

Choice-egalitarianism and the paradox of the baseline

SAUL SMILANSKY

Choice-egalitarianism (CE) is, broadly, a version of egalitarianism that gives free choice a pivotal role in justifying any inequality. The basic idea is this: we can morally evaluate equality and inequality in many respects, which we can call *factors*. Factors might be income, primary goods, well-being, how well someone's life proceeds, and so on. But whatever the relevant factor may be, the *baseline* for egalitarianism is equality: we start, normatively, by assuming that everyone should receive the baseline, unless not receiving it can be justified. In *choice*-egalitarianism the only acceptable justification for not receiving the baseline is that this follows from one's free choice. For example, assume that the factor being equalized is access to some form of higher education: everyone can go to college for free. If one does not go to college because one does not like studying and prefers surfing, that is fine. Admittedly one ends up without a college education, but the choice-egalitarian does not find this objectionable, for it follows from one's free choice.

A helpful example of choice-egalitarianism is G. A. Cohen's idea that egalitarians ought to strive for 'equality of access to advantage' (Cohen 1989). Virtually the only way in which inequality can be justified is through free choice (931). Inequality that does not result from 'genuine choice' is a moral problem, the problem of the injustice of the arbitrary way in which

people become disadvantaged. As he writes, ‘a large part of the fundamental egalitarian aim is to extinguish the influence of brute luck on distribution ... Brute luck is an enemy of just equality, and, since effects of genuine choices contrast with brute luck, genuine choice excuses otherwise unacceptable inequalities’ (931). The paradox being proposed would apply to other similar choice-egalitarian positions (see, e.g., Arneson 1989; Rakowski 1991), but considering Cohen’s formulation suffices in order to see the difficulty.

Choice-egalitarianism is a particularly attractive form of egalitarianism, for it ties in with the high value that many put on choice and responsibility. Through the emphasis on choice, CE connects to the prevalent value of equality of opportunity. CE also allows for considerable resources for justification, namely those based on people’s free choices. Choice-egalitarianism appears as a way of formulating a strong egalitarian position that, nevertheless, can function within a market economy. Beyond the initial egalitarian obligation to create access to advantage, matters become merely corrective, namely providing compensation for inequalities in those instances where it is not the case that the inequality follows from the free choices of people. People’s lives can be guided by their choices among the wealth of opportunities provided, and a strongly egalitarian social order is seen to be not uniform and oppressive but liberty-and-responsibility-enhancing, allowing a large measure of permissible forms of behaviour (leading to many but justified inequalities).

There are a number of potential difficulties with choice-egalitarianism: one lies in the notion of free choice; and hence the complexities of the free will problem become crucial for choice-egalitarians.¹ A second set of potential difficulties for CE concerns the factors. If the relevant factor is, let us say, disability insurance then equalizing it is perhaps not very problematic, but if we say that every person ought to be as happy as another (unless her unhappiness follows from her free choice) then we will run into more serious difficulties: for instance, happiness often depends on one’s love life, but equalizing everyone’s love life is manifestly problematic if not impossible.² In this paper I shall take up a different challenge facing choice-egalitarianism, having to do with the implications of the way in which the idea of a baseline functions in the theory. We shall assume that CE can make sufficient sense of its basic notions of free choice as well as of the factors under consideration, and focus on the import of the baseline itself.

¹ I have argued for the importance of this issue for Cohen’s discussion (and for similar choice-related ones) in Smilansky (1997).

² The literature on this issue is large. For some of my own doubts, see Smilansky (1995).

There is nothing inherently problematic about the idea of a baseline, and the use of this notion goes far beyond egalitarianism. Baselines come in many forms. The baseline can be in the middle, and one can be either below or above it, both cases being faulty, but for opposite reasons: this, for instance, was Aristotle's idea of the Mean. Sometimes the baseline is low, and one can only go up from it. Volunteer work is optional and supererogatory, so the baseline for volunteering is not volunteering – if one volunteers for good causes, one is in positive territory whereas if one does not volunteer one is not negative. Sometimes, as in our case, the baseline is 'at the top', with justification being required for not being there. When we say that every person should be considered innocent until proven guilty, innocence is being used as our baseline in a similar way. Likewise for most human rights: there is a baseline of basic liberties that require strong justification in order to be rescinded. Indeed, many of our fundamental moral notions such as entitlement and desert often work with an underlying idea of just such a baseline.

In egalitarianism, justice is comparative among persons. And, as we have seen, with respect to whichever factor we are considering, the baseline is equality. In CE, we proceed then to examine whether any divergence from the baseline, namely inequality, is justified, justification being choice-dependent.³ More exactly, *if a is worse off than b in terms of factor F, it is demanded that a had an opportunity to be as well off as b in factor F, and is not as well off solely because of his or her free choices.*

It is at this stage that, it seems to me, paradox strikes. Consider income. What is the baseline, for CE? A first approximation is the highest income around. Let us call this Highest Income. Whatever that may be, according to CE everyone ought to have such an income, unless this is justified by their free choice. Arguably the baseline is located even higher: perhaps, for CE, the baseline is where the person most able to earn high incomes would be at, *were* he to decide to work as hard as he could at the spot where he could have the highest income. Let us call this Highest Potential Income.

