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‘Really’ Equal: Opportunities and Autonomy¹

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Equality of opportunity has become the default position in contemporary liberal democracies, something to which no one could seriously object. Apart from its seeming obviousness (who would not prefer more opportunities to less, and who would say that their distribution should be unequal?), it has two especially compelling attractions for political theorists. The first is that it recognises that different things matter to different people, hence that societies cannot equalise simply by handing out identical parcels of goods or activities. It seems, that is, to solve the ‘equality of what?’ conundrum. The second is that it acknowledges people as responsible agents, accountable at least to some extent for the choices they make and the things that they do. John Roemer speaks for many when he says that ‘one, if not the, major

¹ I presented an early version of this paper at the Equality of Opportunity workshop, ECPR Joint Sessions, Granada, April 2005; and the Political Theory seminar, Government Department, LSE, May 2005, and am very grateful to the participants for their comments and suggestions. I am also grateful to Keith Dowding for detailed written comments.

accomplishment of egalitarian theory since Rawls's reinvention of the field thirty years ago, is the inclusion of considerations of responsibility', and cites the commitment to personal responsibility as the main reason for favouring equality of opportunity over equality of outcome.² In his (somewhat harsh) depiction, 'there is, in the notion of equality of opportunity, a "before" and an "after": before the competition starts, opportunities must be equalized, by social intervention if need be, but after it begins, individuals are on their own.'³

The consensus today is that this equalising of starting points involves a good deal more than well-policed laws against race or sex discrimination. Most people would regard it as somewhat dishonest to say that a poor child attending an under-resourced inner-city school has the same opportunities of advancement as a rich child attending a private school; and it has become part of the common sense (so much so that Adam Swift describes this as the conventional view⁴) that opportunities are not 'really' equal unless societies have neutralised in some way the inequitable effects of social background. For radical egalitarians, this neutralisation can become highly demanding, and equality of opportunity is refined and extended to incorporate a very large measure of social redistribution. In the process, it is often reinterpreted in ways that edge it closer to equality of outcome. There is a line of argument, for example, that accepts that individuals should take responsibility for the outcomes of their own choices – accepts, therefore, that there *are* justified inequalities - but argues that the

² John E. Roemer 'Equality of Opportunity: a Progress Report', *Social Choice and Welfare* 19/ 2 (2002), 455-472 at p. 470.

³ John E. Roemer, *Equality of Opportunity* (Harvard University Press, 1998), p. 2.

⁴ Adam Swift *Political Philosophy: A Beginners' Guide for Students and Politicians* (Cambridge, Polity Press, 2002)

vast majority of so-called choices are taken against a backdrop of unequal resources or inadequate information. This being so, the inequalities justified by individual choice will be very small indeed.⁵ Or there is an argument that takes as its starting point that equality of opportunity is a good thing, but says that if a society is *seriously* committed to equalising opportunities, it will have to incorporate at least some elements of outcome equality.⁶ Neither of these takes issue with the underlying principles of opportunity equality, but build on these to arrive at what is more commonly represented as their opposite.

I argue in this paper that this stretching of equality of opportunities lays itself open to criticism for not sufficiently recognising individual autonomy. The great attraction of opportunity equality is that it is supposed to equalise those things for which people cannot, in fairness, be held responsible, while continuing to hold them accountable for what they do (or fail to do) with their opportunities. It is meant, that is, to be sensitive to agency. The question then arises: how far can one stretch the notion before this begins to undermine the perception of people as autonomous beings? The examples I consider all question, in some way, the extent of individual accountability, and incorporate some element of outcome equality into their understanding of equal opportunity. In the process, I suggest, they come up against difficulties regarding the nature and extent of autonomy. I argue that it is difficult to expand equality of opportunity in ways that satisfactorily address the constraining effects of social circumstance, gender socialisation, cultural convictions, and so on,

⁵ This is the basic structure of Brian Barry's argument in *Why Social Justice Matters* (Cambridge, Polity Press, 2005).

⁶ This is the argument in my earlier 'Defending Equality of Outcome' *Journal of Political Philosophy* 12 (1) 2004: 1-19.

without undermining the idea of people as responsible agents. If so, then a refined understanding of equal opportunity that provides for a larger measure of social redistribution may not be coherent. Running through the paper is the thought that this may not be the best way to go. Egalitarians may have to choose more starkly between a minimal conception of equal opportunities (which will not, for good reasons, satisfy them) or dismissing equality of opportunity as an inappropriate goal. I end with some larger considerations that might make this second the better choice.

