

# CONCESSIVE JUSTICE, PUBLIC REASON, ENHANCEMENT, TREATMENT. REPLIES TO MY CRITICS

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## ABSTRACT

I reply to the critics of my book *In A Better World? Public Reason and Biotechnologies*. The discussion is framed through several issues: normativity (I describe Estlund's difference between aspirational and concessive justice, and I indicate that the discussion in my book is framed in terms of concessive justice; further, I explain why we must endorse a public reason justification in matters of biotechnologies), fair equality of opportunity and equal liberty (in terms of concessive justice, I reject their strict priority in relation to questions of justice about genetic enhancement), self-respect (I defend the thesis that under fair respect of the interests of the least advantaged, there are no conclusive reasons to think that unequally available genetic enhancement harms self-respect), disease and treatment (I offer a public reason defence of treatment), parental rights (they do not include the right to impose sectarian conceptions of value) and talents (there are no conclusive reasons to think that talents enhanced by genetic interventions would strongly harm social equality).

## KEYWORDS

Genetic enhancement, genetic interventions, public reason, Rawls.

I am very thankful to the authors of comments and criticisms to my book *In A Better World? Public Reason and Biotechnologies* (IBW). It is a pleasure and an honour to receive such thoughtful and enlightening comments on it. I cannot express all my gratitude and pride for my colleagues' and friends' engagement with my book.

Their comments deserve detailed answers on many interesting and important questions they have raised. I hope to render justice, in my replies, to their great work.

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## NORMATIVITY

The discussion of questions of normativity put forward by Andres Moles is very important. I have dedicated the second longest chapter of my book IBW to it, an introductory part concerned with general political philosophical premises of my discussion of genetic interventions (GI).

In my view, a helpful way to frame the distinction urged by Moles is represented by David Estlund's division between aspirational justice and concessive justice. Aspirational justice is concerned with what fully just situation is. It need not be seriously concerned with real world strong obstacles, or low probability of realizing full justice. Concessive justice takes into consideration important contextual obstacles for the realization of such fully just state of affairs. Among such obstacles, there are contingent psychological features, as well as beliefs of real world agents. Concessive justice concedes that in the context there are obstacles to, or infringements of justice we cannot expect that will be repaired soon. The question, then, is: what is the best that we can do, from the standpoint of justice, considering the obstacles to justice? (Estlund, 2014). Taking into consideration beliefs of agents, however, does not need to always be concessive to justice. It can also be means to reasonably contextually interpret the basic elements of justice

In coherence with what I have written explicitly on pages 26-28, 33-35, 40-41, 43-45 and 50 of my book, although we must take into consideration real world agents' beliefs when we decide what to do, which can put us in the position to reason in terms of concessive justice, we must not be too concessive. Concessions must not be giving up justice. In my view this means, among else, that we must accommodate them fairly well with the basic elements of justice. The core of the basic elements of justice must be saved fairly well. The primary proper way to take into consideration beliefs of real world agents, in the view that I embrace, is represented by wide reflective equilibrium (WRE) (Baccarini, 2015, 38, 44-45). This is the procedure where we put in order our moral beliefs of various levels of generality and of various sources (Rawls, 1971/1999, 18-19, 42-45). The Rawlsian view of justice, inclusive of the ideal of society as a fair system of cooperation among free and equal citizens, as well as of the basic elements of justice, i.e. basic rights, liberties, and opportunities, as well as their priority, and means to use them (Rawls, 1993/2005, 6) represents a strong constraint of WRE. To be sure, sometimes in the real world, we must be

even more concessive and renounce some part of this frame of justice. But this can only happen in radically unfavourable conditions. In any event, such extreme cases are not the topic of IBW.

In brief, my view is the following. The basic elements of the Rawlsian conception of justice represent a relatively stable and constraining part in the procedure of looking for WRE. When we speak of aspirational justice, the basic elements of justice must be put in WRE with considered judgments of idealized agents (in coherence with what Moles suggests). This is, however, an enterprise that I have neglected in my book. When we think about concessive justice, that is the action-guiding theory of justice dedicated to the “what to do here and now” and which is the primary concern of my book, WRE with real world agents’ beliefs is needed. To be sure, when I mention “immediate” and “here and now” I do not literally think about something that can be realized here and now. Most of the technologies presupposed in my book are only hypothetical at the moment. By “immediate” I mean “correspondent to the situation that we can expect at the moment when such technologies will be achieved”. Here is where, for example, we can take for granted the generally held belief related to the family as the primary frame for the education of children. The ways how we should interpret this constraint depend on the possibility of finding WRE that respects the basic elements of justice fairly well.

Norbert Paulo’s discussion of the relation between various liberal political theories and GI is very important. Perhaps, there is a challenge to IBW coming from Paulo’s article. Why public reason justification of rules?

The first reason is that it suites well the social condition in which we live, i.e. a condition of pluralism. It is important to respect our fellow citizens as free and equal, and one of the ways to do this is not to impose on them decisions based on reasons for which we cannot expect that they will accept them as free and equal (Rawls, 1993/2005, 212-254). This is particularly important when we speak about interventions on individuals, as in cases of GI.

In some cases, subjects are not able to participate in this justificatory process. They can be not yet sufficiently developed. Thus, it is even meaningless to imagine idealizations of them as participating in the justificatory process. But there is a way to think about justification to them, nonetheless. We must think about justification that they might be ready to accept as free and equal, when they will have the capacities to do so.

In other cases, we cannot expect a natural development of moral and cognitive capacities to such a state. In these cases, we can try to approximate the public reason justificatory model as much as possible. We can think about

which are the relevant reasons from the perspective of an agent in such condition. Some paternalism is permissible here. But there are limits to it. We must avoid to impose sectarian views and have in mind values such as the capacity to be as much active (or as much autonomous) as possible, reduction of pain and suffering, and other generally recognized values.

In brief, I choose public reason liberalism because it protects agents as free and equal, when they have the capacity for this, or as goals and not mere means (Kant, 46-47, 1785/1898) when they are not capable of being free and equal.

