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A BENEFIT ARGUMENT FOR RESPONSIBILITIES TO RECTIFY INJUSTICE

by

SUZANNE NEEFUS

Under the Direction of Andrew I. Cohen, PhD

ABSTRACT

Daniel Butt develops an account of corrective responsibilities borne by beneficiaries of injustice. He defends the consistency model. I criticize the vagueness in this model and present two interpretations of benefit from injustice (BFI) responsibilities: obligation and natural duty. The obligation model falls prey to the involuntariness objection. I defend a natural duties model, discussing how natural duties can be circumstantially perfected into directed duties and showing how the natural duties model avoids the involuntariness objection. I also address objections from structural injustice and demandingness.

INDEX WORDS: Benefit, Responsibility, Injustice, Obligations, Natural Duties

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by

SUZANNE NEEFUS

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1 INTRODUCTION

It is no secret that our world is marked by pervasive injustice. Calling people to account to work towards remedying injustices can be difficult. Individuals generally have positive self-conceptions of their moral character, and admitting causal connection to injustice can threaten that positive conception. Consequently, individuals are usually quick to preserve their sense of moral character by denying any sort of causal connection to significant injustices. Even if some small measure of contributory relationship to complex wrongs can be established, people may try to argue that the level of contribution is not sufficient for assigning corrective responsibilities. The challenge extends beyond psychological resistance to causal responsibility attribution; actually making the case for casual responsibility can be difficult, especially in cases of historic injustice that still have substantial effects in the present and that demand remedy. One possible solution to this problem for establishing causal responsibility is to focus on different grounds for responsibility attribution. A number of authors writing about corrective responsibility reference the status of benefitting from injustice as grounds for attributing corrective responsibilities.¹ This form of connection to injustice has interesting potential, but most authors referencing benefit from injustice responsibilities (hereafter BFI responsibilities) proceed directly to application without explaining the basis of the responsibilities. Daniel Butt is the only philosopher to offer moral exposition explaining why and how a benefit connection to injustice grounds corrective responsibilities. He develops a consistency model.² His model suffers two problems. First, it inadequately justifies why persons who have benefited from injustice must take remedial

¹ These authors include Linda Radzik, "Collective Responsibility and Duties to Respond," *Social Theory and Practice*, Vol. 27, No. 3, July 2001; Larry May and Robert Strikwerda, "Men in Groups: Collective Responsibility for Rape," *Hypatia*, Vol. 9, No. 2, 1994; Nahshon Perez, *Freedom from Past Injustices*, Edinburgh: Edinburgh University Press, 2012; and Derrick Darby, "Reparations and Racial Inequality," *Philosophy Compass*, Vol. 5, No. 1, January 2010.

² Daniel Butt, "On Benefiting from Injustice," *Canadian Journal of Philosophy*, Vol. 37, No. 1, March 2007; and in Daniel Butt, *Rectifying International Injustice*, New York: Oxford University Press, 2009.

measures. Second, it is unclear whether the BFI responsibilities generated by the consistency model should be understood as obligations or natural duties. I address both problems by defending a natural duties model for remedying injustice.

In Section 2, I motivate the project, situating it in context with other approaches to assigning responsibility for injustice and surveying how leading accounts fail to demonstrate how benefit generates corrective responsibilities. In Section 3, I describe Butt's consistency model of BFI responsibilities and identify some vagueness in his conception of those responsibilities, describing an obligation model and natural duty model as two potential clarified interpretations of the responsibilities he advocates. In Section 4, I explain an important challenge to Butt's account of BFI responsibilities: the involuntariness objection. After presenting an example that illustrates problems with his account, I explain the voluntarist position on obligations. I then argue that the voluntarist objection succeeds against the obligation model. In Section 5, I develop the natural duties model of how benefit can justify bearing corrective responsibilities. I discuss how natural duties can be perfected on the dimension of directedness by circumstantial factors, appealing to a case involving emergency need. I then explain how circumstantial perfection applies to BFI responsibilities and how this natural duties model avoids the involuntariness objection. In Section 6, I consider objections to my account from structural injustice and the problem of demandingness.

2 MOTIVATING THE PROJECT

Two central purposes drive this inquiry into BFI responsibilities. First, the benefit connection to injustice fills an important gap in theorizing about responsibility for injustice. BFI responsibilities offer a historically sensitive approach that delinks assigning burdens for repair from causal responsibility and blame. This avoids the setbacks often caused by people reacting defensively to being blamed. Second, those who reference benefit as a source of corrective responsibility sometimes provide confused or unclear accounts. Their arguments could be improved by a clearer analysis of how benefit is a justification for corrective responsibilities.

2.1 Another Responsibility Creator

Much of the literature about historic injustice focuses on two approaches to justifying remedial responsibilities. One approach is to focus on causal responsibility, connecting the original perpetrators to current populations, often through collective responsibility. Another approach is to set history aside and focus on forward-looking responsibility for distributive justice. Each approach has advantages and drawbacks. Derrick Darby and Nyla Branscombe explain, “ignoring or forgetting about the past and its connection to the present is not an attractive option,”³ because history is important to victims of injustice. But attempting to attribute a form of causal responsibility to current members of the perpetrating group is often ineffective. “Because dominant group members’ identities are at stake and it is generally painful to see one’s group as having acted immorally in the past and to feel guilt for having done so, people have a variety of defenses to avoid taking political responsibility for injustice or

³ Derrick Darby and Nyla R. Branscombe, “Beyond the Sins of the Fathers: Responsibility for Inequality,” *Midwest Studies in Philosophy*, Vol. 38, 2014, 128.

inequality.”⁴ Distinguishing between forward- and backward-looking responsibility can be useful in resolving this problem. While different authors parse this differently, the distinction generally rests on the justification for assigning a burden to an agent, tracking the time index of the acts or states of affairs justifying such burdens. Forward-looking responsibility does not involve guilt or blame, in contrast to most backward-looking accounts, so it is less threatening. Yet the forward-looking approach has drawbacks as well; people may disagree about their vision for the future or what a fair distribution of the burdens of achieving that vision would be.

