Pelagianism but is not *identical* with it. In §4 we shall see why Nelson thinks Rawls relies on anti-Pelagianism properly so-called, and why he thinks the egalitarian argument fails as a consequence. But first, I want to ask whether the egalitarian argument is rightly attributed to Rawls in the first place. I shall contend that there are subtle but crucial differences between that argument and the argument Rawls actually makes. Much of the work involved in absolving Rawls of inconsistency consists in displaying his argument aright.

## 2. Rawls's Argument for the Egalitarian Conclusion

Rawls refers to the "idea of 'moral arbitrariness'" in a number of places in *A Theory of Justice*. The argument Nelson attributes to Rawls seems to follow one passage especially closely. To see whether the attribution is correct, it will be good to have that passage before us. The passage is from §12 of *Theory*, which concerns the form of Rawls's second principle of justice which will be considered in the original position.<sup>11</sup> Some background is required to make sense of the passage.

Rawls had previously stated his second principle in general terms:

social and economic inequalities are to be arranged so that they are both  
(a) reasonably expected to be to everyone's advantage, and (b) attached to  
positions and offices open to all. (*TJ*, 53)

The phrases "everyone's advantage" and "open to all" could mean many things, so before presenting the principle to contracting parties, Rawls makes them more precise. He notes that each phrase is open to two interpretations, giving rise to four possible interpretations of the principle, which he displays in a 2x2 matrix (*TJ*, 57):

<sup>9</sup>Nelson, *Theology of Liberalism*, 63.

<sup>10</sup>Nelson, *Theology of Liberalism*, 53.

<sup>11</sup>Rawls, *Theory of Justice*. References to this work will hereafter be given parenthetically by "*TJ*" followed by the page number.

"Equally open"	"Everyone's advantage"	
	Principle of efficiency	Difference principle
Equality as careers open to talents	System of Natural Liberty	Natural Aristocracy
Equality as equality of fair opportunity	Liberal Equality	Democratic Equality

Very roughly:

\*A system of natural liberty is one in which there are no legal bars to citizens competing for positions and offices, and in which the distribution of income and wealth is determined by free, efficient markets.

\*Liberal equality allows income and wealth to be distributed by free markets, but it puts measures in place to ensure that citizens can compete fairly for offices and positions regardless of class of origin.

\*Democratic equality conjoins liberal equality's measures for insuring equality of opportunity with the requirement that economic inequalities be to the maximum benefit of the least advantaged.

The passage whose argument Nelson paraphrases is one in which Rawls argues that natural liberty and liberal equality are unjust—and so not plausible candidates for choice in the original position—and that the democratic version of the second principle is the one the parties should consider. Rawls writes:

In the system of natural liberty. . . [t]he existing distribution of income and wealth, say, is the cumulative effect of prior distributions of natural assets—that is, natural talents and abilities—as these have been developed or left unrealized, and their use favored or disfavored over time by social circumstances and such chance contingencies as accident and good fortune. Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view.

The liberal interpretation, as I shall refer to it, tries to correct for this by adding to the requirement of careers open to talents the further condition of the principle of fair equality of opportunity. The thought here is that positions are to be not only open in a formal sense, but that all should have a fair chance to attain them. . .

While the liberal conception seems clearly preferable to the system of natural liberty, intuitively it still appears defective. For one thing, even if it works to perfection in eliminating the influence of social contingencies, it still permits the distribution of wealth and income to be determined by the natural distribution of abilities and talents. Within the limits allowed by the background arrangements, distributive shares are decided by the outcome of the natural lottery; and this outcome is arbitrary from a moral perspective. There is no more reason to permit the distribution of income and wealth to be settled by the distribution of natural assets than by historical and social fortune. Furthermore, the principle of fair opportunity can be only imperfectly carried out, at least as long as some form of the family exists. The

extent to which natural capacities develop and reach fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances. It is impossible in practice to secure equal chances of achievement and culture for those similarly endowed, and therefore we may want to adopt a principle which recognizes this fact and also mitigates the arbitrary effects of the natural lottery itself. That the liberal conception fails to do this encourages one to look for another interpretation of the two principles of justice. (*TJ*, 63-64)

This is a complicated passage, and I shall not go through every bit of it. Instead, I shall ask whether it supports Nelson's attribution of the egalitarian argument to Rawls.

The first step of the egalitarian argument is

(1) Citizens can earn or merit the fruits of their labor only if their "actions and decisions in the realm of production can be attributed to [them] in the morally relevant sense."

Labor results in a contribution to the social product. But since people are ordinarily remunerated in money rather than in kind, let's take "the fruits of their labor" to refer to the monetary equivalent of all or part of what one contributes to the product. Then (1) says citizens can earn or merit shares of income and wealth only if their "actions and decisions in the realm of production can be attributed to [them] in the morally relevant sense." Though Rawls does not explicitly endorse (1), I shall grant that he accepts it.

According to the second step of the egalitarian argument:

(2) "the features of our person that cause us to be better or worse at producing value," including "not only our degree of intelligence and our talents, but also (for some) our level of industriousness and commitment" are "'given' from the outside, the products of some combination of heredity and environment."

Rawls does not explicitly state (2) in the quoted passage, but he says:

(2)' "The extent to which natural capacities develop and reach fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances."

