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RONALD DWORKIN – THEORY OF JUSTICE

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Abstract:

Ronald Dworkin - one of the greatest contemporary political and legal philosophers - started developing his comprehensive liberal theory of a central position of the concept of equality firstly in a field of philosophy of law¹ (he turned back to a field of jurisprudence with his book *Justice in Robes*, published in 2006), then followed liberal political theory of justice/political morality (based on “equality of resources” account of justice²), and finally he attempted to clarify philosophical foundations³ of this theory of political morality. His last book *Justice for Hedgehogs*⁴ has had an ambition to complete philosophical foundations of his theory, and especially to illustrate a unity of ethical and moral values.

Dworkin has developed his theory of justice in a referential framework of liberal theoretical attempts – initiated by John Rawls in the 70s of the XX century – to redeem political philosophy and theory of justice, in order that political legitimacy of liberal political and economic order be reconsidered and rearticulated as based on justice, i.e. just redistribution of resources.

»Equality of resources« account of justice represents a central point of Dworkin’s attempt to present egalitarian face of liberalism, to defend unity of values of equality and liberty, and to affirm value of equality as the central value of liberalism. He wants to keep individualism and value of liberty as an essence of liberalism, but also wants to demonstrate that equality has been even prior value in relation to liberty, that value of equality has been embedded in individuals and their interrelations through basic principles of humanism – equal concern/respect for the human life as such and special responsibility of each individual for his/her own life. He wants to approve that justice has been a sovereign virtue of a political power, as well as that individuals do not have only egoistic interests, but have been inherently also committed to a

¹ Dworkin, Ronald, *Taking Rights Seriously*, Gerald Duckworth & Co Ltd, London 1977; Dworkin, R. *A Matter of Principle*, Cambridge, Massachusetts: Harvard University Press, 1985; Dworkin, R. *Law’s Empire*, Cambridge, Massachusetts: Harvard University Press, 1986. Dworkin turned back again to the field of jurisprudence with his book *Justice in Robes*, Cambridge, Massachusetts: Harvard University Press, 2006.

² Dworkin has collected all the articles concerned with his liberal political theory of justice, which he had written during twenty years, in his book *Sovereign Virtue – The Theory and Practice of Equality*, Cambridge, Massachusetts, London, England: Harvard University Press, 2000.

³ A philosophical conception of morality (philosophical ethics concerned with fundamental values of humanism) has been initially articulated in Dworkin’s manuscript “Justice for Hedgehogs”: (Available from <http://www.nyu.edu> /Accessed August 26, 1999/), then also in the Introduction to the book *Sovereign Virtue*, and finally also in the book *Justice for Hedgehogs*.

Philosophical ethics and moral foundations of liberalism and their interconnection with a pluralism of individual ethics, as well as a conception of the liberal ethics are presented in his “Foundations of Liberal Equality”, *Tanner Lectures on Human values*, Vol. XI, University of Utah, 1990. Individual ethics has been further developed in the last book *Justice for Hedgehogs*.

Antilogical/gnoseological conception of the status and integrity of values is elaborated in “The Foundations of Liberal Equality”, in the article “Justice for Hedgehogs” (Available from <http://www.nyu.edu> /accessed August 26, 1999), and in the article “Interpretation, Morality and Truth” (Available from: <http://www.law.nyu.edu/clppt/program2002/readings/dworkin/dworkin.doc> /Accessed 2002/). Epistemological explanation of objective truth in a field of values is given in an article, “Objectivity and Truth: You’d Better Believe It”, *Philosophy & Public Affairs* 25, 1996. As well as in the above mentioned article “Interpretation, Morality and Truth”.

⁴ *Justice for Hedgehogs*, Cambridge, Massachusetts, London, England: Harvard University Press, 2011.

common good; that justice represents a parameter also of individual ethics; that there exists continuity (»strategy of continuity«) between pluralism of individual value orientations and common sharing of basic principles of humanism, between individualism and common good, between pluralism and neutrality of the state.

This article will be primarily focused on Dworkin's theory of justice, called »equality of resources« account of justice, because, firstly, it is a central focus of Dworkin's still being produced and productive theoretical legacy; secondly, it represents a very complex theoretical endeavour which needs to be particularly analyzed; and, thirdly, Dworkin's conception of law (law as integrity) and of morality (philosophical foundations of his theory of justice), as well as his specific conception of liberalism (»liberal equality«) cannot be fully understood without understanding his »equality of resources« account of justice.

