

Roemer on Responsibility and Equality*

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Abstract:

I argue that, despite its merits, Roemer's account of how to neutralize luck does not provide a basis for egalitarianism. The aim to neutralize luck may tell us *what* to distribute, namely, goods that people are not responsible for, which are therefore a matter of luck for them. But it cannot tell us *how* to distribute such goods, that is, to favor more equal over less equal distributions, other things equal. This claim is not itself a criticism of Roemer, since it is not clear that Roemer intends his account to provide a basis for egalitarianism. Rather, his account makes operational the conception of equality he favors, which he calls equality of opportunity. Roemer himself may see the role of responsibility in his proposal as telling us what to distribute rather than how to distribute. I argue that what Roemer's scheme does show is how to reward people equally who make equal efforts to behave in ways we regard as meritorious or deserving. But giving people what they deserve on account of their efforts is not the same as giving them what they are responsible for. Nor is equalizing what people are not responsible for the same as giving them what they are responsible for. Moreover, depending on what behavior we regard as deserving, a Roemerian system of

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rewards may or may not favor equal patterns of distribution. Treating like cases alike in the way Roemer spells out is not enough to guarantee that relatively equal patterns of distribution are favored over relatively unequal ones, other things equal. However, if Roemer's scheme for rewarding merit is properly limited to specific, democratically adopted policies, it may well be a valuable and effective tool of policy implementation.

1. My target vs. Roemer's intentions.

John Roemer gives an illuminating and ingenious account of what it would be to neutralize luck, which he offers as a “pragmatic theory” for the egalitarian planner. Roemer’s account of luck-neutralization is clearer, more fully developed, and more operational in character than any other I know of in the literature on distributive justice, and has the potential directly to influence political and legal policies.

Gerald Cohen has claimed that the aim to neutralize luck provides the fundamental motivation of egalitarianism (1989, 908, 932). Roemer conceives his position to follow on from Cohen’s (see his 1996, chapter 8). In this article I consider whether Roemer’s account can be used to defend Cohen’s claim. Thus, my target is not exactly either Roemer or Cohen, but Roemer’s-proposal-in-service-of-Cohen’s-claim. I take this concatenated position as my target because I believe Cohen has most clearly articulated an important claim that is implicit in much contemporary discussion of distributive justice, and because, despite my criticisms of Roemer’s view, I believe that he has gone farther than anyone else in trying to work out what it would be to neutralize luck. Following Cohen, I here understand goods that are a matter of luck for someone as goods for which she is not responsible.

I argue that, despite its merits, Roemer’s account does not show how the aim to neutralize luck could provide a basis for egalitarianism. This aim may tell us *what* to distribute, namely, goods that people are not responsible for, which are therefore a matter of luck for them. But it cannot tell us *how* to distribute such goods, that is, to favor more equal over less equal distributions, other things equal. The aim to neutralize luck, understood as

goods people are not responsible for, neither specifies nor justifies a distinctively egalitarian *pattern* of distribution, even if it does contribute to specifying a *currency* of distribution.¹

This claim is not itself a criticism of Roemer, since it is not clear that Roemer intends his account to provide a basis for egalitarianism. Rather, his account makes operational the conception of equality he favors, which he calls equality of opportunity (see for example 1998, 4). Roemer himself may see the role of responsibility in his proposal as telling us what to distribute rather than how to distribute (see for example 1998, 7). Moreover, as I explain below, if Roemer's scheme is properly limited to specific, democratically adopted policies, it may well be a valuable and effective tool of policy implementation.

As I shall explain, Roemer's scheme shows how to reward people equally who make equal efforts to behave in ways we regard as meritorious or deserving. But giving people what they deserve on account of their efforts is not the same as giving them what they are responsible for. Nor is equalizing what people are not responsible for the same as giving them what they are responsible for. Moreover, depending on what behavior we regard as deserving, a Roemerian system of rewards may or may not favor equal patterns of distribution. Treating like cases alike in the way Roemer spells out is not enough to guarantee that relatively equal patterns of distribution are favored over relatively unequal ones, other things equal.

2. What it would be to neutralize luck: Roemer's framework for addressing the problem.

¹ For a more general argument for this claim, not tied to Roemer's framework, see Hurley 2001.

In a schematic version of Roemer's framework, we consider four persons who have four different goods positions. A is better off than B, who is better off than C, who is better off than D. Consider all the factors that contribute to how well off these characters are. Some of the contributing factors undermine their responsibility for their positions to some degree, such as congenital disabilities, poor quality of education, deprivation or abuse during childhood, etc. Other factors support their responsibility for their positions, such as their choices as to how to behave. Suppose that society has in some way arrived at various judgments about just which factors undermine responsibility. Though he often speaks of responsibility in terms of choice or control, Roemer claims that his theory is not committed to any particular view about what factors undermine responsibility, but leaves this question open, for each society to decide for itself.² His theory is rather about what we do once we have these judgments, how we can use them to discover how to redistribute justly. I will assume a choice-based view of responsibility for purposes of setting out his framework.

Roemer suggests that we take all the responsibility-undermining factors and circumstances, and use them to define a *type* of person. One type collects persons who are similar in respect of the factors we have judged to be responsibility-undermining factors. For example, in type T (*for talented*) are people who are born without congenital disabilities, who

² This disclaimer notwithstanding, he appears to be sympathetic to the *regression principle*: that responsibility for something requires responsibility for its causes. He does not distinguish the regression principle from the could-have-done-otherwise principle. "One could construct a tree of causes...leading backward from any action the person takes, rooted finally in an initial set of genetic and circumstantial variables beyond the reach of her powers. Freedom requires that an alternative action be possible, which this tree of causes does not leave room for." (1995, p. 4, column 1).

received relatively good educations and had happy, healthy childhoods. In type U (for *untalented*) are people who have inherited some mental or physical weakness, had relatively poor educations, and childhoods involving privation or abuse of some kind.