Some of our natural capacities "cause us to be better or worse at producing value" and some do not. But if we take our natural capacities to include "features of our persons that cause us to be better or worse at producing value," then (2)', seems to imply (2). I shall grant that Rawls accepts it.

What of (3)? It says:

(3) "we cannot be said to deserve, or be responsible for, the features of our person that cause us to be better or worse at producing value."



The passage I quoted from §12 of *Theory* does not say anything about deserving or being responsible for “the features of our person that cause us to be better or worse at producing value” and so does not provide a textual basis for ascribing (3) to Rawls. But at page 87 of *Theory*, Rawls says “[n]o one deserves his greater natural capacity nor merits a more favorable starting place in society.” This remark might be read as an opaque endorsement of (3), and I believe Nelson takes it that way.<sup>12</sup>

The context of the passage from *Theory*, page 87 makes clear that the phrase “natural capacity” refers specifically to what we might call “raw” or “undeveloped capacity.” Moreover, Rawls says in the long-quoted passage that “the natural distribution of abilities and talents” is effected by the natural lottery, and what is naturally distributed are undeveloped talents. So, if the passage from page 87 is the basis for attributing (3) to Rawls, the referent of (3)’s phrase “features of our person that cause us to be better or worse at producing value” must be given by:

(3)’ No one deserves her place in the distributions of starting places, and of raw or natural talents and abilities, which result from the natural lottery.

This, too, is a claim Rawls accepts. The problem with ascribing the egalitarian argument to Rawls lies in the way that argument moves from (3)’ via what Nelson calls “the central normative premise” (4) to the egalitarian conclusion.

Raw talents, natural abilities, and starting places make us more or less productive. So (3)’ might be thought to support (4) via a step I already said must be part of Nelson’s egalitarian argument:

(3.3) Our possession of the features that make us better or worse at producing value is arbitrary from a moral point of view.

But a careful reading of the long-quoted passage suggests that Rawls does not accept (3.3). Instead, he accepts a claim that is subtly but importantly different.

Consider the first paragraph of that passage, where Rawls says:

In the system of natural liberty. . . [t]he existing distribution of income and wealth, say, is the cumulative effect of prior distributions of natural assets—that is, natural talents and abilities—as these have been developed or left unrealized, and their use favored or disfavored over time by social circumstances and such chance contingencies as accident and good fortune. Intuitively, the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view.

At first blush, the phrase “factors so arbitrary from a moral point of view” might be thought to refer to “our natural talents and abilities—as these have been developed.” If our developed talents and abilities are “the features that make us better or worse at producing value,” then this reading

<sup>12</sup>Nelson, *Theology of Liberalism*, 62–63.

of the passage *would* support the ascription of (3.3) to Rawls. But, in fact, what “factors so arbitrary from a moral point of view” refers to is the “*prior distribution*” of natural or raw talents and abilities, together with the circumstances and contingencies that favor or disfavor their development. By the “*prior distribution*” I take Rawls to mean “the shape of the distribution curve”—or, more precisely, the relative frequency of various raw talents in the population. So what is morally arbitrary is not, as (3.3) asserts, our mere *possession* of the “features that make us better or worse at producing value.” It is the *scarcity or prevalence* of those features, which in turn helps to account for the market value of what is produced by their exercise.

And so Rawls does not accept either (3.3) or

(4) “The fact that some citizens are more productive than others”—and so the “actions and decisions [undertaken] in the realm of production”—are “arbitrary from a moral point of view.”

Rather, what he accepts is

(4)′ The distribution of natural talents and abilities, and the social circumstances and chance contingencies that affect their development, are arbitrary from a moral point of view.

The fact that this version of the fourth step is supported—without implausible intervening claims—by (3)′, which is the version of the third step Rawls accepts, lends this reading some credence.

So far, the difference between my reading and Nelson’s may seem inconsequential. But now note that unlike (4), (4)′ does not support

(5) “our actions and decisions in the realm of production cannot be attributed to us in the morally relevant sense.”

To see the consequences of this difference, we need to see how Rawls moves from (4)′ to the egalitarian conclusion.

The long-quoted passage concerns various distributive systems. I believe that at this point in his argument, Rawls makes an assumption about such systems. To test this exegetical hypothesis, suppose that instead of (5), he assumes:

(5)′ If a distributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our productive capacities, then under that system “our actions and decisions in the realm of production cannot be attributed to us in the morally relevant sense.”

What does “attributed to us in the morally relevant sense” mean? If (1) and (5)′ are to get Rawls to the sixth step of the egalitarian argument, then what attribution must be morally relevant *to* is the earning or meriting referred to in (1). It is because the fruits of our labor are not earned or merited, as the sixth step says, that justice requires the fruits of everyone’s labor to be distributed in an egalitarian way. So I take it that if the fruits

of labor *were* “earned or merited,” the fact that they would put prior moral constraints on how the system can distribute income and wealth.

Call the claims of earning or merit that would impose such prior constraints “desert claims.” Then what (5)’ must really mean is:

(5)'' If a distributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our productive capacities, then under that system “our actions and decisions in the realm of production” do not give rise to desert claims to shares of income and wealth.

On this reading, what (6) really means is:

(6)' We cannot acquire desert claims to shares of income and wealth.

