

THE IDEA OF EQUALITY

by

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ABSTRACT

A great deal of controversy has attended current discussions of public policy in the Western world; much of this controversy has centred on the idea of equality. The idea has been strongly advocated and vigorously attacked; unfortunately, most of the discussion has been polemical in tone rather than analytic. Supporters and critics have been more anxious to press their own interests or preferences than to come to a reasonable appreciation of the notion.

This is not to say that the present confusion stems entirely from prejudice, ill will, or shortsightedness. Like all concepts, equality is very general and often quite vague in its meaning. It can be approached in a number of ways, each of which is liable to yield a different policy prescription, and thus a different opinion as to its value. It is, then, a difficult idea to work with. Nevertheless, I do not feel that it should be done away with. It can be understood and usefully applied, I believe, if one attempts to discover what it does mean, rather than what one wants it to mean.

The thesis examines the notion that all men are, in fact, equal, and finds it lacking. Even if all men were equal in significant respects, it is difficult to see what sort of prescriptions this would entail. We must turn, then, to equality as a normative expression--as an ideal. The idea of value is touched upon; the conclusion is that while no values are absolute, there are some, such as human welfare, that are clearly central to any form of moral discourse. The idea of morality involves the concepts of rights, rules, and justice, all of which are connected with equality to

some degree. Justice is seen as particularly important to the question of how men should be treated, which is, of course, at the heart of the egalitarian ideal. It is found that justice involves more than equality, but that the latter is still a major element of the former.

The value of all men as men suggests that all human needs should be attended to--everyone is equal in need (up to a point) and therefore has the right to be treated equally (up to a point). The value of fairness and the existence of rules both suggest the notions of equality of opportunity and equality before the law--these also can be viewed as matters of right. Finally, the ideas of corrective justice and reward according to effort entail a redistribution of goods which leans towards equality of result.

In all of these spheres, the principle of equality plays a legitimate role. Beyond them, it tends to be distorted and used for other purposes. Examples of such distortion can be found in several areas of contemporary public policy (e.g., quota systems, education, open admissions to universities). The result is that many observers have been led to criticize the principle rather than those who misuse it. Several criticisms are noted; while some are well taken, however, none can be said to destroy the validity of the notion of equality.

The idea of equality, then, is difficult but not impossible to understand. It must be kept in mind that it is not absolute or eternal, but one ideal among many. If it is approached and applied with reason, so that attention is paid to the limitations imposed by the various contexts in which it may occur, it can be seen as a legitimate and useful concept.

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INTRODUCTION

The idea of equality, as it is used in philosophic discourse, is exceedingly complex. It does not lend itself to simple and straightforward analysis, as many theorists have discovered. It shares this characteristic with a number of concepts--liberty, democracy, authority, sovereignty, justice, and rights, for example. Nevertheless, such concepts are often thought to comprise the core of political philosophy, and their explication and elucidation has long been one of the major concerns of students of this particular discipline. An examination of the notion of equality, then, appears to be in keeping with traditional lines of inquiry, while its multifaceted and controversial nature seems to offer a promising field of study.

The approach will be analytic, but not exhaustive. It is not possible here to deal with all the meanings that have been attached to the idea, or all the uses to which it has been put, or all the areas of thought with which it has been connected. Thus a limited, but representative, number of treatments will be considered, varying from broad to narrow in scope, and from justificatory to critical to more strictly analytic in intent. Hopefully they will shed light on certain aspects of the concept which will yield enough information to enable us to come to some understanding of what it means and how it can be most fruitfully used. Of course it would be overly optimistic to expect to arrive at the meaning, or the correct sense of the term; the aim here will be to put forward a reasonable and coherent, rather than a definitive, account of its meaning and applicability to the world of human affairs.

More specifically, the idea will be explored both as fact and as norm. An attempt will be made to understand the basis of its legitimacy. The idea

will then be examined in various contexts, particularly those of rules, rights and justice. Finally, the question of its social applicability will be considered. Each of these areas of inquiry could itself be the subject of a full-length paper; however, it hardly seems possible to come to any sort of understanding of the concept without dealing with them all to some degree. The hope is that more will be gained by tracing it through these various spheres of thought than will be lost by the brevity of some of the treatments.

