

What Equality of Opportunity Could Not Be¹

Mathias Risse

Department of Philosophy, Yale University

forthcoming in Ethics, July 2002

I. Introduction

1. This study is concerned with John Roemer's *Equality of Opportunity*.² I argue that his theory is committed to compatibilism, but that one of its central claims is plausible only within a libertarian view on the free-will problem. Thus Roemer's theory is troubled by a deep structural incoherence and should be rejected as an account of equality of opportunity.³

¹ For comments or discussion, I am indebted to Aaron Bruhl, Tad Brennan, Aaron Goldhamer, Jennifer Pitts, John Roemer, to the Yale philosophy faculty colloquium, and to students in my "Justice and Equality" class, taught at Yale in spring 2001. I am most grateful to an anonymous referee and the editors of *Ethics*, in particular John Deigh and David Miller, for their most useful comments. I owe special thanks to Shelly Kagan, whose comments on an earlier version made it clear where the focus of the argument had to be, and to Richard Arneson, who identified several gaps in the argument (not all of which I may have been able to close). For other discussions of Roemer's proposal, see Richard Arneson, "Economic Analysis Meets Distributive Justice", *Social Theory and Practice* 26 (2000): 327-346; and the contributions to a 1995 symposium on Roemer's theory of equality of opportunity published in the *Boston Review* 20, 3-16. (Participants include T. M. Scanlon, Robert Solow, Samuel Scheffler, Richard Epstein, Elizabeth Fox-Genovese, Eric Maskin, Arthur Ripstein, S. L. Hurley, Nancy Rosenblum.)

² John Roemer, *Equality of Opportunity* (Cambridge: Cambridge University Press, 1998).

³ My argument turns into an inconsistency charge if one endorses the following claim about what it is for a theory *to be committed* to a position: If a theory must be committed to position A or to position B, it is committed to A if the theory is significantly more plausible to a defender of A (on grounds internal to A) than to a defender of B (on grounds internal to B). Anybody who finds this claim uncontroversial should think of the argument of this study as intended to show that Roemer's theory is committed both to compatibilism and to libertarianism and is thus inconsistent. (The assumption that Roemer's theory must be committed to either libertarianism or compatibilism on the free-will debate will be made throughout this study, and I

Let me briefly introduce some background to Roemer's theory. Contemporary egalitarians face two major challenges: First, they need to explicate what is to be equalized among individuals and thereby provide a persuasive conception of treating people as equals. Second, they need to illuminate the relative importance of equality viz-a-viz other values. Much recent work regarding the first challenge focuses on accommodating the significance of *choice* and *responsibility* within egalitarian accounts. This work is (to some extent) motivated by worries about the status of choice and responsibility in Rawls' *Theory of Justice*, which seemed to make it all too easy for libertarians to insist that only their account performs adequately on this score.⁴

Proposals for accomplishing this task were made by Ronald Dworkin, Richard Arneson, and G. A. Cohen.⁵ These authors all suggest that we define the equilizandum of an egalitarian theory in a way that draws a distinction between aspects of a person's condition that are due to her

will say more on this point later.)

⁴ In this study we will talk about "libertarians" both in the political sense and in the free-will sense. The context (or an explicit statement) should make clear in which sense the word is being used. On Rawls and responsibility, see, e.g., G. A. Cohen, "The Currency of Egalitarian Justice," *Ethics* 99 (1989): 906-944; Richard Arneson, "Rawls, Responsibility, and Distributive Justice", forthcoming in M. Salles and J. Weymark (eds), *Justice, Political Liberalism, and Utilitarianism* (Cambridge: Cambridge University Press); and chapter 5 in John Roemer, *Theories of Distributive Justice* (Cambridge: Harvard University Press, 1996); see also chapter 3 of Will Kymlicka, *Contemporary Political Philosophy* (Oxford: Clarendon Press, 1990).

⁵ See Ronald Dworkin, "What is Equality? Part 2: Equality of Resources", *Philosophy and Public Affairs* 10 (1981): 283-345; Richard Arneson, "Equality and Equality of Opportunity for Welfare," *Philosophical Studies* 56 (1989): 77-93, and Cohen. Sen's capabilities approach (see Amartya Sen, "Equality of What?", in Sen, *Choice, Welfare, and Measurement* (Oxford: Blackwell, 1982); and Amartya Sen, *The Standard of Living* (Cambridge: Cambridge University Press, 1987)), and Rakowski's equality-of-fortune approach (see Eric Rakowski, *Equal Justice* (Oxford: Clarendon, 1991)) should be mentioned here as well. The restriction to Dworkin, Arneson, and Cohen is justified in this context because this study is concerned with Roemer's contribution, who was influenced by those three authors. (However, for extremely insightful general discussion of equality, see Larry Temkin, *Inequality* (Oxford: Oxford University Press, 1993).)

“circumstances” and those that are due to her “choices” and are thus her “responsibility.”⁶ Moreover, they all acknowledge claims to compensation concerning deficiencies with regard to the former kind of aspect, but not with regard to the latter.⁷ Put differently: in virtue of being *egalitarian* accounts concerned with integrating *choice and responsibility*, each of these proposals is characterized by responses to two questions: First, what should be the equilizandum? Second, how do considerations of choice and responsibility inform the definition of the equilizandum and thereby account for the acceptance of some claims to compensation and the rejection of others? Answers to the first question include “welfare” (utilitarians), “resources” (Dworkin), “opportunity for welfare” (Arneson)⁸, and “access to advantage” (Cohen). Answers to the second question are harder to classify, because there is some debate about what precisely the differences among the authors are.⁹ What matters for us is merely to emphasize the importance of that question for the concerns of those authors.

⁶ How to explicate choice and responsibility depends on one’s position on the free-will problem. Throughout this study, I will indicate where it matters precisely what view one takes on that problem, and where it does not. I will use scare quotes to indicate that, in the given context, I talk about, say, “responsibility” no matter how it is spelled out precisely (at least within the range of the usual alternatives). Questions of responsibility were central to several of the contributions to the 1995 *Boston Review* symposium on Roemer’s theory of equality of opportunity.

⁷ In this study, “claims to compensation” are claims against the political community, unless otherwise noted.

⁸ Arneson has abandoned the equality-of-welfare approach (see Arneson, “Equality of Opportunity for Welfare Defended and Recanted,” *Journal of Political Philosophy* 7 (1999): 276-286); he now champions an approach that he calls “responsibility-catering prioritarianism”.

⁹ For one reason why a straightforward classification on this matter is hard to come by, see Cohen’s criticism of Dworkin: Cohen argues that Dworkin’s distinction is drawn in terms of “preferences” and “resources”, whereas it should be drawn in terms of “responsibility” and “bad luck.” However, Cohen also argues that Dworkin sometimes talks as if he does accept the latter distinction and thinks of the former only as motivated by the latter. For a response, see Dworkin, *Sovereign Virtue* (Cambridge: Cambridge University Press, 2000), chapter 7.

Roemer's proposal of an "equality of opportunity algorithm" responds to these authors by accepting their basic commitments while abstracting from specific answers to these two questions.¹⁰ For although Roemer regards "opportunity" as the right *kind* of equilizandum, he does not specify what these would be opportunities *for*. Also, he does not explore the precise grounds on which compensation ought to be awarded, except that he endorses a distinction between "choices" and "circumstances" and insists that it be on the basis of the latter that claims to compensation succeed. Roemer designs his equality-of-opportunity algorithm to produce an equal-opportunity policy after an equilizandum has been fixed, and after it has been resolved which aspects of a person's condition count as circumstances.

