

# Equality of Capacity

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### WHY EQUALITY? WHAT EQUALITY?

Two central issues for ethical analysis of equality are: (1) Why equality? (2) Equality of what? The two questions are distinct but thoroughly interdependent. We cannot begin to defend or criticize equality without knowing what on earth we are talking about, i.e. equality of what features (e.g., incomes, wealths, opportunities, achievements, freedoms, rights)? We cannot possibly answer the first question without addressing the second. That seems obvious enough.

But if we do answer question (2), do we still need to address question (1)? If we have successfully argued in favor of equality of x (whatever that x is—some outcome, some right, some freedom, some respect, or some something else), then we have already argued for equality in that form, with x as the standard of comparison. Similarly, if we have rebutted the claim to equality of x, then we have already argued against equality in that form, with x as the standard of comparison. There is, in this view, no "further," no "deeper," question to be answered about why—or why not—"equality." Question (1), in this analysis, looks very much like the poor man's question (2).

There is some sense in seeing the matter in this way, but there is also a more interesting substantive issue here. It relates to the fact that every normative theory of social arrangement that has at all stood the test of time seems to demand equality of something—something that is regarded as particularly important in that theory. The theories involved are diverse and frequently at war with each other, but they still seem to have that common feature. In the contemporary disputes in political philosophy, equality does, of course, figure prominently in the contributions of John Rawls (equal liberty and equality in the distribution of "primary goods"), Ronald Dworkin ("treatment as equals," "equality of resources"), Thomas Nagel ("economic equality"), Thomas Scanlon ("equality"), and others generally associated with a "pro equality" view. But equality in some space seems to be demanded even by those who are typically seen as having disputed the "case for equality" or for "distributive justice." For example, Robert Nozick may not demand equality of utility or equality of holdings of primary goods, but he does demand equality of libertarian rights—no one has any more right to liberty than anyone else. James Buchanan builds equal legal and political treatment—indeed a great deal more—into his view of a good society. In each theory, equality is sought in some space—a space that is seen as having a central role in that theory.

But what about utilitarianism? Surely, utilitarians do not, in general, want the equality of the total utilities enjoyed by different people. The utilitarian formula requires the maximization of the sum-total of the utilities of all people taken together, and that is, in an obvious sense, not particularly egalitarian. In fact, the equality that utilitarianism seeks takes the form of equal treatment of human beings in the space of gains and losses of utilities. There is an insistence on equal weights on everyone's utility gains in the utilitarian objective function.

This diagnosis of "hidden" egalitarianism in utilitarian philosophy might well be resisted on the ground that utilitarianism really involves a sum-total maximizing approach, and it might be thought that, as a result, any egalitarian feature of utilitarianism cannot be more than accidental. But this reasoning is deceptive. The utilitarian approach is undoubtedly a maximizing one, but the real question is what is the nature of the objective function it maximizes. That objective function could have been quite inegalitarian, e.g. giving much more weight to the utilities of some than to those of others. Instead, utilitarianism attaches exactly the same importance to the utilities of all people in the objective function, and that feature—coupled with the maximizing format—guarantees that everyone's utility gains get the same weight in the maximizing exercise. The egalitarian foundation is, thus, quite central to the entire utilitarian exercise. Indeed, it is precisely this egalitarian feature that relates to the foundational principle of utilitarianism of "giving equal weight to the equal interests of all the parties"<sup>1</sup> or to "always assign the same weight to all individuals' interests."<sup>2</sup>

What do we conclude from this fact? One obvious conclusion is that being egalitarian (i.e. egalitarian in some space or other to which great importance is attached) is not really a "uniting" feature. Indeed, it is precisely because there are such substantive differences between the endorsement of different spaces in which equality is recommended by different authors that the basic similarity between them (in the form of wanting equality in some space that is seen as important) can be far from transparent. This is especially so when the term "equality" is defined-typically implicitly-as equality in a particular space.

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Wanting equality of something-something seen as important-is undoubtedly a similarity of some kind, but that similarity does not put the warring camps on the same side. It only shows that the battle is not, in an important sense, about "why equality?", but about "equality of what?".

Since some spaces are traditionally associated with claims of "equality" in political or social or economic philosophy, it is equality in one of those spaces (e.g. incomes, wealths, utilities) that tend to go under the heading "egalitarianism." I am not arguing against the continued use of the term "egalitarianism" in one of those senses; there is no harm in that practice if it is understood to be a claim about equality in a specific space (and by implication, against equality in other spaces). But it is important to recognize the limited reach of that usage, and also the fact that demanding equality in one space-no matter how hallowed by tradition-can lead one to be anti-egalitarian in some other space, the comparative importance of which in the overall assessment has to be critically assessed.

