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THE IDEA OF EQUALITY

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PART 3

3

The Naturalist Position

We will begin with the Naturalist position, since this is the classical position regarding equality and inequality, and we have already devoted considerable attention to it. In fact, the formal structure of the argument for the position is the same as that given by Aristotle.

But whereas in the Aristotelian formulation the emphasis was on inequality, the emphasis now is on equality. According to Aristotle, some men are in fact so fundamentally unequal to others that they should be treated unequally. Now, however, the Naturalist position commonly takes the form of asserting that all men are in fact equal in a fundamental and important way and should be treated equally, as befits those who are equal.

Thus the Naturalist position is characterized by two assertions: (1) The assertion that the fundamental and most important equality of all is that which holds between men merely because they are men, that is, their specific equality; (2) The assertion that this fundamental equality somehow grounds or justifies the right of all men to equal treatment, that is, the rule that they should be treated equally in some fundamental way.

The essential structure of the argument as a whole, then, is most readily described by noting how the theory passes from a descriptive statement about human equality through an evaluative judgment of it to the prescriptive rule that men should be treated equal-

ly. In fact, without too much exaggeration, it might be said that the theory makes these three judgments regarding equality by giving three different interpretations to the statement that all men are equal.

On the first interpretation, according to the Naturalist theory, the statement simply records a descriptive judgment. All men are equal in that all are men. No one who is a man is any more or less a man than another. One man may be taller, healthier, richer, wiser, better than another, but one cannot be more man than another. One either belongs to the class, man, or he does not. Difficult cases may exist, where it is hard to tell whether an individual organism—say, some specimen of a fossil Hominidae—is to be classified as a man. But once the question is decided, the individual either is or is not a member of that class; he cannot be more or less in it. In other words, there are no differences of degree between men with respect to their being men.*

*We do sometimes speak of one person being “more manly” or becoming “more of a man” than he was formerly or than someone else. But when used in this way, the word “man” has a different sense and is not at all an indication of doubt about whether that person is a man. It usually refers to some quality, such as courage, that we believe a man ought to have. The phrase, “a manly man,” thus makes one word do double duty: the noun distinguishes the subject from what is not a man; while the adjective attributes to him a quality of character that a man, in the first sense, may possess in varying degrees.

To say that men are equal as men, according to the Naturalist proponents, is to assert more than that all are members of the same class. The statement is not merely another way of saying that all men are men.

For proof, the Naturalist advocate would point to the example of Aristotle. He knew as a logician that no individual member of a species is any more or less a member of the species than any other member. Yet he could not keep from, in effect, looking upon a slave, compared with a freeman, as somehow less a man.

The descriptive interpretation of the statement that men are equal does not by itself take us any closer to the prescriptive rule for equal treatment. All pigs are equal as pigs, but no one proclaims that all pigs ought to be treated equally. The Naturalist position, in claiming that the statement that men are equal does lead to the prescriptive rule, has to give a second interpretation to the statement and maintain that it carries a strong evaluative force. “All men are equal” means, not just that all men are men, but also, in addition, that all men, in some fundamental way,

are equal in value or worth. All belong to the same level or grade in a hierarchy of goodness—neither angel nor brute, but man. Hamlet’s eulogy of man applies to all men.

That a piece of work is a man! how noble in reason! how infinite in faculty! in form and moving how express and admirable! in action how like an angel! in apprehension how like a god! the beauty of the world! the paragon of animals!”⁴⁸ According to the Naturalist position, to see what man is is also to see how great and high in value he is.

All proponents of the Naturalist position hold that the specific equality of men is evaluative. It should be noted, however, that they do not all assert it in just this way. They also disagree about its basis, and whether, as Bedau observes, it is empirical, moral, or metaphysical.⁴⁹ This disagreement among the Naturalist writers reflects the deeper division that separates all three fundamental positions with regard to the nature and basis of the entire realm of value and of value judgments.

The specific equality of men as men is compatible with all kinds of individual differences and inequalities. But, for the Naturalist position, the greatest difference in strength of body, mind, or will is of secondary importance to, and immensely less in value than, the equality of men as men. The fact and value of specific equality takes priority over every other equality or inequality; it has fundamental and prime importance.

The evaluative judgment of human equality leads to the third interpretation of the statement that men are equal, namely, that they have an equal right to equal treatment, insofar as they are equal, and ought to be treated accordingly. The simplest way of obtaining the prescriptive rule, stated in the last clause, is to appeal, as Aristotle did, to the rule that equals ought to be treated equally. The Naturalist position, however, is frequently somewhat more subtle. It consists in the claim that a man is not fully recognized as a man, nor his value as a man appreciated, unless he is also treated as a man. It is as though his value is not recognized unless he is also valued. Thus, the Natural Law theorists of an earlier day maintained that there is such dignity in being a man that the most telling answer to an insult is to declare “I am not a dog, but a man equally like you.”⁵⁰ In other words, for the Naturalist position, all men, merely by being men, have a right to be treated as equals in some fundamental respect; a certain form of treatment is due to them as being men, entirely apart from their acquirements or merits; and

this fundamental equality underlies and provides the ground for all other particular equalities.

To sum up, the Naturalist position is characterized by the assertion of the following three propositions:

- (1) All men are equal as men in that they belong to the same species.
- (2) All men have an equal worth or value as men.
- (3) All men have an equal right to be treated as equals and should be treated accordingly.

Having provided a summary statement of the position, we turn now to document it and show that it is a position that is actually taken in the contemporary literature on equality.

