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The Practical Impossibility of Cohen's Rescuing Justice & Equality

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THE PRACTICAL IMPOSSIBILITY OF COHEN'S RESCUING JUSTICE & EQUALITY

by

KEVIN WALLACE

Under the Direction of George Rainbolt

ABSTRACT

In *Rescuing Justice and Equality*, G. A. Cohen argues that a state of affairs which is equality preserving and Pareto-optimal is possible. In doing so, Cohen adopts an incorrect view of practical possibility. For Cohen, a person (A) being able to realize a given state of affairs is evidence that most persons can realize that same state of affairs. In contrast, I contend that an example of person A being able to realize a state of affairs only evidences the fact that persons who possess similar talents to A can realize that same state of affairs. That is to say, on my view, a state of affairs is practically possible if and only if it is logically, nomologically, and psychologically possible for *nearly all persons*. As a result, I contend that an equality preserving and Pareto-optimal state of affairs is practically impossible.

INDEX WORDS: Practical possibility, Luck egalitarianism, Ideal theory, G. A. Cohen, Ethos

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KEVIN WALLACE

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by

KEVIN WALLACE

Committee Chair: George Rainbolt

Committee: Andrew Altman

Peter Lindsay

Electronic Version Approved:

Office of Graduate Studies

College of Arts and Sciences

Georgia State University

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DEDICATION

This thesis is dedicated to my late grandmother, Patricia Gardner, aka, Grammy.

Grammy, I finally finished my thesis.

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TABLE OF CONTENTS

ACKNOWLEDGEMENTS.....	v
1 INTRODUCTION.....	1
2 IDEAL THEORY AND PRACTICAL POSSIBILITY	4
3 THE PARETO ARGUMENT FOR UNEQUAL DISTRIBUTION	6
4 THE TRILEMMA ARGUMENT	9
5 SCALAR VIEW OF INCENTIVES, PRODUCTIVE OUTPUT, AND WILL	12
6 THE PRACTICAL POSSIBILITY OF D3 RECONSIDERED	16
7 PRACTICAL POSSIBILITY AND THE ROLE OF ETHOS	19
8 PRACTICAL POSSIBILITY, PROBABILITY, AND REALITY.....	24
9 CONCLUSION.....	31
REFERENCES.....	33

1 INTRODUCTION

In *A Theory of Justice*, John Rawls writes, “Viewing the theory of justice as a whole, the ideal part presents a conception of a just society that we are to achieve if we can.”¹ This insight by Rawls begs the question, what can we achieve when it comes to realizing a state of affairs that a given theory recommends? When someone asserts a theory that recommends a particular state of affairs, it is necessary to ask whether the recommended state of affairs is possible. In fact, whether a state of affairs is possible can determine whether a theory that recommends a given state of affairs is plausible. A theory that asserts a state of affairs that is practically impossible to achieve is too ideal and therefore implausible. The goal of this paper is to consider one such theory, G. A. Cohen’s theory of distributive justice as described in *Rescuing Justice & Equality*, and argue for a more limited view of practical possibility.

Egalitarians generally consider equality to be crucial to their theories of justice. Most notably, John Rawls believed that equality was the starting point for justice and that we should only veer from equality to improve the lives of the least fortunate. Introduced by Rawls in *A Theory of Justice*, the difference principle states that “social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be to everyone’s advantage, and (b) attached to positions and offices open to all.”² According to the difference principle, a distribution is just as long as everyone, including the worst off, benefit. The justification for veering from inequality is that unequal distributions provide production incentives which in

¹ John Rawls. *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), 246.

² *Ibid.*, 60.

turn benefit the worst off by increasing the amount of goods to be distributed. Hence, the difference principle is Pareto-superior, but not equality preserving.

In *Rescuing Justice & Equality*, G. A. Cohen considers two common defenses of the Rawlsian difference principle. First, he considers the Pareto argument for inequality. The Pareto argument for inequality states that when it comes to distribution of money, goods, and resources, it is just to depart from equality if and only if everyone benefits, including the least well off. Second, Cohen considers the trilemma argument which states that Pareto optimality, equality, and freedom cannot simultaneously obtain. Moreover, since we cannot have freedom, equality, and Pareto-optimality simultaneously, distributive justice requires that we sacrifice equality. In response, Cohen claims that Rawlsian-type justice is committed to equality and that the difference principle unnecessarily departs from equality. More specifically, Cohen argues that the Pareto argument for unequal distribution fails because a Pareto-superior equal distribution must also exist. That is to say, Cohen argues that if a distribution exists which is Pareto superior to equality, then a third distribution which is Pareto superior and equality preserving also exists. Further, Cohen argues that the trilemma argument against simultaneous obtainment of equality, freedom, and Pareto optimality can be shown to be unsound via principle-inspired motivation. In doing so, Cohen's reliance on the concept of ethos is crucial to his optimistic view of what distributions are possible. While the concept of ethos is not novel in discourse surrounding distributive justice, Cohen, to his credit, brings the concept of ethos to the fore. For Cohen, a proper ethos is necessary to attain distributive justice. However, I contend that when it comes to influence on production, while an ethos can inspire action, it cannot overcome the psychology of competition. That is to say, human psychology is such that

competition drives production more than any ethos. Additionally, even if it can be shown that an ethos can inspire production as well as competition, a scenario which has both ethos-based and competition-based incentives will have superior production. Finally, Cohen's view of the human will is overly simplistic because he views will as something we simply summon. For these reasons, Cohen mistakenly asserts the possibility of a Pareto-superior and equality preserving distribution despite the fact such a distribution does not have as broad a range of incentives as a Pareto-superior distribution that does not preserve equality. As a result, a proposed Pareto-superior and equality preserving distribution is not practically possible and Cohen's theory is implausible.

In this paper, I will consider the ideal vs. non-ideal theory debate and argue that Cohen's theory is too ideal. In doing so, I will argue that, in order to make Cohen's theory plausible, the psychology of competition must be replaced with the psychology of ethos, and that this cannot be done in full. That is to say, it is a matter of empirical fact that ethos-inspired incentives cannot replace competition-inspired incentives. Finally, I will explore the concept of practical possibility and argue that Cohen's view of practical possibility is incorrect. For clarity's sake, I will divide this essay into seven sections. First, I will briefly discuss ideal theory and the concept of practical possibility as related specifically to Cohen's theory of justice. Second, I will present the Pareto argument for unequal distribution and consider Cohen's response. Third, I will present the trilemma argument against simultaneous obtainment of equality, freedom, and Pareto optimality along with Cohen's response. Fourth, I will argue that incentives, will, and production are scalar concepts. Fifth, I will argue that a Pareto-optimal and equality preserving distribution is not practically possible. Sixth, I will consider practical possibility, practical

probability, and ethos alongside ideal and nonideal theory. Finally, I will consider the concept of practical possibility alongside probability and argue that Cohen's theory of justice is too ideal.

