

## **WHAT SORT OF SEXUAL EQUALITY (IF ANY) SHOULD FEMINISTS SEEK?**

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The feminist critique of liberalism runs parallel to the Marxist critique of liberal equality and rights. In each case the objection is that a set of liberties and rights formally guaranteed for all does nothing to prevent unfair inequalities in substantive life prospects from burgeoning within this formally equal framework. Workers and capitalists are formally free to trade with each other on any mutually agreeable terms but the enormous disparities in ownership of property bring it about that workers are forced to sell their labor power for subsistence wages. Men and women are formally free to contract with each other and deal with each other on any mutually agreeable terms but social norms, the threat advantage that accrues to men in virtue of their being on the average physically larger and stronger, the social inheritance by men of greater property and political power initially gained in brutally misogynist regimes, and so on conspire to leave women worse off than men on the average in life prospects,

In these arguments formal freedom is sometimes specified as legal freedom. In this sense I am formally free to do whatever I am legally free to do, provided that the laws are fully enforced to ensure compliance. But my legal freedom to do a certain type of thing does not mean that if I choose to do that type of thing and act accordingly, then I succeed in doing it, because there may be various nonlegal barriers to successful performance. Some of these nonlegal barriers are reasonably regarded as reducing my real freedom. Formal freedom can also be understood to be specified by a set of Lockean moral rights, roughly, the right to do whatever I choose with whatever I legitimately own so long as I do not thereby wrongfully injure others. Again, being formally free in the sense of having the Lockean moral right to do a certain type of thing does not guarantee that if I choose to do that type of thing and act as effectively as I can to implement that intention, then I succeed in doing it, because there may be barriers to successful performance not ruled out by Lockean rights. Some of these non-Lockean barriers are reasonably regarded as reducing my real freedom.

The critique of merely formal equality of opportunity gives rise to the ideal of substantive, not merely formal equality of opportunity.<sup>1</sup> This ideal is evidently protean. One enjoys substantive opportunity for some range of goods when one is really free to get the goods if one chooses them. Different theories of real freedom will then need to be assessed. But substantive equality of opportunity norms need not collapse into a straightforward demand for equality of outcomes. According to an equality of outcome norm, if one person is worse off than another in terms of some appropriate measure of benefit levels, then this unequal state of affairs is morally undesirable. According to an equality of opportunity norm, equality of opportunity can be satisfied even though one person ends up worse off than another. Inequalities in outcome that emerge from a basis of equality of opportunity are not deemed unjust even if they are morally regrettable. People who start with equal opportunities may choose to exercise their opportunities in different ways that give rise innocently to inequality of outcome. Or individuals might be at fault in the uses they make of their opportunities, behaving fecklessly, or lazily, or with a reckless disregard for consequences, or in a self-abnegating way, or in some other way that is discreditable. If faulty individual conduct proceeding from a situation of equal

opportunity leads to unequal outcomes, from the standpoint of the equality of opportunity norm the resultant situation is not unequal in a way that qualifies as prima facie unfair. Society is deemed to have done enough for the individual in supplying each a fair share of opportunity. The uses that individuals make of their just share of opportunities are not matters of public concern.

This point holds if starting from an initial equality of opportunity, choices by individuals then lead to a state of affairs in which these individuals have unequal opportunities. The generic equality of opportunity norm requires that individuals be granted an initial situation in which reasonable conduct by each individual would give each the same prospect of favorable outcomes as identified by the norm.

One plausible and prominent interpretation of the ideal of equality of opportunity which is responsive to the Marxist and anticipates the feminist objections against merely formal opportunity is the Fair Equality of Opportunity principle espoused by John Rawls.<sup>2</sup> This Rawlsian ideal is satisfied just in case any two persons in society with the same ambition and native talent will have the same prospects of success in competition for any positions that confer above-average levels of social benefits. Construed in this way, Fair Equality does not require that individuals must be selected for advantageous positions on the basis of their merits, with the position being offered first to the most highly qualified candidate. A random drawing from the pool of applicants for every advantageous position would be a selection process compatible with Fair Equality. Hence it would be misguided to amend Fair Equality by adding the proviso that those with greater native talent and ambition should have higher prospects of being selected for advantageous positions. But a close relative of this proviso would conform to the spirit of the Rawlsian ideal: Either selection to advantageous positions should be random or those with greater native talent and ambition should have higher prospects of competitive success.