The conviction of the importance and value that is placed on the specific equality of men distinguishes the Naturalist position from the other two. As already noted, however, the proponents of the position assert this conviction in many different ways. Sometimes, as in the work of Jacques Maritain and of Yves Simon, it is done by asserting that all men share in the same human nature.⁵¹

Others make the same point, thereby showing they are proponents of the Naturalist position, by emphasizing the common humanity of men manifested through possession of certain common characteristics such as the use of language and of tools. Bernard Williams is typical of this way.⁵²

Again, the primacy of specific equality may be emphasized by asserting the worth or dignity of man. Thus, Albert Hofstadter writes: “If there is anything that should be called a postulate of equality, it is the principle of the intrinsic dignity of the human being, the infinite worth of the human person. It is a postulate antecedent to any special conception of equality, whether one thinks of economic, legal, political, educational, social, or any other form of equality.” He calls this worth “infinite” intentionally in order “to emphasize that the worth of a human individual is something that cannot be and must not be measured. Positively, it emphasizes two things: (1) The worth of a human individual is an ultimate worth. It is not to be subordinated to another worth as an instrument is to an operation or a means to an end.... (2) The worth of a human individual is an incomparable worth. There is no possibility of comparison between two human individuals making one greater in worth.”⁵³

There are still other ways of asserting the fundamental importance of specific equality. One may stress the equality of all men as moral agents; John Wilson speaks of men as all being “choosers and

creators of value”;⁵⁴ whereas Jaspers refers to the “freedom . . . to approach God through his moral life.”⁵⁵ From what we have seen, it is clear that the importance and value of specific equality may be asserted in many different ways. But, so far, we have seen only how various authors assert the Naturalist position regarding the descriptive and evaluative statements concerning equality. We have yet to see how they assert the most important point of all, namely, how specific equality grounds and justifies the basic right to equal treatment.

The contemporary literature, as already noted, shows much concern to distinguish these various types of statement and to analyze their relation to each other. Many proponents of the Naturalist position in the past have rarely bothered about either point, and there seems to be no doubt that the concern with them now stems from the criticism put forward by the proponents of the Formalist position. Hence one cannot fully appreciate all that is involved in the controversy until one has also understood the Formalist position. In completing the exposition of the Naturalist position, then, we will be introduced to some of the special concerns of the Formalist proponents.

We may note, in the first place, that the Naturalist proponents are not convinced that one need always draw a hard and fast distinction between descriptive and prescriptive statements about equality. Williams is typical in this respect when he speaks of the factual or descriptive assertions as “backing up” the prescriptive claims for equality and giving them their “force.”⁵⁶ It is in this sense that specific equality, for the Naturalist position, can be said to ground or justify the prescriptive judgment. Several of the Naturalist authors consider in some detail how the two are related and how it is possible to get from the one to the other—notably Williams, Wilson, and Gregory Vlastos. The structure of the argument is especially prominent in the work of Vlastos, who speaks most explicitly in terms of “justification.”

Vlastos asserts that “we acknowledge personal rights which are not proportioned to merit and could not be justified by merit. Their only justification could be the value which persons have simply because they are persons . . . individual human worth.” Persons have value in themselves, but everything else, he says, “can only have value for a person.” Things have value in two different ways: “because they can be (*a*) experienced or felt to be valuable by human beings, and (*b*) chosen by them from competing alternatives.” The first he refers to as “well-being or welfare,” the second as “freedom.” With these distinctions, Vlastos claims that we can formu-

late four propositions that show how “equality of human worth [provides] justification, or ground, of equal human rights,” as follows:

- (1) One man’s well-being is as valuable as any other’s.
- (2) One man’s freedom is as valuable as another’s.
- (3) One man’s (*prima facie*) right to well-being is equal to that of another.
- (4) One mans (*prima facie*) right to freedom is equal to that of any other.

The first two of these propositions, according to Vlastos, give “good reasons” or are “the crucial premises in justification argments whose respective conclusions would be” the last two propositions. He explicitly offers (1) and (2) as interpretations of what Kant means by saying that men are “ends in themselves” and equal as such.⁵⁷

The first two propositions are evaluative statements regarding human equality; they assert the equality of all men in two respects. The last two are prescriptive since in proclaiming rights they call for equal treatment for all with respect to well-being and freedom. Anyone, Vlastos claims, who knows that we believe the first two would see them “as good reason for the latter . . . Then, given (4), he could see how this would serve as a basis for a great variety of rights to specific kinds of freedom . . . Moreover, given (3) he could see in it the basis for various welfare rights . . . Hence to tell him that we believe in the equal worth of individual freedom and happiness would be to answer, in terms he can understand, his question, ‘What is your reason for your equalitarian code?’”

Yet Vlastos does not demand absolute equality in all respects, since even such basic rights as he enumerates are conditional. For by a “*prima facie* right,” he understands a claim that is justified “unless there are stronger counter-claims in the particular situation in which it is made,” that is, there are situations in which they can be overruled.⁵⁸ Equality, in other words, may in certain cases give way to inequality. The well-being and freedom of the President is no whit greater than that of the lowliest citizen considered in and by itself; yet it is neither surprising nor unjust that greater precautions should be taken to protect the President than the private citizen.

With this preliminary identification of the Naturalist position, we can turn now to the opposing positions. Both the Formalist and Pragmatist positions have been elaborated in more or less conscious disagreement with that position. Sometimes this disagree-

ment is explicit, but, even when it is not, the Naturalist position seems always to be lurking in the background as the object of ultimate attack.

