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Clashing intuitions about free will and justice: Comments on Carolina Sartorio's *Causation and Free Will* *

Guido Pincione

1. Carolina Sartorio's *Causation and Free Will*¹ is a major contribution to the literature on free will and moral responsibility. She persuasively argues that the intuitions commonly adduced to test standard views on those topics can best be accommodated by her novel account of free will, which she calls "ACS," meaning *actual causal sequence*. ACS holds that free will (or freedom, in the sense in which metaphysicians use this word) consists in a certain type of actual causal sequence. I will suggest, however, that our intuitions about cases belonging to seemingly far-field domains, domains that are usually deemed to be irrelevant to testing the intuitive force of positions in the free-will debate, render Sartorio's position less attractive than it otherwise looks.

Outside professional philosophy, many educated persons seem to believe that the fact that freedom is "inherent" or "essential" to human beings justifies rights to a variety of political or economic freedoms² (such as freedom of expression and contractual freedom), constitutional limits on governmental powers, and more generally practices or institutions that promote or respect individual freedom, as this is ordinarily understood in our political culture. This line of argument seems to commit the fallacy of concluding that certain political freedoms ought to be promoted or respected from premises asserting the existence of free will. Two considerations seem to support this charge of fallacy. First, the freedom that matters to metaphysicians, and is certainly the focus of *Causation and Free Will*, is a (n actual or possible) fact about human agency, and factual propositions, *by themselves*, cannot possibly justify actions, practices, or institutions, including actions, practices, or institutions that promote or respect political freedoms. Or so many followers of David Hume have thought.³ And second, arguing that metaphysical freedom is valuable, and so freedom, now in any of its political meanings, ought

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¹ Carolina Sartorio, *Causation and Free Will* (Oxford: Oxford University Press, 2016).

² For convenience, I will henceforth use the term "political" and cognate terms to characterize freedoms or theories commonly regarded as political, economic, or concerning distributive justice.

³ Hume's famous passage is in his *Treatise of Human Nature* (1739), Book III, Part 1, Section 1.

to be promoted or respected, seems to rest on an equivocation, because the premise uses the term “freedom” in a sense that differs from the one it has in the conclusion.

In this comment, I will call into question this alleged logical gap between ostensibly metaphysical statements about freedom and statements about political freedom, and in doing so it will become clear that Sartorio’s defense of ACS is less intuitively appealing than she claims. Unless otherwise indicated, I will use interchangeably the terms “freedom,” “free will,” and cognate terms. The term “freedom” will then have the metaphysical meaning that it has throughout Sartorio’s book. “The main question that interests me,” she writes, “. . . is the question about *the grounds of freedom*, where freedom is understood as the metaphysical component of responsibility,”⁴ as something different from the epistemic components, such as some awareness of what we do.

2. I now want to dwell on a political theory—more specifically, a theory of distributive justice—that casts doubt on the thesis that there is a logical gap between statements about metaphysical freedom and statements about political liberty. The theory in question holds that the burdens or benefits of social life ought to be sensitive to free choices alone. This theory is known as “luck egalitarianism.”⁵ As all egalitarians, luck egalitarians advocate equality, however much they disagree over which is the thing that ought to be distributed equally. For example, some luck egalitarians believe that a just society equalizes resources, whereas others believe that it equalizes welfare. But common to all luck egalitarians is the view that the only justified inequalities are those that resulted from free choices—for example, the choice whether to work hard or not. They don’t see this as a compromise between equality and other desiderata, for they treat leisure time as a good that counts in the metric of equality. The flip side of luck egalitarians’ endorsement of choice as a source of justified inequalities is their rejection of inequalities that resulted from unchosen circumstances, i.e. factors beyond an individual’s control, such as her intelligence, her sex, her race, or her parents’ wealth. Institutions ought to neutralize the impact of what Ronald Dworkin calls “brute luck,” i.e. unforeseeable gains or losses that, like going blind due to a new type of virus, were not the result of deliberate gambles. Luck egalitarians contrast brute luck with the “option luck” that we have, say, in a casino or in typical insurance markets, i.e. settings in which gains and losses result from deliberate gambles.⁶ They argue that institutions should not reduce the inequalities that resulted from option luck. Luck egalitarians maintain, then, that just institutions (i) uphold distributions that

⁴ *Causation and Free Will*, p. 8.

