LUCK EGALITARIANISM AS DEMOCRATIC RECIPROCITY?

A Response to Tan

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Introduction

Kok-Chor Tan's article "A Defense of Luck Egalitarianism"[1] is the most sophisticated reformulation of the luck egalitarian ideal so far. It argues that the luck egalitarian key distinction between luck and choice should, first and foremost, be seen as a rationale, or grounding principle, for a specific domain, that of *distributive justice*, as distinct from other moral domains, such as that of duties of assistance, and as distinct from other branches of justice, such as political justice. And it argues that luck egalitarians should, as a matter of principle, object only to such unchosen inequalities that are brought about by social and political institutions. Tan argues that luck egalitarianism so redefined is a strong rival to a grounding principle of democratic reciprocity, which motivates conceptions of equality as a value governing social and political relationships, like those put forward by Elizabeth Anderson, Samuel Scheffler, Samuel Freeman, and John Rawls.[2]

In this response, I will argue that Tan's restriction and redefinition of luck egalitarianism may be plausible, but they do not succeed in establishing it as a rival to the grounding principle of

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[1] *Journal of Philosophy* CV, 11 (2008): 665-690. All page numbers in the main text are references to this article.
[2] Anderson, "What is the Point of Equality?" *Ethics*, CIX, 2 (1999): 287-337; Scheffler, "What is Egalitarianism?" *Philosophy and Public Affairs*, XXXI, 1 (2003): 5-39, and "Choice, Circumstance, and the Value of Equality", *Politics, Philosophy, and Economics*, IV, 1 (2005): 5-28; Freeman, *Justice and the Social Contract* (New York: Oxford, 2007), pp. 111-142; Rawls, *Justice as Fairness: A Restatement*, Erin Kelly, ed. (Cambridge: Harvard, 2001), see only pp. 130-133.

democratic reciprocity. Despite Tan's arguments to the contrary, luck egalitarianism so conceived is best regarded as merely a possible expression of the latter. The principle of democratic reciprocity can deliver a principled explanation for the institutional restriction that Tan proposes; an explanation that Tan himself fails to give. Furthermore, Tan's proposal to construe luck egalitarianism as the grounding principle for an isolated domain of distributive justice is conceptually unsound; the principle of democratic reciprocity is capable of accounting for the relationship between distributive justice and other branches of justice in a more convincing manner. The upshot of this response is hence that Tan has won a pyrrhic victory for luck egalitarianism as a supposed fundamental principle of justice: his corrected, institutional version of it may be more plausible than unrestricted luck egalitarianism, but, on reflection, his proposal is better accounted for by an ideal of democratic reciprocity, rather than by an ideal of equality of luck proper.

1. Institutional Luck Egalitarianism

Tan's Institutional Luck Egalitarianism (henceforth: ILE) rests on three key points:

1. Domain restriction: It is restricted in its domain; it presents a reason why equality matters for distributive justice, but has nothing to say about the fulfillment of human basic needs. It applies only where the latter are already met:

   > A social order in which all members' basic and urgent needs are accounted for will still have to decide how fairly to distribute social and economic resources among its members beyond what their basic needs demand. This is the distinct question of distributive justice. (p. 670).

   Similarly, in singling out a rationale for distributive justice, ILE does not aim at covering the "whole of justice" (p. 675); it thus leaves space for principles of political justice:

> [L]uck egalitarianism as an account of distributive justice does not deny that issues of race, gender, and ethnicity can raise important questions of political justice, *distinct from the impact of such political injustices on the justness of economic distribution* (p. 687, my emphasis).

Tan does not define what exactly political justice is; but from his remarks it can be inferred that it regulates the way political power is exercised, and rules out the "oppressive relationships" (pp. 686f) that preoccupy democratic egalitarians like Anderson, such as domination.[3]

2. Grounding as opposed to substantive nature of the principle: The luck egalitarian key distinction between luck and choice, according to which distributive justice should be choice-sensitive, but luck-insensitive, serves as a grounding principle of distributive justice that motivates concern with distributive (in)equality (p. 667) by explaining why it matters. But it is not in itself a substantive principle of distributive justice that specifies what should be distributed (for example, welfare, or resources) (pp. 673ff).

3. Restriction of subject matter: luck egalitarianism does not object to all unchosen inequality, but only to such unchosen inequality as can be attributed to the workings of social and political institutions "that convert natural facts about persons into disadvantages for them" (p. 689).

