
Education, Justice and the Human Good

Fairness and equality in
the education system

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What does equality in education mean?

Stefan Gosepath

There should be no doubt, and there are a lot of data available to support this, that the school system has an enormous influence on the future lives of its students. For those of us who share a broadly egalitarian outlook, however defined, equality in education should be of primary concern if we want a better, more just society. But what exactly does equality in education mean? In this chapter I would like to suggest that we should distinguish between three levels of education based on the three (or more) purposes and levels of the school system: basic education for all; the cultivation of individual talents and capacities; and the selection for higher education and the job market. On each level, as I argue in the second part of this chapter, egalitarians should in my view demand a different kind of equality and a different kind of metric. Since for the selection for higher education and the job market equality of opportunity seems the appropriate metric of justice in education, I turn in the third part of the chapter to an analysis of four different conceptions of *equality of opportunity*. The kind of equality of opportunity it makes sense to talk about with regard to education can, as I try to explain, only be the principle of fair social equality of opportunity, which in my opinion constitutes a kind of compromise.

I. Education or the socialisation of youth as a sphere of justice

In the domain of public political justice, the goods and burdens to be distributed may be divided into various categories. Such a division is essential because reasons for unequal treatment in one area do not necessarily justify unequal treatment in another. A theory of equality should not be monistic; it should recognise the complexity of life and the plurality of criteria of justice. Thus, egalitarians can only proceed from very general comprehensive theories of justice to concrete discussions of justice in specific spheres if the spheres are correctly construed.

What then is the appropriate sphere of justice where education is concerned? Education and socialisation in general, or the school system in particular? Schooling is only one factor among many that affect an individual's later economic and social status and educational achievements. The most important factor is

likely to be the individual's family background – its size, income and wealth, the parents' social and especially educational status, their personal traits, their class, race, etc. Other factors, such as teachers' and friends' backgrounds, can also be very important. If this is indeed the case, it raises the question of whether the school system is really the proper focus for egalitarian concerns and public action. Should we not rather focus on education in a broader sense of the term, thus including the influence that factors such as family background or socialisation as a whole have on educational outcomes?

Moreover, I am convinced that people could not be educated fairly in an unjust society because their everyday experiences would always refute the intentions of the educator. As Schleiermacher (1826) pointed out, teaching is imparted not only through 'intentional education' – the deliberate, goal-directed intentions of the educator – but, also and more importantly, when it comes to values and to shaping a life, through 'functional education', that is, in and through social and personal relations. If this is true, it means that to aim at justice in the educational domain certainly demands that we broaden its scope.

Nevertheless, the scope of justice is ultimately limited. Its sphere of application is public, not private life. Where to draw this line is of course controversial. Liberals take it as a basic right that the family, or the parent, has primary responsibility for the upbringing of a child. Since the family is regarded as private, the state should regulate education within the family as little as is necessary. But since education within the family probably has the farthest-reaching effects on life prospects in almost all respects (comparable only to a person's genetic endowment), egalitarians might also think harder about how the effects of family backgrounds can be counterbalanced with respect to education without infringing on the basic rights of parents.

A society that establishes and maintains a public school system already goes some way towards providing all its members with basic knowledge and capabilities and some opportunity to develop skills that will enable them to succeed. The same can be said of a society that enforces minimum standards of child welfare. Such standards may include health care, an adequate diet, mastery of one's mother tongue and the language of one's place of residence, and the bases for adequate intellectual and emotional development. One can imagine a society that is organised even more in accordance with this spirit. Since egalitarians are of course concerned about inequality in all spheres, their policies will also aim at reducing disparities of various sorts in other spheres, such as the economy, that have massive effects on life prospects. By reducing inequality in all spheres, egalitarian policies would ideally counterbalance the influence of many of the factors relevant to a person's family background.

II. Three different levels of education

Putting this broad construal of education and socialisation to the side for the moment, I now turn to the question of what good is to be justly distributed in

the narrower domain of *school* education. My suggestion is that we should distinguish between at least three levels of school education, corresponding to three primary purposes: (A) basic education for all; (B) the cultivation of individual talents and capacities; and (C) selection for higher education and the job market. Each of these levels requires a different kind and metric of equality. Let me discuss the three levels in turn.