Keywords: Liberalism, equality, liberty, justice, 'equality of resources'.

Introduction – general Framework of Dworkin's Political Theory

Dworkin's political theory of liberalism called »liberal equality« has been summarized in *Sovereign Virtue – The Theory and Practice of Equality*.

Dworkin conception of liberalism/ "liberal equality" is focused around "equality of resources" account of justice. His theory of justice, i.e. political morality, affirms a central role of the political ideal of equality, i.e. "equal concern". Dworkin tends to reaffirm the value of equality within a framework of contemporary liberalism. His consideration that the value of equality is an "endangered species" in a contemporary liberal tradition⁵, should be primarily connected with issues of economic inequalities. He believes that economic inequalities have been totally marginalized, but he also believes that norms of moral equality (that all persons have equal moral worth) and of political equality (that all persons have a right to participate in democratic decision-making) have become stronger than ever. According to him, the fact that there is no uncontroversial answer to a question what equality, or equal concern is, does not mean that an abstract conception of equality should be, or could be forgotten. The contested character of the concept of equality, as well as a factual situation that even prosperous democracies are very far from providing even a decent minimal life for everyone, must not be the reason to abandon a question of equality as a legitimate community goal.⁶

Throughout his long and distinguished career as an academic lawyer and political philosopher, Dworkin has been very much concerned with a single theme - to show how his

⁵ R. Dworkin, *Sovereign Virtue*, op.cit. 1

⁶ Ibid, 3.

egalitarian vision of the world can shape the character of liberal-democratic legal, political, social, and market institutions.⁷

Equality represents the main political value for Dworkin. According to him, and in contrast with “old right’s” giving priority to a value of freedom (followed by material inequality), as well as with “old left’s” giving priority to a value of equality (of material wealth), an idea or ideal of liberal equality contains inseparably values of both freedom and equality, giving a specific priority to the value of equality.

Dworkin has intended with his theory of justice to achieve inside liberalism a unified account of equality and liberty/responsibility, a conception which respects both, instead of, and in contrast to, giving priority either to equality (as socialist theories always do) or to responsibility (as liberal theories usually do).

As already mentioned, Dworkin's theoretical consideration of equality and »equality of resources account« of justice leads consequently towards his specific interpretation of liberalism.

There are important indications that Dworkin changed some crucial standpoints with the passage of time in his understanding of an interrelation of the pluralism of individual value conceptions and political morality (the sovereign, the state). At the beginning Dworkin developed (like Rawls, although contrasting with Rawls' contractarianism) his conception of justice (of the »equality of resources«) as being connected with an assumption of the neutrality of the state as a foundational principle, and consequently connected, with the »strategy of discontinuity« between political morality and individual ethics (value pluralism). Dworkin in his later works stepped aside from treating the principle of neutrality as a foundational one and attempted to develop the “strategy of continuity” between theory of justice and theory of ethics and morality. As Dworkin himself said in a footnote to “Foundations of Liberal Equality”⁸, that in chapter 8 of *A Matter of Principle*⁹, he mistakenly treated neutrality as axiomatic instead as a theorem (in the context of claiming that the heart of liberalism was neutrality among theories of the good), and that he abandoned that account in chapter 9 of the same book, where he affirmed the form of liberalism based on equality, with assuming neutrality only as a derivative value.

A point of difference between two versions of liberalism is that liberalism based on neutrality finds epistemological defence in moral scepticism and therefore means a negative

⁷ Epstein, R.. Review: Impractical Equality, R. Dworkin, *Sovereign Virtue: The Theory and Practice of Equality, Reason*, , October 2000, Vol. 32. Issue 5, p.60.

⁸ Dworkin, R. “Foundations of Liberal Equality”, op.cit, p.7.

⁹ Dworkin, R. *A Matter of Principle*, op.cit. pp. 190-199.

theory for uncommitted people and cannot offer any justification against economic inequalities and other privileges. In contrast, liberalism based on equality rests on a positive commitment connected with an egalitarian morality.¹⁰

In the last phase of elaborating his theory of equality and liberalism Dworkin paid a great attention to philosophical foundations of his theory of justice and liberalism. In that context he mentioned philosophical ethics and philosophical morality, philosophical/axiological account of the status and integrity of values, and epistemological conception of an objective truth in a field of values (the “face value view of morality”).