The social benefits the distribution of which Fair Equality regulates are what Rawls calls “primary social goods,” goods that it is rational for persons to want whatever else they want. Fair Equality is concerned with primary social goods other than “basic liberties,” fundamental civil liberties that are regulated by a higher-priority Equal Liberty Principle. Fair Equality is further nested in a set of principles. Rawls holds that inequalities in social and economic benefits should be set so that they are (a) attached to positions open to all under conditions of Fair Equality and (b) to the greatest benefit of the least advantaged social group (advantage levels being measured by expected holdings of these same social and economic benefits, a subset of the primary social goods). Final details calling for clarification are the ideas of “talent” and “ambition” specified in the Fair Equality norm. With respect to a position that confers above-average social benefits and a pool of applicants for the position, the most talented applicant is the one who is best able to perform the its tasks. Individuals exhibit the same level of “ambition” when they work equally hard to become qualified for competitive positions and seek these positions equally assiduously.

Rawlsian Fair Equality is a radical doctrine. In a certain sense it enforces the ideal of a classless society. When Fair Equality is satisfied, parents cannot pass along advantages and privileges to their children in a way that gives them greater likelihood of success in competition for positions of advantage beyond that enjoyed by any other persons with the same levels of talent and ambition. Features of individuals such as their

purported race, ethnicity, sex, sexual orientation, religion, and social class background will have absolutely no power to influence the distribution of advantages in society (unless any of these features influences the native talent and ambition levels of individuals). Hence whether one is born a man or a woman in a regime of Fair Equality does not ipso facto render one better or worse off in life prospects. Nor does knowledge of a person's sex enable us to predict the degree of competitive success the person will enjoy for any position that confers above-average social benefits.

Rawlsian Fair Equality would regulate the division of social benefits within the institution of the family. This means that under this regime there could be a family structure with defined roles of husband and wife that operate in such a way that husbands on the average enjoy higher levels of social benefits than wives. For example, husbands might be breadwinners, who enjoy access to more of family income than wives, and are expected to do less of the drudgery of housework. But in a Rawlsian society one would not be able to predict from an individual's sex whether the individual would be more likely to become a "husband" or a "wife". The distribution of social benefits between husbands and wives would be unequal in this scenario but the distribution of social benefits between men and women would be, in the aggregate, equal (provided of course that sex does not correlate with ambition or native talent).

Would Fair Equality constitute the substantive equality of opportunity between men and women that feminists should seek? Would the attainment of Fair Equality be tantamount to achievement of women's liberation? This is a tricky issue. I shall try to elaborate a worthy ideal of sexual equality by starting with this prima facie worthy Fair Equality norm, assessing the force of the significant criticisms it attracts, and formulating a revised more worthy ideal of equality. In conclusion I raise a doubt as to any ideal of sexual equality should be taken to be morally fundamental--valuable for its own sake rather than as a means to achieving other goals.

Rawlsian Fair Equality of Opportunity can also be regarded as a plausible interpretation of a strong antidiscrimination norm. Such a norm is usually thought to forbid agents in a public sphere from according favorable or unfavorable treatment to individuals for arbitrary reasons. The Rawlsian principle is different, however; it directly constrains outcomes rather than processes.

#### THE PROBLEM OF AMBITION

One problem is the embedding of ambition in the Fair Equality ideal. It could be satisfied in a society in which all professional and skilled occupations are occupied entirely by men. In this imaginary society women are taught that seeking any employment other than unskilled employment is unladylike, so only men seek and win challenging and well-paying jobs. The skewed distribution of employment between men and women here is compatible with Fair Equality. For any two persons with the same ambition and native talent, their chances of gaining positions with above-average benefits are the same, yet no man and woman share the same occupational ambitions owing to problematic causes which an equality of opportunity norm should perhaps condemn.