With the help of these points, Tan skillfully deflects a number of objections that have been raised by critics of luck egalitarianism. Among these is the objection that it is "indifferent to the severe suffering of the imprudent" (p. 675), who lose their claim to luck egalitarian

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[3] Anderson, "What is the Point of Equality?",p. 312. For a definition of domination as the capacity to arbitrarily interfere with someone else's choices, see Philipp Pettit, *Republicanism: A Theory of Freedom and Government*, Oxford: Oxford University Press 1997, p. 52f.

compensation because they are responsible for their own disadvantage; Tan argues that it may be, but that the imprudent are still owed duties of assistance that take care of their suffering (point 1). Another objection is that luck egalitarianism "must compensate for all natural misfortunes" (p. 679), such as ugliness (p. 680), which many people find absurd; Tan argues that it does not have to, since luck egalitarian concern ought to be restricted to the workings of social and political institutions (point 3). A third objection is that luck egalitarianism fails "to appreciate the social aspect of equality" (p. 685), which demands that social relationships be nonhierarchical and nonoppressive. Tan argues that it does not aim at developing a full-fledged account of what it means to relate to each other as social equals, since it is only concerned with distributive justice, and not with political justice (point 1); but that, in that domain of distributive justice, it indeed delivers such an account of what it means to have fundamentally equal social status, by safeguarding that no one's distributive holdings are more subject to luck than anybody else's (p. 686).

However, Tan's redefinition of luck egalitarianism makes it vulnerable to two new objections, which this response will discuss in turn: the institutional restriction (point 3) bears such significant similarities to democratic reciprocity (henceforth: DR) conceptions of justice that it can actually be explained as an implication of the latter (section 2). And Tan's attempt to argue that distributive justice can be neatly separated from other parts of social justice, such as political justice, is unconvincing. DR has a sounder way of accounting for the relationship between distributive and political justice, which highlights how they are intertwined (section 3).

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2. The Institutional Restriction

a) *Natural Inequality and Institutions*

Tan argues that luck egalitarians should not take natural inequalities as such to be a concern of justice; they should follow Rawls in claiming that "natural facts in themselves are neither just nor unjust" (p. 671). Accordingly,

"[l]uck egalitarianism ought not to be in the business of mitigating all natural contingencies (due to luck) that people face. As an aspect of social justice, luck egalitarianism is only concerned with how institutions deal with such natural contingencies. Its goal is to ensure that institutions are not arranged so as to convert a natural trait (a matter of luck) into actual social advantages or disadvantages for persons." (*ibid.*).

An uncontroversial example of how institutions must not convert natural traits into social disadvantage is that of a social order that discriminates against blue-eyed people by assigning more advantages to brown-eyed ones (p. 672). Another example is that of institutions failing to offset the effect of family background on the development of talents, by failing to offer any kind of public education and other policies to achieve some form of equality of opportunity (pp. 672-673). ILE also has a plausible solution for cases such as ugliness: ugliness as such is not a reason for luck egalitarian compensation, even if ugly people suffer from it, but if institutions disadvantage ugly people – say, they earn less than better-looking people despite equal qualification and performance – then luck egalitarians should "want institutions and social norms about appearances to be reformed" (p. 680). The same holds in cases of disability: all social disadvantages attached to disability through the workings of institutions call for luck egalitarian counteraction, but disadvantages ensuing from disability without any institutional input do not (p. 681).

Luck egalitarianism so reformed remains a demandingly egalitarian position, but it escapes the objection that it absurdly requires treating "the natural order as a subject of social

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justice" (p. 681). It is important to note that this reformulation distances ILE significantly from traditional luck egalitarian positions such as that of Richard Arneson and G.A. Cohen:[4] what is unjust is no longer that institutions fail to *compensate* for whatever natural disadvantages beset individuals, but the role they take in *converting* natural characteristics into social disadvantage.

Tan recognizes that this will seem unsatisfactory to such more radical luck egalitarians; as a preventive response to objections to ILE that they may raise, he a) points out that severe cases of suffering due to natural disadvantage are already taken care of by duties of assistance demanding the fulfillment of basic needs (see section 1 point 1 above), not by distributive justice (p. 682), and b) expresses confidence that "many of the typical cases of social and economic inequalities that exercise egalitarians can be revealed to have an underlying institutional explanation" (p. 673). Accordingly, a strong luck egalitarian objection to ILE

"will have to present a case of bad luck that has no institutional influence but that is also not so devastating to the unlucky person such that it falls under the domain of basic needs, on the one side, and on the other, that is intolerable enough that egalitarians should be moved by it" (p. 681).