As afore mentioned, Dworkin believes that liberal tradition essentially endorsed both values together, and that contemporary liberals in general should reaffirm the inseparable character of liberty and equality, although contemporary liberal theory as well as practice (even in most prosperous liberal-democratic states) ignores the egalitarian aspect of liberalism. This implication is far from advocating anything of communist egalitarianism; the idea of a market and of rights-based, morally neutral (but at the same time morally founded) liberal-democratic government, has been built into Dworkin's theory from start to finish.

The point of this implication lies in Dworkin's attempt to redeem contemporary liberalism in a direction of essentially diminishing social and economic inequalities. He is perfectly aware of existing inequalities everywhere in the contemporary world, and even in the most prosperous Western countries, but he is convinced about an importance of the idea of justice taken as »equality of resources«. Conceived in that sense, full equality has to be the first and most legitimate goal of the community. Instead of affirming inequalities as legitimate, and instead of accepting as a goal some lessening of inequalities (starting from the realistic view about the existent state of affairs), Dworkin insists on a utopian idea of the full equality of resources as a legitimate goal for liberal governments and liberal communities.¹¹

1. »Equality of Resources« Account of Justice

Dworkin's political theory of justice presupposes that the concept of equality means »equal concern«, and that »equal concern« is the sovereign virtue of political communities, i.e. the virtue of justice which finds its concrete articulation in the »equality of resources«. This means that Dworkin uses (almost) synonymously categories: »equality«, »equal

¹⁰ R. Dworkin, *ipid.* P. 205. He went on to develop a “strategy of continuity” in his articles, manuscripts, and books written after 1985, in: 1990, 1999, 2000, 2002.

¹¹ Dworkin, R. *Sovereign Virtue*, *op.cit.* p.3.

concern« and »justice«, and points out that »equality of resources« represents a theoretical concretization of »equal concern« or/and social justice. »This book argues that equal concern requires that government aims at a form of material equality that I have called equality of resources«.¹²

An axiom of Dworkin's political philosophy of liberalism is that justice means that government must insure equal concern for each citizen, and he explains within his conception of "liberal equality", that "equality of resources" - as an implementation of the principle of "equal concern" - gives political legitimacy to liberal-democratic government. According to Dworkin, equal concern is the sovereign virtue of a political community, or it might be better to say, equal concern in a meaning of "equality of resources" is the main virtue of the sovereign, and as such represents (the virtue of) justice. However, in his latest book, *Justice for Hedgehogs*, when speaking about political legitimacy and about an implementation of the principle of "equal concern" Dworkin speaks about human rights as the criterion of an equal concern and respect for each human life and every citizen.¹³ Thus, it could be concluded that a just distribution of resources together with equal respect of human rights represent the framework of political legitimacy.

"Equality of resources« represents Dworkin's attempt to articulate a redistributive scheme which will be more »endowment insensitive« (or, less »endowment sensitive«) and at a same time more »ambition-sensitive« than has been offered by John Rawls' theory of justice, and especially by his »difference principle«. The point is that equal concern would mean an equal share of economic resources if it were not dependant on morally irrelevant circumstances, and preferably dependant on individual choices. Dworkin differentiates between a person's mental and physical powers, which he assigns to the sphere of natural endowment (circumstances), and a person's tastes and ambitions, which he assigns to the sphere of personal choices. Thus, as a consequence, personal physical and mental powers should not influence equality of resources, being morally arbitrary characteristics. While belonging to one's »natural endowment«, and according to a requirement for an »endowment insensitive« redistribution, they should be equalized in order to enable an equal share.¹⁴

This is the motivation for Rawls' difference principle, under which the more fortunate only receive extra resources if it benefits the unfortunate. But the difference principle is both an over-reaction to, and also an insufficient reaction to, the problem of undeserved

¹² Ibid.

¹³ Dworkin, R. *Justice for Hedgehogs*, op.cit. pp. 327-351.

