It Could be You — But Would it be Fair?
Theories of Justice and the National Lottery

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Every Saturday, and every Wednesday, millions of people club together and give millions of pounds to a few people. The beneficiaries are not selected for their achievements, efforts, or personal qualities. They might be the most unsuccessful, lazy, and unpleasant of all the players; when there's a hint of this, the tabloids enjoy themselves, but the winner keeps her money. Nor are the winners given the money because they are most in need. They might easily be richer than many of the other players, even before collecting their prizes — there's nothing to stop the Duke of Westminster having a flutter. This can seem like a very unfair way of distributing money. But the players buy their tickets through choice, and even the losers benefit from the excitement of playing: perhaps it's just harmless fun.

Can an institution like the National Lottery be part of a just society? There are many factors which need to be considered, so I will discuss some simpler cases first, hoping that these will shed light on the question of the National Lottery. I will discuss the idea of a compulsory lottery, which we are all forced to play. Then I will move a bit closer to reality, discussing an optional lottery in which all of the ticket-money is given out as prize-money. Then I will discuss an optional lottery like the National Lottery, in which part of the ticket-money is used for other purposes. Does it make a difference to the justice of the lottery whether the proceeds are used to house the homeless, on the one hand, or to fund opera houses, on the other?

1. Compulsory Lotteries
Imagine a country in which everybody must buy a £1 lottery ticket every week. Let's assume that the state doesn't keep any of the ticket-money, not even to cover running costs, and every week the whole lot is paid out to a single winner. Is this fair?

It's fair in one sense, so long as the draw is perfectly random, and everyone has an equal chance of winning. But this isn't the sense of 'fair' that we're interested in when we're trying to find out whether a society with a compulsory lottery is in any way better than a society without such a lottery. The lottery may be conducted in a perfectly fair and open manner. But this doesn't mean that the resulting distribution of money is fair, nor does it mean that it was fair to make people play in the first place.

We can try to decide whether a compulsory lottery is a good thing, by considering different theories of justice. A theory of justice lays down very general principles about what a just society should be like. So we can think about what different theories of justice would say about a society with a compulsory lottery.

A libertarian theory says that a compulsory lottery would be wrong. Libertarians think that the best society is the one in which individuals are as free as possible. Of course, we cannot all be free to stab each other in the back, for then none of us will be free to do anything except watch our backs. But apart from cases like this, freedom is
paramount. So the state can tax its citizens in order to fund a police force and an army, if this frees us from worries about attack. But the state should not tax us for any other purpose, because this would decrease our freedom to do what we like with our money. Libertarians think that what is mine is mine to dispose of as I please.

In a compulsory lottery, the state takes some of my money from me. From the libertarian point of view, this is a bad thing. In effect, the state is stealing my money and giving it to the lottery winner.

Should we be libertarians? According to libertarians, it is usually wrong for the state to take money from us. But this means that the state is not entitled to take even a little money from the rich, in order to help the unemployed, the elderly, children or those who are sick or disabled. It would be better for those people to starve than for the state to force others to help them. (Libertarians do not admire Robin Hood.)

Many people find this unacceptable. They agree that some freedoms are very important. My freedom of movement, freedom of speech, freedom to vote and so on may be crucial. Freedom to spend, however, is not so important, and the state is entitled to take money from some people and give it to others. But how much money, and from whom, and to whom? The state is not entitled to do whatever it likes in this respect. It cannot legitimately make me destitute, and spend all my cash on caviar for the Prime Minister.

Perhaps the state should try to equalise the distribution of wealth, to make sure that everyone has the same amount of money and property. This can seem like the fairest answer: if I am sharing out a cheesecake amongst my guests, then perhaps the fairest thing is to give an equal portion to each. But what if somebody is particularly hungry, or particularly adores cheesecake? Perhaps I should give that person a larger piece, for otherwise, when everyone has eaten their portion, one person will be unsatisfied while the rest of us are fine.

