A Complementary Developmental View on Morally Arbitrary Contingencies in Rawls’s Theory of Justice

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Abstract

The paper explores theoretical shortcomings in the egalitarian theory by John Rawls and provides a complementary view on the problem of morally arbitrary contingencies. The conception of natural lottery, which Rawls presents to signify the starting range of morally arbitrary inequalities, falls short in philosophical grounding. According to critics, the notion of natural lottery appeals to the philosophical conception of moral luck which undermines ascription of moral responsibility. Since moral responsibility is a basic prerequisite for egalitarian justice, the appeal to morally arbitrary contingencies of the natural lottery may be self-defeating for the theory.

Criticizing Rawls’s approach to morally arbitrary contingencies Susan Hurley investigates philosophical groundings for judgment of moral responsibility. Philosophical inquiries into moral luck differentiate four categories of luck and expose the difficulties of ascription of moral responsibility for it. The conception of moral luck implies epistemological shortcomings in the rational judgment of moral responsibility. Hurley claims that ascription of moral responsibility requires another logical strategy.

The critical discussion by Norman Daniels refers to another egalitarian theory by Ronald Dworkin which suggests ascription of moral responsibility on a gradual scale. The theory divides the naturally contingent recourses into categories of brute luck and option luck. This strategy stratifies normative standards of responsibility by the criteria of individual choice and circumstances.

Considering the strategy of gradual ascription of responsibility, I suggest to apply a moral developmental perspective as an additional outlook on the moral responsibility in egalitarian theory. The theory of moral development by Lawrence Kohlberg provides an explanation of a gradual development of moral responsibility through a natural order of developmental stages. It stratifies the moral responsibility into a hierarchical model of measurement and systematizes the order of normative standards.
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1. Introduction

Justice as an ideal implies norms of social arrangements which constitute a good society. One particular meaning of justice is distributive justice which represents fairness in sharing the essential resources for life within a society. Since the initial natural distribution of resources is contingent and ultimately results in considerable social inequalities among individuals, a welfare state concerned about the goodness of human life should be arranged in a way which balances the individual inequalities resulted from the natural distribution. Egalitarian justice theories propose different approaches to fair redistribution of the resources in order to compensate negative outcomes of the inequalities. A basic assumption of the egalitarian theory is moral responsibility for the distributive schemes of social cooperation. Since egalitarian theory assumes that society is morally responsible for the fair scheme of distribution among individuals, reversibly, the citizenship in society implies that the individuals living in society should be moral responsibility for upholding the fair scheme of social arrangements.

This paper is focused on *A Theory of Justice* by John Rawls. The theory is based on a general egalitarian assumption about a hypothetical social contract among individuals which imposes conditions of social arrangements in a just society and regulates distributive schemes of cooperation. Rawls provides a heuristic device which facilitates hypothetical deliberations about the fair principles of social cooperation. The theory received a world-wide recognition for its clear logical structure, consistency and explanatory power.

Nevertheless, among many critiques of the theory there is a discussion about the morally arbitrary contingencies of the natural distribution and its implications for the judgment of moral responsibility. In this paper I study the critical discussion which is led by the main question: If X’s action is causally determined by the circumstances and X could not have acted differently, does it mean that X should not bear moral responsibility for the action? According to the critics, Rawls’s theory does not clarify this point, and therefore, provides too little explanation for the judgment of moral responsibility.

Susan Hurley in *Natural Lottery, Luck and Responsibility* refers the problem of morally arbitrary contingencies of the natural lottery to the genuine phenomenon of moral luck, introduced by Thomas Nagel in *Mortal Questions* and Bernard Williams in *Moral Luck*. Their philosophical inquiry into moral luck explains the relationship between morally arbitrary contingencies and the judgment of moral responsibility. The study exposes epistemological limitations in ascribing moral responsibility on the ground of personal control over circumstances. Considering Rawls’s notion of the natural lottery as a reference to moral luck, Susan Hurley and Norman Daniels suggest that the natural lottery as a notion of morally arbitrary contingencies weakens the grounds to assign moral responsibility to individual. Thereby the morally arbitrary contingencies of the natural lottery weaken the aim of *A Theory of Justice* because the judgment of moral responsibility is a necessary prerequisite for distributive justice. Without explanations of the prolonged effects of the morally arbitrary contingencies on the individual life-span and formation of individual identity, the theory is unable to distinguish whether the social inequalities result from choice or chance. Consequently, it does not explain conditions of the moral responsibility for fairness in distribution of resources.
Daniels refers to another egalitarian theory of justice by Ronald Dworkin which suggests a hypothetical social contract including the notion of personal insurance against natural contingencies. His method of distribution is sensitive to personal choices by stratifying responsibility into levels of brute luck and option luck. Considering Dworkin’s explanation model and a necessity of the account of identity I suggest that stratification of moral responsibility into a gradual developmental hierarchy should provide conditions for the judgment of moral responsibility and explain implications of the morally arbitrary contingencies to distributive justice. For this purpose I introduce a theory of moral development by Lawrence Kohlberg as a complementary view on the moral arbitrariness of the natural lottery in Rawls’s theory.

In brief, the background questions of my inquiry are the following:

- What are the morally arbitrary contingencies of the natural lottery in Rawls’s theory of justice?
- How is the natural lottery in Rawls’s theory related to the moral judgment of responsibility?
- What does the phenomenon of moral luck imply to Rawls’s theory?
- How does the moral development perspective contribute to the explanation of the morally arbitrary contingencies in Rawls theory?
2. Natural lottery in Rawls’s theory

The conception of the natural lottery was first introduced by John Rawls in 1971 in his work *A Theory of Justice*. In the egalitarian context the idea of natural lottery signifies a starting range of the natural assets possessed by the parties engaged in a social cooperation.¹

Rawls’s introduces two kinds of the natural assets²:  
1. Social primary goods: goods that are distributed within social structure.  
2. Natural primary goods: genetic advantages, health, intelligence, vigor, imagination and natural talents, which are affected but not distributed by institutions.

The natural assets are necessary to pursue the best life-plan rationally chosen from many possible alternatives. The initial endowments received in the natural lottery are neither just, nor unjust – they are arbitrary from a moral point of view, i.e. nobody deserves the advantages or disadvantages received in the natural distribution. Since the initial natural distribution of the primary assets is arbitrary, it ought to be compensated by the fair arrangement of social cooperation, because without intervention in the redistribution of the assets the natural lottery produces a tendency to considerable inequality between humans. Therefore social cooperation requires efforts to maintain and preserve justice in society. The egalitarian view on the natural assets is based on the concept of the natural lottery as a contingent force of nature in individual lives that can be met by societal redistribution.