2 IDEAL THEORY AND PRACTICAL POSSIBILITY

In the article "Ideal Theory and Nonideal Theory," A. John Simmons recounts Rawls' comments on ideal theory as, "...present[ing] a conception of a just society that we are to achieve if we can" and "...prob[ing] the limits of practical political possibility." He then goes on to say, "We ask what could come into existence as a result of our choices, given the limits set by our moral and psychological natures and by facts about social institutions and how humans can live under them."³ In contrast, Simmons describes nonideal theory as that which aims to work towards, achieve or implement ideal theory. So, ideal theory is a guide. It is the idea or conception at which we take practical aim. On the other hand, nonideal theory is a theory about how to bring about a state of affairs that realizes our ideals. Simmons sums up the point nicely when he remarks, "Where ideal theory dictates the objective, nonideal theory dictates the route to that objective."⁴

Putting aside nonideal theory for the moment, ideal theory is concerned with practical possibility. What is considered practically possible is a crucial issue. Is a state of affairs practically possible if and only if it is logically possible, or does a state of affairs require additional necessary conditions to be practically possible? While Cohen does not explicitly define practical possibility, he does ask us to "consider now a logically possible distribution

³ A. John Simmons. "Ideal and Nonideal Theory." *Philosophy & Public Affairs* 38, no. 1 (Blackwell Publishing, 2010): 7.

⁴ *Ibid*, 12.

[that is Pareto-optimal and equality preserving]...” and argues that such a distribution is “objectively feasible.”⁵ He then goes on to defend his claim that a Pareto-optimal and equality preserving distribution exists by arguing that such a state of affairs is psychologically possible via exercising human will. Therefore, we can surmise that, for Cohen, a state of affairs is practically possible if and only if it is logically, psychologically, and nomologically possible. That is to say, logical, psychological, and nomological possibility are necessary conditions and jointly sufficient for Cohen’s view of practical possibility. So, if a state of affairs (X) is not a contradiction, does not violate human psychology, and does not violate the antecedent states of nature and the universe, then X is practically possible. Conversely, if X violates any one of these conditions, then X is not practically possible.

With the above in mind, Cohen’s basic argument for his theory of justice is as follows. The most just state of affairs is one which preserves equality and Pareto-optimality. Equality preservation is necessary for justice in order to mitigate brute-luck circumstances inherited through the natural lottery.⁶ Defenders of the Rawlsian difference principle unnecessarily sacrifice equality for Pareto-optimality because a state of affairs that is equality preserving and Pareto-optimal is practically possible. Therefore, we should reject a theory of justice which classifies as just a state of affairs that does not preserve equality in favor of a theory of justice on which only a state of affairs which preserves Pareto-optimality and equality is just. In the subsequent sections, I will consider Cohen’s two primary arguments for his position and argue that neither adequately defends his theory of justice.

⁵ G. A. Cohen. *Rescuing Justice and Equality* (Cambridge: Harvard University Press, 2008), 100, 102.

⁶ This is a (very simplified) version of the luck egalitarian position held by Cohen, but it is sufficient for my purposes in this paper. So, when I subsequently reference luck egalitarianism, this is the basic position to which I am referring.

3 THE PARETO ARGUMENT FOR UNEQUAL DISTRIBUTION

According to the Pareto argument, while equality is the necessary starting point for distributive justice, it is irrational to insist on equality in the face of an incentive-based system which would allow for a Pareto-superior distribution. To illustrate, consider three persons, X, Y and Z, and the distribution of 5, 5 and 5 (D1). Assume that persons Y and Z are more talented than X. According to the Pareto argument against equality, inequality is justified when we allow persons Y and Z to produce, in an incentive-encouraging environment, at greater levels thereby creating a new distribution (D2), e.g., 6, 8 and 10 for X, Y and Z, respectively. While D2 departs from equality, all distribution recipients benefit. Hence, D2 is Pareto-superior to D1.

In response, Cohen claims that if a Pareto-superior unequal distribution (D2) exists, then a Pareto-superior, and equality preserving, distribution (D3) must also exist. Moreover, D3 is more just than D2. To illustrate, again consider persons X, Y and Z and previous D1 and D2 distributions of 5, 5 and 5 (D1) and 6, 8 and 10 (D2). According to Cohen, provided the talented rich work as hard as they do at D2, then a D3 distribution, e.g., 8, 8 and 8, must also be possible. It is not the case that the talented rich cannot work as hard at D3 as they do at D2. Instead, they choose not to work as hard at D3 as they do at D2. By doing so, they forgo their obligation to realize equality in favor of self-interest through reaping the benefits of incentive-based distribution, provided by D2 and unavailable at D3.⁷

I agree that if D3 were possible, then it would be a more just distribution because it preserves Pareto-superiority and equality. However, it is not clear that the talented rich merely choose not to produce at D3 as they do at D2. Instead, it seems more plausible that the

⁷ Ibid., 96-115.

talented rich, in some sense, cannot perform at D3 as they do at D2. This is because human beings, irrespective of their will, require maximum incentives in order to achieve maximum performance or production. In other words, human beings are hardwired such that achieving maximum performance requires maximum incentive structure(s). Cohen's most direct response to this motivation argument for incentive-enhanced production is found in Chapter 1:

Now, in my opinion, there is not much truth in this contention [that the talented rich require incentives to motivate optimal production]: it represents people of talent as more feeble than, on the whole, they are. It is not likely to be a lack of power to do otherwise that causes the rich to take longer holidays, to knock off at 5:00 instead of 6:00, or not to bother trying to get one more order, those being the things that they do when income tax rises, if the minor premise of the incentives argument is true.⁸ The tax rise means that the rich face a new and less appealing schedule of the costs and benefits of alternative courses of action, and they will, find it harder to raise up enthusiasm for choices that now promise smaller rewards. It does not follow that they cannot make, and effectively pursue, these choices.⁹

Contrary to Cohen, I do not think people of talent are simply feeble or weak-minded for not being able to produce at D3 as they do at D2. Instead, people merely demand, involuntarily, as a part of the human condition, incentives to inspire their most productive work. That is to say, much like race, talents, abilities, etc., we inherit a psychological makeup which requires incentives to achieve maximum productive output. In no case is this clearer than in the case of an athlete. Athletes thrive on competition. Competition provides the incentive to outperform the competitors. We often hear athletes say that they perform best when they play the best competition, and conversely, athletes often remark that they perform poorly against lesser competition, e.g., "we played down to our competition." Bigger games inspire bigger

⁸ The minor premise Cohen is referring to here is that the talented rich work harder when the top tax rate is at 40% than they do at 60%.

