*Luck Egalitarianism and Disability Elimination*

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Abstract

Luck egalitarianism’s commitment to neutralizing brute luck inequalities is thought to imply that the elimination of disabilities is an appropriate way to eliminate the unchosen disadvantage that often accompanies disabilities. This implication is not only intuitively objectionable to some, especially those concerned with disability justice, but is subject to objections from relational egalitarians that should be taken seriously. This paper defends the claim that disability elimination is not a natural implication of luck egalitarian theories of justice and that luck egalitarians can avoid the related relational egalitarian objections. I take this to be the case because luck egalitarians can consistently endorse three commitments that, together, take disability elimination off the menu of possible ways to redress the disadvantage of persons with disabilities. These three commitments are: i) the rejection of the view that disability intrinsically makes a person worse off; ii) the endorsement of the fundamental equality of all persons; and iii) the view that luck egalitarianism advances a theory about the arrangement of social institutions.

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*Introduction*

The moral and political implications of modifying existing and future persons commanded significant attention from philosophers from the mid-1990s to the early 2000s as a response to the Human Genome Project. Political philosophers in particular have been concerned with specific considerations related to gene editing and have focused on two questions. The first is, given that the modification of human beings could have significant implications for the distribution of advantages and disadvantages, and the well-off already benefit from this distribution, how should the means enhance our abilities be distributed so as not to exacerbate existing inequalities, but also produce the most benefit for a society? The second question bears on, but is importantly separate from, the first: Does justice require us to genetically modify, or otherwise eliminate, the traits or features of persons? In short: Do we have *reasons of justice* to genetically intervene or modify persons?

In response to the second question, which is the question I am concerned with here, some philosophers have advanced the claim that the “treatment” or elimination of disabilities could bring about a more just because more *equal* state of affairs. Proponent of luck egalitarianism, Shlomi Segall holds that any and all “unchosen disadvantages”, such as disability, should be eliminated in the name of equality of opportunity.[[1]](#endnote-2) So, it is taken to be an implication of this view that the elimination of disabilities would bring about a more just because more egalitarian state of affairs.[[2]](#endnote-3)

But is it true that the luck egalitarian aim of neutralizing brute luck inequalities, or eliminating unchosen disadvantages, requires the endorsement of the elimination of disabilities? At first glance and, indeed, according to some commentators as well as luck egalitarians themselves, this just is an implication of the theory.[[3]](#endnote-4) This implication is not only intuitively objectionable to some, especially those concerned with disability justice, but is subject to objections from relational egalitarians that should be taken seriously. The first is that disability elimination fails to show or treat the disabled persons as equals. Rather, such a form of redress casts disabilities as “unfortunate” and persons who have disabilities as even “inferior” or of lower status. The second objection is that including disability elimination “on the menu” of the possible ways to redress inequalities highlights luck egalitarianism’s lack of concern (or principled reason) to pursue *ex ante* interventions that seek to restructure social institutions broadly construed, so as to *prevent* socially imposed disadvantage in the first place. Instead, the objection goes, luck egalitarianism has perhaps equal reason to eliminate or mitigate inequalities via *ex post* interventions, such as resource transfers or, in our case here, the elimination of an unchosen feature such as a disability that presents an “obstacle” to one’s equality according to some metric.

This paper defends the claim that disability elimination is not a natural implication of luck egalitarian theories of justice as such and that luck egalitarians can avoid both relational egalitarian objections outlined above. I take this to be the case because luck egalitarians can consistently endorse three commitments that, together, take disability elimination off the menu of possible ways to redress the disadvantage of persons with disabilities. I furthermore show that one of these commitments also serves the function of giving luck egalitarian theories positive and principled reasons to pursue *ex ante* interventions, or social or structural modifications to prevent socially imposed disadvantages from tracking disabilities. These three commitments are: i) the rejection of the view that disability intrinsically makes a person worse off; ii) the endorsement of the fundamental equality of all persons; and iii) the view that luck egalitarianism advances a theory about the arrangement of social institutions.

 The structure of the paper is as follows. First, I present the case that luck egalitarians do endorse, at least as much as any other form of redress, disability elimination and some reasons why this implication is objectionable. In section two, I present my case that resists this implication, namely, that there are three commitments luck egalitarians should endorse to resist this implication and the objections to it. Finally, I demonstrate why these commitments, taken together, deflate the objections from relational egalitarians against luck egalitarianism.

1 *Luck Egalitarianism and Disability Elimination*

Luck egalitarianism (LE), a term coined by Elizabeth Anderson, refers to a family of theories of distributive justice which hold that inequalities are unjust when they are due to brute luck, or factors for which a person cannot be held responsible, and permissible when they reflect factors, such as choices, for which a person can be held responsible. According to both proponents and critics of luck egalitarianism, it is supposed that the theory implies, where possible, the elimination of disabilities.[[4]](#endnote-5) This is because disability is, especially for our purposes here, unchosen and is the salient factor for why one is disadvantaged. For luck egalitarians, it is unimportant whether this disadvantage is due to the disability itself or because of society’s being structured in such a way so as to impose obstacles on persons because they’re disabled. [[5]](#endnote-6) That one suffers disadvantage on account of their disability is a matter of *brute luck* and therefore requires egalitarian redress.[[6]](#endnote-7) The LE argument for disability elimination can be stated as follows:

1. “[A]ll preventable disadvantageous conditions that are unchosen ought to be eliminated.”[[7]](#endnote-8)
2. The disabled suffer disadvantage on account of their disabilities.
3. Disabilities are unchosen.
4. Therefore, disabilities ought to be eliminated.

Disability elimination is on the menu as a form of egalitarian redress, for LE, for two reasons. The first is that LE does not endorse a moral difference between social and natural disadvantages, or “the ‘bad luck’ of being born with an intrinsically disadvantageous set of physical abilities.”[[8]](#endnote-9) Consider, for example, three claims from Shlomi Segall about LE:

“[J]ustice requires neutralizing *all* obstacles for which the agent is not responsible, that is, *both social and natural*.”[[9]](#endnote-10)

“According to luck egalitarianism, all preventable disadvantageous conditions that are unchosen ought to be eliminated. It does not matter, on that reading, whether these unchosen and unwanted conditions are owed to *social* circumstances or to *natural* ones. Both kinds ought to be eliminated.”[[10]](#endnote-11)

“[L]uck egalitarians speak of a justice-based duty to eliminate (and alternatively, compensate for) disadvantaging conditions for which individuals are not responsible. […] Thus, according to the luck egalitarian view, society ought to fund biomedical treatment for any condition that:

1. is disadvantageous
2. could be fixed by biomedical intervention
3. it would be unreasonable to expect the individual to avoid.”[[11]](#endnote-12)

In short, then, because luck egalitarianism is disinterested in the source of the disadvantage in question, whether social or natural, it will be also insensitive to the kindsof things it takes to be subject to egalitarian redress, such as the natural features of a person or the social obstacles that unequally distribute burdens on the basis of those natural features.[[12]](#endnote-13) Indeed, for Segall, LE (or his account, at least) is “committed to the view that differences in genetic propensity constitute unjust inequalities and as such warrant rectification.” [[13]](#endnote-14)

Second, LE is indifferent about the way in which inequalities are redressed, so long as the inequality or disadvantage is eliminated (or, where elimination is not possible, mitigated).[[14]](#endnote-15) In this way, LE endorses disability-elimination as a form of redress at least as much as any other social or environmental modifications that might eliminate (or mitigate) the disadvantage associated with being disabled (so long as the forms of redress either equally eliminate or mitigate the disadvantage).[[15]](#endnote-16) Thus, insofar as LE does not draw moral distinctions between the *source* of disadvantages (natural or social) nor the way in which those disadvantages should be eliminated, it is thought that LE endorses the elimination of disabilities as a means to redress inequalities between the disabled and nondisabled, or at least as much as any other form of redress that would similarly redress this inequality.