We could make our specification of types finer-grained, but this will do to convey Roemer's scheme. The persons in one type need not be *exactly* similar, but they are the similar to whatever degree of accuracy we wish to stipulate. The bottom line is that they are similar enough for us to be willing to say that any differences between people within one type are not a matter of luck.³

Suppose next that A and B belong to type T. Recall that A is better off than B. Suppose this is because A is a workaholic and B is a surfer.⁴ There is no relevant difference between A and B in respect of responsibility undermining factors, since they belong to the same type. Recall that all factors judged to make someone less responsible than another have been used to define the type. So however responsible A and B are for their respective positions, they are *equally* responsible for their respective positions: that is, A is just as responsible for how well off A is as B is for how well off B is. The difference between A and B is due, say, to their different choices of work vs. leisure, and is therefore not a matter of

For discussion of these principles, see Hurley 2000a, 2000b. The regression principle arguably makes responsibility impossible. And if responsibility is impossible, then there would be no scope for Roemer's notion of variation within a type that is not a matter of luck.

³ If the types are so finely specified that each type can contain only one person behaving in one way, then all differences are a matter of luck. This is a limiting case of Roemer's general scheme. The case we are interested at present, however, is not this limiting case, but the case in which some differences are matters of luck while others are not, so that there is more than one person in each type.

⁴ This is my illustration; Roemer uses different illustrations, considered below.

luck. The difference between A and B is not one that a luck-neutralizer should wish to eliminate.

Similarly, C and D belong to type U, and there is no relevant difference between C and D in respect of responsibility undermining factors. However responsible C and D are for their respective positions, they are *equally* responsible for them. Yet C is better off than D; again, suppose that C is a workaholic while D is a surfer. This difference, again, is down to the different choices of C and D, and therefore is not a matter of luck. The difference between C and D is not one that a luck-neutralizer should wish to eliminate either.

However, the kinds of circumstance in which A and B have made their choices is very different from the kinds of circumstance in which C and D have made their choices. The type to which A and B belong is, in ways for which no one is responsible, more conducive to advantage than the type to which C and D belong. It is so much more conducive to advantage that even though B has chosen to be a surfer, he is still better off than C, who has chosen to be a workaholic. The difference between being a member of type T and being a member of type U is a matter of luck, by hypothesis. It seems then that any of the inter-type differences might be, at least in part, matters of luck and require some redistribution: the differences between A and C, between A and D, between B and C, and between B and D. Roemer aims to preserve differences within types, for which people are responsible, while equalizing what people are not responsible for, between types.

So far I have followed Roemer's lucid way of setting out the problem, though using a different example.⁵ Given these judgments about luck and nonluck, how should we redistribute? Which positions, if any, should be made equal?

3. Why solving the problem requires judgments of counterfactual responsibility.

At this point I begin to diverge from Roemer, since I do not agree with the solution he proposes to the problem he sets out so clearly. I shall argue that the judgments of responsibility that would be needed to solve the problem as set out are not in general available. Equalizing what people are not responsible for is not the same as giving them what they are responsible for: equality may be as much a matter of luck as inequality. Moreover, Roemer's own proposed solution seems to involve an equivocation: giving people what they deserve because they make more effort is not giving them what they are responsible for.

Notice first that we cannot eliminate *all* of the inter-type differences, while leaving alone the differences between A and B (in type T) and between C and D (in type U), which are not matters of luck.

⁵ It is interesting to compare Roemer's technique with that of attribution theory, as described and criticized in Schoeman 1987 in connection with the Milgram experiments. In particular, Schoeman questions the assumption that the more atypical an act type is in given circumstances, the more the individual performing the act is accountable for it. People can be responsible for doing something, Schoeman suggests, even if nearly everyone in their situation does the same. Cf. Roemer 1996, 277: "To take an extreme case, if all sixty-year-old steelworkers smoked for thirty years, we would say that the choice of 'not smoking' is not accessible to steelworkers: as a steelworker, one would have had no effective opportunity but to smoke for thirty years."

For example, should we eliminate the difference between A and C or the difference between B and C? We cannot do both while respecting the difference between A and B, who by hypothesis are equally (though not wholly) responsible for their different respective levels of goods. What we need to know is what counterfactual position for C would make it the case that the relations between A and C and between B and C are not matters of luck either, given that the actual relations between A and C and between B and C are at least partly matters of luck. Would it not be a matter of luck if C were to have the same level of goods as A? As B? Or some other, different level? Is C responsible for the same position as A or for the same position as B or for some other position? And all the same questions arise for the relations of A and B to D also. Answers must respect the differences between C and D as well as between A and B, which are not matters of luck.

This is the general form of the problem of finding a pattern of distribution that would neutralize differences that are matters of luck. If judgments of luck and responsibility can be used to solve this problem, then they can play a patterning role. An example of the kind of judgment that would be needed to solve this problem is this:

A and C are responsible for the same goods position and B and D are responsible for the same goods position, where the first position is better than the second. That is, it would not be a matter of luck for A and C to be equally well off and for B and D to be equally well off, such that A and C are better off than B and D.

This particular judgment, of course, is only an example of the *kind* of judgment needed to solve the problem. Different correlations could also be established, by different judgments of luck and responsibility.