(A) The first and most important task of a fair school system is basic education in the broadest sense of the term, centring on basic knowledge and skills, but including the acquisition of cultural resources and even personality development as well. It is essential for a number of reasons that this kind of basic education should be mandatory and universal. (a) First of all it has a quasi-transcendental value: without at least minimal education and knowledge, we would not be able to live our own lives. It is thus to be regarded as the most important resource for coping with the challenges of everyday life. (b) Secondly, it has additional pragmatic values. Since it is a precondition of other higher ideals such as private and public autonomy, education affords an opportunity to live a *good* life. An adequate education is important since it enables individuals to enjoy the culture of their society and take part in public affairs. (c) Thirdly, it has intrinsic value: a lot of people value and appreciate education, in the sense of *Bildung*, in its own right.

Since basic education is essential in these three ways, we want all children to be adequately educated for life within their society. Education is therefore often considered a human right. Western societies grant this human right by providing universal access to school and, even more importantly, by making it mandatory up to a certain age. The kind of equality that should be demanded on this level from an egalitarian standpoint is *equality of outcome*. Its metric is basic capacities or capabilities such as literacy, numeracy, and basic knowledge of the natural sciences and humanities. The application of a metric of equality of opportunity would be off-target here. Since everybody has a right and duty to go to school up to a certain level, the idea of merit implied by the concept of equality of opportunity does not apply. Equality of opportunity is normally a component of a moral theory of justified social *inequality*. On this first level, however, access to education should vary as little as possible. Here we aim for equal outcomes: all members of society should acquire the same basic capacities.

(B) I now turn to the second level. The second task of education is the cultivation of talents. A society provides too little scope for opportunity, personal development and autonomous choice if it fails to provide for the recognition, development, and exercise of a wide range of (worthy) human talents. Society is thus obliged to offer a range of educational opportunities that give everyone the chance to develop his or her talents to at least some extent. This obligation arises firstly from the idea that in order to have real choices, one needs a broad range of desirable options to choose from. Secondly, society should also cultivate a wide

range of worthy human talents for the reason that these may turn out to be socially or economically useful. Thirdly, every person should have the right and chance to develop his or her talents and abilities in accordance with his or her ideas unless this will infringe the rights of others. In a market economy ruled by supply and demand one cannot know in advance which talents will be needed. It thus seems wise to have a broad pool of developed talents at hand in case demand shifts. Since, as far as we know, society cannot effectively plan its economy, it should not attempt to plan the cultivation of talents entirely but rather leave the development of skills partly up to the choices and motivation of individuals. This at the same time helps recognise the diversity of talents and their worth. What qualifies a person as talented or untalented (or for that matter as able or not able) is not simply a function of her natural attributes, but rather the intersection of these attributes with values and demands resulting from the organisation of society.

On this second level, justice demands that access to education and success in school should not vary according to differences in social background or other arbitrary characteristics. Education should be provided for everyone regardless of their background, and a concerted effort should be made to develop all talents. This calls for a school system that is insensitive to background and at the same time sensitive to endowment and ambition. The cultivation of talents should, according to this logic, be meritocratic and proportional to students' aptitude and readiness to learn. This will of course lead to inequalities of outcome, but these may be economically useful, if not strictly speaking necessary. If we then go on to stipulate that the development of specially valued talents works to everyone's advantage, including that of those who are worst-off, then inequalities of trained talents would be justified. These *prima facie* justifiable inequalities can create problems, however, that turn them into unjust inequalities. For if certain talents and the corresponding jobs or social roles are valuable, no doubt special advantages and rewards will be attached to them. Inequalities in trained talents will thus lead to inequalities of positions and income. And bestowing special advantages on people on the basis of unchosen endowments such as talents seems unfair from the point of view of most egalitarian conceptions of justice (I will return later to the difficulty to find a just solution to this problem).

(C) Let us finally turn to the third level of education. This third level is entirely competitive. On this level, high school can be seen as the first of many playing fields on which competition for higher learning, better jobs, higher income, and superior positions in the social hierarchy takes place. From the point of view of social justice, the opportunities which prove relevant to any consideration of justice are above all opportunities for a certain income and certain assets in the economic sphere as well as opportunities for specific positions, offices and professions in society, and for social status. I shall concentrate on the latter and ask: what metric of justice is to be applied here? I propose: Since on this third

level, as in a race, inequality of outcome is simply inevitable, it can be regarded as the proper domain of *equality of opportunity*. Why is this?