And even if such cases can be found, they will have to be sufficiently numerous and important in order to justify abandoning ILE and returning to radical luck egalitarianism, given that the latter faces the absurdity objection (p. 683).

ILE is hence an attempt to refocus luck egalitarian theorizing. Tan's reformulation of luck egalitarianism is meant to be more than merely an *ad hoc*-maneuver to avoid a pressing

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[4] Arneson, "Equality and Equal Opportunity for Welfare," *Philosophical Studies*, LVI (1989): 77-93, and "Luck Egalitarianism and Prioritarianism," *Ethics*, CX, 2 (2000): 339-349; Cohen, "On the Currency of Egalitarian Justice," *Ethics* XCIX (1989): 906-944.

objection; it is to be regarded as an attempt to change the luck egalitarian grounding principle of distributive justice (section 1 point 2). Initially, Tan mentions as the grounding principle that motivates luck egalitarian concern with distributive equality the traditional luck/choice principle: "distributive justice should be fundamentally choice-sensitive but luck-insensitive" (p.666). But in this general formulation, the principle evidently ranges over *all* sources of differential luck: these might be social, but they might also be natural. On Tan's view, the luck egalitarian grounding principle hence has to be changed into the following: "Institutional action should be fundamentally choice-sensitive, but luck-insensitive. Institutions may not act in ways that create differential luck for individuals". Tan is less explicit on this than might be wished for, but there is no other sound way to understand the restriction he proposes: as seen, he does not claim that natural inequality should be taken to raise *less* concern of distributive justice, or that luck egalitarian distributive justice has to be balanced against other, conflicting principles of distributive justice, so that absurd outcomes can be avoided at least at the stage of identifying the overall just balance of considerations in any given case. He is explicit that natural inequality should be regarded as raising *no concern of justice at all.*

At the same time, however, ILE is supposed to remain, at the fundamental level, a rival to DR conceptions of social justice, as proposed by Rawls, Scheffler, and Anderson. Tan spells out the grounding principle of DR as follows:

"[D]emocratic reciprocity holds that citizens may support and impose on each other only those economic, social, and political institutional arrangements that all can reasonably accept. Because a social arrangement that allows for excessive economic social and economic inequalities between citizens will not be one that all can reasonably accept, democratic reciprocity must require [...] the regulation of such inequalities among citizens via a distributive principle." (p. 666).

The grounding principle of DR then gives rise to more worked-out conceptions of social justice, which have been labeled "democratic equality" by its adherents (*ibid.*).

Now, one major difference between DR and ILE seems to be that

"[d]emocratic equality holds that the goal of a distributive principle is not so much to mitigate the effects of luck on people's life prospects as to establish and secure the requisite social relations that membership in a democratic society entails" (*ibid.*).

But, at a closer look, this difference turns out to be non-fundamental on Tan's own account, since ILE itself can be understood as recognizing "that the motivation of distributive justice is to secure the relationship among persons that best reflects their equal status vis-à-vis each other" (p. 686). ILE can then be interpreted as delivering merely

"an alternative interpretation of what social equality demands. Luck egalitarianism holds that to relate to each other as equals is to, among other things, hold one another accountable for our choices but not for our luck in matters of distributive justice" (*ibid.*).

Democratic egalitarians and luck egalitarians might then differ about the precise nature of the relationships that are required by justice, but this does not rule out that they both seek to interpret the same underlying grounding principle.[5] The rationale for Tan's institutional restriction can be well expressed in the language of DR: luck egalitarianism so conceived is not about ensuring that each other's distributive fate is not influenced by luck, because this would seem to require offsetting also differential luck that precedes institutional involvement, namely, natural inequality. It is rather about *ensuring that we do not impose institutions on each other* that influence our distributive fate in ways that do not track our choices and create such differential luck. Hence, even though Tan argues (see above) that

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[5] One major difference is, however, that luck egalitarians such as Tan understand luck egalitarianism only as covering the domain of distributive justice understood in a narrow way (section 1 point 1), whereas democratic egalitarians regard their ideal as applying to social justice as a more inclusive domain. This difference will be discussed in section 3 below.