⁵ Elizabeth Anderson introduced this term in “What Is the Point of Equality?,” *Ethics* 109 (1999), pp. 287-337, at 289.

⁶ See Ronald Dworkin, “What is Equality? Part 2: Equality of Resources,” *Philosophy and Public Affairs* 10, No. 4, 1981, pp. 283-345, at 293. Dworkin is a major exponent of form of luck egalitarianism that seeks to equalize resources.

resulted from individuals' choices and (ii) neutralize the distributive impact of circumstances beyond individuals' control.

The centrality of freedom to luck egalitarianism suggests that the logical gap between metaphysical theories of freedom and freedom-centered political theories is less wide than implied by the charges of fallacy expounded in the previous section. Here is how the logical connections between the metaphysical theories of freedom and the freedom-centered political theories can be defended:

a. Only free actions can generate moral responsibility, that is, the condition that makes those actions proper objects of praise or blame. (Let us call this *the abstract claim about moral responsibility*.)

b. Judgments of distributive justice—judgments about who ought to control what— express praise or blame for certain actions.

c. Luck egalitarianism holds that a distribution of basic goods (for example, resources or welfare) is just if and only if it is sensitive to individuals' free choices and insensitive to factors beyond their control.

Therefore,

d. Luck egalitarianism specifies the abstract claim about moral responsibility.

(a) is an intuitively true statement. We saw at the end of section 1 that Sartorio accepts it. It is natural to think that freedom is a prerequisite of moral responsibility. Ascriptions of moral responsibility are in turn presupposed by various types of evaluative behavior. Verbal expressions of approval or disapproval, demands that rewards or punishments be administered,⁷ and allocations of burdens or benefits on the basis of certain actions performed by the individuals affected by those allocations (as in desert-based theories of distributive justice, yet not only in them) are appropriate just in case the individuals to whom they apply are morally responsible for certain actions. Those evaluations presuppose, then, that the actions to which they apply were free. (c) just expounds the chief claim of luck egalitarianism. (b) may appear to be more controversial, since much talk of distributive justice is not, on the face of it, about individuals but rather about institutions, distributions, or other entities that may seem to be inappropriate objects of praise or blame when viewed independently of the individuals who are governed by, or have roles in, them. Now for present purposes, I do not need to explicate the nature of those entities, or whether they can be fully analyzed by reference to individuals or their actions. I just need to note that at least some judgments about the justice of those entities—e.g., judgment that the current distribution of income in the US is unjust—express evaluations

⁷ The rewards and penalties that I have in mind may vary greatly, from the prestige or disgrace that come from informal compliments or rebukes to the formal prizes or punishments imposed by various organizations, including states.

of the sort listed above in this paragraph—for instance, they deem certain individuals’ hard work meritorious enough to earn them moral titles to a higher payment. By the same token, when we say that just distributions are those that “reward” or “penalize” certain types of behavior, we are suggesting that our judgments about distributive justice presuppose ascriptions of moral responsibility.⁸

Consider, by way of example, a Lockean theory of distributive justice, according to which the individual who “mixed his labor” with an unowned thing (e.g., by turning virgin land into agricultural fields) acquires moral property rights on it.⁹ There is a natural sense in which the Lockean theory *values* labor on unowned resources, and for that reason it *rewards* the laborer by bestowing on her moral property rights on those resources. Such evaluations presuppose, as we saw, that the relevant actions were free. What is unique about luck egalitarianism is its claim that distributions should be sensitive to freedom only. Unlike other theories of justice, luck egalitarianism, as we saw earlier in this section, makes no room for brute luck. In contrast, in Locke’s theory, differences in physical abilities, which are a matter of brute luck, are allowed to determine how much individuals can originally appropriate external resources, since such differences affect how much they can work. The upshot is that luck egalitarianism specifies, in the domain of distributive justice, the abstract claim about moral responsibility—it rewards or penalizes free actions only.¹⁰

3. As I indicated at the outset, ACS holds that freedom consists in a certain type of actual causal sequence. Sartorio lists “four highlights of ACS:

(1) Actual sequences are causal histories. Freedom is a function of actual sequences in the sense that what grounds freedom is the fact that certain events are causally linked in certain ways (and not, in particular, the mere fact that those events obtain). . . .