My own view is that (5)'' is highly plausible. More important for present purposes, it leads to a highly plausible reading of Rawls's argument. For if (5)' means (5)'', then the conjunction of (4)', (5)'', (1), and claims about the failure of various systems of distribution to nullify the effects of morally arbitrary factors would enable Rawls to infer an instance of (6)' for each such distributive scheme. Now suppose that Rawls also assumes:

(7) A system of distribution is unjust if the distribution of undeserved shares of income and wealth does not benefit the worst off.

Then if a distributive system for which there is an instance of (6)' also satisfies the “if” clause of (7), it is unjust. And, so, with instances of (6)' in hand, and with the supposition of (7) in place, Rawls can use (1), (2)', (3)' and (4)' to eliminate distributive systems as unjust one-by-one. That is exactly how he proceeds.<sup>13</sup>

### 3. Eliminating the Alternatives

Recall that Nelson finds the egalitarian argument in a passage in which Rawls argues by process of elimination that democratic equality is the version of his second principle that should be presented to parties in the original position. Rawls's argument proceeds in stages.

The first stage eliminates natural liberty. Natural liberty, Rawls says, allows distribution to be “determined” by those factors which (3)' says are distributed by the natural lottery and which (4)' therefore says are “arbitrary from a moral point of view.” He then says, “the most obvious injustice of the system of natural liberty is that it permits distributive shares to be improperly influenced by these factors so arbitrary from a moral point of view.” He eliminates natural liberty on the grounds of this injustice. But what is improper influence? And why is it unjust for natural liberty to permit distributive shares to be “improperly influenced” by morally arbitrary

<sup>13</sup>(7) is a strong and controversial claim. But to absolve Rawls of the inconsistency of which Nelson accuses him, I do not need to show that every step in the argument I attribute to Rawls is right. I need only to show that the attribution is right, and that it does not lead to any inconsistency.

factors? If we understand Rawls's argument as I have proposed, we can answer those questions.

Natural liberty allows distributive shares to be influenced by morally arbitrary factors because it does not identify and nullify them. That, together with (5)" and (1), imply an instance of (6)' which is true of natural liberty, namely:

(6<sub>NL</sub>)' Under natural liberty, "we cannot claim to have earned or merited the fruits of our labor."

So, if natural liberty gives rise to inequalities, those who benefit from them will not have earned or merited their income and wealth. What makes natural liberty's failure to identify and nullify the influence of arbitrary factors improper is that these unearned shares are not distributed so as to generate benefits for the worst off. (7) then gets us to Rawls's conclusion: that natural liberty can be eliminated as unjust.

The second stage of Rawls's argument eliminates liberal equality. Liberal equality departs from natural liberty by replacing the principle of "careers open to talents" with "fair equality of opportunity." What the latter requires is "those who are at the same level of talent and ability, and have the same willingness to use them, should have the same prospects of success regardless of their initial place in the social system." (TJ, 63)

Rawls's argument against liberal equality is that it inherits the injustice of natural liberty because measures to implement fair equality of opportunity fail to nullify the effects of the morally arbitrary factors referred to in (5)". Fair equality of opportunity could not correct for those effects "even if it work[ed] to perfection in eliminating the influence of social contingencies" because it would still allow distribution to be affected by the distribution of natural talents. The distribution of these talents is morally arbitrary. Moreover, Rawls hastens to add, "the principle of fair opportunity can be only imperfectly carried out."

The reason it can be only imperfectly carried out is given by a claim we have already seen:

(2)' The extent to which natural capacities develop and reach fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances.

And so Rawls thinks that no system of rules regulating the availability of opportunities can ensure that inequalities of income and wealth will not be due to the factors (4)' says are arbitrary from a moral point of view. It follows from (5)" that there is an instance of (6)' that applies to liberal equality as there was to natural liberty. And since Rawls thinks that the distributions allowed by liberal equality, like those allowed by natural liberty, fail to generate compensating benefits for the least advantaged, liberal equality can also be eliminated.

That leaves democratic equality. It is sometimes alleged that Rawls accepts democratic equality because it, unlike natural liberty and liberal equality, *does* nullify the effects of the natural lottery.<sup>14</sup> But this is a mistake. Because democratic equality includes fair equality of opportunity, and because fair equality of opportunity can only be imperfectly carried out, there is a version of (6)' that applies to it as there was to natural liberty and liberal equality. The fact that there are versions of (6)' which apply to all distributive systems explains why Rawls's account of distributive justice dispenses with desert altogether. But the injustice of natural liberty and liberal equality is not passed on to democratic equality because, by substituting the difference principle for the principle of efficiency, democratic equality *does* generate compensating benefits for the least advantaged. That is why Rawls implies, at the end of the quoted passage, that democratic equality "mitigates" rather than eliminates "the arbitrary effects of the natural lottery."

In sum: I do not believe that Rawls is correctly read as endorsing Nelson's egalitarian argument. Nelson is correct that *a* moral arbitrariness claim is "the central normative premise" of the Rawlsian argument for egalitarianism. But on my reading, that claim is (4)' rather than (4)—it is a claim which ascribes moral arbitrariness, not to the features of persons, but to the distribution of raw talents and the conditions under which they are developed. Moreover, my reading takes as crucial to the argument a fact that Nelson ignores: the fact that systems of distributive rules do not identify and nullify the influence of those conditions. This fact will prove important in absolving Rawls of the incoherence Nelson finds in his view. To see why, we need to see what that incoherence is said to be.