Now, one shouldn’t infer from this that the elimination of disability is the *only* way in which the relevant disadvantage can be redressed. It only show that the disability elimination is, so to speak, on the menu for luck egalitarians. And, further, insofar as LE lacks a principle to adjudicate between different forms of redress, so long as they do not themselves upset brute luck equality, LE also lacks a reason to reject disability elimination as a means of redressing the inequalities between the disabled and nondisabled. It is my argument that LE can take disability elimination off the menu.

*The Relational Objections of LE and Disability Elimination*

While LE initially gained notable popularity among theorists of justice including G.A Cohen, Richard Arneson, John Roemer, Peter Vallentyne, and Philippe Van Parijs, it has fallen out of fashion since the late 90s due to influential criticisms mounted by Elizabeth Anderson,[[16]](#endnote-17) Marc Fleurbaey,[[17]](#endnote-18) Jonathan Wolff,[[18]](#endnote-19) and Samuel Scheffler.[[19]](#endnote-20) According to the well-known objection from Anderson, this apparently intuitive conception of equality, on account of its sensitivity to people’s choices and ambitions coupled with an insensitivity to morally arbitrary matters like one’s endowments, turns out to be entirely wrong-headed about equality. LE, it is argued, expresses disrespect and pity towards the bearers of brute luck and is unnecessarily harsh towards, or leaves destitute, those who are worse-off on account of imprudent choices.[[20]](#endnote-21) This objection can be mobilized against LE’s implication of disability elimination. That is, to endorse the view that the redress of inequalities faced by persons with disabilities should come in the form of “treating” or eliminating disabilities is inconsistent with the equal status and treatment due persons with disabilities and expresses disrespect towards them in treating them as unfortunate bearers of bad luck or objects of pity.[[21]](#endnote-22) Disability elimination is akin to saying to the disabled:

“Your defective native endowments or current disabilities, alas, make your life less worth living than the lives of normal people. To compensate for this misfortune, we, the able ones, will [eliminate your disabilities], to make the worth of living your life […] comparable to someone else’s life.”[[22]](#endnote-23)

A second relational egalitarian objection has been advanced by Cynthia Stark, who argues that LE’s inability to “make a principled distinction between social and natural differences” compels them to “endorse only *ex post* interventions”, such as, on my view, disability elimination.[[23]](#endnote-24) And, “[i]n the absence of *ex ante* interventions for ameliorating unfortunate *social circumstances*, […] many capable disabled people will be prevented from getting attractive jobs and from attending college, graduate and professional school.” [[24]](#endnote-25) Not only is LE’s response to the disabled’s disadvantage potentially insufficient, it also has objectionable consequences, since the the disabled “will suffer the stigma and marginalized status associated with being economically unproductive.”[[25]](#endnote-26) The argument here attacks not the implication of disability elimination head-on, but also challenges LE’s indifference to the moral salience in distinguishing between natural and social sources of disadvantage. It charges that this indifference doesn’t provide LE with any principled reason to favour interventions into or modifications of social structures and obstacles that impose disadvantages on the disabled, and as such makes LE’s possible forms of redressing this disadvantage insufficient or even stigmatizing, like in disability elimination.[[26]](#endnote-27) These two relational egalitarian criticisms of LE’s implication of disability elimination are summarized well by Putnam et al:

“At best, [LE] theories have been seen as failing to attribute normative significance to morally relevant differences between identical patterns of distribution which differ in the causal contribution of the social environment. At worst, these theories have been criticized for expressing disrespect towards people with disabilities in virtue of characterizing them as “mere” unfortunates or objects of pity.” [[27]](#endnote-28)

For LE to avoid the implication of disability elimination and the relational critique, it is thought that some supplementary principle is required in order to favour policies that select for redressing socially imposed disadvantages rather than disability elimination.[[28]](#endnote-29) But I propose that we have reasons of luck egalitarian justice to resist disability elimination, and with it the objections from relational egalitarians. I argue that three commitments help LE avoid the implication of disability elimination and the relational critique of it.[[29]](#endnote-30) All three commitments flow from, or are consistent with, LE; they don’t require the proponent of LE to abandon or take on board controversial or even supplemental positions, principles, or values.

2 *How Luck Egalitarianism can Resist endorsing Disability Elimination.*

2.1 (i) *Disability as Mere (not bad) Brute Luck*

There exists the thought that disabilities are *intrinsically* connected to lower levels of relevant metrics of justice like subjective welfare, objective wellbeing, and resources, and is held widely in both academic literature and the public more broadly.[[30]](#endnote-31) This view has come to be labeled by Elizabeth Barnes as the “bad-difference view of disability.” According to this view, “disability is something inherently bad for you”[[31]](#endnote-32) or “disability is by itself something that makes you worse off”, that is “not only is having a disability a bad thing, having a disability would still be a bad thing even if society was fully accommodating of disabled people.”[[32]](#endnote-33) Opposing this is the “mere-difference view” which instead holds that “having a disability makes you physically non-standard, but it doesn’t (by itself or automatically) make you worse off.”[[33]](#endnote-34) I think Barnes’ distinction is relevant for analyzing and evaluating the disability eliminative implication of LE.

Consider two views about disability in the context of LE: *Bad Brute Luck* and *Mere Brute Luck*. The former holds, like the bad-difference view, that to be disabled is a matter of *bad* brute luck since to be disabled just means to be intrinsically or automatically worse-off in regards to some metric. The Mere Brute Luck view holds that disability does not alone make one worse-off than the nondisabled in regards to some metric. Mere Brute Luck does not exclude the possibility that the disabled are more likely to be worse-off, but that this is attributable to social, environmental, or otherwise external factors which impose disadvantage by tracking disabilities.

Bad Brute luck is sufficient, but not necessary, for endorsing disability elimination. That is, when disability is itself a matter of Bad Brute Luck, then LE is *mandated* to pursue disability elimination, if possible. On the other hand, disability elimination isn’t strictly *mandated* according to Mere Brute Luck. When disability is an instance of Mere Brute Luck, and some person with a disability is disadvantaged relative to another who isn’t disabled, LE has *no stronger reason* to endorse disability elimination over, say, social or structural modifications to accommodate the disabled.

Bad Brute Luck and Mere Brute Luck’s discrepancy in their possible forms of redress is due to where they locate the fundamental *source* of the disadvantage. For Bad Brute Luck, it’s always the case that, for any social context, some disabled person will be worse-off than the nondisabled and this is explained by the disability itself. As such, there aren’t any other ways to *eliminate* the inequality between the disabled and the nondisabled, except to eliminate the disability.[[34]](#endnote-35) So, on this view, and if possible, disability elimination is mandated by LE. Mere Brute Luck, on the other hand, does not locate the source of the disadvantage in the disability itself. Instead, it says that external factors contribute to the disabled’s disadvantage. As such, Mere Brute Luck leaves space for *other* ways to eliminate the disadvantage. However, Bad Brute Luck isn’t *necessary* for disability elimination because Mere Brute Luck does not, by itself, take disability elimination entirely off the menu. This is because LE does not object and seek to redress only *bad* brute luck, but any inequalities due to brute luck more generally.

