

PITY THE UNREADY AND THE UNWILLING: CHOICE, CHANCE, AND INJUSTICE
IN MARTIN'S 'THE RIGHT TO HIGHER EDUCATION'

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Abstract: For Martin, the right to free higher education may be claimed only by those ready and willing pursue autonomy supporting higher education. The unready and unwilling, amongst whom may be counted carers, disabled, and devout, are excluded. This is unjust. I argue that this injustice follows from a tension between three elements of Martin's argument: (1) a universal right to autonomy supporting higher education; (2) qualifications on entitlements to access this right in order to preserve the value of higher educational goods; (3) luck egalitarian motivations in Martin's distributive ethics. I consider options for avoiding such injustices and their implications for Martin's argument.

Keywords: Social Justice; Higher Education; Luck Egalitarianism

Introduction

Christopher Martin's 'The Right to Higher Education' presents an original and strongly argued case for a reconceptualization of the aims, values, and entitlements to higher education. Any future discussion of higher education, justice, and freedom will have to engage with Martin's book.

In these comments, I focus on what I see as a troubling implication of Martin's argument: the right to free higher education may be claimed only by those ready and willing

to pursue autonomy supporting higher education. The unready and unwilling, amongst whom may be counted carers, disabled, and devout, are excluded. This is unjust. I argue that the unready and unwilling suffer injustice because three elements of Martin's argument are in tension: (1) a universal right to autonomy supporting higher education; (2) qualifications on entitlements to access this right in order to preserve the value of higher educational goods; (3) luck egalitarian motivations in Martin's distributive ethics. I first explain Martin's arguments for these three commitments before demonstrating the injustices that follow. I end by considering briefly three possible responses to my objections.

The Right to Higher Education: Universal, Qualified, Responsibility-Sensitive

Martin argues that the right to higher education is universal because we all share an interest in the internal and external conditions for personal autonomy.¹ Internal conditions, such as cognitive and affective capacities to make life-guiding decisions, are promoted through upbringing at home and basic education in schools. The universal right to free higher education provides the 'external' conditions for us to support our 'internal' capacities for autonomy beyond basic education.

However, higher education has its own values, such as academic excellence or practical expertise. Therefore, it is acceptable to impose conditions on entry to higher education. This preserves the distinct values of higher education, which in turn enables those institutions to support autonomy. The ability to claim the goods entailed by the right to higher education is conditional on individuals being ready and willing.² This not only protects the value of higher education, but also justifies holding individuals responsible for their efforts. Martin admits '...the luck egalitarian sympathies...' in this part of his argument.³

Crudely, luck egalitarianism holds that inequalities are justified if they are the product of individuals' responsible choices; inequalities are unjustified if they are the result of circumstances beyond individuals' control.⁴ An example: luck egalitarians argue (typically)

that if a person gambles, loses and becomes poorer compared to others more prudent, the distributive inequality that follows is justified. Luck egalitarians, at least when considering distributions, think disadvantages that follow from poor choices are a matter of ‘bad option luck.’ However, if someone is born with a serious disability which prevents them from working, and this leads to inequalities compared with others lacking the disability, this inequality is unjustified. Society has duties of justice to compensate individuals suffering disadvantage due to ‘bad brute luck.’⁵

Martin’s responsibility-sensitivity emerges when he considers the fairness of the costs and benefits that follow from our choices regarding higher education. Students who study responsibly and find a good job are entitled to their higher earnings. Good option luck justifies the inequality. Inequalities that follow from bad brute luck are unjustified. For example, a person who studied okra farming, only to find on graduation that okra had been destroyed by a new disease, does not deserve to bear the resulting disadvantage. They would be entitled to compensation (perhaps a fast-track qualification in plant pathology to fight crop disease). However, it is not unfair if a person suffers disadvantage due to bad option luck. If a person behaves irresponsibly, drops out of higher education and ends up poorer than other graduates, Martin regards this as fair. Recall though that the right to higher education is justified by our interest in the external conditions for supporting our autonomy. This means that the reckless do not forfeit their right the goods of higher education. A lazy student may have to suffer lower income due to poor grades, but they will always be entitled to another chance at higher education, on the condition that they are ready and willing to claim it.⁶

Two reasons seem to motivate Martin’s luck egalitarianism sympathies. First, it would be unfair to hold individuals responsible for the costs and benefits of their higher education if they were unready and unwilling. Imagine we made higher education compulsory: individuals unready and unwilling to study at university are likely to do badly. The costs to

them in wasted time and bad grades are unjustifiable as they had no option to avoid these disadvantages.

