**Accountability for Reasonableness or Equality of Resources?**

Resnik *et al* (2017) argue that three influential theories of justice (libertarianism, utilitarianism, and justice as fairness) fail to produce determinate consequences for health policy, particularly when it comes to protecting vulnerable subpopulations from environmental risks. This is hardly surprising, since these general theories of justice are not intended to provide determinate answers to all policy questions. They need, at minimum, to be supplemented with empirical facts about the effects of particular policies.

This is especially clear when it comes to Rawls’s theory of justice. Rawls’s two principles of justice are only intended to govern what he calls the basic structure of society. This is only the first step of a four-stage process, to be followed by a constitutional stage, a legislative stage, and then the application of decisions to particular cases (Rawls 1999: 171-6). The indeterminacy of his principles of justice is expected (Rawls 1999: 176).

Nonetheless, the indeterminacy of theories of justice still raises questions as to how we might reach more determinate conclusions on policy matters, even if there were no disagreements over these theories. It is here that Accountability for Reasonableness (AFR) may guide deliberations. AFR stipulates that the decision-making process must satisfy four conditions (Resnik *et al* 2017; cf. Daniels 2008: 118-9). First, decisions and their rationales must be *publicly accessible*. Second, decisions must be based on *relevant reasons*. Third, decisions must be open to challenge and *revision*. Fourth, *regulation* ensures these conditions are met.

These conditions are mostly attractive ones for any decision-making process to meet but, while this broadly democratic approach may legitimise policy decisions, it does not guarantee their substantive fairness (Rid 2009). The requirement that decisions be based on relevant reasons, for instance, says nothing about how these competing reasons are to be weighed against each other.

Suppose that Alpha uses a log-burner, which aggravates her neighbour Beta’s asthma. The discomfort caused to Beta is presumably a relevant reason to regulate Alpha’s activity. However, the inconvenience that such regulations would impose on Alpha is a relevant reason against regulation. What we need is some way of resolving whether the reasons for regulation outweigh those against, but this is a question on which people may disagree (cf. Friedman 2008: 104-7).

The conditions of AFR are *primarily* procedural. While they may rule out some unfair decisions (Daniels 2009: 38), they provide little, if any, guidance here. Moreover, there may be just as much disagreement over AFR, for instance what reasons are relevant, as there is over the initial question of substance (Hasman and Holm 2005; Friedman 2008). We are still faced with the problem of indeterminacy. It’s here that we might turn back to a theory of justice for guidance as to how to weigh competing interests.

Equality of Resources

Utilitarianism suggests that we should compare the *total* costs and benefits of alternative policies, aggregated across the whole population. However, it is frequently objected that this is unfair, since it may require some to suffer large burdens for the sake of individually smaller benefits for many others (Rawls 1999: 21-4). I suggest Ronald Dworkin’s equality of resources (Dworkin 2000) as a promising alternative.

Dworkin argues that equality is compatible with different people holding different bundles of resources according to their preferences. This raises the question of how to compare these different bundles, to determine whether they are equal. Dworkin’s answer is that we can use a market to establish fair prices, provided that everyone has equal purchasing power (Dworkin 2000: 70).

Dworkin invites us to imagine a group shipwrecked on an island, who decide to divide everything between themselves as private property. He suggests that they might each start with equal currency (clamshells) and auction everything on the island (Dworkin 2000: 68). Assuming that individuals have different preferences, this will result in individuals holding different bundles. For instance, if beach-front land is more popular than land on the interior of the island, it will cost more. Consequently, those who opt for beach-front land will have less land than those who settle for interior land. Nonetheless, their bundles will be equal in auction-determined price. No individual will prefer another’s bundle to her own since, if she did, she would have been able to purchase that other bundle instead. Thus, the resulting distribution should be envy-free (Dworkin 2000: 67-8).

This account, so far, only concerns external resources. One problem is that some individuals may be able to do more with a given bundle of external resources than others, while some people may have greater needs through no fault of their own. Dworkin (2000: 77-83) proposes that these cases can be handled by a hypothetical insurance market (cf. White 2007: 81; Armstrong 2013: 62). Though individuals cannot insure themselves, through usual means, against being born handicapped in some way, Dworkin suggests that we can extrapolate what level of coverage rational and prudent individuals would purchase against particular misfortunes. People’s initial bundles could be reduced by the size of this average premium in order to compensate those who suffer some insured handicap.[[1]](#footnote-1)

Space prohibits a fuller evaluation of Dworkin’s theory here.[[2]](#footnote-2) Nonetheless, I hope it is evident how the two features mentioned could be applied to cases of environmental risk. One possibility is that we could treat the environment, or pollution permits, as potential private property in the auction. Thus, those who wish to pollute may have to pay for the right to do so, while those who prefer a cleaner environment (for any reason) may bid against them. Another possibility is that the susceptible populations that Resnik *et al* are concerned with may be granted extra purchasing power, if we assume that the average person would have insured against their particular risk factor.

In either case, the test for determining whether the costs of environmental protections are worthwhile will refer to what people with equal resources would be prepared to pay for them. Hypothetical market prices are used as a barometer of fairness, since they reflect what one person’s bundle is worth to others (Dworkin 2000: 70).

If there are more people affected by some condition, it can usually be assumed that they would have more purchasing power behind their preferences. However, people only mildly affected by a particular policy may not be prepared to spend much to promote their favoured policy. For instance, it may be that the average person would not insure against mild asthma, in which case those with mild asthma should not have any greater purchasing power than anyone else and may be outspent by polluters.

This market-based approach might generate different implications for different conditions. We might assume that people would insure against conditions that have severe adverse effects, and thus that these people should be afforded special concern. So, even one person’s risk may carry significant weight, such as an effective veto, if the consequences are severe enough. However, where a condition is very rare, it may be that the average person would not insure against this risk. The consequence, in Dworkin’s theory, is that these people have no claim on others for additional resources. Here the interests of the majority are likely to win out, even though each individual is less affected, because of their greater numbers.

I do not mean to suggest that this theory provides wholly determinate answers to all ethical/policy-making dilemmas (cf. Dworkin 2000: 108). There are difficulties in determining what decisions rational and prudent individuals would make in hypothetical circumstances (Dworkin 2000: 79; cf. Armstrong 2013: 66-69). We certainly cannot assume that people’s actual market decisions are reliable guides, since these are often made against a backdrop of inequality. Nonetheless, this theory offers more substantive guidance than AFR, while avoiding the possible unfairness of utilitarianism.

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1. While there are concerns as to whether this approach can deal with disabilities (Armstrong 2013: 69-71), this ‘compensation’ need not take the form of cash payments, but might involve various social policies designed to help integrate them into society (White 2007: 95). [↑](#footnote-ref-1)
2. For accessible introductions, see White (2007: ch. 4) and Armstrong (2013: ch. 2). [↑](#footnote-ref-2)