Rawls assumes fairness in social cooperation to be the main subject of justice. Fairness is to be supported by principles of justice. The principles of justice should apply to the basic structure of a community. The basic structure is a minimal arrangement of rules and institutions in a closed social system. Philosophical reflection on account of justice addresses the basic structure.

The starting point of the reflection about justice must be taken in the original position (and can be entered again at any time). The original position is a philosophical construction of the initial ethical choice situation under constraint of the veil of ignorance. The veil of ignorance is a hypothetical deprivation of knowledge about existing social attributes of personal identities, i.e. the natural assets. A person making choice about fair principles of social justice must presuppose total absence of social attributes of personal identity and be hypothetically prepared to take any possible place in society.³ The veil of ignorance is the device meant to annihilate the social advantages received in the natural lottery and enforce considerations of the possible situation of disadvantage.

Prior to the reflection about fair procedures of justice to apply on the basic structure, the individual must assume the veil of ignorance and prefer the principles of justice as fairness to the alternative principles of justice held by utilitarianism, intuitionism and egoism.⁴ From the original position the parties deliberately ignore natural assets of persons’ altogether. This secures reversibility and universality of social arrangements, and brings the reflections of different peoples to consensus, according to Rawls.

¹ Rawls pp 11,13,62-63,63-64,87,88-89,156,447-448,512  
² Rawls in Kymlicka pp 64-65  
³ Ibid pp 102-105, 109-112, 118-123  
⁴ Ibid pp 105-109
The method of the philosophical reflection about the social arrangements is called *reflective equilibrium*. In the reflective equilibrium we revise particular moral judgments in relation to the general principles of social arrangements, chosen in the original position. The reasoning proceeds from two ends: on the one side we describe a situation and a related set of generally shared moral judgments; on the other side we check their reasonability against our principles and theories of justice. Presumably, there will be discrepancies, which we should correct by revising and altering both judgments and principles. Reflective equilibrium as a heuristic device should be able to provide clarification of meaning in moral justification. It aims at coherentist justification, but also maintains openness to more specific and practical contexts. Therefore the justification is never stable and certain, and as soon as new circumstances, judgments, intuitions and theories of justice come into consideration new revisions in correlation between them will be needed. Rawls suggests two possible ends of the reflective equilibrium: the first one is smoothing out irregularities in our moral judgments and conceptions, and the second is a radical shift of the personal sense of justice.

The reflective equilibrium is meant to justify a theory of justice and, as a consequence of it, the ideal form of the basic structure. The ideal basic structure is a *well-ordered society*. The well-ordered society in its stable form is based on two principles of justice as fairness:

1. First principle: each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all.
2. Second principle: social and economic inequalities are to be arranged so that they are both:
   a) to the greatest benefit of the least advantaged, and
   b) attached to offices and positions open to all under conditions of fair equality of opportunity

The idea attached to these principles is that social cooperation is a necessary component of human life and every rational individual is naturally predisposed by the presence of the inherent sense of justice to realize the principles of justice as the basis of social cooperation.

In a well-ordered society the principles of justice as fairness are publicly realized and exercised by all citizens and institutions. While persons develop the natural attitudes of love, trust and friendship, they also learn expressions of justice as fairness from the loved others in the earlier sequences of life. In such learning process persons naturally connect the natural attitudes with the sense of justice as fairness - first in the family and later in social associations. Thus, in a well-ordered society, the sense of justice develops as a natural capacity of persons. This view on the sense of justice is based on Aristotelian conception of goodness. The good for every person is the full realization of the individual potential in social life. When activities of the individual are recognized by fellow humans, the individual realizes the worth of his life.

In sum, the two principles of justice are meant to deal with the morally arbitrary contingencies of natural lottery within egalitarian context. The first principle is meant

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5 Rawls, p 43
6 Ibid pp 52-65, 130-139
7 Ibid pp 397-405
to maintain sensitivity to advantageous and disadvantageous natural endowments. It takes the arbitrariness of the outcomes of natural lottery into consideration and allows persons to benefit from the natural distribution. Thereby it satisfies the claim of property-ownership. But the second principle is meant to remedy the inequality which results from the natural endowments. The second principle demands redistribution of the resources in order to compensate for the inequalities which result from natural distribution. The difference principle compensates disadvantageous outcomes of the lottery by engaging into rational deliberation on account of justice. In both principles Rawls addresses the natural lottery as a morally arbitrary force of nature. But the principles in interaction pull in two directions: the first one encourages and protects positive effects of the natural distribution while the second one rectifies and reduces the negative effects of it.
3. Moral luck

The conception of moral luck derives from the works of Thomas Nagel (1979) and Bernard Williams (1981). The notion of moral luck expresses the idea that moral status is a genuinely contingent matter of luck. The moral luck refers to the conditions for ascription of moral responsibility which are subjected to indefinite amount of morally arbitrary factors. This is a disturbing conception which implies moral immunity: introducing a notion of luck in the moral judgment, we undermine the possibility to ascribe moral responsibility to the individual. Referring to the moral luck, whether as the natural lottery or in other terms, we intuitively feel that the issue is a subject of chance which is out of control.

Williams focuses on the moral judgment of the agent about himself, while Nagel emphasizes the objective moral judgment of others. Nagel suggests dividing the luck, for which we would ascribe responsibility to an agent, into four kinds:

1. Constitutive luck: the kind of personality, character, inclinations, capacities and temperament
2. Luck in consequences: luck in the way one’s actions and projects turn out to be
3. Luck in determination by antecedent circumstances: the conflict between believing that we are determined and believing that we are morally responsible
4. Luck in circumstances: indefinite possible worlds of the circumstances

Ascribing moral responsibility, we should account for the divisions of luck and relate it to agent’s control over each kind of luck. Is personal control a necessary prerequisite of moral responsibility?

Nagel argues that explanation of the phenomenon of moral luck challenges Kant’s view on moral judgment. Kant assumes that good or bad luck should not affect moral judgment of a person or his actions or his moral assessment of himself:

“The good will is not good because of what it effects or accomplishes or because of its adequacy to achieve some proposed end; it is good only because of its willing, i.e. it is good of itself. And, regarded for itself, it is to be incomparably higher than anything which could be brought about by it in favor of any inclinations or even of the sum total of all inclinations. Even if it should happen that, by a particular unfortunate fate or by the niggardly provision of a stepmotherly nature, this will should be wholly lacking in power to accomplish its purpose, and if even the greatest effort should not avail it to achieve anything of its ends, and if there remained only the good will (not as mere wish but as the summoning of all the means of our power), it would sparkle like a jewel in its own right, as something that had its full worth in itself. Usefulness or fruitlessness can neither diminish nor augment this worth.”