⁹ Ibid., 49-50.

performances, and even when performances fall short of expectations, athletes still acknowledge their motivation—the reward of being the best via beating the best. Moreover, the incentive to compete increases as the level of competition increases. Hence, athletes produce most when the incentive to win, and subsequently the reward, is greatest. On the other hand, athletes tend to produce less when they do not have the competitive incentive to perform, e.g., when playing lesser competition. Likewise, a person of talent fails to perform at D3 as he would at D2, not merely because of choice, but because the context is not conducive to optimum performance. Maximum production requires maximum incentives, which include competitive incentives.

In addition to maximum incentives, maximum production requires maximum will. Cohen asserts that will is something we merely choose to summon. However, this view of will is too simple. Human will is nuanced. On the one hand, it is incredibly sensitive to incentives, and on the other, it is incredibly sensitive to factors which are non-incentive related. For example, with respect to will being incentive-sensitive, as we have seen in the case of the athlete, greater competitive incentives inspire one's will to win. However, non-incentive related factors such as one's health, one's upbringing, natural talents, etc. also loom large in determining one's will. Therefore, the will to do something is not something we can simply turn on and off. Cohen suggests that when D3 does not obtain, it is because the talented rich simply choose not to perform at D3 as they do at D2. However, the evidence suggests that this is not merely a choice. Instead, the talented rich lack the will, caused by a lack of necessary competitive incentive structures, to perform at D3. Like athletes, the talented rich require a competitive context in order to have the possibility to achieve maximum productive output. D3 is not

possible because maximum incentives and maximum will are necessary for maximum production, not because the talented rich merely choose to not perform. Hence, maximum production is possible if and only if maximum incentives and maximum will are part of a given distribution structure. Hence, D2, all things considered, appears to be the most just distribution. However, if it can be shown that an equality preserving incentive can compel people to act in such a way that it also preserves Pareto-optimality and freedom, then Cohen's D3 will be possible.

4 THE TRILEMMA ARGUMENT

The trilemma argument states that Pareto-optimality, equality, and freedom cannot simultaneously obtain. Therefore, equality, freedom, or Pareto-optimality must be sacrificed. Standardly, proponents of the trilemma argument subscribe to the notion that maximum monetary incentives are required to reach Pareto-optimality. Without maximum monetary incentives, the talented rich will not produce at their highest level. Hence, we must sacrifice equality in order to reach Pareto-optimality. For example, on this view, it is less just to have persons X, Y and Z receive equal distributions of 5, 5 and 5 (D1) than it is for them to receive the unequal Pareto-superior distributions of 6, 8 and 10 (D2).

As discussed in section I, in Chapter 2 of *Rescuing Justice & Equality*, Cohen argues that a third Pareto-optimal and equality preserving distribution must exist (D3), contingent on the will of the talented rich to work as hard at D3 as they do at D2. During that discussion, I highlighted Cohen's suggestion that the inability of the talented rich to produce at D3 as they do at incentive-laden D2 was merely caused by a lack of will. According to Cohen, the talented

rich could perform at D3 as they do at D2, but refused in order to gain a more advantageous distribution. As argued above, I generally find this attempt to make D3 possible untenable. However, Cohen's response to the trilemma argument via the introduction of a non-monetary compelling incentive, i.e., a desire to follow the principle(s) constituted by a proper ethos, potentially shows that D3 is practically possible. To make his point, Cohen recalls a blood donation scheme, favored by Richard Titmuss, which sought three things: 1) "No payment for giving blood," 2) "An adequate supply of blood," and 3) "freedom to choose whether or not to give blood."¹⁰ According to Cohen, a parallel can be drawn between these three aspects of the Titmuss example and three aspects of the trilemma. Specifically, Cohen suggests that (1) corresponds to equality preservation, i.e., that everyone is getting nothing (aside from a happy feeling) for donating blood. The second point (2) corresponds to Pareto-optimality preservation, i.e., that an adequate supply of blood is produced. Finally, the third point (3) corresponds to freedom of choice preservation, i.e., people choose to donate free from any sort of coercion. In Britain, the Titmuss scheme worked and Cohen remarks, "...a sufficient number of people [were] moved to give [freely], through some combination of principled commitment and fellow feeling."¹¹ Hence, the example illustrates that, at least when it comes to giving blood (in Britain), Pareto optimality, freedom, and equality can simultaneously obtain. That is, it shows that people are willing to give up something of substance (their time, and to a lesser degree, their blood¹²) for the greater good. It shows that those who had more (donors), inspired by a shared ethos, gave blood to those who needed it. Similarly, as the conversation

¹⁰ Ibid., 188-189.

¹¹ Ibid., 184, 188-189.

¹² When a person gives blood, she, aside from perhaps feeling a tad bit fatigued or faint for a brief time, does not give up anything which has a qualitative effect on her life. Hence, I think the bigger sacrifice is clearly giving up one's time.

pertains to distributive justice, D3 can obtain if the talented rich are motivated, not by monetary compensation, but a commitment to principles of an ethos. Hence, it appears the trilemma is solved and that D3 is practically possible.

In Section I, I argued that in the case of the athlete, greater incentives provide the motivation to play harder—that human psychology requires competitive incentives in order to produce maximally. However, in this section, I suggest that the Titmuss example shows us that, in addition to monetary incentives, principle-inspired incentives also can motivate us to act or produce. Given said commentary, a crucial question is brought to the fore: When it comes to production, does the Titmuss example demonstrate the possibility for a state of affairs in which the majority of persons can produce at the same level as they do in another state of affairs which allows for monetary incentives? That is to say, can ethos-inspired incentives replace competition-inspired incentives while preserving productive output levels?