Importantly, nothing commits LE to the Bad Brute Luck view. In what follows, I provide some reasons why LE *should* endorse Mere Brute Luck instead. I do so because while Bad Brute Luck is *sufficient but not necessary* for disability elimination under theories of LE, Mere Brute Luck is *necessary but not sufficient* for LE to take disability elimination off the menu. To build this case in favour of the Mere Brute Luck view of disability, I will consider popular candidates for metrics of luck egalitarian justice, namely, equality of opportunity for subjective welfare, equality of opportunity for objective wellbeing, and equality of access to advantage (or welfare and resources). I show that it isn’t obvious that the disabled are intrinsically worse-off according to any of these metrics and so we should reject the Bad Brute Luck view of disability in favour of the Mere Brute Luck view.

2.1.1 *Equality of Opportunity for Subjective Welfare*

LE theories of equality of opportunity are (perhaps confusingly) fundamentally concerned with *outcomes,*[[35]](#endnote-36) or, make backward-looking evaluations of states of affairs. According to LE, two agents are unequal in their opportunities when A’s opportunity set makes them better-off than B’s, the reasons for which are beyond B’s control. LE equality of opportunity, then, requires compensation for B’s inequality in opportunity. Richard Arneson is one such defender of LE equality of opportunity with respect to people’s equality of opportunity for *welfare*.[[36]](#endnote-37) In particular, Arneson holds an egalitarian view about opportunities for subjective preference satisfaction: “For equal opportunity for welfare to obtain among a number of persons, each must face an array of options that is equivalent to every other person's in terms of the prospects for preference satisfaction it offers.”[[37]](#endnote-38) That is, on this view, the *content* of those goods which make a person better-off are instrumental and dependent upon the person’s preferences for them. Two people are equal to the extent that the prospects for the satisfaction of their respective preferences are equal. In this way, so long as an agent has preferences and they can be satisfied, then, all things being equal, there’s no reason to suggest that equality of opportunity *cannot* obtain.

The question, then, is whether Bad Brute Luck can plausibly construe persons with disabilities as *always* worse-off than nondisabled persons in terms of their prospects for subjective preference satisfaction.[[38]](#endnote-39) My initial response is, as you might guess, “no,” but there are two related issues with this view.[[39]](#endnote-40) The first has to do with the possibility of disabilities impacting the likelihood of satisfying one’s preference, such as a blind person’s preference to see with 20/20 vision. But, for Bad Brute Luck to succeed, this inequality in opportunity for welfare as preference satisfaction, depends on people with disabilities *always* having such preferences or that disabilities are always barriers to the disabled preferences, and this seems implausible. However, a second and related issue arises in regard to *adaptive preferences*, that is, persons with disabilities might not develop the right kinds of preferences for those abilities which they lack, just because they have adapted to their way of living, which just is worse (according to Bad Brute Luck). Some, like Lippert-Rasmussen, suggest that “the objection from adaptive preference formation seems to be grounds […] for revising equality of opportunity for welfare so that it applies to preferences that individuals *would have had* in the absence of objectionable processes of adaptive preference formation.”[[40]](#endnote-41) But many authors have pointed out, I think correctly, that this response denies the *subjectivity* of the subjective preference satisfaction view and, instead, requires some set of objective or intrinsic goods that make people better-off independent of a preference for them.[[41]](#endnote-42) So, the equality of opportunity for preference satisfaction view of Arneson seems to be incompatible with Bad Brute Luck. However, we might end up with good reasons to reject subjective preference satisfaction anyway, since it seems compatible with people having adapted their preferences to morally objectionable circumstances and developed a low standard of taste or even a preference for their lives under the conditions of, for example, oppression.

2.1.2 *Equality of Opportunity for Objective Wellbeing*

For Bad Brute Luck to be true, it is required that we hold that people with disabilities are *necessarily* barred from living lives of equivalent (or comparable) wellbeing or welfare as their nondisabled counterparts. Elizabeth Barnes[[42]](#endnote-43) has recently termed the assumption of a necessary relationship between disability and less wellbeing (however construed) as the *bad-difference view* of disability, and subjects it to much scrutiny. One way of cashing out wellbeing is the next, natural candidate: objective or Aristotelian theories of wellbeing. According to these theories, one is better- or worse-off independently of their attitudes towards some good, which is to say that there are some goods that have *intrinsic worth* to people’s lives. So, in the case of disability, there are some goods that the possession of a disability prevents an agent from enjoying: “Disability is the type of thing that is an automatic or intrinsic cost to your well-being.”[[43]](#endnote-44) As Barnes observes, however, that “disability always involves the loss of an intrinsic good is not sufﬁcient for commitment to a bad-difference [or Bad Brute Luck] view.”[[44]](#endnote-45) This is because while hearing might be considered an intrinsic good that the deaf lack, it might be the case that the deaf *gain* a different intrinsic good, such as “the unique experience of language had by those whose ﬁrst language is a signed rather than spoken language, the experience of music via vibrations, etc.”[[45]](#endnote-46) This, of course, isn’t to say that objective list views of wellbeing or flourishing are always (or even mostly) consistent with the possession of a disability, but only that objective list theories *are not always inconsistent* with the possibility of equal or comparable levels of wellbeing or flourishing. As Barnes summarizes:

“It’s perfectly consistent for an objective list view of well-being to simply leave out non-

disability from their list of things that a ﬂourishing life requires. Likewise, it’s perfectly

consistent for them to maintain that disability always incurs a loss of some objective

good, but can also create opportunities for experiencing other, different objective

goods—perhaps ones not available to the non-disabled.”[[46]](#endnote-47)

It is a matter of a separate, substantive and normative debate as to whether or not objective list theories: a) are *true* about the status of wellbeing (as opposed to subjectivist views about welfare) and b) should endorse the view that wellbeing requires disability-freeness.[[47]](#endnote-48) However, these debates cannot be settled appropriately within the limits of this paper.

This might fail to satisfy the preferences of many, and so I will provide one other reason for doubting the truth of Bad Brute Luck about disability in regards to opportunity for objective wellbeing, which, if true, would mandate disability elimination. More recently, as S. Andrew Schroder points out about wellbeing and welfarist views, the more modest thesis that disability is Not-Very-Bad, which holds that under conditions of just society the lives of the disabled “would on average have at most a small to moderate negative impact on individual well-being”, does not entail that the disabled are unequal in their opportunities of the nondisabled.[[48]](#endnote-49) Schroeder’s arguments suggest that, on a weaker view than Barnes’s mere-difference view, we can still reach the conclusion that, ceteris paribus, persons with disabilities are no worse off in terms of their *opportunities* than the nondisabled, even if there is a moderate impact on their individual well-being in virtue of their disability. Therefore, one can hold that disability might objectively have a *small* impact on a person’s wellbeing and still maintain that disability elimination, on the grounds of *opportunity* for objective wellbeing, doesn’t hold.

2.1.3 *Equality of Access to Advantage or Opportunity for Welfare and Resources*

G.A Cohen’s equality of access to advantage is a combination of opportunity for welfare and equality of resources.[[49]](#endnote-50) Having considered the former as presented by Arneson, I will now consider the resourcist component of Cohen’s view. According to the resourcist view, disabilities constitute a lack of *internal* resources (such as the ability to see, hear, or walk), which are, normally, compensated by *external* resources (such as money or in kind goods).[[50]](#endnote-51) On this view, that a disabled person enjoys equality of opportunity for preference satisfaction is insufficient for egalitarian justice, however, since they should *also* be compensated for their internal resource deficiency: “When compensating for disability, egalitarians […] propose compensation for the disability as such, and not, or not only, for its deleterious welfare effects.”[[51]](#endnote-52) While external resources *mitigate* this inequality in internal resources, the possibility of disability elimination via, say, genetic modifications or interventions, allows for the full *elimination* of the inequality in question. So, where disability elimination is possible, it appears at first glance that Cohen’s access to advantage endorses disability elimination as a means for redressing internal resource inequalities.