excluding natural inequality from the scope of distributive justice need not lead to *results* that are unacceptable to luck egalitarians, because the institutional determination of (dis)advantage is almost all-pervasive, ILE relies on a *perspective* on justice that is fundamentally different from the one employed by traditional luck egalitarians. Traditional luck egalitarianism relies on a "purely recipient-oriented"[6] view of justice, according to which the only thing that matters intrinsically for distributive justice is the fact of differential luck besetting individuals, irrespective of its sources (institutions or nature). ILE relies on a view according to which what is unjust in the primary instance is institutional action creating differential luck. Such a view of justice is relational at the fundamental level; it accords intrinsic importance to the way advantages and disadvantages are created by agents. This is a view of justice that fits naturally with DR and its focus on what we may justifiably do to each other through our collective institutional arrangements, on how arrangements that we may justifiably impose on each other must be structured. More specifically, DR focuses on arrangements of social cooperation, and seeks to answer the question when, on which terms, such arrangements are to be regarded as fair. ILE could then be regarded as a proposal for such fair terms of cooperation, at least insofar as distribution is concerned.

Andrea Sangiovanni, for example, proposes to interpret Dworkin's luck egalitarian theory of justice in precisely this way: being bound together in a cooperative scheme producing basic goods brings about an egalitarian commitment to shield each other from differential luck.[7]

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[6] I borrow this term from Thomas Pogge, "Relational Conceptions of Justice: Responsibility for Health Outcomes", in *Public Health, Ethics, and Equity*, Sudhir Anand, Fabienne Peter and Amartya Sen, eds. (Oxford: Oxford, 2003), pp. 135-161, p. 143. On the distinction between distributive and relational views of justice, see also my "Distributive and Relational Equality", *Politics, Philosophy, and Economics* XI, 2 (2012), 123-148.

[7] Sangiovanni, "Global Justice, Reciprocity, and the State", *Philosophy and Public Affairs*, XXXV, 1 (2007): 3-39, p. 29. See Ronald Dworkin, *Sovereign Virtue* (Cambridge: Harvard, 2000), especially pp. 1-2.

It would then be the ideal of DR that functions as the grounding principle of social justice, and ILE would have to be regarded as one possible interpretation of this ideal; ILE would not be a rival to DR at the fundamental level. As Tan makes clear, adherents of DR are free to invoke luck egalitarian intuitions, and to build them into their theory of justice, as long as it is the commitment to reciprocity that motivates such concern with equality, not the luck/choice-distinction itself (p. 667).

b) ILE, DR, and Global Justice

Tan is aware of the possibility of a challenge along these lines, and, in his final comments, seeks to distinguish ILE from DR more clearly at the fundamental level. According to him, the two views, despite their common exclusive focus on social arrangements, come apart in matters of global justice: ILE is supposed to have wider scope than DR. DR is supposed to presuppose a network of democratic institutions structuring cooperation as already in place, whereas ILE kicks in whenever "there are *affective institutions* that convert natural facts about persons into disadvantages for them. It is immaterial whether or not these are institutions based on democratic ideals" (p. 689; emphasis in the original).

Tan is right in pointing out that some of the more prominent adherents of DR have indeed been skeptical regarding its applicability on the global level (p. 689).[8] However, the most plausible version of DR available has much wider scope than Tan permits. He describes DR's scope as follows:

"[F]or democratic egalitarians it is in the context of fair social cooperation that the ideal of democratic reciprocity applies and where distributive egalitarian considerations can take hold. Only persons engaged in fair

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[8] Tan refers to, *inter alia*, John Rawls, *The Law of Peoples* (Cambridge: Harvard, 1999), and Freeman, *Justice and the Social Contract*, chs. 8 and 9.

social cooperation are in the position rightly to demand from one another certain classes of commitments, including the commitment of distributive equality" (p. 687).