The benefit approach incorporates elements of both backward- and forward-looking approaches. It is historically sensitive because the justification for remedial responsibilities emphasizes a historically salient event rather than current material conditions, but it does so without blaming or invoking guilt. Those identified as bearers of remedial responsibility have a direct connection to the wrong, but this form of connection is not one of causal responsibility for the injustice. The benefit connection is an effect of the injustice rather than a contributory cause. One could say the beneficiaries are down the causal stream because this form of connection is posterior rather than prior to the injustice. The focus is on repairing problematic present material conditions, an emphasis traditionally associated with the forward-looking approach. BFI responsibilities provide a useful alternative that avoids the blaming associated with approaches that emphasize causal responsibility. It can be useful to avoid discussions about responsibility for addressing injustice that involve emotionally charged practices of accusation and blaming, because such discourse often incites defensive emotional responses, which may hinder progress and prevent individuals from taking on responsibility. BFI responsibilities are forward-looking in that they aim to create a fairer future, but on the (backward-looking) basis of relational connection to historical events.

⁴ Ibid., 122.

2.2 Current Application Unclear

A number of authors working on collective responsibility and historic injustice make reference to benefit as a potential source of remedial responsibility. However, these authors simply assert that this as a source of obligation; they neither cite nor develop an account of such benefit-based obligations. I will briefly survey the treatment of these issues in the work of Linda Radzik, Larry May and Robert Strikwerda, and Nahshon Perez. I show that their accounts are importantly incomplete.

Radzik asserts that individuals can bear responsibility for wrongs on the basis of a benefit relationship to those wrongs. She writes, “Another, importantly different way in which individuals can come to share in the responsibility for the wrongs committed by their groups is by benefitting from those crimes....This fact in and of itself can confer responsibility....”⁵ She clarifies that this form of responsibility does not include “guilt, blame, and punishment,”⁶ because merely benefiting from injustice would not warrant such responses. Blamelessness for an injustice does not necessarily excuse an individual from some form of remedial responsibility. This is because “[m]oral debts, like financial debts, can be incurred through no fault of one’s own.”⁷ Radzik’s final comment on the topic of benefit asserts that the action demanded by a benefit responsibility differs from the kind of action demanded by perpetrators.⁸ Radzik’s treatment of benefit is cursory; she presumes that beneficiaries of injustice have reparative

⁵ Radzik, 458.

⁶ Ibid.

⁷ Ibid., 459. Some might push Radzik’s point here, arguing that such collectively incurred responsibilities may well be burdens, but they might not rise to the level of *moral* debts. Radzik is unclear about this. I will pass over such objections to her account.

⁸ Ibid., 465.

obligations without explaining why there are such obligations and what are their content and extent.

May and Strikwerda also reference benefit as a source of remedial obligation in their argument for the collective responsibility of men for rape. They cite a number of comparative advantages that men experience as a result of rape culture, including safe travel at all hours of the day. Women often do not feel safe traveling alone, which makes them dependent on men. May and Strikwerda argue that this counts as a benefit for men: “Whenever one group is made to feel dependent on another group, and this dependency is not reciprocal, then there is a strong comparative benefit to the group that is not in the dependent position.”⁹ The privileged status that such comparative benefits create is the basis for attributing culpability and some corrective responsibility to men. May and Strikwerda write, “[a]nd just as the benefit to men distributes throughout the male population in a given society, so the responsibility should distribute as well.”¹⁰ This account of comparative benefits is underspecified. Enjoying an advantage that another does not have access to does not necessarily constitute a benefit, and it may not count as a benefit in virtue of injustice either. More precisely, even if a connection between a putative benefit and a particular injustice can be established, it is unclear why and how merely having that benefit at one’s disposal gives rise to remedial obligations.

Nahshon Perez considers and rejects benefit as a creator of intergenerational collective responsibility. Focusing on cases of benefits that are diffused amongst collectives, Perez makes an analogy between benefit arguments and fair play arguments in the political obligation literature. He writes, “the crucial point is that receiving benefits may justify attributing duties to the beneficiary, even if the receiving side did not express an explicit wish to receive such

⁹ May and Strikwerda, 148.

¹⁰ Ibid.

benefits.”¹¹ Perez argues that fair play arguments for political obligation fail because they omit appeals to consent, which on his view is a necessary condition for such obligations. Further, the same failure applies to benefit arguments; if benefits are not consented to, they cannot be a source of obligation. Perez concludes, “it is a mistake (or even wrong) to impose duties following the bestowal of a benefit on a passive individual.”¹² Perez correctly argues against the view that mere receipt of benefit has significant normative implications. However, he does not specify when—if ever—receiving benefits might create some sort of remedial responsibility for the beneficiary.

Each of these writers references benefit arguments without providing a clear account of how benefit can create remedial responsibility for injustice. This illustrates the need for such an account to be developed. In the next section I will discuss Daniel Butt’s attempt to provide such an account.

3 BUTT’S BENEFIT ACCOUNT

This section surveys and evaluates the account that Daniel Butt develops of BFI responsibilities. First, I describe Butt’s consistency model. Next, I identify an aspect of his account which lacks clarity and propose the obligation and natural duty interpretations of Butt’s consistency model of BFI responsibilities.

3.1 The Consistency Model

Daniel Butt sketches an account of BFI responsibilities, which I will refer to as *the consistency model*. Butt develops his model as an extension of David Miller’s connection theory

¹¹ Perez, 74.

¹² *Ibid.*, 76.

of responsibility.¹³ On Miller's view, responsibilities can be assigned on the basis of several forms of connection, including causal contribution, association, and capacity. These forms of connection become relevant for assigning remedial responsibility when a wrong has moved someone below a threshold of well-being, because it is morally unacceptable for individuals to remain below this threshold. Miller's approach does not extend to correcting the full effects of the injustice; he is primarily concerned with assigning responsibility in order to bring individuals up to the threshold. If a person's level of well-being prior to the wrong was significantly higher than the threshold, fully remedying the injustice might require returning the individual to that level, but Miller's connection theory only extends to ensuring a minimum threshold of well-being.