1. John Roemer and the theory of types

John Roemer's version of equality of opportunity is an obvious candidate here because it explicitly incorporates elements of outcome equality. His central claim is that opportunities are equalised when resources are distributed in such a way as to equalise outcomes among those exerting the same degree of effort: 'I think that under an equal-opportunity policy, individuals who try equally hard should end up with equal outcomes'.⁷ His starting point (shared with many, perhaps most, contemporary egalitarians) is that an adequate theory of equality has to be able to differentiate between the choices we make, for which it is only fair that we be held responsible, and the circumstances we happen to find ourselves in.⁸ Equality of opportunity means that no one should be worse off than others because of circumstances beyond her control. If I do badly through no fault of my own, I should be compensated in some way; but if I do badly through my own lack of effort, then that's fair enough. How, however, are we to determine what to attribute to choice (or more narrowly, in

⁷ Roemer, *Equality of Opportunity*, p.15

⁸ It is, that is, a version of what we have come to call 'luck-egalitarianism'. See Elizabeth Anderson, 'What is the Point of Equality?' *Ethics* 109 (1999), 87-337.

Roemer's theory, to 'autonomously taken effort') and what to circumstance? The novelty in Roemer's work is that he offers a theory of types as a way of getting at this. We can tell, mostly from after-the-event statistics on success and failure, that certain groups tend to do better than others, that parental occupation, for example, makes a difference to chances of success, as does level of educational attainment, sex, ethnicity, and so on. In assessing, therefore, how much to put down to circumstance and how much to effort, we need to compare the success rates of different types and the distribution of effort within each type. Variations *between* types can be safely attributed to circumstance; variations *within* the group will indicate what efforts we as individuals have made. The refinement that makes this particularly radical in its distributive implications is that it does not equalise on the basis of absolute effort (guaranteeing the same outcomes to everyone who puts in the same amount of work), but according to degrees of effort. If you put in a greater than average amount of effort for someone of your type, you should get the same rewards as someone who puts in a greater than average effort for her type.

In an early version, Roemer gave the example of smoking. Say we think that people who choose to smoke, against all the evidence and advice of medical experts, should pay some proportion of the costs of keeping them alive. Say we also know that the propensity to smoke is correlated with sex, 'race', and occupation, such that a white female college professor is considerably less likely to smoke than a black male steelworker. In Roemer's reading of this, the black male steelworker can be said to have had less *opportunity* not to smoke than the white female professor, and is therefore less accountable for his failure.

That a 60-year-old Black male steelworker is more likely to have smoked for thirty years than a 60-year-old White female college professor is a statistical

fact not due to the autonomous choices of individuals, but to group: this is a characteristic of the smoking distributions of the different types, not of any individuals. Thus, the distribution of years smoked within a group provides us with a way of calibrating the real opportunities of the members of a group. To take an extreme case, if all 60 year old steelworkers smoked for thirty years, I would say that the choice of “not smoking” was not accessible to 60 year old steelworkers: as a 60 year old steelworker, one would have had effectively no opportunity except to smoke for thirty years’.⁹

To put this another way, once we take the variations in social circumstance into account, we can see that the Black steelworker who smokes moderately has made as much of an effort to give up smoking as the white professor who does not smoke at all. The object of the theory is to enable us to compare like with like. If we simply said that everyone has the opportunity to give up smoking, and that those who manage it will not have to pay medical bills, this would unfairly privilege the white professor. It would not be an equal opportunity policy. If, however, we employ what we know about the distribution of smoking within each type, we can better assess what kind of ‘real’ opportunity people had to do otherwise. As Roemer puts it in a more recent essay, ‘an individual should not be disadvantaged by characteristics of her type’.¹⁰

It is this last move that is the difficult one, for while Roemer’s basic intuition is surely right (some groups have the cards stacked against them, whilst others have

⁹ John E. Roemer ‘Equality and Responsibility’ *Boston Review* Vol 20 (1995, April/May)

¹⁰ John E Roemer (2003) ‘Defending Equality of Opportunity’ *The Monist* 86(2): 261-282: 265

an easier ride), there is something distinctly odd about separating the individual in this way from her characteristics. What, one wonders, is left of the individual when we separate her out from all the circumstances that have formed her? Only, it seems, an abstracted capacity for effort, which then becomes the one thing about her that reflects her as an individual. In fact, the abstraction gets even thinner, for Roemer also wants to differentiate between the efforts we make in response to parental or cultural pressure, which he treats as an aspect of type and therefore allocates to the circumstance side, and the ‘autonomously taken efforts’ that are the only ones that can be regarded as aspects of the individual. Only these last are ‘really’ ours, hence only these are worthy of reward.¹¹ The implication, it seems, is that anything that is a more common practice within one social group than another has to be treated as a characteristic of the type, and therefore *not* a characteristic of the individual. Since pretty much everything about us can be linked in some way to some social circumstance (otherwise where did it come from?), it is hard to see what is left over as characteristics of the individual.