I contend that ethos-inspired incentives cannot merely replace competition-inspired incentives. While the Titmuss example demonstrates that Pareto-optimality, equality, and freedom can co-obtain via an ethos-inspired incentive, it shows it in a singular way. That is to say, the Titmuss example shows that people are willing to give a small block of time (maybe) a few times a year to help out those in need. When it comes to monetary distribution, a person will be required to act out of ethos-inspiration throughout her life. D3 requires near-everyday participation and sacrifice whereas the Titmuss example only illustrates rare participation and sacrifice. For D3 to obtain, ultimately, the question is not whether it is possible for someone to work at D2 production levels at D3 a few times a year, but throughout their lives. The Titmuss example demonstrates that an instance of ethos-inspired motivation exists in a context which

allows freedom, Pareto-optimality, and equality to co-obtain. However, it does not do enough to dispel the notion that competitive incentives are psychologically required to achieve D2-type production. Competitive incentives are necessary to achieve D2-type distribution because the production levels present at D2 require maximum incentives. D3 is not possible because an equal distribution at D3 erases the incentive to compete. Therefore, D3 remains practically impossible.¹³

5 SCALAR VIEW OF INCENTIVES, PRODUCTIVE OUTPUT, AND WILL

In order to achieve maximum productive output, human beings require maximum incentives and maximum will. While I cannot compile an exhaustive list of maximum incentives, let us assume that maximum incentives include (at least) the simultaneous existence of maximum monetary (M), competitive (C) and principled (P) incentives. We can only say that maximum productive output is possible when all three types of incentives are present to the highest degree. Further, it is crucial to recognize that incentives are scalar. That is to say, in between maximum and minimum incentives, there exists a vast spectrum of different incentive states. To illustrate, consider M, C, and P and assume that 0 denotes minimum incentives and 10 denotes maximum incentives. In this scenario, maximum incentives would only exist when $M + C + P = 30$. Conversely, minimum incentives exist when $M + C + P = 0$. However, between maximum and minimum incentives there are a potentially infinite number of incentive-present

¹³ There is caveat to this discussion that merits clarification. Specifically, there are various other influences, aside from incentives, which inspire production. For example, one's parents, race, gender, and natural talents all have influence on productive output. However, since a just distribution, as it pertains to luck egalitarianism, seeks to mitigate natural lottery influences, these uncontrollable influences are not pertinent to this discussion of productive output. In other words, Cohen and I fully agree that all aspects of the natural lottery should be mitigated as much as possible. That they influence output scenarios, while important, is inconsequential to the discussion at hand.

scenarios, e.g., we can imagine an incentive scenario of 23 where $M = 9$, $C = 8$ and $P = 6$. Like incentives and will, productive output is also scalar.

Before moving on, there is an important qualification to this discussion. The correlative relationship among incentives, will and production is not infallible. Specifically, there are other factors which play a role in constituting will and production. For example, one's mood, the amount of sleep one has, one's health, natural talents, etc. all influence productive output. These factors will be taken into consideration.

As incentives increase, the will and productive output also tend to increase. For example, consider Amy who works in an environment which simultaneously offers a bonus (M) if workers produce X number of widgets, offers gold stars for co-workers who assist fellow co-workers in production (P) and offers her co-workers the same conditions (C). Further, let us assume that Amy values all three incentives equally. Assume that Amy's incentive breakdown is $M = 8$, $P = 8$ and $C = 8$, and that she produces 20 widgets. However, Amy has a more money-inspired co-worker, Jeff, who happens to thrive on competition and is less concerned with getting gold stars for helping out his co-workers. So, Jeff's incentive breakdown is $M = 10$, $C = 9$ and $P = 6$ and he produces 23 widgets, besting Amy's production. Finally, we can imagine Mary, a third co-worker who, like Amy, equally values all three incentives, but is hyper-motivated. So, Mary's incentive breakdown is $M = 10$, $P = 10$ and $C = 10$, and she produces 27 widgets, besting both Jeff and Amy. What's crucial about the comparative productive output of Amy, Jeff and Mary is threefold:

- 1) Each member has varied levels of production.
- 2) Each person is inspired to different degrees by different incentives.
- 3) Amy and Mary place the same value on incentives, but produce different amounts of widgets because Mary possesses more will.

Cohen does not appear to recognize that will and productive output are scalar. Instead, Cohen adopts a bivalent view of will and productive output. Cohen writes, “In normal circumstances nothing but the unwillingness (be it justified or not) of the talented to share equally the greater product produced in D2 could make D3 impossible when D2 is possible.”¹⁴ Considering the example above, Cohen would simply claim that Jeff and Amy merely lack the will to achieve the production that Mary achieves. So, if we call Mary’s production A1, A1 either exists or does not exist contingent on the will of Mary, which again, either does or does not exist. Of course, Cohen believes that Mary’s will is contingent on aligning her principles correctly. Jeff and Amy merely choose to not heed the call of ethos and produce at A1. Hence, for Cohen, will is something a person chooses to summon or chooses not to summon. Likewise, production is something you either do or do not achieve, and if you do not, it is not for lack of incentives, but for lack of will. Cohen remarks on the talented rich’s inability to work at D3 as they do at D2, “The inability to work hard ... [is the result of] optional decisions of the talented rich to make the minor premise true [that the talented rich produce more when they have greater tax incentives].”¹⁵

In my view, will, like incentives and production, is scalar. It is complicatedly so. It is not the case that we merely establish the proper incentive structure and create the necessary will for maximum output. Will is contingent on a variety of factors, many of which are not incentive-driven. As mentioned previously, one’s health, whether one is sleep deprived, one’s mood,

¹⁴ Ibid., 100.

¹⁵ Ibid., 34, 50. Like before, the minor premise Cohen is referring to here is that the talented rich work harder when the top tax rate is at 40% than they do at 60%.

natural talents, etc., all influence one's will. We might imagine that Mary tends to produce maximally when she has the will to do so, but other days she simply lacks maximum will for some non-incentive based reason. To complicate matters further, will is highly individualistic, i.e., some people have the talent to summon it, while others cannot, at least not to the same degree. In the case of Amy, she cannot, even on her best days, summon the will to produce as Mary can. Hence, will is a scalar concept as the human will has varied and uncontrollable influences.