The Formalist Position

The proponents of the Formalist position deny that the Naturalist authors have succeeded in justifying the rule of equal treatment. They do not propose, however, to provide a better and more satisfactory justification. Instead, they maintain not only that no justification of the rule can be provided but also that none is necessary. The equality rule stands by itself, as it were, as part of the very context of rule-guided behavior.

The fundamental and important feature about human equality, according to the Formalist position, is that it is a rule or principle of human action: Men ought to be treated equally in this or that respect. This prescriptive statement is all that is needed for the understanding of human equality, and the descriptive and evaluative statements about human equality to which the Naturalist proponents appeal, if not actually false, are irrelevant.

Among the Formalist proponents, however, there is no general agreement upon exactly what kind of rule equality is. Much recent discussion in the American and English philosophical journals is devoted to this question. In fact, at least five different ways or senses can be distinguished in which equality is said to be intimately associated with the notion of a rule of action: (1) The rule of equal treatment is held to be implicit in the notion of rule-guided behavior. (2) It is tantamount to demanding impartiality in the application of a rule. (3) It is a necessary condition for moral behavior. (4) It is a *prima facie* rational rule of procedure. (5) It is presupposed by any morality based on a theory of rights.

By reviewing how each of these assertions is made and defended, one can obtain a good grasp of the basic structure of the Formalist position. One should note first, however, one feature that is common to all five versions. All are exclusively concerned with equality as a prescriptive rule. W. T. Blackstone speaks for all the Formalists when he declares: "I flatly state here that the primary function of the equality principle in its moral and political contexts is prescriptive, not descriptive, and that the quest for some property essential to all men, a property which justifies equality of treatment, is a mistake."⁵⁹ Presumably, this statement is not meant to deny that there are factual ways in which men are equal or unequal but only to assert that the claim for equal treatment, in whatever

sense it is asserted, does not depend on any preexisting respect in which men are equal.

The first of the five versions of the Formalist position is that which claims that equality is implicit in any rule-guided behavior. R. E. Flathman maintains this position by asserting that equality of treatment is only one way of formulating the requirement of generalization. “To treat people equally is to treat them in the same way,” he writes. “To treat people in the same way is to treat them according to a rule . . . Philosophers, aware of this relationship, have attempted to explicate and refine the notion of equality through the notion of general rule or generalization.”⁶⁰

The fullest and most detailed study of this notion is the book entitled *Generalization In Ethics*, by Marcus Singer, and Flathman adopts Singer’s formulation of the generalization principle, as follows: “What is right (or wrong) for one person must be right (or wrong) for every relevantly similar person in relevantly similar circumstances.” This is to say that “if X is right for A, it must be right for B, C, D, . . . N, unless A or his circumstances is different from B, C, D, . . . N or their circumstances in a manner justifying making an exception of A. There is, it would appear,” Flathman goes on to say, “a presumption in favor of equal treatment of all persons and any departure from that rule must be justified.”⁶¹

It should be noted that the word “equal” does not figure in the statement of the generalization principle. Why, then, one may ask, does it lead to the presumption of equal treatment for all? Presumably it is somehow embedded in the very notion of applying a rule. In fact, Alan Gewirth, whose work is praised by Flathman, says explicitly that “equality is involved in the very idea of rules, for rules are general prescriptions as to how to treat people, and all cases falling under the rules ought to that extent to be treated in the same way.”⁶² From this it appears that equality is being identified with the application of a rule.

Take, as an example, the traffic rule that one must keep to the right of the highway except when passing. Now, according to the generalization principle, if it is right for motorist A to drive to the left when passing another car, then it is also right for motorists B, C, D, . . . N to drive to the left when passing, in the same circumstances.

From this example it is not immediately obvious *how* equality enters the picture at all. The rule is made for motorists, and it is not clear what would be meant in saying that it applies more to one motorist than to another. If we would say that it applies to all

equally, we would mean only that it is the same for all, and in this situation equality would add nothing whatever to the note of sameness as expressed in the statement that the law is one and the same for all motorists.

If some sense of equality lurks in the notion of applying a rule, it must be quite a different sense from any that we have met so far.

One can readily formulate a rule that expressly discriminates among people and calls for unequal treatment. Take the rule for apportioning representatives in the original American Constitution, according to which a free man counts as one, a slave as threefifths, and an Indian not at all. In this situation, the generalization principle demands that this manner of counting must be followed in every state, and counting all men as equal, for purposes of representation and taxation, would constitute an infraction of the rule. It does not seem especially helpful to speak of the rule being applied equally when nothing more is meant than that it is being applied.

According to the second version of the Formalist position, the principle of equal treatment is identified with that of impartiality. Thus Flathman declares that “we must treat everyone equally in the sense that we must apply our standards impartially to all.”⁶³

Now, if to apply our standards impartially means to apply them equally, we would have given some meaning to the latter phrase, for we certainly can and do speak of impartial applications of a rule. The question then arises whether the principle of impartiality is identical with the principle of generalization.

As Wilson points out, there is good reason for thinking that the two are not identical.⁶⁴ An example will clarify the difference between the two principles. In daily life, as in law, we do not accord the same treatment to lunatics, morons, and small children that we do to sane and intelligent adults. If we now ask which of our two principles justifies such differential treatment, it seems clear that it is not the impartiality principle. We would not want to argue that we are showing partiality in these cases, but we would say rather that we do not have similar cases. Of course, the rule of treating similar cases similarly does not by itself tell us, for example, that small children and sane adults are not similars; for that knowledge we have to appeal to sources beyond the rule; in this sense the rule is formal only: When we know from other sources that we do not have similar cases (in the relevant respect), then we do not have to treat them similarly. The situation is otherwise with the impartiality principle. Ordinarily, in appealing for impartiality, we already

have a rule as well as the cases to which it applies and are demanding that no preference be shown to either side.