However, let's continue to focus on this particular judgment as an example, and consider its implications. If we do implement this particular judgment, we will redistribute to equalize the positions of A and C, and of B and D. Notice that this will reverse the positions of B and C. Before redistribution, B was better off than C; after redistribution, C is better off than B. If responsibility underwrites this pattern, we are not only judging that the actual difference (such that B is better off than C) is a matter of luck. Nor are we merely adding to this that a counterfactual state of equality (between A and C and between B and D, respectively) would not be a matter of luck. We are also implicitly judging that some particular counterfactual *difference* (such that C would be better off than B) would not be a matter of luck. If this tacit judgment of counterfactual responsibility is not confirmed, then redistribution would merely move us from one difference that is a matter of luck to another. And that would not neutralize luck.

This feature of the particular example generalizes, even if different correlations are established. If luck-neutralization is to solve the patterning problem, some such tacit judgments that counterfactual differences would not be a matter of luck are unavoidable. That is, judgments are needed not just about whether or to what degree people are responsible for their actual positions, or that certain differences are a matter of luck. Further judgments are needed about what counterfactual situation people should be judged to be responsible for instead, about what counterfactual relations between people would not be a matter of luck. And some of these must take the form of judgments that particular counterfactual *differences* would not be a matter of luck.

4. Skepticism about counterfactual responsibility.

What general basis we could have for such judgments? Indeed, what could the truth of such judgments amount to, even apart from our knowledge of their truth? It is hard enough to determine whether B's actually being better off than C *is* a matter of luck. But if we judge that that it is, this does not mean that we can go further and identify some particular counterfactual relation between B and C that would *not* be a matter of luck, for which B and C are responsible. Our normal practices of judging people responsible or not responsible do not in general extend to specifying other possible states of affairs for which they would be responsible, when they are not responsible for the actual state of affairs. When actual differences between people are due to luck, there is no reason to assume we can in general identify what counterfactual relation between them would not be a matter of luck.

There may be intuitive answers to this question in some particular cases involving limited departures from actual circumstances. But any general principle claiming to answer this question in relation to all actual circumstances due to luck seems bound to be arbitrary. If most of a person's basic life circumstances, or some very influential aspects of them, are a matter of luck, what particular choices would they have made in the absence of luck? What choices would someone make if his life had been a very different life? I doubt such questions have answers, in many cases. The idea of what people are responsible for is underconstrained and indeterminate when it is disconnected from people's actual situations and the actual consequences of their actual choices, in actual or close-to-actual circumstances. This seems to be a case in which our language makes grammatical space for a type of judgment but we should nevertheless be wary of occupying that space. We may have a form of words, but we do not

have the substantive resources to underwrite such judgments of counterfactual responsibility. The judgments of counterfactual responsibility needed for responsibility to tell us how to distribute outrun the determinate content of the concept.

Perhaps C would have chosen to be a surfer rather than a workaholic if she had been more talented (she might have perceived more clearly the futility of the rat-race). Perhaps that means that being a workaholic is to some degree a matter of luck for her. But nevertheless, there is no causal relationship between C and the counterfactual state of affairs in which she is a surfer. While actual choice and control are causal relations between a person and what is chosen or controlled, hypothetical choice is not a causal relation between a person and what is hypothetically chosen.⁶ Thus, on hypothetical choice accounts of responsibility, causal responsibility is not necessary for responsibility. This is a problem for such accounts.⁷ There are too many things that people might or would have chosen, if they could have. It is too easy, causally costless, to meet this condition. Surely responsibility requires a more specific, restricted relationship. To hold that responsibility requires causal responsibility, say in the form of actual

⁶ See Hurley 2000a on whether causal responsibility is necessary, though not sufficient, for responsibility.

⁷ Roemer himself makes a different criticism of such accounts. Roemer is concerned that someone's self-identifications and hypothetical preferences or choices are often influenced or determined by circumstances for which one is not responsible, as in the case of the tame housewife who is glad she has her overly modest ambitions (1996, 249; see also 1998, 19). But this criticism is in danger of switching from a hypothetical choice account of responsibility to some other account, such as a control account. Why, otherwise, assume the tame housewife is not responsible for the relevant circumstances? Her self-identification may be such that she would choose all these circumstances if she could, even though she evidently does not control them. As I have pointed out in earlier chapters, hypothetical choice accounts of responsibility are compatible with the requirement of regressive responsibility for causes, if hypothetical choice itself can take the chain of causes leading up to actual and hypothetical choices as its object.

choice or control, is one way of meeting this point. Of course, causal responsibility is not sufficient for responsibility, even if it is necessary (for further discussion see Hurley 2000a, 2000b).

What we have now seen is that for responsibility to tell us how to distribute in Roemer's scheme, it must be detached from causal responsibility. His scheme requires us to judge that certain counterfactual differences between people in different types would not be a matter of luck. The needed judgments of counterfactual responsibility, about what people would be responsible for when they are not responsible for their actual situations, break any causal link such as actual choice or control between a person and what she is judged responsible for. As a result, these judgments are open to the same kind of objection that was made against hypothetical choice accounts of responsibility. Basically, the truth of these judgments of responsibility is underdetermined. There are too many possible counterfactual states of affairs: which of them is the one someone should be judged to be responsible for, when she is not responsible for the actual one? Why assume this question must in general have a determinate answer? We cannot appeal to causal relations such as actual choice or control to narrow down the range of possible answers this question. Hypothetical choice merely postpones the problem: there are also too many things people would choose if they could, under various counterfactual conditions. They can't be responsible for all of them.