¹⁴ Dworkin, R. *Sovereign Virtue*, op.cit. pp.3-4.

inequalities. It is insufficient reaction in not providing any compensation for natural disadvantages; and it is an over-reaction in precluding inequalities that reflect different choices, rather than different circumstances. As mentioned above, Dworkin wants a theory which is more ambition-sensitive and less endowment-sensitive than Rawls' difference principle.¹⁵

In order to attain these twin goals in a way better than Rawls managed, Dworkin constructed his own rather complicated distributive scheme, which involved, in a context of a free market, the use of auctions, insurance schemes and taxation. Dworkin has been aware of a fact that his two core goals of liberal conception of equality (the »endowment insensitive« and »ambition-sensitive« goals of a distributive scheme) are unreachable in their pure form, and therefore he offered as a necessary compromise the theory of »the second-best«. First, he offered a theoretical construction of a (circumstances-insensitive) auction, which aimed at an ambition-sensitive distribution of (economic) resources. Then, because individuals enter an auction with different natural endowments, Dworkin introduces as a corrective mechanism (or the »second-best«) an insurance scheme, followed by taxation, as an applied form of an imagined insurance scheme in a real world (again as the »second best«).

Dworkin started from two assumptions: first, that equality of resources presupposes an economic market, not only as an analytical device, but also to a certain extent as an actual political institution; second, that equality of resources »is a matter of equality in whatever resources are owned privately by individuals«.¹⁶

Ambition sensitive (and at a same time endowment insensitive) auction is imagined as a framework for an initial equal share of all society`s resources, in other words, all society`s resources are up for sale in an auction to which everyone is a participant. An »initial« equal share however does not mean an equal share only at the beginning, but that equal shares are proposed forever as »endowment insensitive« and »ambitions sensitive«.¹⁷

In order to explain the concept of equality of resources in its most pure and simple form, Dworkin starts from an idea of an economic market, which has to be realized by means of an equal auction, and applied in an imagined situation of immigrants who happen to arrive at an isolated island after a shipwreck.¹⁸

¹⁵ Kimlicka, W. *Contemporary Political Philosophy – An Introduction*, Oxford: Clarendon Press, 1990, pp. 84-85.

¹⁶ Dworkin, R. *Sovereign Virtue*, op.cit. p.65.

¹⁷ Ibid, p. 89.

¹⁸ «The main point can be shown most quickly by constructing a reasonably simple exercise in equality of resources, deliberately artificial so as to abstract from problems we shall have to face later. Suppose a number of shipwreck survivors

Taking into account natural talents (unequal natural endowment) unequal social endowments have been cancelled by the help of an artificial context of an isolated island where immigrants happen to come together because of a shipwreck. Everyone then takes part in an auction, starting with an equal amount of purchasing power (100 clamshells), which people use to bid for those resources which best suit their life plans. This »original position« is supposed to secure equal consideration for everybody in a sense that differences between chosen resources would reflect only different ambitions, and different beliefs about what gives value to life.

If this auction works out, everyone will be happy with the result, and each person will prefer his own bundle of goods to anyone else's. The merit of an equal share, and of subjective reactions to results of an auction, is called by Dworkin the "envy test", and if the "envy test" is met, in a sense that nobody has reason to envy anybody else, then people have been treated with equal consideration. A successful auction meets the envy test, and makes each person pay for the costs of their own choices. The point is that no one can claim to be treated with less consideration than anybody else, and that she would prefer another person's bundle of social goods, because she could have bid for it instead. So, nobody could complain or blame anybody for the results of this auction.

According to Kimlicka¹⁹, this idea of the envy test expresses the liberal egalitarian view of justice in its most defensible form. If it could be perfectly enforced, three main aims of Rawls' theory would be fulfilled, i.e. respecting the moral equality of persons, mitigating effects of morally arbitrary disadvantages, and accepting responsibility for our choices.

Such a distributive scheme would be just, even though it allows some inequality in income, because these economic inequalities would come out only as results of different choices (ambitions) but not as results of unequal endowment.