Contrary to the conception of strict equality of results, the idea of equality of opportunity for positions, offices and income does not – either normatively or descriptively – assume purely static social relations with a fixed system for the distribution of material goods. Instead, on the one hand, it takes into account social dynamics as a social fact; on the other hand, it gives voice to the normative conviction that social mobility is also *necessary* for *just* social development. It is generally regarded as unacceptable and impractical that positions and offices should be *equally* distributed in any strict sense.

It is *unacceptable* from a normative point of view, because general civil rights guarantee every person free choice of occupation, including free choice of profession. Therefore no person should be obliged *prima facie* to practice a particular occupation or to do a particular job. Basic and civil rights also entail every person's right to develop his or her own talents and abilities in accordance with his or her own ideas. If moreover we assume that individuals can be made responsible for their individual achievements, on condition that they start off with equal opportunities, then they should be entitled to the fruits of their free, autonomous occupation. According to this so called 'luck-egalitarian' principle of liberal-egalitarian responsibility,¹ it is unjust if one person is less provided for than others (in terms of her shares of resources) unless it is as a result of conditions for which she herself is responsible, i.e. her own voluntary decision or a mistake she could have avoided. In these instances of unjust inequality the persons concerned are, from an egalitarian point of view, entitled to compensation. From another perspective, this principle implies that persons *are* indeed themselves responsible for certain instances of inequality resulting from their own voluntary decisions, and – apart from minimal provision in an emergency² – they do not deserve compensation.

The strictly equal distribution of positions and offices seems furthermore *impractical* because it would undermine the efficient social organisation of division of labour, which is directed toward the goal of obtaining those candidates for socially necessary or desirable occupations who, on account of their abilities and previous achievements, are the best suited for them. Hindering this mechanism of selection for social desirable occupations would be extremely unwise from the point of view of those directly or indirectly affected by the occupation in question. Organising a society in this way would ultimately damage all members of that society; free-market production would become less efficient, and goods that are in demand would be quantitatively and qualitatively worse. This would in turn detract considerably from the quality and quantity of the total amount of distributable goods, so that the productive inefficiency would also have an indirect effect on the justice of the social set-up as a whole. In order to take into account these prudential arguments and arguments based on civil rights, the distribution of positions and offices should not be strictly equal, but only based on the principle of *equality of opportunity*.

One might argue that the rule of equality of opportunity in the sphere of education and socialisation, with its emphasis on responsible agency within a field of social competition, is preparing young people for adult life: the playing field is levelled when the influence of unchosen individual circumstances on success is counter-balanced so that the game of life is not tilted by morally arbitrary factors such as socio-economic and cultural background. When this is the case, individuals can reasonably be held responsible for the choices that determine their potential positions in the social hierarchy. This form of equality of opportunity thus seems to be a form of equality that can be accepted by everyone. However, this impression is deceptive, since different people mean different things by 'equal opportunities'. I therefore now turn to an analysis of equality of opportunity.

III. What kind of equal opportunities?

The object of any principle of equality of opportunity is not equal chance of success, but a *legitimately unequal chance* of success. It can apply to power, positions, rights, wealth, etc. Equality of opportunity is introduced in political discussion (cf. Williams 1973: 366–397) when the distribution of goods is at issue, goods which firstly are wanted by many people, secondly said to be 'deserved' or 'earned', and thirdly in short supply, so that not everyone can have them, either by nature (such as prestige) or for contingent reasons. They are available to everyone who fulfils certain conditions, but not everyone fulfils the conditions (above all personal abilities, professional qualifications and personal motivation).