#### 4. Two Views of Human Agency?

Though I disagree with Nelson about how the "central normative premise" of Rawls's egalitarian argument is to be understood, Nelson could make the point he wants to make about the later Rawls's anti-Pelagianism even if I am right. For what really matters for his critique is that Rawls and other egalitarians accept

(6)' We cannot acquire desert claims to shares of income and wealth.

To see the significance of this step, note that because (6)' leads to the injustice of natural liberty and liberal equality, it seems to impose a significant limit on what human beings can do: we cannot acquire desert claims in distributive shares. And so, Nelson thinks, Rawls—and egalitarians who follow him—seem to accept a limited view of human agency. Moreover, Nelson would add, the limitation on agency that follows from (6)' is not just significant, it is in tension with something Rawls seems to imply elsewhere in *A Theory of Justice*.

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<sup>14</sup>Gorr, "Rawls on Natural Inequality."

Rawls briefly discusses retributive justice in section 48 of *Theory*. There he says that

It would be far better if the acts proscribed by penal statutes were never done. Thus a propensity to commit such acts is a mark of bad character, and in a just society legal punishments will only fall upon those who display these faults. (*TJ*, 277)

Undeserved punishment would seem to be an injustice. So if a just society would punish criminals, that must be because the criminals deserve it. If that is right, then Rawls's remark shows that he does not accept what we might call the "retributive analogue" of (6)':

(6<sub>R</sub>)' We cannot come to deserve punishment by performing "acts proscribed by penal statutes."

But if Rawls does not accept (6<sub>R</sub>)' while accepting (6)', then he seems to allow that citizens can come to deserve punishment for stealing money that is not theirs but cannot come to deserve money—and so make it theirs—by working for it. More generally, Nelson would say, by not accepting (6<sub>R</sub>)' while accepting (6)', Rawls treats distributive and retributive justice asymmetrically. To see the asymmetry more clearly, and to see what problems Nelson thinks the asymmetry causes, it will help to see its source in Rawls's thought.

We have already seen that Rawls thinks (6) depends upon (2)'. But if he accepts (2)', then it seems that he should also accept:

(2<sub>R</sub>)' The extent to which a sense of justice develops and reaches fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try to preserve and act on one's sense of justice, and so to refrain from "acts proscribed by penal statutes" is itself dependent upon happy family and social circumstances.

If (2)' leads Rawls to (6)', then (2<sub>R</sub>)' ought to lead him to (6<sub>R</sub>)'. Conversely, since Rawls does not accept (6<sub>R</sub>)', he ought not to accept (2<sub>R</sub>)'. But not only is (2<sub>R</sub>)' highly plausible, but Rawls seems to endorse it in some form in his discussion of how citizens of a well-ordered society develop a sense of justice. For after laying out the conditions of familial love that encourage moral development, Rawls adds "[p]resumably moral development fails to take place to the extent that these conditions are absent" (*TJ*, 408). Rawls therefore accepts both (2)' and (2<sub>R</sub>)'. It is Rawls's acceptance of (2)' and (2<sub>R</sub>)' that leads Nelson to say that Rawls's view of human agency can be absolved of incoherence only on the supposition that Rawls's "essential anti-Pelagianism remained intact as a habit of mind" when he wrote *A Theory of Justice*. What is the incoherence? And how does an anti-Pelagian supposition about original sin absolve Rawls of it?

(6)' supports Rawls's claim that our exercise of initiative does not allow us to acquire desert claims that a distributive system must accommodate. It therefore leads to a significant limitation on our ability to alter our own moral status. The refusal to accept (6<sub>R</sub>)' is what allows Rawls to claim

that criminal behavior requires or permits that we be punished—hence requires or permits that we be subjected to treatment that would otherwise be wrong. By refusing to accept  $(6_R)'$ , Rawls seems to imply that our ability to alter our own moral status is robust. Though Nelson does not put it this way, the incoherence in Rawls's view of human agency consists in his ascribing to the human will these seemingly contradictory powers.

How to explain the fact that our acts of will can make us liable to punishment but cannot give us claim-rights to benefits? One explanation is that our will is wounded or deformed, so that we cannot but do the sorts of things that make punishment—even eternal punishment—a permissible response, but that our will is too weak to do what we would have to do to acquire claim-rights to benefits—and certainly too weak to acquire claim-rights to eternal felicity. This explanation is the anti-Pelagian view of original sin. While it is not the only explanation on offer in the literature, Nelson thinks it is the best one.

“The point,” Nelson says,

is not that the mature Rawls continued to accept the doctrine of original sin, but rather that he continued to write and think *as if he did*. And to the extent that his many disciples have tended to regard human responsibility as quite robust in the retributive realm and highly attenuated in the distributive realm, they are likewise operating under the shadow of a theological claim.<sup>15</sup>

If the later Rawls and “his many disciples” want to move out from under that shadow—if they want explicitly to disavow the anti-Pelagianism that makes sense of their view—then they cannot hold  $(2)'$ ,  $(6)'$  and  $(2_R)'$  while refusing to accept  $(6_R)'$ . If  $(2_R)'$  is too plausible to give up, and if—as they think— $(2)'$  supports  $(6)'$ , then they must give up both  $(2)'$  and  $(6)'$ . But  $(2)'$  and  $(6)'$  are needed to support Rawls's argument for the egalitarian conclusion C. Without those steps, the argument for that conclusion collapses. Thus, Nelson would say, contemporary egalitarians are stuck with an incoherent account of human agency that undermines their position. The challenge, then, is to provide an alternative and superior explanation of Rawls's acceptance of  $(2)'$ ,  $(2_R)'$  and  $(6)'$ , and his refusal to accept  $(6_R)'$ . In the next two sections, I shall argue that that challenge can be met.