Williams and Nagel argue that Kant disregards the formation of moral judgment in order to make morality immune to luck. Nagel suggests that Kant intentionally avoids discussing the moral luck and appeals to the sovereign will, because the notion of moral luck apparently leads to erosion of the moral assessment. Therefore the Kantian

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8 Nagel, p 28
9 Ibid, p 24 (quoted from *Foundations of the Metaphysics of Moral*, first section, third paragraph)
perspective does not provide a clue how we might be able to define moral status of a person and ascribe moral responsibility. Kant simply avoids the inquiry in the process of ascription of moral responsibility by leaving out personal control, personal constitution, causes, consequences and circumstances. Further Nagel aims to correct Kantian shortcomings by substantial investigation in the phenomenon of luck:

“Where a significant aspect of what someone does depends on factors beyond his control, yet we continue to treat him in that respect as an object of moral judgment, it can be called moral luck. Such luck can be good or bad. And the problem posed by this phenomenon which led Kant to deny its possibility, is that the broad range of external influences here identified [four kinds of luck] seems on close examination to undermine moral assessment as surely as does the narrower range of familiar excusing conditions. If the condition of control is consistently applied, it threatens to erode most of the moral assessments we find it naturally to make […]. Ultimately, nothing or almost nothing what a person does seems to be under his control.”

Thus, Nagel’s explanation of the conception of moral luck emphasizes the relation between moral responsibility and control. Since the personal control under a rational scrutiny becomes less than we intuitively feel, ascription of moral responsibility on the basis of personal control becomes almost impossible. “The area of genuine agency, and therefore of legitimate moral judgment, seems to shrink under this scrutiny to an extension-less point. Everything seems to result from the combined influence of factors, antecedent and posterior to action, that are not within the agent’s control. Since he can not be responsible for them, he can not be responsible for their results – though it may remain possible to take up the aesthetic or other evaluative analogies of the moral attitudes that are thus displaced.”

By inquiring into the moral luck we arrive into the genuine moral conflict between habitual thinking and rational analysis. On the one hand, we feel that we should not be responsible for the matters that we can not control. But on the other hand, if we attempt to detach ourselves from the unintentional and unforeseen aspects of our actions because they are uncontrollable, we can not retain our identity and character as agents in this world.

“ If responsibility were to be limited strictly to what is under our control, we would be able to walk away from the sick, the old, and the otherwise helpless, provided their helplessness was not an intended result of any agent’s actions. A world without moral luck, that is, a world where the boundaries of our responsibilities are determined by what is under our control, would thus be – on this argument – a place in which most of us would not want to live.”

Thus, referring to the idea of moral luck in the moral domain we (1) undermine voluntariness of moral responsibility and (2) diminish the condition of personal control for being morally responsible agents. This means that if moral luck is true, a moral subject can be held accountable for the actions and results which extend beyond his intentions or/and personal control over the circumstances. The philosophical inquiry into moral luck outlines the issues of the judgment of moral responsibility, without suggesting solutions to the problem. Rawls theory refers to the moral luck by

10 Nagel, p 26
11 Ibid, p 35
12 Statman, Daniel
appealing to the natural lottery; thereby he leaves the theory without grounds for the judgment of responsibility. In order to strengthen normative claim of distributive justice we should look for logical grounds for ascription of moral responsibility.

3.1. Hurley’s view on the natural lottery and moral luck

Susan Hurley (2003) argues that Rawls’s notion of natural lottery appeals to the moral luck. According to her point of view, this is problematic, because the proper philosophical notion of moral luck itself diminishes possibility of ascription of moral responsibility. Hurley suggests that the natural lottery as Rawls puts it may have two interpretations:

1. As a thin (simple) notion of moral luck it says that an agent is responsible or not responsible for the natural contingences received in the natural distribution. Nothing else can be said about the moral responsibility.
2. As a complex conception of moral luck it refers to the genuine phenomenon of moral luck, described in the chapter above.

Analyzing implications of both interpretations for Rawls theory, Hurley suggests that in such kind of political philosophy as Rawls’s theory is, it is better to operate with moral luck in simple terms. But Rawls applies the term of natural lottery in such a way that implies an advanced philosophical inquiry into the problem of moral luck.

According to Hurley, if Rawls’s natural lottery were a thin notion of moral luck it would imply that we refer moral judgments to the natural lottery in the sense of “gambling” of nature only to say that the individual has no moral responsibility for the assets received in the natural distribution at the beginning of life. The moral responsibility then would be assigned to society and we would actually focus on the arrangements of social structure which is the task of political philosophy. Hurley seems to suggest that Rawls’s notion of natural lottery should be a device for assigning moral responsibility to society. Thereby it should liberate the individual from the moral responsibility for the natural assets received in “the natural gambling”. But Hurley points out that Rawls’s idea of lottery refers to individual choice which makes the issues of moral responsibility extend beyond the simple view on it and require further complex explanation of the phenomenon of moral luck.

Hurley suggests that in the complex view on moral luck, which Rawls’s natural lottery actually refers to, (1)the notion of moral responsibility must be distinguished from control and (2)the identity of individual must be specified. She argues that, referring to the moral luck Rawls’s explanation should be able to answer a question: if X’s action is causally determined by the circumstances and X could not have acted differently, does it mean that X should not bear moral responsibility for the action? Hurley concludes that the natural lottery in Rawls’s theory introduces the philosophical problem of determinism which requires further metaphysical investigations. But since Rawls’s main focus is political justice the theory may be better off by holding to the thin interpretation of the natural lottery.

Apart from the terminological problem of the natural lottery, Hurley claims that in order to make a moral judgment of responsibility, we must have some sort of fixed persistent individual constitution (= identity) to apply the judgment to. The thin sense
of luck applied to identity (which is the case in Rawls’s contract), may lead to a conclusion that the identity is distributed in the natural lottery as an asset. If the identity is distributed by the natural lottery, we have nothing to relate the outcome of the lottery: we do not know to whom apply the assets received in the natural distribution. In other words, if we put the content of personal identity at stake of the natural gambling, we have no identity to participate in the “gambling” and no identity to appreciate the outcome of the natural lottery. Hurley suggests considering existence of bad and good outcomes of the lottery: we need an identity to evaluate their goodness or badness in relation to personal preferences and values. The author argues for a clearer notion of identity; because when we talk about the natural lottery luck in terms of the constitution of identity the idea of lottery luck may lead us to a confusing conception of the isolated bare self or some bizarre pre-self that exists prior to the essential properties that constitute the self.