2. This study raises a problem for Roemer's account. The problem is that Roemer is committed to a compatibilist view on the free-will problem while also endorsing a central claim plausible to a libertarian, but not to a compatibilist. Since these two positions are inconsistent, Roemer's account of equality of opportunity suffers from a deep structural incoherence. A compatibilist view on the free-will problem holds that determinism does not undermine the possibility of freedom of the will. As far as compatibilists are concerned, an agent may be responsible for an action even if she could not have acted otherwise (the impossibility of which, appropriately understood, would be entailed

¹⁰ Roemer's *Equality of Opportunity* includes the most extensive presentation, but his *Theories of Distributive Justice* already contains the ideas and illuminates the connections to Dworkin, Arneson, and Cohen; see also Roemer, "A Pragmatic Theory of Responsibility for the Egalitarian Planer", reprinted in *Roemer, Egalitarian Perspectives* (Cambridge: Cambridge University Press, 1994) and Roemer, "Equality and Responsibility" and "John Roemer Responds", *Boston Review* 20 (1995): 3-7 and 15-16. Throughout this study I will exclusively rely on Roemer (1998). In particular, I am not concerned to discuss whether his views have evolved in any way.

by determinism). Instead, compatibilists hold agents responsible for those actions that are connected to their reasons in the right way. Incompatibilists hold that freedom of the will and determinism are inconsistent. Libertarians are incompatibilists who think that there is indeed freedom of the will and that therefore determinism is false. A libertarian holds a person responsible for an action if this action was under her control: she could have acted otherwise, but decided not to. Obviously, libertarianism and compatibilism are inconsistent.¹¹

I proceed as follows: Section II introduces Roemer's account. At that stage of the argument, it will seem to be open to Roemer to endorse either compatibilism or libertarianism. However, as I shall argue in sections III and IV, Roemer's account is in fact committed to compatibilism. In section V, then, I shall show that Roemer's theory also includes a commitment acceptable to a libertarian, but not to a compatibilist.¹²

¹¹ The discussion in this paragraph reflects the level of sophistication with which I will treat the free-will debate in this study. For a state-of-the-art introduction to different positions on the free will problem, see John M. Fischer, "Recent Work on Moral Responsibility," *Ethics* 110 (1999): 93-139, and references therein; see also the article by Galen Strawson on "Free Will" in the Routledge *Encyclopedia of Philosophy*. A more sophisticated treatment of positions on the free-will problem would not lead to any substantial changes in the argument, but it would complicate the discussion significantly. However, since I cannot argue for this claim here, my argument is only as good as that claim. I will assume throughout this study that Roemer is committed to being either a libertarian or a compatibilist. But as should be clear already from the brief description of his account above, these two are indeed the candidates to choose from. It should be emphasized though because it entails that any problem of accommodating one position within the confines of Roemer's account will thereby provide some support for the view that the other one should be adopted, and I will at several points make arguments to such an effect (even though no crucial move depends on them). Note that Roemer cannot avoid the problem by antecedently claiming neutrality on the compatibilism/libertarianism issue; he could only avoid it by adopting a stance on the free-will debate that is different from both positions while not entailing similar problems.

¹² I will provide summaries at crucial points in the development of the argument, but the reader may also want to look ahead at the conclusion while following the discussion in order to see what I ultimately hope to have shown.

II. Roemer's Equality-of-Opportunity Algorithm¹³

1. Roemer distinguishes between equality of opportunity as “*leveling-the-playing-field*” and as *non-discrimination*. To illustrate this distinction, consider an example given by Bernard Williams.¹⁴ A warrior society decides to provide equal opportunities for military careers. Such opportunities used to be reserved for the traditional warrior class. Enforcing non-discrimination means opening military careers to anybody who meets criteria indicative of military promise. However, it is consistent with non-discrimination that everybody outside the old warrior class is, and remains, poor

¹³ The state of the art in philosophical reflection on “equality of opportunity” is curious: Within the so-called *equality-of-what debate*, the notion of equality of opportunity has become prominent recently. Both Arneson’s 1989 essay and Cohen’s present an approach along such lines (though Cohen speaks of “equality of access”). Roemer’s account, in turn, is inspired by those two. However, much additional critical reflection on equality of opportunity remains disconnected from that debate, and so there is presently no “unified” debate about conceptions of equality of opportunity. Such additional critical reflection was offered, for instance, by John Schaar, “Equality of Opportunity and Beyond”, in J. Chapman, R. Pennock (eds.), *Equality* (New York: Atherton Press, 1967), who argues on communitarian grounds that equality of opportunity is not worth aspiring at; by James Fishkin, *Justice, Equal Opportunity, and the Family* (New Haven: Yale University Press, 1983), who argues that equality of opportunity conflicts with other values in unbearable ways; and by Jane R. Richards, “Equality of Opportunity”, in A. Mason (ed.), *Ideals of Equality* (Oxford: Blackwell, 1998), who argues that we should drop the notion of equality of opportunity altogether, because all that is worth caring about in political affairs can be captured without using it. For additional discussion of equality of opportunity, see the contributions in Norman Bowie (ed.), *Equality of Opportunity* (London: Westview, 1988), and some of the contributions in Louis Pojman and Robert Westmoreland, *Equality: Selected Readings* (Oxford: Oxford University Press, 1997); see also the chapter on equalities of opportunity in Douglas (with D. Yates, J. Hochschild, J. Morone, and C. Fessler), *Equalities* (Cambridge: Harvard University Press, 1981).

¹⁴ Bernard Williams, “The Idea of Equality”, in P. Laslett and W. G. Runciman (eds.), *Philosophy, Politics, and Society* (Oxford: Blackwell, 1962), 110-131, includes an early discussion of equality of opportunity, which also had an impact on Rawls’ discussion of the subject in the context of his second principle of justice (cf. Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971), section 12).

and thus insufficiently nourished to pass the exams. “Leveling the playing-field” means that society must make sure that success at meeting those criteria is uncorrelated with membership in any segment of society, in particular not with membership in the warrior class. Roemer’s algorithm is designed to be a formalization of the leveling-the-playing-field conception.

2. Let me summarize the basic ideas of Roemer’s algorithm. We assume we have an objective with respect to which we wish to equalize opportunities (an opportunity equilizandum). We also assume that we have certain resources available that we need to allocate with the goal of equalizing opportunities with regard to that objective. For instance, the objective might be educational achievement (as captured, e.g., by a GPA). The resources might be the available funding, to be spent on building schools, paying teachers, etc. The job of the algorithm is to find a policy that distributes the resources in a way for it to make sense to say that equality of opportunity with regard to educational achievements is realized. In a less applied context, the objective might be well-being, and the resources are all the resources available to a society. For the sake of vividness, I stick to the educational example.¹⁵

How does the algorithm determine a policy? The first step is to distinguish between those aspects of a person’s condition that provide grounds for compensation with respect to this objective, and those that do not. That is, we need to identify those aspects of a person’s condition whose effects

¹⁵ It may help the reader to keep in mind that this example relies on the idea that educational achievement is the product of three factors: an individual’s accomplishments, his or her life circumstances, and public funding available for hiring teachers, building schools, etc. At least in a statistical sense (where matters of good and bad luck cancel out), something like this seems to be quite plausible. Put simply, the goal of equality of opportunity, as understood by Roemer, is to distribute the funding in such a way that it annihilates the impact of the circumstances.

on educational achievement should be annihilated by educational spending. The former aspects are those that are due to her “circumstances”, and the latter are those that are due to her “choices”. In the education example, such circumstances might be sex, race, or the educational level of one’s parents. Suppose for the sake of the example that these are all the circumstances. A policy realizing equality of opportunity with regard to educational achievement would distribute the funding in such a way that one’s educational success does not depend on one’s circumstances, but only on one’s choices. In the educational example, let us think of choices as the effort one puts into one’s education, measured as the amount of time spent on preparing for classes.¹⁶

Next we divide the relevant population (all students) into *types*, that is, groups sharing the same circumstances. In our example, one type is the group of all black females whose parents finished college. Another type is the group of all white males whose parents dropped out of highschool. To find a policy that distributes the funding such that educational achievement depends only on one’s effort (and to have a way of making sense of *what it means* that educational achievement depends only on one’s effort), we need a way of comparing effort across types. For we need to be able to say about any two individuals whether one of them “tries harder,” regardless of their types. One may propose the *amount (level) of effort* for this job: If two students spend the same amount of effort preparing for classes, they should be equally successful, and thus the equality-of-

¹⁶ It should be noted, also, that “choice” is always represented one-dimensionally by Roemer. Needless to say, this is a convenient feature for statistical applications. The extent to which this simplification constitutes a serious restriction will depend on the context. The notion of “choice” used here is meant to characterize certain actions of a person as detached from her circumstances at least in the sense that she deserve blame or praise for them. “Choice” and “effort” are used synonymously, and sometimes I will also speak about “effort choices”. This may conflict to some extent with the usage of these notions, but no confusion should arise if the reader keeps in mind for what purpose these notions are used here.