The point can be made more concrete by returning to our example. We have two talented characters, in type T: workaholic A and surfer B. We also have two untalented characters in type U: workaholic C and surfer D. A is better off than B, who is better off than C, who is better off than D. What judgment about responsibility could warrant the

view that redistribution should instead make C better off than B? Perhaps the judgment that if C had been talented, C would still have chosen to be a workaholic rather than a surfer. But that merely postpones the problem. What could make it the case that if C had been more talented, she would not have chosen to be a surfer instead (say, because she perceived the futility of the rat-race), or various other things? Her hypothetical choices may not be separable from her talents. And the problem isn't just one of how we *know* which of such claims is true. It is one of what is could *be* for a particular one or the other of such claims to be true.

Let me take stock. The idea that neutralizing luck could provide a pattern for redistribution is tempting. But when we work out exactly how it could do so, we find that we would need judgments about exactly what counterfactual differences between people would *not* be matters of luck, given that actual differences *are* matters of luck. That is, we'd have to say not only that some people are not responsible for what they have actually got; we'd have to go further and specify some other possible state of affairs they should be judged to be responsible for instead. But there are reasons to doubt that our concept of responsibility provides a determinate basis for such judgments of counterfactual responsibility.

5. An objection, and why the equality-default view also depends on problematic judgments of counterfactual responsibility.

Consider the proposal that someone who makes more effort should end up with more of the relevant good than someone who makes less effort, and that those who make equal efforts

should end up with equal amounts, regardless of their types. This proposal does not escape my arguments. It does not give people what they are responsible for, but what they deserve, which is quite different (this point is developed further in section 6 below). Moreover, it does not neutralize luck, since we have no reason to assume that if luck were eliminated people would be responsible for equal amounts of the relevant good rather than unequal amounts.⁸ Thus, this proposal avoids the need for the problematic judgments of counterfactual responsibility in two ways: it shifts from responsibility to desert, and it assumes equality as a default position without any justification for doing so in terms of luck and responsibility.

It may be objected that that we should take equality as the default position. Why not simply take the monetary value of actual differences that are a matter of luck, and redistribute it equally among all persons? It may just be basic to egalitarianism and to Roemer's view in particular that *only differences that are a matter of luck* need to be eliminated. Egalitarians simply aren't worried about whether equal positions are a matter of luck. Judgments of responsibility are only needed, on this view, to justify differences, not to justify equality.

One reply to this objection is that the equality-default view simply helps itself to equality as default, without trying to show that luck and responsibility provide a basis for this default setting. So this view in effect concedes my point, that responsibility does not tell us how to distribute, does not do the work of specifying or justifying the choice of equality as the default position. It is therefore not an objection to my position.

⁸ This argument is developed further in Hurley 2001.

A second reply is that the equality-default view does not avoid the need to rely on problematic judgments of counterfactual responsibility. It says that equality need not be justified by considerations of responsibility, but insists that differences must be. But this still requires problematic judgments of counterfactual responsibility.

In our example, this proposal would have us estimate the monetary value of the differences between types T and U, take that amount away from type T and redistribute it equally among A, B, C and D. Would this avoid the need to rely on problematic judgments of counterfactual responsibility? No. As before, the effect would be to make C better off than B. Is this counterfactual difference a matter of luck? If so, we would need to eliminate it also. If not, it is acceptable. There is no point in replacing differences that are a matter of luck with different differences that would also be a matter of luck.

But how, when the actual differences between people are a matter of luck, can we identify different differences between them that would not be a matter of luck? I have claimed that in many cases there is no determinate answer to this question. If we uncritically assume that we can answer this question, the answers we come up with are likely either to be arbitrary or to reflect some unscrutinized assumptions or implicit value judgments that are really doing the work. We do better to admit that luck and responsibility cannot play this patterning role, and to scrutinize explicitly whatever is doing this work.

6. Equivocation between responsibility and deservingness.

I suggest that in many cases with the structure of our example, what prompts us to make C better off than B is indeed a tacit value judgment, such as the judgment that C's

choice to work harder than B chooses to work is the better choice, and deserves reward. We may want people to work hard; we may approve when they do, and want to reward them more the harder they try to work. Moreover, we may prefer people to choose what we regard as productive work or work we think is good for them, so that “working hard” at surfing doesn’t really count as working hard. In a different sense of “responsible”, we may regard hard workers as more responsible than slackers: they are more prudentially responsible, and hence more deserving. (I shall assume that deservingness is understood prudentially, but my arguments are unaffected if it is understood socially or ethically instead.) According to this value judgment, other things equal, workaholics are more prudentially responsible, hence deserving, than surfers: so A is more prudentially responsible than B, and C is more prudentially responsible than D.

However, this value judgment is controversial. For example, someone who advocates the right to a basic income might reject this value judgment, and regard it as socially and/or prudentially counterproductive and unjustifiably paternalistic and perfectionist (see and compare Van Parijs 1995). Moreover, the real world issue is not as simple as my toy world of surfers and workaholics. People may choose to work very hard at one job, which they regard as more worthwhile, even though they would be more talented or productive in another job. I may choose to neglect my extraordinary musical talent in order to work hard as a relatively low-paid psychiatric nurse. A controversial value judgment is needed to say which choice is more prudentially responsible, or indeed more socially responsible, and hence deserves greater reward (for discussion, see Vandenbroucke 1999, ch. 1).

Moreover, this MUST be a different sense of responsibility than the one we have been using up to now. Someone can be responsible for making prudentially (or socially) irresponsible choices. We assumed in setting up our example that A and B are equally responsible for their positions, as are C and D. A and B are responsible for different choices and hence for different levels of goods, and we regard A's choices as more prudentially responsible than B's. Nevertheless, A and B are equally responsible for their choices, since all responsibility undermining factors have been used to define the type to which they both belong. Equivocation on these two senses of responsibility leads to implicit incoherence. A cannot both be more responsible than B and in the same sense equally as responsible as B. A clear distinction is needed between what people are responsible for and what people deserve.