The individual virtually disappears, and so too does most of what we understand by responsibility. Roemer argues that ‘we can hold a person accountable for bad behavior only if it would have been reasonable for one in her circumstances to

¹¹ Roemer, *Equality of Opportunity*, p.22. He develops this in response to an objection from Brian Barry, who suggests that children of a ‘type’ that works hard because of parental pressure to succeed deserve a higher reward than children of a ‘type’ that finds academic work easy, and can therefore succeed with less effort. Roemer sees Barry as wanting to reward pain. This is not, he argues, ‘the rock-bottom view behind equality of opportunity, which is, rather, that autonomously taken effort should be rewarded’.

have behaved better – but the set of reasonable behavior depends on one’s type, and is, I have argued, justifiably taken to be the set of observed behaviors of this type’.¹² The first part sounds fair enough (though we might disagree about whether it is what’s possible or what’s reasonable that determines whether we can hold people accountable). But when reasonable is defined as what observations reveal as statistically normal for persons of a particular type, we seem to end up having to say it is ‘unreasonable’ to expect the black child, living in the inner city, in a single parent home, with many siblings (one of Roemer’s types) to work hard at school; or ‘unreasonable’ to expect a German citizen in the late 1930s to protest the Nazi treatment of the Jews. Unless the socio-biologists are making it up, it appears that stepfathers are statistically more likely than genetically related fathers to harm their children. Do we really want to say that stepfathers have less of an opportunity not to beat their children, that it is ‘unreasonable’ to expect them to behave any better, or that statistics about the propensities of their type should be employed in court to mitigate the offence? (‘The median father of my type smacks his children, so what I did makes me just a little worse than the median father of another type, who shouts at his kids.’) Roemer tries to deal with this worry by distinguishing responsibility from accountability, arguing that individuals can be held morally responsible for their behaviour, even when it is partly determined by circumstances; but should not be held accountable for it, in the sense of being expected to pay. This may help with the case of the inner city adolescent, who should not be made to suffer for a poor attendance record that is hardly her fault. But given the difficulties of identifying *any* action that

¹² Roemer *Equality of Opportunity*, p.18

is not at least partly determined by circumstance, we seem to be left with virtually no accountability at all.¹³

What emerges from Roemer's theory of types is a very radical version of equality of opportunity, designed to equalise achievements between types. In some cases, this might be done by equalising levels of achievements: spending three times as much, perhaps, on the education of poor children from the inner city, so that, *as a type*, they reach the same level of educational qualification as upper-middle class children from the suburbs. In other cases, it will be done by equalising rewards: paying, for example, the median effort member of type A the same as the median effort member of type B, regardless of the occupations they end up in, and, indeed, of the absolute amount of effort expended. To arrive at this radical position, however, Roemer has to make an implausibly sharp distinction between what is a matter of circumstances and what is a matter of autonomous choice. I have puzzled a lot over what I find unsatisfactory in his account, because it is not so different from what I argued myself in a previous essay, when I suggested that equality of opportunity implies an equality of outcome between groups, with groups defined (in ways not entirely dissimilar to Roemer's types) by their sex, 'race' and ethnicity.¹⁴ The difference lies, I think, in Roemer's deployment of the choice/circumstance distinction. He starts from the centrality of personal responsibility and takes the

¹³ Susan Hurley argues that Roemer has confused responsibility with desert:

'Roemer's proposal conflates issues about *how* prudentially responsible, hence deserving, people are with issues about *what* they are responsible *for*.' Hurley 'Roemer on Responsibility and Equality'. *Law and Philosophy* 21 (2002), 39-64, at pp 53-4.

¹⁴ Phillips 'Defending Equality of Outcome'

choice/circumstance dichotomy as the way to get at levels of responsibility. But to be as radical as his theory intends, and yet remain within that paradigm, he has to so much weight the circumstance side that hardly anything remains an autonomous choice. Within this paradigm, the only way to extricate people from disadvantages that should not, in fairness, fall on them, is to establish that they had no choice in the matter. The way to establish this is to show that their actions can be attributed to their circumstances – or in Roemer’s terminology, to the behaviour of their type. Being one of a type and being a responsible individual then become mutually exclusive, for those aspects of you that can be attributed to type are not, by definition, attributable to you as an individual. It is this mutual exclusivity that is at the heart of the problem. Roemer represents both a hard line on the choice/circumstance binary *and* a radically redistributionist version of equality of opportunity, and can only pull this off by severely reducing the role of personal choice.