When we talk about equality of opportunity in connection with education, social dynamics and in particular the potential for upward mobility, there is, however, general disagreement as to what is necessary for the realisation of equality of opportunity in practice. Thus we can distinguish at least four subforms of equality of opportunity, which gradually supplement one another, i.e. are continuations of one another: the precept of anti-discrimination, the principle of formal equality of opportunity, the principle of fair equality of opportunity, and the principle of substantive equality of opportunity (cf. Gosepath 2004). In the following paragraphs (A–D) I shall present the four subforms and discuss their respective advantages and disadvantages.³ Finally, in the last paragraph (E) I shall draw some qualifying normative conclusions on the just allocation of social positions.

(A) 'Everyone should have equal legal rights to advantageous social positions.' Equality of opportunity constitutes at the very least a *precept of anti-discrimination*. The prohibition of primary discrimination precludes favouring or discriminating against someone on the grounds of morally irrelevant criteria such as race, sex, background, looks or social and ethnic background. Differential treatment of those concerned on the grounds of these criteria is morally arbitrary. For differences in natural endowments are differences for which the people in

question are not themselves responsible, and can therefore not justify differential treatment.

According to this minimal conception, there is equality of opportunity as soon as everyone has the negative freedom to try to obtain social positions, i.e. when they are not prevented from doing so by public discriminatory rules. *Which* rules determine the subsequent allocation of positions remains however completely open – it could be decision by lot. According to common conviction, therefore, this rudimentary conception needs to be expanded.

(B) 'Careers should be open to all those who are competent and able.' This is the *principle of formal equality of opportunity*. Social positions are often allocated by means of competition, and the rules of such competitions should not necessarily allow everyone to take part; more precisely their sole criterion for allocation should be aptitude for the post which is to be filled. *Merit* alone should determine the allocation of offices and positions.

However, formal equality of opportunity is not sufficient, for it does not take into account the unequal *starting conditions* of those competing for certain social positions. For this reason, this conception also needs to be expanded.

(C) 'Careers should be open on equal starting conditions to all those who are competent and able.' This is known as the *principle of fair equality of opportunity* (cf. Rawls 1999: §14: 73–78). Competition for positions can offer formal equality of opportunity; nevertheless some people have better starting opportunities while others are prevented from even developing their talents in the first place as a result of their social environment or background. Such unequal starting opportunities in the competition for positions are recognised and accounted for by the principle of fair equality of opportunity. It is directed against the actual preferential treatment of those that are already socially and materially better off. The children of poor parents should not be prevented by school or university fees from receiving an adequate education, nor should prejudice prevent women from receiving an adequate education, especially since it is education which constitutes the crucial starting condition in the competition for higher-level positions.

Applied to the social sphere of education, fair equality of opportunity demands that society be organised in such a way that everyone has equal rights to advantageous social positions, that all careers are open to those who are capable, and that all people are guaranteed equal social starting opportunities. Next to legal structural conditions, fair equality of opportunity also demands comprehensive socio-political measures which must work towards dismantling existing forms of social disadvantage and discrimination. In addition, they must also create the material conditions necessary for all equally talented and motivated people to enjoy equal opportunities, regardless of the social inequality which exists between them. This latter point means that all people, regardless of their social background, should be able to receive education, further education and support (e.g. for disabled people) which should if necessary be made available to

them by publicly financed educational institutions. In normative terms this is all the more important as it means that the value of education and qualification ought not to be regarded from a purely economic point of view. Education makes cultural views accessible to persons and enables them to participate to an increased extent in social life, thus providing them with a secure sense of self-esteem (cf. Rawls 1999: 87). Education can enrich the personal and social life of an individual; for that reason alone it should be available to everyone.

On the whole the principle of fair equality of opportunity nowadays receives widespread recognition. However, convincing though it may be, the basic idea does not go far enough; it meets with both moral and practical difficulties.

(D) The idea of fair equality of opportunity misses out on an important respect in which human fate is influenced by factors which the person concerned cannot 'help', the effects of which are thus 'undeserved': if social circumstances are indeed not the responsibility of individuals and if the resulting inequalities are therefore unfair, then the same must in fact be true of natural talents. We can call this the conception of *substantive equality of opportunity*. If we accept that natural factors are also a morally arbitrary influence on the distribution of goods, then the popular concept of merit doesn't hold. In fact it becomes clear that what we regard as our own achievement is by no means entirely based on what is our own, but depends instead on endowments we just happen to find ourselves with.