The initial impulse was to treat everyone equally. But handing out equal shares of cheesecake may not be the best way of treating everyone equally, because this may mean different things to different people. And the same is true about wealth and property more generally. To treat everyone equally, we must take account of the different needs of different people, although it will be difficult to decide which needs to take into account. We may want to subsidise someone who needs expensive medication for an illness, but not someone who gets upset if they can't have champagne for breakfast.

But however we work out the theory of fair shares, the compulsory lottery doesn't seem fair. The compulsory lottery makes one person very much better off, and everyone else worse off. This certainly doesn't make people more equal, either in terms of how much money they have, or in terms of what they can do with their lives. There's no reason to think that the lottery winner has expensive needs or even expensive tastes. We can call someone who supports a fair-shares idea of justice an "egalitarian": egalitarians would oppose the compulsory lottery, just as libertarians would, albeit for different reasons.
A third theory of justice could justify the compulsory lottery. Utilitarians think that we should aim to maximise happiness, or well-being. Now, imagine that the lottery losers don't mind too much. They grumble a bit, but, after all, it's only a pound a week, and they're used to it. So the losers are almost as well-off as they would be without the lottery. The winner, on the other hand, benefits enormously — let's imagine that winners always have really marvellous lives. If the single enormous increase for the winner more than compensates for the many tiny decreases for the loser, then the compulsory lottery increases the total amount of well-being in the world. Then utilitarians should support the compulsory lottery.

The utilitarian says that everyone should be forced to give up a little money to make one person extraordinarily rich, because this increases the total well-being. The utilitarian doesn't care about how the well-being is distributed amongst people, so long as it is maximised. This is one place in which utilitarian ideas conflict with intuitions about what is fair or just. The libertarian and the egalitarian oppose the compulsory lottery for different reasons. The libertarian thinks it is unjust because it forcibly extracts money from people. The egalitarian thinks it is unjust, because of what it does with that money. The utilitarian, on the other hand, would support such a compulsory lottery, so long as the winner was really happy, and the losers didn't mind too much.

2. Optional Lotteries
Now let's imagine an optional lottery in which all the ticket money is given out as prize money. What should we say about such an optional lottery? The egalitarian objected to the compulsory lottery not because it was compulsory, but because of the way in which it distributed money. So we might expect her to object to the optional lottery for the same reason. Like the compulsory version, the optional lottery shifts money to a randomly-selected person. Indeed, all lotteries are deliberately designed to increase inequality in society. So it seems that the egalitarian, at least, should oppose even an optional lottery, since it results in an unfair distribution of resources.

The libertarian Robert Nozick thinks that situations like this show what is wrong with egalitarianism. Offered an optional lottery, people choose to buy tickets, knowing they may lose. Nozick says that the egalitarian must ban freely-chosen transactions like this, because they lead to an uneven distribution of wealth. And he says that this shows how egalitarians would restrict our freedom in unacceptable ways. Banning the optional lottery would make the egalitarian look like a draconian kill-joy.

If she is sympathetic to a demand for freedom as well as equality, then the egalitarian seems to have a problem. She thinks that the re-distribution of wealth which results from the lottery is deeply unfair, but if she bans the lottery on these grounds, she seems to restrict people's freedom. To relieve this tension, the egalitarian might argue that we do not really buy lottery tickets out of free choice, and so a lottery ban would not really be a restriction on freedom. Perhaps many people play the lottery only because their lives go badly, partly because of inequality in society. This has some plausibility, but it is hard to believe that no-one would want to buy a lottery ticket if economic inequality were eliminated.
A better argument is that mistakes about probability prevent us making informed decisions about games of chance, and so prevent us choosing freely to play the lottery. Quite apart from the difficulty of understanding odds of fourteen million to one, many of us are prone to the "Gambler's Fallacy". We think that if a certain number hasn't come up for ages, then it is very likely to come up this week, and that if a certain number has come up a lot recently, it is very unlikely to come up this week. But this is nonsense. The machine and balls can't try to even things out, because they don't know what needs evening out. They don't know what's been going on in recent weeks. At the beginning of every draw, each number has an exactly equal chance of coming up. Yet the Fallacy is common. After all, the Independent newspaper used to publish the frequencies with which different numbers had come up on the National Lottery — information which could be of interest only to someone in the grip of the Gambler's Fallacy.