The resource view, at least the account presented by Cohen and Ronald Dworkin, is not committed to endorsing disability elimination, since this depends on whether disability is understood as Bad Brute Luck or Mere Brute Luck.[[52]](#endnote-53) In support of the Mere Brute Luck reading of inequalities in resources, Dworkin himself suggests: “that a design of equality of resources should provide for an initial compensation to alleviate differences in physical or mental resources, is troublesome in a variety of ways. It requires, for example, some standard of ‘normal’ powers to serve as the benchmark for compensation.”[[53]](#endnote-54) To build on this remark, there is the difficulty of finding an independent metric with which to measure not only a *difference* in internal resource holdings, but also to establish an *inequality* in internal resources. In regards to measuring the former, there is the question of whether our measurements should be as fine-grained as differences in *genes* or as coarse-grained as differences in the *expression of those genes*. Further, there is the issue of incommensurability, or how to make interpersonal comparisons between two different sets of internal resource deficiencies, like an agent who is blind and another who has chronic pain. More relevant to this inquiry, however, is the question of the connection between resources and disability elimination. Such an account of internal resources would have to inform us about not only *differences*, but also *inequalities* that don’t hang on mere preferences or some judgment about the differential holdings in external resources, which could be attributable to unfavorable social conditions for those with disabilities. That is, whether there is an inequality in internal resource holdings, as opposed to a mere difference, depends on whether there is an independent standard that makes differences *unequal,* which would then requires disability elimination to redress. Such a standard would have to be reliably immune to influences like, for example, an individual’s idiosyncratic or mere preferences for an internal resource (in which case resources as a metric would collapse into preference satisfaction), social pressures that influence or shape preferences for such resources, as well as mistakenly reading internal resource inequalities off of external resource inequalities that are socially determined or distributed and track disabilities.[[54]](#endnote-55) Therefore, the Bad Brute Luck view in regards to an intrinsic connection between disabilities and internal resource inequalities, as opposed to mere differences in internal resources, simply raises more questions than it answers.

In sum, for LE to avoid the implication of endorsing disability elimination, it needs to at least reject the Bad Brute Luck account of disability. I have shown that there is good reason for rejecting Bad Brute Luck views in favour of Mere Brute Luck instead. But it’s not the case that a commitment to the Mere Brutal Luck view alone allows LE to avoid the implication of disability elimination. I will next consider a second commitment that needs to be held in conjunction with Mere Brute Luck, for LE to avoid endorsing disability elimination.

2.2 (ii) *Fundamental Equality of Persons with Disabilities*

Distributive theories of egalitarian justice, of which LE is one, have three key components: 1) A principle about the “equal moral worth of persons”; 2) A principle which mandates “that persons are entitled to equal concern by social and political institutions in the assignment of benefits and burdens”; and 3) A distributive principle that outlines what people are equally entitled to according to “the distribution of a certain currency.”[[55]](#endnote-56) In this section, I argue that LE’s commitment to (1) supplies us with a reason against endorsing disability elimination as a way of redressing inequalities between the disabled and nondisabled. This is because while disability elimination might bring about a more egalitarian outcome, it fails to produce a distribution that *respects* the fundamental equality of persons disabilities. That is, while disability elimination does not disrespect the fundamental equality of *persons* more generally insofar as it neutralizes brute luck inequality, it *fails to respect* (or does not respect) the fundamental equality of *persons* *with disabilities* in particular.

To start, LE need not (nor should it) endorse brute luck neutralizing distributions for their own sake. Egalitarian justice is, after all, a normative concept that gains its moral weight from how it relates to persons. If it turned out that egalitarian justice was bad in all regards for the relevant moral community to which it applies, it would cease to be a normative aim of a society. So, while LE endorses distributive patterns that neutralize the influence of brute luck, they do so because it is normatively desirable and it is normatively desirable insofar it, at least, responds to the fundamental equality of the persons entitled to the benefits (and burdens) it distributes. This sentiment about the normativity of egalitarian justice is expressed by prominent defenders of LE. According to Kok Chor Tan:

“[L]uck egalitarians need not start off with some independent obsession with luck and the importance of neutralizing differential luck per se. They are foremost egalitarians agitated by social and economic inequalities, and concerned with identifying a standard by which inequalities may be condoned as just or condemned and in need of redress. *Their basic idea of the equal moral agency of persons grounds the egalitarian default,* that is, the idea that *all persons as a general principle should be in a position to enjoy equal life prospects.*”[[56]](#endnote-57)

Carl Knight advances the claim that:

*Redistribution is performed out of respect for the fundamental equality of all persons that transcends the vagaries of particular unchosen circumstances.* The recognition and tackling of inequalities in these circumstances is *solely for the purpose of securing the fundamental equality of those individuals.*[[57]](#endnote-58)

If, on the other hand, equality were desirable irrespective of how it responded to the moral equality among persons, then this would be, as Martin O’Neill puts it, “unduly obscure and abstract: as a merely arithmetic goal […] difﬁcult to understand the great badness of inequality, and the moral urgency of its eradication.”[[58]](#endnote-59) Thus, LE is best construed (and is construed) as a theory about the equal distribution of benefits and burdens in a way that attends to, at least, the fundamental equality or respect due persons.

*Respecting, Disrespecting, and Not respecting Fundamental Equality*

According to a LE commitment to (i), the fundamental equality or equal moral status of persons is what motivates LE and its endorsed distributive patterns,[[59]](#endnote-60) or conversely “a distributive arrangement that reﬂects not agents’ free decisions and choices but the circumstances that are forced on them, such as their good or bad luck, *fails to treat them as moral equals.*”[[60]](#endnote-61) I argue that this commitment also grounds LE’s respect for the fundamental equality of *persons with disabilities* or treatment of persons in ways that *respects* their differential traits. That is, if it’s the case that the nondisabled and disabled alike have equal moral status, and egalitarian distributions should respect this equal moral status, then egalitarian distributions should also respect those differential features between persons who share equal moral status. I will show that respect for differential traits, namely disabilities, requires that they be treated (as a form a respect) as a kind of independent variable for patterns of distribution, rather than treating them as mere objects of distribution.[[61]](#endnote-62)

Disability elimination does not respect those differential features of the disabled, but creates a more equal outcome *despite* those differences. More specifically, this it to say that the elimination of disabilities *does not disrespect* the fundamental equality of persons, since it produces an egalitarian outcome among the, now, nondisabled. Rather, disability elimination *does not respect* the fundamental equality of persons in virtue of their differential features or disabilities. This is the case because disability elimination responds to the inequality by eliminating the differences between persons. But respect for the equality of persons in virtue of their differences tells us that to respect these differences is to not *eliminate* them, but to modify the context in which the relevant difference, disability, converts into disadvantage. As Tan puts it:

“[B]y the recognition that as an equal member of society she is entitled to a social order in

which she is not socially disadvantaged compared with others just because of some natural

facts about her when alternative forms of social arrangements are available.[[62]](#endnote-63)“

So, while disability elimination might not actively fly in the face of a person in eliminating their differential features (which would otherwise be *disrespect*) insofar as it does bring about a more equal state of affairs, it does fail to show respect (or does not respect) the differences in virtue of which people are equal. Put differently, when distributions are attentive to the moral equality among a diversity of persons, including their differential abilities and disabilities, that distribution does not endorse or give equal weight to the elimination of traits among persons that are, under certain conditions, disadvantaging.