### FAIR EQUALITY OF OPPORTUNITY AND EQUAL LIBERTY

Fair equality of opportunity (FEO) and fair equal liberties (FEL) are very important in my view of aspirational justice, where I do not reject my critics' views about their priority. I do not speak about this in IBW. The background view of justice in IBW is more flexible, because it is concerned with conditions in the real world, with what we can do for justice and well-being, by taking into consideration our contextual limits, difficulties and impediments. IBW is concerned with concessive justice. Thus, it is only partly true what Cerovac says, i.e. that my argumentation is fully concerned with the lax DP (difference principle) and "does not acknowledge any other (potentially more important) egalitarian principles that could regulate the distribution of genetic enhancement technologies. Such (potentially more important) principles are *the principle of equal liberty* and *the principle of fair equality of opportunity* (Rawls, 2001: 42-43)". This is closer to the truth for my discussion in IBW, where I am concerned with concessive justice. For my view of aspirational justice, it is not true that it regards favourable conditions. But even when I think in terms of concessive justice, I accept to put aside FEO and FEL only temporarily and not completely, as I explain in some detail below.

The question in IBW is: do we have to require the context of an egalitarian society not characterized by scarcity where GE is fairly equally available to all, before we allow GE, even if we do not see a proximate perspective of improvement from the standpoint of equality and scarcity? When I think in terms of justice in favourable conditions, I see GE available to all as a matter of justice. But when I think of GE in a world of scarcity that is also deficient from the standpoint of equality, and the reparation of this appears rather distant, I reason in terms of concessive justice, and thus, I see GE permissible even if not available to all. Thus, I agree, for example, with Cerovac that "privately funded genetic enhancement, available only to a small number of

wealthy citizens [...] should [...] be replaced with publicly funded genetic enhancement available to all citizens". Alternatively, GE can be left to individual initiatives in an egalitarian society, let's say of the model of property-owning democracy (Rawls, 2001, 135-138). But this is a statement of aspirational justice. My question is: what are we to do in unfavourable conditions?

To be sure, even if I am concerned with concessive justice, in my view, the indicated non-egalitarian society must be repaired, because it is deficient in relation to the level of justice to which we must aspire. By conceding GE in such a society I do not accept that this kind of society is satisfactorily just.

Cerovac, Moles and Zelič object to my concession. I am not always sure for all of them what exactly the objection is. Do they object to unequal access to GE in favourable circumstances? Or do they object to it in unfavourable circumstances, as well? In the first case, I would agree with them. In the second case, I assume that the position is that we must ban access to GE, because it is not equally available to all, until it becomes equally available to all. With this, I disagree. For the sake of the discussion, I assume the latter interpretation of all my critics.

Obviously, when we opt for concessive justice, we must justify the concession. The basic points of divergence between my critics and me are: (a) I expect important benefits from GE that include the least advantaged as well; (b) I do not expect bad results for FEO and FEL remarked by my critics. Thus, banning GE would be a case of levelling-down. My critics expect that this would not happen and, therefore, they are not convinced by my appeal to the levelling-down objection on three bases. (A) In conditions of inequality, we can expect that GE will favour exclusively those already best-off, not only in the sense that they will directly enjoy GE, but also in the sense that they will be exclusive recipients of the benefits that enhanced people will be able to provide (scientific discoveries in particular in the field of medicine, etc.). (B) The increase of social inequalities that derive from GE and that affect FEO and FEL impede making use of the levelling-down argument against banning of GE, because unequally available GE would favour only the most advantaged. (C) Even if there would be benefits for the worst-off (for example, in the form of improvement of medicine), they may come too late, and therefore not help people who would be the victims of increasing inequalities and of worsening of the condition of FEO and FEL at the first steps of introduction of new technologies – this is an objection of unfairness.

In replying, I think that it is helpful to analyse the question by drawing an analogy with education. In the largest parts of the history of humanity,

education has been available to privileged classes only. This was due to social inequalities and discrimination. What would the recommendation of my critics for those times be? One hypothesis is that, coherent with my interpretation of what they write about GE for the probable proximate future, they would recommend not to allow the use of the best possible resources for education in those times. This would be permitted only when it would be available to all.

Actually, it is not needed to look at history. Even today, access to education is not equal, as Cerovac and Zelič remark. Clearly, there are better possibilities for education for some people that depend, at least in the sense of being strongly influenced, on their social background. Does it correspond to the proper normative attitude that we do not allow access to the highest available standards in education to anyone, until the same standards are available to all?

I suppose that it is sufficiently clear that the answer is negative. We all want progress, we all want increase of knowledge, development of medicine, many of us are happy because of masterpieces in arts, we welcome benefits that come from these and other results of the best education. I suppose that when imagining a world that banishes the best possible education until it becomes available to all with the corresponding moderate increase of useful and relevant knowledge, we do not see the picture of such world as reasonable. No electricity, no penicillin, scarce technological resources as the heritage of the past... Today, when people are helped by a new medicine, we must think that the medicine, probably, would not be available had society been organized in the field of education by analogy to what my critics suggest in the domain of GE. In fact, there is no evidence indicating that my critics want to limit highest quality education before it is equally available to all.

Now, let us think about the progress that humanity could realize if more talented people enhanced by GE would be engaged in various fields. Why would we be ready to renounce this general progress that GE could render available, if we are not ready to renounce the progress that unequally available high quality education has rendered and still renders available?

One possible answer that probably could be embraced by my critics could be that we must balance between pros and cons and that the result will differentiate between education and GE. If we impede the best possible education because it is unfairly distributed, we renounce the basic and necessary condition for increase of knowledge and skills. This would be too great a sacrifice, even for the sake of such important values like FEO and FEL. On the other hand, if we renounce GE, we renounce only an additional resource – increase of talents – but we still have the talents and the educational

resources that we have now, that have proved to be capable of providing relevant results. Things being like this, it is better to pay attention to important values like FEO and FEL, and to renounce the additional progress that the talents of enhanced people can provide.

In my view, reasonable answer depends on balancing what we can gain or lose in terms of progress, and what we can lose in terms of FEO and FEL, but I think that the balancing of reasons speaks for a cautious permission of GE. For various reasons that I do not explain here, it seems to me that, for the sake of FEO and FEL, it would be reasonable to renounce the enjoyment that we could gain from the music of a Super Igor Stravinsky (SIS), or from the basketball virtuosity of a Super Michael Jordan (SMJ). But what about progress in medicine, for example? Here we should consider interests of people that we can reasonably regard as the worst-off. Such are people with severe diseases, mortal diseases, diseases that cause great suffering, etc. Are we ready to tell them that, in the name of FEO and FEL, we have renounced the possibility of faster development of cures for their diseases that can be realized by enhanced scientists?