The libertarian objects that the egalitarian must stop people from playing a lottery they have freely chosen to play. But mistakes about probability, and the influence of economic circumstances mean that choices may not be free. If the egalitarian must ban the lottery, and yet values freedom, then she may take some comfort here.

And the egalitarian can at least explain why an optional lottery would be better than a compulsory one, if she borrows from the utilitarian. The utilitarian can justify even the compulsory lottery, provided that the losers don't mind too much, whilst the winner is really, really pleased. But in an optional lottery, many people positively enjoy playing, even when they lose. If everyone is like this, then every player gets an increase in well-being. Moreover, although the utilitarian won't care about this, in the optional lottery, the increase in well-being is shared amongst all the players, instead of being wholly enjoyed by the winner. So, the optional lottery is better than the compulsory one, because it leads to more, and more evenly-distributed well-being.

We are beginning to see that the most attractive theory of justice will try to achieve some kind of balance between equality, freedom and well-being, rather than favouring one of these values to the total exclusion of the others. But it is very difficult to work out what weight to give to the different values, as thinking about the lottery shows. Equality seems like a good thing, and the lottery decreases equality by concentrating wealth. Yet the lottery may increase well-being, and to ban it would be at least a minor infringement of people's freedom. The optional lottery increases inequality, but all players seem to gain from it in some way.

3. Rawls and the Lottery
John Rawls discusses situations like this. He tries to strike a balance between the different values as follows: the best rules for running society are those we would choose if we didn't know who we would be, or what our social station would be. Slavery is wrong, because nobody would opt for a slave-owning society if they didn't know whether they would be a slave or a slave-owner. And religious tolerance is right, within limits, because everyone would choose religious tolerance if they didn't know which religion, if any, they would follow. Thus Rawls finds a place for freedom in his theory.
What about equality? How should wealth be distributed? A combination of very rich and very poor people is wrong, because no-one would choose this arrangement if they didn't know in advance whether they would be rich or poor. In fact, Rawls says that if we didn't know which situation we would be in, we would endorse his "difference principle". This says that inequalities in wealth are okay only if they benefit the most disadvantaged. So if a degree of inequality in society raises the standard of living for everyone, perhaps by motivating people to be more productive, then this degree of inequality should be permitted. Whether or not inequality would in fact benefit the disadvantaged is an empirical question, but Rawls says that it should not be ruled out simply for its own sake. If we didn't know what our social station would be, we would want to maximise the lot of the most disadvantaged.

How do Rawlsian ideas apply to lotteries? From the original position of ignorance, we would ban compulsory lotteries, since none of us would know whether we would enjoy playing such a lottery. But the optional lottery seems to be permitted by Rawls' difference principle. The increased inequality produced by the optional lottery should be tolerated, because it increases well-being for everyone who plays, including the losers. All the players are better off in one way or another than they would have been if the lottery had not existed, even though the lottery increases inequality. So compared to no lottery at all, an optional lottery of this sort is an improvement, provided the losers enjoy themselves.

So should the optional lottery be permitted? The libertarian must permit such a lottery, no matter how confused we are about probability, and no matter how much we gamble. The utilitarian approves, provided that people enjoy playing. The egalitarian objects to such grossly inequitable distribution of wealth, but the Rawlsian egalitarian is in a more complex position. Compared to no lottery at all, the optional lottery in which all ticket money becomes prize money seems to improve the situation of the disadvantaged. But is there a better option?