opportunity policy should aim at allocating funding to such an end. However, this would not do. For the *range* of effort that students make varies with their type. For instance, in Type 1, 95% may spend between 10 and 20 hours a week on preparing for classes, but in Type 2, 95% may spend between 8 and 14 hours: Working harder is not a “Type-2-thing to do.” no role models, no expectations of success even if the appropriate effort is invested, etc. Thus it makes sense to suggest that a Typ 2 student who works for 13 hours tries harder than a Type 1 student who works equally long, and thus makes the bigger effort, although they invest the same *amount* of effort. So this proposal for understanding when two individuals make the same effort fails.¹⁷

A different proposal is to compare effort across types in terms of the *degree of effort* captured by one’s *centile in the distribution curve*. If, for instance, a student is in the 73rd centile with her type, she expends more effort than 72% of her peers, but less than 27%. It make sense to say, then, that she has tried as hard as anybody in any type who is also in the 73rd centile of *that* type. For any two persons in the same centile seem to be doing equally well as far as effort is concerned, except that they may belong to different types and thus face different circumstances. Two individuals who are in the same centile but in different types may differ drastically in their amount of effort, but, again, the distribution of effort varies with the type and is thus a consequence of one’s circumstances. It would be inappropriate, therefore, to blame or praise a student for his amount of

¹⁷ The reader may find this reasoning counterintuitive. Clearly, one may be inclined to say, two students working the same number of hours are “trying equally hard”, once we have decided that the time spent on preparing classes is all that matters to capture effort. It is a different question altogether, so one may go on, whether they deserve to be rewarded equally for their identical efforts. There certainly are two senses of “effort” and “trying hard” involved here: The first notion is the phenotypical one that can be measured in terms of hours, etc. The second one is a kind of “inner effort”, or maybe “volition”, as Roemer sometimes says. Roemer tries to capture this second notion, which is the one he takes to be relevant for assessing claims to compensation.

effort (since then we would unduly disregard the impact of his circumstances), but it does make sense to blame or praise him for his degree of effort (since then we pass such judgment based only on his performance in comparison with his peers). For such reasons, Roemer decides to adopt the degree of effort as a an inter-type measure of the effort. We can now say for any two students whether either of them has tried harder than the other.¹⁸

Now, finally, we can state the policy recommendation of the algorithm: The equality-of-opportunity policy distributes the funding in such a way that students' educational success depends only on their *centile* in their effort distribution curve, but not on their *type*.¹⁹ The resources should be distributed in such a way that students in the, say, 17th centile are equally successful, regardless of their type, and similarly for students in the 83rd, 42nd, and any other centile. To the extent that their circumstances can be seen as hindering individuals from reaching that goal, the distribution of funding provides compensation to them.²⁰

¹⁸ The philosophical reader may (and should) find much in this discussion unsatisfactory. We will revisit this discussion in section V and then hopefully take up some of the worries that the reader may have at this stage. Currently we are only concerned to introduce the theory.

¹⁹ Again, the idea is that educational achievement is a function of a student's circumstances, his effort choice, and the allocated funding. Other factors play a role as well, of course (such as luck), but the assumption is that such factors cancel each other out statistically.

²⁰ My exposition of Roemer's account avoids any formal language and brushes over some conceptual difficulties that should at least be mentioned. The first is that, given the constraints of the resource distribution problem at hand, it will not in general be possible to equalize achievements by centile. For this reason, Roemer talks in terms of "maximinning", rather than in terms of equalizing. Moreover, the maximinning/equalization problem can be solved only centile by centile. That is, for each centile we will be able to find a solution, but the overall solution that Roemer suggests is a weighted average over these centile-relative solutions. This is a second-best solution, which, however, is motivated by the fact that a best solution may not exist. Sections 12 and 13 of Roemer's *Equality of Opportunity* contain suggestions concerning the scope and extent of equal-opportunity policies, which, however, we cannot pursue here. Arneson's essay "Economic Analysis Meets Distributive Justice" is a review of both Roemer's *Theories of Distributive Justice* and his *Equality of Opportunity* and in particular includes a

3. I have so far spoken naively about “circumstances” and “choices.” But how should we draw this distinction? Roemer gives two different answers (which, to be sure, I do not claim to be inconsistent). The first is that what *counts* as circumstances is determined by a political process informed by sociological, biological, and philosophical considerations. The second is a metaphysical view according to which there is (also) an answer to the question of what these circumstances *are*, regardless of whether we can identify them, and regardless of the accuracy of the process fixing what *counts* as circumstances. The second view leads to a problem.²¹

Roemer claims that once we have identified the circumstances properly, the distribution of effort is identical across types. He calls this the “assumption of charity.” I refer to it as the No-Variance thesis:

No-Variance: Once we fully understand what constitutes a person’s circumstances, the effort distribution curves will be identical for all types.²²

discussion of those subjects. Roemer himself has already developed impressive applications of his account, in particular to educational spending (“Equalizing Opportunity Through Educational Finance Reform”, with Julian Betts), and on the extent to which taxation in different countries approximates equality-of-opportunity taxation (“To What Extent Do Fiscal Regimes Equalize Opportunities for Income Acquisition Among Citizens?”, with twelve collaborators in ten countries). Both these papers can be found (as of February 2002) on Roemer’s web-page at the web-site of the Yale Political Science Department. His page also includes a very helpful summary of the approach, its philosophical roots and the aforementioned two applications (“Equality of Opportunity: A Progress Report”).

²¹ This problem was raised by Shelly Kagan in a workshop on “Taxation and Distributive Justice” at Yale University, run by Ian Shapiro and also attended by John Roemer, in September 2000.

²² “Identity of curves” is to be understood in terms of their *shape*. The claim is not, of course, that the ranges of effort actually realized will be identical across types. For instance (and quite plausibly) all such curves might be Gaussian normal distributions that can be transformed into each other by linear transformation, but that nevertheless have different means. Roemer is

I assume that Roemer proposes No-Variance as a *necessary* condition for having identified all the aspects of a person's condition that constitute her circumstances. For it cannot be a *sufficient* condition since effort distribution curves may just happen to coincide before all circumstances are known. However, endorsing No-Variance sits uneasily with Roemer's compatibilist commitment. This commitment is captured in a passage from Scanlon, which Roemer quotes approvingly:

Compatibilism: "What is required [for moral responsibility] is that what we do be importantly dependent on our process of critical reflection, that that process itself be sensitive to reasons, and that later stages of the process be importantly dependent on conclusions reached at earlier stages. But there is no reason, as far as I can see, to require that this process itself not be a causal product of antecedent events and conditions."²³

To see the problem, note first how No-Variance looks plausible *to a libertarian*. Libertarians hold that choice is uncaused and thus that there is no causal relationship between those aspects of a person's condition for which she is responsible and those for which she is not. Therefore, they also deny that there is any correlation between effort distribution curves and types. For if there were such a correlation, it would presumably have to be explained by a common cause, which would conflict with the libertarian idea of uncaused choice. So according to the libertarian idea of uncaused choice,

interested in No-Variance because it motivates the degree-of-effort conception of comparing how hard individuals have tried. This point will be of major importance in section V, but I do not discuss it here. I call this condition "No-Variance" for the following reason: if one were to plot the types that Roemer supposes partition the population and their effort distributions, one would locate every type at the same point on the axis that identified the range of effort distributions, and one would then have a curve in which none of the points deviated from the mean. In other words, one would have a curve with no variance.

²³ T. M. Scanlon, "The Significance of Choice", in S. McMurrin (ed.), *The Tanner Lectures on Human Values*, Vol. 8 (Salt Lake City: University of Utah Press, 1988), p 176; quoted by Roemer, *Equality of Opportunity*, p 17.

effort curves will be independent of types, and thus for large types, those curves will be identical “almost certainly,” as probability theorists say.²⁴

Yet compatibilists reason differently. They acknowledge that aspects of a person’s condition for which she is responsible are themselves caused. If choices are caused, they will ultimately be caused by or at least be correlated with aspects of a person’s condition for which she is not responsible (her circumstances). Thus for a compatibilist to accept No-Variance would be to accept that, although she conceives of choices as caused, the effort distribution curves are shaped as if the set of possible causes (her circumstances) were irrelevant to it, that is, as if choices were uncaused. Thus not only is a compatibilist (unlike a libertarian) lacking any positive reason for finding No-Variance more plausible than any other claim about the shape of the distribution curves; but what is more, in virtue of rejecting the idea of uncaused choice, a compatibilist also finds it immensely plausible that the effort distribution curves will vary across types. That is just what it is to be a compatibilist. (A compatibilist would also be keenly aware that the acceptance of any other thesis about the shape of the distribution curves would lead Roemer’s theory to entirely different policies; it may well be true that most any policy could be the recommendation of Roemer’s theory given a suitable thesis of that sort.) So a compatibilist has merely an incredulous stare for a theorist who asks her to endorse No-Variance over other theses about the shape of the effort curves.²⁵

²⁴ Additional considerations are needed to motivate why a libertarian would think that those effort distributions are Gaussian normal distributions, as Roemer seems to assume they are. But nothing hangs on this point, and thus we will not discuss it.