It might be possible to say that I put forward a wrong dilemma. Zelič suggests that the new resources would be distributed only to the richest people in society. According to the data he presents, this appears to be the lesson from the actual society. Social inequalities produce further social inequalities and the decrease of solidarity.

Zelič's argument is correlated to one of Moles's objections, the one that I have indicated above as (B). Moles objects to my use of the levelling-down argument by saying that GE not available to all damages the least advantaged by harming FEO and FEL. Banning GE, on the other hand, protects them from this harm, and then there is no case of levelling-down. There is an important difference between Cerovac's and Moles's criticism here. Both of them think that my proposal threatens FEO and FEL. For Cerovac, this indicates that the satisfaction of DP is not sufficient. We must take into consideration the satisfaction of FEO and FEL, as well. My question at this point is: what confers authority to FEO and FEL? In Cerovac's argumentation they appear to have authority independent from the well-being of people. More precisely (because he opposes them to DP), independent from the well-being of the least advantaged.

This appears to me as egalitarian fetishism, which is exactly fetishism revealed by the levelling-down objection. My view is that if equality damages people, primarily the least advantaged, we must give up equality, as well as the lexical order in justice as fairness, to which Cerovac strongly appeals.

The shape of Moles's objection is challenging in a different way. Here the objection is that respecting FEO and FEL is important, exactly because not doing so harms the interests of the least advantaged, and thus, does not respect DP.

I think that there are no victorious reasons in favour of my critics' pessimism. But, first, I indicate that the levelling-down argument might resist Moles's appeal to FEO and FEL. Namely, in my use of levelling-down objection, I have in mind the severely disabled people, that are, unfortunately, already excluded from FEO and FEL. It is meaningless to appeal to the enhanced capacities of other people in order to speak about harms to the FEO and FEL of the worst-off. On the contrary, the improvement of science and technology can be a reason to hope for the possibility to improve the capacities of the worst-off and to open new opportunities in their lives.

If there could be advantages for the worst-off deriving, for example, from discoveries realized by enhanced scientists, banning GE represents levelling-down. To be sure, my approach to the levelling-down issue focuses on the worst-off, because of my choice of the lax DP as a principle of justice. But this same principle imposes to reasonably apply the DP. We must privilege the worst-off only reasonably. Imagine that there are seriously bad results for the worse-off. They might be seriously deprived of the level of FEO and FEL that they had before the introduction of GE. This might be a reason to rethink the levelling-down.

A question about the form of the levelling-down objection now appears (Wall, 2012, 181). Which and whose are the harms and benefits that we must consider? I hope to avoid this problem by showing that there are reasons to think that there would not be harms from GE in the proportion needed for my critics' objections.

In what follows I proceed like this. First, I show reasons to think that the introduction of GE will be accompanied by a wider distribution of benefits, than in the pessimistic scenario of my critics. Second, I try to show that there are reasons not to expect such strong harms to be done to FEO and FEL. I try to do that with some lessons that come from the history of healthcare and education.

General increase of healthcare resources has resulted in more diffused healthcare resources for all, at least in the developed countries. As it is a common experience of the last few generations of average European families, although the best healthcare resources initially were limited to privileged classes, they became more and more diffused. Standards of healthcare that were impossible to imagine in my parents' and my grandparents' childhood,

are widely available to children today. Some once massively mortal illnesses, have been eradicated in the developed world, and cures for many once untreatable diseases are available to the wide population. There appears to be insufficient evidence in Zelič's argument to impede making use of means that probably would render the availability of instruments that might provide further advancements (i.e. enhancing researchers) faster.

Another reason for optimism comes from the history of education. Good school education was once available only to the privileged, but now, although there are still many imperfections and injustices that my critics remark, it is extended to vast part of population in many countries, just as already mentioned, is a good healthcare. Sadly, this is not the case in all countries, and full equality of education is not achieved. As Cerovac highlights, there are differences even among developed countries. But the fact that, at least with some approximation, this happens in many countries, encourages me to think that my optimism related to the increasingly egalitarian use of the resources obtained in virtue of enhanced talents is not futile, and, thus, that the non-egalitarian policy of GE that I defend in terms of concessive justice is legitimate. My expectation is that at one time even GE itself will become available to the wide population, like it happens to new medical resources.

The next question is whether we need to expect that GE will cause great harms to FEO and FEL, as indicated by my critics. An important reason to think that it will, or will not, is related to the question whether differences in talents are the cause of social inequalities in the actual world.

A challenge is put forward by Cerovac. He reminds us of Piketty's explanation that shows that unequal access to education increases social inequalities. Thus, social inequalities depend on differences in skills and abilities. But Cerovac still needs to show that they depend on differences in talents, as well. This is needed in order to show that GE would further increase social inequalities.

Berčić offers reasons to believe the contrary. He indicates that some people who have the greatest talents are not the winners of inequalities. This is particularly true in relation to Zelič's favourite talent which he indicates as the possible principal talent responsible for the increase of inequalities, i.e. intelligence. As Berčić indicates, this capability is the most strongly present among professions that are hardly the great beneficiaries of the increase of inequalities. Furthermore, these people can hardly appear to constitute the social class that represents a sensible threat for FEO and, even more evidently, FPL. The most intelligent people are not the wealthiest. The empirical teaching of the actual world is that the highest level intelligence is not

correlated to positions of political and financial power. If what Berčić says is true, enhancement of intelligence does not appear to be a threat for increasing social inequalities.

True, some professions and activities would be open exclusively, or most easily, to people with more specific talents. But this is far from showing that the major candidates for talents possibly to be enhanced are those that ensure the dominant positions in the social structure, or that their absence is a condemnation to exclusion from them. Social mobility appears to be sufficiently safe in order to permit members of the less advantaged families to become wealthier, or politically influential. As a consequence, these same families develop the possibility to provide GE to their children, thus permitting them to fairly participate in the competition for professions where specific talents play a crucial role.