Butt develops benefit from injustice as another important form of responsibility-creating connection, describing the hypothetical underground river example to illustrate this form of obligation. A, B, and C live self-sufficient lives devoid of contract with the others on an isolated island. The main crop is sustained by an underground river. A chooses to divert the river away from C's property to make his crops grow better. He miscalculates and accidentally diverts the water to B's property, greatly benefitting B's crop production at C's expense. In this scenario, B has a responsibility to assist C as a result of B's benefit from the injustice committed by A. Butt concludes,

If the events which cause agent C to fall below the morally relevant threshold confer benefits upon agent B, then the fact of the receipt of these benefits, however involuntary, establishes a morally relevant connection between C and B, which may give rise to remedial obligations on the part of B.¹⁴

¹³David Miller, "Distributing Responsibilities," *The Journal of Political Philosophy*, Vol. 9, no. 4, 2001.

¹⁴Butt, "On Benefiting from Injustice," 133.

Several important features of Butt's model are illustrated in this example. First, the beneficiary may be connected to the victims of injustice in no way other than by non-culpably benefitting from their misfortune. An individual need not consciously accept the benefits of injustice to acquire responsibilities to help rectify the situation. However, this form of responsibility does not entail blameworthiness; some sort of choice or omission traceable to the individual's will is needed to blame. If a person becomes aware of the unjust source of a particular benefit she has been involuntarily receiving and changes nothing in light of this new information, Butt says she may become blameworthy. Thus, a person bears blame for receiving the fruits of injustice if she fails to discharge her remedial responsibilities, but mere involuntarily reception of benefits is not sufficient for attribution of blame. Butt is also careful to point out that having a responsibility to remedy an injustice does not imply that the responsibility is to completely remedy the situation. The demandingness of one's responsibility is matter of degree, based on one's degree of benefit.¹⁵ Further, Butt goes beyond Miller's focus on remedial responsibilities, where the victim has fallen below some morally significant threshold of well-being. Butt argues that anytime someone has been both wronged and harmed and another person benefits, that other person acquires reparative obligations. That is, these responsibilities can be acquired in cases of injustice that do not result in anyone's moving below Miller's threshold, and these responsibilities can also demand more than merely returning an individual's level of well-being to the threshold.¹⁶

The ground of the benefit from injustice responsibility Butt advocates is an inconsistency between judging something to be an injustice and willingly benefitting from it. Recognition of the injustice as a wrong commits the moral agent to not benefit from it, or to

¹⁵ Ibid., 141-142.

¹⁶ Ibid., 135-139.

disgorge the benefits if they accrue involuntarily.¹⁷ Butt argues that a decision to retain involuntarily received benefits of a recognized injustice undermines condemnation of the injustice. “Taking our nature as moral agents seriously requires not only that we be willing not to commit acts of injustice ourselves, but that we hold a genuine aversion to injustice and its lasting effects.”¹⁸ Consistent condemnation of the injustice requires opposition to that injustice across the board, including refusal to benefit from it. He writes, “If we actually wish that we were in a different kind of world, and think that such a world would be more just than our current world, surely it follows that we should seek to make our world more similar to the counterfactual world in question.”¹⁹ It is inconsistent to claim opposition to injustice while retaining the benefits thereof; “the refusal undermines the condemnation.”²⁰ This conclusion to Butt’s consistency model moves very quickly, and initially, at least, it seems to have considerable intuitive appeal.

3.2 Two Interpretations

Butt’s characterization of BFI responsibilities lacks precision in one important respect. It is unclear whether Butt conceives of BFI responsibilities as obligations or as natural duties. The terminology he employs to describe BFI responsibilities varies. Most frequently he uses the language of rectificatory or compensatory obligations, but he also makes references to “duties of assistance”²¹ and remedial responsibilities. Butt seems to be using the terms interchangeably, most often employing obligation as a generic term for a moral requirement.

This lack of clarity invites attempts to sharpen the account. Although “duty” and “obligation” are often used interchangeably in common parlance and some moral philosophy, a

¹⁷ Ibid., 143.

¹⁸ Ibid.

¹⁹ Ibid., 144.

²⁰ Ibid., 143.

²¹ Ibid., 135.

number of philosophers have made a distinction between the terms. John Rawls is representative of these in distinguishing between obligation and duty on the basis of voluntariness. He writes, “obligations...arise as a result of our voluntary acts.”²² In contrast to obligations, natural duties “apply to us without regard to our voluntary acts.”²³ I argue that this distinction figures importantly in the subject of BFI responsibilities. The following sections will further expound the difference between obligations and natural duties in relation to an important objection from involuntariness raised to Butt’s model. I will show that the involuntariness objection succeeds against the obligation model but not against the natural duties model.

4 THE INVOLUNTARINESS OBJECTION

Butt’s consistency model advances the discussion of BFI responsibilities by proposing a justification for such corrective responsibilities, but his account is unclear about whether the consistency model should be interpreted in terms of obligations or natural duties. This distinction is important, because the consistency model faces a significant challenge from the problem of involuntariness. The next section presents a key counterexample to Butt’s model. The following discussion of obligations and the voluntarist position will show that BFI responsibilities cannot successfully be articulated by the obligation model.

4.1 The Driveway Case

Robert Fullinwider raises an example which illustrates an important problem for Butt’s consistency model. Fullinwider challenges the idea that *involuntary* benefit from injustice may oblige an individual to pay the victim for the wrong. He presents the following example:

²² John Rawls, *A Theory of Justice*, Cambridge: Harvard University Press, 1971, 97.

²³ *Ibid.*, 98.