Roemer makes his own suggestion about how to resolve the issues we've been discussing. Unfortunately, his proposal fails to register the distinction just drawn, between claims about whether people are responsible for their positions and claims about how prudentially responsible, or deserving, people are. Let's now switch to Roemer's own example, involving the choice to smoke.

Again, we collect all the factors society judges to undermine someone's responsibility for some type of behavior. The basis for these judgments about responsibility is left open. These factors are used to collect people into types. People with one type are in the same position as one another with respect to factors that are matters of luck. Therefore, differences between people within one type are not matters of luck. Suppose that there is a range of behavior within type 1. For example, among all those smokers with a given age, gender,

ethnicity, economic class, level of education, and smoking parents, some will have smoked for 2 years and some for 20 years. Now consider a different type, type 2, identified by the same age but different gender, ethnicity, class, education, etc. Again, there will be a range of behavior within type 2. Roemer suggests types of 60-year-old white female college professors and 60-year-old black male steelworkers.

Roemer suggests that we focus on the median behavior within each type of population.⁹

...[S]ociety has already accounted for, in the definition of type, all the circumstances affecting smoking behavior which it takes to be beyond a person's control. Now let us compare two people of different types, both of whom are at the median of their respective type-distributions of years of smoking. Although it might not make sense to say they have taken the same degree of responsibility, we can say that, given their type, each has exercised a comparable degree of responsibility, by comparison to what others in his type have done. (Roemer 1993 p. ??--check, sect. 2; see also 1996, 276-279; 1998, 8-12)

Suppose the type 1 median white female college professor has smoked 8 years, while the type 2 median black steelworker has smoked 30 years. Roemer regards these two behaviors as equally accessible, because exactly half of the type 1 people smoked less than 8 years and exactly half of the type 2 people smoked less than 30 years. The median types, he claims, have exercised similar degrees of will power or effort, or have taken comparable degrees of responsibility. In this way Roemer argues for an egalitarian ethic that requires these two

people, at the medians of their respective types, to be equally indemnified by society against the ills that result from smoking. If society pays all the medical costs of the type 1 median character, it should do the same for the type 2 median character.

Roemer does not in general require that those who make more effort within a type should get more goods than those who make less. All individuals in a type face the same policy, which might allocate goods in a variety of ways to individuals, according to their effort. Equalizing opportunity in Roemer's sense means choosing the policy that equalizes outcomes across types, at each level of effort.¹⁰

In effect, Roemer is proposing to normalize a measure of deservingness by using the range of behavior within each type to measure effort. Within type 1, someone who has smoked for 2 years is presumed to make more of an effort and thus be more prudentially responsible than someone who has smoked for 20 years. As a result, it may be felt that within type 1, someone who has smoked for only 2 years deserves more medical help than someone who has smoked for 20 years. The critical point is that equal efforts across types get equal reward: for example, that someone in type 2 who has made the same effort not to smoke as the person in type 1 who has smoked 2 years gets the same level of medical help. This is to tailor social assistance to how prudentially responsible, or deserving, someone's behavior is. It is to rely on our value judgments about how prudentially responsible certain behavior is, in order to arrive at a pattern of distribution of medical resources.

⁹ He makes a different, more complex suggestion in later work (1998, 27), but the earlier proposal will do to illustrate the problem, which arises for both proposals.

¹⁰ My thanks to John Roemer for this clarification of his position.

But it is *not* to neutralize differences that are a matter of luck, or to give considerations of luck a patterning role. To do that, we would need to know not *how deserving* people are, but *what they are responsible for*: *what is not or would not be a matter of luck for them*. It is exactly this difference that Roemer's proposal fails to register. Judgments about how prudentially responsible, or deserving, someone's behavior is should be distinguished from judgments about how responsible each person is for his or her situation. Within type 1, someone who has smoked for 2 years is just as responsible for her choice to smoke for 2 years as someone who has smoked for 20 years is for her choice to smoke for 20 years, even though the choice to smoke 20 years is less prudentially (and socially) responsible and the 20-year smoker has exerted less effort not to smoke. By hypothesis, the difference between 2 years and 20 years within a type is not a matter of luck. The type is defined so as to ensure that differences within types are differences for which people are responsible; all differences for which people are not responsible are used to distinguish the types.

Roemer's proposal conflates issues about *how* prudentially responsible, hence deserving, people are with issues about *what* they are responsible *for*. Are different people equally responsible for the results of their choices? Even if they are, they can make different choices, some more prudentially (or socially) responsible than others, with different results. This distinction is blurred by Roemer's talk of "comparable responsibility". Within a given type, by hypothesis, people are equally responsible for their choices to smoke different amounts. Smoking less is in this sense no less accessible than smoking more. Perhaps it takes more

will power or effort to smoke less. But someone who smokes more is just as responsible for doing so as someone else within the same type who smokes less.

7. The paternalism of Roemer's proposal.

We may judge it better, whether prudentially, socially, or ethically, to smoke less and regard those who smoke less, other things equal, as to that extent more deserving. We may wish to redistribute in accord with this value judgment. As a result, we may wish to reward people equally who try equally hard not to smoke. But that doesn't show that someone's position after redistribution would not be a matter of luck for her. Indeed, it may be a matter of luck for her that we make this value judgment at all; she may regard it as an utterly daft value judgment that happens to produce a windfall for her.