A worry might be that political careers will be open only to enhanced people. Why, the worry might claim, would anyone choose to be represented by a less intelligent person, instead of a more intelligent person? The question suggests that cognitively enhanced people would be favoured in the electoral competition. My reply is that genetically based higher intelligence is not the only reason that would orient our behaviour in voting, the same as IQ is not the only reason that orients our votes today. We can choose the more moral person, the person who is ready to defend our interests, the person who supports values that we support, the person who appeals to our empathy, who communicates with us... These reasons do not make our vote irresponsible. This speaks against the worry that GE available to people in a non egalitarian way would represent a harm to FEO and FEL. I do not deny that some harm would probably be present, but it is not clear that it would be such that it balances the possible benefits coming from GE.

To be sure, I do not think I have provided a final victorious answer to my critics' challenges. I intend to show that there are no sufficient reasons to think that the result of introduction of GE in the actual conditions of inequality would result in the pessimistic scenario. This is sufficient for the defence of GE in IBW. My view of progression of society is gradual, and it requires verification at each step. We must think about the possible results of a new practice or social order in advance. Whether there are fairly good probabilities of its success, a good way is to implement it and see how it functions in practice. If it functions badly, we must abolish it, or find remedies for it.

Such a strategy of social progress holds for society in general, and for all future time that we can anticipate at the moment. I am aware of the fact that the policy that I suggest as a matter of concessive justice "cannot secure that

the society remains fair over time, from one generation to the next”, like Cerovac objects. But I think that this will be an enduring feature of social policies in the real world. This is why gradual policies with permanent verification are needed.

If the empirical response would correspond to my critics’ view, i.e. it would show a society divided in fixed casts with total absence of social mobility, and with benefits available only to the already advantaged, then the concessions would be too great, and we would not have concessive justice, but simply injustice. We could be in need of a remedy for such situation, or we could even need to step out of such society.

I will now provide an answer to objection (C), the objection of unfairness. Even if we could have, let’s say, enhanced scientists, there is no guarantee that they could provide discoveries that would be immediately helpful to people in need. Too much time could pass. As a consequence, those who would suffer from the increase of inequalities (here, I assume that there would be such an increase, as my critics say) would not be beneficiaries of GE. This would be unfair. We put burden on some people for others’ benefits.

I do not see the argument as being lethal for my thesis. When we think about social policies, frequently we cannot think about benefits for each specific individual subject. As far as DP, or the lax DP is concerned, we cannot look at benefiting each single worst-off person, but only of benefiting the least-advantaged as a class of people.

Importantly, however, as remarked by Pellegrino, I am, after all, committed to FEO. But my discussion is framed by the idea of concessive justice. I take in serious consideration the probable conditions of scarcity that will be actual at the moment of availability of GE and the non-availability of it for all. Such conditions will probably hold because of the high cost of such technologies, as well as because of modest resources of many families, as well as of society in general. In the optimal situation, GE would be available to all. In such, and only in such situation, the issue raised by Pellegrino would appear legitimately: whether parents have an obligation to apply GE to their children. They might have such an obligation only if they have sufficient resources for this. Obviously, they do not have an obligation to do this, if they lack such resources.

Having in mind conditions of scarcity and of social inequalities, my choice was to discuss the two questions that appear as contextually relevant as matters of concessive justice: the question of permissibility from the standpoint of non-domination of recipients of GE (in the second chapter), and the question of social justice and GE in conditions of scarcity and inequality (in the third

chapter). In virtue of the contextual frame, the choice of neglecting the obligation of GE is justified.

At page 63, where Pellegrino quotes my reference to FEO, I am concerned with the permissibility issues, and I am engaged in distinguishing good public reasons in the debate about GI, from reasons that are not good public reasons. I mention FEO as an example of legitimate reason of the recipient for complaining against GI, in opposition to the appeal of frustration, which is not a valid reason for complaining. FEO can be a good public reason, for example, for requiring GE, for justifying the legitimacy of GE, as well as for denying suppressive GI. The passage in the quote does not imply that it is always a victorious public reason. In conditions of scarcity, that make up the context of my debate, it cannot be founded as a general obligation, because it is not available to all.

At page 67 I speak only about a specific case of illegitimate complaint for not providing GE. This is the case of a subject who objects by saying that she wants a specific talent, but has not received it. I wanted to explain the asymmetry of this case, with the case of a subject who complains by appealing to FEO. The intention was to remark that one can never complain for not having been endowed with a specific talent that she wants. Thus, this complaint can never be a good public reason.

The situation is different with the endowment of capabilities needed for FEO. Here, in principle, a complaint is legitimate. But I mention this on page 67 of IBW only to disqualify, by contrast, the complaint that refers to a specific talent. I do not elaborate the point of complaint based on FEO further, because my context of discussion is a context of scarcity, where GE cannot be provided to all, let alone this can be done by all families. Again, FEO is a valid public reason, but not always applicable.

## **SELF-RESPECT**

I must admit that self-respect is the Rawlsian primary good that is the most difficult to understand for me, and so is Zelič's criticism based on it. In Rawls's conception, self-respect is: (i) the feeling one has about her value, that her life plan is worth pursuing. (ii) Self-confidence of one person in her abilities, in order to realize her goals (Rawls, 1971/1999, 386). Such a conception of self-respect might appear to correspond to what Colin Bird calls 'standards self-respect'. An agent who displays standards self-respect is committed not to compromise her important personal standards or commitments. On the other hand, a person who lacks self-respect so intended "will lack good reasons

either for identifying with, or for living up to, any personal standards” (Bird, 2010, 23). As Rawls says, such person succumbs to apathy, because, to her nothing would seem worth doing (Rawls, 1971/1999, 386).

However, the conception of self-respect put forward by Rawls might correspond to what Bird calls ‘entitlement self-respect’, as well. This conception characterizes convictions of persons about their worth and associated entitlements that others must respect. Such persons are apt to strike for themselves and protest against abuse. I am not ready to exclude that Rawls has in mind such a conception of self-respect as well, in particular considering the great importance that he attributes to the value of political freedoms.