My view is twofold. First, maximum production is possible only if maximum incentives and maximum will are both present. Second, maximum will is not always accessible, even for those (like Mary) who sometimes possess the will to maximize production. An important implication of my theory of maximum output is that if you remove an incentive, then you forgo the possibility for maximum production. On Cohen's view, given the proper ethos, we can replace the psychology of money and competition with the psychology of ethos and still have maximum output. This view is untenable as maximum production requires maximum incentives and maximum will. D3 is not possible because D2 includes maximum will and maximum incentives and D3 does not. Hence, Cohen's bivalent view of incentives will and production, which leads him to accept the possibility of D3, is incorrect. In the subsequent section, I will briefly consider a Cohenian-type response to the claim that maximum production requires maximum incentives and will. In doing so, I will argue that even if we grant that Cohen's D3 can exist without maximum incentives and will, it still lacks practical possibility.

6 THE PRACTICAL POSSIBILITY OF D3 RECONSIDERED

Cohen may respond to my view by arguing that while maximum incentives are often required to achieve maximum production, they are not necessarily required. For example, there are people, e.g., philanthropists of various stripes, who make their life's work helping the downtrodden. For such persons, Cohen may argue, it is clear that they achieve the production level required for D2 and D3's distribution. Moreover, it is not clear that they would necessarily work harder if they were offered more money. For the philanthropist, the proper ethos is sufficient for maximum production and monetary incentives are inconsequential. So, it is not the case that maximum production requires maximum incentives. It only requires maximum will.

In response to Cohen, I contend that while some philanthropists may in fact produce efficiently without maximum incentives, it does not follow that they can produce maximally. To illustrate, let us suppose that we introduce a monetary bonus structure to a group of philanthropists. Let us also suppose that those philanthropists who produce the most receive bonuses. Further, let us assume that the resources for monetary compensation are scarce. While there are 100 philanthropists competing for bonuses, only 10 can get them. Moreover, we can imagine that these 100 philanthropists are working in a remote area of the world and have not seen their families for a long time. The potential bonus money would give them the opportunity to fly home and be with their families before returning to work. As I have argued thus far, on my view, the philanthropists' collective production would increase. However, Cohen might still maintain that while it may increase for some, it will not increase for those who already have the proper ethos. That is to say, those who were already working their

hardest prior to the introduction of the bonus system, will not work any harder as a result of the added incentive. While I think that is highly unlikely, I will assume for the moment that Cohen is correct. With that in mind, I will consider Cohen's claim that for some persons, the proper ethos is all that is needed to produce maximally. Even still, I will argue that D3 remains practically impossible.

Most of us are familiar with the phrase, "Pull yourself up by your bootstraps." Of course, the phrase essentially means something like "Improve your situation through your own efforts" or "It's up to you to fix your situation." A subtext to this claim is that to pull oneself up by his bootstraps, one must have the will, and, depending on the situation, a lot of it. Perhaps most famously, some conservatives employ this phrase and argue that those who are poor simply choose to be poor—that the poor would not be poor if they would simply choose to fix their situation. The implication is that if they remain poor, they simply lack the will to get themselves out of their situation. This is precisely the reasoning that Cohen uses when it comes to the talented rich being able to produce at D3 as they do at D2 and it suffers from the same problem. Specifically, in the case of the poor, conservatives ignore an unjust starting point or unlucky natural lottery circumstances, e.g., being born of uneducated parents, having poor education, living in poverty, etc. Rather than implement systems aimed at ameliorating their difficult circumstances, conservatives ask the poor to simply overcome them. Likewise, in the case of the talented rich, who are dealt a psychological hand which demands competition in order to achieve higher levels of production, Cohen expects that they merely choose to overcome this psychological burden. In both cases, the possibility of overcoming inherited circumstances or psychology aside, to expect persons in the respective positions to "pull

themselves up by their bootstraps” is unrealistic. It is unrealistic because both positions ignore core constitutive elements of the human condition. Whether you are the unfortunate poor or the talented rich, you are shackled by the circumstances you find yourself in, and it is not realistic to simply ask you to become an escape artist. The fact that some persons are exceptions to the rule does not mean that all persons can be exceptions to the rule. Yet, this is what Cohen is arguing, i.e., that everyone can become an exception to the rule. As a general rule, when positing a theory, the theory should not expect or require persons to overcome circumstances that are not of their making. That is to say, it is not practical, nor is it realistic, for any theory to require persons to be exceptions to the rule. Hence, Cohen’s attempt to show that D3 is possible based on exceptions to the rule fails because it does not follow from the fact that exceptions to the rule exist that all persons can be exceptions to the rule. Hence, D3, while logically possible, is psychologically impossible for nearly all, if not all, persons.

Of course, Cohen might suggest that I am merely proving his point here. Namely, that exceptions to the rule demonstrate practical possibility. This point of contention is at the heart of my disagreement with Cohen. I believe Cohen’s theory is too ideal and relies on an overly broad and ultimately unrealistic view of practical possibility. In the subsequent section, I address this disagreement over what constitutes practical possibility alongside a discussion of ideal and nonideal theory. During this discussion, I will argue that Cohen’s concept of ethos plays a crucial role in determining practical possibility.

7 PRACTICAL POSSIBILITY AND THE ROLE OF ETHOS

Determining what is practically possible is crucial for all political theories. After all, if a theory recommends a state of affairs that is not practically possible, then that theory is only good to us in the realm of ideas. However, as we have seen, views on what is practically possible differ. Until this point, I have operated under Cohen's view of practical possibility, i.e., a state of affairs is practically possible if and only if a state of affairs is logically, nomologically, and psychologically possible. With that in mind, and inspired by points made by Allen Buchanan and A. John Simmons, I will begin to lay out what I consider practical possibility to be. Along the way, I will discuss the importance of the concept of ethos and argue that it is crucial in determining the conditions for practical possibility as it pertains to ideal political theory.