The reason why we might need to consider Highest Potential Income and not only Highest Income is this. Assume that a person, Maxi, can earn a fortune in the open market, but decides to work only half-time, earning half of his potential. Another person, Mini, cannot earn very much, and certainly not as much as Maxi, for reasons beyond her control. According to CE, Mini's earnings must clearly be topped up so that she earns as much as Maxi actually earns, for otherwise there will be here gross inequality unjustified by (Mini's) free choice. But were Mini as earnings-capable as Maxi, she might not wish to work only half-time, but to actualize her earnings potential. We can assume that this is what she would do. Going only

³ On the way in which the notion of the baseline operates in these contexts, see Smilansky 1996a, Smilansky 1996b, Smilansky 2000: Part I.

by Highest Income neglects this inequality between the earning potential of Mini and Maxi, which similarly does not result in any way from Mini's free choices. Hence Highest Potential Income seems required. However, for our purposes even Highest Income suffices.

Consider now the people that we can name 'non-effectives'. Non-Effectives (NEs) are people that are almost completely impotent in the world – however hard they try, however positive their motivation and constant their efforts, they will not be able to gain most types of factors. For instance, they are so severely disabled that within a market economy no one has the slightest self-interested incentive to hire their services. In other words, under capitalism they cannot generate any sort of income, and this holds good for other types of factor.

It appears, then, that according to CE, NEs ought to get the baseline of Highest Income, or even Highest Potential Income. In any case, the basic moral implication of CE is that *no one may have a higher income than NEs*. Hence, for CE, the social order in terms of income (or resources, or well-being, or whichever factors are to be equal under CE)⁴ will be topped by NEs, for they are permanently and unconditionally 'stuck' at the baseline. Other people will progressively have less and less income, in accordance as to how they fall short of Highest Income (or Highest Potential Income) due to their free choice (say, the choice to work less, or not to develop their income-enhancing abilities further, and the like).

We recall that choice-egalitarianism promised to be a workable position that can accommodate a free society and a market economy. Once we see how high the baseline must be, and the role of choice in relation to reaching it, we see, however, that such hopes for a 'workable egalitarianism' are misplaced. For CE, the just social order will have the following features:

- (1) At the top in terms of the possession of the relevant factors (e.g. those with the highest income and greatest resources) will be Non-Effectives. No one will have a higher income or more resources than any NE. Their getting the high baseline would be *unconditional*.
- (2) Non-Effectives will have a high income insofar as the possibilities in a given society permit, calculated by being indexed to whoever has Highest Income (or Highest Potential Income).

⁴ Matters become even more striking if one extends the factors that are thought to be pertinent beyond income or resources narrowly understood. If, for instance, happiness or honour are the factors to be equalized, then for CE no one may be allowed to be happier than the greatest depressive, nor may anyone be honoured, whatever her achievements or contributions, more than the least respected person – unless the depressives or non-respected persons are so because of their free choices. But the paradox exists even if we remain with standard factors such as income and resources.

- (3) Below the NEs there will be significant inequality, for most non-NEs, to varying degrees, will fall back from the baseline *due to their free choices*.
- (4) There will be no direct relation between what a person does and contributes to others, and where he will be in terms of incomes and resources; in fact those who can do very little and contribute nothing will *always* be at the top of the scale.
- (5) The Non-NEs (i.e. effective people, those with the potential to contribute if they work hard) will have to finance the income of the NEs (and, to lesser extent, partial NEs, and so on), but it is highly unlikely that they will ever reach as high as the baseline, where the NEs will automatically reside.

To summarize the difficulty, we can say the following: for CE, NEs must necessarily be at the baseline of Highest Income (or even Highest Potential Income), while productive people are very likely, for all of their lifelong efforts and contributions, to fall always below the baseline. For choice-egalitarians, those who are in a position to make pertinent choices are very likely to fall well below the level that is to be unconditionally occupied by those who cannot.

This vision seems morally repugnant in a number of ways, and indeed absurd. But in any case, the idea that anything close to it might be applied to a free and modern society becomes impossible to entertain.

Two replies may seem to be available against the 'Paradox of the Baseline'. First, perhaps the choice-egalitarian need not use a 'top'-baseline such as we have been using. Why not, for instance, use a 'middle'-baseline? This might amount to a certain level of income or resources where all would reside, unless through their free choice they would forfeit it (say, by deciding not to work), or be able to reach above it (say, by working further than some specified amount). Such a 'middle'-baseline order would have many attractions, among them that the income and resources of non-NEs would depend on their choices, while NEs (who could not 'play the game' and hence could not fall below the baseline) would have a fairly high baseline level of income and resources despite their condition. Now, from the choice-egalitarian perspective there could surely be worse arrangements, but nevertheless this 'middle'-baseline proposal is inadequate. If we take choice-egalitarianism seriously, then, as we have seen, *any* person's being less well off than another in terms of the pertinent factor needs to be explicable through the free choice of the person who ends up being less well off (otherwise morally arbitrary forces and not free choice determine what he gets). But this manifestly will not be the case in a 'middle'-baseline world. For, in such a world there *will* be people who are significantly better off than the NEs, while the NEs will have not had the choice to reach such a

higher level. Hence only a ‘top’-baseline does justice to the deep intuitions of choice-egalitarianism.

Secondly, perhaps the choice-egalitarian can admit the paradox, but attempt to defuse it by claiming that, after all, choice-egalitarianism is not being proposed as a complete account of how a society should arrange its social and economic affairs. This is in any case a sensible move, and Cohen among other choice-egalitarians has indeed limited the range of his proposal in this way. However, this will not do as a way of confronting the ‘Paradox of the Baseline’. For, this paradox threatens not some marginal feature of the choice-egalitarian structure, or a feature emerging only in the extremes of full implementation. On the contrary, the ‘Paradox of the Baseline’ follows from the basic ethical structure of choice-egalitarianism and frames any CE-based order. The threat it poses is fundamental.⁵

University of Haifa
Haifa 31905, Israel
Smilsaul@research.haifa.ac.il

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