²⁵ Two remarks are in order since this discussion is important for my overall argument. To begin with, it has been objected that, if a compatibilist has independent reason to find No-Variance true, she will not have to abandon compatibilism, and that therefore, there should be no problem for a compatibilist to endorse No-Variance. However, my claim is not that compatibilism and No-Variance are *inconsistent*. The argument above shows that No-Variance is

Thus from the point of view of the libertarian notion of choice, No-Variance is acceptable as a necessary condition for having identified all the aspects of a person's condition that constitute her circumstances, whereas this idea is implausible from the point of view of the compatibilist notion of choice. At this stage of the argument, however, it seems that this conflict between No-Variance and Compatibilism does not threaten Roemer's account. For, notwithstanding our report that Roemer endorses Scanlon's compatibilism, we have not yet encountered a reason why the account should be *committed* to either libertarianism or compatibilism. Thus Roemer may seem free to embrace either one. So one way of solving this problem would be to reject No-Variance (and

very implausible for a compatibilist, and that she would reject it for that reason, rather than because of consistency concerns. A compatibilist would not endorse a principle constraining equality-of-opportunity policies merely because this principle is not actually inconsistent with compatibilism (which is all the objector can claim), and it seems that this is indeed the strongest argument that she could find on behalf of No-Variance. (Note also that it is not clear what it would even mean for a compatibilist to have "independent reason" to acknowledge No-Variance, given that the acceptance of No-Variance turns on whether choice is conceived of as caused or uncaused, and given that we are moving within the confines of a metaphysical theory of what types are, rather than using stipulations of types for some practical purpose.) The second remark is as follows. Appearances notwithstanding, is there anything to be said that could make No-Variance plausible to a compatibilist? There seem to be two possibilities for arguing the case: (1) Among a person's circumstances there might be an "effort gene": that is, one factor (or a cluster of factors) causing "effort." If this "gene" is equally distributed across each type, the effort distribution curves will be identical across types. However, even if she found this approach plausible in principle, the compatibilist would have no reason to believe that such a "gene" is distributed identically across types; on the contrary, an "effort gene" is quite likely to be correlated with other circumstances (other "genes"). (A reader who may find the idea of an effort gene misguided may think of "effort gene" as shorthand for the causal factor or combination of factors that explain the level of effort someone makes; however, unless some more content is given to that idea (e.g., by referring to an actual effort gene), the point seems to be question-begging viz-a-viz the compatibilist's idea of uncaused choice.) (2) Or one might argue (by making an appeal to the Central Limit Theorem) that it is plausible for a compatibilist to assume that, for each type and for increasing size of that type, all those causal influences taken together will bring about an effort distribution curve that is normally distributed around some mean. However, even if a compatibilist were persuaded by this move, it would not give us Roemer's No-Variance. For the best we could get out of this reasoning is the claim that all effort distribution curves are normally distributed around some mean, with absolutely no indication whatsoever what the mean or the variance are supposed to be for each type.

libertarianism). The best way of doing so would be to endorse the idea that types are defined exclusively in terms of a political process. On such a construal of what “circumstances” are we would have no reason to accept No-Variance. Thereby, we would not be tempted to endorse libertarianism, and moreover, this way of conceiving of circumstances would be quite amenable to a compatibilism.²⁶ The other way of solving the problem would be to drop the compatibilist commitment and to embrace a theory of types including No-Variance. However, the rest of this study is devoted to showing that these ways out are closed to Roemer. Far from having a choice in the matter, he is committed to compatibilism, but nevertheless also endorses a claim central to his theory that is acceptable to a libertarian, but not to a compatibilist. My concern in sections III and IV is to show that Roemer is committed to compatibilism. In section V, then, I show that Roemer’s theory also includes a crucial claim that is plausible to a libertarian, but not to a compatibilist.

III. Compensation for Other Individuals’ Morally Impeccable Choices?

1. Let me briefly summarize my argument for Roemer’s compatibilist commitment. I shall begin by stating two main ideas of Roemer’s account as presented in section II (“Dichotomy” and “Measurement”). Next, I shall introduce a libertarian objection to Roemer’s theory (where now “libertarian” is used in the political sense). This objection charges Roemer (and also Cohen,

²⁶ This understanding of circumstances is a natural suggestion at this point, since, as I mentioned above, Roemer sometimes talks as if that were his conception of types anyway: “One must recall that the definition of types is the outcome of a contentious political process” (p 28). This solution would be natural because it is not even easy to envisage just what a metaphysical theory of types would be. Just how much information would we need to use to capture all “circumstances”? There seems to be a problem about this even beyond pragmatic or epistemological concerns.

Dworkin, and Arneson) with not properly distinguishing between “circumstances” brought about by other people’s morally impeccable choices, and those due to “nature,” however defined. That objection motivates an inquiry about whether morally impeccable choices of others justify compensation within Roemer’s theory. I shall argue that no logically possible answer to that question is open to Roemer unless he endorses compatibilism. The three possible answers are: *all* such choices justify compensation; *no* such choices do; and *some* such choices do and others do not. I shall argue that the first two are inconsistent with the conjunction of Dichotomy and Measurement, whereas any plausible version of the third is open only to a compatibilist.²⁷

2. The following two claims are main ideas of Roemer’s theory:

Dichotomy: There is a distinction between “choices” and “circumstances” such that success with regard to the objective should depend only on one’s choices (“effort”), whereas negative effects of circumstances provide grounds for compensation.²⁸

²⁷ Obviously, Roemer reveals himself to be a compatibilist (see section II.3). So the point is not to demonstrate that, indeed, he is one, but that he *must* endorse compatibilism if he wants to hold Dichotomy and Measurement simultaneously. In section V, then, I shall argue that Measurement itself is acceptable only to a libertarian, but not to a compatibilist. This may sound confusing – how could Measurement be acceptable only to a libertarian if Roemer is committed to compatibilism by holding both Measurement and Dichotomy? The point is that the compatibilist commitment comes through the *combination* of those two claims, regardless of whether they would be independently plausible for a compatibilist. So one way of putting the argument of this study is this: In virtue of endorsing Measurement Roemer makes a commitment plausible only to a libertarian, but not to a compatibilist; but only a compatibilist could plausibly combine Measurement with Dichotomy.

²⁸ It is important to keep in mind that the notion of “choice” is used *in opposition* to circumstances. This may be at odds with common usage, but to that extent, then, this choice of words is terminological. Needless to say, circumstances may also positively affect a person’s life. Would these people then have to be punished? This question does not really arise here

Measurement: An individual's choice (and thus the extent of her performance for which she alone is responsible) is evaluated in terms of comparisons with other individuals' choices.

Let me explain. Dichotomy is deliberately stated without any position being struck on contested questions about choice and responsibility. The point is merely to claim that some aspects of a person's condition (those due to "circumstances") justify compensation, and some do not (those due to "choices"). I emphasize the absence of choice/responsibility terminology because for the stage of the argument to be developed in this section, no particular commitment to any position within the free-will debate matters. All we need at this stage is that there is such a distinction between different aspects of a person's condition that entails a distinction between valid and invalid claims to compensation. Measurement captures the idea that "effort" is assessed in terms of a centile of the distribution curve and that, therefore, the question of "how hard one tries" is answered in a way that involves references to other people's choices. This much was involved in replacing the amount-of-effort approach to comparing individual efforts with the degree-of-effort approach.²⁹

because Roemer's algorithm, in particular as applied to the educational example, is about distributing funding in accordance with the idea of equality of opportunity. So everybody would get some funding, but those with disadvantageous circumstances would get more than average and thus could be thought of as being "compensated" for circumstances. Throughout this study, I say about circumstances that they "may negatively affect" a person's life – because that is evidently why political philosophers care about them. It would be too clumsy always to add that circumstances, of course, may also positively affect a person's life. No harm is done, I think, by avoiding more complicated ways of putting these matters.