Second, responsibility-sensitivity in the right to higher education avoids the charge of ‘expensive tastes.’ The expensive tastes objection is made against those who argue that egalitarian justice requires that everyone’s preferences are satisfied equally. Consider educational preferences. Some individuals’ preferences are satisfied cheaply: enough literacy and numeracy to get by. Others have a taste for luxuries: studying advanced topics with the most elite faculty and students with all the resources that entails. If egalitarian justice requires equal preference satisfaction, society owes more to those with expensive tastes than those with modest preferences. This strikes many as unfair.⁷ Is the interest in autonomy supporting higher education an expensive taste? Martin argues that the interest justifying the right to free higher education is not a preference for higher education. Rather, our interest in autonomy justifies the right. Higher education provides opportunities to help individuals be autonomous. Thus, justice in higher education concerns the distribution of a resource, in this case, the right to an opportunity to pursue higher education for free. If the right is a resource given to responsible adults (those ready and willing for higher education), then it is fair they bear the costs and benefits of how they use this resource.⁸ Justice does not demand we fulfil preferences for higher education. Martin’s right to higher education is universal, qualified, and responsibility-sensitive.

Pity the Unready and the Unwilling

Bad Brute Luck and Unreadiness for Higher Education

Some people will never be ready to enjoy the goods of higher education. Consider those who, due to bad brute luck, experience various kinds of cognitive, behavioural, psychological, or physical impediments. Such people will have goals for their lives, and therefore interests in autonomy. However, higher education may harm them. Pressures of academic study may

threaten their psychological well-being; demands of practical training may be beyond their physical abilities. Or consider those who are unready due to the bad brute luck of an inadequate basic education. Martin argues that interests in personal autonomy justify compulsory basic education. However, even though basic schooling is compulsory in many countries today, some children do not obtain a basic education through bad brute luck, such as illness, neglect, failed home education, and exclusion.

Martin makes clear that higher education is not the sole social institution through which autonomy support should be provided. Rights to other autonomy supporting institutions should be available to those who suffer the bad brute luck to be unready to claim the right to higher education. But the unready due to bad brute luck are at risk of expressive harm under Martin's argument.⁹ On Martin's perfectionist view, a person who takes advantage of the goods of higher education is supporting their autonomy. Those unable to take advantage of this good risk being stigmatised as incapable of supporting their autonomy. The harmful stigma is an injustice because the state expresses its approval of those pursuing higher education by providing generous funding. What attitude does such a perfectionist state express towards those who cannot support their autonomy through higher education?

Martin might reply that the right to higher education should be no more important than rights to other autonomy supporting institutions. But this puts Martin on the horns of a dilemma: infeasibility or further stigmatisation. In order to address the danger of the expressive harm suffered by those incapable of claiming the right to higher education, the state would need to provide equal opportunities to any institution that supported an individual's autonomy. How do we determine which institutions provide such support? Is such generous support for autonomy feasible?¹⁰ The opposite horn of the dilemma is to provide institutions which compensate the unready because of their bad brute luck. Perhaps

the unready receive help to cope with exclusion from a society characterised by near universal participation in higher education. This expresses pity, not equality.

Bad Option Luck and Unwillingness to Claim the Right to Higher Education

Some people are unwilling to claim the right to higher education through choice. For example, child-rearing, elder care, and family illness can all mean individuals have to choose between caring or higher education. Luck egalitarianism is accused of holding voluntary carers responsible for the disadvantages that follow from their choices.¹¹ Martin's argument seems to imply that such carers are 'unwilling' to support their autonomy through higher education. Consequently, they have no claim on free goods of higher education. According to Martin, this is likely to affect carers' prospects for autonomy. Additionally, their exclusion from free higher education will probably mean poorer economic prospects. They seem faced with an invidious choice between caring and its costs, or the pursuit of higher education and its benefits for autonomy and prosperity. As Elizabeth Anderson famously remarked, this is '...egalitarianism for egoists alone.'¹²

Facing a different problem are those who are unwilling to endorse autonomy. For example, certain Christian religious orders value higher learning.¹³ However, members of these orders are required to vow obedience and thus forgo autonomy in key areas of their lives. If such devout are unwilling to accept autonomy as a goal of higher education, it follows from Martin's argument that they have no claim on the right to free higher education: they must pay for it themselves. This discriminates unfairly against those whose conscience conflicts with Martin's commitment to autonomy as an important goal in life.