In order to solve the problem Hurley adopts Nagel’s division of moral luck and relate it to control. The control is to be divided into three kinds: control over constitution, regressive control, and progressive control. She suggests that at least two kinds of luck should be distinguished in Rawls’s natural lottery: constitutive luck and lottery luck. The constitutive luck addresses the initial constitution of X which is beyond X’s regressive control, i.e. X has no possibility to affect the causes of the constitution. The lottery luck refers to luck in consequences of X’s choices as progressive control over future outcomes of the gambling.

Considering an endless evaluation of criteria of moral responsibility which we may face in such a framework, and the choices which may have affected the constitution but can not be subjected to responsibility, Hurley proposes to apply only thin interpretation of the natural lottery within theory of political justice.

In sum, Hurley criticizes Rawls for using the term of natural lottery in political theory. According to her, the concept of natural lottery is too vague (or too unclear) and therefore leads us into controversies about co-relations between moral responsibility, control and identity. She seems to conclude that either Rawls should limit implications of natural lottery to the simple terms “responsible” or “not responsible”, or there must be a considerable philosophical inquiry into the correlation between moral responsibility and personal control. Apart from it Hurley claims that if we attempt to perform a proper philosophical inquiry in the complex view on moral luck the content of identity and conditions of responsibility must be specified first.

3.2. Daniels’s view on the morally arbitrary contingencies

Another critique by Norman Daniels suggests more extensive study of the content of identity and morally arbitrary consequences in Rawls’s theory. In the book *Justice and Justification* in 1996 the author suggests that as long as our understanding of identity is vague, we encounter the problems to distinguish which assets are the subjects of initial natural distribution (does it include talents, needs and preferences?) and which assets society ought to compensate in cases of their absence. According to his perspective, the thin view on natural lottery may be problematic in policy making.

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13 Hurley pp 8-10
Daniels addresses the problem of expensive tastes and adventurous life styles: in the thin perspective on moral luck we apply the notion of natural lottery to all humans by default, including extravagant persons who developed expensive tastes far beyond necessities of the normal species functioning. The simple view on the natural lottery allows extravagant tastes, choices and preferences to be subjects of the natural lottery. Within the egalitarian context we attempt to compensate for the natural distribution; if we include the extravagant assets in the natural lottery, we imply that society ought to compensate for the absence of it. Since such a simple view undermines responsibility for the extravagant tastes and preferences we need the thick conception of moral luck. According to Daniels, the solution to this problem is to develop a consensus about constitution of persons/identity prior to making egalitarian agreements about just societal structure.\(^\text{14}\)

Interpreting Rawls in *The Cambridge Companion to Rawls* in 2003, Daniels addresses the morally arbitrary contingencies of the natural lottery in Rawls’s egalitarian theory. He says that “overemphasizing the moral arbitrariness undermines the entire idea of democratic equality”; thereby he suggests that the principles of democratic equality and the moral arbitrariness of the natural lottery is the pair of opposites which exclude each other\(^\text{15}\). Since the morally arbitrary contingencies undermine ascription of the moral responsibility necessary for social cooperation, emphasis on the lottery luck diminish the individual responsibility for maintaining democratic equality. It means that the notion of moral luck in terms of the natural lottery has a potential to erode democracy; without responsibility for maintaining the democracy it becomes a matter of chance. Nevertheless, Daniels holds that the effects and implications of moral arbitrariness in Rawls’s theory depend on proper application of Rawls’s two principles of justice.

Daniels argues that a good use of the principles of justice reduces the moral arbitrariness to the degree of “brute luck”. The term refers to Dworkin’s division of luck into brute luck and option luck\(^\text{16}\). Dworkin’s egalitarian theory provides another approach to ascription of moral responsibility; in difference to Nagel’s substantial explanation of luck Dworkin suggests a normative definition of luck. While Nagel’s view provides a metaphysical account of luck, Dworkin outlines a method of ascription of moral responsibility by sensitivity to individual choice.

In Dworkin’s version of egalitarianism, the resources are to be distributed by the means of a hypothetical bargain on a desert island. Every participant of the auction starts with the factual advantages or disadvantages of “brute luck” received naturally, without rational deliberations. Considering the brute luck resources received prior to the auction, the participants bargain for insurance in the “option luck” which is a result of their deliberation\(^\text{17}\). With the notions of bargain and insurance Dworkin puts emphasis on the individual responsibility for the rational choices people make. At the same time the account of brute luck addresses the factual luck in circumstances, culture and history. The option luck consists of the outcome of rational choices or a hypothetical probability of what the rational choices could have been. While the effects of the brute luck are free from responsibility, the responsibility for the option luck ought to be rationally deliberated. These two divisions of luck refer to different degrees of individual moral responsibility; the brute luck implies zero-point of

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\(^\text{14}\) Daniels. *Justice and Justification*, pp 121-128

\(^\text{15}\) Daniels in *The Cambridge Companion to Rawls*, pp 253-256

\(^\text{16}\) Dworkin, pp 73-83

\(^\text{17}\) Ibid, pp 65-71
individual responsibility, while the option luck implies a free individual choice of the degree of responsibility. The different degrees of responsibility provide us with the measurement of morally arbitrary contingencies which we ought to apply in deliberations about fair scheme of social cooperation.

3.3. Implication of the moral luck in Rawls’s theory

The main point of Daniels’s and Hurley’s critique on Rawls’s natural lottery is that introducing the conception of natural lottery Rawls refers to the moral luck, i.e. he accounts for the morally arbitrary contingencies of nature which weaken the normative claims about responsibility, but its implications for the theory are unclear and contra-productive. On the one hand, the account of moral luck arises in philosophical explanation of moral responsibility, but on the other hand an inquiry into moral luck erodes possibility to assign moral responsibility on the basis of personal control. The authors are in agreement that a theory of person, or the self, is needed in order to apply the theory of justice on a practice of policy-making. The policy-making must be based on a normative claim about responsibility and therefore requires a strategy for assigning moral responsibility. But the proposals for solution of the problem are different.

Hurley argues that Rawls’s theory as a theory of political and moral philosophy would be better off using a simple notion of moral luck in terms of the opposite relations between responsibility and luck: either X is responsible, or lucky/unlucky. But on the other hand, she notes that the explanatory role that Rawls assigns to the natural lottery demands further philosophical investigations of the conception of moral luck. She suggests clarifying the conception of the self participating in the natural lottery and evaluating the results of the lottery in relation to that self, which must be a continuous identity capable of self-assessment and self-governance. For the clarification she turns to Nagelian idea of moral luck related to control and appeals to the four kinds of luck:

1. Constitutive luck: the kind of personality, character, inclinations, capacities and temperament
2. Luck in consequences: luck in the way one’s actions and projects turn out to be
3. Luck in determination by antecedent circumstances: the conflict between believing that we are determined and believing that we are morally responsible
4. Luck in circumstances: indefinite possible worlds of the circumstances

But this framework seems to be inappropriate for explanations of the moral luck in the context of egalitarian justice. Descriptive inquiry in the four kinds of luck expands the conditions of moral responsibility to indefinite amounts of possible worlds and points out epistemological shortcomings in ascription of responsibility. This leads Hurley to conclude that it is better not to invoke such philosophical explanation in the context of moral and political philosophy or to provide other conditions of moral responsibility.