²⁹ Note that Measurement does not say that any individual's effort choice is *motivated* by what others do. Nor does it entail that the assessment of an individual's effort would be *different* if some or possibly many others changed their own choices. Nevertheless, an individual's choice is characterized and evaluated in comparison with other people's choices. This is a simple consequence of the definition of a centile. I am emphasizing this point because some critics reacted to the argument to be developed here by saying that an individual's choices "do not really depend on other people's choices". This is true in the two senses mentioned at the beginning of this note; still, this does not entail that an individual's choice is not evaluated in

3. Let me motivate the next stage of the argument in terms of a libertarian objection to Roemer's account raised by Steiner.³⁰ The objection charges Roemer with disregarding a relevant distinction between a person's circumstances and other people's choices. Such choices, so the objection insists, justify compensation only if they wrongfully interfere with an individual's rights, and even then compensation is due from the perpetrator, not from the state. However, in *Dichotomy*, other people's choices, even if morally impeccable, register under "circumstances." Therefore, the choice/circumstance distinction fails to motivate a politically relevant criterion for aspects of a person's condition that require compensation.

In response, egalitarians may submit that, from an individual's point of view, there is no difference between the consequences of other people's choices and any *other* circumstances. They all are beyond her control or responsibility, and they all may adversely affect her life. The challenge then is to show how this fact, after all, does call for compensation. This debate lies outside the scope of this study. For our purposes, it suffices to emphasize that egalitarians are well-advised to argue something like this if they wish to preserve the political relevance of the choice/circumstance distinction.³¹

terms of comparisons with other people's choices. Therefore, those two facts are irrelevant for the present argument. The point captured by Measurement was also discussed in the 1995 *Boston Review* symposium on Roemer's theory of equality of opportunity, in particular in the contributions by T. M. Scanlon and Eric Maskin.

³⁰ Hillel Steiner, "Choice and Circumstance", in A. Mason, *Ideals of Equality* (Oxford: Blackwell, 1998).

³¹ I should qualify this statement. Cohen, p 923 (in the Paul-and-Fred example) implies agreement with this claim. However, Dworkin (in *Sovereign Virtue*) disagrees. He argues that "other people's tastes and preferences are [not] matters of the *kind* of luck that can relieve us of consequential responsibility for our acts or circumstances. The mix of personal ambitions, attitudes, and preferences that I find in my community (...) is not in itself fair or unfair to me; on

4. Steiner's objection motivates the following question: Are there legitimate claims to compensation if due to other people's morally impeccable choices an individual's life goes worse than it would had those people acted differently? Although I just indicated that libertarians will want to say "no (at least not when such compensation is owed by the political community)", whereas (many) egalitarians will want to say "yes", and then put this question aside, I shall argue next that *no logically possible* answer to that question is open to Roemer on account of his acceptance of Dichotomy and Measurement, unless he endorses compatibilism.

For the time being, let us assume that there are only two possible answers to the question about compensation for other people's choices:

All-Choices: All choices of other individuals that are morally impeccable but nevertheless negatively affect an individual's life provide grounds for compensation.

No-Choices: No choices of other individuals that are morally impeccable but nevertheless negatively affect an individual's life provide grounds for compensation.

If either All-Choices or No-Choices must hold, a dilemma arises. Suppose All-Choices is true. Then we must compensate a person if her life is going worse than it otherwise would because of other individuals' morally impeccable choices. Recall that Roemer's algorithm makes a person's success

the contrary, that mix is among the facts that fix what it is fair for me to do or to have" (p 298; see also p 287). This kind of statement is in accordance with Dworkin's auction device, in terms of which he defines resource equality in a situation where the value of resources is determined by the demand that there is for them. On the other hand, Dworkin also says that "individuals should be relieved of consequential responsibility for those unfortunate features of their situation that are brute bad luck, but not from those that should be seen as flowing from their own choices" (p 287). There is, strictly speaking, no inconsistency between these two statements, but in light of the latter statement, one may wonder whether the former really does appropriately capture the role of other people's choices.

depend only on her centile in the effort distribution. (This idea is captured by Measurement.) Which centile she is in depends, *by definition*, on other people's choices. Thus a person's life may be going worse than it otherwise would because of other individuals' morally impeccable choices, namely in all those ways in which her success depends on her centile.³² Thus she should receive compensation on those grounds. That is, we must compensate her if she winds up in any centile below the top centile (for it is only if she is in the top centile that her success is not negatively affected by other people's choices), which entails that we must make sure that each person realizes the objective *to the same extent* (since otherwise some individuals would be below the top centile). We must compensate her with regard to any aspect of her life that is not going as well as it would had she ended up in the top centile. In the education example (e.g.), the goal is then either for all students to reach the same GPA, or otherwise for their future career prospects to be independent of their differential GPA's. Thus no distinction between aspects of a person's condition that require compensation and those that do not is operative. Dichotomy is obliterated. Roemer's account of equality of opportunity, designed to acknowledge claims to compensation based on circumstances, but not based on choices, ends up demanding equality of outcomes.³³

Suppose No-Choices is true. This means endorsing the libertarian objection in III.1. Thus we need to distinguish between circumstances due to other people's choices and those due to "nature." The former kind of circumstances share with circumstances caused by "nature" the feature

³² It should be a safe assumption to make that those choices are indeed morally impeccable. After all, they are effort choices of other individuals.

³³ In this paragraph, we are making the additional assumption that individuals must be compensated to the extent to which other people's actions affect them aversely. But this surely is plausible to a defender of this approach, because compensation is awarded to the extent that, due to one's circumstances, one is prevented from reaching the objective.

that they are beyond a person's control and not her responsibility, but they share with the individual's own choices the feature that they do not provide grounds for compensation. Thus Dichotomy is again obliterated. In the first case the distinction between choices and circumstances collapses, whereas in this case we are required to add a third category. The narrower a view one takes on the class of circumstances due to "nature," the more Roemer's theory now approximates a libertarian position. So neither All-Choices nor No-Choices is consistent with claiming both Dichotomy and Measurement.

We can capture the problem in a different way.³⁴ Any plausible understanding of "circumstance" entails that other people's morally impeccable choices are partly constitutive of an individual's circumstances. So other people's morally impeccable choices play different roles on the two sides of the choice/circumstance divide. On the one hand (following Dichotomy), some such choices contribute to characterizing those aspects of a person's condition that justify compensation. Hence No-Choices is false if both Dichotomy and Measurement are true. On the other hand (following Measurement), some morally impeccable choices of other people also contribute to characterizing those aspects of a person's condition that fail to justify compensation. Those choices, however, cannot justify compensation, for otherwise an individual would be compensated for deficiencies with regard to precisely those aspects of his conditions that are due his choices. Hence

³⁴ Some readers may find this second presentation of the problem more congenial because it remains true to the idea to think about Dichotomy at this stage of our argument without making any commitment on views on the free-will problem. The second presentation does so by not arguing in terms of choice, control, or responsibility. The first presentation uses such notions. However, only libertarianism and compatibilism are plausible contenders here, and the first presentation can be "straightened out" both from a libertarian and from a compatibilist point of view. So no harm is done, and in addition the first presentation is more vivid by showing what the consequences of adopting either No-Choice or All-Choices would be.

All-Choices is false if both Dichotomy and Measurement are true.³⁵

IV. The Compatibilist Commitment

1. Of course, neither All-Choices nor No-Choices seemed promising in the first place. So surely, the following must be right:

Some-Choices: Some morally impeccable choices of others justify compensation if they make a person's life go worse than it otherwise would be, and some do not.

Some-Choices “must” be right not simply because it is the only *plausible* answer to the question of whether other people's morally impeccable choices justify compensation, but also because it is the only remaining *logically possible* answer to that question. Clearly, Some-Choices is consistent with Dichotomy and Measurement: We could simply claim that precisely those choices of other people needed to determine an individual's centile in the effort distribution do not justify compensation, whereas all others do. Yet this move is unsatisfactory. We need a normatively appealing proposal

³⁵ A complication regarding the concept of “morally impeccable” choices should be noted at this stage. An egalitarian, so one might say, simply cannot acknowledge a notion of morally impeccable choices that ignores distributional effects. But if that is so, then No-Choices may not refer to any choices at all. That is, there may not be any choices that are morally impeccable and negatively affect a person's life, at least if moral impeccability is understood as precluding any basis for compensation. It is, however, not necessary to explore how this understanding of moral impeccability would affect the present argument. For the kind of egalitarianism discussed in this essay (i.e., egalitarianism concerned to integrate choice and responsibility) cannot endorse such a strong notion of moral impeccability. After all, such egalitarians want individuals' lives to depend at least to some extent on choices for which they are responsible, and thus they must allow for at least a certain range of morally impeccable choices of individuals (again at least in the sense that those choices do not justify compensation for others) that nevertheless may negatively affect other people's lives. Surely, libertarians (political) and egalitarians would disagree about the scope of the notion of “morally impeccable choices”. But the discussion of All-Choices, No-Choices and Some-Choices (to be introduced in section IV) is independent of precisely what view one takes on this question.

supporting Some-Choices that distinguishes between morally impeccable choices of other individuals that justify compensation and those that do not. To be sure, we do not need a proposal that produces an unambiguous result in each case, but we do need some sense of what the relevant difference is.