While I am away on vacation, my neighbor contracts with a construction company to repair his driveway. He instructs the workers to come to his address, where they will find a note describing the driveway to be repaired. An enemy of my neighbor, aware, somehow, of this arrangement, substitutes for my neighbor's instructions a note describing *my* driveway. The construction crew, having been paid in advance, shows up on the appointed day while my neighbor is at work, finds the letter, and faithfully following the instructions, paves my driveway.²⁴

Fullinwider takes it to be clear that the individual in this scenario has no moral obligation to pay her neighbor in an effort to make up for the injustice from which she has benefited. The fact that the individual benefitted involuntarily precludes any moral *obligation* to pay the neighbor back. Such an act would certainly be morally praiseworthy, but involuntary benefit cannot create a moral requirement. Fullinwider sees no reason why the costs for remedying the injustice should fall on her.²⁵ The driveway case illustrates the broader involuntariness objection, which holds that obligations cannot be created in the absence of some sort of voluntary action or decision.

4.2 Voluntarism and Obligations

This example lays the groundwork for what I will sharpen into a broader and more precise account of directed obligations. My account will illustrate drawbacks to Butt's consistency model. What I call *the voluntarist position* holds that obligations can be properly attributed if and only if an agent has performed some kind of voluntary action. To echo a previous distinction, Rawls distinguishes between obligations and natural duties by the

²⁴ Robert Fullinwider, "Preferential Hiring and Compensation," *Social Theory and Practice*, Vol. 3, 1975, 316-317.

²⁵ *Ibid.*

contingency of the moral requirement in question upon voluntary acts.²⁶ Obligations are created by voluntary acts and they are “owed to definite individuals.”²⁷ Natural duties, by contrast, do not depend on any decisions; rather, as A. John Simmons explains, natural duties are “moral requirements which apply to all men [and women] irrespective of status or of acts performed...owed by all persons to all others.”²⁸ Voluntarists do not necessarily deny the importance of natural duties. Diane Jeske clarifies, “The question being pressed by the voluntarist concerns obligations over and above those owed to all persons in virtue of their intrinsic nature or those that we have to promote intrinsically valuable states of affairs.”²⁹ A classic example of a voluntary action generating directed obligations is making promises. Another instance of directed obligation generation is freely taking on a role or position, which involves taking associated responsibilities and obligations of the role. Additionally remedial obligations often assign responsibilities to individuals on the basis of some freely chosen wrongdoing.

In addition, voluntarists have some disagreement over what counts as a voluntary act. Scheffler identifies several standards, including explicit agreements and freely entering into a relationship or taking on a role.³⁰ What counts as a voluntary action can be a controversial question. For my purposes, an action is voluntary if it follows from a person’s informed decision.³¹ An informed decision not to act can also count as voluntary action. The idea is that some action or decision that can be construed as voluntary on some account of voluntariness is a

²⁶ Rawls, *Theory of Justice*, 97. On this point he cites H.L.A. Hart, “Legal and Moral Obligation,” in *Essays in Moral Philosophy*, ed. By A.I. Melden, Seattle: University of Washington Press, 1958 and R. B. Brandt, “The Conceptions of Obligation and Duty,” *Mind*, Vol 73, 1964.

²⁷ Ibid.

²⁸ A. John Simmons, *Moral Principles and Political Obligation*, Princeton: Princeton University Press, 1979.

²⁹ Diane Jeske, “Special Obligations,” *The Stanford Encyclopedia of Philosophy*, Ed. Edward Zalta, Spring 2014.

³⁰ Samuel Scheffler, “Relationships and Responsibilities,” *Philosophy and Public Affairs*, Vol 26, No. 3, 1997.

³¹ This understanding draws on Nir Eyal, “Informed Consent,” 2012 and Louis C. Charland, “Decision-Making Capacity,” 2015 in *The Stanford Encyclopedia of Philosophy*, ed. Edward Zalta.

necessary condition for generating directed obligations. This is not to say that making a choice is a sufficient condition for directed obligations to follow from that choice; deception can prevent this. For instance, in an informed decision understanding of voluntariness, deception undermines the informed aspect of the decision by withholding or providing false information. When the informed condition of a decision is absent, the obligation which would have followed from the informed decision is not created because the deception undermines the normative basis of the choice.

The basic voluntarist objection to responsibilities from involuntary benefit follows a similar structure. When the voluntariness condition is absent, directed obligations cannot follow. Voluntarists may disagree about the details of a positive account of what voluntary action is, but attaining convergence on cases that do *not* count as voluntary is easier. That is, while voluntarists may disagree about in what precisely consists the voluntariness of a particular action or decision, they can agree on clear cases of involuntariness, which fail to meet any voluntarist standard. Fullinwider's driveway example is one such example. The beneficiary took no action related to the injustice before the driveway was erroneously installed and had no prior awareness of the malicious neighbor's plan; it appears that nothing about the beneficiary's behavior leading up to the installation of the driveway could be construed as voluntarily choosing or assenting to the events that followed. An informed decision understanding of voluntariness distinguishes between accepting benefits and merely receiving them. *Accepting* benefits from injustice involves knowledgeable inaction. That is, as I understand it, when an individual *accepts* benefits from injustice, she is aware that she is receiving benefits and that those benefits stem from an injustice, and she does nothing to prevent herself from so benefiting. Such knowledgeable

inaction constitutes a choice.³² On the other hand, mere receipt of benefits, absent awareness of either benefits or their unjust source, cannot generate obligations because no decision is made with respect to whether the individual should come to possess the benefits.³³

How does Butt's consistency model face the challenge of the driveway example in particular and the involuntariness objection in general? There are a number of ways Butt could respond to this example. One option would be restricting the consistency account to voluntarily received benefits. Yet Butt's paradigm underground river example involves involuntary reception of benefits, and his introduction identifies the project of the essay to be defending the idea that agents can acquire BFI responsibilities "through involuntarily benefitting from acts of injustice."³⁴ This makes it clear that he hopes to include both voluntary and involuntary benefit from injustice.