What it means to respect brute luck differences between persons requires two things. First, the *fundamental equality of persons* entails a presumptive reason to not treat differential traits as mere objects of a distribution, since doing so would be to not respect the equality people have *in virtue of those traits*. Second, and following from LE, those brute luck differences should not make one worse-off relative to another and so, respect for brute luck differences also requires redress for inequalities that track or are attributable, in part, to those differences.[[63]](#endnote-64) In tandem, respecting the fundamental equality of persons blocks disability elimination as a form of redressing the inequalities attributable to disability because it fails to respect brute luck differences.

For example, consider a society in which the members of a minority culture are disadvantaged relative to the members of the dominant culture. The differences between the first and second group are unchosen and render the first disadvantaged in this context.[[64]](#endnote-65) For an egalitarian like Will Kymlicka, the appropriate response is not the elimination of the minority culture (or the differences which make them the minority culture) just because their relative disadvantage tracks the fact that they are different from the dominant culture. Instead, something like compensation for those cultures so they can practice their beliefs and flourish seems more appropriate and in line with their being treated and respected as equals. I think we should think similarly about persons with disabilities. That is, one’s belonging to a minority culture is a matter of *brute luck* and can be *disadvantageous*, but equality does not tell us to eliminate the minority culture in the service of eliminating the disadvantages. Minority culture-elimination is objectionable, for LE, on the grounds that doing so would violate the fundamental kind of equality that persons possess, independently of their differences attributable to brute luck. Meanwhile, due compensation for the minority culture’s disadvantage is still preserved by LE, insofar as members shouldn’t be worse off due to brute luck. And so, I think same is true if we replace “members of a minority culture” with “persons with disabilities.” That is, disability is (for the purpose of this paper) unchosen and is a reason why the disabled suffer disadvantage. And if this is true, then we can conclude that disability elimination is too hasty in its treatment of disabilities as it would be for minority cultures: Respecting the fundamental equality of persons and the view that people shouldn’t be worse-off due to differences in brute luck takes disability elimination off of the menu of appropriate responses to disability inequality, and yet LE should still be responsive to those inequalities. This leaves us with two other options for redressing the disadvantage, social or structural enhancements and external resource enhancements (such as compensation via monetary or in-kind good transfers).[[65]](#endnote-66)

This principle for the just and respectful treatment of persons is defeasible where any person with a disability would prefer not to be disabled, where disability elimination is possible. That is, if we can eliminate the disability that the person themselves disprefers, then we have a reason of egalitarian justice to override the default position of respect for differential abilities. But, at the same time, the recognition of the fundamental equality of persons with disabilities motivates against disability elimination insofar as it fails to treat persons *with disabilities*, indeed, in virtue of their disabilities, as the kind of persons that have fundamental equal status as the nondisabled. In short, we have a presumptive reason to treat individuals with differential abilities as fundamentally equal unless we are provided with some agent’s preference for not having that differential trait, in which case disability elimination may be required. So, and it should be made clear that, it is not my position that justice *never* requires disability elimination. It is my position that disability elimination is not required of egalitarian justice for redressing the inequalities *between* the disabled and nondisabled. That one is entitled to disability elimination if they so choose is also a matter of egalitarian justice, but disability elimination is not, in this case, responding to an inequality between the disabled and nondisabled, but is rather an entitlement a disabled person has if they form the relevant preference.[[66]](#endnote-67)

 Given these mutually supporting commitments of LE, which give us good reason to have a default respect for persons, including their differential abilities or disabilities, we are given further reason to think that disability elimination is not a natural implication of LE. But this commitment, as noted above, does not supply LE with a reason to favour social or structural enhancements over external resource enhancements as the way to redress the inequalities between the disabled and nondisabled.

2.3 (iii) *A Luck Egalitarian Basic Structure*

In this section, I will develop a defense of LE as an institution-guiding account of justice[[67]](#endnote-68) to give LE positive reasons to pursue social or structural enhancements, instead of the remaining option of external resource enhancements. The latter refer to ways of compensating for the disadvantages of persons with disabilities by cash transfers or other proxies meant to redress the inequality in question. Furthermore, external resources enhancements is a form of compensation that relational egalitarians take to express disrespectful attitudes towards persons with disabilities, reinforcing the idea that they are objects of pity. Further, this form of compensation is sometimes insufficient for adequately redressing the *distributive* inequality between the disabled and nondisabled, insofar as cash transfers to compensate for lost job opportunities, resulting from discrimination or mistaken beliefs about the productive capacities of people with disabilities, addresses only an inequality in *income*, rather than, also, the initial violation of equality in *opportunity*. So, for LE to fully avoid the relational critique of its treatment of persons with disabilities, it should also have reasons to endorse social or structural enhancements as opposed to the expressively demeaning form of compensation of external resource transfers.

 An institutional reading of LE is by no means novel and has been defended by, most notably, Kok Chor Tan.[[68]](#endnote-69) For Tan, the major criticisms of LE can be avoided by an appeal to Rawls’ basic structure restriction, the position that principles of justice apply exclusively or primarily to the structure of major institutions in a society that have a pervasive impact in the lives of citizens through the distribution of liberties, opportunities, and other social primary goods.[[69]](#endnote-70) For Tan:

“Luck 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. So, only those natural contingencies that have an institutional consequence in this way fall within the scope of luck egalitarianism.”[[70]](#endnote-71)

Tan is, I think, incorrect about whether all natural contingencies should be within the mandate of LE to redress. The question is instead how to *appropriately* mitigate or eliminate inequalities due to bad luck. My own position is not that we should not, for example, mitigate or eliminate the inequalities between the disabled and nondisabled, but that the way in which we *should* do so is through social enhancements rather than the elimination of disability and resource transfers. Nor does one need to take on board Tan’s limits on the rightful targets of egalitarian response in order to *also* hold that LE should be guiding the way in which we structure institutions for the good of society. As I am trying to show over the course of Section 2, it takes a concerted effort of three key commitments that allows LE to avoid the implication of endorsing disability elimination and the relational critiques attached to it. None of these commitments tell us to *not* mitigate or eliminate *any* or *all* natural contingencies (see especially the discussion of preferences in 2.2 above).

Tan himself outlines the shortcomings of not having such an institutional (though not necessarily an *exclusively* institutional approach) approach when considering our egalitarian response to inequality and disability. In particular, he is critical of forms of redress like disability elimination and resource transfers:

On this institutional approach to luck and justice, it is also clear that luck egalitarians do not need to strive to make the (unlucky) disabled person as whole as possible and thus devote vast social resources to this end. […] Rather their aim is to create (or to reform) social and political institutions so as to not render this person’s disability into actual social disadvantage for her. This can take the form of instituting greater accessibility in public spaces, educational accommodations, additional health care support, etc. Or it may require the establishing of new and complementary institutional mechanisms to mitigate the potential unjust effects of existing institutions on these natural contingencies (e.g. by providing a special educational curriculum and opportunities for the disabled). These institutional responses are not wrong-headedly inspired by the goal of wanting to make the disabled person fully able or to compensate her as far as is possible for her natural misfortune [i], but by the recognition that as an equal member of society [ii] she is entitled to a social order in which she is not socially disadvantaged compared with others just because of some natural facts about her when alternative forms of social arrangements are available [iii].[[71]](#endnote-72)

So while I disagree with Tan’s ultimate conclusion about the limits on addressing brute luck inequalities, I am friendly to the view that LE be oriented towards the structure of basic institutions with a pervasive impact on the lives of people, by way of the distribution of goods. Indeed, for the reasons that Tan summarizes in the quote above, it takes the effort of three commitments for LE to not only avoid the implication of disability elimination, but also endorse social enhancements, rather than disability elimination and external resource enhancements, as the appropriate response to the inequalities between the disabled and nondisabled.

