I. INTRODUCTION

Rawls on Equal Opportunity: Equal opportunity “requires that individuals be compensated for the fact that they have lower life prospects as a result of the influence of not only social, but natural contingencies, because these factors are ‘arbitrary from a moral point of view.’” (105)

Resource Redress Principle [RRP]: Equality of opportunity (or more simply, the fundamental equality of persons) requires that individuals be compensated for having lower life-prospects as a result of their (less fortunate and undeserved) natural or social endowments. (106)

Resource Equality Principle [REP]: All resources, natural and social, ought to be distributed equally (at least so far as they are undeserved).

Two Interpretations of REP:
Aggregative Interpretation (AI): Requires that each persons overall bundle of resources be equal to every other person’s overall bundle.
Distributive Interpretation (DI): Requires that resources be equal among all persons at least for every major category of resources, including natural and social resources as categories.

Note: REP-DI requires genetic equality. REP-AI permits efforts to achieve genetic equality.

In the remainder of this essay I will examine two arguments that purport to support the Resource Redress Principle and the Resource Equality Principle. The first is a very basic argument that takes as its first premise the so called “Formal Principle of Justice,” according to which equals are to be treated equally (and unequals unequally). The second focuses on the notion of equal opportunity, arguing that a proper understanding of it requires adherence to the Resource Equality Principle, or at the very least, the Resource Redress Principle. In the end I will conclude that neither of these two arguments is sound. The second of the two, the argument from equal opportunity, will be dealt with in considerable detail, mainly because of the importance of distinguishing it from quite distinct arguments appealing to different notions of equal opportunity that do have some implications for genetic intervention. (110-11)

II. THE ARGUMENT FROM THE FORMAL PRINCIPLE OF JUSTICE

(1) Formal Principle of Justice [FPJ]: Equals are to be treated equally (and unequals unequally).
(2) Equal Worth of Persons Principle [EWP]: All persons as such (that is as persons) are equal.
(3) To allow some persons to have lower life-prospects than others, as a result of differences in natural or social resources that are undeserved, would be to treat persons, as such, unequally. Therefore
(4) (So far as it is possible to do so) social and natural resources are to be distributed equally, so far as they are undeserved. (REP) (111)

Problem: Premise 3 is questionable. We need to know what kinds of inequalities are relevant.

Shoring up the Argument:
(2’) **Extended Responsibility Principle [ERP]:** If a process is technically within our collective control, such that we can intervene to change its effects, then in *allowing* that process to affect people in certain ways (i.e. not preventing it from affecting them in those ways) we are thereby treating people in those ways.

(2") We can intervene to redress or compensate for differences in natural or social endowments that are undeserved.

Buchanan proposes to accept (2") *arguendo*, and to examine (2’). (113)

**Harm Prevention Principle [HPP]:** If one is able to prevent a *harm* to an innocent person, knows one can do so, and can do so without excessive cost, but allows the harm to occur, then one is responsible for the harm befalling that person (barring any countervailing moral obligation that precludes one from acting so as to prevent the harm).

**Buchanan:** Urges that HPP is defensible, but that it must not be confused with ERP. Which is much broader. (114)

**Another premise to consider:** (115) “To not prevent a suboptimal state of affairs (when one could do so) is to fail to treat persons equally.”

Alternately: (115) (i) We ought to prevent persons’ lives from being less good than they would otherwise be, and (ii) to fail to do so when we can is to treat them as less than equal, as persons, at least if others enjoy the benefits in question and there is no justification for this inequality on grounds of desert.

“My tentative conclusion, then, is that attempts to base REP on FPJ do not work. Accordingly I propose to examine no the second argument in to support the Resource Principles, without dogmatically assuming that no other argument might be given in favor of them.” (116)

**III. THE ARGUMENT FROM EQUAL OPPORTUNITY**

Two Conceptions of Equal Opportunity (From Rawls):

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**Careers Open to Talents [COT]:** This interpretation of EO “requires that positions of advantage must be formally open, in the sense that at the point of selection for the position, talent is the only consideration employed. Thus discrimination on the basis of race, religion, sex, etc. in hiring, admission to professional schools, etc. is forbidden.” (Hubin, 2003)

**Fair Equality of Opportunity [FEO]:** This interpretation of EO “requires compensation for the results of past discrimination and for unequal chances resulting from factors beyond the agent’s control. Thus society is required to provide a means for preparing those disadvantaged in competition for the more desirable positions for the above reasons with assistance in gaining the talents necessary to compete fairly.” (Hubin, 2003)
Expansive Instability Argument [EIA]: “Once we acknowledge that equal opportunity requires elimination of legal barriers to opportunity and once we see the principle upon which the requirement of the elimination of legal barriers rests, we must ultimately—on pain of inconsistency—admit that justice requires redressing or compensating all inequalities in life-prospects due to ‘morally arbitrary factors,’ whether the latter be natural or social.” (117) That is, the conception of equal opportunity that underlies COT is “unstable.”