2. Autonomy and gender socialisation

Roemer’s theory does not require him to establish what it is about one’s circumstances that constrains one’s opportunities: he can simply point to observed correlations without claiming to have identified the mechanisms or cause. The more common approach, among those extending opportunity equality to make it more substantial, is to identify the specific obstacles that prevent equality of opportunity and propose policies to reduce or remove them. Quality of education usually figures large among the relevant considerations; and in respect of equality between the sexes, good quality and affordable childcare. Though there is an increasing consensus on the importance of both of these, initiatives to address them typically fall a long way short. Equalising educational opportunities involves a large redistribution of resources from

the more to the less advantaged neighbourhoods; and since most political parties rely on the support of middle income, middle advantage, voters, the prospects for this seem remote. Good quality childcare is notoriously expensive. But even if the political problems could be overcome and the practical obstacles removed, there would still be a question about the way class or gender socialisation constrains our sense of what it is appropriate or possible for us to do.

What I regard as normal for people of my class, for example, might well affect how hard I work in school; and reduced ambition as regards education and employment is routinely cited to explain why women seem to do less with their opportunities than men. Women can then be said to be constrained in their employment opportunities, not just by employers who discriminate against women, or even by the lack of nurseries, but by their own conviction that mothers with young children ought to care for their children themselves. We might say it is a step too far to worry about this, and that so long as the more material constraints on choice have been removed, this is as much as society needs to establish 'real' equality of opportunity. But it is not clear that we can, in fairness, stop here, for if something about our circumstances makes us less ambitious or more willing to put up with what others might regard as failure, this seems as compelling a constraint on our opportunities as being taught in a class of thirty instead of one of fifteen. The question, for my purposes, is how far one can go in this direction without undermining the notion of people as responsible agents? Is there a danger that, in trying to address these additional 'internal' obstacles to equality, we end up discounting people's own choices, and representing them as not really responsible for their actions? Does it mean treating women who have 'chosen' to be full time carers as if they were the brainwashed victims of prevailing gender norms?

In a recent discussion of gender socialisation, Andrew Mason asks us to consider a career-sacrificing mother who is *not* constrained by the lack of good quality childcare (her partner is able and willing to look after the children while she goes to work), but who actively wants to look after the children herself and/or thinks it is right for mothers, rather than fathers, to do this.¹⁵ The decision carries the usual consequences in terms of loss of income, career prospects, pension, and so on. In the austere reading of equality of opportunity, this woman had her chances and made her choices, and cannot legitimately complain about the long-term costs. In a more sympathetic reading, we might say that she did not really know what she was doing, that she was a victim of her socialisation, and that while ‘formally’ free to continue with her career, her socialisation effectively eliminated this opportunity. But this is not an especially appealing way forward, for while it rightly challenges a minimal reading of equality of opportunity, it does so at the expense of treating the woman as a less than autonomous being. This is not the route Mason takes. On the contrary, he formulates his example in a way that is supposed to rule out this option: the woman knows full well that her desire to devote herself exclusively to raising her children is a product of gender socialisation, and yet she *still* says this is what she wants. He is clear that we should recognise this woman as an autonomous agent, able to choose between a range of options. He rejects, however, the implication that she is then responsible for the costs of her choice, for her behaviour – like that of the men around her - is being shaped by inegalitarian sexist norms.

Mason’s target is that strand in contemporary liberal egalitarianism that requires individuals to pay the costs of actions that stem unambiguously from their

¹⁵ Andrew Mason , ‘Equality, Personal Responsibility and Gender Socialisation’

Proceedings of the Aristotelian Society 100/3 (2000).

own choices. His object is to conjure up an autonomous action for which it nonetheless seems inappropriate that the actor should bear the costs. In a sense, he is doing the opposite to Roemer. Roemer starts with the presumption that we should bear the costs for autonomous actions; he does not, however, think it fair for individuals to bear the costs when it would have been unusual for anyone in their position to act any differently; and he ends up recognising very little of what we do as autonomous. Mason starts with the presumption that people are autonomous agents; he does not, however, think it equitable for women's costs as regards the care of children to be so much higher than men's; so he rejects the notion that we should bear the costs for autonomous actions. In the process, he refuses that stark opposition between being *either* the product of social circumstance *or* an autonomous choice. He does not have to represent type characteristics and individual characteristics as mutually exclusive.