Now, the first thing to note in this construal of DR is that it is so narrow as to be practically incoherent: If the people to whom the ideal of DR applies have to be already "engaged in *fair* social cooperation", then what could they need that ideal for? Democratic reciprocity is supposed to be a yardstick for reforming, or transforming, existing institutions into ones that are fair, that is, ones that all members can reasonably accept. The principles of justice, including distributive justice, that spell out this ideal are supposed to tell us when social cooperation is fair: being structured according to principles of democratic equality is supposed to be precisely what *makes* cooperation fair. [9]

Other ways of restricting the scope of DR from the outset do not encounter this particular problem, but are still implausible: for example, the later Rawls made the methodological claim that egalitarian principles of social justice apply only to those who share a liberal democratic "public political culture"[10]. Adherents of DR need not accept this methodology; they can, and indeed should, focus instead on the facts of the institutional practices that people – within or across the boundaries of nation-states – participate in, independently of whether they also happen to have certain cultural beliefs about them. In doing so, they can draw on a tripartite distinction between institutional arrangements that are properly fair and democratic, and hence fulfill the ideal of DR, arrangements that are not fair and/or democratic, and hence render DR applicable; and the absence of such arrangements, where

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[9] Tan seems to ascribe this very narrow construal to Samuel Freeman (p. 687n.40). However, Freeman does not argue that cooperation has to be somehow already fairly structured to trigger distributive requirements, but merely that it has to involve an idea of fair terms of cooperation as already active among cooperators, see op. cit., p. 266. This is still too narrow a construal of the scope of DR – as will be argued in a moment –, but it is not incoherently narrow in the way that Tan's description suggests.
[10] Rawls, *Political Liberalism* (New York: Columbia, 1996), p. 13.

no concern of social justice is triggered. Rawls, for example, uses "cooperation" as implying requirements of justice which it must fulfill, and distinguishes it from "coordination", in which people merely share certain institutionalized practices – for example, they receive and act on "orders issued by some central authority".[11] To use these terms, the point here is that DR should be taken to apply to relationships of coordination and to demand their transformation into relationships of cooperation proper. DR's focus is on the justifiability of imposing social and political institutions on each other that determine patterns of burdens and benefits: we should only impose those institutions on each other that structure cooperation in a fair and democratic manner, and accordingly, we have to transform institutions that we are currently imposing on each other if they do not live up to this ideal.

Finally, some of the adherents of DR cited by Tan – in particular, Rawls[12] – also seem to rely on the *empirical* claim that institutional arrangements triggering concern of social justice exist, as a matter of fact, only within the boundaries of established nation-states. However, two responses can be made here. First, this factual claim has attracted much criticism also from the side of theorists of justice who accept the fundamental claim that justice is about fair cooperation: they have pointed to the pervasive and coordinated nature of global social and economic interaction.[13] There is good reason to suppose that, for adherents of cooperation-based views of global justice, currently existing global institutions, such as the WTO, raise concern regarding both their democratic structure and the distributive outcomes they bring

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[11] *Political Liberalism*, p. 16.
[12] *Law of Peoples*, pp. 116ff.
[13] See only Charles Beitz, *Political Theory and International Relations*, 2nd ed. (Princeton: Princeton, 1999), pp. 125-176; Thomas Pogge, *Realizing Rawls* (Ithaca: Cornell, 1989), pp. 211-239, and *World Poverty and Human Rights*, 2nd ed. (Cambridge: Polity, 2008), pp. 97-123.

about.[14] To name another pertinent example, states' practice of establishing (jurisdictional and territorial) borders can also raise concern from such a point of view, insofar as this practice is recognized under public international law, with which states and their populations are expected to comply.

Second, it may of course still be true that the development of standards of fair cooperation in such cases may not give rise to *comprehensive* egalitarian claims on the part of individuals to equality in a currency of justice like resources, insofar as the domain of the institution in question may be non-comprehensive (in the case of the WTO: only international trade and the benefits and burdens it creates, not the economic development of its member states as a whole). So it might still be the case that cooperation within states creates the most comprehensive egalitarian requirements, if participation in state-based cooperation continues to govern most part of most individuals' lives. But, crucially, if this indeed the case, it does not speak for ILE having wider scope: if thus are the facts, then duties of global justice will be similarly limited on Tan's view. Contrary to traditional luck egalitarianism, which objects to all unchosen inequality regardless of its causes, this view emphasizes that it is institutional action affecting people's circumstances that triggers egalitarian requirements. Holding that institutions incur comprehensive egalitarian duties to individuals even if they affect their lives only to a very limited degree would contradict the rationale of the institutional restriction.

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[14] On the case of the WTO, see Clara Brandi, "The WTO as a Subject of Socioeconomic Justice," in *Social Justice, Global Dynamics*, Ayelet Banai, Miriam Ronzoni, and Christian Schemmel, eds. (London: Routledge, 2011), pp. 186-199. On the capacity of an institutional approach for generating proposals for reform and transformation of the current global order, including the establishment of new institutions, see Miriam Ronzoni, "The Global Order: A Case of Background Injustice? A Practice-Dependent Approach," *Philosophy and Public Affairs* XXXVII, 3 (2009): 229-256.