The prevailing conception of equality of opportunity is therefore unstable (cf. Rawls 1999: 64) and deceptive (cf. Dworkin 1986: 207). It is unstable because once we have accepted that the influence of social circumstances on the distribution of social goods is unjust, we are led to reflect that natural endowments are a further example of chance which must also be precluded from influencing the social distribution of goods. In as far as the criterion of merit has forfeited its plausibility, the prevailing conception of equality of opportunity becomes untenable, too (cf. Gosepath 2004: ch. V.1.3). In addition, this conception is deceptive because it suggests the real possibility of 'equal opportunities' which, with its meritocratic criterion, it cannot really guarantee to those who are disadvantaged by nature. Fair equality of opportunity is only a form of *marginal* equality; as the following example by Bernard Williams makes clear, it allows for the continued existence of instances of inequality which effect it, but lie outside its immediate area of implementation (cf. Rae et al. 1981: 74ff.).

Suppose that in a certain society great prestige is attached to membership of a warrior class, the duties of which require great physical strength. This class has in the past been recruited from certain wealthy families only; but egalitarian reformers achieve a change in the rules, by which warriors are recruited from all sections of the society, on the results of a suitable competition. The effect of this, however, is that the wealthy families still provide virtually all the warriors, because the rest of the populace is so undernourished by reason of poverty that their physical strength is inferior to that

of the wealthy and well nourished. The reformers protest that equality of opportunity has not really been achieved; the wealthy reply that in fact it has, and that the poor now have the opportunity of becoming warriors – it is just bad luck that their characteristics are such that they do not pass the test. ‘We are not,’ they might say, ‘excluding anyone for being poor; we exclude people for being weak, and it is unfortunate that those who are poor are also weak.’ – This answer would seem to most people feeble, and even cynical.

(Williams 1973: 244f.)

The supposedly fair race of life often bears more similarity to a tournament than to an open competition, a tournament whose rule of selection is: whoever wins, wins the right to continue to the next round; whoever loses, has lost forever. This is quite simply due to the fact that fair equality of opportunity yields unequal rewards, which usually enable further, greater success in the future.

(E) In the *economic* sphere, i.e. in the sphere of the material distribution of income and assets, this analysis would yield the following conclusion: individuals need not suffer the results of social circumstances and natural endowments. The consequences should be collectively compensated and redistributed. This results in a principle of equal opportunities for a successful life (cf. Gosepath 2004: ch. V.1).

However, it is not possible to draw the same conclusion when it comes to the matter of justly organising the distribution of social positions and offices. Here it is at best possible to bring to bear the *principle of fair equality of opportunity* that I have just presented. The reason for this is as follows.

Persons differ from one another in their potential access to higher-level careers. The differences derive from various factors: natural factors (in particular aptitudes and talents), social factors (in particular the parental home and class), personal factors (motivation, ambition, readiness to work), and luck. Individuals are not responsible for any of these factors; they cannot therefore derive any justified claims from them either. Following the principle of *fair equality of opportunity*, only one of these factors is excluded, because this principle demands that a social order be established in which access to positions is regulated in such a way as to prevent social factors from determining individual success in the competition for these positions. However, with respect to the social distribution of positions, it does not seem possible to exclude the influence of these other factors *directly*. First of all, there is a difficulty in sorting out how many of an individual’s choices are actually within her control. The distinction between choice and circumstances is a tricky issue and widely regarded as such both by scientific discourse and everyday experience. Moreover, for the prudential reasons named above, it would be unwise to give positions to less talented or motivated applicants and it would have indirect results on the overall justice of the social system as a whole. The impact of good and bad luck on individual success in society cannot be directly excluded either.⁴ There is however an indirect route to more equality of opportunity. Talents and motivations even if partially innate are nevertheless

significantly socially constructed: What counts as talents and what counts as the right kind of motivation is for the most part affected and influenced by social conditions. A theory of justice therefore should try to structure social conditions in a way that the right kind of talents and motivations are reinforced. At the same time talents and motivations should no longer be treated as pure personal assets and if applicable as personal decisions. Instead talents and motivations should be seen as due to a large extent to a persons’ circumstances (cf. Meyer, this volume; Brighouse and Swift, this volume). Complete equality of opportunity is therefore not directly attainable; it is at best possible in the approximate form of *fair* equality of opportunity. Restricting the actual implementation of equality of opportunity is thus justified because attempting to eliminate all inequalities would impair the social and economic system to such an extent that – at least in the long run – opportunities for the disadvantaged would become even worse (Rawls 1999: 265).