It is not enough to say that people who expend equal effort should end up equally well off. We have also to decide: *effort at doing what?* Some people may try very hard to do just the opposite of what others try to do. Someone can try very hard to do things that we do not approve of. Jack may try hard to smoke more, in order to fit in with his peer group and because he doesn't care much about his long-term health, but be unable to because of his asthma (cf. Roemer 1998, 43-44). People make different trade-offs between various goods worth striving for, not just between one good and effort. People's own differing valuations of what they try to do are not captured by Roemer's scheme; rather, our valuation is imposed.¹¹ Although Roemer claims that "reward is due to persons according to their

¹¹ Roemer writes: "Underneath their circumstances, then, persons are not presupposed to be identical--they differ in their propensity to expend effort". He regards this as a sufficient basis for saying that individuals retain "some kind of deep individuality". (1998, 15) By

propensity to expend effort” (1998, 15; see also 104n), it is not someone’s degree of effort per se that interests Roemer, but degree of effort made toward doing *what we value* (1998, 33-34, 52, 115). Our valuations are imposed by the choice of dimension of advantage along which effort is assessed.

In Roemer’s scheme, such admittedly paternalistic value judgments about “advantage” and *which* efforts deserve reward are in effect occupying the vacuum left by the indeterminacy of the concept of responsibility as applied counterfactually. Since there is no way to answer the question of what counterfactual differences between types would not be a matter of luck (in the sense opposed to responsibility), we answer a different question instead, namely, what counterfactual differences between types would reward people in

contrast, I suggest that this is only the tip of the iceberg of individuality and of the deep differences in all-things-considered value judgements that express individuality. This difference is closely related to my worries about the paternalism of Roemer’s view, discussed in the text. Roemer’s conception of individuality takes us not very far at all away from the bare selves with their universal preferences who lurked in Roemer 1995, 1996 , discussed above in the previous chapter.

The deeply paternalistic character of Roemer’s proposal comes closer to the surface in more recent formulations, such as 1998, 22-24, 33-34, 52, 114-115, etc; see also Vandenbroucke 1999, ch. 1. This may prompt the question: why should we aim to reward people for how hard they try to do what we judge they should do, when no explicit basis for that valuation or its democratic relationship to their own values has been given? I am sympathetic to liberal perfectionism, but it requires explicit defense in relation to liberal democratic values, and care should be taken that it is not disguised by incorporation within formal structures that protect it from scrutiny. Roemer is clear that the social definition of types on his proposal is the outcome of a contentious process (1998, 8, 28ff; 1996, 277). People may disagree in their judgements about what factors people are not responsible for, and these are deep ethical disagreements. But his proposal requires not just that society somehow resolve these deep issues in order to define types, but also that society somehow determine that reward is deserved for efforts to do some things, but not others, whether or not the expenders of effort agree. As Roemer admits (1998, 52; see also 114-115), his planner is paternalistic.

accord with our valuation of their efforts and how deserving they are. People who are equally deserving because they have made equal effort *in the direction we favor* should be rewarded equally. Such tacit value judgments are really doing the work, and accordingly need explicit scrutiny. They may be controversial either on specific grounds or on general anti-perfectionist grounds.

Our answers to this different question can indeed play a patterning role. But there need be nothing especially egalitarian about our valuations of merit and the pattern which they support. For example, we might value efforts to earn more money rather than less within each type, and wish to reward high earners within each type by redistributing in their favor. We would then, following Roemer's proposal, regard the median person within each type as equally meritorious and reward them equally, but we would redistribute the value of the inter-type differences in favor of high earners rather than lower earners within each type, *increasing* the disparity between them. We should still be rewarding equally across types those who make equal efforts to earn money. But this would hardly be egalitarian in a more substantive sense; nor would it satisfy the minimal egalitarian constraint that requires that relatively more equal patterns of distribution be favored, other things equal (see also Hurley 2001). We have to start with egalitarian value judgments to ensure that an egalitarian pattern of distribution will be supported by them.

8. A diagnosis of the equivocation between responsibility and deservingness: *monotonic paternalism.*

Shifting from one to the other of the two senses of responsibility I have distinguished amounts to changing the subject. We started out to find whether judgments about responsibility in one sense could justify an egalitarian pattern of distribution. The relevant sense is the one we use when we ask whether someone is responsible for something, as a result, say, of choice, or whether instead it is a matter of luck for him. I denied that the aim to neutralize factors for which people are not responsible supports equality, or any other pattern of distribution. But Roemer's scheme is not actually in the business of showing how neutralizing factors for which people are not responsible supports any particular pattern of distribution.

It may seem to be, because of equivocation between two senses of "responsibility". Roemer uses responsibility in the first sense to divide people into types: people in a given type are similar with respect to all factors for which people are not responsible, such as their parent's education levels, their race and sex, etc. But Roemer then uses responsibility in the second sense, that of *deservingness*, allocate resources to people within types, according to the merit of their choices along some dimension. In doing so, he is appealing to our value judgments about how deserving someone's choices have been in some particular respect.¹² Roemer shows how the aim to reward effort according to deservingness can play a patterning role. He shows how under certain assumptions we can equate the degrees to

¹² Peter Vallentyne has raised the question (personal communication) whether Roemer is concerned with how morally or socially deserving someone's choices are or rather with how prudentially deserving someone's choices are. Roemer is not explicit about which he intends. I have interpreted him in terms of prudential deservingness in the text. But the points I make about monotonicity and paternalism would apply either way.

which effort is made across types, so that we can reward equally behavior that is equally deserving.