4. The Lottery and the Good Causes
We could decrease inequality by cutting down the prize money in the optional lottery. Imagine that 50 million £1 lottery tickets are sold this week, and the winner gets 50 million pounds. If we want to reduce inequality between the winner and the losers next week, we have two options. One is to cut the ticket price and the prize money, selling 50 million 50 pence tickets, and giving the winner 25 million pounds. The other is to cut the prize money but not the ticket price, selling 50 million £1 tickets, giving the winner "only" 25 million pounds and using the other 25 million pounds for something else.

The real National Lottery takes the latter option, although it is not clear whether the goal is to reduce inequality in society. (The directors of Camelot are notorious for the size of their pay-cheques, but I shall not discuss the justice of that.) A sizeable proportion of ticket money goes to the "Good Causes". Five bodies distribute funds for the arts, for sport, for "national heritage", for millennium celebrations, and for charities. Indeed, the official website announces that the National Lottery was set up by the Government "in order to raise money for the Good Causes".

We have agreed that an optional lottery is preferable both to a compulsory lottery, and to no lottery at all. We now have three different optional lottery systems to compare,
each involving 50 million players. The first charges £1 per ticket, and pays out 50 million as a prize. Call this the "High Rolling" system. The second charges 50 pence per ticket, and pays out 25 million as a prize. Call this the "Low Rolling" system. The third, closest to reality in Britain, charges £1 per ticket and pays out 25 million as a prize, giving 25 million to Good Causes. Call this the "Good Causes" system.

Which of these systems is the most just? Recall that, according to Rawls, we should allow inequality if and only if it benefits the most disadvantaged. So to decide which of system is best, we need to establish how much inequality each system would produce, and what consequences each system would have for the most disadvantaged.

High Rolling produces more inequality than Low Rolling, because it takes more from the losers and gives more to the winner. High Rolling takes the same amount from the losers as Good Causes does, but it produces more inequality. This is because almost whatever happens to the Good Causes money it will be shared out more equally than if it had all been given to a single prize-winner. So High Rolling creates more inequality than either of the other two systems.

According to Rawls, then, High Rolling is permissible only if it benefits the most disadvantaged more than other systems do. How could this happen? Well, High Rolling may benefit the most disadvantaged more than Low Rolling does, if players prefer to pay more and gamble for a higher prize. If this is so, then those who play the lottery will benefit from High Rolling, whilst those who don't play will be indifferent between High Rolling and Low Rolling. And High Rolling may benefit the most disadvantaged more than Good Causes, for the same ticket price, if the most disadvantaged tend to play the lottery, and if the benefit of playing for a higher prize outweighs any benefit they would gain from the distribution of the Good Causes money. So whether High Rolling is permissible depends upon empirical questions about people's attitude to risk.

I cannot settle those questions here. Instead, I will concentrate on comparing the Low Rolling and Good Causes systems. Before the Good Causes money is distributed, the Good Causes system produces more inequality than Low Rolling. This is because, although the prize is the same in each system, losers pay more for their tickets under Good Causes. But it might be possible to distribute the Good Causes money in a way which would mean that Good Causes created less inequality than Low Rolling, despite its higher prices. Similarly, which of these two systems benefits the disadvantaged most will depend upon how the Good Causes money is distributed. It is time to discuss distribution.

5. Spending the Good Causes Money
Can the Good Causes money be used to compensate for the inequality produced by high ticket prices, or to benefit the most disadvantaged more than a Low Rolling lottery would? I will consider three different ways of spending the Good Causes money, and ask whether any of these makes Good Causes preferable to Low Rolling.

First, the money could be used to benefit the relatively disadvantaged. This kind of Good Causes system would produce less inequality than the Low Rolling system. Those lottery players who are relatively disadvantaged would get their Good Causes money returned to them, and so would be no worse off than they would have been
under a Low Rolling system. Further, there will be some redistribution of money from richer lottery players to poorer players and non-players, thus decreasing inequality compared to the Low Rolling system.