It seems, then, that Mason has managed it: he has managed to extend the notion of equality of opportunity to address the constraining effects of gender socialisation without thereby undermining the notion of women as autonomous beings. But the example he employs works because it draws on intuitions about society, not just parents, having a responsibility for the costs of raising children; and about most children having two parents, hence it being unfair for only one of those to bear the costs. Given these intuitions, we may be less concerned than in other cases with whether the woman *did* choose, *was* responsible, knew what she was doing, for we may feel this is an instance where these are not the most relevant considerations. Say we changed the example to a career-sacrificing housewife, whose partner is willing to stay at home and clean the house and cook the meals, but who feels it is more fitting for a woman to do this. Here, too, choices are being shaped by

inegalitarian sexist norms, but in the absence of children, I suspect that most people will return to a more conventional understanding of opportunity, arguing that since she had the opportunities, knew the alternatives, and still chose this course of action, she cannot really complain of an inequity in the results. Mason makes a compelling case for thinking of choices as simultaneously autonomous *and* socialised (and since none of us can ever be free of socialisation, he must surely be right on this); but the example he addresses already, in my view, falls some way outside the scope of equality of opportunity. His notion of an egalitarian social ethos cuts across one of the two attractions of equality of opportunity: that it allows us to recognise that different things matter to different people, and that societies cannot therefore equalise just by handing out identical parcels of goods or activities. Mason is more definitive than this about what *ought* to matter, for he regards it as evidence of a sexist social ethos if people believe that mothers (but not fathers) have a special duty to care for young children, and women and men systematically ‘choose’ different bundles of work and childcare. It is not clear that this strong intuition about what constitutes gender equality can be contained within the notion of opportunity equality.

3. Parekh, Barry, and Miller on cultural incapacity

The issue with regards gender is that obstacles to equality can be internal as well as external. How does one address these within a discourse of opportunity without undermining women’s status as agents? Similar issues arise in relation to cultural difference. Part of the case for multicultural policies, particularly for those that have involved exempting members of cultural groups from regulations that would otherwise be binding on all citizens, is that it is harder for individuals from these groups to meet the requirements, hence that the regulations indirectly discriminate

against them. The move, in these arguments, is from an equality of opportunity we would all presumably acknowledge (that individuals should have equal opportunities to education or employment regardless of their ethnicity, religion, or culture) to a stronger version that entails a right to certain kinds of cultural accommodation. One landmark case in the UK was *Mandla v Dowell Lee* (1983), which involved a Sikh schoolboy who had been excluded from a (private) school because he would not conform to the school dress code.¹⁶ In essence, the school required boys to cut their hair short and wear caps; since it is part of Sikh tradition not to cut one's hair, and for boys and men to cover it with a turban, it was particularly difficult for a Sikh schoolboy to meet this requirement.

The case was heard under the 1976 Race Relations Act, and turned on two considerations. First, did Sikhs qualify as a racial or ethnic group? Second – and more pertinent to my concerns here – in what sense was the boy *not able* to comply with the dress code? In the wording of the Act, discrimination is deemed to have occurred if the proportion of people from one racial group who 'can comply' with a requirement or condition 'is considerably smaller than the proportion of persons not of that racial group'. As the Appeal Court judges noted, when 'can comply' is construed literally, Sikhs are as capable as anyone else of refraining from wearing turbans, and there are no grounds for claiming discrimination. But the judges were guided by a decision in *Price v Civil Service Commission* (1978), which had been heard under the similarly worded Sex Discrimination Act.¹⁷ In the Price case, the question was whether a Civil Service rule that set an age limit of twenty-eight for applicants to the executive grade of the Civil Service discriminated against women. The judges decided that it did,

¹⁶ *Mandla v Dowell Lee* [1983] 2 AC 548

¹⁷ *Price v Civil Service Commission* [1978] I All ER

because the condition ‘is in practice harder for women to comply with than it is for men’. Taking their cue from this, the judges in the *Mandla* case interpreted ‘can comply’ as ‘can in practice’ or ‘can consistently with the customs and cultural traditions of the racial group’.