But, as I have emphasized, rewarding effort according to deservingness is not the same thing as neutralizing factors for which people are not responsible. What someone deserves is not equivalent to what he is responsible for. Some can deserve his situation even though he is not responsible for it: as a matter of serendipity an unsung hero may receive a windfall that he richly deserves. Conversely, someone can be responsible for his situation even though he does not deserve it: someone may reasonably and deliberately take a calculated risk, and lose.

Why might these two different aims be conflated? One possible explanation is that the idea of luck can be opposed to deservingness as well as to responsibility. Is the situation of the unsung hero with the windfall a matter of luck or not? Yes, in the sense opposed to responsibility, since he is not responsible for it. But not in the sense opposed to desert, since he deserves it. However, it would be fallacious to argue from the claim that the windfall is not a matter of luck in the sense that it is deserved to the claim that it is not a matter of luck in the sense that he is responsible for it.

We have been concerned with luck in the sense that is relevant to responsibility-driven accounts of distributive justice. But the question that now arises is what the relationship is of responsibility to desert. I have been assuming that desert usually presupposes responsibility, and that a causally constrained sense of responsibility is the concept that wears the trousers. But someone might disagree, and hold that the fundamental concept is desert, and moreover that what we are responsible for is simply

whatever we deserve. I think that this would leave both the concepts of responsibility and desert wide open to the kind of indeterminacy I have pointed out in accounts of responsibility that detach responsibility from causal responsibility, such as counterfactual choice accounts of responsibility.

However, even apart from this worry, notice that we cannot make do with desert as the fundamental concept in Roemer's account. Suppose A is more deserving than B because A makes more effort, but A and B are equally responsible for what they do because they are in the same type. A and B must be equally responsible in some sense of "responsible" that does not simply amount to deservingness. Roemer's scheme needs two different concepts: one to partition people into types, the other to assess people's different choices within types.

A further diagnosis of the conflation of responsibility and deservingness is this. Notice how, if the range of behavior within a type is one-dimensional in a certain sense, then this conflation becomes very natural. Suppose we make the value judgments that smoking ought to be resisted, that effort not to smoke is socially responsible, and that it is better to smoke less, within any type. Merit therefore increases monotonically as amount of smoking reduces. We wish to redistribute across types in a way that rewards people in accord with these value judgments. Roemer's proposal is that the median position within each type involves the same degree of merit. In this example it is merit in making an effort to resist smoking. But in another of his examples, concerning years of education undertaken, the one-dimensionality or monotonicity feature is also present. The assumption there is that it is

better to undertake more education rather than less. Merit increases monotonically with years of education; it is merit in making an effort to get an education.

This monotonicity feature of Roemer's examples obscures the points I have been making, and lends itself to talk of "comparable responsibility" that blurs the distinction between whether someone is responsible for something, and how deserving he is. The effects of smoking are bad: bad health. The effects of education are good: greater income. So we can assume that people are more socially responsible the more effort they make to avoid smoking and to acquire education. If we aim to reward such "socially responsible" behavior, then someone who smokes less or acquires more education, other things equal, deserves more reward, according to these value judgments. But within one type, the person who smokes less is no more responsible than the person who smokes more; he just makes a different, though better choice (see also Hurley 1995).

In sum: when such monotonic valuation is assumed, degree of reward can be correlated with degree of merit normalized within each type. And we can express this by saying that the median person within each type deserves the same reward. But this sense of desert directly reflects our value judgments and desire to reward meritorious efforts, rather than what people are responsible for.

It is not clear how Roemer's proposal would apply unless this monotonicity assumption is made (see and cf. Roemer 1996, 279ff; Vandenbroucke 1999, ch. 1). And this assumption may be justified in some cases, such as his smoking and education examples: it simply is better, other things equal, to smoke less and to get more education. But

monotonicity is not in general justified. We cannot in general presume that behavior at one end of a range within a type ought to be encouraged or resisted.

In my example, we had workaholics and surfers. It is controversial whether these are points on a spectrum along which merit increases monotonically. We might reasonably judge that both extremes are undesirable and wish to discourage them, and instead regard mid-spectrum behavior as deserving of reward. Or, more fundamentally, we may regard it, within broad limits, as none of society's business and objectionably perfectionist to make assumptions about where on this spectrum people should fall, or even whether equal effort made in one direction or the other deserves equal reward. Ditto for assumptions about whether people should work at the jobs at which they happen to be most talented or efficient or rather at those they regard as most worthwhile or satisfying. Which of such choices is more prudentially responsible or deserving is a controversial normative issue that may be reserved to private decision-making. If a public policy is needed on such an issue, the issue should get explicit exposure and democratic deliberation. We can't simply assume that efforts to be efficient are more deserving than efforts at to do something one finds satisfying. Nor can we assume that people who make the same degree of effort to be efficient rather than to do something satisfying deserve the same reward. Different people may rightly make different trade-offs between different aims and values, and accordingly make different efforts. For many dimensions of effort, it is not for society to decide which efforts are more, less, or equally deserving.

To take another example, consider the number of children people have within two different types. Suppose the median for Type 1 is one child, while the median for Type 2 is three children. In this example, monotonicity fails. In the absence of some particular population policy, we cannot assume that having more children is either to be encouraged or resisted. It is a matter of free private choice within natural constraints, and within each type people are equally responsible for the results of their different choices. They may be equally deserving as well, both prudentially and socially. More merit does not attach to having either more or less children. Some people make tremendous efforts to have more children, others to avoid having any. In the absence of monotonic valuation, the median position lacks the significance Roemer wants to give it. There is no reason to reward Type 1 persons with one child to the same degree as Type 2 persons with three children. Occupying the median within a type is mere happenstance.