Allen Buchanan argues that a defensible ideal moral theory should be "feasible," "accessible," and "morally accessible." He describes his notion of ideal theory as follows:

[A theory is feasible] if and only if the effective implementation of its principles is compatible with human psychology, human capacities generally, the laws of nature, and the natural resources available to human beings; [and, a theory is] accessible if is not only feasible, but if in addition there is a practicable route from where we are now to at least a reasonable approximation of the state of affairs that satisfies its principles; [and, a theory is] morally accessible [if] "the transition from where we are to the ideal state of affairs should be achievable without unacceptable moral costs."¹⁶

Based on my previous arguments against the possibility of D3, it is unsurprising that I am somewhat sympathetic to Buchanan's view. However, some, such as A. John Simmons, argue that Buchanan excessively constrains ideal theory. Simmons argues that Buchanan's insistence on "accessible" and "morally accessible" conflates ideal theory and nonideal theory. According

¹⁶ Allen Buchanan. *Justice, Legitimacy, and Self-Determination* (Oxford: Oxford University Press, 2004), 61.

to Simmons, the harm in doing so is that it renders ideal theory weaker than it needs to be. His contention is that if we remove the “accessible” and “morally accessible” requirements, we will have a more robust conception of ideal theory. For Simmons, like Cohen, a state of affairs recommended by ideal theory need only be practical possibility insofar as a state of affairs is logically, psychologically, and nomologically possible. As Simmons sums up the point, “[The only constraints on ideal theory are that it agrees with] human nature and the nature of the world.”¹⁷

While I do not have time to address the ideal vs. nonideal theory debate in full, there are a few comments I will make regarding the discussion. First, Cohen agrees with Simmons’ definition of ideal theory. That is to say, Cohen’s theory of justice is an ideal theory and considers a state of affairs practically possible if and only if it is logically, nomologically, and psychologically possible. Second, Cohen’s theory of justice, per my arguments in previous sections, is ultimately untenable because the state of affairs it recommends is not practically possible. Third, Cohen has no developed nonideal component to his theory of justice. Fourth, putting the ideal vs. nonideal distinction aside, Buchanan’s claim that political theory needs to have a practicable route to get from our current situation to one proposed by theory is correct. Finally, Simmons’ concern that Buchanan’s conditions for ideal theory may limit the scope of ideal theory or weaken it should be taken into account. In particular, Simmons’ claim that Buchanan’s accessible and morally accessible conditions concerning the concept of practicable route mistakenly limit ideal theory.

¹⁷ Simmons, “Ideal and Nonideal Theory”, 29-31.

It is important to recognize that an ethos can change. That is to say, a state of affairs may be unrealizable at T1 with ethos A, but realizable at T2 with ethos B. For example, consider the time of slavery in the United States juxtaposed to current laws concerning African Americans. Imagine telling a slave in 1795, that one day African Americans will be free, integrated into society, have voting rights, the right to pursue education and employment, etc.¹⁸ We might imagine that in 1795, the slave would not be able to conceive such a scenario. In fact, he might simply say, “That’s impossible.” He would be justified in doing so in 1795, because our ethos did not allow for such a conception to be realized at the time. However, as Simmons points out, simply because we could not imagine a practical route from slavery to freedom and equal rights for all does not mean that we should not have insisted on a state of affairs which allows for freedom and equal rights for all. After all, despite not having a practicable route by Buchanan’s standards, a route did exist. Namely, the one we took that rendered slavery non-existent and expanded freedoms and opportunities for African Americans. So, according to Simmons, Buchanan is wrong to insist that we have a practicable route from A to B because this potentially limits ideal theory. Hence, there exists a clear tension between what our current ethos allows and what is ultimately practically possible.¹⁹

This debate over what constitutes a practicable route is a crucial part of the disagreement between Cohen and Buchanan. While Buchanan does not fully explicate what he means by “practicable route,” his clearest delineation occurs when he writes, “Even though some human beings, in some circumstances, might be able to realize the principles of a particular theory,

¹⁸ In practice, there is some contention as to whether this freedom actually exists due to systematic discrimination. For my purposes here, that point is peripheral.

¹⁹ Ibid., 29-30.

contingencies on our history or culture or the inertia of our severely defective social institutions might bar us from doing so.”²⁰ For Buchanan, our culture, history, and the negative momentum of our social institutions may prohibit a practicable route from moving us from our current state of affairs to another state of affairs. Hence, ideal theory should take this into account and work within the framework our culture, history and current social institutions provides. On the one hand, I think Simmons’ point regarding Buchanan’s insistence on a practicable route is a good one. If by practicable route, Buchanan means that we must have some particular plan or that our social institutions must immediately allow us to move from a state of affairs (A) to a state of affairs (B) in order to make theory X plausible, then Simmons’ critique is justified. Speaking to the point, Simmons writes, “While in 1920 there might well have been no “practicable route” to the reform of Jim Crow laws (at least in Buchanan’s sense of “practicable”), it would surely be unconvincing to argue on that ground alone our ultimate standards of justice did not, even in 1920, condemn social institutions that included such laws.”²¹ Hence, according to Simmons, on Buchanan’s view, a theory which aimed at moving away from Jim Crow oppression would have been considered too ideal. Therefore, Buchanan’s view of ideal theory is too limited in scope because history shows that we moved away from Jim Crow oppression.

Without fully weighing in on the Buchanan vs. Simmons debate, I will take away the following two main ideas which I will argue for subsequently. First, Buchanan’s insistence that ideal theory not merely be constrained by logical, nomological, and psychological conditions, as defined by Simmons, is correct. Second, that Simmons’ insistence that we should not limit ideal

²⁰ Buchanan, *Justice, Legitimacy, and Self-Determination*, 61.

²¹ Simmons, “Ideal and Nonideal Theory,” 30.

theory to the extent Buchanan suggests is also correct because what may seem currently unfeasible may turn out to be feasible after all. Given these two observations, I will argue that ideal theory needs to be slightly less constrained than Buchanan suggests, but slightly more constrained than what Simmons suggests.

This discussion merits clarification of the concept of a practicable route. There are two types of practicable routes that I will consider, i.e., an unknown practicable route and a known practicable route. There is an unknown practicable route when there is a route from A to B, but I do not know it. For example, I do not know how to drive from my house to the White House, but there is a route to get there. There is a known practicable route when there is a route and I know it. For example, there is a route from my workplace to my home and I know it how to drive it. These practicable routes are distinct from a route that does not exist. For example, there is not a way for me to drive my car from my house to the moon.

There may be a practicable route to a state of affairs even if we do not know the precise route, i.e., we have an unknown practicable route. Considering the slavery example again, we might say that a practicable route did exist, but that we did not know it at the time. In other words, at the time, our ethos allowed for the possibility for the abolishment of slavery, even if we did not know the specific route to take. Hence, our ethos helps determine whether a practicable route exists regardless of whether the practicable route can be immediately known.