In virtue of the importance of self-respect, society must ensure to every citizen the social bases of self-respect, i.e. those aspects of social institutions which are usually important in order to make citizens having a feeling of their value as persons who may pursue their goals with self-confidence (Rawls, 2001, 59). From the standpoint of justice, social bases of self-respect are what matters, and not self-respect itself. The latter is an attitude the person has toward herself, and can result from various contingencies. The former represents the contribution of society to self-respect of citizens, and thus, it is a question of justice. In what follows, I discuss whether Zelič has given us sufficient reasons related to social bases of self-respect, to forbid access to GE when it is not available to all. The social bases of self-respect are offered, in Rawls’s conception, in two ways.

The first is related to the Aristotelian principle that says that, other things being equal, humans tend to enjoy in pursuing their real capacities and the enjoyment increases as we realize high or more complicated capacities, and what we do and who we are is accepted by those persons that we find relevant (Rawls, 1971/1999, 374). The possible elitist tone of this description is mitigated by Rawls’s statement that each citizen must have the opportunity to participate in a community where what she finds valuable, together with her achievements or features, is positively evaluated. (Rawls, 1971/1999, 386).

The second description of the social bases of self-respect, in Rawls’s conception, is related to the status of citizens as equals. The social bases of self-respect are guaranteed when, in the attribution of rights and primary goods, persons are treated as equals, and, therefore as equally worth deserving (Rawls, 1971/1999, 477-479).

Importantly, for Rawls “our self-respect normally depends upon the respect of others. Unless we feel that our endeavours are respected by them, it is difficult if not impossible for us to maintain the conviction that our ends are worth advancing” (Rawls, 1971/1999, 155-156). Rawls maybe embraces what

Bird calls the Dependency Thesis that says that “Self-respect [...] depends on the respectful attitudes of others, or at least on behaviour by others that implies such attitudes toward us. A society that permits or encourages disrespect for others will therefore be one that objectionably undermines, damages, or wounds victims’ self-respect” (Bird, 2010, 17). As Bird says, the Dependency Thesis may be interpreted empirically, or conceptually. In the former case, the thesis is tested empirically and Bird thinks that philosophers, here do not have much to contribute, and that they would do better to leave the debate to sociologists, psychologists, etc. Philosophers, however, can find their proper field of debate on the issue of reasons that agents may have for respecting or not respecting themselves.

Let’s try to reach some conclusions relevant for the issue put forward by Zelič. How can it happen that GE in the conditions of inequality and scarcity can threaten the social bases of self-respect? It might be that the problem is represented by the great differences in talents that derive from GE not available to all. The sense of the enormous gap of talents between us and the enhanced can menace both standards and entitlement self-respect.

But this cannot be a good explanation. Let’s remember that our talents are already enormously inferior in comparison to those of Michael Jordan, Maria Callas, Lawrence Olivier, John Rawls, etc. If great differences in talents were a reason to lose self-respect, we would already have reasons to think that the feeling of our value, of the worth of our plans, and our self-confidence is flawed. But this is absurd

In fact, this is not Zelič’s line. In his view, the reason to lose self-respect in conditions when GE is not available to all is represented by how the differences in talents have occurred and how they are regulated in social cooperation. One might have reasons to lose the social bases of self-respect because of the unequal and unfair treatment that she suffers in the distribution of talents.

This might appear as a good explanation. It is a part of Rawls’s theory to say that the social bases of self-respect are threatened when we are not treated as equal citizens. This argument can be put in relation with the Dependence Thesis. We can feel a public declaration that we have less value. But the final estimation on this issue depends on the rationale for the concessive justice acceptance of GE, as well as on the policies of distribution of its benefits. But this is not as clear as needed for Zelič’s argument.

First, let’s remember that part of the rationale for allowing GE despite scarcity and inequalities is that the enhanced have enhanced capacities to create goods important for the rest of society. Second, a system of taxes could

(and in my view must be) enforced, where the enhanced, if they have material advantages from enhancement, have to pay more for the sake of primary goods of other people. The advantages of the best-off are extended to the least advantaged. The unfairness represented by inequalities in the distribution of talents is, thus, balanced by the fairness in the distribution of the goods that come from these talents. Whatever the reason for the loss of self-respect that Zelič sees in relation to the unequal distribution of talents is, it is suppressed in virtue of the fairness in the distribution of the goods produced by such talents that represents, also, a declaration about the value of the not-enhanced as equal citizens. This is the consideration that blocks possible objection based on the Dependency Thesis.

At the end of this part, I remark that, most evidently, one does not have reasons to lose ‘entitlement self-respect’. Even when living with enhanced people, a person may still be apt to strike for herself and protest against abuse. Entitlement self-respect, after all, does not need to rest on achievements, or particular talents, but on the possession of the two Rawlsian moral capacities. Importantly, in the discussion with Zelič, the person may still fight for social equality, inclusive of redistribution that extends the availability of GE.

## DISEASE AND TREATMENT

In IBW I did not intend to enter into questions of definition of disease and there is no paradigm for the definition of disease that I implicitly assume in the book. My concern is only the justification of GI. Thus, whatever the definition of disease is and whichever paradigm one may endorse for defining disease, the crucial criterion for the legitimacy of GI is a general evaluation that such condition is not desirable, or that a change is desirable.

The major ambiguity that I have to clarify is related to a quote where I speak about disabilities that are such “independently of the social and political situation (even though social policy might reduce their effect)” (Baccarini, 2015, 62). Here I would like to remind the reader of the context in which the quote appears. It is written after I discuss a possible problem for my view. There are social and political situations where belonging to a group of people is a disadvantage in virtue of dominant discriminatory attitudes, just like it is a disadvantage to be a woman in many societies. My worry was whether parents who would apply GI to their child to transform a female into a male would have reasons for this that we can reasonably expect that people would accept as free and equal. Their rationale might be: “In our society, women are discriminated. We have applied GI to you in order to transform you into a

male in order to avoid you being a victim of such discrimination, and to offer you better possibilities in your life". However, I refuse to accept this as a valid reason. The refusal is based on the fact that many people can (and do) appreciate being a female as having value. Further, people can reasonably think about prudential reasons in favour of being a woman even in conditions where women are relatively moderately discriminated (in comparison to other societies where discrimination is extreme). Bad effect of the discrimination can be compensated by the advantages of being a female. When a boy is born, "he is still far more likely than a girl to have developmental disorders. Teenage boys are also more likely than girls to commit suicide and to die violent deaths before adulthood. As adults, men die earlier than women, and in disproportionately higher numbers from cancer and coronary artery disease. Moreover, women have more vigorous immune systems than do men: of the 10 most common infections, men are more likely to have serious encounters with 7 of them" (Solomon et al., 2008, 200). Therefore, being a woman can only be a disadvantage because of the severe forms of discrimination in some societies. But such disadvantages do not represent a reason for GI that we can expect people will accept as free and equal. I wanted to distinguish legitimate GI from such cases. Thus, "independently of the social and political situation" was intended to be in contrast to the described social and political situation and analogous situations of discrimination, not to all possible kinds of social and political situations. I did not mean to imply anything like a purely naturalistic, or value-free definition of disease. I am not concerned with this issue in IBW.