At this point someone may object: but what is wrong after all with taking the basis for distribution to be deservingness rather than responsibility? Granted, the two shouldn't be confused. And granted that we must limit the dimensions along which we reward deservingness to those for which paternalism is indeed appropriate, in the light of democratic deliberation. But once we've distinguished responsibility from deservingness, and limited our concern with deservingness appropriately, perhaps it is indeed deservingness that we care here about after all. Perhaps our general aim should be to distribute in accord with deservingness, to give people not what they are responsible for, but what they deserve, whether they are responsible for it or not. More would of course need to be said about how deservingness could

be taken to be the general basis for distributive justice in a way that is nevertheless limited so as to respect anti-paternalist concerns.

This objection raises a very deep issue. I don't have an argument to offer here against the idea that we should distribute in accord with deservingness, though I find the idea deeply unattractive *as a general basis for distributive justice* (and of course others have argued against this kind of view, such as Rawls 1971). What I have done is to argue that this aim should not be confused with the aim to neutralize factors for which people are not responsible. What people deserve in the sense here invoked extends counterfactually well beyond what they are responsible for, and would in many cases be highly controversial. The idea that the basis for distributive justice is deservingness in a sense that far outstrips responsibility is either excessively paternalistic or excessively moralistic, depending on whether our judgments are of prudential or moral deservingness. Why suppose that people deserve the same thing, or indeed deserve anything in particular, just in virtue of being people? Perhaps I do deserve what I have when I am responsible for it. But when I am not responsible for what I have, why suppose I deserve anything in particular instead? Or that it is the business of a political theory of distributive justice to determine what it is?

That said, policies that reward desert along specific dimensions can result from properly democratic processes. A democracy might adopt, for example, a policy of rewarding people for choosing more education rather than less, or for choosing healthier lifestyles. Under certain circumstances, it might adopt a policy encouraging or discouraging certain numbers of children. Roemer's scheme may well have valuable practical applications and offer effective guidance in carrying out public policy, *so long as it is limited to rewarding efforts along specific dimensions that*

have been explicitly targetted in policies adopted through democratic processes. This is quite different, however, from providing a general basis for distributive justice.¹³

9. Summary.

Let's now review the basic points that have been made. People can be equally responsible for very different outcomes. Within each of Roemer's types, people are by hypothesis equally responsible for what happens to them. The types are defined so as to ensure that people are responsible for the differences within the type; all differences for which they are not responsible result from the factors used to distinguish one type from another. Within a type, a person at the median, who has smoked for eight years, is just as responsible as a person at the 80th percentile, who has smoked for fifteen years. They simply make different choices. To the extent different results flow from those choices, they are responsible for different results.

But across types, differences are partly due to luck. How, then, can we correct for differences across types that are a matter of luck, while preserving differences within types, for which people are responsible? We cannot eliminate all differences across types while respecting differences within types as due to choice. If the aim to neutralize differences that are a matter of luck can answer this question, then it can play a patterning role and tell us how to distribute.

But for it to do so, I have argued, we would need to know, when actual differences between types are a matter of luck, what counterfactual differences between types would not be a matter of luck. And this is generally indeterminate. In many cases our judgments of responsibility simply don't reach this far. Roemer's proposal doesn't in fact even try to use the

¹³ Perhaps Roemer's scheme should be conceived as part of a theory of complex equality and

aim to neutralize differences that are a matter of luck to answer this question. It doesn't try to tell us what counterfactual differences would not be a matter of luck. Rather, it tells us what counterfactual differences would reward people across types in accord with our value judgments about their efforts to behave in certain ways, so as to reward equal, and equally deserving, efforts equally. This aim, not the aim to neutralize differences that are a matter of luck, is what plays a patterning role in Roemer's scheme. So his scheme is not a counterexample to my claim that considerations of luck and responsibility cannot play a patterning role.

10. Concluding thoughts.

People are, to some degree, responsible for doing certain things, and as a result for certain goods. They are not responsible for other goods. When responsibility plays a currency role in distributive justice, it tells us what goods to redistribute. It tells us that goods are exempt from redistribution to the extent to which people are responsible for them and that distributive justice is only concerned with redistributing goods that are a matter of luck for people. This provides another view about the currency of distributive justice: along with welfare-egalitarianism and resource-egalitarianism, we have "luck-egalitarianism".

If responsibility could play a patterning role, it would have to tell us not *what*, but *how* to redistribute. I have argued that it cannot play this role, and that responsibility provides no basis for equality in particular as a pattern of distribution (see also Hurley 2001).

used to carry out specific policies within particular "spheres" of justice (see Walzer 1983).

Why have the *what* and *how* roles not before been clearly distinguished? A diagnostic answer is this. Talk of “differences that are a matter of luck” and “differences for which people are not responsible” or people being “worse off through no fault of their own” has been used uncritically, without adequately examining what it could mean. Responsibility is in the first instance a relation between people and what they do or what results from what they do, including goods. It is not clear what it means to talk about responsibility for relations between people, such as differences or sameness of their goods positions. But such talk makes it natural to run together the *what* and the *how* issues about distribution. If *what* people are responsible for, or not responsible for, is a difference or a sameness in interpersonal relations, then it seems that knowing *what* people are responsible for immediately tells us something about interpersonal patterns of distribution. That is, it seems as if *what* people are responsible for immediately tells us *how* we should redistribute.

But this immediacy is illusory. When we scrutinize talk about whether people are responsible for differences, we find that we need to substitute for differences that are supposedly a matter of luck other, counterfactual differences, but with no general basis for holding that they would not be equally a matter of luck. The imagined patterning role of responsibility falls apart in our hands.

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