(2) The idea that freedom is exclusively a function of actual sequences entails a supervenience claim: freedom supervenes on actual causal histories. . . .

⁸ For an example of the use of the language of reward and penalty in the discussion of theories of distributive justice, see Will Kymlicka’s critical survey of those theories in *Contemporary Political Philosophy: An Introduction*, second edition (Oxford: Clarendon Press, 2001).

⁹ John Locke, *Second Treatise on Government* (1690), ch. 5, section 27.

¹⁰ It is not my purpose to take sides on the validity of the Humean thesis that we cannot possibly derive *ought* from *is*. My analysis suggests that the abstract claim about moral responsibility is normative in character, since what I called its “specifications” in the domain of distributive justice are clearly normative. In that event, there would not be here a derivation of ought-statements from is-statements, since the abstract claim about moral responsibility would not be factual/metaphysical in a sense that rules out its normativity. Be that as it may, my argument only needs that some form of luck egalitarianism be derivable from the abstract thesis about moral responsibility, regardless of whether any such derivation violates the Humean prohibition against deriving an ought-statement from an is-statement.



(3) Responsibility for outcomes is cashed out simply as a form of derivative responsibility, one that results from our being responsible for some of the outcomes' causes, and the fact that certain epistemic conditions are satisfied.

(4) Basically free action, in turn, is accounted for in terms of actual causal sensitivity to reasons. . . . I draw attention to the neglected but important role that absence causation plays in actual-sequence views, and on that basis I offer a reasons-sensitivity account that highlights the work done by certain absences of reasons."¹¹

Much of Sartorio's book is devoted to explicating and defending those four claims. However, there are major objections to which luck egalitarianism, and derivatively ACS, seem vulnerable. This is the topic of the next section.

4. Samuel Scheffler notes that it is sometimes intuitively wrong to refrain to help victims of their own unwise, yet free, behavior. "The fact that [Paul's] urgent medical needs can be traced to his own negligence or foolishness or high-risk behavior is not normally seen as making it legitimate to deny him the care he needs. Still less do people automatically forfeit any claim to assistance if it turns out that their urgent needs are the result of prudent or well-considered choices that simply turned out badly."¹²

The advocate of ACS might say that the wrongness of a surgeon's refusal to operate Paul (or of the legal system, or legislators, for permitting that omission¹³) is consistent with the wrongness of Paul's imprudence—or, say, his taking unfair advantage of the Good Samaritan's duties imposed by conventional morality, or by the legal system, on surgeons.¹⁴ Both Paul and the surgeon behaved freely, and as a result they can be held morally responsible for violating distinct moral rules. (Henceforth, I will ignore for simplicity's sake the case in which the agent has bad option luck, mentioned at the end of the quotation from Scheffler in the previous paragraph.) Of course, the logical consistency between the condemnations of their respective misbehaviors is independent of how defensible those condemnations are. An ethic of helping

¹¹ *Causation and Free Will*, pp. 4-5.

¹² Samuel Scheffler, "What Is Egalitarianism?", *Philosophy and Public Affairs*, Vol. 31, No. 1, 2003, pp. 5-39, at pp. 18-19.

¹³ The parenthetical clause is intended to stress that Scheffler's objection to luck egalitarianism does not turn on any particular view of who is morally required to help Paul. For example, a surgeon may be (morally or legally) exempted from any duty to operate Paul in time because she is under a contractual duty to prioritize victims of brute luck. But this exemption may in turn provide other doctors with moral reasons to operate Paul, or at least to look after him as circumstances allow. It may also be the case that the exemption provides legislators with moral reasons to impose on other doctors a legal duty to operate Paul. I imagine in the text that the ACS advocate says that the duty to look after Paul, *whoever the duty-bearer is*, is consistent with Paul's misbehavior.

¹⁴ For present purposes, it does not matter whether those duties fall on surgeons, on the taxpayers forced to finance those operations, and/or on other individuals. The objection to luck egalitarianism just turns on the existence of such duties, whoever the duty bearers are. For simplicity's sake, I will henceforth refer only to the surgeon's duty to operate.

evildoers in trouble, or turning the other cheek, may or may not be defensible, but it is not inconsistent.