As my commentators correctly observe, I represent one of the conditions of my view of legitimate GI through "(i) in order to eliminate some generally recognised disabilities", i.e. "impairments and disabilities that everybody agrees are undesirable" (Baccarini, 2015, 61). The role of the recognition condition is that of saving GI from a legitimate objection of recipients who might see GI as an illegitimate interference and imposition, a case of domination. My commentators see problems in this characterization.

General problem they raise is that we can think that some people can find the conditions usually taken as diseases or impairments, like deafness (in Pellegrino's example) and blindness (in Moles's example) as not undesirable. I concede for the sake of the argument, and with some reticence, the possibility of such counterexamples. I nonetheless, expect condition (i) of my principle of legitimacy of GI not to be empty. Think of diseases like neurofibromatosis, and Canavan's disease (Kitcher, 1997, 14). Think about cancer, coronary artery disease, trigeminal neuralgia, or Ehlers-Danlos syndrome. I can hardly

imagine any real-life context where there might be people not seeing these as severe and undesirable diseases.

An objection might be that, in this way, I have restricted the possibility of GI too much. But, then, I have the additional resource: “(ii) in order to add talents without eliminating other talents” (Baccarini, 2015, 61). Thus, it would be legitimate to apply GI in order to remove a condition of blindness not because it represents a generally recognised disability, i.e. an impairment and disability that everybody agrees is undesirable, but because the intervention represents the addition of a talent, or a part of what constitutes a talent. Thus, justification of the GI directed to the recipient seen as a free and equal would be “I added you a talent that increases your possibilities in life, which has at least two great merits. It benefits your capacity to form, realize and revise your own view of what is valuable, i.e. in Rawlsian terms, the capacity for a conception of good. By having more talents, you have wider opportunities to practice conceptions of good, and, thus, to choose them according to your best evaluation. The intervention favours your FEO, as well”. In this way I respect the public reason view of a good justification. The justification that I offer is not represented by a subjective or sectarian value, but only by reasons that we can expect people will endorse as free and equal. These include an extension of talents, or a restriction of obstacles. To be sure, in my view there might be interventions, and they might be also justified for the other moral capacity indicated by Rawls, i.e. the sense of justice.

In brief, we have two public reason justifications of interventions. One is based on reasons represented by diseases, impairments and disabilities that everybody recognizes as not desirable. The other is represented by enhancements of capacities that favour the capacity for a conception of good and the sense of justice. In the former case, we appeal to conditions for which we can say that nobody could reasonably want, or want them for dear ones. In the latter case, we speak about interventions for which nobody can reasonably complain if they are applied to another subject.

By incidence, remember that in my view, favouring FEO, as well as enhancing capabilities in general, is not a strict duty for parents in conditions of scarcity, but is always permissible.

If my critics persist, and affirm that the recipient might object by saying that she finds blindness or deafness valuable, and this is the reason for her complaint, the reply is that she can avoid to make use of the capability, or even remove it. I suspect that only in extreme and improbable cases (like Oedipus’s, or a modification of a Dare Devil scenario) one will find inspiration for, and will make use of this opportunity. If my suspicion is plausible, then we have a

reason to think that the treatment of blindness and deafness as generally recognised disabilities, i.e. impairments and disabilities that everybody agrees are undesirable, is justified in the real world. But the issue is worth-deserving of consideration and I do not engage with its resolution now. I have given a sufficient justification for the cases of GI presently under consideration based on (ii).

Malatesti raises a question about whether the identity of the person is suppressed with GI in the case of interventions on some disabilities. He mentions severe cases of autism and the Down syndrome. Unfortunately, I am not sure that I exactly understand the debate. In any event, I would like to remark that the question of identity as it is framed by Malatesti is one that philosophers who apply public reason would rather avoid. As he says, “establishing whether a certain disability, including those that everybody would reasonably prefer not to have, is constitutive of a person is a complex empirical and philosophical matter. There are difficult conceptual issues about what constitutes the criteria for the identity of a person. In addition, there are also problems concerning how physical or biological features might satisfy these criteria”. Here, exactly, it seems that we have one of the controversial metaphysical issues that do not suit the public reason view of justification well.

My attempt is to frame the debate in the public reason shape. Primarily, I try to explain my position, by the hope that this suffices to bypass Malatesti’s worries. First, I would like to remind the reader of the intention of the passage to which Malatesti refers when he speaks about the identity problem, which is to say that by GI on some disabilities, we do not express disrespect or negative judgments about bearers of the disability. Only the disability is a target, because “it is undeniable that these human beings would have greater opportunities and would avoid a great amount of suffering in their life by not having the disability” (Baccarini, 2015, 63).

It seems to me that the problem that Malatesti has in mind is that in the quotation I want to restrict the class of legitimate GI. Namely, it would be restricted, in Malatesti’s worry, to the removal only of disabilities that would not change the identity of the recipients of GI.

Now, as I have said at the beginning of this part, public reason debates need to refrain from entering in controversial metaphysical theses. Thus, in the passage quoted and discussed by Malatesti, I endorse an ordinary view of identity, by which an ordinary person would see a change in a person with the removal of a disability, and not a change of identity. The change in the person would be represented by a condition in which the person would have greater opportunities and, in some cases, would also avoid, a great amount of suffering

in her life, in comparison to the previous situation. To the skilled philosopher, I specify that by this I say that people who have a disability would have greater opportunities and, in some cases, would also avoid a great amount of suffering in their life by not having the disability, if it was possible for them to maintain their identity, or, if there is a change of identity after the removal of the disability, that life of the person who would arise after the change of identity due to the removal of disability from the person who has had it and whose identity was destroyed by the removal of the disability, would be a life with greater opportunities and, in some cases, also with a lesser amount of suffering in comparison to that of the once existing person with the disability.