Hence, there seems to be good reason to think that DR has just as much to say as ILE about instances of global inequality that we may find intuitively troubling; Tan's argument that DR and ILE come apart as grounding principles of justice because the former applies only to democratic societies is unsuccessful. Of course, it cannot be ruled out that they could come apart in some cases, depending on how "cooperation" and "affecting" are spelled out in detail;[15] but Tan has not shown that they do. If that is so, and DR delivers an explanation of why one should focus exclusively on institutional action, while the traditional luck egalitarian luck/choice principle does not, then it seems that ILE can be subsumed under the grounding principle of DR, as a possible interpretation of the latter.

3. Justice: Distributive, Political, and Social

The second reason why Tan's claim that ILE is a grounding principle of justice is problematic is his narrow definition of its domain (see above section 1 point 1).

Tan argues that ILE's domain is not only distinct from that of duties of assistance, which are not part of justice. It is restricted even *within* justice: it applies only to the specific domain of distributive justice, specifying what a just distribution is, or, to be more precise, what a just *institutionally generated* distribution is. Institutions should make sure that the distributions they generate are choice-sensitive, but luck-insensitive; questions of political justice are outside the domain of ILE (p. 687). The key claim here is not that luck egalitarianism should not be taken to exhaust the range of considerations that are relevant for justice; this is now generally received wisdom among luck egalitarians. It is that, despite this limitation, luck egalitarianism still has foundational importance for one branch of justice, and is not merely one intuition among others that justice has to take into account. According to this way of

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[15] For discussion, see Arash Abizadeh, "Cooperation, Pervasive Impact, and Coercion: On the Scope (not Site) of Distributive Justice," *Philosophy and Public Affairs* XXXV, 3 (2007): 318-358.

carving up the terrain of justice, developing principles of distributive justice and developing principles of political justice are *two distinct theoretical enterprises motivated by different grounding principles*. Now, this distinction, if it was sound, would set ILE clearly apart from DR at the fundamental level: adherents of DR, like Rawls, see their ideal as grounding justice concern in all fields of justice, economic, social and political (p. 666).

There is, however, a conceptual problem with Tan's construal of the domain of ILE, which gives reason to doubt that it is theoretically sensible to hold that justice comes fundamentally separated into different domains in this way. This reason is simple: political justice, which Tan seeks to keep separate from distributive justice, *has itself distributive implications*. For example, if we are egalitarians about political justice, we believe that people should have substantively equal rights to participate in politics, over and above formally equal voting rights. They should be able to make their opinion heard, to inform themselves properly and comprehensively, to candidate for office, and so on. And it is plausible to think that the realization of such rights requires a certain degree of distributive equality.[16] This is a concern of justice, and it requires a certain distribution. Why should it not count as a consideration of distributive justice?

Luck egalitarians might claim that a proper luck-insensitive distribution would, as a matter of fact, also guarantee the distributive equality necessary for political equality. But if this was true, it would be a sheer coincidence; and what is more, it is not true. Luck egalitarianism and political egalitarianism can conflict: what about those who lose the distributive means necessary to participate as an equal in politics – even if their basic needs are still met – due to responsible choices of their own? If there is a case for restoring their political equality, justice requires a distribution diverging from luck egalitarianism. As Adam Swift puts it: "[I]t seems

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[16] See only Joshua Cohen, "The Economic Basis of Deliberative Democracy," *Social Philosophy and Policy* VI, 2 (1989): 25-50.

right to describe a distribution as 'just' when it satisfies the best overall balance of justice values and it seems wrong to say that distributive justice demands something other than a just distribution."[17] Tan is forced to endorse the contradictory claim that Swift rightly rules out. There are, of course, good reasons to distinguish between general socio-economic fairness and the demands of political equality. Perhaps one may also say that the former is, in some sense, more directly concerned with distributions than the latter, which aims more directly at a specific kind of political relationship;[18] but seeking to simply exclude the latter from the domain of distributive justice altogether leads to the contradiction just mentioned. What luck egalitarians should say instead is that justice may require distributions that are, in some respects, *unfair*, according to a notion of fairness that is narrower than distributive justice as such. This notion cannot be coherently claimed to exhaust the domain of distributive justice.