Daniels view on the natural lottery as a version of moral luck is practical; he is concerned about policy-making on the basis of egalitarian normative assumptions. He suggests a functional measurement of luck on the basis of Dworkin’s egalitarian
project. In this perspective the moral luck should be explained on a gradual scale derived from Dworkin’s division of brute luck and option luck. But how is Dworkin’s egalitarian project related to Nagel’s explanation of moral luck? Nagel’s four kinds of luck provide a substantial description of the phenomenon of moral luck which undermines normative ascription of responsibility. Since moral luck exposes the conditions of life which we can not control, we can not claim responsibility for the things beyond our control. In order to reduce weight of the moral luck in egalitarian context we need a valid measure of individual responsibility and criteria to assign it. Dworkin’s theory suggests a distinction between choice and chance as the criteria of moral responsibility. His perspective implies that on account of personal choice, ascription of moral responsibility not only a matter of pure luck but partly a matter of choice. Dworkin’s view provides a normative basis for policy-making by dividing moral luck into brute and option luck. In this division, the brute luck ought to be free from moral responsibility, but the option luck ought to be disputable.

The notion of brute luck implies that there is no choice that a person can make. When there is no choice personal control is absolutely impossible, even if desirable; therefore moral responsibility should not apply to the area of “brute luck”. The notion of option luck suggests that personal control is available in form of deliberation among several choices, even if the control is not necessarily chosen by individuals. In this perspective the degree of chosen control in the option luck constitutes a condition of moral responsibility. (The control in the option luck should be acquired by choosing the preferred outcome of “the natural gambling” and the risks willing to be taken to achieve that outcome).

Daniels does not propose how the degrees of moral luck and, consequently, conditions of moral responsibility can be specified further on the basis of Dworkin’s view on luck. But he holds Dworkin’s normative basis as a point for clarification of the morally arbitrary contingencies of the natural lottery in Rawls’s theory.

In sum, the critical discussion of the morally arbitrary contingencies of moral luck in Rawls’s theory points out the following issues:

1. We need an account of identity in order to deliberate. Otherwise we have no measurement to evaluate the outcome of our choices in the option/lottery luck. The possibility to engage in rational deliberation on account of justice implies that we must have a rational individual with preferences and values.

2. The crucial feature of identity which a theory of person must capture is the life-span account of identity. There also must be a psychological account which explains the plasticity of personal identity, i.e. capacity to acquire knowledge and accommodate experience during life time. Does the self change with the acquisition of new knowledge and experience? Is it the same self at the beginning and the end of a human life-span, or many different selves? Different perspectives of plasticity of the self derive from different background assumptions. Rawls does not provide clarification about the content and plasticity of identity which may lead to the confusion about human nature: do all identities belong to the same nature or are there variations in the natures of identities? Summarizing the previous discussion we can specify requirements for a theory of personal identity which appears to be missing in Rawls’s theory. First, the theory must address a human life-span account. Second, it should explain conditions of

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18 Daniels Justice and Justification Pp 121-128
19 Ibid, p 129
moral responsibility. Third, the theory of person should account for the existence of morally arbitrary contingencies.

The egalitarian justice relies on the individual moral responsibility. But the idea of natural lottery as a contingent force of nature erodes the ground assumption about the possibility of moral responsibility. Considering how human beings become morally responsible and for what they are morally responsible, we come to the problem of moral luck which makes the conditions of ascription of moral responsibility unclear. A suggested solution could be in considering different degrees of individual choice related to chance as a condition of different degrees of responsibility. But this explanation is still insufficient. If we opt to put the theory in practice, we should have a norm about what human identity ought to be, and a substantial explanation of the relation between the content of identity and degrees of responsibility. It means that we should have such an account of human constitution which explains how we gradually become morally responsible human agent from the condition of being not responsible for anything. Without a normative account of identity the discussion about identity risks opening up an endless amount of possible worlds with many versions of the nature of human beings.

However, when we claim a norm of the individual identity, we necessarily relate moral responsibility to personal control. Since many agree that the range of individual control in the world is very short, it may lead us to conclude that as moral responsibility depends on the individual control over the outside world; individuals are responsible for the outside world in a very small extent (corresponding to the small range of personal control). But some suggest that degrees of moral responsibility also depend on the degrees of personal control over the inside world, i.e. the degree of self-assessment and self-governance. In this basis we may expect that a theory concerned about moral responsibility should provide an account of individual self-assessment.
4. The moral development theory

Looking for a gradual scale for ascription of moral responsibility, we should inquire into developmental outlook. The theory of moral development by Lawrence Kohlberg\(^2\) gives a comprehensive view on the degrees of moral responsibility suggested above. The theory relies upon the Aristotelian conception of person. In Aristotelian perspective, the main characteristic of a good person is the virtue of justice. Virtue means excellence/harmony in three spheres of personal life: emotions, thinking and behavior. Justice means proper appreciation of the fellow human beings.

According to Kohlberg’s theory, the individual identity consists of three dimensions: emotions, thinking and behavior. Every human possesses the inborn natural sense of justice. Starting from childhood, the sense of justice gradually develops from egoistic expressions towards reciprocal justice relations, and further to altruism. The sense of justice first arises in the emotions of a person, proceeds into thinking and leads to behavior. Appropriate justice thinking and reasoning channel the genuine emotions of justice into morally responsible behavior. This process of moral development is called moralization. At the beginning of the process (which is childhood for most humans) the inherited justice emotion is the prevailing motivation for behavior, while knowledge of justice is dependent on the intellectual development, occurring later. There is an important distinction between intellectual and moral development: they are interdependent but not the same. (A highly intelligent person can be a low-developed moral agent, e.g. Hitler).

Moral development, and accordingly, moral responsibility is interrelated with the intellectual development which occurs progressively and mostly irreversibly (with exceptions of pathologies of degradation). The progressive development of moral stages means that growing individual responsibility goes through stages in progressive order, without skipping stages. (There is no way of jumping from the first stage to the third or higher without passing the second).

Apart from the Aristotelian basis of the sense of justice the theory relies on a psychological framework. The moral development theory as a cross-disciplinary work has been heavily influenced by Piaget’s developmental psychology on the one hand, and Dewey’s moral thought on the other.\(^2\)

Within 20-years-long research and work by Lawrence Kohlberg and his research group many applications of the moral developmental philosophy to the public moral education and political justice have been made. The theory is based on large amount of longitudinal cross-cultural empirical data and therefore is claimed to be universal: the three-dimensional scheme of moral development can be applied on the scope of individual, society and epoch.