Further evidence that the two principles are not equivalent appears in the moral judgment that we pass upon their infraction. A man who fails to treat similar cases similarly because he thinks they are not similar can at most be guilty of a mistake of judgment; he merits no moral opprobrium. But the man who is expected to give a fair judgment and then shows distinct partiality for one over another is guilty of injustice. The application of the impartiality principle implies that the cases are already known to fall under the rule or law; there is no place open for partiality. The generalization principle contains no such assumption but asserts only that if the cases are similar they must be treated similarly and implies that if they are not then they need not be.

Granted that impartial treatment is equal treatment, we still have found no reason to justify identifying the cases falling under a rule with *equal* cases. Since impartiality is not the same in all respects with “generalisability” or “universalisability,” we cannot import the sense of equality from the one to the other. In short, we are still seeking a good reason for identifying a basic sense of equality with “universalisability.”

It may be objected that we have been misled by our examples, all of which have been more or less legalistic, and that it is only in moral rules, in moral *oughts*, that universalizability is identical with equality in the sense of equal treatment of equals. This assertion constitutes the third version of the Formalist position. R. M. Hare, in *Freedom and Reason*, declares explicitly that the universalisability principle, and, hence, equality, is logically implicit in any moral rule.⁶⁵

In discussing the Utilitarian principle, “Everybody to count for one, nobody for more than one,” Hare explicitly links equality with universalizability. The Utilitarian principle, he claims, “means that everyone is entitled to equal consideration, and that if it is said that two people ought to be treated differently, some difference must be cited as the ground for these different moral judgments.” Hare then goes on to say that “this is a corollary of the requirement of universalizability,” and like that principle “a purely formal principle, following from the logical character of the moral words.” To illustrate, he offers an imaginary example. “Suppose that three people are dividing a bar of chocolate between them, and suppose that they all have an equal liking for chocolate. And let us suppose that

no other consideration such as age, sex, ownership of the chocolate, etc., are thought to be relevant. It seems to us obvious that the just way to divide the chocolate is equally. And the principle of universalizability gives us the logic of this conclusion. For if it be maintained that one of the three ought to have more than an equal share, there must be something about his case to make this difference—for otherwise we are making different moral judgments about similar cases. But there is *ex hypothesi* no relevant difference, and so the conclusion follows.”⁶⁶

In this analysis there are three separate points to note: (1) The universalizability principle as such is stated without any explicit mention of equality. (2) The principle of treating equals equally (or in Hare’s words, that “everyone is entitled to equal consideration”) is not identified with the universalizability principle but is held to be a corollary of it. (3) The example introduces still another note in that the division into equal parts is said to be, in the situation, the only *just* distribution.

Despite Hare’s claim, it is extremely difficult to see how these three propositions are linked together. The first, that a moral rule or principle is universal, certainly seems to be true. “Thou shalt honor thy father and thy mother,” “Thou shalt not kill” are moral rules and are certainly universal; they apply to all the singulars that fall under them. But it is hard to see how there is any question of equality. In fact, Hare himself, in analyzing the principle of universalization, makes no reference to equality but handles the explication in terms of similarity.⁶⁷ If rule R applies to X, then, in the relevantly similar circumstances, the rule also applies to anything the same as X. So stated, the universalizability principle makes no reference to the notion of equality. The concept of sameness by itself is all that is needed.

This being so, it is hard to see how the principle that equals are to be treated equally can be a corollary of it. Logically, a corollary is a proposition that follows from a theorem without the need of any additional proof. But if there is no reference to equality in the universalizability principle, there is no way that the principle of equal treatment follows from it.

The two principles are obviously closely related, but the basis of the relation does not lie in one being the corollary of the other but in the fact that both are rooted in the notion of the same. The universalizability principle says that similars should be treated similarly; the equality principle says that equals should be treated equally; but similarity and equality are different notions, although

both contain the note of sameness. To make clear logically the relation between the two principles, we would have to locate and identify the sameness that is implicit in each. The statement asserting that sameness would then provide the logical connection between the two.

To show the logical interconnections, let us suppose that the sameness in question is that which is asserted in the statement (1) that men possess the same human nature. The equality principle would then be (2) that all men ought to be treated equally in whatever respects their nature demands it, while the generalization principle in this case would be (3) that whatever is really good for me according to my nature as a man must also be really good for every other man.

Statements (2) and (3) clearly make different, although related, assertions. But what relates them logically is their connection with statement (1), since the truth of both depends upon that proposition. Thus, if (1) implies both (2) and (3), then (2) and (3) are equivalent in truth value.⁶⁸ Both derive their truth from the same proposition, although they assert different things, as is seen from the fact that equality of treatment and what is really good for man are different conceptions.

Hare's example of equal distribution fails to show that the two principles are so related, since it introduces still another principle distinct from both universalizability and equality, namely, the principle of justice. In his example, the only just way of dividing the chocolate is to divide it equally; any other distribution would be unjust and unfair. In other words, justice is here the prior notion; it calls for equality. But justice is a wider and different notion than that of equality, as is evident from the fact that we employ the concept of justice where there is no question of equality, as in questions of a just war.