While our ethos assists in determining whether a practicable route exists, it is not the only factor. Technology, evolution, and history also influence whether a practicable route exists. For example, women's liberation in the workplace was not only contingent on an ethos, but technology as well. The advent of the birth control pill played a pivotal role in women's being

able to pursue careers outside the home. However, while it is important to recognize that factors other than an ethos play a role in determining whether a route is practicable, the precise amount of influence they have will vary contingent on context. At different times some factors will inevitably play a more key role than others in influencing whether a practicable route exists. As such, I will concede that there will be times when our ethos cannot overcome other factors' influence on whether a practicable route exists. However, that this is the case poses no problems for, and is peripheral to, my thesis. I am primarily concerned with the role ethos plays in determining whether a practicable route exists.

8 PRACTICAL POSSIBILITY, PROBABILITY, AND REALITY

Let's recall the reverse bootstraps argument I put forth in section IV. My contention in that section was that, despite exceptions to the rule, it is unrealistic to assert that the talented rich can overcome their inherited psychology and choose to simply perform. In other words, it does not follow from the fact that exceptions to the rule exist, that all persons can become exceptions to the rule. Cohen, on the other hand, would certainly contend that exceptions to the rule demonstrate practical possibility. After all, it is possible because the exceptions exist. It is here that Cohen's theory becomes too ideal.

As has been noted, Cohen holds that a state of affairs must be logically, nomologically, and psychologically possible in order to be practically possible. I contend that Cohen's concept of psychological possibility uses exceptions to the rule for its justification, leading him to wrongly conclude D3 is practically possible. An exception to the rule occurs when an instance of X is possible for some (few) persons, but impossible for nearly all persons. For Cohen, person A

being able to realize a state of affairs is evidence that most persons can realize that same state of affairs. In contrast, I contend that an example of person A being able to realize a state of affairs only evidences the fact that persons who possess similar talents to A can realize that same state of affairs. Cohen wrongly concludes that the performance of persons with exceptional talents demonstrates the possibility for all persons to perform as if they have exceptional talents. As it happens, such cases demonstrate practical impossibility since certain talents, like the ability to perform optimally without competitive incentives, are not readily imitable for most persons. Cohen's D3 is practically impossible because the state of affairs it recommends is realizable only if rare exceptions to the way humans behave became the general rule of human behavior. As a matter of empirical fact, such an occurrence is practically impossible. Hence, on my view of practical possibility, a state of affairs is practically possible if and only if it is logically, nomologically, and psychologically possible for nearly all persons. Crucial to understanding my concepts of psychological possibility, extreme improbability, and practical possibility is specifying what precisely counts as an exception to the rule. In order to tease this out, I will make three points. First, there is a crucial difference between practical possibility and practical probability. Second, practical improbability is distinct from extreme improbability. Finally, the state of affairs Cohen's theory recommends is practically possible for a small percentage of persons but not for most persons. As a result, D3 is not possible and his theory is untenable.

Practical possibility is distinct from practical probability. Practical possibility is not contingent on our current ethos whereas practical probability is contingent on our current ethos. It is clear that our current ethos (in the U.S.) makes it more likely for a certain state of

affairs to obtain than others. For example, our current ethos allows for the freedom to choose your sexual partner regardless of gender, but does not allow bestiality. Our ethos is not bestiality-friendly. Thus, attempts to make bestiality legal would be pointless at this time. In a word, when it comes to bestiality, our ethos is currently fixed. In contrast, when it comes to whether people of the same sex should be permitted to marry, our ethos is currently malleable. The point here is that when it comes to probability, our ethos is far less likely to allow for the legalization of bestiality than it is same-sex marriage. Ethos helps determine whether a state of affairs is probable at a given time. Thus, a state of affairs is practically probable only if our current ethos potentially allows for the state of affairs to obtain. By contrast, a state of affairs is practically improbable if our current ethos does not allow for such a state of affairs to obtain. That is to say, a favorable ethos is a necessary condition for practical probability and an unfavorable ethos is a necessary condition for practical improbability. To reiterate via example, it is currently practically probable that same sex marriage could be made legal, but practically improbable that bestiality could be made legal. However, despite the practical improbability of bestiality becoming legal, it is practically possible. This is because there is nothing, aside from temporal conditions regarding our current ethos that precludes bestiality from being legal. Thus, practical probability is temporally and ethos-contingent whereas practical possibility is not.

Practical improbability is distinct from extreme improbability. As we have seen, a state of affairs is practically improbable if our ethos does not allow for a state of affairs to currently obtain, e.g., bestiality becoming legal in the United States. However, extreme improbability is not ethos-contingent. A state of affairs is extremely improbable if the possibility of a state of

affairs obtaining uses an exception to the rule as justification for its obtainment. Consequently, a theory of justice is implausible if it ultimately relies on the existence of an exception to the rule to justify the practical possibility of the state of affairs it recommends.

In order to illustrate these distinctions between types of practicable routes, practical probability, extreme improbability, practical possibility, and practical impossibility, consider the act of putting together a puzzle. When putting together a puzzle, one is typically given a picture of what the completed puzzle should look like. In addition, one is given the precise number of pieces which fit together in a particular way to form the picture. At the start of putting together the puzzle, it is often slow-going. However, once shapes, colors and images start to coalesce, the puzzle-maker begins to look for certain shapes, colors and images. That is, she starts envisioning the route that will facilitate the desired state of affairs (completing the puzzle). Likewise, when faced with a potential need for social or economic change, a similar process might occur. We see the big picture, e.g., slavery should be abolished. We have the pieces to realize the picture, e.g., practical probability via a proper ethos, nomological possibility, and psychological possibility for nearly all persons. However, we do not always know immediately how the pieces all fit together, e.g., we do not have a known practical route from state of affairs (A) to state of affairs (B). That we do not have a known practicable route from A to B is not a sufficient reason for not pursuing B, if and only if B is logically possible, nomologically possible, and psychologically possible for nearly all persons. As has been discussed, a practicable route can exist despite its being unknown. Hence, the puzzle is practically possible by virtue of the fact that we have a picture to aim at, the necessary pieces, and the talents to configure the pieces in such a way as to complete it.