Essentially the same problem could arise in more realistic scenarios in which the ideology that instructs women that challenging paid employment does not suit their nature is widely challenged and denied. Even if hardly any women entirely were to accept the ideology of ladylike comportment, many might be inhibited by its teachings to the extent of being less wholehearted in their employment ambitions than men tend to be.

In this scenario Fair Equality is satisfied, many women do have skilled jobs, but inhibited ambition functions as a kind of handicap that limits women's access to desirable employment opportunities.

It would not be a plausible solution to this difficulty simply to eliminate reference to ambition in the formulation of the Fair Equality Principle. Two individuals with the same native talent but different degrees of eagerness to apply their talents in order to gain wealth might end up in positions that confer unequal wealth, but we might think that a Fair Equality of Opportunity principle should not deem such an inequality to be unjust. We might think that tailoring differential remuneration to different levels of ambition could qualify as fair even if the ambition levels manifested by individuals are not voluntarily chosen, so long as no invidious social process such as indoctrination influences individual ambition levels. Individuals raised in a religion that makes worldly success a sign of divine election might predictably become more ambitious in ways that qualify them for competitive positions that confer material advantage than individuals trained in more contemplative doctrines. Fair Equality would tolerate the resultant inequalities so long as those with equal native talent and equal ambition end up with the same prospects of competitive success.

Perhaps the specially unsavory element in the society that instructs women that ambition is unladylike is that we suppose this is a cynical ideology designed by men to keep women in their subordinate position. We are not then just responding to the end result but to the fact that the inequality that results is the aim of the indoctrination. This wrongful aim would then distinguish the case where religious affiliation causes differences in individual ambition from the case where sex-based socialization brings about these differences.

#### THE PROBLEM OF POWER

To see another difficulty in the Rawlsian conception of Fair Equality, suppose that in one way or another the problem about ambition is solved. To simplify the task of focus, let us imagine that Fair Equality is satisfied and that men and women on the average have exactly the same ambitions. But suppose that men overwhelmingly qualify for the more desirable positions, and that this is so because the structure of occupations along with the setting of qualifications itself favors men. In the words of Catharine MacKinnon, “[m]en’s physiology defines most sports, their needs define auto and health insurance coverage, their socially designed biographies define workplace expectations and successful career patterns, their experiences and obsessions define merit,”<sup>3</sup> and so on. If men have overwhelmingly been the ones in positions of authority and power that define standards for desirable employment opportunities, then the standards may be written with men in mind, and may be easier for men to satisfy than women. To take one example, suppose that if mainly women had been top managers, jobs would have been designed flexibly to allow for pregnancy leave and childrearing interruptions, but since mainly men had been top managers, jobs have been designed rigidly, without generous accommodation for pregnancy and childrearing responsibilities. In a world that more closely resembles the latter world with men in standard-setting, merit-defining positions of power, Fair Equality seemingly could be satisfied even though men turn out usually to be more qualified by reigning male standards. Once again, Fair Equality looks to be insufficiently fair.

From one angle this might look to be a case in which Fair Equality has been incompletely implemented. If there are standard-setting and merit-defining and job-defining positions, these also must be filled by a fair meritocratic procedure against a background that ensures Fair Equality. The standards that constitute merit must be determined by the goals of the enterprise. Here Fair Equality has to work in tandem with principles that set or constrain legitimate enterprise goals. For this reason I do not see that the difficulty here is differential access to power. The inadequacy is that the standards are set and the jobs are defined in ways that cater unfairly to men. This inadequacy would not necessarily be removed by insisting on equal access for men and women to positions of power in which these structuring decisions are made. Perhaps the women who accede to these positions would tend to favor males.