Recall that, so far, we have taken Dichotomy to entail merely that there is a difference between aspects of a person's condition that justify compensation and those that do not. We have made no assumptions about how to differentiate between these aspects. Clearly, libertarians and compatibilists would disagree about how to do so.³⁶ At this stage, then, it becomes important whether our understanding of Dichotomy is a libertarian one, or a compatibilist one. I argue next that a libertarian cannot provide a proposal supporting Some-Choices that is consistent with Dichotomy and Measurement, whereas a compatibilist can.

2. A libertarian believes that there is freedom of the will and that determinism is false. The notion of responsibility that accompanies this stance is that a person is responsible for an act only if she had

³⁶ For the relevant disagreement here to be one between libertarians and compatibilists, I am assuming that the distinction between aspects that justify compensation (those due to circumstances) and those that do not (those due to choices) is to be drawn in terms of responsibility. That is a substantive assumption, but one that is justified by the position struck by Roemer and like-minded theorists. Libertarians (in the political sense) deny it and would not award compensation from the state merely because certain aspects of a person's condition are not within the range of her responsibility. Defenders of a strong welfare state deny this move as well, but for entirely different reasons. They may also want to grant compensation regarding deficiencies that clearly are a person's responsibility. But for the purposes of this study, such positions are irrelevant, because Roemer, as well as Dworkin, Arneson, and Cohen, assumes that the distinction between the two relevant kinds of aspects of a person's condition is to be drawn in terms of responsibility. And this idea is, of course, characteristic of what unites these authors, namely the project of integrating choice and responsibility into egalitarianism. Thereby, then, the relevant question becomes what notion of responsibility to use, and that leads us to libertarianism (free-will) and compatibilism.

control over it and thus could have acted differently. This understanding of responsibility provides a libertarian reading of Dichotomy: The difference between those aspects of a person's condition that are due to her choices and those that are due to her circumstances is that the former are within her control, whereas the latter are not. Aspects of a person's condition that are not under her control justify compensation, and those that are do not.

Now we can show why a libertarian cannot endorse both Dichotomy and Measurement and Some-Choices in addition. In order to endorse Some-Choices, we need a proposal distinguishing between morally impeccable choices of others that justify compensation, and those that do not. A libertarian committed to Dichotomy acknowledges that some such choices justify compensation, namely those that are partly constitutive of this person's circumstances. But why do circumstances provide grounds for compensation? For a libertarian, the answer is that circumstances may negatively affect one's life while being beyond one's control. Thus a libertarian committed to Dichotomy acknowledges that certain choices of others justify compensation under the following two conditions: On the one hand, these choices (through being partly constitutive of a person's circumstances) may negatively affect a person's life, and on the other hand, they are beyond his control. But then libertarians must agree that choices of other people that negatively affect a person's life and are beyond her control provide grounds for compensation – even if they are *not* partly constitutive of a person's circumstances. In particular, libertarians must agree that choices of other individuals that determine one's centile in the effort curve justify compensation. For those two conditions clearly apply here. One cannot circumvent the problem by insisting that, if one thinks of the choices of other persons as fixed, an individual has control over where on the effort curve she places herself. For it is true of her circumstances as well that they determine a certain range such that

it is up to her where in that range she ends up being (say, through effort choices). But since in that case this point fails to discourage us from awarding compensation, it should not discourage us when it comes to other people's choices. On the libertarian understanding of responsibility, compensation based on circumstances and compensation based on other people's choices stand and fall together.³⁷

Thus libertarians cannot distinguish between morally impeccable choices of others that justify compensation and those that do not in a way that awards compensation for choices that are partly constitutive of an agent's circumstances, but not for choices that determine this person's centile in the effort curve. But precisely this must be done for a libertarian to hold both Dichotomy and Measurement. So libertarians, in virtue of their notion of responsibility, cannot devise a proposal in support of Some-Choices that is consistent with Dichotomy and Measurement.

3. This leaves us with compatibilism. According to compatibilists, a person may be responsible for aspects of her condition that are beyond her control: she may be responsible although she could not have acted in any way that would have precluded those aspects of her condition from arising. For a compatibilist understands responsibility in terms of an appropriate internal connection between an agent's reasons and his actions; and the relevant kind of connection may hold regardless of

³⁷ A libertarian understands *responsibility* in terms of control, but there is no implication that she could not endorse any form of equality of opportunity in which her control is undermined in any way. To see the point, consider the following case: Suppose we give everybody who "behaves reasonably" (in some appropriate sense) a fair chance at some good X, where we use a randomization device to assess whether the chance is realized or not. Obviously, what is under a person's control then is at best whether she behaves reasonably, and thus this is all a libertarian would hold him responsible for. But that does not mean that a libertarian would have to reject such scenarios as parts of a theory of equality of opportunity merely because they use randomization and thus undermine the agent's control. Rather, we would be looking at theories of equality of opportunity that assign a subordinate role to the notion of responsibility.

whether there is a causal process that brought about those aspects of his condition in such a way that, indeed, he could not have helped but have them.

On account of his different understanding of Dichotomy, a compatibilist can distinguish between those morally impeccable choices of others for which a person is owed compensation and those for which she is not, and can do so in a way that is consistent with Dichotomy and Measurement. She can do so straightforwardly: An individual should receive compensation for other people's choices if and only if these choices adversely affect her life through being partly constitutive of her circumstances. If such choices adversely affect her life through her own choices (e.g., by determining in which centile she ends up), no claim to compensation arises. Without the libertarian commitment to a link between responsibility and control, the challenge can be met. Whatever may appear implausible about the compatibilist's answer to this challenge has been implausible about compatibilism all along.

V. Libertarianism and No-Variance

1. So Roemer must be a compatibilist. However, I argue next that his theory also includes a claim acceptable only to a libertarian. To this end, recall No-Variance:

No-Variance: Once we fully understand what constitutes a person's circumstances, the effort distribution curves will be identical for all types.

I argued in II.3 that No-Variance is plausible only to a libertarian. At that stage, however, I considered No-Variance only because it conflicts with compatibilism. I did not connect it to the discussion of whether the *amount* or the *degree* of effort (captured by one's centile in the effort

distribution curve) should count as capturing “how hard one has tried.” I shall argue now, however, that the degree-of-effort solution (the idea captured by Measurement) is plausible only if No-Variance is endorsed. Thus Measurement is plausible to a libertarian, but not to a compatibilist.³⁸

2. To see why the degree-of-effort solution is plausible only to an advocate of No-Variance, consider how No-Variance operates. Suppose members of type A expend an effort between 10 and 20 units (e.g., hours of preparing for classes), and suppose members of type B expend an effort between 16 and 26 units. If a member of type A (Ann) and a member of type B (Bob) both are in the 75th centile, they both have tried harder than 74 percent of their cohort and less hard than 25 percent. Yet if in addition No-Variance is in place, we learn something more about Ann and Bob: we learn that they achieved their results while facing the same kind of competition.

To see more precisely what this means, divide the effort intervals of types A and B into five subintervals of equal size: Those intervals for type A would be (10, 12), (12, 14), (14, 16), (16, 18), and (18, 20), and similarly for B. Call the individuals in the highest effort interval “the over-achievers”, in the second highest interval “the achievers”, in the third interval “the average crowd”, in the second to the lowest interval “the satisficers”, and in the lowest interval “the under-achievers”.