I will now explain why suppressive GI is illegitimate. Let's think about the case of deaf parents who want to implement deafness to their child, as a matter of value or identity. This would be a case of domination over the child by the imposition of a conception of good for which we cannot assume that will be accepted by a citizen as free and equal. Suppressive GI limits or obstructs the moral power of choosing, realizing and revising a conception of good. It is illegitimate even if we are speaking about sons and daughters as the potential recipients of GI required by parents, because children are not possessions of their parents. Parents owe to children the same kind of justification owed by the society in general, or by other people. But they are not able to offer such justification, because they appeal to a sectarian reason, similar to those represented by what Rawls calls "comprehensive doctrines". I see no difference between suppressive GI for the sake of value or identity on one hand, and genital mutilations, like infibulations, on the other hand. To be sure, I am not saying that a life without the capacity to see colours and hear sounds, the same as a life without sexual pleasure are not valuable lives. By following public reason, I am only saying that no one can make a decision about this for another person.

Pellegrino and Moles object to my claim about the proper way of treating diseases. My claim about treating the most severely cognitively disabled individuals is problematic for both. When writing about this I claim that my recommendation is not to consider, as the most pressing requirement, treating them, by having in mind their enhancement, up to the level of rendering them the ability to have the capacity for a conception of good. The real urgency is to treat them by having in mind their well-being. Moles replies by saying that we might have paternalistic reasons for treating the most severely cognitively disabled up to the higher capacities. This provides us with a *prima facie* reason for GI.

I agree with Moles on this, as a matter of justice in a condition which is not of scarcity. Here I can only specify that my discussion in this passage, as well as in the whole book, was concerned with a condition of scarcity, where we have to make choices and we are pressed by question about urgency. My argument was only intended to show that the most severely cognitively disabled cannot be considered as the most urgent case for GI for establishing higher capacities in the context of application of the lax difference principle. This does not mean that such interventions are not legitimate.

## PARENTAL RIGHTS

First, I must dissipate a misunderstanding. I do not express acquiescence with parents' choices of alternative forms of education, if by this we mean religious schools and home-schooling when parents reject the standard curriculum. Even if I were ready to allow such choices, I would put strong limits represented by some standard requirements shared by public schools.

I think that parental rights are rather extensive when it comes to education and upbringing choices in a different way. When I was writing about this in my book, I was thinking about choices, like choosing hobbies for children that may have strong influence on their future. For example, parents can decide whether their child will take lessons in piano playing, or dancing, or will play tennis or basketball - all this can strongly influence the future of children. The hobby might in the future become a profession. And some professions are precluded if the person has not started the activity in her childhood. My idea is that a choice is welcome – it is a good thing that parents decide among hobbies like those indicated, instead of not orienting their child to the development of any potentiality that she has. This shows that we cannot reasonably expect that parents fully avoid making choices in the upbringing of children that would possibly strongly influence children's future.

Further, I was thinking about the choice of the secondary school, when a child is not sufficiently mature to competently decide about a humanities-oriented high school, a natural sciences-oriented high school, or a profession-oriented high school. These are the choices that must be made, but that the child is still not able to make at the age of 14.

I think that parents are better in making these choices than the children, or the state. This is a reason for pro tanto very strong entitlement.

If I understand Moles correctly, he complains about the legitimacy of GE (even if it only adds a talent without removing any other talent) when it goes together with the entitlements in education that I allow to parents. The

combination would not really render the choices of activities different from those favoured by parents impossible, but costs of such choices would be rendered rather high.

I think that the costs of alternative choices would not increase because of the addition of a talent. The child has not lost any of the talents that she had before GE. It is the educational orientation that increases the costs. Education that favours playing an instrument decreases the costs of becoming, say, a piano player, but increases the costs of becoming a basketball player. But for the reasons shown above, it is not reasonable to try to eliminate such costs. The only alternative to orienting the child to some creative activity is not to orient her to any creative activity, at all. But in this way, costs will be increased in all possible directions. Thus, although every choice will imply some costs, this is a real life condition to which we cannot complain, because making no choices is the most costly decision. It is, nonetheless, important not to preclude the possibility of alternative choices, if possible. In any event, as far as the capacity of choosing of children increases, the legitimacy of parents' decisions decreases, and the legitimacy of choice of children is stronger.

## TALENTS

The specification that Zelič offers related to my use of the concept of talents in the principle of GE legitimacy is useful. When enhancing up to the level of SMJ, SAE and SJR, I speak about "adding a talent". Zelič, instead, suggests to speak about "enhancing an already given talent". The difference between Zelič and me, here, is only terminological. With "adding a talent" I also refer to instances of drastic improvements, like in SMJ's, SAE's and SJR's cases, not only, for example, to add a talent for basketball to a totally untalented person. It seems to me that having the talent of a SMJ is in a relevant sense having a new talent. But I do not insist on the terminology. My intention has only been to dissipate the misunderstanding.

Malatesti puts an important requirement of clarification, as well. Again, this is related to my principle of legitimacy of GE. I say that it is permissible to treat a disease, even if this means the removal of a talent. I had in mind exactly cases like the one mentioned by him, the correlation between bipolar disorders and artistic creativity. Another possibility is that of the supposed relation between talent for formal sciences and some forms of erosion of empathy (Cohen-Baron, 267-287, 2011). To be sure, I take these cases only as possible examples. If the correlation is not sufficiently well supported by the evidence,

or if the mentioned examples are problematic for any possible reason, I take them only as possible thought experiments.

Let's remember what the basic constraint of my justificatory scheme is. GI must be justified on the basis of reasons that we may reasonably expect an agent can accept as a free and equal. My general idea is that we can justify GI to the agent in the present dilemma when we can say that the disease would cause a generally recognized undesirable condition with a high level of probability. We can say that, when we were making the decision, it was uncertain whether the agent would be able to, or would want to develop the frequently correlated talents. It is by having in mind these data that we have applied GI, caring about her capacity to develop and revise a conception of good, and to structure the life in order to live in accordance with it. Although we have removed a characteristic that favours artistic creativity, we have not fully deprived the agent of these capabilities, and, in any case, we have left to the agent many other capabilities and resources.