### 5. Resolving the Tension: Distribution

I have said that Rawls endorses what we might call “system-specific” versions of  $(6)$ . That is, he endorses a version of  $(6)'$  for natural liberty, a version for liberal equality, and a version for democratic equality. We have seen that the arguments against natural liberty and liberal equality move from  $(2)'$ ,  $(3)'$  and  $(4)'$  to the relevant version of  $(6)'$  via:

(5)“ If a distributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our productive

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<sup>15</sup>Nelson, *Theology of Liberalism*, 69 (original emphasis).

capacities, then under that system “our actions and decisions in the realm of production” do not give rise to desert claims to shares of income and wealth.

plus, for any distributive system, the claim that that system satisfies the “if” clause of (5)”. So it will be because a given system of rules fails to identify and nullify morally arbitrary conditions that our actions will not be attributable to us in the relevant sense. Thus, the truth of the relevant version of (6)’ depends upon the failure of a particular system of rules.

I have supposed that Rawls accepts (2<sub>R</sub>)’. In order to treat distributive and retributive justice symmetrically, Rawls would have to move from (2<sub>R</sub>)’ to (6<sub>R</sub>)’ via (3)’ , (4)’ and:

(5<sub>R</sub>)’ “If a retributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our sense of justice, then under that system we cannot come to deserve punishment by performing “acts proscribed by penal statutes.”

plus a premise to the effect that the retributive system in question satisfies the “if” clause of (5<sub>R</sub>)’ . Conversely, if the premise about retributive rules is false—if there is a retributive system that *does* identify and nullify the effects of morally arbitrary conditions on our sense of justice—then Rawls could not move from (5<sub>R</sub>)’ to (6<sub>R</sub>)’ . In that case, the argument for (6<sub>R</sub>)’ would not go through and we could understand why Rawls does not accept it. We could explain Rawls’s asymmetrical treatment of distribution and retribution without appeal to anti-Pelagianism. That is what I propose to do.

To begin, note that (2)’ itself is not in question. What *is* in question is how Rawls can accept (2)’ and (6)’ , while not accepting (6<sub>R</sub>)’ . So, we can suppose it is true that:

(2)’ “The extent to which natural capacities develop and reach fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances.”

As we have seen, Rawls claims that none of the systems of distributive rules that he considers—natural liberty, liberal equality, democratic equality—identifies and nullifies the distributive effects of the morally arbitrary conditions (2)’ identifies. What recommends democratic equality is that it requires the distributions that result from those conditions to work for the least advantaged. But Rawls does not claim that it is impossible to identify and nullify the effects of the conditions,<sup>16</sup> nor need he claim that the distributive effects of factors which are not morally arbitrary are so small as to be unworthy of notice.

Economists who study early childhood education claim to have made considerable progress in identifying social and familial conditions which

<sup>16</sup>As Nelson observes; see 64.

<sup>17</sup>For just one example, see Chetty, et al., “How Does Your Kindergarten Classroom Affect Your Earnings?”



are correlated with success later in life.<sup>17</sup> Suppose—and I shall return to this supposition in the concluding section—that researchers succeed in identifying more of these factors and are eventually able to isolate the contributions that those conditions make. Indeed, suppose that it is eventually possible to isolate, and perhaps even to quantify, that portion of someone's success which is due to those factors and which "can be attributed to [her] in the morally relevant sense." Mightn't it then be possible to frame and institute an alternative to the distributive systems Rawls considers, one which *does* reward people for what can be attributed to them in the relevant sense? And what would such a system be like?

I cannot consider all imaginable systems of rules. Instead, I shall consider one that I believe is appealing to opponents of philosophical egalitarianism: a system that rewards each person for that part of her contribution to the social product which can be attributed to her in the relevant sense and so gives her what she deserves.

It is hard to know exactly what such a distributive system would look like, but here is one possibility. Assume the existence of efficient markets constrained by Rawls's equal liberty principle. Assume further that the market wage for each occupation equals the value of the marginal product of someone who practices it. So the market wage for a plumber equals the value of a plumber's contributions to the social product. The same will be true for carpenters, front-line workers, and heart surgeons. Allow the gross pay of members of each occupation to be what they can command on the labor market. Each person's gross pay might then be thought equal to the value of her contribution to the social product.