The last two versions of the Formalist position are closely related to the one we have just considered. Benn offers a somewhat simpler formulation of the fourth view of equality in his article in the *Encyclopedia of Philosophy*. Noting that "the ideal of universal equality can often be reduced to the principle that all men ought to be equally considered," he goes on to assert that "this does not mean that there is any respect in which they are all alike and by virtue of which they should all be treated alike; it is rather a principle of procedure: that all men ought to be treated equally, despite all their differences, until a case has been made for saying that some particular difference between them is relevant to the matter at

hand.” This is the only rational way to act, “because it would be irrational, within a given class of cases, to treat some differently from others if no relevant grounds could be found for distinguishing between them.”

Such a rule by itself does not specify precisely what counts as “treating all alike.” Further, as Benn points out, it presupposes “an initial commitment or decision, for it takes for granted whose interests are to count. No one claims equal consideration for all mammals—human beings count, mice do not.” But if this is true, and it certainly seems to be, we have not avoided making a prior judgment of equality; namely, those “whose interests are to count” are taken as equal: those who are equal are to be given equal treatment, where being equal is in some respect distinct and different from being treated equally. This again leaves open, or at least does not make explicit, the reason why equals should be treated equally.

The fifth way of explaining equal treatment without appealing to a more basic equality in men is seen in the work of Blackstone.⁷⁰ He offers his argument as an interpretation and extension of the claim advanced by H. L. A. Hart⁷¹ that “the equal right of all men to be free” is logically implicit in any morality of rights. Whereas Hare maintains that equality is implicit in morality as such, Hart makes the narrower claim that it is only implicit in the notion of a moral right. Granted for the moment that this is so, Blackstone then proceeds to argue that “if the principle of the equal right of all men to be free is identical to the equality principle or the claim that all men have equal rights, . . . or if the equality principle is simply entailed by the equal right of all to be free, then Hart’s argument is that any system of morality in which the notion of ‘rights’ functions logically presupposes the equality principle.”⁷² According to Blackstone, this suffices to show that those committed to a morality of rights must further recognize that they “are also committed to the equality principle.”

There are two suppositions in Blackstone’s argument, neither of which he attempts to defend. One is the acceptance of Hart’s contention that all men have an equal right to freedom. The other is the assumption that this principle is equivalent to, or entails, the equality principle that all men should be treated equally. Yet, certainly, it is not immediately obvious that either of these assumptions holds; at the very least, more argument is called for. Both, it should be noted, equate equality with the notion of freedom—a concept, to put it mildly, that is considerably more difficult and complex than that of equality.⁷³

The Pragmatist Position

The proponents of the Pragmatist position on equality are opposed to both the Naturalist and the Formalist positions. As they view the issue, the Naturalist authors go too far and the Formalist writers not far enough in their accounts of equality. According to the Pragmatist writers, it is not necessary to appeal to a prior equality of nature—the common humanity of man—in order to ground equality of treatment. They hold that even if men were fundamentally unequal, there would still be good reason for treating them equally in certain respects. They disagree with the Formalist writers, however, in holding that equality is more than merely a formal principle for meeting the requirements of generalization or of moral and rational action. They maintain that equality is a substantive social and political ideal toward which men have been moving and for which they have been fighting in the course of their historical development.⁷⁴

The positive characteristic of the Pragmatist position lies in the contention that equality of treatment is to be defended, explained, and justified, as a means for achieving some end or good. The end may be described in various ways and identified with different goods to be achieved, but in every case equality of treatment is considered an indispensable means for attaining it.*

Sidney Hook gives clear and forceful expression to this essential note of the position.

* The most detailed account of the Pragmatist position regarding equality is given by G. W. Mortimore in “An Ideal of Equality” (*Mind*, LXXVII [1968] 222-42), but unfortunately, it arrived too late to be made use of here.

He defines a moral ideal as “a prescription to act in a certain situation or class of situations in determinate ways that will organize the human needs and wants involved so as to fulfill a set of other values which are postulated as binding in relation to the problem at hand.” The democratic ideal of social equality holds that “we should treat individuals of unequal talents and endowments as persons who are equally entitled to relevant consideration and care.” Its justification, according to Hook, lies in the values that it is capable of achieving, values such as the creative, voluntary effort and intelligent loyalty of all members of the community; greater understanding and insight into the lives of others; peaceful relations and socially harmless forms of competition with a minimum of duplicity, fear, and toadying; and the maximum development of each individual.⁷⁵

Among other ways of asserting the Pragmatist position, there is one that views equality as a way of strengthening our domestic economy and hence our international position.

Another views equality of treatment in the public realm as necessary for providing a secure framework within which men might pursue their own ends and even “be able to express their inequalities in the private realm.”⁷⁶

There is another way of asserting the Pragmatist position that is worth considering in more detail, since it involves equality of opportunity which is one of the most discussed subjects in the contemporary literature on equality. The discussion of equality by Plamenatz provides a good example of this way. According to Plamenatz, concern with equality of opportunity is a distinguishing characteristic of modern discussions of equality. Men have understood different things by it, however. Plamenatz distinguishes two different senses, one of which he calls “equality of service,” the other “equality of freedom.” In the first of these equality of opportunity is viewed as a means, while in the second it functions as an end which other equalities serve as a means.