This is, however, only a general guide. Specific decisions might be more complicated. For example, it might be unreasonable to remove a marginal impairment that can easily be controlled, if this means removing an increased probability for a generally recognized relevant talent. In my view, it does not have a great meaning, to offer a detailed specification of the casuistry in advance, because there is no algorithm that ensures the right decision. Like in many other decisions related to public reason, it is important to apply moral judgment reasonably. As I say in the first chapter of my book, it is not possible to avoid some inconclusiveness in public reason justification. This means that we can have a disjunction of conclusions justified by public reasons. The important thing is that we opt for one of the conclusions that are in a determinate way justified by public reasons, with the avoidance of the imposition of a conception of good that we cannot expect that will be accepted by an agent as a free and equal. The same is in decisions that involve laws and public policies- all the decisions reached in this way are legitimate.

Moles indicates a difference regarding possession of talents and choices of life plans (as we can say, in the Rawlsian terminology, exercise of the capacity of good), between his view and mine. In IBW, I write that the relation is such that we start from a conception of good (inclusive of activities and life plans that we find as having value) and we then orient our activities relative to this. It is not that we start with a list of our talents, and then choose our system of good and our life plan. Moles, instead, writes that the situation is more complex. In brief, there is interaction between the two sides, when we shape a conception of good life and our life plan.

I agree with a more complex picture. In forming our life plans, in my more elaborate conjecture, we start with ideas of valuable activities and valuable goals. We try with them. If at least some level of success appears, we usually continue with them. If it appears to be a total failure, we usually renounce. It is quite rare that one continues despite evident total absence of talent. Florence Foster Jenkins, judged as the worst opera singer in the world, is notorious, probably, exactly for having been unique in her perseverance.

However, in IBW, I have shown the simplified picture, and not the more realistic complex one because of the topic I was discussing in that passage. Let's remember, it regarded the question of whether a subject, whom I called Buridan, could complain by saying something like "by the so many talents you have given me, you put me under the frustration of choice". My intention was to show that we do not need to expect such a complaint. We should expect such a complaint if we should expect that a person starts from listing her talents, and, then, exercises the choice. The more the talents, the greater the possibility of choice, and thus, the possibility of frustration caused by the necessity to choose. For my argument, it was important only to refuse this chronology in the process of choosing a system of good, from the list of talents, to the choice of a life plan. If the person starts from a conception of valuable life plan (independently of whether she is ready to adjust it in conformity of her reasoned observation of the presence of some success in pursuing it, or she keeps going like Florence Foster Jenkins), whatever the reason why frustration may appear, the reason cannot be that the presence of many talents causes frustration for the necessity of choosing. If the person is successful in the activities that she has started pursuing in the light of her initial conception of life plan and system of good, she can happily go on. If she is unsuccessful, she might be frustrated (as she probably would be), and she would do better to revise her plans. But in any event, the frustration is not caused by the necessity to choose among many talents.

To be sure, what I have shown here is only an additional argument to answer Buridan's objection. I am aware that what I claim here about the relation between life plans, conceptions of good, and talents is only a conjecture. It would be unwise to put the whole, or a relevant part, of the reply to the Buridan objection on such unsecure ground.

I do not think that the present issue is the major reason of divergence between Moles and me. Again, this would be a too unsecure ground for both of us, to put one of the main burdens of the sustainability of our positions on it. My hope is that we can debate about the various objections that Moles

directs to IBW, as well as about my replies to them, independently of this fragment of my reply to the Buridan objection.

Before ending this part, I would like to comment on another of Zelič's challenges. What if, after all, we more enjoy the activities that we are able to practice better, as he says that it might be possible, and thus, having a talent orients our activities? Would this be a reason to say that by GE we have a case of domination, because of the implementation of a preference? Is this analogous to changing the sexual orientation of a subject?

In my view, the answer is negative. In the case of GE of talents, even if there would be an influence on preferences, it would be indirect. It is really a very strong and implausible hypothesis that one's preferences are determined, and not only favoured, by the talent that one has. It is not hard to imagine that even if one is very talented for an activity, she can prefer not to be engaged in it. She could be lazy or prefer to be dedicated to her family instead of being very engaged in career, she could have a non-competitive character, etc. On the other hand, by changing sexual orientation of a person, the intervention determines preferences of the person. This determinism makes the difference, and marks the intervention as a case of domination.

### MUCH ADO ABOUT NOTHING?

Berčić's challenge is very interesting. In fact, it is usually simply assumed that the greater and broader the talents, the greater the chances for a wealthy life and positions of great social influence or power. Berčić shows cases of very talented people that, nonetheless, cannot be judged as having had great advantages measured by money or political influence. They did not get much of it.

In great part, I very much welcome Berčić's comments. This is visible in the way I have made use of them in my replies to the criticisms on my book based on FEO and FEL. I do not only find convincing, but also supportive of my theses in IBW, the part of Berčić's thesis that puts doubts on the view that GE represents a lethal threat to FEO and FEL. However, after a point, I must be wary about Berčić's thesis. If that was literally true, one of the central aspects of the debate on GE in IBW would be much ado about nothing.

Now, it is important to remark the ways in which GE can provide competitive advantages. In the conception of good of the miners enlisted by Berčić, strength and perseverance represented competitive advantages for the satisfaction in the realization of the conception of good, for self-respect, in relation to the goals of excellence that those miners put to themselves, as well

as for social recognition. We could say the same for various cases in arts, sports and sciences. In the end, we can see that there are also, although not always, financial differences in dependence of the possession of talents. Cristiano Ronaldo certainly receives more money, than players of average talent. But we must not exaggerate in the overall conclusion. Berčić is right when he remarks that there are people with top results in some sports who are not particularly well prized in financial terms. In some activities, like singing or acting performance, it is even doubtful whether singing or acting talents are the dominant criterion for the financial satisfaction in the activity. Good PR, good marketing activities, etc. can sometimes (or frequently) be more important. The same happens in politics.

In conclusion, in my view the plausible assessment of the relation between talent and success helps in mitigating criticisms to GE coming from concerns with FEO and, even more, FEL (as Berčić's shows). But there is, nonetheless, a point in saying that greater talents confer competitive advantages such that there is a legitimate concern for distributive justice.<sup>1</sup>

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