Both *Price* and *Mandla* can be seen as extending the meaning of equality of opportunity to give greater weight to the circumstances that constrain choice. No one suggested that the school was selecting its pupils – or the Civil Service its recruits – on the basis of illegitimate considerations such as ethnicity or sex; so if we took equality of opportunity to mean the absence of discrimination, both institutions could claim to be acting impeccably. (There may have been elements of sexism or racism, but that was not the basis of either case.) The larger issue in *Price v Civil Service Commission* was that the norms regulating the division of responsibility for childcare mean that many women, and few men, start their careers after a period of looking after children, hence that an age barrier of twenty-eight indirectly discriminates against women. Note that whether the women in question endorsed these norms was not particularly to the point. They might have been Andrew Mason’s career sacrificing mothers; but perhaps they were committed feminists who were unable to find good quality affordable child care, or who earned less than their male partners, and knew it would be less of a loss to the household income if they were the ones to stop work to care for the children. Perhaps (this would be the worst case scenario) they desperately wanted to carry on working, but lived with men who insisted on them staying at home. The legal team did not have to delve into such matters. All they needed to establish was that a combination of well-known and well-documented circumstances made it more difficult for women than men to comply with the age regulation.

In the more complicated *Mandla* case, the question of endorsement does arise, for the school dress code would pose no problems for a Sikh who had decided to break with his cultural conventions. The constraints here were not the practical ones of a prohibitively expensive nursery or prohibitively expensive school uniform, but only came into existence because the boy – or his parents – cared about Sikh traditions. Applying the principles of equality of opportunity here seems to involve one of two kinds of argument, handily exemplified for my purposes by Bhikhu Parekh¹⁸ on the one hand and David Miller¹⁹ on the other. Parekh relies, in effect, on a notion that individuals do not have much of an option in respect of their cultural dispositions and convictions, which can then be regarded almost in the light of a ‘cultural incapacity’. An opportunity, he argues, remains ‘mute and passive’ if an individual ‘lacks the capacity, the cultural disposition or the necessary cultural knowledge to take advantage of it’.²⁰ Some cultural incapacities ‘can be overcome with relative ease by suitably reinterpreting the relevant cultural norm or practice’, but others so much constitute the individual’s sense of identity that they ‘cannot be overcome without a deep sense of moral loss’. This second kind then comes close to a ‘natural inability’. We do not, on the whole, think people have the equal opportunity to work and study if places of work and study are inaccessible to the partially sighted or those in wheelchairs. There may be no sign saying ‘disabled unwelcome here’, but most will probably agree that the opportunity remains ‘mute and passive’ unless

¹⁸ Bhikhu Parekh, *Rethinking Multiculturalism* (London and Basingstoke, Palgrave Press, 2000).

¹⁹ David Miller, ‘Liberalism, Equal Opportunities and Cultural Commitments’ in Paul Kelly (ed) *Multiculturalism Reconsidered* (Cambridge, Polity Press, 2002).

²⁰ Parekh, *Rethinking Multiculturalism*, p.241.

something is done to improve the access. Parekh represents culture as operating with analogous force, preventing individuals from taking up their supposed opportunities. Where this happens, he sees pressing reasons of equity for exempting members of particular religious or cultural groups from regulations that may be perfectly reasonable when imposed on other citizens.

The difficulty with this is that it seems to depend on denying people's capacity for autonomous choice. If we think of ourselves as choosing – or at any rate endorsing – our religious and cultural convictions, then the analogy with physical disabilities seems strained. As Brian Barry puts it in a critique of Parekh, beliefs 'are not to be conceived of as some sort of alien affliction'²¹ and 'somebody who freely embraces a religious belief that prohibits certain activities will rightly deny the imputation that this is to be seen as analogous to the unwelcome burden of a physical disability.'²² But if we do not think of ourselves as choosing or endorsing our convictions, what has happened to agency? To make the argument hold, it seems that Parekh has to represent religious and cultural beliefs as matters over which individuals have no control. It becomes, in a sense, a matter of circumstance which cultural beliefs we find ourselves with, but once we have them, we must act in accordance with them, on pain of losing a deeply cherished aspect of ourselves.²³ Extending equality of opportunity to apply to cultural dispositions and convictions then seems to depend on a contentious thesis about the power of culture over the members of a cultural group.

²¹ Brian Barry, *Culture and Equality* (Cambridge, Polity Press, 2001), p.36.