Now adjust gross pay so each person's net pay reflects that percentage of her contribution which is attributable to her. Thus, if the value of Jan's contribution as a plumber—ascertained by her marginal contribution to the social product—is \$50,000 and her real contribution is 75%, then Jan's income should be, or be based on, \$37,500. That is what she deserves. If Nan's contribution as a carpenter—again ascertained by her marginal product—is \$72,000, and her real contribution is 75%, then Nan's income should be, or be based on, \$54,000. The resulting system of distributive rules is sensitive to information about the morally arbitrary factors identified in (2)'. It uses the information to identify the effects of those factors and to nullify their influence on distribution.<sup>18</sup>

This scheme assumes that each member of each occupation makes contributions of the same value, a value equal to that person's hourly wage. But labor markets are notoriously beset by asymmetries of information. Some surgeons are better than others, as some plumbers are better than others. The fact that all can command the same pay for the same service may reflect buyers' ignorance of the difference in quality of service

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<sup>18</sup>Luck egalitarians want any inequalities in individuals' holdings to result from choice rather than luck. They therefore try to nullify *all* effects of moral arbitrariness. The system described here is therefore not luck egalitarian. Taking its cue from Nelson's reference to production, it aims to nullify just the effects of moral arbitrariness on what people produce.

rather than the fact that all make contributions of the same value. And so a system which insures that the net pay of each is based on the portion of her contribution attributable to her would need more information about individual contributions than labor markets provide. Gross pay would have to be adjusted in light of that information, in addition to information about the effects of morally arbitrary conditions. But I shall leave this complication aside.

The system would require full information about every person's native abilities, social and familial circumstances, and the effects of these on her psychological propensities. Such information could be acquired only at the cost of considerable intrusiveness into private lives. The intrusion would be on-going since information about individuals would have to be updated regularly as their conditions change. Information which is self-reported would have to be verified. Verification would itself be intrusive. We generally think the information the system would require is protected by privacy rights. That the system requires information which we think protected presses important questions about desert-based views. Is it plausible to suppose that distributive justice limits privacy rights so severely or that someone waives those rights by entering the labor market?

The system also requires those who administer the system to make judgments of desert based on the information they gather. The judgment that someone deserves a high percentage of her gross pay because she has overcome deficits of natural talent, family circumstances that are correlated with lack of success, or both is bound to be received as degrading by workers and their families. Someone who is judged to deserve a low percentage is bound to feel that his own initiative has been insulted. Does distributive justice really require subjecting people to moral judgments that will be so received?

It may be responded that, unfortunately, distributive rules that honor desert claims *do* require information that can only be acquired intrusively and applied judgmentally. But this response depends upon the coherence of desert-based views. The appealing intuition behind the system now under consideration is that people deserve income shares which depend upon the value of what they actually contribute. That means we need more information than efficient markets provide if we are to distinguish actual from apparent contributions.

The problem with such a system is that it is not just "actions and decisions in the realm of *production*" that are affected by morally arbitrary factors. Actions and decisions in the realm of *consumption* can be as well. Differences in consumer demand for plumbers and carpenters may result from the morally arbitrary fact that homeowners would rather repair their own faucets than their own woodwork. These differences in the consumption of plumbing and carpentry services could account for differences in the marginal product of plumbers and carpenters, and so can yield differences in the bases on which the deserved income of plumbers and carpenters is to be computed. The same is true of differences in consumer

interest in baseball and rock-climbing, which account for the vast differences between the earnings of major league baseball players and comparably accomplished professional rock-climbers. Without further adjusting for these contingencies, desert-adjusted wages will still be influenced by factors which are arbitrary from a moral point of view.

More generally: there are many different ways the economy might be, and differences among them are often morally arbitrary. If we are troubled by the effects of moral arbitrariness on distributive shares, we should not just be troubled by its effects on differences between marginal product and deserved pay in the economy we happen to have. We ought also to be disturbed by the fact that features of the economy we happen to have—what roles exist and which roles attract what gross rewards—depend upon a host of factors which are every bit as arbitrary from a moral point of view as the factors singled out in (2)'. Consistency demands that those who think distributive systems should be sensitive to desert identify and nullify those factors as well.

It is not at all clear what information about alternative possibilities would have to be acquired to do that or how such information could be acquired. If Jan's gross earnings as a plumber in our economy are \$50,000, what do we need to know about the other roles she might occupy and the other incomes she might enjoy to determine what she deserves and how could we possibly learn it?

What seems certain is that information about alternative possibilities could not be acquired in the sort of publicly acceptable ways that are needed to justify distributive rules. It may be said that people deserve what they would earn under a just distributive scheme. But if there can be a plurality of just schemes the differences among which are morally arbitrary, then the influence of morally arbitrary factors on distribution will not have been eliminated. Nor will this response help those who think that desert claims constrain what form distributive schemes must take if they are to be just, since it puts justice prior to desert.

It thus seems that a consistent version of the distributive rules I said anti-egalitarians have in mind requires that the intrusive and the judgmental be supplemented by the unobtainable. So we can see why Rawls accepts (2)' and why he would think that the distributive system I have been considering satisfies the "if" clause of

(5)" If a distributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our productive capacities, then under that system "our actions and decisions in the realm of production" do not give rise to desert claims to shares of income and wealth.

We can therefore see why he would accept the version of

(6)' We cannot acquire desert claims to shares of income and wealth.

that applies to that system. I have said that Rawls accepts the retributive analogue of (2)', so why doesn't he accept the retributive analogy of (6)' by parity of reasoning?

#### 6. *Resolving the Tension: Retribution*

Recall that the retributive analogue of (2)' is:

(2<sub>R</sub>)' The extent to which a sense of justice develops and reaches fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try to preserve and act on one's sense of justice, and so to refrain from "acts proscribed by penal statutes" is itself dependent upon happy family and social circumstances.

