*Chunk 1*

*Negative observation*: commonplace claims not explained as claims against invasion or claims to improvement.

*Positive conjecture*: commonplace claims instead explained as claims against inferiority.

Indy’s *claim to improvement* on Benny: that Bennyimprove how well Indy is situated to lead a fulfilling life.

Indy lacks an improvement claim on Benny if Benny *could not have done more* for Indy, given the physical and moral constraints he faced.

Important moral constraint: *fairness* to Altra, doing more for Indy might mean doing less for Altra, in way that doesn’t trade off claims fairly.

* Fairness is *prioritarian*: the claims of those who are worse off have greater weight.
* Not sensitive to desert.
* Although trading off claims (or the interests underlying them?) in this way is a matter of comparison between Indy and Altra, Indy’s claim itself (or the interest underlying the claim?) is *to* improvement in *absolute* terms, not *to* something *relative* to Altra, such as equality with Altra. In this sense, claims to improvement are not comparative.
	+ So, Altra’s improvement claim tells in no way against improving Indy’s situation when this does not come at Altra’s expense. Improvement claims don’t tell against *weak Pareto improvements*. This is so even if they make things less equal between Indy and Altra.
	+ Put another way, the fact that Benny actually improves Indy’s situation does not affect Altra’s improvement claim on Benny. The fact that Benny actually improved Indy’s situation may reveal that Benny could have done more for Altra, just as Benny’s wasting something may reveal that Benny could have done more for Altra. But then that is the basis of Altra’s complaint: that Benny *could have done more for her*. It is not that Benny *in fact did something for Indy*. Again, Altra would have the same complaint if Benny had simply wasted the aid.
* Fairness a matter of *triaging claims*, not something that makes a *state of affairs impersonally better*.
* However, often convenient to speak of the *goal* of fairly satisfying the improvement claims of all of the members of some group: *public interest*.

Claims to an improved *choice situation*, in which Indy’s chances of leading a fulfilling life, in one or another respect, depend in certain ways on how Indy chooses.

Why a claim on Benny to take steps to provide a *choice situation*, which leaves something to Indy’s choice?

1. *Impossible* to provide goods to Indy without leaving something to Indy’s choice.
	1. *Technical*: “Can lead a horse to water, but can’t make it drink.”
	2. *Constitutive*: Choice-dependent goods: friendships, marriage, career.
2. While *possible* to provide goods without leaving something to Indy’s choice, the prospect of those goods is *worse*.
	1. Indy’s choice is a *more reliable* indicator of which goods suit Indy (e.g., ordering from menu).
	2. Leaving something to Indy’s choice *more efficiently* divides the (informational or physical) labor of producing those goods between Indy and Benny (e.g., force-feeding is labor-intensive). And Indy reaps some of the benefits of that efficiency.
3. Not leaving something to Indy’s choice can be too burdensome for Benny or Altra, especially when they have to bear the costs of an inefficient division of labor.

Explains why, often, when Indy has made some choice, Indy lacks a further claim on Benny. Benny *already* gave Indy what Indy had a claim to: the choice situation from which Indy made that choice. For Benny *now* to do more for Indy…

* may not be possible,
* or may be too burdensome for Benny (especially in light of burdens that Benny has already borne),
* or may come unfairly at Altra’s expense (by making it the case retrospectively that *Altra’s* choice situation was unfairly worse).
* Or, if Benny *can* do more now for Indy, without this being unduly burdensome, or without coming unfairly at Altra’s expense, then this suggests that Indy *did* have a claim to a better choice situation (e.g., one with this insurance policy).

Contrast:

* What Indy really has a claim to is “final stuff” (e.g., pleasure), and Indy’s choice brings that about.—But not all relevant choices are choices to consume (e.g., gambles, investments, ditherings).
* Indy’s choice makes him more or less deserving.—But not all relevant choices are “bad” choices.
* Indy’s choice waives a claim.—But with many choices, no further claim to waive.
* Indy has no claim on Benny to mitigate his bad “option” luck.— Indy might have a claim to a choice situation that promises such mitigation (e.g., has an insurance policy).

What then makes one choice situation better than another? No complete answer. But not simply “expectation.” And we can give a list of factors, which we will do later.

*Claims against invasion*:

* At least, *Force Constraint*: that others not invade Indy’s *body*, at least absent certain conditions, such as Indy’s consent.
* Perhaps also claims against invasions of *external property* or *choice situation*.

OK, with this background, we now turn to the negative observation, that the commonplace claims can’t be explained by claims to improvement or claims against invasion. The first commonplace claim to be explained is the…

*Claim against the state:*

* Calls for the state to be “justified” or “legitimated.”
* Answered by either
	+ a *legitimating condition* (consent, public justification)
	+ or a *limit of legitimacy* beyond with the state may not act (minimal state, harm principle).
* Not an improvement claim, since persists even if state realizes the public interest.

So what is the complaint against the state?

* Assume that the state is ideal: directives realize the public interest, enforcement perfectly accurate.
* Two tests:
	+ *Subtraction Test*: Does subtracting the candidate target quiet the complaint?
	+ *Spare-Justification Test*: Can we answer the complaint *even without* legitimating conditions or limits of legitimacy?

First proposed *target* of the complaint against the state: *imposing a deterrent*. That is, following through on a threat, to sustain the potency of future threats to deter Violet or others from violating instances of the same sort of directive, to induce behavior that promotes the public interest. (Not “punishment,” since it needn’t condemn.)

*Distributive Complaint*: Imposing the deterrent on Violet does *not* promote the public interest after all, does not *fairly triage* improvement claims. Costs on Violet high, while benefits to others marginal.

*Reply*: Violet’s improvement claim was to the *prior* choice situation, which was fairly (indeed equally) distributed.

*Deontological Complaint*: Even if imposing the deterrent promotes a greater good, still it violates the Force Constraint.

*Reply*: Subtraction Test. The Omittite Empire does not use force to imprison, it only withholds aid. (And it doesn’t withhold aid to use the deprivation as a means.) But the complaint against the state remains.