²² Barry, *Culture and Equality*, p. 37

²³ For an illuminating discussion of this, see Susan Mendus, 'Choice, Chance and Multiculturalism', in Paul Kelly (ed) *Multiculturalism Revisited*. (Cambridge, Polity Press, 2002)

There is a currently popular discourse of minority or non-Western cultures that reads individuals off their culture and attributes all thoughts and actions to their membership of a cultural group. (The cultural 'group' in such discourses is usually implausibly large: something like 'Asian', or 'Muslim', or 'Chinese'.) In this rendering of culture, it becomes an implausibly all-or-nothing phenomenon. Individuals are either 'in' a culture, whether by birth or by choice, in which case they are considered at the mercy of its prescriptions and prohibitions; or they exercise their powers of reflection and creativity, in which case they are no longer considered authentic members of the cultural group. I do not attribute this view to Parekh, but the way he represents cultural incapacity overlaps in uncomfortable ways with this (mis) understanding of culture. To link this back to Roemer's analysis, it is as if 'culture' has become one of the elements defining a type, and pretty much everything about the individuals has been swallowed up in type-characteristics.

The other way of applying the principles of equality of opportunity, represented by David Miller, is to say that the liberal state 'should respond in an even-handed way to the various aims and ambitions that people have'²⁴ and should therefore try to ensure that members of different cultural groups have roughly equivalent opportunity sets. He explicitly rejects the notion that cultural commitments should be taken as givens, exerting such force on people that we cannot reasonably talk of them as having the option to do anything else; and does not therefore focus so much on what people can or cannot do. The issue, for Miller, is what they want to do. He interprets equality of opportunity as meaning that we should all have a roughly equal chance to get what we want out of life. Engaging in any culture (understood here as one of the things we want to do, not just something we take as a given)

²⁴ Miller, 'Liberalism, Equal Opportunities and Cultural Commitments', p.54

imposes direct and indirect constraints on behaviour. In the case of religious cultures, these often take the form of prohibitions, but even when nothing is formally banned, engaging in any one cultural activity will usually restrict the time or money available to engage in others. Equality of opportunity cannot mean that the society should compensate us for these constraints, for if they are part of what engaging in a culture means, it is hardly coherent to ask for them to be nullified. But equality of opportunity should mean that the constraints are not unfairly *magnified* by the society's laws and regulations. Turning the turban (already and appropriately a restriction on the behaviour of Sikh males) into something that also restricts their choice of school is, in Miller's view, one such magnification.

This argument avoids the dangerous terrain of cultural 'incapacity', and does not require us to sacrifice notions of autonomy or responsibility. But it is vulnerable in other ways. In Miller's extension of equality of opportunity, a society 'must *provide* (my italics) a wide range of opportunities, in line with its members' aims and ambitions' and 'must try to ensure that the costs involved in taking advantage of the various opportunities are equalized'.²⁵ Brian Barry has taken issue with this second, arguing that he sees no reason why those whose ambition is to play squash (a more expensive activity that involves access to a squash court) should expect it to cost them much the same as those whose ambition is to play football (and can therefore manage with a pitch in the local park).²⁶ By extension, he sees no reason why those whose cultural aims involve extensive religious observance should expect to have the same chances of employment or income as the rest of the society. The larger point is that

²⁵ Miller: 46

²⁶ Brian Barry (2002) 'Second Thoughts – and Some First Thoughts Revived' in Paul Kelly (ed) *Multiculturalism Revisited*: 218

Miller's way of defining equality of opportunity requires societies not only to equalise opportunities, but actively to provide an appropriate range. This suggests a strongly welfarist understanding of equality, not easily understood just as an *application* or *extension* of equality of opportunity.

Towards a more radical challenge

Equality of opportunity was once understood as the conservative counter to a more radical 'equality', but has in recent years been adopted by egalitarians of all persuasions. For some, this is a largely strategic matter. They start, that is, with the relatively uncontroversial goal of opportunity equality, then demonstrate step-by-step that it is impossible to achieve even this modest objective without more radically challenging the distribution of resources and power. For others, it has been more a matter of principle, with the emphasis on opportunity ensuring that a crucial balance is maintained between regard for equality and regard for individual choice. But whether for strategic or for principled reasons, equality of opportunity is now commonly asked to bear the burden of ambitiously egalitarian projects. My argument here is that it is not sufficiently robust to carry this weight, and that it is proving hard to stretch equal opportunity sufficiently without calling into question the idea of people as responsible agents. The basic cry of opportunity equality is 'equality in those things for which we are not responsible, and difference in those for which we are', and this means that more substantive equality is almost inevitably linked to less substantive responsibility. Some refuse this dichotomy – as does Andrew Mason in his discussion of gender equality, or David Miller in his argument about cultural engagement – but their arguments then turn out to rely on additional elements, not contained within the rubric of equality of opportunity. If my analysis is correct, it may

be that the more radical versions of equal opportunity are not, after all, available. We may have to choose between an unsatisfactory minimum that fails to deliver even what is now conventionally regarded as equality of opportunity, or an approach that more decisively breaks with the opportunity paradigm.