This line of reasoning may be taken to immunize ACS against Scheffler's counterexamples to luck egalitarianism. Luck egalitarianism requires that Paul's burdens and benefits reflect his choices. He takes full responsibility for his practice of hazardous sports, his careless driving, or any other behavior that brought him to the hospital, and so no one is morally required to help him *as a matter of justice*. Now it might be contended that our intuition that the surgeon ought to operate Paul is grounded on considerations unrelated to justice—for instance, what G. A. Cohen calls the “principle of community,” which requires us to provide basic help even to those who freely chose to put themselves in a position in which they need that help.¹⁵ Luck egalitarianism would not be, then, vulnerable to the objection suggested by the surgeon example: it would accommodate everything we want to say about distributive justice understood as independent of the principle of community.¹⁶ In this picture, ACS lays down the conditions for meaningfully praising or blaming agents—for holding them morally responsible—leaving it open the question what they can be praiseworthy or blameworthy for, a question that refers us to moral rules and principles. This latter question would pertain to first-order, substantive moral theory, whereas the theory of freedom and moral responsibility would be about the abstract claim about moral responsibility, a claim that would remain neutral on those substantive issues. Both our justice-based judgments and our community-based judgments would have to meet the conditions set by that abstract idea. Thus, the surgeon's refusal to operate Paul would be reprehensible because it causes¹⁷ Paul's death, thereby (assuming that both the reasons-sensitivity condition and the epistemic condition for moral responsibility established by ACS were met) violating the principle of community.¹⁸ Paul's negligence, foolishness, or high-risk behavior would in turn be reprehensible for causing, again in a reasons-sensitive way, outcomes that are prohibited by other moral rules, such as—as I suggested—the moral rules that prohibit people from taking unfair advantage of Good Samaritans. The suggested upshot is that

¹⁵ G. A. Cohen, *Why Not Socialism?* (Princeton: Princeton University Press, 2009), pp. 36-38.

¹⁶ Cohen hesitates about whether the principle of community helps define justice together with the luck egalitarian principle, or rather contradicts justice, which would be exhaustively defined by the luck egalitarian principle. He points out that taking a stance on this question is immaterial to the normative message that he wants to convey. See *Why Not Socialism?* p. 37. This question is also immaterial for our purposes, but for expository convenience I stipulate that justice is exhaustively defined by the luck egalitarian principle, and that justice-based considerations are a proper subset of all moral considerations. (A terminological note: in *Why Not Socialism?* Cohen does not use the term “luck egalitarianism” but rather “socialist equality of opportunity” to refer largely, and perhaps exactly, to what others, and I in this paper, call “luck egalitarianism.” As he puts it, “[w]hen socialist equality of opportunity prevails, differences of outcome reflect nothing but difference of taste and choice, not differences in natural and social capacities and powers.” (P. 18.))

¹⁷ See *Causation and Free Will*, ch. 4.

¹⁸ Depending on the details of the situation, this responsibility may fall on, for instance, the legal system or legislators. See note 10 and accompanying text. Let me also note that I assume that omissions can be causes in the sense required by ACS. Sartorio offers a qualified defense of the view that there might be “responsibility for and by omissions” on pp. 46-50 of *Causation and Free Will*.

Scheffler's counterexamples to luck egalitarianism do not prevent ACS from accommodating all the ascriptions of freedom and moral responsibility that we want to make.

5. It is odd, however, that the abstract claim about moral responsibility should be reflected only in the domain of justice, since it is in tension with community duties or Good Samaritan duties, which, as we saw, exist independently of how wise or fair the beneficiary of their fulfillment was. What I have in mind is this. In the surgeon example, Paul is causally responsible for his medical condition, and, as we also saw, ACS holds that this causal responsibility grounds his moral responsibility. Now, I said in the previous section that a substantive moral theory is needed to specify what Paul can be held responsible for. That theory may say, for instance, that he is responsible for his foolishness, or it may say that he is responsible for taking unfair advantage of doctors' Good Samaritan duties. If Cohen is right, the theory in question includes the luck egalitarian principle *qualified by*, or *balanced with*, the communitarian principle.¹⁹ Yet, if one embraces ACS, any such qualification or balancing looks mysterious. For if, as I have been suggesting, luck egalitarianism requires that the burdens and benefits of social life specify an abstract principle of responsibility based on freedom, it seems arbitrarily ad hoc to bring in communitarian or Good-Samaritan considerations to accommodate distributive intuitions that would remain otherwise unexplained. As a general theory of responsibility based on freedom, ACS tells us when the moral approval, praise, or critique of an action are appropriate, and, as we saw in section 2, the theory of distributive justice concerns a specific form that those moral evaluations take on, to wit, the judgments about the distribution of burdens and benefits of social life.