### **IMPARTIALITY AND EQUALITY**

The analysis in the last section pointed to the partisan character of the usual interpretations of the question "why equality?". That question, I have argued, has to be faced, just as much, even by those who are seen-by themselves and by others-as "anti-egalitarian," for they too are egalitarian in some space that is important in their theory. But it was not, of course, argued that the question "why equality?" was, in any sense, pointless. We may be persuaded that the basic disputations are likely to be about "equality of what?", but it might still be asked whether there need be a demand for equality in some important space or other. Even if it turns out that every substantive theory of social arrangements in vogue is, in fact, egalitarian in some space-a space seen as central in that theory-there is still the need to explain and defend that general characteristic in each case. The shared practice-even if it were universally shared-would still need some defense.

The issue to address is not so much whether there must be for strictly formal reasons (such as the discipline of "the language of morals"), equal consideration for all, at some level, in all ethical theories of social arrangement. That is an interesting and hard question, but one I need not address in the present context; the answer to it is, in my judgment, by no means clear. I am more concerned with the question whether ethical theories must have this basic feature of equality to have substantive plausibility in the world in which we live.

It may be useful to ask why it is that so many altogether different substantive theories of the ethics of social arrangements have the common feature of demanding equality of something-something important. It is, I believe, arguable that to have any kind of plausibility, ethical reasoning on social matters must involve elementary equal consideration for all at some level that is seen as critical. The absence of such equality would make a theory arbitrarily discriminating and hard to defend. A theory may accept-indeed demand-inequality in terms of many variables, but in defending those inequalities it would be hard to duck the need to relate them, ultimately, to equal consideration for all in some adequately substantial way.

Perhaps this feature relates to the requirement that ethical reasoning, especially about social arrangements, has to be, in some sense, credible from the viewpoint of others-potentially all others. The question "why this system?" has to be answered, as it were, for all the participants in that system. There are some Kantian elements in this line of reasoning, even though the equality demanded need not have a strictly Kantian structure.

Recently Thomas Scanlon<sup>3</sup> has analysed the relevance and power of the requirement that one should "be able to justify one's actions to others on grounds that they could not reasonably reject." The requirement of "fairness" on which Rawls<sup>4</sup> builds his theory of justice can be seen as providing a specific structure for determining what one can or cannot reasonably reject. Similarly, the demands of "impartiality"-and some substantively exacting forms of "universalizability"-invoked as general requirements have that feature of equal concern in some major way. Reasoning of this general type certainly has much to do with the foundations of ethics, and has cropped up in different forms in the methodological underpinning of substantive ethical proposals.

The need to defend one's theories, judgements, and claims to others who may be-directly or indirectly-involved, makes equality of consideration at some level a hard requirement to avoid. There are interesting methodological questions regarding the status of this condition, in particular: whether it is a logical requirement or a substantive demand, and whether it is connected with the need for "objectivity" in ethics. I shall not pursue these questions further here, since the main concerns of this monograph do not turn on our answers to these questions.

What is of direct interest is the plausibility of claiming that equal consideration at some level--a level that is seen as important--is a demand that cannot be easily escaped in presenting a political or ethical theory of social arrangements. It is also of considerable pragmatic interest to note that impartiality and equal concern, in some form or other, provide a shared background to all the major ethical and political proposals in this field that continue to receive argued support and reasoned defence. One consequence of all this is the acceptance--often implicit--of the need to justify disparate advantages of different individuals in things that matter. That justification frequently takes the form of showing the integral connection of that inequality with equality in some other important--allegedly more important--space.

Indeed, it is equality in that more important space that may then be seen as contributing to the contingent demands for inequality in the other spaces. The justification of inequality in some features is made to rest on the equality of some other feature, taken to be more basic in that ethical system. Equality in what is seen as the "base" is invoked for a reasoned defence of the resulting inequalities in the far-flung "peripheries."

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### **RAWLSIAN EQUALITY**

Rawls's "two principles of justice" characterize the need for equality in terms of--what he has called--"primary social goods."<sup>5</sup> These are "things that every rational man is presumed to want," including "rights, liberties and opportunities, income and wealth, and the social bases of self-respect." Basic liberties are separated out as having priority over other primary goods, and thus priority is given to the principle of liberty which demands that "each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty for others." The second principle supplements this, demanding efficiency and equality, judging advantage in terms of an index of primary goods. Inequalities are condemned unless they work out to everyone's advantage. This incorporates the "Difference Principle" in which priority is given to furthering the interests of the worst-off. And that leads to maximin, or to leximin, defined not on individual utilities but on the index of primary goods. But given the priority of the liberty principle, no trade-offs are permitted between basic liberties and economic and social gain.