Can the Low Rolling system compensate for the inequality it would produce, by somehow benefiting the most disadvantaged? No. Whether they play the lottery or not, the most disadvantaged will benefit more from Good Causes than from Low Rolling. So Good Causes is preferable to Low Rolling if the money is spent in this way.

Second, the Good Causes money could be used to buy public goods, things from which most of us benefit. For example, it's useful for all of us to have street lighting, and it's most efficient for the state to arrange this. If the Good Causes money were used to buy public goods, then lottery players, rich and poor, would be subsidising non-players, rich and poor.

Would this Good Causes system be preferable to a Low Rolling system? The effect on inequality would depend upon the relative wealth of lottery players and non-players. If lottery players were subsidising non-players whilst being poorer than them, then this would increase inequality. But if lottery players were generally richer than non-players, then this subsidy would decrease inequality. Similarly, whether this system would benefit the most disadvantaged would depend upon whether the most disadvantaged people played the lottery. They would benefit from free street lights if they did not play, but would have to buy street lights for non-players if they did play. So it all depends.

Third, the Good Causes money could be spent in a way which benefited neither the most disadvantaged in particular, nor everybody equally. Some arts funding may come under this heading. It is controversial whether any public money should be used in this way. Rawls, for example, has a "neutrality" principle which says that the state should not promote one view of the good life above others. The state should not subsidise opera, as opposed to the wearing of gold jewellery, because the state has no business deciding that opera is intrinsically more valuable than the wearing of gold jewellery.

I will set aside difficult questions about funding the arts from general taxation. I will just ask how a Good Causes system would compare to a Low Rolling system if the Good Causes money were spent in this way, transferring money from lottery players to opera-goers, say. Everything depends upon who plays the lottery and who does not. If the group of lottery players does not substantially overlap with the group of opera-goers, then the lottery players will lose money. And if lottery players are generally poorer than opera-goers, then such a Good Causes system will produce an increase in inequality.

What effect would such a system have on the most disadvantaged? Again, this will depend on whether the most disadvantaged play the lottery, and whether they are arts-lovers. If they are neither lottery players nor opera-goers, then both the Low Rolling system and this Good Causes system will be neutral for them. If they play the lottery,
then they are better off under the Good Causes System if they are opera-goers, and they are better off under the Low Rolling system if they are not opera-goers.

6. Conclusions
I have been discussing different theories of justice, and different kinds of lottery. We saw that a utilitarian would favour even a compulsory lottery, if the winner was extremely happy, and the losers didn't mind too much, because this would lead to an increase in the general sum of well-being. A libertarian, like Robert Nozick, would oppose a compulsory lottery, because it would restrict our freedom, but he would favour an optional lottery. We also saw that a simplistic kind of egalitarian would oppose both the compulsory and the optional lottery, because any lottery is specifically designed to increase inequality in society.

A more sophisticated theory of justice will try to establish some balance between the different values of freedom, well-being and equality, and John Rawls attempts this. He claims that the best rules for running society are those we would choose from a position of ignorance about who we were. These rules include the difference principle, which says that inequality is to be tolerated when and only when it improves the lot of the most disadvantaged.

I applied the difference principle to the problem of deciding which of three different kinds of optional lottery was the most just. The High Rolling system produced the most inequality, but I could not say what effect it would have on the most disadvantaged, for this would depend upon people's attitude to gambling. The choice between the Low Rolling and the Good Causes systems is also tricky, and depends upon how the Good Causes contribution is spent.

In general, the Good Causes system is preferable only if the money is spent upon the relatively disadvantaged, or if lottery players are either richer or more opera-going than the average person. Empirical research would be needed in order to establish such facts about lottery players. But in the meantime, and to be on the safe side, it looks as if we should either spend the Good Causes money on the relatively disadvantaged, or else abandon the Good Causes system in favour of a Low Rolling Lottery. Rather surprisingly, it looks as if Lottery funds should be spent on the Jobseeker's Allowance, whilst the Opera House should be funded, if at all, out of general taxation.

References

Official National Lottery website: http://www.national-lottery.co.uk/