³⁸ Two remarks are in order. First, I avoid claiming that Roemer’s theory is actually *committed* to libertarianism. However, this claim follows if one accepts the following claim: If a theory must be committed to position A or to position B, it is committed to A if the theory is significantly more plausible to a defender of A (on grounds internal to A) than to a defender of B (on grounds internal to B). If one accepts that claim, the argument in this paper shows that Roemer’s theory is not just deeply structurally incoherent, but inconsistent. Second, note that Roemer is explicit about using No-Variance to justify the degree-of-effort conception of comparing individual efforts (p. 15). So he would grant the point that I am about to make. The purpose of the elaboration is to make the point clear and thereby also to suggest that there are no straightforward ways of circumventing the claim I am making above.

I refer to these groups as the “peer groups” in their types. Using this terminology, we can describe the competition within a type. The structure of the competition is specified by the percentage of members of the type who are in the respective peer groups. While the centile terminology enables us to say how well individuals are doing compared to their cohort, the present terminology allows us to say how well individuals are doing vis-a-vis the range of results actually achieved by their cohort.³⁹ If No-Variance holds, the same percentage of individuals in both types is over-achievers, achievers, etc.⁴⁰ This entails that Ann and Bob are in the same peer group of their respective types: they are either both over-achievers, or neither is, etc. Moreover, this also entails that they are in the same peer group while the same percentages of members of their types belong to the five respective peer groups. It is because No-Variance delivers this kind of information that it makes sense to say about Ann and Bob that they have “tried equally hard.”

Yet the centile-information by itself fails to deliver this insight. It is possible (e.g.) for Ann to belong to a type consisting largely of over-achievers, while Bob belongs to a type of under-achievers. For Ann, then, being in the 75th centile makes her an over-achiever. Even the next lower 20 percent are over-achievers, and only individuals below the 55th centile are not over-achievers any more (and most of those are achievers). For Bob, however, being in the 75th centile makes him an under-achiever. He may be on the edge of being a satisficer, but he did not try hard enough to end up there. Still, Bob, coming from a lazy type, does better than 74 percent of his cohort. Surely in this case it is implausible (and unfair to Ann) to say that Bob “has tried as hard” as Ann. So without No-

³⁹ The choice of five subintervals is, of course, arbitrary. The point is only to motivate some informative notion of “facing the same competition”.

⁴⁰ This, of course, is a simple consequence of the fact that No-Variance states that all effort distribution curves are linear transformations of each other.

Variance, the degree-of-effort measure ceases to be a valuable inter-type measure of effort. An assessment of effort in terms of one's centile is by its nature an ordinal, *intra*-type measure. It turns into an *inter*-type measure only if we assume that the types are relevantly similar and therefore assume that the difficulties that ordinarily preclude an intra-type measure from being an inter-type measure do not arise.

3. One may object that we are simply *defining* the degree of effort as an inter-type measure and that thus all these worries are misguided. However, recall why we are interested in such an inter-type measure in the first place. We would like to assess when any two individuals are “trying equally hard” because our goal is to make success with regard to the objective of the equality-of-opportunity policy dependent only on an individual's effort. So we are interested in having an inter-type measure to tell when any two individuals are equally deserving of achieving the goal. What I have argued above is that the degree-of-effort is not appropriate for that task if No-Variance fails. So by insisting that the degree-of-effort conception is an intra-type measure by definition, we would be losing sight of the very reason for which we became interested in that notion in the first place.

However, the objector may continue by arguing that the effort distribution and the competitive structure are characteristics of the type. Thus individuals should not be held responsible for them. Yet the problem for the objector would be to continue by arguing that *therefore* individuals at the same centile should be regarded as having tried equally hard regardless of whether No-Variance holds. My argument does not reject the idea that two individuals are equally deserving with regard to the objective of the respective equality-of-opportunity policy if they “have tried equally hard.” My argument also is not at odds with the claim that the effort distribution and the competitive

structure are characteristics of the type. I have merely attempted to show that the degree-of-effort measure fails to capture when individuals have tried equally hard if No-Variance does not hold.

Yet there is a stronger point to be pressed against such an objector. So far, we have not questioned the idea that “how hard an individual tries” is properly captured by an *inter*-type measure in the first place. We have merely argued that the degree-of-effort conception in particular is implausible unless No-Variance is in place. But independently of that, it seems strange a priori to think of how hard *you* have tried as measured in any way by way of references to how hard *others* have tried. Think of your counterpart in some other possible world where everything is just as it is in this world, except that one fine Monday morning all individuals in your cohort, and only those, take a pill that inhibits their ability to expend effort. As a consequence, your counterpart would find herself in a higher centile without having done anything differently from what you did. Therefore, your counterpart would now be equally deserving of the benefits of equality of opportunity as certain individuals in other types whose counterparts in our world are significantly more deserving than you are. And that is the case even though neither your counterpart nor those individuals changed anything. But if this is correct, the very plausibility of capturing how hard one has tried in terms of an intra-type measure becomes dubious. Such a measure becomes reasonable only if one adds No-Variance.

4. Let me conclude this discussion with two remarks. To begin with, one may ask whether this discussion entails that we should use the amount-of-effort conception instead of the degree-of-effort conception of how hard individuals have tried. Yet this question implies that we must indeed use either the amount-of-effort conception or the degree-of-effort conception. But there surely is no

particular reason to think this. There is nothing about the reasons that prompted us to abandon the amount-of-effort conception of how hard a person tries that would compel us to adopt a measure of effort that involves comparisons with others. There is conceptual space for additional solutions, such as a type-discounted conception of the amount of effort. This is worth emphasizing in particular because there is nothing in my argument that takes offense at the idea of “comparative desert” (as one may possibly have suspected). The implication of my argument for somebody interested in explicating that idea is merely that Measurement can serve as an account of that concept only if one is willing to endorse a claim that is plausible only to libertarians.

The second remark is that one may be inclined to argue that Roemer’s account works as long as for whatever reason a local version of No-Variance *happens* to hold in the context in which we would like to find the equality-of-opportunity policy. However, this move is unpromising. Obviously, it is the compatibilists who have to be convinced of its reasonableness. But for the following two reasons, they would remain unconvinced. On the one hand, a compatibilist would have no reason to expect this to happen. Thus she would have no more reason to endorse a theory of equality of opportunity that only works if a criterion holds that seems extremely unlikely to hold from her point of view, than she has to endorse any kind of theory of types that includes this criterion as a built-in assumption. The basic point remains: For a compatibilist, No-Variance is implausible. On the other hand, and more importantly, a compatibilist would not only think No-Variance is unlikely to hold, but she would also see no normative appeal in it. That is, even in those cases in which that a local version of No-Variance does hold, a compatibilist would be unimpressed. For she would now be asked to accept a theory of equality of opportunity that holds conditional on

an assumption whose normative relevance a compatibilist denies.⁴¹

VI. Conclusion

1. Roemer's *Equality of Opportunity* attempts to capture the idea of equality of opportunity as "leveling the playing field". Inspired by Dworkin (1981), Arneson (1989), and Cohen (1989), Roemer's account tries to integrate the ideas of choice and responsibility into egalitarian thinking. This commitment is expressed by a condition I have called Dichotomy: There is a distinction between aspects of a person's condition that are due to her "circumstances", and those that are due to her "choices". The former sort of aspects are not her responsibility, whereas the latter sort are. How precisely to draw this distinction depends on what notion of responsibility one endorses and thus on one's stance in the free-will debate. My claim is that Roemer is committed to a compatibilism while also endorsing a claim (central to his theory) that is plausible only to a libertarian.

⁴¹ It is worth pointing out at this stage that the problem raised for Roemer in this study does not arise for Cohen, Dworkin, and Arneson. The problem does not arise for Arneson's account of equality of opportunity for welfare because the basic operation in terms of which he equalizes is interpersonal comparison of utility/welfare (all of whose problems he inherits, of course). It does not arise for Dworkin's account of equality of resources because his notion of equality of resources rests on an envy test. Therefore, neither Arneson nor Dworkin accept a condition resembling Measurement. Finally, Cohen does not face the problem because, even though he confesses to being an egalitarian and states compensation for brute luck and avoidance of exploitation as his desiderata, he does not connect these two thoughts by presenting an argument why and how these desiderata should be pursued within an *egalitarian* framework. Unsurprisingly, then, he does not have an operation comparable to Roemer's inter-type comparisons, Arneson's interpersonal comparisons, or Dworkin's envy test, and a fortiori, he does not share any problem pertaining to them. At the same time, however, Measurement seems far from being an idiosyncratic addition to Dichotomy. So the objection to Roemer's account is surely not that he has tried to combine conditions that either obviously could not jointly hold, or at least one of which is straightforwardly implausible.