The need for equality of opportunity as a means becomes clear if we compare it with other equalities of status. A person may be entitled to certain rights—certain legal rights, for example—yet in actual practice be unable to exercise them since he cannot fulfill the conditions necessary for their exercise. A man may enjoy, in principle, equality before the law and the right to a fair trial and yet, in practice, from ignorance and lack of money, be unable to exercise that right and obtain a fair trial. In such a case, the legal right is empty and formal without the opportunity to exercise it.

What is needed is not only equality before the law but also the equal opportunity to exercise and secure it.

We are dealing with what might be called different orders of equality. One, equality of opportunity, concerns the means and enabling condition for obtaining another equality that is an equality of status. In our example, the status is that of legal equality, but there is no reason not to extend it to all the conditions necessary for a good life. Plamenatz speaks of “equal opportunity of service,” by which he understands that “in its own interest society must ensure, as far as it can, . . . that anyone who wishes to render a service for which there is a demand is not prevented from doing so except by his being less able than others to render it— though his opportunity to

get the required training is as great as theirs. This . . . is what is meant by the rule, to every talent its opportunity of service.”⁷⁷

Equality of opportunity, in this sense, may become in its results inimical to both freedom and equality. Plato, Saint-Simon, and Sumner all demanded absolute equality of opportunity at the start for all members of society, but they did so only in order to locate the natural leaders for ruling a hierarchically organized authoritarian society. Equal opportunity for a “career open to talents” results in government by those who possess the talents cherished by the society. As Schaar points out, equality of opportunity, so understood, amounts to the equal right for some men to become unequal by competing against their fellows and establishing an oligarchy based on merit.⁷⁸

From this, it is obvious that equality of opportunity must have still another sense if it is to serve as the fundamental equality identified with freedom as an end. “In the West we mean by equality of opportunity,” Plamenatz writes, “not only this equal opportunity of service, but also something else, which we do not always distinguish clearly from it. We also think it important that everyone should have as good a chance as anyone else of living as he wants to live. We believe that there should be for everyone, not just equal opportunity of service, but also equal opportunity of freedom.”⁷⁹

Thus understood, equality of opportunity is an end, not a means. It is equivalent to each having equal freedom to choose the kind of life that one wants to live, free from the coercion of either irresponsible government or debilitating poverty and ignorance. It presupposes the first kind of opportunity, Plamenatz notes; certain conditions have to be met for life as well as the good life. Yet it differs from the first kind of equal opportunity, not only in being an end and not a means, but also in being free, democratic, and noncompetitive. “The more this ideal is recognized, the less it matters that people should be successful in competition with others, that they should rise above them and prove their superiority to them, and the more it matters that they should discover for themselves, among the occupations and roles which society offers them, those that suit them best.”⁸⁰

From this, it is obvious that equality of opportunity must have them, and the more it matters that they should discover for themselves, among the occupations and roles which society offers them, those that suit them best.”⁸⁰ In short, equality of opportunity, for Plamenatz, describes the condition in which men can achieve their

fullest autonomy. Hofstadter, who has an equally broad conception of equal opportunity, describes it as “the career open to personality.”⁸¹

Equality of opportunity in this generalized sense describes an ideal of a good society: a society in which each man is free and able to seek the good life as he sees it, and in which all men are equal inasmuch as all have an equal opportunity to engage in the pursuit of their own happiness. All other equalities serve this equality as a means since legal, political, economic, or social equality is viewed merely as a means for achieving that condition in which each man is able to live as he wants to live. Equality of opportunity, understood in this way, Plamenatz declares, is “the supreme object of policy.”


The Three Positions Compared

From the summary view we have obtained of the basic theories regarding the justification of equality, we can now see how they stand with respect to one another. The Formalist position is clearly the simplest of the three. If the Formalist proponents are right in their claim, no justification is needed for the rule of equal treatment, nor is there any need to bother about its consequences.

The Pragmatist position is more complex than the Formalist position, but simpler than the Naturalist position. If the Pragmatist authors are right, the rule for equal treatment is justified by its consequences, and any further question concerns, not the rule, but those consequences and whether they are good and whether equal treatment does in fact lead to them.

The Naturalist position is the most complex of the three. If its proponents are right, the prior equality rooted in the nature of man not only justifies the rule for equal treatment but also explains why the consequences follow from observance of the rule as well as why they are judged to be good: the free pursuit of happiness corresponds to a right based on man’s nature.

It should also be noted that the more complex positions include and do not deny the assertion of the simpler. Both the Naturalist and the Pragmatist authors would admit the Formalist assertion that equal treatment is a moral rule, but they would also claim that it involves something more than this. So too, the Naturalist authors would agree with the proponents of the Pragmatist position that equal treatment leads to certain consequences that are good. But they go further than this and assert also that both the rule and the

consequences are based on a prior equality—the equality of men as men. 

NOTES (All three parts)

1 See the essay on the construction of the *Syntopicon*, GBWW, Vol. 3, p. 1223.

2 *Democracy in America* (New York: Albert A. Knopf, 1945), Vol. I, p. 3.

3 *Ibid.*, p. 7.

4 *The History* III. 20; GBWW, Vol. 6, p. 93C.

5 *On the Origin of Inequality*, 2nd Part; GBWW, Vol. 38, p. 359d.

6 *Politics*, 1254a14; GBWW, Vol. 9, p. 447c.

7 *Ibid.*, 1254a18; p. 447d.

8 *Ibid.* 1254b16, p. 448b-c.

9 *Ibid.* 1325b7; p. 529c. Cf. 1280a10; p. 477c.

10 *Ibid.*, 1253b20; p. 447a.