The other side of the coin is that the auction would have failed the envy test in a real world, because people differ in their natural assets. In other words, the auction would meet the envy test only if we assume that no one is disadvantaged in terms of natural endowment. Differences in natural abilities are morally important while they affect our ability to pursue chosen life-plans, and natural disadvantages of someones are inescapable, according to which

are washed up on a desert island that has abundant resources and no native population, and any likely rescue is many years away. These immigrants accept the principle that no one is antecedently entitled to any of these resources, but that they shall instead be divided equally among them.... They also accept (at least provisionally) the following test of an equal division of resources, which I shall call the envy test. No division of resources is an equal division if, once the division is complete, any immigrant would prefer someone else's bundle of resources in his own bundle.« (Ibid, p.67)

¹⁹ Kimlicka, W. op.cit. p.77.

full equality of circumstances is impossible. A fully successful, »endowment insensitive« and only »ambition sensitive« auction is not possible. Having that in mind Rawls refused to compensate for natural disadvantages. He took into account as means of compensating for natural disadvantages only *ad hoc* compassion or mercy, because he was aware that including natural disadvantages into the index which determines the least well-off would create an insoluble problem. Dworkin, on the other hand, tried to find the »second-best« solution for compensating natural disadvantages, with a help of an insurance scheme.

Dworkin's proposal is similar to Rawls's idea of an original position. We are to imagine people behind a modified veil of ignorance – where they do not know their place in a distribution of natural talents, and they are equally susceptible to various natural disadvantages. They are asked how much of their share of 100 clamshells they are willing to spend on insurance against being handicapped.

This provides a middle ground between ignoring unequal natural assets and trying in vain to equalize circumstances. This is a »second-best« theory, which is fair in spite of a fact that some people are still disadvantaged in undeserved ways under this scheme, but it is a fair insurance scheme because it is a result of a decision-procedure which is fair. It is generated by a procedure which treats everyone as equals.

Kimlicka remarks²⁰ that if Dworkin had tried to do more for the handicapped it would have resulted in a »slavery for talented«. Anyhow, a bad consequence for the talented would be that they would have to work hard in order to pay premiums against natural disadvantages, which means that they are punished for their good fortune in the natural lottery. Hence, equal concern for both the advantaged and disadvantaged requires something other than maximal redistribution to the disadvantaged, even though it will leave them envying the well endowed.

The point is that the envy test cannot be satisfied in a real world: we cannot fully equalize real-world circumstances. Dworkin is aware of this fact: and he does not say that his distributive scheme fully compensates for undeserved inequalities, but that it is the best solution which he can offer for living up to our convictions about justice. His other task or question to be answered to is: how to apply this proposed insurance model to a real world, which is a legitimate response, albeit second-best, to problems of equalizing circumstances. According to Dworkin, a real world equivalents of his hypothetical insurance market (to a buying of premiums and giving out of coverage benefits) are taxes and redistribution. A

²⁰ Ibid, p. 77-81.

taxation scheme is only the second-best response to problems of applying a (second-best) insurance scheme.

A tax system is supposed to duplicate the hypothetical insurance scheme, and implies collecting premiums from the naturally advantaged and uses welfare schemes as a way of paying out coverage to those who are disadvantaged. Dworkin says that a tax system can only approximate results of an insurance scheme for two reasons. The first problem is that there is no way to measure precisely relative advantages and disadvantages of people in a real world. Some people do their best to develop their natural talents and others not; so that they can start with same natural talents and come later to have different skill levels. Since these differences depend on different choices, they do not deserve to be compensated. Another situation is that some people start with greater talents and develop them into greater skills; so that a part of their advantages, but not all of the differences, should be compensated. In addition, there are different value measures for different skills in different epochs; so that it is impossible to determine in advance of the auction what counts as a natural advantage. The second problem in applying the insurance scheme in a real world is that natural disadvantages are not the only source of unequal circumstances. At this point Dworkin does not put an accent, as one might expected, on differences in social endowment (inequality of opportunity for different races, classes or sexes) but speaks about differences concerned with future events which can radically affect everyone's destiny, but about which we do not have, and cannot have, full information. So, the envy test can be violated by the occurrence of unexpected things - by a bad luck.

There are two sources of deviation from the ideal of an ambition-sensitive, endowment-insensitive distribution. Dworkin wants people's fate to be determined by choices they make from a fair and equitable starting-point. But the ideal of an equal starting-point includes not only an unachievable compensation for unequal endowment, but also an unachievable knowledge of future events. Dworkin's insurance scheme is a second-best response to the problem of unachievable compensation for unequal endowment (which is needed to equalize circumstances), and also for unachievable knowledge of future events (which is needed to know the costs of our choices). His taxation scheme is a second-best response to the problem of applying the insurance scheme.

Kimlicka remarks that because of this distance between the ideal and practice, it is inevitable that some people are undeservedly subsidized in the costs of their choices.²¹

²¹ Kimlicka, op.cit. p. 83.