3 *Responding to Relational Egalitarian Objections to LE*

Commitments to Mere Brute Luck and the fundamental equality of persons with disabilities are mobilized against the claim that LE implies an endorsement of disability elimination as a way to redress the inequalities between the disabled and nondisabled. But the relational critique of LE attaches not only to its endorsement of disability elimination, but also its lack of focus on social and structural conditions that contribute to the disadvantages faced by persons with disabilities. This is because LE is still indifferent, or so it is thought, to two other forms of redress: social modifications and external resource transfers. Insofar as LE doesn’t have reason to favour the former over the latter, relational egalitarians, such as Jonathan Wolff, charge that this lack of a “principled reason for preferring other strategies […] is a serious weakness.”[[72]](#endnote-73) I argue, along with Tan, that the commitment to an institutional view of luck egalitarianism supplies us with such a principled reason for favouring social modifications or enhancements over resource transfers.

Within the LE framework, the first two commitments mandate us to *prevent* disadvantages instead of permitting disadvantages and compensating for it *ex post*. That is, when we hold Mere Brute Luck, then respecting the fundamental equality of persons requires the *prevention* of inequalities that would disrespect that equality. This is because to pursue compensation *ex post*, when the disadvantage could’ve been prevented, permits an inequality that is due to brute luck and “a distributive arrangement that reﬂects […] the circumstances that are forced on them, such as their good or bad luck, *fails to treat them as moral equals.*”[[73]](#endnote-74)In other words, to allow (or *not-prevent*) disadvantages when is it possible to prevent them violates LE insofar as it permits (otherwise preventable) inequalities that are due to brute luck. Therefore, when one is committed to the fundamental equality of persons, unequal distributions due to brute luck disrespects the fundamental equality of persons, thus supplying a principled reason to *prevent* inequalities *ex ante* than redressing them *ex post*, when possible.

So, the appropriate strategy for LE is not only to eliminate disadvantage resulting from bad luck, but to *prevent* inequalities from tracking or reflecting brute luck. Commitment to the institutional view means that such *ex ante* inequality-prevention should be pursued by structuring institutions so that matters of brute luck do not convert into disadvantage. Commitment to the institutional view, then, supplies the appropriate target of our egalitarian response, social and structural modifications, instead of external resource transfers.

 Further, because these three commitments are not supplemental or otherwise beyond the scope of LE as such, my arguments here also demonstrate that relational egalitarian criticisms of LE on the grounds of how it handles inequalities due to disability are fundamentally mistaken. This is because relational egalitarians are incorrect to assume that criticisms to undermine LE rather than optional assumptions about (i) the nature of disability and disadvantage, (ii) whether distributions are normatively grounded by the equal moral status of persons, and (iii) LE lacking a principled reason to favour *ex ante*. What’s more, relational egalitarians are not necessarily safe from the implication of disability elimination themselves. That is, by isolating the assumptions that are responsible for the endorsement of disability elimination, such as the Bad Brute Luck view, we can see that nothing precludes relational egalitarianism from endorsing this view, which mandates disability elimination. I think this possibility is demonstrated by the view advanced by Eszter Kollar and Michele Loi, for example, whose arguments entail that some cases of disability elimination (for those with disabilities caused by social inequalities) are justified on the grounds of relational equality. For Kollar and Loi, normal species functioning, from which disability is a deviation, is important “in order to be fully cooperating members of a society”[[74]](#endnote-75), which, for relational egalitarians like Anderson, has normative significance for relations of equality between citizens.[[75]](#endnote-76) And so, relational egalitarians, insofar as they are committed to a view about deviations from normal species functioning, such as disability, having an intrinsic relation to disadvantages in relational goods, they are similarly positioned to endorse disability elimination.

*Conclusion*

To recap, this paper aimed to defend the claim that luck egalitarian justice does not demand the elimination of disabilities and can have principled reasons to pursue social or structural modifications as a means of preventing disadvantage. Disability elimination as well as external resources transfers can be taken to express disrespect towards the fundamental equality of persons with disabilities. Since LE can endorse the three commitments outlined above, it is not committed and indeed has principled reasons to pursue social or structural modifications over disability elimination and resource transfers. Therefore, LE not only avoids the implication of disability elimination but also the heart of the relational critique of LE’s treatment of inequalities due to disability. Further, if the relational egalitarian objections advanced by Anderson, Wolff, and Stark are to be taken seriously, a theory of LE that lacks these three commitments lacks much guidance for egalitarian justice more generally. That is, if LE glosses over the moral significance of differences between social and natural causes of disadvantage and also lacks a principled reason in favouring targeted efforts to change the structure of institutions or social norms over monetary compensation or genetic editing, then LE would fall well short, in the absence of providing guidance on how to best redress inequality. It is my hope that I have provided such theoretical tools for luck egalitarians to take seriously those objections and take steps towards an adequate luck egalitarian theory of disability justice.