#### THE PROBLEM OF SCOPE: NONCOMPETITIVE DISTRIBUTIONS

The Fair Equality Principle is designed to be applied to competitions for positions in institutions that confer above-average levels of social benefits. Goods and evils get distributed in other ways among the individuals in society. One example is the distribution of benefits and losses from crime. These costs may fall unevenly on men and women. When some men are disposed to commit crimes of violence against women, the important civil liberty of women to walk about as they please in their neighborhoods and communities may be impaired. The greater vulnerability of women to violence may hinder access to job opportunities and culture--not to mention the damage incurred by suffering violent crime and reasonable fear of violent crime. Other things being equal, a woman would have to pay for safety measures to reach a level of safety that a man would normally get for free. In some situations there may be no way to purchase safety, or the cost of effective measures may be prohibitive. In all of these ways women's effective opportunities are reduced. (This problem will apply also to other divisions in society, such as the divisions between black and white and between rich and poor.)

Another significant type of extrainstitutional distribution arises from bargaining in private relationships. If male lovers and spouses are more prone than females to threaten violence as the last resort to settle a quarrel, the stable threat of assault may become a bargaining chip, giving men in general a bargaining advantage in negotiations that shift costs and benefits of domestic partnerships, marriages, friendships, and romantic relationships. The possibility of exit from the relationship may well not cancel such bargaining advantages, if the woman's outside options are limited and alternate partners are likely to resort to similar hard bargaining tactics. This problem is likely to thrive in the absence of effective enforcement of legal norms against violence and threats of violence, but it could in principle persist even if legal enforcement were perfect. Assume that men are more prone than women to issue threats to gain bargaining advantages and more prone than women to carry through threats that are resisted even when such threat fulfillment is imprudent. On this assumption bargaining advantages accruing to men from the proclivity to threaten violence could coexist with perfect law enforcement in the sense that no crime goes unpunished..

A society could be plagued by obnoxious inequalities in the opportunities enjoyed by men and women even if Fair Equality is perfectly fulfilled. Fair Equality at most then will be a portion of the best interpretation of the norm of sexual equality, not the entirety of that norm.

#### THE PROBLEM OF DIFFERENCE.

Fair Equality as defined is defective for a further reason that to my mind is very important but more complex than can be analyzed here. A mention of the problem must suffice. Suppose that under Fair equality, men and women turn out to be different from each other, on the average, owing either to factors of biology or factors of socialization that are either unalterable or unalterable at feasible cost. For example, women are prone to pregnancy while men are not. Suppose that this means that with the same substantive, not merely formal equality of opportunity for primary social goods in place, women, being prone to pregnancy, can do less with their primary good shares than men. Substantive equality of opportunity for primary goods does not translate into substantive equality of opportunity in life prospects understood as prospects for a genuinely good, worthwhile, choiceworthy life. For purposes of social justice we need to look behind the distribution of liberties and opportunities to assess the opportunities for the good that any given resource distribution induces. The upshot is that to ensure genuine equality of opportunity between men and women we need to countenance cardinal interpersonal comparisons of well-being or quality of life.

#### FAIR EQUALITY OF OPPORTUNITY AND MERITOCRACY

Fair Equality is morally dubious for a reason not yet mentioned. The difficulty emerges when we reflect on the interaction between Fair equality and other principles of justice. I shall discuss this problem with reference to Rawls's system of justice, but the problem is not unique to this system. It arises

In Rawls's theory justice is constituted by a nested set of ordered principles. First priority is assigned to a principle requiring equal basic liberty for all members of society. This Equal Liberty Principle is not relevant for the problem I am offering to diagnose. Second priority is assigned to Fair Equality of Opportunity, and third priority to the Difference Principle. The priority relation involved in this nesting of principles is stringent, lexical priority. One principle is said to have lexical priority over another just in case we must do all we can to bring it about that the first principle is fulfilled to the greatest extent possible before we are to devote any resources at all to the fulfillment of the second principle. No trade-offs are allowed; one must not accept the slightest loss in the extent to which the principle with lexical priority is fulfilled even to achieve any gain, however large, in the degree to which the lesser-priority principle is fulfilled.