However, the moral developmental perspective is focused primarily on the moral character/virtue education, where the preceding generations methodically intervene in the development of the social identity of the succeeding generation in order to maintain societal justice. In the process of moralization, the gradually growing social identity of a good citizen ultimately affects his personal identity: fortifies the personal inborn sense of justice and gives it an appropriate expression in the individual life.

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\(^2\) Kohlberg 1981,1984  
\(^2\) Crain 2000, Thomas 1997
The method of moral education is exercising the natural sense of justice in moral reasoning/justification. The reasoning balances the sense of justice with behavior. The just reasoning and behavior necessarily stimulate the moral development of the individual and maintain the amount of morally responsible/self-governing individuals in society.

One specific feature of this developmental approach is that it seems to be immune against moral relativism and indoctrination. The approach emphasizes attention to the content of the moral reasoning and interpretation of it through the extensive framework based on various traditions of the moral philosophy. In the interpretation there is no judgment about wrongness or rightness of the reasoning. Kohlberg holds that while cultural relativism seems to be unavoidable, the moral content of any culture necessarily possesses universal features. The measurement of the stages is meant to expose the universal structure in any moral judgment and in the dynamics of moral feeling, thinking and performing.

However, the moral stages schema has limitations: it is only applicable to the explicit moral judgments and observable behavior. On moral development and justice based on religious faith, metaphoric images, miracles and revelations there is another logical order to apply, which is beyond the epistemological domain of justice. Kohlberg suggests a provisional hypothesis that faith and metaphoric literary gestalts are of a higher ontological order, which does not belong to the domain of conscious moral. He addresses the developmental perspective on faith by James Fowler, which claims that faith development also occurs through universal stages. Although moral development and faith development are both interrelated with intellectual development, they belong to different ontological dimensions which should not be confused. This limitation is a consequence of Kohlberg’s focus on the secular public life. He suggests that in the absence of faith in many social contexts, it is better to have a concept of morality appealing to the three universal dimensions of identity, than not to have it at all.

4.1. Stages as a measurement of the moral responsibility

There are six distinct stages of moral development which divided into three levels and a provisional hypothesis about more stages on higher ontological levels.

Level I. Pre-conventional
The individuals at the pre-conventional level have not yet come to understand and uphold conventional societal rules and expectations. The child (or adult) is responsive to cultural rules, social labels of “good or bad” interpreted in terms of hedonistic consequences of actions or in terms of physical power of those who rule.

Stage 1. The punishment and obedience orientation

22 Kohlberg 1981, pp 311-372
23 Fowler 1995
Goodness or badness of action is determined by its physical consequences regardless of the human meaning or values of the consequences. Reason for doing right is avoidance of punishment. The power of authority is superior.

Stage 2. The instrumental relativist orientation
Right actions are those which instrumentally satisfy one’s own needs and occasionally the needs of others. Reciprocity and fairness are expressed in pragmatic way “you scratch my back and I will scratch yours”. Reason for doing right is to serve ones own needs in a world where one has to recognize that others have their interests too.

Level II. Conventional
Maintaining the expectations of the family, group or nation is valuable, loyalty to the social order, supporting and justifying the order. The attitude of conformity, loyalty and identification with the group involved.

Stage 3. The interpersonal concordance and “Good Boy – Good Girl” orientation
Actions are judged by conformity to stereotypical images of what is majority or “natural” behavior approved by others. One earns approval by being “nice”. Reason for doing right is desire to maintain rules and support stereotypical good behavior.

Stage 4. Society maintaining orientation
There is authority, fixed rules, and the maintenance of the social order. Right behavior consists of doing one’s duty in showing respect for authority and maintaining the given social order which is self-evident and self-contented. The imperative of conscience is to meet one’s defined duties and obligations.

Level III. Post-conventional, principled level
The individuals on this level have understanding and acceptance of societal rules, but make efforts to define moral values and principles that have validity and application apart from authority of the group of people holding these principles and apart from personal identifications with these groups. The subjects of this level have understanding that the abstract moral principles can sometimes come in conflict with society’s rules.

Stage 5. The social contract orientation
Right action is defined in terms of general individual rights and in terms of standards that have been critically examined and agreed on by the whole society. There is a clear awareness of the relativism of personal values and opinions and a corresponding focus on procedural rules for reaching consensus. There is an emphasis on the possibility of changing laws in terms of rational considerations of social consensus and social utility. Reason for doing right is a feeling of contractual commitment, freely entered upon, to family, friendship, trust and work obligation.

Stage 6. The universal ethical principles orientation
Right is defined in accordance with individual conscience and self-chosen ethical principles appealing to logical comprehensiveness, universality and consistency. They are abstract principles of justice, reciprocity, equality of human rights and individual dignity. Reasons for doing right are rational beliefs in the validity of universal moral principles.
The stages of moral development provide a measure of the degrees of moral responsibility, which individual ascribes to her- or himself in the reasoning. How does this relate with the morally arbitrary contingencies? According to the previous discussion, the effect of the morally arbitrary contingencies on the content of identity gets a clearer explanation if we put the moral responsibility in the degrees, corresponding to developmental degrees of intellectual capacity.

The measurement method comprises a set of specially constructed moral dilemmas. The dilemmas presented to an individual force him or her into hypothetical role-taking and decision-making. The measurement requires a competent teacher or interviewer, who performs a sort of hermeneutic interpretation of the answers. The teacher interprets the content of answers given by the interviewed persons in reference to the scheme of the elements and norms of moral judgments and coded aspects of moral development. The coded aspects and norms are based on a summary of traditions of moral philosophical thought. Each answer on a particular dilemma gives a provisional number of the stage, and the sum of all answers gives an average number of the stage. The method also allows the scorer to account for additional unknown aspects of judgments in cases of unclearness.

In sum, in Kohlberg’s theory of stages of moralization, the moral responsibility is explained not as moral-luck-as-lack-of- control, but a matter of feeling, thinking and acting gradually grown into harmony during the human life time. The natural interaction of these three components of identity results in the capacity to self-assessment where an individual freely takes a certain amount of the moral responsibility upon her- or himself. Applying the schema of moral development to the individual reasoning we are able to measure the degree of moral responsibility which we can ascribe to the individual in accordance with his level of moral development.

From all above we can argue that (despite its spiritual limitations) the theory of moral development fulfils the three requirements to the theory of person, suggested in the critical discussion of Hurley and Daniels:

1. the theory must address a human life-span account
2. it should explain conditions of moral responsibility
3. the theory of person should account for the existence of moral luck

If the moral development theory can mitigate the issues of identity criticized in Rawls’s view, we should examine closer in what sense Kohlberg’s theory complement the moral arbitrariness of the natural lottery.