NOTES

1. Shlomi Segall, *Health, Luck, and Justice* (Princeton: Princeton University Press, 2009). Shlomi Segall, *Equality and Opportunity* (Oxford: Oxford University Press, 2013). [↑](#endnote-ref-2)
2. Two comments on scope should be noted. The first is that my argument is not about the *moral permissibility* of genetic interventions to eliminate disability, but rather only the question about whether egalitarian justice demands the elimination of disabilities as a way to eliminate inequalities that obtain between the disabled and nondisabled. This is important to note because, as I outline below, there might be *other* reasons of justice to eliminate disabilities when, say, a disabled individual expresses the preference to be not-disabled. Secondly, my chief concern is the claim that luck egalitarians endorse disability elimination as a means of eliminating disadvantage just as much as any other similarly effective means. This concern does not forgo the possibility of there being particular instances whereby the elimination of disability is required by egalitarian justice, but only that we do not have a pro tanto reason *in all cases* to eliminate disabilities. In other words, on my view it’s not the case that disability elimination is *always* morally objectionable or never required by justice. [↑](#endnote-ref-3)
3. Buchanan, Allen, Brock, Dan W., Daniels, Norman, Wikler, Daniel. *From Chance to Choice: Genetics and Justice*. (Cambridge: Cambridge University Press, 2000): Chapter 3, Putnam, Daniel, Wasserman, David, Blustein, Jeffrey and Asch, Adrienne, ‘Disability and Justice’, *The Stanford Encyclopedia of Philosophy* (Fall 2019 Edition), Edward N. Zalta (ed.), Holtug, Nils. ‘Does justice require genetic enhancements?’, *Journal of Medical Ethics,* 25, 2 (1999): pp. 137-143, Giubilini, Alberto and Minerva, Francesca. ‘Enhancing Equality’, *Journal of Medicine and Philosophy,* 44, 3 (2019): pp. 335-354, Savulescu, Julian. ‘Justice, Fairness, and Enhancement’, *Annals of New York Academy of Science,* 1093 (2006): pp. 321-338, Wolff, Jonathan. ‘Disability among equals’, in Kimberley Brownlee & Adam Cureton (eds.), *Disability and Disadvantage*. (Oxford: Oxford University Press, 2009). [↑](#endnote-ref-4)
4. Buchanan et al. op. cit. p. 73, Wolff op. cit. p.113, Putnam et al. op. cit., Segall 2009 op. cit. pp.121 and 127. According to Buchanan et al: “from the standpoint of the [LE] view, the distinction between natural inequalities that are diseases [or disabilities] and those that are not is insignificant, at least in principle. The real issue is whether inequalities in natural assets, as one form of brute luck, limit opportunities. If so […], they are a concern of justice.” p. 73. [↑](#endnote-ref-5)
5. A few clarifications on the concept of disability are in order. First, the sense in which I use disability in this paper does not hold tight to any metaphysical claim about the status of disability itself. I take my argument to be, in other words, compatible with realism about disability, according to which disability is defined just in terms of the functional limitations it has on the human body and can be said to track something about the natural world. I also take my view to be compatible with anti-realism, according to which disability cannot be reduced to, or defined by way of, only these matters of function. Second, I also assume that disability and illness come apart. This means that while my arguments might also apply to some cases of illness, I am not committed to holding all the same things I do concerning disability about illness as well. So it might be the case that illness elimination, or some cases of it, are required by justice (which I do not take to be controversial). The two are not, in other words, coextensive. When illness and disability do coincide, my account should be taken to be presumptively silent on these cases. Third, I restrict my arguments to *physical* disabilities or at least set aside severe cognitive disabilities. Again, this shouldn’t be taken to mean that the elimination of severe cognitive disabilities is required by egalitarian justice. I only think that the arguments against that view will be different from the ones I pose here. [↑](#endnote-ref-6)
6. As Wolff op. cit. notes: “disability is often regarded as a paradigm of bad luck (either in itself or in its effects), for which, it would immediately follow, compensation is due.” p. 114. [↑](#endnote-ref-7)
7. Segall 2009 op.cit. p. 121. [↑](#endnote-ref-8)
8. Putnam et al. op. cit. My emphasis. This quote is intended to be tongue-in-cheek. See also Cynthia Stark, ‘Luck, Opportunity and Disability’, *Critical Review of International Social and Political Philosophy,* 16, 3 (2013): pp. 383-402, Thomas Nagel, “Justice and Nature,” *Oxford Journal of Legal Studies* 17 no. 2 (1997): p. 305, Buchanan et al. op. cit., Segall (2013) op. cit. p. 121, Elizabeth Anderson ‘What is the Point of Equality?’, *Ethics*, 109, 2 (1999): pp. 287-337, Wolff op. cit. Not all of these authors speak specifically of disability elimination, but instead of the “treatment” of disability or other forms of redress that target the features or traits the disabled, rather than external causes, impositions, structures, and the like. In Matthew Palynchuk, ‘Disability, Disadvantage, and Luck Egalitarianism’, *Dialogue,* 58, 4 (2019): pp. 711-720, I suggest that Anderson’s objection that LE inappropriately targets disabilities instead of social structural conditions is misplaced and indeed turns on models or theories of disability, rather than anything about luck egalitarianism *per se.* [↑](#endnote-ref-9)
9. Segall 2013 op. cit. pp. 6-7. My emphasis. [↑](#endnote-ref-10)
10. Segall 2009 op. cit. p. 121. My emphasis. [↑](#endnote-ref-11)
11. Ibid, p. 127. Notice that disability satisfies these three criteria. I of course do not endorse the language of “fixed” or “treatment” when applied to disability, but one could replace either of those terms here with “eliminated”. [↑](#endnote-ref-12)
12. Daniel Putnam, et al., op. cit.: “various forms of luck egalitarianism do not distinguish between disadvantages caused versus merely not corrected by society’s institutions, provided that the relevant disadvantages are equally severe and equally unchosen by those disadvantaged.” [↑](#endnote-ref-13)
13. Segall2013 op. cit.p. 185 [↑](#endnote-ref-14)
14. See Ibid, p. 178 in regards to his luck egalitarian theory for health: “Justice requires narrowing the gap in opportunities for health between individuals, whichever resources it might take to do so.” Chapter 9 of Segall 2009 op. cit. explores at length and endorses the use of genetic enhancement technologies as a means to do so. Chapter 3 of Buchanan et al. op. cit. also considers how luck egalitarian theories would use genetic enhancement technologies to eliminate natural differences which contribute to disadvantage. [↑](#endnote-ref-15)
15. As Wolff op. cit. also points out, for LE, “[i]f society were concerned only with enhancing the opportunities of each particular disabled individual, this would generally provide reason to pursue policies of ‘personal enhancement’ (improving internal resources) or sometimes provision of external resources, rather than material or social change.” p. 113. As I indicate below, I take disability elimination to be a kind of personal ‘enhancement’, even though I do not think that the elimination of disability actually constitutes an ‘enhancement’, strictly speaking. [↑](#endnote-ref-16)
16. Anderson op. cit. [↑](#endnote-ref-17)
17. Marc Fleurbaey, ‘Equal Opporunity or Equal Social Outcome?’, *Economics and Philosophy,* 11, 1 (1995): pp. 25-55. [↑](#endnote-ref-18)
18. Jonathan Wolff, Fairness, ‘Respect, and the Egalitarian Ethos’, *Philosophy and Public Affairs,* 27, 2 (1998):pp. 97-122. [↑](#endnote-ref-19)
19. Scheffler, Samuel, ‘What is Egalitarianism?’, *Philosophy and Public Affairs,* 31, 1 (2003): pp. 5-39. [↑](#endnote-ref-20)
20. Anderson op. cit. [↑](#endnote-ref-21)
21. Ibid., p. 306. [↑](#endnote-ref-22)
22. Ibid., p. 305. [↑](#endnote-ref-23)
23. Stark op. cit. p. 397. [↑](#endnote-ref-24)
24. Ibid, pp. 397-8. My emphasis. [↑](#endnote-ref-25)
25. Ibid, p. 398. [↑](#endnote-ref-26)
26. Wolff op. cit. makes a very similar argument “luck egalitarianism—at least in the forms currently on offer—typically recommends a strategy which is rarely thought of as appropriate, or at least sufﬁcient, for addressing disability. […] these views lack a principled reason for preferring other strategies. In my view this is a serious weakness of such theories.” p. 115 These “other strategies” being social or structural modifications. [↑](#endnote-ref-27)
27. Putnam et al, op. cit. [↑](#endnote-ref-28)
28. Ibid. [↑](#endnote-ref-29)
29. Wolff op. cit. [↑](#endnote-ref-30)