The upshot of all this is that while luck egalitarianism looks attractive because it constitutes a justice-specific rendering of the abstract claim about moral responsibility, it contravenes communitarian or Good-Samaritan principles that mandate distributions that are not entirely sensitive to free choices. These principles are supported by the intuitive force of Scheffler's counterexamples to luck egalitarianism, and this intuitive force must be weighed against the intuitive force of the Frankfurt-style scenarios that led Sartorio to embrace ACS. Those are scenarios in which *A* freely kills *B* even though, due to a chip implanted by a neuroscientist in *A*'s brain without *A* knowing this, the neuroscientist would have caused *A* to kill *B* had *A* decided not to do so.²⁰ ACS allows us to say two things that we certainly want to say, namely, that *A* causes *B*'s death, and that, consequently, *A* freely kills *B*. As Sartorio explains, this causal sequence grounds the judgment that *A* is morally responsible for killing *B*.

¹⁹ See note 12 for some remarks on Cohen's position on these matters.

²⁰ See Harry Frankfurt, "Alternate Possibilities and Moral Responsibility," *Journal of Philosophy* 66 (1969), pp. 829–39. I follow closely Sartorio's formulation of the neuroscientist example in *Causation and Free Will*, p. 13.

6. The ACS theorist faces, then, a dilemma. If, as I pointed out in section 2, moral judgments not only are expressions of approval or disapproval, but also express, explicitly or implicitly, demands that certain actions be rewarded or punished or that the burdens and benefits from social cooperation meet certain criteria, then ACS is committed to some version of luck egalitarianism. (Recall that ACS states some of the necessary conditions for the freedom presupposed by moral judgment, a freedom to which, according to luck egalitarians, distributions of basic goods ought to be sensitive.) But then, ACS is vulnerable to the communitarian and Good-Samaritan objections that I presented above.

If, instead, moral judgments are expressions of approval or disapproval that do not entail demands of rewards, punishments, or allocations of burdens or benefits, then ACS avoids any commitment to luck egalitarianism, but it remains mysterious why freedom is so essential to moral responsibility as the abstract claim about moral responsibility (which, as we saw, ACS endorses) asserts, whereas it is irrelevant for the justification of the benefits correlated with the communitarian and Good-Samaritan duties that we discussed. One would have expected that the abstract claim about moral responsibility, being presumably more fundamental than the principles that govern such benefits, would not cohere well with those principles because they are insensitive to freedom. The surgeon example illustrates this mystery: even though Paul, the poor patient, freely took the risk of dying unless a surgeon operated him, many of us believe that a surgeon (the one imagined in the example or another one, according to how we fill out the details of the case) is morally required to operate him.

7. This dilemma leaves us with a puzzle. On the one hand, Sartorio persuasively argues that ACS provides the best account of our intuitions in Frankfurt-style scenarios. On the other hand, we are sometimes morally required to benefit people who freely assumed risks (under the account of freedom that ACS proposes). Although, as I pointed out in section 4, these two claims do not contradict each other, it is odd that freedom should (a) figure prominently in the abstract claim about moral responsibility, (b) play, as a result, a key role in the justification of many burdens and benefits of social life (as shown by the harmony between many of our moral intuitions and some version of luck egalitarianism), and still (c) be no reason for refusing to give basic aid to unwise or unfair individuals.