Rawls holds that inequalities in individual holdings of the fundamental goods he calls "primary goods" (other than the basic liberties) should be set so that as a lexically first priority, they are attached to positions open to all under conditions of fair equality of opportunity, and as a second priority, they render the least advantaged members of society as well off as possible in terms of their holdings of primary goods other than the basic liberties. We can explicate this complex principle by distinguishing four possibilities and stating the Rawlsian assessment of them. Case 1: An egalitarian society in which everyone's shares are equal renders the primary goods holdings of the least advantaged as large as is possible. In this case no inequalities in primary goods holdings are justified and the Fair Equality Principle does not come into play. Case 2: Some inequalities in primary goods holdings work to maximize the long-run primary goods holdings of the least advantaged individuals, and attaching these inequalities to positions open to all under conditions of Fair Equality of Opportunity also works to maximize the long-run primary goods holdings of the least advantaged. In this case the lexical priority accorded to Fair Equality over the Difference Principle is a nonbinding constraint,

because instituting Fair Equality is part of the most efficient strategy for fulfilling the Difference principle to the greatest possible extent. Case 3: Instituting some inequalities in primary goods holdings would work to maximize the long-run primary goods holdings of the least advantaged, but these inequalities cannot be instituted without violating Fair Equality of Opportunity. In this case, since Fair Equality has lexical priority over the Difference Principle, no inequalities in primary goods holdings are morally permissible. Case 4: Instituting policies that induce some inequalities in people's holdings of primary goods would operate to cause the long-run primary goods holdings of the least advantaged individuals to be as large as possible, and some, but not all, of these inequalities can be instituted in a way that is compatible with Fair Equality. In this case, since Fair Equality has priority over the Difference Principle, the Rawlsian just solution is that only those inequality-inducing policies should be implemented that are compatible with Fair Equality of Opportunity. No sacrifice of any degree in the extent to which Fair Equality is achieved should be tolerated to secure any gain however large in the primary goods expectations of the worst off.

The complaint that Rawls's ideal of Fair Equality harbors a meritocratic bias can now be stated. Suppose we imagine an individual who is born untalented and hence ends up with the short end of inequalities in primary goods holdings that are acceptable according to Fair Equality and the Difference Principle. She can query the fairness of this arrangement: Why should she be penalized for a talent deficit that was imposed on her by accidents of birth and socialization that are beyond her power to control? The answer is that social justice does not judge that she deserves to be penalized or to have less of social benefits than others get. What social justice principles are responsive to is the fact that if talent is rewarded, the least advantaged are thereby made better off than they otherwise could be. If inequalities in social benefits are justifiable according to Fair Equality (given priority) and the Difference Principle, then there is no way to make the untalented person's share of holdings more nearly equal to others without either rendering some of the least advantaged worse off in the long run than they would otherwise need to be.

But now imagine that we have case 3 or 4. Here foregoing Fair Equality would produce benefits for the least advantaged. Suppose these inequalities that do not satisfy Fair Equality are instituted. Suppose, for example, that in a hunter-gatherer society, a simple division of labor is instituted, with men doing the hunting and women doing the gathering, and suppose that on the average hunters live better than gatherers. Now a woman might well query the fairness of this arrangement: Why should she be penalized for the arbitrary contingency that she was born a woman rather than a man? Why should this arbitrary contingency, beyond her power to control, render it acceptable that her expectations of primary goods holdings should be less than a man's? There is an argument available to justify the imagined hunter-gatherer inequality that is exactly parallel to the argument in favor of ignoring the fairness complaint of the untalented individual in a society that satisfies Fair Equality and the Difference Principle. The argument is simply that tolerating the challenged admittedly arbitrary inequality would work to render the long-run condition of the least advantaged as beneficial as possible. If this argument is acceptable when the inequality is based on the arbitrary contingency of talent, why should it not be equally acceptable if deployed in favor of inequalities that violate Fair Equality? It thus turns out that the Fair Equality Principle incorporates a

special solicitude toward possession of native talent. This solicitude is morally arbitrary, I submit. If possession of talent renders it morally acceptable to confer special privileges on the talented just in case the system of privileges operates to the maximal long-run benefit of the worst-off, then possession of other arbitrary characteristics such as sex and race should equally render it morally acceptable to confer special privileges on an arbitrary basis such as race or sex just in case the system of privileges operates to the maximal long-run benefit of the worst-off. Singling out native talent among the morally arbitrary characteristics that distinguish individuals is morally unjustifiable, and marks the Fair Equality Principle as unfairly biased.