Conclusion

What should we do about the injustices facing the unready and unwilling under Martin's right to higher education? I see three options for Martin. First, 'bite the bullet' and affirm the consequences for the unready and unwilling that I have explained. Perhaps it could be argued

that the unready and unwilling have no claim on free higher education. Second, is to abandon responsibility-sensitivity and its threshold of readiness and willingness. This might fix the injustice, but at the cost of radical implications for the right to higher education. If all were entitled to access higher education, regardless of readiness and willingness, the character of higher education would be transformed. A third option is to elaborate further how rights and responsibilities can be reconciled within a luck egalitarian conception of justice in higher education. Other luck egalitarians have grappled with similar tensions.¹⁴ Without further elaboration of how this might fit within the argument for the right to higher education, I remain pessimistic that injustices to the unready and unwilling can be avoided. However, I am entirely optimistic that Martin's impressive work will spark a debate that will further our understanding of justice in higher education.

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Declaration of Competing Interests

None

References

Anderson E (1999) What Is the Point of Equality? *Ethics* 109(2): 287–337.

Anderson E and Pildes RH (2000) Expressive Theories of Law: a general restatement. *University of Pennsylvania Law Review* 148: 1503–1575.

Dworkin R (1981a) What is Equality? Part 1: Equality of Welfare. *Philosophy & Public Affairs* 10(3): 185–246.

Dworkin R (1981b) What is Equality? Part 2: Equality of Resources. *Philosophy & Public Affairs* 10(4): 283–345.

Go J (2021) Two-Level Luck Egalitarianism: Reconciling Rights, Respect, and Responsibility. *The Journal of Value Inquiry* 55(3): 543–566.

Martin C (2022) *The Right to Higher Education*. Oxford University Press.

O’Brien D (2023) Fairness, Autonomy, and a Right to Higher Education. *Theory and Research in Education* 21(1): 88–92.

Stemplowska Z (2009) Making Justice Sensitive to Responsibility. *Political Studies* 57(2): 237–259.

Stemplowska Z (2013) Luck Egalitarianism. In: Gaus G and D’Agostino F (eds) *The Routledge Companion to Social and Political Philosophy*. Abingdon, Oxon: Routledge, pp. 389–400.

Tan K-C (2012) *Justice, Institutions, and Luck: The Site, Ground, and Scope of Equality*. Oxford University Press.

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¹ Martin conceives higher education broadly to include any post-compulsory education or training.

² (Martin, 2022: 1)

³ (Martin, 2022: 235 fn. 12)

⁴ For a helpful overview, see (Stemplowska, 2013)

⁵ This outline omits many puzzles regarding how to characterise choice and luck, and the varieties of positions on these and other issues developed by different luck egalitarians. For the original statement of the brute/option luck distinction, see: (Dworkin, 1981b)

⁶ (Martin, 2022: 211)

⁷ For more on the ‘expensive tastes’ objection, see (Dworkin, 1981a)

⁸ (Martin, 2022: 205–211)

⁹ For more on expressive harms, see: (Anderson and Pildes, 2000)

¹⁰ David O’Brien develops this ‘overgeneralisation’ concern further, see: (O’Brien, 2023)

¹¹ See Anderson’s discussion of ‘vulnerability of dependent caregivers’ (Anderson, 1999: 298) and Stemplowska’s discussion of the ‘poor carer’ (Stemplowska, 2009: 242)

¹² (Anderson, 1999: 300)

¹³ For example, the Order of Preachers: <https://www.bfriars.ox.ac.uk/discover/>

¹⁴ For example see (Go, 2021; Stemplowska, 2009; Tan, 2012)