4.2. Explanative role of the moral development theory for the moral arbitrariness of the natural lottery

In the previous discussion I suggested that the implications of the contingencies of natural lottery in Rawls’s theory have issues which could be approached with the developmental view on moral responsibility and identity. What are the issues and how the developmental perspective contributes to their solution?
The first issue is psychological: since Rawls introduces the moral luck in terms of the natural lottery, he risks eroding ascription of individual moral responsibility. In order to preserve the possibility to apply moral judgment to individuals, i.e. to preserve our common-sense understanding of morality, he should be able to explain to whom and how we ascribe the responsibility. This task requires a substantial explanation of identity, according to the discussion above. But Rawls makes a shortcut to it by providing a formal account of identity in form of psychological laws. Relying on the Aristotelian view of goodness of human life Rawls defines three psychological laws on which his explanation of person is based:

- **First law:** given that family institutions express their love by caring for his good, then the child, recognizing their evident love of him, comes to love them.

- **Second law:** given that a person’s capacity for fellow feeling has been realized by acquiring attachment in accordance with the first law, and given that a social arrangement is just and publicly known by all to be just, then the person develops ties of friendly feeling and trust towards others in the association as they with evident intention comply with their duty and obligations, and live up to the ideals of their station.

- **Third law:** given that a person’s capacity for fellow feeling has been realized by his forming attachments in accordance with the first two laws, and given that a society’s institutions are just and publicly known to be just, then this person acquires the corresponding sense of justice as he recognizes that he and those for whom he cares are the beneficiaries of this arrangements.

Rawls emphasizes that his psychological theory lacks explanations of psychological developmental mechanisms, because it requires a philosophical inquiry in the morally arbitrary contingencies. However, without going into psychological investigation of identity, individual responsibility and moral luck he claims that there is a formal norm of human moral development which supports egalitarian justice: “I have not maintained, however, that the stages of development are innate or determined by psychological mechanisms. Whether various native propensities influence these stages is a matter I left aside. Rather the theory of right and justice is used to describe what the expected course of development might be.”

Rawls makes a formal normative claim which supports the egalitarian assumption about moral responsibility: the individuals of a well-ordered society are naturally responsible to maintain the system of justice. But his avoidance of philosophical investigation of the natural lottery undermines the psychological laws.

On this weak point of Rawls’s theory the moral development theory contributes to the explanation of natural lottery in terms of development of identity. The content of the human identity consists of three dimensions: feeling, thinking and acting. Kohlberg’s theory explains formation of the moral responsibility in the life-span

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25 Rawls pp 429-430
26 Rawls p 434
interaction of these three features. Formation of moral responsibility in interaction of the three dimensions of identity gives substantial and functional account of morally arbitrary contingencies of the natural lottery. Relying on the moral development theory we might be able to measure degrees of self-assessment and assign a degree of moral responsibility, instead of referring the responsibility to either psychological laws or the natural lottery in terms of responsible or not responsible.

The second issue is logical: the term of natural lottery is vague in Rawls’s theory. If the natural lottery were explained in the two-valued logical system it would set conditions of the natural lottery by the logical law of the excluded third. Hurley argues for the two-valued logical structure by saying that egalitarian theory would be better off in judging individuals as either responsible or not responsible. On the contrary, Daniels finds the two-valued logic insufficient in practical applications of the theory. But Rawls neither limits his explanation to the two-valued logic nor provides a systematic explanation of implication of the natural lottery in egalitarian context. Kohlberg’s theory provides a gradual structure by systematizing the degrees of moral responsibility into a hierarchy of stages. This system structures moral judgment: “X is responsible to the degree N in accordance with the level of his personal evolution”. Validity of this logical structure is based on a large amount of empirical cross-cultural data.

The third issue is pedagogical: the natural lottery idea in Rawls theory implies that capacity to self-governance, self-assessment and taking moral responsibility depends on the moral instruction. In Rawls’s explanation, the moral instruction in a well-ordered society appears to be natural and just. His theory does not clarify what happens with the moral instruction in other than a well-ordered society. The contribution of the moral development theory is in providing a method for the moral instruction. In Kohlberg’s perspective the moral instruction is systematically developed into a method of public education applicable to all kinds of societies.

The fourth issue is the practical measurement. Individual autonomy depends on the rational reflection upon the sense of justice, as both Rawls and Kohlberg put it. But on these grounds we may deny to grant autonomy to the beings with reduced capacity to rational reflection. Intuitively it makes sense, but if we opt to put the egalitarian theory in a practice of policy-making, some kind of measurement of rational moral reasoning is necessary to avoid power abuse. The moral development theory makes a crucial difference by structuralizing the stages of moral reasoning and responsibility into appropriate degrees corresponding with developmental degrees of the rational capacity.

The last issue that I consider here is the general limitations of Rawls’s theory, which he pointed out himself. The theory is originally meant to remain on the high levels of theoretical abstraction. This means that the substantial content of identity and realities of human behavior may be considered irrelevant on the high theoretical level concerned about procedural justice. Nevertheless, Kohlberg’s theory accounts for the behavioral component and explains universal structure of moral development in relation to the development of identity. According to my point of view, the developmental perspective should complement applications of the egalitarian theory to policy-making.
5. Compatibility of the moral developmental view with Rawls’s theory

Despite differences in the disciplinary scope, levels of theoretical abstraction and logical structure the developmental view and Rawls’s theory do not oppose each other. The shortcomings of Rawls’s explanation of contingencies of the natural lottery and its impact on individual responsibility may be explained with the developmental view without contradiction to the main features of the theory. Rawls holds natural contingencies as an ontological counterpart of the social cooperation; thereby he evokes the problem of moral luck. If the implications of natural contingencies to the identity of individuals who supposed to maintain social cooperation are unclear, the social cooperation itself may be affected by the morally arbitrary contingencies to an unlimited extent. Without normative basis for the judgment of individual moral responsibility the social arrangements risk to be a matter of good or bad luck.

Following Kantian footsteps, Rawls avoids dealing with the problem of assigning moral responsibility and replaces moral judgment of responsibility either by a motivation based on a thin conception of psychological laws or by the self-defeating term of the natural lottery. Rawls holds a static utopian norm of individual identity, without taking in consideration its dynamics and deviations from the ideal in the reality. The long-term impact of contingencies of the natural lottery on the formation of individual identity and the moral responsibility for social cooperation is left out of consideration as a consequence of the high abstraction level in Rawls’s theory.