Against this last claim it might be asserted that if it should ever be the case that remunerating people differentially according to such traits as their race or sex would be socially productive from the standpoint of the Difference Principle, then in this context race or sex would qualify as a talent, a genuine employment qualification. This seems to me to be stretching a point beyond good sense. Suppose that the story of the imaginary hunter-gatherer society with sexual division of labor is that society in this primitive state has at its disposal very little administrative ability to separate more qualified from less qualified applicants for tasks. Given our inability to construct a reliable mechanism for picking the best applicant among a pool of candidates for a task, and the consequent squabbling and bad blood that use of an unreliable mechanism would occasion, a simple assignment by sex may induce more social production with optimal economizing on selection processes and their negative social side effects. In this context sex is not serving as an indicator of special talent for the social task to which one is assigned. Another possible example of socially productive toleration of discrimination on the basis of race or sex or similar arbitrary traits would be the combination of a Lockean property system combined with social democratic taxation and redistribution. In such a system employers are free to hire and fire at will, on any basis or whim. Only the discipline of the market limits arbitrary hiring and firing. An employer might hire relatives or fellow nationals or members of one's own religion, race, sex, or ethnic group. Such hiring might result in friendly attitudes between workers and bosses, united by cultural similarities, with consequent labor strife. Or the shaping of a shop floor workforce that is similar along one of these dimensions might induce solidarity and trust among work mates that stimulates productivity. In these imaginary examples arbitrary traits such as race, sex, ethnicity, and religion are not plausibly viewed as individual talents even though clumping individuals who share one of these traits in a work setting proves to be socially productive.

Against the objection against Fair Equality I have elaborated it might be urged that unlike differential remuneration according to talent, differential remuneration according to race, sex, or the like would not in fact be socially productive. I have no quarrel with this assertion. But it does not constitute an objection against the position I mean to espouse. My claim is that the Fair Equality Principle singles out talent for specially favored treatment in a way that betrays a meritocratic bias—the attitude that native talent confers a special moral entitlement to access to favorable treatment. Insofar as discrimination within institutions on the basis of talent, but not on the basis of traits such as race or sex, is instrumental for the achievement of other justice values, then those justice values support nondiscrimination without appeal to Fair Equality as intrinsically morally valuable, morally worthwhile for its own sake.

## COMPREHENSIVE EQUALITY OF OPPORTUNITY

If the main defect in Fair Equality is its entanglement with meritocratic views that regard the talented as entitled to better life prospects, then perhaps it is possible to formulate a similar ideal that avoids such entanglement. An attempt to do this follows.

Let's say Comprehensive Equality of Opportunity (CEO) among men and women holds in a society just in case social practices are arranged and individual conduct regulated so that being born a man or a woman does not affect one's life prospects. Here *life prospects* are opportunities for well-being (a genuinely good, choiceworthy life). An individual's *opportunity for well-being* is specified to be the level of expected well-being one would get if one behaved as prudently as could reasonably be expected. When CEO is fulfilled, on the whole and on the average men's and women's life prospects are the same. Learning the sex of a newborn baby does not provide any information that would alter the reasonable predictions that could be made about the newborn's expected quality of life.

CEO makes no reference to anyone's talent and ambition levels and hence does not directly or indirectly confer any moral entitlements on anyone on these bases. Indeed a counter-meritocratic system that rewards individuals in inverse proportion to the degree to which they are qualified for valued social tasks, though it would no doubt be in conflict with other moral values, would be perfectly compatible with CEO.