Another approach involves reinterpreting the implications of Fullinwider's example. Bernard Boxill takes this approach. He contrasts the driveway case with the case of inheriting a stolen bicycle. It seems fairly intuitive to grant that the heir of a stolen bicycle has a directed responsibility to return the bicycle to the victim. This case is similar to the driveway case in that both involve involuntary benefit from injustice. The important difference between the cases is that the benefit can be easily returned in kind in the bicycle case. This is not possible for the driveway case, because a paved driveway is not the sort of thing that can be returned. Boxill points out that returning equivalent value of some benefit instead of returning a thing in kind can impose extra costs on the beneficiary beyond the value of the benefit. But "the process of

³² The boundaries of the category "actions" can be controversial. My goal here is to isolate a class of cases where persons receiving benefits do not intend to inflict harm on others but are aware that their benefiting may be a function of someone else's injustice. One example of such a passively received benefit might be various manifestations of white privilege.

³³ Some might object that an awareness criterion for obligation creation encourages a policy of active or willful ignorance. There might be other moral grounds for condemning willful ignorance as negligent, depending on the gravity of the issue the individual ignores.

³⁴ Butt, 130.

compensation cannot impose any losses on him over and above the loss of his unfair benefits.”³⁵ Thus, Fullinwider thinks that the driveway example shows that it is the involuntariness of the benefit that makes directed obligations to the victim implausible, but Boxill argues that the problem lies rather with practical challenges to returning benefits that are not easily transferred. This argument provides a good response to the driveway case in particular, but it sidesteps the problem rather than directly engaging with the intuition that involuntariness can prevent BFI responsibility formation.

Butt takes this driveway objection to be important, and he offers some responding commentary, but (like Boxill) his response does not directly engage with involuntariness as a problem, and it does not seem particularly grounded in his consistency model. Instead of directly responding to Fullinwider’s statements about involuntariness, Butt searches for alternative explanations of the intuitive force of the driveway example. He suggests that the intuitive force of the example lies in its all-or-nothing formulation. This binary construction is misleading, because “one can have compensatory obligations to X without having an obligation to compensate X fully.”³⁶ One factor affecting how much a person ought to contribute to the victim’s compensation is how much value the beneficiary experiences as a result of the unjust transfer. If the beneficiary appreciates the new driveway and would have chosen to have it installed for 30% of the actual price, it seems that the beneficiary’s should pay the victim back up to that threshold.³⁷ Robert Goodin and Christian Barry describe this factor as the “subjective benefit standard,” which applies to situations like the driveway case where the “‘giving back’

³⁵ Bernard R. Boxill, *Blacks and Social Justice*, Lanham: Rowman & Littlefield Publishers, 1992, 166-167.

³⁶ Butt, “On Benefiting from Injustice,” 141.

³⁷ *Ibid.*

must take some different form.”³⁸ Specifically, they concur with Butt’s intuition that the form the giving back should take is “the cash equivalent of the subjective value of the thing they received.”³⁹ This line of response may somewhat blunt the intuitive force of the driveway case, but it does not resolve the involuntariness objection itself. The involuntariness objection challenges the truth of Butt’s consistency claim, suggesting that a person could consistently oppose injustice and benefit from that injustice if she benefits involuntarily. On the voluntarist account, presence of some kind of voluntary choice is necessary for an obligation to be created. If an individual involuntarily receives certain benefits from injustice, she has not made a choice to receive them. And if she is blameless in coming to have the benefits, there does not seem to be grounds for an obligation to disgorge the benefits that she continues holding. A voluntarist approach offers a reasonable argument for the moral consistency of believing that while it might be kind for involuntary beneficiaries of injustice to compensate victims, there is no directed obligation to do so. Any compensation is supererogatory, because some voluntary action or decision is a necessary condition for creating directed obligations. This poses a problem for Butt’s consistency model.⁴⁰ It seems that something other than consistency of character needs to do the explanatory work in addressing the problem of involuntariness.

5 THE NATURAL DUTIES MODEL

This section discusses natural duties as an alternative interpretation of the moral ground of BFI responsibilities. Butt’s consistency approach attempts to ground some remedial responsibilities in benefiting from injustice. He takes as normatively significant the relationship

³⁸ Robert E. Goodin and Christian Barry, “Benefiting from the Wrongdoing of Others,” *Journal of Applied Philosophy*, Vol. 31, No. 4, 2014, 368.

³⁹ *Ibid.*

⁴⁰ Butt’s comments about consistency are brief, but it seems likely that they are drawing on larger philosophical discussions of practical consistency. See Christine Korsgaard, *The Sources of Normativity*, Cambridge: Cambridge University Press, 1996 and Onora O’Neill, “Consistency in Action,” in *Constructions of Reason*, Cambridge: Cambridge University Press, 1989.

between an individual's moral judgments and his behavior. But argues that continued reception of benefits from injustice undermines the condemnation of the injustice as a wrong. The involuntariness objection suggests that Butt's consistency model is overly broad as an account of conditions for being under directed obligations. In this section I offer a different moral framework for justifying benefit from injustice responsibilities. I will argue that these responsibilities arise as natural duties that are perfected by circumstances into directed obligations. This *natural duties model* will avoid the involuntariness objection to Butt's consistency account.

5.1 Natural Duties

We can offer various accounts of the foundation for natural duties by appealing to some normatively significant feature of human beings and the beneficiaries of the performance of such duties. Diane Jeske's understanding is that natural duties are what every moral agent naturally owes other moral agents just in virtue of shared agential features such as rationality or sentience.⁴¹ On John Rawls's account, for instance, natural duties are what morality demands of moral agents in virtue of their agency. Rawls points out that natural duties apply to all persons with *prima facie* force, regardless of voluntary action. He writes, "Now in contrast with obligations, it is a characteristic of natural duties that they apply to us without regard to our voluntary acts."⁴² Thus, unlike special obligations, natural duties do not require any form of consent to apply to agents. One example of a natural duty is the duty of mutual aid, which Rawls defines as "the duty of helping another when he is in need or jeopardy, provided that one can do

⁴¹ Diane Jeske, "Special Relationships and the Problem of Political Obligations," *Social Theory and Practice*, Vol. 27, No. 1, January 2001.