Is it fair to criticize Roemer's account because of conflicting commitments in the free-will debate, or would it not be more appropriate to think of Roemer's theory as a "practical" policy guide so that it would not matter whether it suffers from these problems? In particular, one might think that Measurement is only a proxy, rather than a condition that should be endorsed on its own terms. Thus, if there were any possibility of "measuring" desert directly, we would surely renounce Measurement. The response to this point is threefold: First, Roemer (1998) commits himself to proposing a "definition" of equality of opportunity (p 3) and does not emphasize the operational character of this theory.⁴² Second, and more importantly, quite regardless of Roemer's intentions, the combination of Dichotomy and Measurement does deserve to be taken seriously as an account of equality of opportunity, and not "merely" as a practical policy guide. In particular, the point of Measurement seems to be to assess a person's merit in comparison with *the right kind of group*, namely, the group of individuals who are in a distinguished sense this person's *peers*. The idea of capturing "merit" in this way is not at all implausible as a constitutive part of a theory of equality of opportunity.⁴³ Third, it seems that Roemer's account could not successfully be defended against the argument of this study by thinking of it as a policy guide. For even if we are dealing with a policy guide, we must still confront the charge of incoherence. No distinction between a "practical" guide and "theoretical" problems would resolve this concern. I submit that we simply do not understand what is being recommended if the recommending algorithm is beset by a structural

⁴² Recall that I take Roemer's 1998 book to be the definitive statement of his account.

⁴³ The emphasis here is, of course, on "the right kind of group". Various forms of arbitrariness that arise from, say, imposing a grading curve on a small class do not arise simply in virtue of the definition of types. See T. M. Scanlon's contribution to the 1995 *Boston Review* symposium for a view on Measurement that seems to disagree with the idea that it could serve as anything other than a proxy in a theory of equality of opportunity.

incoherence. And if my argument is right, the incoherence is not peripheral but concerns the notion of responsibility, which is, and should be, central to Roemer's account.⁴⁴

2. By way of concluding, let me summarize my argument. The following are two central ideas of Roemer's account of equality of opportunity:

Dichotomy: There is a distinction between "choices" and "circumstances" such that success with regard to the objective should depend only on one's choices ("effort"), whereas negative effects of circumstances provide grounds for compensation.

Measurement: An individual's choice (and thus the extent of her performance for which she alone is responsible) is evaluated in terms of comparisons with other individuals' choices.

I have argued that the combination of those two ideas is plausible only to a compatibilist, whereas Measurement itself is plausible only to a libertarian. That is, a compatibilist is able to combine the

⁴⁴ Richard Arneson suggests to me that the distinction between a practical policy guide and a theoretical account can do more work than my discussion allows in order to deny that the inconsistency discussed in this study does any harm. His example is the following. Suppose that one's theory of moral responsibility requires alternative possibilities, but that determinism holds and rules out alternative possibilities. Consistent with this, it might be that holding oneself responsible under appropriate circumstances tends to improve the consequences. Then consequentialist justice might say that one should hold oneself responsible. But then one is committed to the view that there is no moral responsibility, but nevertheless, the goals of consequentialism entail that treating oneself as if there were is morally desirable. There clearly is an inconsistency, but nothing seems particularly troublesome with this kind of inconsistency between the "theoretical" level and the "practical". I find this very persuasive. However, there is an important difference. The goal of consequentialism can be defined without any reference to moral responsibility. But an account of equality of opportunity, at least as far as Cohen, Arneson, Dworkin, and Roemer seem to understand it, essentially incorporates talk about moral responsibility and thus requires some view on moral responsibility (at least if one thinks of a theory of equality of opportunity as embedded into a comprehensive moral theory). Therefore, I find it hard to see how a similarly convincing proposal could be applied to the present scenario.

two conditions, but does not endorse one of them. As opposed to that, a libertarian endorses Measurement, but is unable (on pain of contradiction) to combine it with Dichotomy.

The argument that an advocate of the combination of these two ideas is committed to compatibilism proceeds as follows: A libertarian concern (“libertarian” now used in the political sense) about the connection of the distinction between “choices” and “circumstances” to the distinction between invalid and valid claims to compensation motivated the question of whether morally impeccable choices of others that affect one’s life negatively justify compensation, according to Roemer’s account of equality of opportunity. There are three logically possible answers to this question: All such choices justify compensation; no such choices do; some such choices do, but others do not. I have argued that neither the first nor the second answer is consistent with jointly holding Dichotomy and Measurement. I have also argued that the third answer requires a proposal for distinguishing choices that justify compensation from those that do not. Compatibilism is able to present such a proposal, but libertarianism is not. Therefore Roemer is, on logical grounds, committed to compatibilism.

I have also argued that Measurement is plausible only to a libertarian. Before I sum up the argument, recall No-Variance:

No-Variance: Once we fully understand what constitutes a person’s circumstances, the effort distribution curves will be identical for all types.

The argument that Measurement is plausible only to a libertarian proceeds in two stages: First, I have argued that No-Variance is plausible only to a libertarian. The argument was that this assumption is plausible only if one believes that “choices” are in the relevant sense uncaused. Second, I have argued that Measurement is plausible only to a defender of No-Variance. The

argument was that inter-type measures of “how hard one has tried” are generally implausible and gain plausibility only if we make sure that the types are relevantly similar. No-Variance does precisely that job.

In conclusion, then, Roemer is committed to compatibilism while also endorsing a central claim plausible only to a libertarian. Since these two views are inconsistent, Roemer’s theory of equality of opportunity is beset by a deep structural incoherence.⁴⁵ If the idea of equality of opportunity is to have any normative appeal, we must look elsewhere for a plausible conception of equality of opportunity.⁴⁶

⁴⁵ Again, this incoherence is transformed into an inconsistency if we accept that if a theory must be committed to position A or to position B, it is committed to A if the theory is significantly more plausible to a defender of A than to a defender of B.

⁴⁶ To open an avenue for additional investigation into these matters, one may ask whether the tension between Dichotomy and Measurement displayed in this essay would not disappear if we modified either condition in a suitable way. More specifically, there are two questions. First, could we modify either Dichotomy or Measurement in such a way that they can be jointly endorsed by a libertarian? And second, could we modify Measurement in such a way that it can be endorsed by a compatibilist? The challenge would be to answer either question affirmatively in a way that is not ad-hoc and not open to modifications of the arguments presented here. I believe that the discussion in this essay provides reasons to doubt that either question can be answered affirmatively; but this, of course, remains to be seen. Curiously, the most promising approach seems to be to argue that libertarians can consistently endorse both Measurement and Dichotomy. I say “curiously” because Roemer clearly favors compatibilism. Richard Arneson has suggested to me interesting cases indicating that this route is indeed the most promising one. For instance, Arneson asks us to consider Smith and Jones, otherwise similar except that one chooses to become a German teacher and the other a Spanish teacher. It turns out that the market for Spanish teachers blooms while few seek German teachers, and so the market price for German lessons drops. But suppose that at the time each chose a language speciality, German and Spanish were equally reasonable bets, that they both had a wide array of options, and that they both made their choice freely and in full awareness of the vagaries of the market for language lessons. The choices of consumers of German and Spanish lessons then constitute circumstances beyond the power of either to control. It seems plausible nevertheless to say that equality of opportunity does not require us to compensate them in any way for the outcomes of their respective gambles. In this way, we have constructed a situation with features that are in one way circumstances, and in another way choices. For neither one can control the vagaries of the market, but both can control whether to place their fate in the hands of these vagaries.

Therefore, the libertarian slogan that “one should be held responsible for what lies within one’s power to control” is not violated, if the slogan is interpreted appropriately. It seems that scenarios of this sort provide a good starting point to develop the libertarian understanding of responsibility in such a way that it is consistent with both Measurement and Dichotomy. However, there is an important difference between this kind of example and the educational funding case discussed above. In this case, it makes sense to say that, indeed, Smith and Jones gambled in a way that does not make for compensation. But the crucial point is that they can be taken to have made a deliberate decision to enter a risky market. Yet that is not the case with the students in the educational funding scenario, and that is not the case with many other scenarios to which we want to apply equality-of-opportunity policies. In addition, it might also be the case that our society is structured in such a way that one can choose which gambles to take, but one cannot choose whether or not to be a gambler (simply because, say, capitalist society makes this kind of decision inevitable). If that is the case, then maybe Smith and Jones have stronger claims to compensation than considering their case in isolation suggests.