Concerning a question of practical usefulness of the equal auction model, Dworkin says that the device of an equal auction seems promising as a technique for achieving an attractive interpretation of equality of resources in a simple context, such as a desert island. The crucial question is, however, whether the device of an equal share could be proved as useful in developing a more general account of an ideal of equality of resources. He adds that our interest in this question is threefold. First, the project provides an important test of a coherence and completeness of the idea of equality of resources. Second, a fully developed description of an equal auction, adequate for a more complex society, might provide a standard for judging institutions and distributions in the real world (namely, how far an actual distribution, however it has been achieved, approaches equality of resources at any particular time). Third, the device might be useful in a design of actual political institutions, in a sense that once we have developed a satisfactory model of an auction, we can use that model to test actual institutions, in order to reform them and bring them closer to the model.

Dworkin's contribution is that he offers a new model of economic equality, which respects freedom and responsibility (which did not characterize the traditional leftist model of economic equality). In other words, his model of (economic) equality endorses the legitimacy of chosen inequalities (different personal holdings which arise as a result of voluntary choices about the trade-off between work and leisure, or between risk and security). By endorsing choice sensitivity, Dworkin has been a great defender of a free market economy (which is essentially opposed to traditional theories of economic equality). Dworkin insists that so long as people enter the market with a fair share of resources, markets are the best mechanisms for generating distributions sensitive to choice, and for holding people responsible for their choices. Furthermore, the proposed restrictions on the market (through the mechanisms of a hypothetical insurance scheme, and taxation) have been kept inside the logic of the market. Its great advantages in comparison with traditional left-wing theories of equality can be summarized in that Dworkin insists on choice-sensitivity, and on principled criteria for dealing with unequal natural endowments. Dworkin's theory tends to be superior also in comparison with right-wing libertarian theories, which focus exclusively on being sensitive to choices, while ignoring the need to equalize circumstances. But what could be cause for complaint in this context is that Dworkin himself does not pay enough attention to unequal social circumstances. He insists that »endowment-insensitivity« has been mostly linked with equalizing natural inequalities, and with more or less ignoring a problem of inherited economic and social inequalities – inequalities in inherited economic wealth, as well as in social roles and social power connected with a status of the family and

social framework in which an individual happens to be borne. It is interesting that Dworkin mentions social inequalities as a part of »endowment«, but his corrective insurance scheme and its implementation in a real world with a help of taxation, primarily considers only natural inequalities.

2. Instead of the Conclusion

Kimlicka thinks – in spite of the afore mentioned - that social and economic egalitarian premisses of Rawls' and Dworkin's theories of justice go beyond and above implications that either Rawls or Dworkin recognize.²² Justice requires choice-sensitivity not only in terms of income but also in terms of social power, that redistribution should not be focused only on income redistribution but also on redistribution of social power. (Only then would be redressed injustice itself, and not only the consequences of unjust power.) In that context their theories might also move us closer to radical changes not only in economic but also in gender realtions. Kimlicka makes a step forward (although not consistently enough) in his review of Dworkin's last book, when he mentions as sources of morally arbitrary inequalities also social inequalities.²³

Apart from a fact that Dworkin does not develop inequality-in-circumstances-sensitive system, there is a problem within his conception of choice-sensitive system. The problem comes out from a fact that Dworkin had initially developed the »equality of resources« account of justice in the context of a »strategy of discontinuity« and a concept of the state neutrality as a foundational principle. Dworkin in his later works steps aside from treating the principle of neutrality as a fundamental one, and attempts to develop a “strategy of continuity” between a theory of justice and a theory of ethics and morality.

Concerning the revision of the principle of neutrality, Dworkin did more in a direction of clarifying a necessity for this revision, in order that the theory of justice could meet the demands of perfectionist ethics, than in a direction of elaborating a content of the revised concept.

The revised conception of neutrality implies and imposes revision of the conception of liberalism as well. This means that in his later works, and finally in *Sovereign Virtue*, Dworkin's “equality of resources” account of justice has been (dis)located into a changed conception of liberalism.

²² Ibid, pp.88-89.

²³ Kimlicka, W. Kimlicka, W. Review: Ronald Dworkin, *Sovereign Virtue: The Theory and Practice of Equality*, ISUMA, Vol. 2, No 1, Spring 2001, pp.1-2.