Buchanan will argue that EIA is unsound: ‘First, there is a historically rooted concept of equal opportunity that has undergone a process of expansion’ but it does not require intervening in the natural lottery in order to reduce natural inequalities, nor does it require compensating for all undeserved natural inequalities buy redistributing social resources. Second, equal opportunity, under certain conditions, may require constraints on the uses of technologies for genetic enhancement. Third, given a somewhat controversial extension of the concept of equal opportunity--- yet one far less extreme than that employed in the two Resource Principles—justice may, under certain conditions, require genetic interventions, not to avoid natural inequalities, but to prevent deprivations. Fourth, at least in its most familiar and uncontroversial applications, equal opportunity is not a primary principle of justice; rather it is a remedial principle, one that comes into play as a response to violations of other, more basic principles of justice. And none of these more basic principles includes anything so extreme as the two resource principles.” (119)

IV. THE CONCEPT OF EQUAL OPPORTUNITY: ITS HISTORICAL DEVELOPMENT

Rawls: Fair equality of opportunity requires that “positions are to be not only open in a formal sense, but that all should have a fair chance to attain them.” Fair chance requires that “[T]hose who are at the same level of talent and ability, and have the same willingness to use them, should have the same [i.e. equal] prospects of success…” [TJ 72, Buchanan 122]

Comprehensive Nondiscrimination [CN]: EO requires “elimination of impermissible barriers to opportunity from legal discrimination to extralegal, informal discrimination.” (122)

Buchanan claims that Rawls has leapt, in the instability argument, from a minimal conception (elimination of aristocratic privilege) to FEO, when he might instead have made a more modest extension to CN.

Buchanan argues that FEO is even stronger than a positive affirmative action program that would promote less talented individuals when they are members of disfavored groups. (123)

“In each of the three stages of development of the concept of equal opportunity—from Careers Open to Talents to Comprehensive Nondiscrimination to Strong Affirmative Action—‘social contingencies’ are a focus of concern. However, what makes them so is not that they are ‘morally arbitrary’ (in the sense of being things that individuals cannot be said to deserve). Rather it is the fact that these ‘social contingencies’ that act as barriers to opportunity are injustices or (in the case of the third conception) that they help perpetuate negative impacts of injustices. And what counts as an injustice in all of these cases is characterized by appeal to relatively uncontroversial principles of justice other than the principle of equality of opportunity itself: namely, the meritocratic principle and a fundamental prohibition against racial, ethnic, or gender discrimination, in the case of the first two conceptions, and a principle of rectifactory justice in the case of the third.” (124-5)
V. RESOURCE EQUALITY AND THE DISAPPEARANCE OF PERSONS

Here Buchanan argues that the identity problem will arise in cases where genetic intervention is used to address problems of equal opportunity, since different individuals will come to exist, and since the individuals in question would not exist prior to the intervention. This undermines the conception of persons as subjects of distributive justice, as well as the standard conception of the assets that are distributed. (126) Can one have a right to one’s identity-determining-properties?

In this section, Buchanan may make seriously questionable assumptions about personal identity and about “person-affecting” moral principles. A place to set the wedge for a paper?

VI. A FOURTH CONCEPT OF EQUAL OPPORTUNITY: THE ABSENCE OF UNDESERVED DEPRIVATION

Buchanan argues that disabilities do raise concerns of justice (not merely of charity) but that the focus of our concern should not be the unequal opportunities resulting from disabilities, but the deprivation that may result from disabilities. On his more minimal view, we have an obligation to address deprivation which is independent of the concept of equal opportunity.

VII. THE REMEDIAL, DERIVATIVE NATURE OF EQUAL OPPORTUNITY

Buchanan notes that EO is a remedial principle that comes into play only when primary principles of justice have been violated. But the obligation to address deprivation, including disability-related deprivation, is a primary obligation of justice.

VIII. THE ROLE OF EQUAL OPPORTUNITY IN THE USES OF GENETIC INTERVENTION: PREVENTING GENETICALLY BASED DEPRIVATIONS AND PLACING CONSTRAINTS ON GENETIC ENHANCEMENT

Here Buchanan notes that equality of opportunity concerns may really be raised by the prospect of genetic enhancements. (“One can easily imagine situations in which job candidates who could produce “genetic enhancement certificates” would have an advantage in competition for positions, even if the benefits of the genetic interventions in question were less pronounced than advertisements portrayed them as being.” (134))

Upshot: We can support many appropriate policies and actions without reference to Rawlsian FEO, by referring to much more minimal and plausible justificatory principles.