Herbert Hart has persuasively disputed Rawls's arguments for the priority of liberty, but with that question I shall not be concerned in this lecture. What is crucial for the problem under discussion is the concentration on bundles of primary social goods. Some of the difficulties with welfarism that I tried to discuss will not apply to the pursuit of Rawlsian equality. Objective criteria of wellbeing can be directly accommodated within the index of primary goods. So can be Mill's denial of the parity between pleasures from different sources, since the sources can be discriminated on the basis of the nature of the goods. Furthermore, while the Difference Principle is egalitarian in a way similar to leximin, it avoids the much-criticised feature of leximin of giving more income to people who are hard to please and who have to be deluged in champagne and buried in caviar to bring them to a normal level of utility, which you and I get from a sandwich and beer. Since advantage is judged not in terms of utilities at all, but

through the index of primary goods, expensive tastes cease to provide a ground for getting more income. Rawls justifies this in terms of a person's responsibility for his own ends.

But what about the cripple with utility disadvantage, whom we discussed earlier? [[This is an individual whose disabilities mean that he can obtain less utility than others from a given set of resources--Eds.]] Leximin will give him more income in a pure distribution problem. Utilitarianism, I had complained, will give him less. The Difference Principle will give him neither more nor less on grounds of his being a cripple. His utility disadvantage will be irrelevant to the Difference Principle. This may seem hard, and I think it is. Rawls justifies this by pointing out that "hard cases" can "distract our moral perception by leading us to think of people distant from us whose fate arouses pity and anxiety."<sup>6</sup> This can be so, but hard cases do exist, and to take disabilities, or special health needs, or physical or mental defects, as morally irrelevant, or to leave them out for fear of making a mistake, may guarantee that the opposite mistake will be made.

And the problem does not end with hard cases. The primary goods approach seems to take little note of the diversity of human beings. In the context of assessing utilitarian equality, it was argued that if people were fundamentally similar in terms of utility functions, then the utilitarian concern with maximizing the sum-total of utilities would push us simultaneously also in the direction of equality of utility levels. Thus utilitarianism could be rendered vastly more attractive if people really were similar. A corresponding remark can be made about the Rawlsian Difference Principle. If people were basically very similar, then an index of primary goods might be quite a good way of judging advantage. But, in fact, people seem to have very different needs varying with health, longevity, climatic conditions, location, work conditions, temperament, and even body size (affecting food and clothing requirements). So what is involved is not merely ignoring a few hard cases, but overlooking very widespread and real differences. Judging advantage purely in terms of primary goods leads to a partially blind morality.

Indeed, it can be argued that there is, in fact, an element of "fetishism" in the Rawlsian framework. Rawls takes primary goods as the embodiment of advantage, rather than taking advantage to be a relationship between persons and goods. Utilitarianism, or leximin, or--more generally--welfarism does not have this fetishism, since utilities are reflections of one type of relation between persons and goods. For example, income and wealth are not valued under utilitarianism as physical units, but in terms of their capacity to create human happiness or to satisfy human desires. Even if utility is not thought to be the right focus for the person-good relationship, to have an entirely good-oriented framework provides a peculiar way of judging advantage.

It can also be argued that while utility in the form of happiness or desire fulfillment may be an inadequate guide to urgency, the Rawlsian framework asserts it to be irrelevant to urgency, which is, of course, a much stronger claim. The distinction was discussed earlier in the context of assessing welfarism, and it was pointed out that a rejection of welfarism need not take us to the point in which utility is given no role whatsoever. That a person's interest should have nothing directly to do with his happiness or desire-fulfillment seems difficult to justify. Even in terms of the prior-principle of prudential acceptability in the "original position," it is not at all clear why people in that primordial state should be taken to be so indifferent to the joys and sufferings in occupying particular positions, or if they are not, why their concern about these joys and sufferings should be taken to be morally irrelevant.

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### **BASIC CAPABILITY EQUALITY**

This leads to the further question: Can we not construct an adequate theory of equality on the combined grounds of Rawlsian equality and equality under the two welfarist conceptions, with some trade-offs among them. I would now like to argue briefly why I believe this too may prove to be informationally short. This can, of course, easily be asserted if claims arising from considerations other than well-being were acknowledged to be legitimate. Non-exploitation, or non-discrimination, requires the use of information not fully captured either by utility or by primary goods. Other conceptions of entitlements can also be brought in going beyond concern with personal

well-being only. But in what follows I shall not introduce these concepts. My contention is that even the concept of needs does not get adequate coverage through the information on primary goods and utility.