It is, however, possible to institutionalise *compensations* for the (not directly avoidable) consequences of factors for which no one is responsible. Yet when theories of justice offer *prima facie* compensation in order to realise fair equality of opportunity, we are faced with conflicting goals and norms. On the one hand, the compensatorial measures come into moral conflict with civil rights, above all the right to the free development of one’s own personality,⁵ and on the other hand, they come into moral conflict with the prudential and functional requirements of an efficient economic and administrative system.⁶

Thus the principle of fair social equality of opportunity constitutes a *compromise* between the ideal of substantive equality of opportunity and prudential considerations of cost concerning the social order of distribution. Even if it can be seen as a compromise, it is still normatively highly demanding, and has not been realised in most societies. Everyone should indeed have comparable opportunities to realise their life plans, develop their abilities and talents and try to obtain demanding, challenging positions which correspond to their abilities and motivation. Their chances of certain positions will however differ according to their natural talents, the abilities they have cultivated, and the motivation they display. This inequality of opportunity can only be justified if the situation or the chances of the disadvantaged are improved (cf. Rawls 1999: 266f.). The inequalities can then be accepted by everyone on prudential grounds as increasing the social welfare and the fulfilment of public duties, if they are combined with an important limiting condition.⁷ Such a principle of limitation is intended to essentially regulate the unequal distribution of social capital associated with social positions and offices such as higher standing and fame, as well as the opportunity to use the social status one has already attained to climb even higher up the social ladder.

The principle of fair equality of opportunity does not however justify a *moral claim* to higher positions or offices in the sense of personal merit. The qualifications and demands can be freely set by society in accordance with its pragmatic considerations. The rights of particularly well-qualified people to these positions

cannot be violated in this way, because they do not exist as such. A person's 'right' to a position is not one of personal merit (cf. Rawls 1999: 276).

Since morally arbitrary elements play a significant part in fair equality of opportunity, and since this stands in a relationship of tension to the 'luck-egalitarian' principle of responsibility mentioned above, the form and scale of social stratification needs to be examined from the point of view of justice. Social stratification need not be based on only one or a few categories; the multiplication of socially valued qualities along which social goods and positions that are distributed could mean a certain relief of the burden of injustice which still remains, and could moreover result in a socially richer society. However, it is not only the hierarchisation which requires critical examination in every case, but also the power to define socially relevant categories and their significance. As a rule, those better off in a system are the ones who lay down what qualities are to be socially valued and where the boundaries between the social groups are to be drawn (cf. MacKinnon 1991). This monopoly of definition and interpretation must be broken if truly fair equality of opportunity is to be achieved. Just as the external regulation of the problem of which persons are to be regarded as members of which group(s) constitutes a *power* problem, so the internal regulation of which groups persons *feel* they belong to constitutes an *identity* problem. Multiple membership, borderline cases and loners seem to evade the analytical net of the current scheme of fair equality of opportunity. Every policy of equality of opportunity, even if it starts with group discrimination for heuristic reasons, must focus primarily on the support of the unjustifiably isolated individual, who should be entitled to what is his or hers. In principle, fair equality of opportunity is to be guaranteed to all individuals in all their variety in order to give everyone equal opportunities for a successful, self-determined life.

Conclusion

To sum up: in the domain of education three levels can be distinguished, each of which, as I have argued from an egalitarian standpoint in this chapter, demands a different kind of equality and a different kind of metric of justice to be applied. What this distinction suggests, finally, is a theory where these levels are vertically arranged rather than horizontally, i.e. in simple competition with each other: first, some basic education for all, second, equal access for the cultivation of talents, and third, equality of opportunity for selection to higher learning and better positions. The kind of equality of opportunity that is relevant with respect to this last level of education can, as I have tried to explain in the third part of my chapter, only be the principle of fair social equality of opportunity, which in my opinion constitutes a kind of compromise between the ideal of full substantial equality of opportunities and the practical limitations to its realisation. Thus, what I have proposed in this chapter is an account of how, i.e. in accordance with which *principles*, justice can be at least approximately achieved in the education system.