30. Barnes, Elizabeth. *The Minority Body: A Theory of Disability*. (Oxford: Oxford University Press, 2016). [↑](#endnote-ref-31)
31. Ibid., p. 7. [↑](#endnote-ref-32)
32. Ibid., p. 55. [↑](#endnote-ref-33)
33. Ibid. [↑](#endnote-ref-34)
34. There is also the possibility of making the nondisabled similarly disabled, but I will set this option to the side. [↑](#endnote-ref-35)
35. Segall 2009 and 2013 op. cit., Putnam et al. op. cit. Fleurbaey op. cit. Importantly, LE is not concerned with *equality of outcomes*. [↑](#endnote-ref-36)
36. Richard Arneson, ‘Equality and equal opportunity for welfare’, *Philosophical Studies,* 56, 1 (1989): pp. 77 - 93. [↑](#endnote-ref-37)
37. Ibid, p. 85. [↑](#endnote-ref-38)
38. According to Wolff, “those who are disabled are thought to suffer from lower levels of welfare (typically preference satisfaction) than others, and so need compensation to bring them to an appropriate welfare level.” Wolff op. cit. pp. 114-115. [↑](#endnote-ref-39)
39. For a survey of the evidence that suggests the disabled are no worse off in terms of subjective welfare, see Barker, Matthew, Robert A Wilson, ‘Well-being, Disability, and Choosing Children’, *Mind*, 128, 510, (2019): pp. 305–328. [↑](#endnote-ref-40)
40. Kasper Lippert-Rasmussen, *Luck Egalitarianism* (London: Bloomsbury, 2016), p. 85. [↑](#endnote-ref-41)
41. Steven Edwards, *Disability: Definitions, Value and Identity* (Abingdon: Radcliffe Publishing, 2005), pp. 71-72, Matthew Barker and Robert Wilson op. cit. p. 315, and David Wasserman, “Distributive Justice” in Silvers, Anita, Wasserman, David, Mahowald, Mary B, and Becker, Lawrence C. *Disability, Difference, Discrimination: Perspectives on Justice in Bioethics and Public Policy* (Lanham, MD: Rowman & Littlefield, 1998), p. 151. For a terrific survey of views on the relationship between disability and well being, see Stephen M. Campbell and Joseph Stramondo, ‘The Complicated Relationship of Disability and Well-Being’, Kennedy Institute of Ethics Journal, 27, 2 (2017): pp. 151-184. As Barker and Wilson op. cit. point out, there are other ways to understand preference satisfaction, such as a list of objective considerations that are conducive to forming preferences and having one’s preferences satisfied. Some of these considerations might demonstrate that disabilities present barriers to those considerations that are conducive to subjective wellbeing. I will consider views like this in the following section. [↑](#endnote-ref-42)
42. Barnes op. cit. [↑](#endnote-ref-43)
43. Ibid., 60. [↑](#endnote-ref-44)
44. Ibid., 61. [↑](#endnote-ref-45)
45. Ibid., 57. [↑](#endnote-ref-46)
46. Ibid., 62. [↑](#endnote-ref-47)
47. There is the further point that theories or accounts of objective wellbeing that include disability-freeness might also simply be out-of-touch with the ways in which being disabled doesn’t frustrate objective wellbeing: “Given the general lack of understanding among the nondisabled about what life with disabilities is like, the failure to more clearly lay out what options are in fact open to the deaf (as well as to accurately characterize the options that are closed to the deaf ) strikes me as a serious omission.” S. Andrew Schroeder, ‘Well-being, Opportunity, and Selecting for Disability’, *Journal of Ethics and Social Philosophy,* 14, 1 (2018): p. 14. [↑](#endnote-ref-48)
48. Schroeder op. cit. [↑](#endnote-ref-49)
49. Although there are significant differences between Dworkin and Cohen’s views, the latter does not doubt the distinction between internal and external resources, which is immediately relevant to the discussion here. Ronald Dworkin, ‘What is Equality? Part 2: Equality of resources’, *Philosophy and Public Affairs,* 10, 4 (1981): pp. 283 - 345. and G.A. Cohen, ‘On the Currency of Egalitarian Justice’, *Philosophy and Public Affairs* 31, 1 (1989): pp. 906-944. [↑](#endnote-ref-50)
50. See Dworkin op. cit., Cohen op. cit., and see Fleurbaey op. cit. for a clear exposition of this view. [↑](#endnote-ref-51)
51. Cohen op. cit. p. 917. See also Lippert-Rasmussen op. cit. pp. 83-85. “[W]ithin the theory centred on the idea of resources—those with a disability are conceptualized as lacking ‘internal resources’ compared to others (irrespective of the effects of this on their welfare) and so should be offered additional ‘external resources’ to make up for this lack.” Wolff op. cit. p. 115. [↑](#endnote-ref-52)
52. It should be made clear that I am not talking about the *equality of resources* view of Dworkin, but only the idea of resources as a metric for equality. [↑](#endnote-ref-53)
53. Dworkin op. cit. p. 300. [↑](#endnote-ref-54)
54. Shelley Tremain, ‘Dworkin on Disablement and Resources’, *Canadian Journal of Law and Jurisprudence,* 9, 2 (1996): pp. 343-359. See also Colin Macleod, *Liberalism*, *Justice, and Markets: A Critique of Liberal Equality* (Oxford: Oxford University Press, 1998), Chapter 4. [↑](#endnote-ref-55)
55. Schemmel op. cit. [↑](#endnote-ref-56)
56. Kok Chor Tan, *Justice, Institutions and Luck: The Site, Ground, and Scope of Equality* (Oxford: Oxford University Press, 2014), p. 90. My emphasis. “Luck egalitarianism need not, therefore, begin with the idea of luck neutralization for its own sake.” Tan op cit. p. 91. [↑](#endnote-ref-57)
57. Carl Knight, ‘In defence of luck egalitarianism’, *Res Publica*, 11, 1 (2005), p. 65. My emphasis. [↑](#endnote-ref-58)
58. Martin O’Neill, ‘What Should Egalitarians Believe?’, *Philosophy and Public Affairs*, 36, 2 (2008): pp. 119-156 at p. 124. [↑](#endnote-ref-59)
59. See also Lippert-Rasmussen op. cit. Chapter 2. This is of course not true for all luck egalitarians. The purpose of this section is not to accommodate all proponents of LE, however. [↑](#endnote-ref-60)
60. Tan op. cit. p. 89. My emphasis. [↑](#endnote-ref-61)
61. Frances Kamm refers to something like this as the “common-property view”, whereby genes are taken to be the property of all “past, present, and potential future members of the human race”, of which she herself doubts the plausibility and desirability. Frances Kamm, ‘Genes, Justice, and Obligations to Future People’, *Social Philosophy and Policy,* 19, 2 (2002): pp. 360-388 at p. 364. [↑](#endnote-ref-62)
62. Tan op. cit. p. 104. [↑](#endnote-ref-63)
63. I think Cohen’s socialist equality of opportunity is particularly congenial for my argument here, according to which “differences of outcome reflect nothing but difference of taste and choice, not differences in natural and social capacities and powers.” Cohen is, I think, careful here to differentiate “differences” from “inequalities”, where the former do not call for justice-based redress: “there can be no objection to *differences* in people's benefits and burdens that reflect nothing but different preferences, when (which is not always) their satisfaction leads to a comparable aggregate enjoyment of life. *Such differences in benefits and burdens do not constitute inequalities of benefits and burdens.*” G.A. Cohen, *Why Not Socialism* (Princeton: Princeton University Press, 2009), pp. 18-19. My emphasis. [↑](#endnote-ref-64)
64. Will Kymlicka, *Liberalism, Community, and Culture* (Oxford: Oxford University Press, 1989). [↑](#endnote-ref-65)
65. Here, I am adopting much of Wolff’s taxonomy of the ways in which a theory of egalitarian justice can address disadvantage. Within his account, disability elimination would count as a form of “personal enhancement”, or the “attempt to address disadvantage in the ‘space’ of internal resources […] This would include education and training as well as medical and surgical intervention.” Wolff op. cit. p. 124. For a definition of “internal” resources, see section 2.1.3 above. [↑](#endnote-ref-66)
66. In principle we should of course qualify this and ensure that the preference is ideally not formed on the basis of ableist and oppressive attitudes and norms, or because of objectionable treatment. [↑](#endnote-ref-67)
67. Segall gestures towards something along these lines in response to the “Fair Skin Objection”, but falls significantly short of a *principled* reason for pursuing social and institutional changes. Segall 2009 op. cit. pp. 130-135 [↑](#endnote-ref-68)
68. Tan op. cit. Chapters 3 and 4. [↑](#endnote-ref-69)
69. Rawls, John. *A Theory of Justice*. Revised ed. (Cambridge: Harvard Belknap Press, 1999) pp. 6-7. [↑](#endnote-ref-70)
70. Tan op. cit. p. 103. [↑](#endnote-ref-71)
71. Ibid, p. 104. [i-iii] refer to the three commitments outlined in this Part of the paper. [↑](#endnote-ref-72)
72. Wolff op. cit. p. 115. [↑](#endnote-ref-73)
73. Tan op. cit. p. 89. My emphasis. [↑](#endnote-ref-74)
74. Kollar and Loi, ‘Prenatal Equality of Opportunity’, *Journal of Applied Philosophy* 32, 1 (2015): pp. 35-49 at p. 46 citing Anderson op. cit. pp. 317-318. [↑](#endnote-ref-75)
75. Anderson op. cit. pp. 317-318. [↑](#endnote-ref-76)