CEO deftly disposes of the problems of ambition, power, and scope that I claimed plagued Fair Equality. Consider ambition. At a given social state, we can sum the opportunity for well-being that is available to every man and to every woman. The sum of opportunity for well-being is the same for men in the aggregate as for women in the aggregate in the society that satisfies CEO. This means that if society is unfairly discriminatory in the socialization that inculcates character traits and ambitions in men and women, so that it is more difficult for (say) women to be prudent than for men, then this factor would adjust the extent to which it is reasonable to expect a woman be order her life prudently, and the opportunities and advantages made available to women would have to be correspondingly greater in order for CEO to obtain. So either such discriminatory ambition-forming socialization does not occur or it is somehow perfectly offset so it is inconsequential, in the aggregate, for men's and women's life prospects.

Next consider power. A sexist world in which jobs and other prized social roles are structured so as to cater to men's desires and not to women's desires would not pass CEO. The structuring of roles and defining of offices and the like occurs in some way that does not produce outcomes that favor men over women or vice versa. In this society political power is not used to advantage one sex over the other.

The problem of scope is evidently eliminated by the comprehensiveness of CEO. The principle is designed to regulate overall life prospects of men and women, not their prospects in some limited domains such as the labor market or the economic arena. This seems to me a strength, but it should be noted that one might consider the principle to be excessively strong because overbroad in its regulatory scope. No split of any sort between a realm of public life suitable for social regulation and private life that is in some sense beyond social control is countenanced by CEO. My opportunities for a good life include my prospects with respect to friendship, romance, marriage, childrearing and divorce, as well as my prospects that concern career and income levels and tax liabilities. CEO registers all components of life prospects. The only constraint that is imposed on

what are conventionally regarded as “public” and “private” spheres is equality of aggregate prospects, so presumably CEO is compatible with according wide freedom to individuals to order their lives as they wish in response to the expected equally free choices of others. But if the life prospects of men and women in the aggregate turned out to be the same except that within heterosexual romantic and domestic partnerships men did hardly any childrearing and homemaking and these responsibilities devolved overwhelmingly on women and reduced their life prospects, CEO would demand change: Either social norms must be instituted that would shift the distribution of benefits and burdens inside romantic and domestic partnerships, or compensation to women must occur elsewhere in the social system so that in the aggregate, equality of life prospects between men and women obtains.

This last point suggests a worry. Fulfillment of CEO does not guarantee that society is unmarred by conflict between men and women or mistreatment of people just in virtue of their sex. For example, a society could fulfill CEO even though social life consists of war between the sexes, with casualties equal on both sides. In a society that fulfills CEO, men might oppress women in one half of the marriages and domestic partnerships and be oppressed by women in the other half, the gains and losses just balancing so that in the aggregate, life prospects of men and women are the same.

In my judgment these possibilities do not impugn the CEO ideal. No doubt the society of sexual conflict that somehow satisfies CEO fails to satisfy ideals of social harmony, fails to maximize well-being weighted by fair distribution, and is defective in other ways. But so far as I can see it does not deserve bad marks judged by appropriate standards of sexual equality. One should note also that although it is logically possible that a society might be riven with conflict between men and women yet satisfy CEO, it is hard to envisage a realistic scenario of this sort in which the satisfaction of CEO persists over time. If CEO is a stable property of a society, this will be because men and women are committed to maintaining it, and if they are so committed, they will hardly be disposed to oppress one another when they can.

A worry that cuts deeper is the possibility that sex is correlated with or gives rise to traits that legitimately affect treatment that bears on life prospects. Suppose for example that on the average men are more prone to violence, hence to violent crime, hence more likely to undergo long prison sentences. If this proclivity results in worse life outcomes for men, whether or not this inequality is compatible with CEO depends on the degree to which it is reasonable, that is, fair, to expect people with proclivities toward violence to conduct their lives according to norms of prudence. If men’s imprudent violent conduct is deemed to be not fully their responsibility, CEO will require compensation for the losses that men suffer, in the aggregate, and such compensation might be regarded as morally inappropriate and as casting doubt on CEO.

#### WHY EQUALITY?

One issue concerning equality is the determination of the sorts of equality that are most worth seeking. A second issue is the extent to which any ideal of equality has a valid claim on our allegiance.

CEO, I submit, is an attractive ideal. But there are grounds for doubting that any ideal of sexual equality states a fundamental, rather than a derivative or instrumental justice value.