Notes

- 1 This principle is being advocated by many liberal egalitarians, cf., e.g., Arneson (1989); Cohen (1989: 922); Gosepath (2004: ch. V.1.2); Rakowski (1991). For a critique of this 'luck-egalitarianism' cf. e.g. Anderson (1999: 287–337).
- 2 The right to provision of care derives from the right to compensation for special needs Gosepath (2004: ch. V.1.5). This right accounts for Anderson's (1999: 295–299) critique according to which the liberal-egalitarian principle of distributional justice implies that people should not have a right to be helped if they are suffering from circumstances they themselves have caused.
- 3 The following analysis of equality of opportunity is obviously heavily influenced by Rawls 1999. Cf. Baker (1990: ch. 5); Roemer (1998).
- 4 For example: If the best runner has the bad luck of losing a competition due to a muscle cramp although he would have won it had he not had the cramp, this doesn't yet make him the 'real' winner.
- 5 In many societies parents enjoy a right to determine the mode of education for their own children that is widely considered as essential. If this right is socially recognised, the huge impact that parents have on the development of their children will never be levelled by, e.g., a public school system.
- 6 Also, it is difficult to tell what it really means in practice to implement fair equality of opportunities for all persons and how violations of this principle can be measured. The existence of fair equality of opportunities may only be confirmed hypothetically: in a just society the distribution of social positions among members of different social groups would roughly mirror the respective share of these groups in the whole of the population. When talents and motivation were equally distributed among these groups, then the most important social positions would have to be roughly equally distributed among them, too. From this there follows as a rule that with respect to a specific desired social position there exists fair equality of opportunities between two groups if the probability of success in competition for this position is the same for both groups (cf. O'Neill 1976). In this counterfactual situation a statistic correlation, and thus an equality or inequality of results – (in-)equality *ex post* – can be considered as indicator for (in-)equality *ex ante* among social groups. If there are such hints at a pre-existing inequality of opportunities and the social patterns of education, stratification and selection are implying structural discrimination, then a positive discrimination of the otherwise negatively discriminated may be justified.
- 7 I vindicate such a *principle of limitation of socio-economic inequalities* in Gosepath (2004: ch. V.1.6).

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Fair equality of opportunity and educational justice

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The current debate on educational justice primarily focuses on the status and role of comparative considerations within a just distribution of educational benefits. The educational egalitarians Harry Brighouse and Adam Swift think that an unequal distribution of education is unjust because it leads to an unfair competition for social advantages. This is why their pluralistic account of educational justice contains an equal opportunity principle called the 'meritocratic conception of educational equality' (Brighouse and Swift 2008 and this volume).¹ In contrast to this, advocates of an adequacy or sufficiency approach argue for providing a minimum level of education for all and do not consider educational inequalities above this level as problematic. Recently, however, Debra Satz (2007 and this volume) reshaped the idea of an adequate education with a comparative aspect by integrating Rawls's principle of fair equality of opportunity into her conception of an educational threshold. Besides her concern for the absolute position of the worst off members of society, the move towards equality of opportunity is motivated by the issue of social inequality.

Thereby, the idea of equality of opportunity marks an unexpected point of intersection between these two competing approaches to educational justice. Moreover, the overlapping formula appears to indicate some substantial agreement. In particular, by putting their money on the equal opportunity horse both approaches are aiming at a remedy of social inequality and, correspondingly, are considering equality of opportunity as a genuinely egalitarian idea.² Additionally, both explicitly refer to Rawls's principle of fair equality of opportunity. Thus, this latest chapter of the recent debate about educational justice provides the perfect occasion to face a complex of interrelated questions on opportunities and education: What does educational justice have to do with equality of opportunity? What follows from accepting fair equality of opportunity for the question of how educational goods and benefits should be distributed? In which currency is the good of education to be distributed: as educational *resources*, educational *opportunities*, or educational *attainment*? And in particular, can Rawls's principle of fair equality of opportunity properly motivate to focus on educational opportunities and thereby support the corresponding ideal of *equal*