I shall use a case-implication argument. Take the cripple again with marginal utility disadvantage. We saw that utilitarianism would do nothing for him; in fact it will give him less income than to the physically fit. Nor would the Difference Principle help him; it will leave his physical disadvantage severely alone. He did, however, get preferential treatment under leximin, and more generally, under criteria fostering total equality. His low level of total utility was the basis of his claim. But now suppose that he is no worse off than others in utility terms despite his physical handicap because of certain other utility features. This could be because he has a jolly disposition. Or because he has a low aspiration level and his heart leaps up whenever he sees a rainbow in the sky. Or because he is religious and feels that he will be rewarded in after-life, or cheerfully accepts what he takes to be just penalty for misdeeds in a past incarnation. The important point is that despite his marginal utility disadvantage, he has no longer a total utility deprivation. Now not even leximin--or any other notion of equality focussing on total utility--will do much for him. If we still think that he has needs as a cripple that should be catered to, then the basis of that claim clearly rests neither in high marginal utility, nor in low total utility, nor--of course--in deprivation in terms of primary goods.

It is arguable that what is missing in all this framework is some notion of "basic capabilities": a person being able to do certain basic things. The ability to move about is the relevant one here, but one can consider others, e.g., the ability to meet one's nutritional requirements, the wherewithal to be clothed and sheltered, the power to participate in the social life of the community. The notion of urgency related to this is not fully captured by either utility or primary goods, or any combination of the two. Primary goods suffers from fetishist handicap in being concerned with goods, and even though the list of goods is specified in a broad and inclusive way, encompassing rights, liberties, opportunities, income, wealth, and the social basis of self-respect, it still is concerned with good things rather than with what these good things do to human beings. Utility, on the other hand, is concerned with what these things do to human beings, but uses a metric that focusses not on the person's capabilities but on his mental reaction. There is something still missing in the combined list of primary goods and utilities. If it is argued that resources should be devoted to remove or substantially reduce the handicap of the cripple despite there being no marginal utility argument (because it is expensive), despite there being no total utility argument (because he is so contented), and despite there being no primary goods deprivation (because he has the goods that others have), the case must rest on something else. I believe what is at issue is the interpretation of needs in the form of basic capabilities. This interpretation of needs and interests is often implicit in the demand for equality. This type of equality I shall call "basic capability equality."

The focus on basic capabilities can be seen as a natural extension of Rawls's concern with primary goods, shifting attention from goods to what goods do to human beings. Rawls himself motivates judging advantage in terms of primary goods by referring to capabilities, even though his criteria end up focussing on goods as such: on income rather than on what income does, on the "social bases of self-respect" rather than on self-respect itself, and so on. If human beings were very like each other, this would not have mattered a great deal, but there is evidence that the conversion of goods to capabilities varies from person to person substantially, and the equality of the former may still be far from the equality of the latter.

There are, of course, many difficulties with the notion of "basic capability equality." In particular, the problem of indexing the basic capability bundles is a serious one. It is, in many ways, a problem comparable with the indexing of primary good bundles in the context of Rawlsian equality. This is not the occasion to go into the technical issues involved in such an indexing, but it is clear that whatever partial ordering can be done on the basis of broad uniformity of personal preferences must be supplemented by certain established conventions of relative importance.

The ideas of relative importance are, of course, conditional on the nature of the society. The notion of the equality of basic capabilities is a very general one, but any application of it must be rather culture-dependent, especially in the weighting of different capabilities. While Rawlsian equality has the characteristic of being both culture-dependent and fetishist, basic capability equality avoids fetishism, but remains culture-dependent. Indeed, basic capability equality can be seen as essentially an extension of the Rawlsian approach in a non-fetishist direction.

#### Notes

- 1 R. M. Hare. *Moral Thinking: Its Levels, Methods and Point* (Oxford: Clarendon Press, 1981), p.26.
- 2 J. C. Harsanyi. "Morality and the Theory of Rational Behavior," in *Utilitarianism and Beyond*, A. Sen and B. Williams, eds. (Cambridge: Cambridge University Press, 1982), p. 47.
3. Thomas Scanlon. "Contractualism and Utilitarianism," in *Utilitarianism and Beyond*. Amartya Sen and Bernard Williams, eds. (Cambridge: Cambridge University Press, 1982).
4. John Rawls. *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971).
- 5 *Ibid.*, pp. 60-5.
- 6 John Rawls, "A Kantian Concept of Equality" *Cambridge Review* (February 1975), p. 96.