It is necessary to reflect upon a question whether a revised conception of neutrality fits better the main aim of Dworkin's theory of justice - that is, of securing maximum sensitiveness for personal choices. The questions are: does opening a space for connecting right and good, justice and ethics, give a more fruitful context to "equality of resources". In other words, does a "strategy of continuity" offer better chances for the theoretical articulation of the "equality of resources", as well as for its application in social policy.

It is an open question whether it is at all possible to connect "critical well-being" (orientation of an individual towards a common good) with "equality of resources", because in an initial context of Dworkin's "equality of resources" account of justice, "ambition sensitiveness" (personal choices) is related only to empirical satisfaction. Consequently, two questions could be posed? Why should justice be sensitive only to empirical preferences? Furthermore, with different connotations, is it possible to make a shift from empirical preferences towards demands of critical well-being, in the context of an "opportunity sensitive" concept of justice?

In *Sovereign Virtue*, in the article "Equality and Capability"²⁴, written in order to respond to some critiques, Dworkin speaks about the value background of personal choices, which means that the features of "volitional well-being" (orientation of an individual towards his/her own interest) as well as of "critical well-being" are involved in a hypothetical auction scheme. Personal responsibility for individual choices contains elements of responsibility for collective decisions, for the value of human life, and consequently for "an overall successful life", as well as for "justice in any particular assignment of resources" (for the opportunity costs of each individual choice in a context of a total amount of available resources). He says:

"Other people's needs and opinions are not resources that can be justly or unjustly distributed among us: they are, to repeat, part of what we must take into account in judging what injustice is or what justice requires. They are... parameters of justice."²⁵

What Dworkin has to say explicitly about the connection between individual well-being (critical well-being), justice and the distribution of resources, is the following:

"For many people, moreover, the connection between preference and resource has a moral dimension as well: they take justice to be at least a soft parameter of well-being, and so they must take a view not only about what resources they are likely to

²⁴ Dworkin, R. *Sovereign Virtue*, op.cit. p. 295.

²⁵ Ibid, p. 299.

have available, but also about what resources they should have available, before their ambitions and preferences can be fixed in any stable way.”²⁶

In short, Dworkin “closes the circle” of an “equality of resources” account of justice by incorporating elements of individual ethics and morality into the foundations of his theory of justice. Consequently, neutrality of the state cannot be conceived consistently any more as a fundamental principle, but only as derivative.

As mentioned above, Dworkin’s conception of liberalism, called liberal egalitarianism, is a distinct one. Its main features are as follows. 1. Liberal equality depends on a sharp and striking distinction between personality and circumstances. 2. Liberal equality finds the measure of justice in resources. 3. Liberal equality insists upon *equal* resources. 4. Liberal equality supports tolerance in matters of personal morality: it insists that government must be neutral in ethics in the following sense. It must not forbid or reward any private activity on the ground that one set of substantive ethical values, one set of opinions about the best way to lead a life, is superior or inferior to others (Dworkin, 1990, p.41)

Dworkin aims at a reaffirmation/redemption of the moral foundations/utopian character/mobilizing force of liberalism.

If we want to summarize Dworkin's conception in one sentence, it would have to be the following: Justice is the sovereign virtue of a liberal political community, and at the same time justice is a parameter of individual ethics.

References:

- Dworkin, Ronald, *Taking Rights Seriously*, Gerald Duckworth &Co Ltd, London 1977;
Dworkin, R. *A Matter of Principle*, Cambridge, Massachusetts: Harvard University Press, 1985;
Dworkin, R. *Law's Empire*, Cambridge, Massachusetts: Harvard University Press, 1986.
Dworkin returned to the field of jurisprudence with his book *Justice in Robes*, Cambridge, Massachusetts: Harvard University Press, 2006.
Justice for Hedgehogs, Cambridge, Massachusetts, London, England: Harvard University Press, 2011.
Epstein, R. Review: *Impractical Equality*, R. Dworkin, *Sovereign Virtue: The Theory and Practice of Equality*, Reason, October 2000, Vol. 32. Issue 5.
R. Dworkin, *Ibid.* p. 205. He progressed onward to develop a “strategy of continuity” in his articles, manuscripts, and books written after 1985; specifically in 1990, 1999, 2000, and 2002.

²⁶ *Ibid.*, p. 296.