⁴² John Rawls, *A Theory of Justice*, Cambridge: Harvard University Press, 1971, 98.

so without excessive risk or loss to oneself.”⁴³ An important aspect of this definition is the idea that natural duties cannot impose steep or unreasonable costs to the individual.⁴⁴ For instance, the duty of mutual aid might require that Samantha give some of her money or time to charity. However, the duty of mutual aid would not extend to a requirement that Samantha donate her vital organs to a nearby hospital simply because several patients there are in need of transplants. Such a requirement would be unreasonably costly, endangering Samantha’s own life. Another important feature of natural duties is that they apply to all moral agents prior to voluntary action. Persons do not come to have the natural duty to assist others in need by any voluntary action on their part. One does not consent to this obligation; it is just a basic moral requirement. Other natural duties identified by Rawls include the duty not to injure or harm others, the duty to respect others, and the duty of justice.⁴⁵

5.2 Perfecting Natural Duties

5.2.1 *Perfect and Imperfect Duties*

These natural duties may sound rather vague and general, incapable of providing specific moral prescriptions. Natural duties (like the duty of mutual aid) are often imperfect duties rather than perfect duties. Ethicists have struggled to pin down the precise distinction between imperfect and perfect duties; even if the precise line between the two is unclear, there is broad support for several cases of each counting as paradigms.⁴⁶ A classic case of a perfect duty is the duty to fulfill a promise. If Alan promises to pay Janice fifty dollars for making a chair, he has an

⁴³ Ibid., 114. See also Christopher Heath Wellman, “Liberalism, Samaritanism, and Political Legitimacy,” *Philosophy and Public Affairs*, Vol. 25, No. 3, Summer 1996, 215.

⁴⁴ Rawls, 101.

⁴⁵ Rawls, *Theory of Justice*, 114 and 337.

⁴⁶ George Rainbolt, “Perfect and Imperfect Obligations” *Philosophical Studies*, Vol. 98, No. 3, April 2000. Daniel Statman, “Who Needs Imperfect Duties?” *American Philosophical Quarterly*, Vol. 33, 1996, 211-224. Thomas Hill, *Dignity and Practical Reason in Kant’s Ethical Theory*, Ithaca: Cornell University Press, 1992, 155.

obligation to honor his promise when Janice delivers the chair. A standard imperfect duty is the duty to give to charity. There are at least two important differences between the duty to fulfill a contract and the duty to give to charity. First, the duty to fulfill a contract is clearly a *directed* duty, while the duty to give to charity is not. In the case of the contract, the target of the duty is clear and fixed. Alan made a promise to Janice, so his duty to fulfill the contract is directed to her. Janice may *claim* it of Alan. Barring special arrangements, transferring the fifty dollars to some other woodworker would fail to fulfill the duty. However, the duty to give to charity does not have one specified target; consequently, no one person may *claim* it. As George Rainbolt puts it, “I can meet my obligation to give to charity by giving different amounts at different times to any one of many groups.”⁴⁷ The duty to charity is not directed at any particular individual or group of individuals. Second, imperfect duties generally have greater latitude in how they may be fulfilled than perfect duties. Alan may have some latitude in how he pays Janice; he may pay with five ten-dollar bills or fifty one-dollar bills. But, George has a much larger range of options for fulfilling his duty to charity; he may give food to a homeless person, donate to Oxfam, or volunteer his time and labor at a Habitat for Humanity.⁴⁸

5.2.2 *Circumstantial Perfection*

Natural duties may start out as imperfect duties, making very general demands on moral agents, but these duties can be perfected into more specific prescriptions in different circumstances. More perfect moral demands can derive from natural duties. Consider the following example of how a requirement to perform a particular action can derive from a general

⁴⁷ Rainbolt, “Perfect and Imperfect Obligations.”

⁴⁸ George also generally has greater latitude in the time frame in which he must fulfill his duty. Sometimes circumstances can perfect a duty to charity, perhaps demanding more immediate action to help victims of a recent natural disaster. Promises often have more specific time constraints, although they can be quite general.

natural duty. Jack witnesses a car crash that results in a car going into a river with a child trapped inside. Jack cannot swim, so it appears that he does not have a duty of easy rescue in this situation. Jack's friend Molly can swim, but she knows that she will not be able to pull the car door open against the force of the water pressure. Jack happens to have a crowbar with him that could be used to smash the car window to release the child. In this case Jack has a duty to give Molly his crowbar so that she can complete the rescue. This example illustrates how natural duties can generate more specific prescriptions.

In addition, imperfect duties can sometimes be perfected by adjusting surrounding circumstances.⁴⁹ The general duty of mutual aid to those in need has significant latitude. However, when an individual enters a particular situation with another person in grave peril, that general duty becomes directed at the individual in immediate need. A good example is the drowning baby case. The natural duty of mutual aid makes very general demands that moral agents assist others in need. This duty is often discharged by donating money or volunteering time in a variety of ways. However, in some cases where an individual is in an emergency, this duty of mutual aid becomes further perfected. This phenomenon is significant enough to earn a special name for the duty stemming from mutual aid: easy rescue. That is, in certain emergency circumstances, the imperfect duty of mutual aid gets perfected on the directedness dimension to target a particular person who needs rescue, given that the rescue can be accomplished at no unreasonable cost.⁵⁰ If a person happens upon a baby drowning in a puddle, he has a directed natural duty to rescue the baby. The risk of getting his shoes wet is a reasonable cost associated with the rescue. However, if the baby was drowning in a deep lake and the individual in question

⁴⁹ Jaakko Kuosmanen, "Perfecting Imperfect Duties: The Institutionalisation of a Universal Right to Asylum," *Journal of Political Philosophy*, Vol. 21, No. 1, March 2013.