One presumes that CEO as stated is not a complete ideal of equality between social groups, but requires to be extended in some way to encompass race and other categories. What is the appropriate generalization? Suppose it is asserted that social practices should be arranged and individual conduct regulated so that no arbitrary characteristic of individuals such as their sex, purported race, ethnicity of parents, religion of parents, sexual orientation, and so on, affects their life prospects. But one wonders what principle determines the traits that count as arbitrary for purposes of formulating generalized CEO. Why should not endowment of native talent, one's shortness or tallness, one's genetic disposition to be handsome, plain, or repulsive in appearance, one's disposition to be charming or charmless, and so on all qualify as morally arbitrary in the relevant sense? If the answer is that only some group divisions have generated hatred and connected hostile attitudes toward those on the other side of the divide and a history of intentional significant mistreatment, then perhaps the equality that should concern us is equality of freedom from these hostilities and the intentional mistreatment that flows from them. This would be to deny that inequality in life prospects between social groups is per se a justice concern.

We can focus this issue by characterizing an egalitarian justice principle that regulates the treatment of individuals and raising the question whether such a principle needs to be supplemented by a principle of equality among social groups. Here I will simply state a principle that strikes me as plausible without embarking on any discussion to probe its moral adequacy. The principle is Prioritarianism: social practices and institutions and individual conduct should be set so as to maximize a function of opportunities for human well-being that gives greater weight to a gain in well-being opportunity (a) the greater its size and (b) the lower the absolute well-being level of the recipient of the benefit prior to receiving it. According to Prioritarianism, social justice prefers more well-being to less and also favors achieving well-being gains for the worse-off.<sup>4</sup>

One could uphold CEO, or generalized CEO, as a fundamental principle of justice to be paired with Prioritarianism (or whatever the best principle of justice regulating distribution across persons turns out to be). Suppose instead that one upheld Prioritarianism alone. Since arbitrary discrimination against women and mistreatment of them is a poor strategy for fulfilling Prioritarian justice, norms against discrimination and in favor of equal treatment will be valued as instruments for attaining prioritarian aims. Believing this to be true, I'm a Prioritarian feminist.

Would this instrumental commitment to sexual equality be too shallow? Suppose it turned out to be the case that when we efficiently bring about the maximal fulfillment of the Prioritarian end, it just happens that women end up with lower well-being prospects on the average than men get (or the reverse). Surely social justice should register a concern for the character of the processes that determine who ends up in worse-off strata of society as well as a special concern for improving the plight of those who are worse-off. The moral urgency of CEO is then not obviated by affirmation of Prioritarianism. Maybe this is so. But I have a doubt. In a situation in which the Prioritarian value is being maximized, and the attempt to bring about more equality among social groups would lessen the degree to which this Prioritarian value would be fulfilled, why is it morally more important to increase the degree of equality across groups than to do more for the worse-off? In a society that is just by Prioritarian

standards but unjust according to CEO, a man who is getting the short end of the stick can complain that an arbitrary characteristic beyond his power to control, his sex at birth, is reducing his life prospects. Why is this fair? But notice that the untalented, the short, the ugly, and so on, can raise a similar complaint. If failure to equalize well-being prospects across these group divisions increases the sum of human well-being weighted to give greater weight to gains of the worse-off, I have some inclination to say that in this situation failure to equalize is morally right. And if this holds for other group divisions as well.

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<sup>1</sup> . Of course objections against merely formal equality of opportunity might be accommodated not by embracing an ideal of substantive equality of opportunity for all members of society, but rather by adopting an ideal of provision of a “good enough” or adequate minimal level of substantive opportunities for all. Here I set aside this line of response, but this is not to suggest that I regard it as wrong.

<sup>2</sup> . John Rawls, A Theory of Justice (Cambridge: Harvard University Press, 1971).

<sup>3</sup> . Catharine A. MacKinnon, Feminism Unmodified: Discourses on Life and Law (Cambridge: Harvard University Press, 1987), p. 36.

<sup>4</sup> . Derek Parfit, “Equality or Priority?,” the Lindley Lecture, University of Kansas, 1991.