11 *De legibus* I. 10, 28.

12 *Matthew*, 23:8-9; *Galatians*, 3:28. Cf. *I Corinthians*, 12:13; *Colossians*, 3:11.

13 *Politics*, 1253b34; GBWW, Vol. 9, p. 447b-c.

14 *On the Origin of Inequality*, 1st Part; GBWW, Vol. 38, p. 347ad.

15 *Leviathan*, chap. xiii; GBWW, Vol. 23, p. 84c-d.

16 *Treatise of Civil Government* II. ii. 4; GBWW, Vol. 35, p. 24d.

17 *Ibid.*, II. vi. 54; p. 36c.

18 *Constitution of the United States*, Art. 1, Sect. 2; GBWW, Vol. 43, p. 11b.

- 19 *The Science of Right*, Intro.; *GBWW*, Vol. 42, p. 401c.
- 20 *Ibid.*, 2nd Part, 46, p. 437a-c.
- 21 *Representative Government*, chap. viii; *GBWW*, Vol. 43, p. 382b; & chap. vii; p. 307d.
- 22 *Ibid.*, chap. viii, pp. 382b, 381b.
- 23 *Utilitarianism*, chap. v; *GBWW*, Vol. 43, p. 475b-c.
- 24 *Representative Government*, chap. viii; *GBWW*, Vol. 43, pp. 382c-d, 383d.
- 25 *Ibid.*, p. 384c-d.
- 26 *Anti-Dühring* (New York: International Publishers, 1939), pp. 117-118.
- 27 *Man and Society* (London: Longmans, 1963), Vol. II, pp. 24-25.
- 28 *Equality* (rev. ed.; New York: Capricorn Books, 1961), p. 92.
- 29 “Human Equality,” in *Ransoming the Time* (New York: Scribner’s, 1941), p. 1.
- 30 “Egalitarianism and the Idea of Equality,” in *Nomos IX: Equality [NIX]*, ed. J. R. Pennock and J. W. Chapman (New York: Atherton Press, 1967), p. 4.
- 31 *Ibid.*, p. 5.
- 32 As Bedau writes, “our ordinary concept of equality does not admit of our saying that Tully is equal to Cicero, or that water is equal to H₂O, or that any two things are equal to each other unless we are ready to deny the possibility of their identity.... Equality thus not only does not imply identity, it implies nonidentity.” Equality, in other words, is a relation among at least two things. *Ibid.*, p. 8.
- 33 It is useful to be able to make the distinction between these two different bases for comparison, or between what W. E. Johnson calls the determinable and the determinate. Thus 126 is a determinate of the determinable number, and so, too, long or short *is* a determinate of the determinable length, and white or lack of color, and round or square of shape. *Logic*, Vol. 2 (New York: Dover

Publications, Inc., 1964), p. 176. To begin to spell out what is involved in saying that two things are equal, or that $a = b$, we must be able to specify the determinable respect, say P , present in both a and in b , which is determinate p' in a and p'' in b ; that is, if p' differs from p'' , then we know that the two things are unequal, or that $a \neq b$.

34 *Op. cit.*, p. 7.

35 *Metaphysics*, 1056a5; *GBWW*, Vol. 8, p. 583a.

36 *Ibid.*, 1055b10, p. 582c.

37 *Ibid.*, 1056a21, p. 583b-c.

38 *Ibid.*, 1056a23; p. 583c.

39 *Op. cit.*, p. 6.

40 *Principles of Mathematics* (London: Allen & Unwin, 1951), pp. 159-60, 167-68.

41 *Op. cit.*, p. 153.

42 "Diversity of Rights and Kinds of Equality," *NIX*, p. 82.

43 "Egalitarianism and the Equal Consideration of Interests," *NIX*, p. 64.

44 *Ibid.*, pp. 62-64.

45 *Ibid.*, pp. 62-63.

46 *Ibid.*, p. 63.

47 *Op. Cit.*, p. 82.

48 *Hamlet* II. ii. 315; *GBWW*, Vol. 27, p. 43d. 49 *Op. cit.*, p. 17.

49 *Op. cit.*, p. 17.

50 S. Pufendorf, *De officio hominis et civis juxta legem naturalem* (London: Thurlbourn and Woodyer, 1758), p. 258.

51 "Inasmuch as it is the same human nature, made of the same intelligible features connected with one another in the same system

of intelligibility, which exists in the real as identified with James and as identified with Philip, James and Philip are one in nature and are equal in an essential and fundamental sense, regardless of the inequality of their individual properties.' Simon, *Philosophy of Democratic Government* -Chicago The University of Chicago Press, Phoenix Book, 1961), p. 200.

52 "The factual statement of men's equality [*is seen*] when pressed, to retreat in the direction of merely asserting the equality of men as men; and this [*is*] thought to be trivial. It *is* certainly insufficient, but not, after all, trivial. That all men are human is, if a tautology, a useful one, serving as a reminder that those who belong anatomically to the species *homo sapiens*, and can speak a language, use tools, live in societies, can interbreed despite racial differences, etc., are also alike in certain other respects more likely to be forgotten. These respects are notably the capacity to feel pain, both from immediate physical causes and from various situations represented in perception and in thought; and the capacity to feel affection for others, and the consequences of this, connected with the frustration of this affection, loss of its objects, etc. The assertion that men are alike in the possession of these characteristics is, while indisputable and (it may be) even necessarily true, not trivial. For it is certain that there are political and social arrangements that systematically neglect these characteristics in the case of some groups of men, while being fully aware of them in the case of others; that is to say, they treat certain men as though they did not possess these characteristics." "The Idea of Equality," in Laslett and Runciman, *Philosophy, Politics, and Society*, 2nd Series (Oxford, England: Basil Blackwell, 1964), p. 112.