The retributive analogue of (6)' is:

(6<sub>R</sub>)' We cannot come to deserve punishment by performing "acts proscribed by penal statutes."

Systems of retributive justice typically do two things. They issue judicial condemnations or expressions of blame in the form of public convictions for crimes. They also impose hard treatment in the form of probation, fines, or imprisonment. These two are logically separable. It is questionable whether criminals deserve hard treatment<sup>19</sup> and we should not read Rawls as implying that they do. It is, however, highly plausible that criminals deserve condemnation. I shall therefore understand 'punishment' in (6<sub>R</sub>)' to refer to judicial expressions of blame, and to their consequences for the criminal's reputation. The intuition that criminals deserve punishment in this sense is one Rawls wants to preserve. The question is whether he can do that, consistent with rejecting (6)'.

The argument from (2)' via (5)'' to (6)' depends upon two claims. One is that distributive rules could nullify the effects of morally arbitrary factors only if they were sensitive to information which it would be objectionably intrusive to gather and objectionably degrading to rely upon. The other is that the goal which would have justified gathering and relying upon such information—namely, recognizing the desert-claims people acquire in virtue of their actual contributions to systems of cooperation—cannot be made out because of the ineliminable moral arbitrariness of what such systems reward. The symmetrical treatment of distributive and retributive justice would require Rawls to move from (2<sub>R</sub>)' to (6<sub>R</sub>)' in the same way. But neither of the two claims has an analogue that holds of retributive rules.

It is true that if a system of retributive justice is to nullify the effects of family and social circumstances on a criminal's behavior to determine what can properly be attributed to her, the system will have to gather a

<sup>19</sup>Scanlon, "Giving desert its due," 103; see also Garcia, "Two Concepts of Desert," 224–232.

great deal of information about her background and family. As in the distributive case so in the retributive one, I shall assume for the sake of argument that such information is available. Gathering it may be intrusive, but it is desirable that a system of retributive justice be administered in light of such information about the criminals precisely so as to ascertain for what conduct the accused is actually responsible. In this way, retributive systems are very different from labor markets, which should not be—and probably cannot be—designed to provide extensive information about those who participate in them.

The reason it is desirable that retributive rules be administered in light of extensive information is that the point of such rules is to punish people for the violations of penal statutes for which they are actually responsible. We saw that what behavior labor markets reward is shot through with moral arbitrariness because of the moral arbitrariness of consumption decisions. The arbitrariness of what markets reward undermines what was said to be the point of systems that would reward people as they deserve. But as Rawls observes “the purpose of the criminal law is to uphold basic natural duties, those which forbid us to injure other persons in their life and limb, or to deprive them of their liberty and property, and punishments are to serve this end.” (*TJ*, 276). The natural duties—and hence society’s decisions about what to punish—are *not* morally arbitrary. And, so, there is no arbitrariness to what systems of retributive justice condemn that is comparable to the moral arbitrariness of what distributive systems reward.

In contrast to systems of distributive rules, then, systems of retributive rules have a coherent point which would be advanced by the use of extensive—if possible, full—information. Because they do, and because I have assumed for the sake of argument that such information is available, there can be retributive systems which do not satisfy the “if” clause of:

(5<sub>R</sub>)’ “If a retributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our sense of justice, then under that system we cannot come to deserve punishment by performing “acts proscribed by penal statutes.”

But if a system does not satisfy the “if” clause, then even though Rawls accepts (2<sub>R</sub>)’, he cannot get from there to:

(6<sub>R</sub>)’ “We cannot come to deserve punishment by performing “acts proscribed by penal statutes.”

This shows how Rawls can consistently accept (2)’, (6)’, and (2<sub>R</sub>)’ without accepting (6<sub>R</sub>). It therefore shows why he treats distributive and retributive justice asymmetrically.

### 7. Conclusion

In laying out my reading of Rawls, I supposed that there are facts about individuals’ contributions to their own productive efforts that can be distinguished from facts about moral contingencies and their effects on those

efforts. That may seem a dubious supposition. It may also seem an unnecessary one. Mine is not the only attempt in the philosophical literature to address the asymmetry which Nelson thinks is the source of the tension. Samuel Scheffler, who has argued for a deep and interesting difference between distributive and retributive justice that would justify Rawls's asymmetric treatments, seems not to rely on it. To see what is gained by making the supposition, let us turn briefly to Scheffler's argument.

Scheffler contends that while distributive and retributive justice are both kinds of justice, there is a significant difference between them. Distributive justice under modern conditions is, Scheffler argues, "*holistic* in the sense that the justice of any assignment of economic benefits to a particular individual always depends—directly or indirectly—on the justice of the larger distribution of benefits in society."<sup>20</sup> Retributive justice, by contrast, is individualistic. It responds to facts about individuals and what they have done. This difference, which Scheffler thinks Rawls recognizes, is said to justify the asymmetric treatment of distributive and retributive justice.