⁵⁰ Christopher Heath Wellman, "Liberalism, Samaritanism, and Political Legitimacy," *Philosophy and Public Affairs*, Vol. 25, No. 3, Summer 1996, 215.

did not know how to swim, the rescue would threaten his life. This is an unreasonable cost, so the natural duty of easy rescue does not generate a directed requirement in that situation. If a person refused to save a drowning baby, claiming that he could fulfill his duty of assistance by donating extra money to charity, he would be mistaken about his moral duty. In the right circumstances, the imperfect duty of mutual aid is perfected so that it is clearly directed at the drowning baby.⁵¹

In sum, natural duties can be perfected into directed duties by circumstantial factors. The next section will explore how this process of circumstantial perfection works for BFI responsibilities.

5.3 Perfecting the Natural Duties of Beneficiaries of Injustice

The basic natural duty involved in benefit from injustice scenarios is what Rawls identifies as a natural duty of justice.⁵² This natural duty requires, at minimum, that individuals not commit injustices. A duty not to benefit from injustice fits into this category of natural duties. The basic form is an imperfect duty which can become more specific and demanding in certain circumstances. This connects to Miller and Butt's connection theory of responsibility. It is not the case that any situation involving involuntary benefit from injustice directly creates a directed duty for the beneficiary; rather, circumstances matter in perfecting the rather general natural duty. In certain circumstances, the relationships that obtain between the relevant parties can perfect the imperfect duty, removing latitude with respect to the target and thus creating a

⁵¹ This discussion of getting specific, directed duties out of general, imperfect, natural duties relates to a discussion in the political obligation literature about natural duty grounds for political obligation and the particularity problem. See Christopher Heath Wellman, "Political Obligation and the Particularity Problem," *Legal Theory*, Vol. 10, 2004; A. John Simmons, "The Principle of Fair Play," *Philosophy and Public Affairs*, Vol. 8, No. 4, 1979; and George Klosko, "Political Obligation and the Natural Duties of Justice," *Philosophy and Public Affairs*, Vol. 23, No. 3, 1994 for a brief introduction.

⁵² Rawls, 98-99.

directed duty. For instance, Jaako Kuosmanen points out that, in the drowning baby case, regarding the imperfect duty of assistance, “circumstances may single out one particular duty-bearer to rescue a needy person because there are no other duty-bearers who are in a similarly situated position to assist.”⁵³

One important circumstantial factor is the presence or absence of the perpetrator of the injustice. In the driveway case, if the malicious neighbor can be held accountable for his actions and he pays back the victim for his loss, the negative effects of injustice have been corrected. The beneficiary would not have a directed obligation to pay back some of his benefit because the problematic conditions for the victim have been resolved. Another perfecting condition is how severely the wrong harms the victim. If the neighbor needs the driveway in order to sell the house in a tough market in order to pay for a family member’s important surgery, there is more reason for the beneficiary to pay back the value than if the neighbor merely hoped to improve the house’s aesthetic as a home improvement hobby. These are just two examples of perfecting and directing conditions; this is not intended to be an exhaustive list, but rather to illustrate the considerations that may invoke the beneficiary form of connection in rectifying injustice.

This section has argued that the natural duty of justice can be perfected in certain circumstances to create directed duties for beneficiaries of injustice. The next section will show how this natural duties model of BFI responsibilities avoids the involuntariness objection.

5.4 Avoiding the Involuntariness Objection

Unlike Butt’s consistency model, the natural duties model avoids the force of the involuntariness problem. All moral agents have natural duties. Voluntary and involuntary actions

⁵³ Kuosmanen, “Perfecting Imperfect Duties,” 34.

cannot prevent one from having natural duties. Since benefit from injustice responsibilities are a species of natural duties, these responsibilities are established without need to identify some kind of voluntary action or decision on the part of the beneficiary.

6 CHALLENGES TO THE BENEFIT ACCOUNT

This section addresses two significant challenges to the natural duties model of BFI responsibilities, which holds that circumstantial factors can perfect the directedness of the natural duty of justice to create directed natural duties to correct injustice. First, I will consider the unique problems that structural injustices may pose for the natural duties model. Second, I will address the objection that BFI responsibilities are overly demanding of moral agents.

6.1 Structural Injustice

Avery Kolers raises structural injustice as a challenge for BFI responsibilities. He grants that benefit creating responsibilities is plausible for episodic or transactional cases, where a distinct and particular unjust act can be identified as the injustice in question. Butt's underground river case is a good example. However, he believes that the BFI model does not adequately address structural injustices, which distribute "a diffuse array of benefits under a social structure."⁵⁴ Kolers has in mind structural problems like racial hierarchy. Meeting one's BFI responsibilities involves disgorging the benefits, but under structural injustices, benefits continue to be distributed by social structures. Individuals do not have a practical means to opt out of their status as beneficiaries of injustice.⁵⁵ The only solution would seem to be dismantling the

⁵⁴ Avery Kolers, "The Priority of Solidarity to Justice," *Journal of Applied Philosophy*, Vol. 31, No. 4, 423.

⁵⁵ *Ibid.*, 424.

structural injustice, but structural problems are notoriously difficult to address and resistant to change.

Kolers advocates an alternative paradigm for thinking about structural injustices, a solidarity approach, which he takes to be a better fit for addressing such issues than a BFI approach. Solidarity is “durability in collective political action,”⁵⁶ by which Kolers means a dispositional attitude of deference to the judgment of disadvantaged groups. Kolers claims that solidarity is a better basis than benefit for addressing structural injustice because it is collective and forward looking; it does not look backward or “confront us as debtors.”⁵⁷

In response, Kolers raises an excellent point in observing that continued reception of benefits from structural injustices seems to create continuing duties. But Kolers complains that such continuing corrective duties might never be fully discharged if the unjust structures remain in place. But Kolers simply claims that such continuing moral duties are problematic without explaining why, so the account seems incomplete. Kolers takes collective action to be a significant advantage of the solidarity approach over a benefit model. Yet nothing in the benefit model precludes its applicability to collective agents. Collective agents such as corporations, nations, or states can also incur duties on the basis of their benefits from injustice. In addition, he might be concerned that such duties would be overly demanding. I discuss this sort of worry in the next section.