Moral philosophers disagree over the existence or weight of duties of community or Good Samaritanism, as well as over the kinds of situations in which those duties arise, but the present puzzle does not turn on any particular on these matters. It only assumes that we are morally required to give *some* aid to individuals who need that aid as a result of their free assumption of a *significant* risk of *serious* harm. Notice, also, that the puzzle cannot be eliminated by pointing out that freedom comes in degrees. The force of the intuition that we ought to help *A* in the kinds of situations that Scheffler imagines does not turn, for instance, on *how much A's*

sensitivity to reasons, and hence her freedom, were reduced by factors beyond A's control. Even if A's actions were sufficiently free to deprive A from any claim to aid based on luck egalitarianism, we feel morally compelled to help A.

The present puzzle invites us to think about the scope of the reflective equilibrium that a theory of freedom and moral responsibility should seek. The harmony that Sartorio, and more generally the causal-sequence theorists, achieve between their accounts of freedom and our intuitions about Frankfurt-style cases leaves out of the picture our intuition that sometimes we ought to help those who assumed risks freely. This latter intuition is relevant in the present context because, as we saw in section 2, our judgments about distributive justice specify the abstract claim about moral responsibility. It seems reasonable to place on the causal-sequence theorists the burden of proving that this intuition is illusory, weak, or in any other way insufficient or irrelevant to undermine their accounts.

Scheffler considers a strategy to meet that burden of proof, only to reject it. He imagines a version of luck egalitarianism aimed at explaining away the type of counterexamples illustrated by the case of the surgeon. It is a version that appeals to metaphysical claims—in particular, to a libertarian, as opposed to determinist, metaphysics. “[L]ibertarianism may appear to promise a basis in metaphysics for a dichotomy [like the one postulated by luck egalitarianism between choices and unchosen circumstances] that would otherwise seem so stark as to be morally untenable.”²¹ Scheffler points out that luck egalitarianism “bears a superficial similarity to the . . . claim that it is inappropriate to blame people, or to judge them morally responsible, for things that are beyond their control.” And he motivates this claim by distinguishing (what I called) the abstract claim about moral responsibility from first-order normative claims.²² I challenged this distinction in section 2. Very summarily put, I argued that judgments about justice express praise or blame for certain types of behavior. Since luck egalitarianism makes such praise and blame conditional on freedom, it can be seen as specifying the abstract claim about moral responsibility. In this picture, the “similarity” that Scheffler identifies between luck egalitarianism and the abstract claim about moral responsibility is not, then, “superficial.” The upshot is that a libertarian metaphysics can after all be wielded to debunk the apparent counterexamples to luck egalitarianism. In this way, the above burden of proof would be met. Notice, though, that a libertarian metaphysics would be in tension with Sartorio's actual-sequence compatibilism,²³ which, as we saw, maintains that free will ultimately consists in causal sequences.

²¹ “What Is Egalitarianism?” p. 19.

²² “What Is Egalitarianism?” pp. 18-19 and note 65, pp. 32-33.

²³ Chapter 5 of *Causation and Free Will* responds to standard objections to actual-sequence compatibilism.

I am not sure which of those two strategies—the one that accommodates our intuitions about Frankfurt-style scenarios by embracing ACS and so becoming vulnerable to Scheffler-style counterexamples to luck egalitarianism, and the one that explains away our intuitions about Scheffler-style counterexamples to luck egalitarianism by embracing metaphysical libertarianism and so raising tensions with ACS—leads to a more defensible reflective equilibrium. I just wanted to highlight the limits of Sartorio’s appeal to intuition. She does an excellent job of articulating a compatibilist, actual-sequence view of freedom that captures both our intuitions about Frankfurt-style scenarios and our intuitions about the kinds of cases considered in the debates between compatibilists and incompatibilists.²⁴ But we also have intuitions about the normative significance of free will. We saw that luck egalitarianism accommodates some of those intuitions, yet we also saw that it arguably specifies Sartorio’s views in a way that renders them vulnerable to the intuitions that motivate Scheffler’s rejection of it. If we aspire to capture both these latter intuitions and those captured by ACS, we need a unified theory of freedom. That is, we need to explain *why* ACS accommodates the intuitions that led Sartorio to embrace it, and what work, if any, libertarianism plays in that explanation.²⁵

²⁴ See previous note.

²⁵ Thanks to Carolina Sartorio for suggesting me to clarify an earlier version of this paragraph.