A similar problem also besets the more traditional version of luck egalitarianism of G.A. Cohen, of which ILE is supposed to be an improvement; it is instructive to note how their respective problems differ. Cohen understands distributive justice in a purely recipient-oriented manner (see above section 2 a)), but accepts that there are matters of justice "outside distributive justice, such as the just and unjust treatment of individuals with respect to their liberty and their privacy."[19] Such a position can then recognize that the latter also has distributive implications, in the more mundane sense of "distributive" used here: concerning

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[17] Swift, "The Value of Philosophy in Nonideal Circumstances," *Social Theory and Practice* XXXIV, 3 (2008): 362-387, p. 383, n. 39. Swift is a luck egalitarian himself, but not of Tan's kind, as the quotation makes clear.

[18] However, recall that Tan also argues that ensuring luck egalitarian distributions should be understood as aiming at realizing a relationship of equal status (see above section 2 a)).

[19] G.A. Gohen, *Rescuing Justice and Equality* (Cambridge (MA): Harvard University Press 2008), p. 6.

the allocation of goods.[20] Distinguishing between these two meanings of "distributive" may thus dissolve the contradiction just noted. However, the obvious challenge for this position is to give a non-arbitrary answer to the question: "Why does justice come in both a purely recipient-oriented and in a treatment-oriented perspective – what unites them, and makes them both justice?" ILE on the other hand, as seen above, jettisons traditional LE's purely recipient oriented-focus in favor of an exclusive focus on institutional action, which it shares with DR. So, for ILE, distributive justice can only have the more mundane sense of (institutional action) being concerned with the allocation of goods (p. 686). Accordingly, ILE avoids the problem of having to explain why justice comes in two fundamentally different perspectives; but, for precisely this reason, Tan's attempt to preserve its theoretical independence by restricting its domain even within justice cannot escape the contradiction noted above in any way.

If the above argument is sound, then luck egalitarians who analyze their principle and work out its implications in isolation are not analyzing a grounding principle of distributive justice, but, at most, one element of distributive justice, understood in its wider – and more coherent – sense. Luck egalitarianism then cannot be what motivates our concern with distributive justice in this sense; while, as seen, DR can. DR relies on a unified, treatment-oriented perspective on justice, which requires that we work out what kind of institutions we may impose on each other in different fields, economic, social, and political, and theorize how they should relate to each other, and generate distributions that fulfill the variety of

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[20] For example, the right to privacy has distributive implications because it may make it impossible to scrutinize whether people's distributive holdings properly correspond to luck egalitarian fairness.

considerations that are of relevance to justice.[21] As said, Tan is right in pointing out that, insofar as DR grounds liberal conceptions of justice that highlight the value of autonomy and individuals' capacity to take responsibility for their decisions, luck egalitarian considerations will be, to some extent, among them (p. 669). But they will not enjoy any privileged position in relation to other considerations; what motivates concern of justice is the idea that the institutions that we impose on each other have to be justifiable as fair and democratic overall.

Now, staunch adherents of luck egalitarianism will, of course, continue to argue that concern about luck and choice does ground a fundamental moral concern that is rightly described as concern of distributive justice. But the above arguments have shown that these luck egalitarians will have difficulties with the institutional restriction that Tan proposes: they will continue to argue that such concern is raised wherever differential luck exists, independently of its causes – and will continue to encounter the objections that ILE sought to meet.

The enterprise of DR may, of course, fail. The variety of considerations of relevance to justice that it seeks to draw on may be so great, and conflicts between them so pervasive, that all proposed DR theories of justice will either lead to some unacceptable results or remain at such a level of generality and abstraction as to be uninformative. But the argument of this section has shown that this enterprise has at least the advantage over ILE of starting from a coherent delineation of its domain.

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[21] We may call this notion of justice – the overall justice of institutions – *social* justice. But nothing hinges on the name.

Conclusion

The above arguments are of wider importance for political philosophy, beyond Tan's article, for the following reason: If sound, they contribute to showing that the monolithic luck egalitarian intuition about the unfairness of unchosen circumstance can hardly, in and by itself, serve as *the* founding intuition for the theoretical enterprise of developing conceptions of justice – as opposed to constituting merely one consideration of relevance to justice among others. Political philosophers have, in the last 30 years, already devoted more attention to this intuition in isolation than it deserves. Pointing out its limited theory-building potential should help to break its spell; DR seems able to put it in its proper place.