6.2 The Demandingness Problem

One possible objection to benefit from injustice obligations is that they are too demanding. Injustice is pervasive, and many individuals benefit from many different injustices.

⁵⁶ Ibid., 426.

⁵⁷ Ibid.

If all benefit from injustice creates such responsibilities, the total moral burden on many individuals will exceed their ability to discharge their obligations. In short, benefit from injustice duties are too demanding.

Several replies emerge. First, the obligations need not be excessively demanding. The strength of the obligation could be indexed to a number of relevant factors. For instance, varying degrees of benefit would generate varying degrees of responsibility to respond to the injustice. An individual who benefitted trivially yet directly from a grave injustice would have some duty to respond, but would not be responsible for correcting all the effects of the injustice. The required response need only be proportionate to the degree of benefit.

Secondly, how much harm is inflicted by an injustice is relevant to how strong the obligation of beneficiaries might be to remedy the wrong. Consider two versions of the driveway case. In the first version, the neighbor is mildly inconvenienced by the wrong. In the second version, consider again the case where the neighbor needed the driveway to be able to sell the house to pay for an important surgery. The harm to the neighbor is clearly greater in the second case, and it is plausible that if the beneficiary has duties of response, they are stronger in the second scenario. The natural duty of assistance seems more pressing when the plight of the victim is worse. One's ability to contribute toward remedies for injustice is also a plausible candidate for a factor proportionally affecting strength of BFI remedial responsibilities. Duties of response would be drastically reduced or absent if paying back a received benefit would impose disproportionate costs on a beneficiary, especially if this would move the beneficiary below a morally required threshold level of well-being.

Thirdly, how directly the benefit stems from the injustice factors in as well. Increasing degrees of separation would seem to limit duties. For instance, an individual who directly

benefits from an injustice may have more demanding duties, but her dependents would bear responsibilities to a lesser degree, although they benefit indirectly through the asymmetrical relationship. It is worth noting that this form of responsibility does not necessarily require individuals terminate the benefit relationship. Extricating one's self from relations involving unjust benefit might be an unreasonable demand.⁵⁸ Rather, benefit from injustice responsibilities might only require that individuals contribute towards remedies for the injustice and its lasting effects; this may be accomplished while reception of benefits continues. Some might worry that this would encourage tolerance of continued injustice; paying back benefits minimizes what is morally problematic about the situation, and thus potentially weakens motivation to correct the injustice itself. This is an interesting idea, although the issue of what actually motivates people is an empirical point and would require further investigation of the data. Also, the degree of responsibility from benefit may sometimes be calculated separately from responsibility assigned due to causal connection or fault for the injustice; there may be strong reasons to correct the injustice which are assessed independently of questions of benefit.

Fourthly, observing that a moral problem is widespread is not in itself an argument against its being a moral problem. Samuel Scheffler points out that one possible response to the problem of morality's demandingness is to deny the problem. "Morality demands what it demands, and if people find it hard to live up to those demands, that just shows that people are not, in general, morally very good."⁵⁹ Peter Singer, Peter Unger, and Liam Murphy⁶⁰ defend the idea that people do have extensive moral obligations to others that go beyond what is

⁵⁸ As Locke notes, a requirement that beneficiaries of injustice disgorge such benefits is limited by independent moral claims. See for instance, *Second Treatise of Government*, sec. 180.

⁵⁹ Samuel Scheffler, "Morality's Demands and Their Limits," *The Journal of Philosophy*, Vol. 83, no. 10, 1986, 531.

⁶⁰ Peter Singer, "Famine, Affluence, and Morality," *Philosophy and Public Affairs*, Vol. 1, Spring 1972, 229-243; Peter Unger, *Living High and Letting Die*, New York: Oxford University Press, 1996; Liam Murphy, *Moral Demands in Nonideal Theory*, New York: Oxford University Press, 2000.

comfortable and convenient. While a demanding morality may conflict with common intuitions about how much morality should ask of us, it may well be that those intuitions are biased and in fact we do have extensive obligations.

A final response to the demandingness objection has been developed by Brian Berkey. He argues that the demandingness objection stems from the common intuition that our moral principles should be moderate rather than extreme, and that moderate moral principles imply that morality's demands on us will also be moderate. Moderate principles "give some weight to impartial considerations, [but] their content is not fully impartial, so they do not require that we always act in ways that are consistent with taking everyone's interests equally into account."⁶¹ Moderation with respect to demands is the idea that "morality is not significantly more demanding than most of us ordinarily take it to be."⁶² Benefit from injustice responsibilities may seem significantly more demanding than most folks generally imagine their moral duties. While Berkey accepts the idea of moderate moral principles, he argues, "Moderate principles..., when applied to well off people in the actual world, yield demands that far exceed those that proponents of the demandingness objection are typically willing to endorse."⁶³ This approach acknowledges that the demandingness objection gets something right – that our moral principles ought not be too extreme – while being wrong about how demanding moderate principles might be on well off folks in a world marked by pervasive injustice. Rather, since the world contains so much injustice, even moderate moral principles might turn out to make very significant demands on well-off individuals to correct such injustice.

⁶¹ Brian Berkey, "The Demandingness of Morality: Towards a Reflective Equilibrium," *Philosophical Studies*, forthcoming 2016, 7.

⁶² *Ibid.*

⁶³ *Ibid.*

7 CONCLUSION

In conclusion, I have argued that benefit from injustice is a plausible justification for responsibilities to remedy injustice. I surveyed Butt's consistency account of BFI responsibilities and considered an objection to that account from involuntariness. I argued that the objection succeeds against an obligation model of BFI responsibilities. I then proposed a natural duties model which avoids the involuntariness objection, explaining how natural duties can be perfected from very general imperfect duties into directed duties by circumstantial factors. I also responded to objections from structural injustice and the problem of the demandingness of morality.

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