53 "The Career Open to Personality," in *Aspects of Human Equality*, Fifteenth Symposium of the Conference on Science, Philosophy, and Religion [*CSPR*], ed. L. Bryson, C. H. Faust, L. Finkelstein, and R. M. MacIver (New York: Harper & Bros., 1956), pp. 112-13.

54 *Equality* (London: Hutchinson & Co., 1966) p. 97.

55 Quoted by H. Spiegelberg, "Equality in Existentialism," *NIX*, p. 196.

56 It is "not necessary all the time to treat separately the supposedly factual application of the notion of equality, and its application in the maxim of action. Though it is sometimes important to distinguish them, and there are clear grounds for doing so, similar considerations often apply to both. The two go significantly to-

gether: on the one hand, the point of the supposedly factual assertion is to back up social ideals and programs of political action; on the other hand, . . . those political proposals have their force because they are regarded not as gratuitously egalitarian, aiming at equal treatment for reasons, for instance, of simplicity or tidiness, but as affirming an equality which is believed in some sense already to exist, and to be obscured or neglected by actual social arrangements." *Op. cit.*, pp. 111-12.

57 "Justice and -quality," in Brandt, *Social Justice* (Englewood Cliffs: Prentice-Hall, 1962), pp. 48-52.

58 *Ibid.*, p. 38; cf. p. 72.

59 "On the Meaning and Justification of the Equality Principle," in *Ethics*, Ixvii (1967), p. 239.

60 "Equality and Generalization, A Formal Analysis," *NIX*, p. 38.

61 *Ibid.*, p. 39.

62 "Political Justice," in Brandt, *Social Justice* (Englewood Cliffs: Prentice-Hall, 1962), p. 124.

63 *Op. cit.*, p. 59.

64 The "universalisability thesis," which is Wilson's name for the generalization principle, "leaves the question of what counts as a relevantly similar case entirely open," he declares, whereas the "impartiality principle does not, and for that reason is more than a formal principle." The generalization principle boils down to this: "Treat similar cases similarly," but it does not by itself tell us what we are to take as similar cases. "It would not enable us to make a distinction between a man who was brought up by human parents and regarded wolves as subhuman, and a man who was brought up by wolves and regarded people as sublupine." The impartiality principle, however, assumes that "all people are, *prima facie*, similar cases." *Op cit.*, pp. 119, 118.

65 "The meaning of the word 'ought' and other moral words," he writes, "is such that a person who uses them commits himself thereby to a universal rule." The denial of it, consequently, amounts to a contradiction: "If a person says 'I ought to act in a certain way, but nobody else ought to act in that way in relevantly similar circumstances,' then . . . he is abusing the word 'ought'; he is implicitly contradicting himself." The logical offense is said to

lie "in the conjunction of the two moral judgments, not in either one of them by itself." One or the other of them may, in fact, be a valid moral judgment; it may be morally right for me to act in that way, but if this is so, then, according to Hare, it cannot also be morally right for no one else to act that way in similar circumstances. (New York: Oxford University Press, 1965), pp. 30, 32.

66 *Ibid.*, pp. 118-19.

67 *Ibid.*, p. 33; cf. p. 13.

68 The logical law is the following from the logic of propositions.

69 (New York: Macmillan, 1967), Vol. III, p. 40b.

70 *Op. cit.*, pp. 239-50.

71 "Are There Any Natural Rights?" in *Philosophical Review*, LIV (1955), pp. 175-91.

72 *Op. cit.*, p. 250.

73 For proof of this, cf. M. J. Adler, *The Idea of Freedom* (2 vols.; New York: Doubleday & Co., Inc., 1958-61).

74 Formalist authors sometimes write as though the principle had nothing at all to do with history. Thus, Benn writes: ". . . It is a mistake to think of history as a movement towards ever greater equality, in which one distinction after another is being borne down; as though the word stood for some essential idea which assumed a different shape in each generation, but which remained in some fundamental way the same, or of which every later manifestation somehow embraced and transcended all the earlier ones."—S. I. Benn and R. S. Peters, *The Principles of Political Thought* (New York: Collier, 1965), p. 132.

75 Quoted and summarized by William Frankena, "Ethical Theory," in *Philosophy The Princeton Studies: Humanistic Scholarship in America* (Englewood Cliffs Prentice-Hall, Inc., 1965), pp. 386-87.

76 Cf. John Schaar, "Some Ways of Thinking About Equality," in *Journal of Politics*, XXVI (1964), pp. 882-86. Schaar distinguishes five ways, but three of these are variants of what we are calling the Pragmatist position. His other two are equality of opportunity and the Naturalist position.

77 *Op. cit.*, pp. 87-88. 78 *NIX*, p. 241.

79 *Ibid.*, p. 88.

80 *Ibid.*, p. 90.

81 *Op. cit.*, p. 111.

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Abbreviations

CSPR = *Aspects of Human Equality*, Fifteenth Symposium of the Conference on Science, Philosophy, and Religion, edited by L. Bryson, C. H. Faust, L. Finkelstein, and R. M. MacIver (New York: Harper & Bros., 1956).

NIX = *Nomos IX: Equality*, edited by J. R. Pennock and J. W. Chapman (New York: Atherton Press, 1967).

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