I end with some reasons why it might make sense to engage in this more frontal critique. The first relates to intrinsic desirability. Equality of opportunity is in many ways a mean-minded understanding of equality, an equalising of starting points in a race where the majority must inevitably lose. Saying that everyone should have the same chance to succeed cannot mean that everyone will, and what, then, is supposed to happen to those who fail? One problem they face is the loss of resources; and if that loss edges them close to the minimum necessary for survival, the fact that they ‘brought it on themselves’ hardly seems enough of a justification. This difficulty is recognised by most contemporary theorists of equality, who typically combine arguments for equality of opportunity with some minimum platform below which no citizen should fall. But the problem is not merely one of material resources, for those who fail also face the loss of self-esteem. As Michael Young argued many years ago, one of the ironies about equalising opportunities is that the more equal our chances, the less of an alibi any of us has if we nonetheless fail.²⁷ Failure to achieve (bad enough in itself) then gets magnified into a loss of faith in one’s self.

The second point is that equality of opportunity represents as desirable something that cannot, in fact, be achieved. Majority opinion currently favours something more than the minimal – anti-discrimination - interpretation of equality of opportunity, and looks to a more substantive neutralising of the effects of social

²⁷ Michael Young (1958) *The Rise of the Meritocracy: an Essay on Education and Equality*. Thames and Hudson

background. Yet no government is going to introduce measures that would *genuinely* neutralise these effects. Most don't wish to, because this would involve measures like 100% inheritance tax; but also they couldn't, without in the process significantly restricting some opportunities in order to equalise others. Equalising opportunities for the next generation, for example, means depriving the current one of what they thought rightly theirs by virtue of what they did with their opportunities. It also means significant inroads into family life. As Adam Swift has argued, if societies were to neutralise *all* the effects of social background on children's access to education, they would have to ban parents from spending their money on educational trips, and even regulate the time they spend reading bedtime books to their children.²⁸ In effect, they would have to impose severe restrictions on some opportunities in order to equalise others. If the above is true, then 'real' equality of opportunity is a chimera, promising something that neither can nor - in its entirety - should be delivered. Yet its seeming ordinariness (particularly when set up in contrast to its demon other, equality of outcome) encourages us to see it as both possible and reasonably close to achievement. At this point, it starts to operate as ideological justification. Inequalities in outcome are attributed, not to the inevitable shortfall in opportunities, but to our failings as individuals, to what we have chosen or done. The good outcomes become our achievement, the bad ones our fault, and everything else (unaccountable governments, inefficient administrators, capitalism, etc) is let off the hook. When this is the effect, equality of opportunity can be plausibly considered as ideology masquerading as a norm,

²⁸ Adam Swift *How Not to Be a Hypocrite: School Choice for the Morally Perplexed Parent* Taylor & Francis, 2003

The third point is that even if it were possible to deliver substantive equality of opportunity, this would not address the differences in social valuation and economic reward that attach to different activities. Equalising opportunities means equalising the chances of doing or becoming X (say, becoming a university lecturer). But it provides no guarantee that Xs will be as well rewarded (even as ‘fairly’ rewarded) for their work as Ys. That matter is left to the accidents of history and gender and ‘race’ and the market, which in combination with a multiplicity of other factors determine the relative prices of teaching, caring for the elderly, dreaming up advertising slogans, advising on stocks and shares. Equalising opportunities also does not have a great deal to offer to those who get the opportunities, do their level best with them, but fall foul of an unexpected collapse in the demand for Xs: the ones at the top of the reserve list, who would have succeeded last year, but now must turn their hands to something else. Equalising opportunities means equalising our chances of the good things in life, but almost by definition, leaves untouched the distribution of rewards between ‘good’ and ‘bad’. To those who regard current wage differentials (including the differential between what gets a wage and what is unpaid) as intrinsically equitable, this will not be a serious objection. But as anyone who has tried to make sense of the conundrums of what counts as skilled work (and why ‘men’s work’ is so much more skilled than ‘women’s’) will recognise, there are many reasons to think that wage differentials do *not* correlate with differences of talent, or effort, or time spent in education; and that a host of other circumstances enter into the determination of wages.

Roemer’s approach to equality of opportunity does address these issues, because it makes the reward structure a function only of degrees of effort, not a reflection of histories of dominance and power. But while his version more radically challenges the current valuation of occupations and activities, it does so, I have

argued, at the expense of minimising the space for autonomous choice. Most other versions of equality of opportunity do not even venture onto this terrain. They therefore leave untouched the really big questions about inequality.