Scheffler's case for holism depends upon both moral and empirical claims, including claims about our equal moral status and the claims about dependency and contingency to which I appealed in §5. In light of these claims, Scheffler says,

[t]he holist concludes that it makes no normative sense to suppose that there could be, at the level of fundamental principle, a standard for assigning such benefits that appealed solely to characteristics of or facts about the proposed beneficiaries. Yet that is precisely what a prejudicial conception of desert would have to be.<sup>21</sup>

One reason it might not make sense to suppose that there could be a standard of the sort to which Scheffler refers would be that there are no facts about the proposed beneficiaries—such as facts about the contributions individuals make to their own productive efforts—to which such standards could appeal. But I do not take Scheffler to be saying that. What he says is compatible with acknowledging, denying, or remaining agnostic about whether there are such facts. And Scheffler does not say that it makes no sense to suppose there could be the kind of standard merit-based views require. He says that "it makes no *normative* sense." By this, I take him to mean that even if there were facts about individuals' contributions, they could not bear the normative weight that merit-based views put on them. That is, they could not ground desert-claims which constrain principles of distributive justice. When Scheffler says that "it makes no normative *sense*," he is staking a strong claim—one which goes beyond the assertion that it is a mistake to put so much weight on facts about individuals. Perhaps what he has in mind is something like this: our dependence on others is so extensive and obvious, and the value of equality so obviously

<sup>20</sup>Scheffler, "Justice and Desert," 190 (original emphasis).

<sup>21</sup>Scheffler, "Justice and Desert," 191.

weighty, that it is clear any fundamental distributive principle would have to appeal to them and not just to facts about individuals. Indeed, the holist may think, it is so utterly clear that to maintain the contrary is to fly in the face of reason.

But the anti-holist will no doubt disagree. She will think that if there are facts of the relevant sort about individuals, and those facts can be discovered, then they can ground desert-claims. The holist needs a reply. The arguments I offered in §5 provide one. There I supposed that there are such facts and argued that there are compelling moral reasons against recovering and relying on them. My treatment of distributive and retributive justice—premised on what may seem the dubious supposition—is not an alternative to Scheffler's. Rather, it furnishes an argument on which the holist needs to draw fully to answer those who think distributive justice must be responsive to desert.

Eric Nelson has offered an ingenious and creative argument for the claim that Rawls's asymmetric treatments of distributive and retributive justice reveal a deep tension in his theory, a tension between two views about what human agency can accomplish. He contends that the presence of those conflicting views is best explained by the lingering hold of Rawls's youthful anti-Pelagianism. The upshot of the reading of Rawls I have offered is that there is no tension to be explained, and hence no need to appeal to anti-Pelagianism to explain it. Rawls's liberal egalitarianism, and that of the philosophers who have followed in his wake, does not depend on an anti-Pelagian theology.

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*Appendix: Numbered Propositions in Order of Their Introduction*

(1) Citizens can earn or merit the fruits of their labor only if their "actions and decisions in the realm of production can be attributed to [them] in the morally relevant sense."

(2) "the features of our person that cause us to be better or worse at producing value," including "not only our degree of intelligence and our talents, but also (for some) our level of industriousness and commitment" are "'given' from the outside, the products of some combination of heredity and environment."

(3) "we cannot be said to deserve, or be responsible for, the features of our person that cause us to be better or worse at producing value."

(4) "The fact that some citizens are more productive than others"—and so the "actions and decisions [undertaken] in the realm of production"—are "'arbitrary from a moral point of view.'"

(5) "our actions and decisions in the realm of production cannot be attributed to us in the morally relevant sense."

(6) "we cannot claim to have earned or merited the fruits of our labor."

C: "the fruits of our labor" "should be distributed by the 'basic structure of society' in an egalitarian fashion."

(3.1) The features of persons that cause us to be better or worse at producing value are given from the outside without regard to desert.

(3.2) If some features are given to us without regard to desert, then our possession of them is arbitrary from a moral point of view.

(3.3) Our possession of the features that make us better or worse at producing value is arbitrary from a moral point of view.

(3.4) If our possession of features is arbitrary from a moral point of view, then so is our exercise of them.



(2)' "The extent to which natural capacities develop and reach fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try, and so to be deserving in the ordinary sense is itself dependent upon happy family and social circumstances."

(3)' No one deserves her place in the distributions of starting places, and of raw or natural talents and abilities, which result from the natural lottery.

(4)' The distribution of natural talents and abilities, and the social circumstances and chance contingencies that affect their development, are arbitrary from a moral point of view.

(5)' If a distributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our productive capacities, then under that system "our actions and decisions in the realm of production cannot be attributed to us in the morally relevant sense."

(5)" If a distributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our productive capacities, then under that system "our actions and decisions in the realm of production" do not give rise to desert claims to shares of income and wealth.

(6)' We cannot acquire desert claims to shares of income and wealth.

(7) A system of distribution is unjust if the distribution of undeserved shares of income and wealth does not benefit the worst off.

(6<sub>NL</sub>)' Under natural liberty, "we cannot claim to have earned or merited the fruits of our labor."

(6<sub>R</sub>)' We cannot come to deserve punishment by performing "acts proscribed by penal statutes."

(2<sub>R</sub>)' The extent to which a sense of justice develops and reaches fruition is affected by all kinds of social conditions and class attitudes. Even the willingness to make an effort, to try to preserve and act on one's sense of justice, and so to refrain from "acts proscribed by penal statutes" is itself dependent upon happy family and social circumstances.

(5<sub>R</sub>) "If a retributive system does not identify and nullify the effects of morally arbitrary conditions on the development and exercise of our sense of justice, then under that system we cannot come to deserve punishment by performing "acts proscribed by penal statutes."