Cohen's suggestion that the talented rich should choose to produce at D3 as they do at D2 is analogous to trying to complete an impossible puzzle. We are given the picture to aim at, D3, but we lack the proper pieces to realize the picture. That is, human psychology demands that maximum production require maximum incentives and maximum will and D3 does not provide maximum incentives and maximum will. I suppose Cohen may be asking us to reshape and color the pieces so that they can fit together in such a way as to allow for the picture of D3 to show forth. However, if any of us possesses the skill and necessary tools to manipulate the pieces in such a way, it is markedly few of us. It is those of us who represent cases of extreme improbability or exceptions to the rule. Hence, Cohen's arguing for the possibility of D3 is akin to asking one to complete a puzzle without the proper pieces. While we can imagine someone reconfiguring the pieces so that they would work to complete the puzzle, it is extremely improbable that one actually could. Further, even if one had the unique set of talents to manipulate the pieces, it is practically impossible that everyone could manipulate the pieces because they lack the same talents. As a result, D3 is extremely improbable, practically impossible and Cohen's theory of justice is implausible. To illustrate this point, let us consider the following state of affairs.

There is a little boy trapped in a well. We'll call him "Billy Wellington." Billy happens to be from a small town where everyone knows each other and everyone shares very similar values. We might say they have a small town ethos which guides their small town culture. Since Billy has been trapped for some time, the whole town has become involved in trying to figure out a way to free him. However, due to complications in the well construction, the precise way to get Billy out has yet to be determined. At this point, the town has an unknown practicable

route to getting Billy out. We might imagine that Bob, the town hero, comes along and suggests a precise method for extracting Billy. Bob knows a practical route for freeing Billy. On the other hand, we might imagine another scenario in which Billy falls into a well, but that Billy has no arms. We might further imagine that the well is too narrow to lower someone down and that the only chance for Billy's escape is to have arms so that he can grab hold of a rope. In this situation, unfortunately for Billy, there is no practical route to getting Billy out because his not having arms makes it practically impossible. However, unwilling to give up, the townsfolk cling to possibility in a last ditch effort to free poor Billy. In this instance, Sally, who happens to read, "*Extraordinary Human Beings*" magazine regularly, recalls a story she read about a mountain man who had the freakish ability to lift 200 lbs with his mouth. As the story goes, the mountain man was born with an unusually strong jaw—10 times stronger than the average person. Despite Billy's lack of natural talents, Sally becomes convinced she has the solution. She suggests we instruct Billy to grab hold of the rope with his mouth and we will pull him up. However, Billy does not possess the exceptional mouth strength that the mountain man does and so he remains at the bottom of the well. Hence, Billy falls victim to false hope based on extreme improbability or practical impossibility, born of the example of the exceptionally strong mouthed man, an exception to the rule. Mistakenly, the townsfolk thought that Billy might muster the same set of talents and circumstances that would have allowed the strong-mouthed man to escape.

In the example of Billy, it is worth noting the circumstances that put Billy in the situation he was in. First, in not having arms, Billy was dealt a tough hand from the natural lottery. Also, Billy did not possess the particular set of circumstances and talents the mountain man

possessed. The mountain man was endowed with exceptional mouth strength. Even with training, Billy could not possibly possess the freakish mouth-strength of the mountain man. Therefore, Sally was wrong to think that her plan was possible in any practical or realistic sense. Similarly, when Cohen posits D3 based on exceptions to the rule, he too is mistaken about the practical possibility of it obtaining.

Now, Cohen might grant that this example shows that there are cases in which possibility is thwarted by a lack of training, but nothing more. In other words, there is not sufficient evidence to claim that Billy could not learn to have superior mouth strength through rigorous training. So, given the proper training, Billy could overcome the gap imposed by the natural lottery between his mouth strength and the mouth strength of the mountain man. In response, let us again consider an athlete, Nolan Ryan. Nolan Ryan's fastball exceeded one hundred miles per hour. The percentage of people on the planet that can throw a baseball one hundred miles per hour is incredibly small. Further, while one can improve pitching mechanics, thereby increasing velocity to a degree, one cannot train and learn to throw the ball one hundred miles per hour. Instead, such a feat is impossible without natural talents. Put another way, one hundred mile per hour throwing ability is impossible for nearly all persons to achieve. On my view, a state of affairs in which a very small percentage of the population throws one hundred mile per hour fastballs is practically possible. However, a state of affairs in which the majority of the population throws one hundred miles per hour is practically impossible. Therefore, one hundred mile per hour throwing ability, like freakish mouth strength ability, or the ability to maximally produce without maximum incentives, is not contingent on training, choice, or will. It is contingent on some combination of natural talents not accessible to most persons. People

who do not require monetary incentives to achieve maximum production are like Nolan Ryan, i.e., they are exceptions to the rule.

As we have seen in this section, extreme improbability shapes my view of psychological possibility. Unlike Cohen, I do not have an invariant view of psychological possibility. On such a view, if person X is psychologically able to perform A, then A is psychologically possible for all persons. By analogy, if one person can produce maximally without maximum incentives, then everyone can potentially produce maximally without incentives. My view of psychological possibility is different. I maintain that exceptions to the rule do not illustrate practical possibility for all or most persons. Instead, they demonstrate abilities that are possible through some combination of natural talents which are unique and not imitable by nearly all persons. As a result, D3 is not possible because nearly all persons require maximum incentives and will to achieve maximum production.

9 CONCLUSION

Cohen is correct to rely on the concept of ethos as part of his theory, but he asks too much of it. While we may be able to somewhat mitigate the influence of competitive incentives in favor of ethos-inspired incentives, we cannot replace them. This is what is necessary for Cohen's D3 to obtain and precisely why it cannot. As I have argued throughout this paper, the possibility for maximum production requires the possibility of maximum incentives and maximum will. Without competitive incentives, the possibility for maximum incentives and will is lost. Cohen's bivalent view of incentives, will, and production in conjunction with his view of psychological possibility leads him to wrongly conclude that D3 is possible. As I have shown,

incentives, will and production are scalar concepts. Further, I have demonstrated that exceptions to the rule do not demonstrate psychological possibility for all persons. Instead, exceptions to the rule or cases of extreme improbability demonstrate psychological impossibility for nearly all persons. Since D3 relies on exceptions to the rule to obtain, it is practically impossible. As a result, Cohen's theory of justice is too ideal and therefore implausible.

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