Meanwhile Kohlberg relies on empirical data and the real-life dynamic observations of human identities. He explains the contingencies of nature as an evolutionary force; his perspective on the naturally evolving stages of moral responsibility dissolves the problem of moral luck. This perspective shows that the individual moral responsibility does not erode in the presence of natural contingencies if we ascribe responsibility on the gradual scale in accordance with the naturally evolving capacity to self-assessment and self-control.

We may be able to classify Rawls’s theory as a formal or principled sociological and political theory, while Kohlberg’s theory is psychological as it is focused upon individuals. While they both refer to the Aristotelian view on justice, goodness and person, their theoretical framework is different and purposed for different spheres of applications. On the one hand, Rawls’s theory is focused on the utopian abstract principles of a hypothetical social contract and minimal general claims about the activity of humans. On the other hand, Kohlberg’s theory provides a description of the existing essential properties of moral life; he exposes a universal evolutionary structure of moral development and a substantial account of identity on the basis of empirical research of human activities.

They both rely on a coherentist method of moral justification, but belonging to different disciplinary fields makes the purposes of justification different. Kohlberg focuses on moral reasoning in terms of right and wrong in order to expose individual moral responsibility and strengthen it as a treat of character, while Rawls is focused on principled/abstract reasoning in specified contexts in order to justify a tendency to equality and democracy.

From all above follows that the gap between a theory of political justice and a psychological theory of identity is very large but policy-making should benefit from combining Rawls’s political theory of justice with the moral psychology perspective. The best practical results may be achieved if social arrangements would be able to accommodate moral responsibility of individuals from different stages of moral evolution into a morally evolving societal structure.
6. Implications of the combined view to policy-making

The very basic egalitarian idea about redistribution of resources refers to the ideal of equality of humans. The policy-making aims to formulate a distributive scheme which compensate fairly for inequalities resulting from the natural distribution. Egalitarian justice ascribes moral responsibility to society by default because natural distribution is morally arbitrary, i.e. no individual is responsible for it.

What does the developmental perspective contribute to egalitarian policy-making?

The developmental scheme suggests that humans are unequal in capacity to make moral judgments and take moral responsibility but this capacity naturally changes along the life-span affected by new environmental influences and experiences. The contribution of this view is that policy-making which accounts for moral development focuses on strengthening the individual moral responsibility for personal choices by educational intervention in personal self-assessment and self-governance.

Thus, the main contribution of developmental view is applied to the area of educational policy. But the perspective emphasizes primarily not the distribution of access to education, but the content and method of education. The main aim of moral education is responsible individual moral character, but not democracy or equality. However, since the individual moral responsibility is a prerequisite for democratic and fair social cooperation, moral education affects the basic of democracy.

Democracy is an ideal intellectual construct, emerged on the high levels of moral development. The developmental perspective on moral education suggests that individual will necessarily arrive to understand the value of democracy and equality during his progressive movement through evolutionary moral stages (but not at once), and the task of moral instruction is to help the individual to move through the stages towards higher and better levels.

This developmental perspective on moral instruction should be added to the policy-making, because without it the efforts of egalitarian justice may be self-defeating. Take for example, egalitarian efforts for equal access to education in non-democratic countries. They may meet egalitarian demands in providing all citizens education, but if the moral education is built on dogmatic basis, it does not stimulate self-assessment and self-governance leading to moral development. In such societies the egalitarian justice principles may end up supporting non-democratic local political ideals. If there is no individual choice, the democracy in non-democratic countries may be a matter of good or bad luck in circumstances. On the other extreme, the same equal access to education in democratic countries does not necessarily support self-assessment and self-governance either. Taking democracy in society for granted, moral instruction on democracy may also become a dogma which does not stimulate individual moral reasoning for it. In such a scenario, democracy becomes something given, but not chosen. If there is no moral reflection on this choice, democracy also becomes a matter of luck.

Apart from educational policy the developmental perspective contributes to a policy of international relations. Rawls’s theory of justice applied to international politics suggests that the principles of justice are contextually-bounded and therefore they should change in different contexts. The developmental view is more stable in the context of international policy and in difference to the theory of justice, does not require changing its basic assumptions. Applying stages of moral development on the international level we may be able to measure and compare the level of moral development between countries. How do we measure the level of moral development
of a society, when initially the measurement applies on an individual moral judgment? The measurement of moral development of a society may apply to a selection of moral judgments of its citizens, or to representative political judgments. But the major problem that arises in international policy-making is that the claim that the higher stages of moral development are better than the lower may lead to conflicting implications. Since the subjects of lower stages of development are insensitive to the higher stages, they may not be able to comprehend the moral reasoning of the stages which lay too far ahead of theirs. This problem imposes a paternalistic demand on the subjects of higher stages: they should be able to take more responsibility and tolerate the moral insensitivity of the subjects of lower stages.

The two discussed applications generate large numbers of considerations about existing and desirable social arrangements: among many other issues Kohlberg points out that the developmental view may help to reconsider the basic moral assumption of punitive justice and capital punishment. In his view, the high-level subjects of moral development must necessarily come to abandon the moral thinking in terms of physical consequences, and, accordingly, abandon the reasoning for death penalty.
7. Conclusion

This paper discussed that morally arbitrary contingencies of the natural lottery have problematic implications to Rawls’s theory of justice. In order for a just society to be sustained there must be responsible moral agents who maintain the just societal structure. The morally arbitrary contingencies of the natural lottery are the initial conditions of natural distribution of the essential life resources. The natural lottery in Rawls’s egalitarian project refers to the moral luck which implies spontaneity and irrationality of the judgment of moral responsibility. Thereby it weakens the normative claims of egalitarian justice. If moral luck is true, the moral judgment of responsibility, which is necessary for upholding a fair distributive scheme of social cooperation, occurs spontaneously without logical grounds for it.

However, the effect of moral luck in judgment of moral responsibility can be minimized (but not eliminated) by sensitivity to the degrees of individual choice in relation to chance/circumstances. This task requires clear specification of the content of X to which we apply the moral judgment of responsibility. The discussion suggested explanation of identity in relation to circumstances and moral responsibility in a moral developmental perspective which takes in account dynamic formation of moral responsibility as a part of identity. The moral developmental perspective structures morally arbitrary contingencies of the natural lottery on a gradual scale in accordance with a hierarchical order of evolutionary stages of moral responsibility.

The complementary developmental view on the problem of moral judgment in egalitarian theory strengthens the normative claim of egalitarian justice by extending its philosophical grounding. It also contributes to the practical implementation of egalitarian justice. Policy-making may rely on the psychological grounds in addition to the principles of political justice and sociological perspective. This combined approach may bring higher precision into policies by structured measurement of moral development, and consequently, by reduced influences of moral luck in democratic social arrangements.
References