CHAPTER 1

THE PRINCIPLE OF EQUALITY

The Concept of Equality

To begin: it should be noted firstly that "equality" can be both a normative and a descriptive concept. It describes a relation between two or more things. To say that A and B are equal is to say that they are identical or (more often) similar with regard to some respect which they have in common (e.g., colour, weight, function). How similar A and B must be before they can be said to be equal is a matter of judgment which is usually, but not always, evident from the context. The criterion is the purpose for which they are being considered equal or unequal--a diamond studded trophy and a rock from the yard might be equal as paperweights, but unequal as sources of economic value. Or a pile of coal weighing 10,000 pounds might be thought equal to one weighing 10,002 pounds--until the latter is placed on an elevator the maximum weight capacity of which is exactly 10,000 pounds.

The descriptive sense of equality can also be applied to the area of human affairs--though not so easily. The main problems are the difficulty of measuring certain things, like happiness, goodness, dignity, etc., and the tendency to confuse facts and values. (Oppenheim's article, "Egalitarianism as a Descriptive Concept" is useful here--particularly with regard to the "is-ought" problem.)¹

But it is the normative sense of equality with which I am here primarily concerned--equality as a prescriptive, rather than a descriptive, concept.

Empirical facts are important to any extended discussion of equality, but they will constitute the backdrop to, not the focus of, this study. Equality in this sense still involves a relation--but now it is one which some men feel ought (or ought not) to exist, rather than one which does (or does not) exist.

It seems fairly obvious that there is no such thing as equality in human relations, in any strict sense. Each case is different and unique. What is equal from one point of view is unequal from another--even though the situation and observer be unchanged. But to say that equality is non-existent does not help us to know what people are talking about when they speak of it in philosophic (or political, social, religious, etc.) terms. I think, then, that it is important to keep from thinking in terms of "absolute" equality. To do otherwise is to misconstrue the nature of the principle, with the result that evaluations are based on the false assumption that the notion entails some sort of total and all-encompassing identity.

For example, according to Berlin, it would be quite logical for a "pure" egalitarian to sacrifice good music for equality in an orchestra.² For him, any differences are open to criticism and should be eliminated. Now I feel that such a view should be considered fanatical, and not at all consistent with egalitarian principles.³ Not only because in real life the egalitarian is reasonable enough to recognise the limitations of the principle, but because the principle itself contains other elements besides the notion of similarity. It is called the equality principle because the idea of similarity is the major, or key, element; however, it is not the only one. This is not an emasculation or weakening of the "true" idea. Insofar as it is a principle applicable to human relations, it is rich and many-sided, and contains elements that modify, or make sensible and workable, the demand for similarity. These modifications are not just grafted on to some more "essential" concept, but

are part of the concept of equality itself. The "similarity" aspect reveals the tendency, the direction in which the principle is to operate, but the others are no less parts of that principle. After all, liberty is generally accepted as a desirable end, as is social stability. But no one suggests that advocates of liberty or authority want complete liberty or stability to the exclusion of all else. A radical libertarian or authoritarian might call for much more of his respective good than most people feel is desirable, but no one believes that libertarians want a total state of nature, or that authoritarians want an absolutely static, controlled society.

I do not see, then, why "radical" or "extreme" or "ardent" egalitarians are depicted as advocates of the elimination of all differences.⁴ An egalitarian, I think, is a person who would like to see a society with a strong commitment to equality in various areas of life, especially public, so that equality of treatment, for example, would be a norm, departures from which would be justified and not severe. A radical egalitarian, I would say, is one who would like to see equality extended to even more areas of life, who would want it pursued vigorously and with greater emphasis than would be placed on other values, and who would make justification of departures more difficult and disparities even smaller. As well, he would be likely to support environmental manipulation (e.g., in education, public institutions, laws, moral codes, etc.) in order to counteract elements of "human nature" that tend to interfere with the acceptance of egalitarian values (e.g., egoism, competitiveness, individuality). But this is not to say that even a radical egalitarian would wish to create a nation of sheep or robots--that would be fanaticism, not egalitarianism.

I am stressing this point because the principle of equality is often criticized for being impracticable or meaningless⁶, or for being a subordinate aspect of justice or reason or rule application.⁷ Now I feel that it can be practicable and meaningful when one tries to understand what it means,

rather than what it calls for when "logically extended".⁸ And I think the principle can stand on its own--if not logically, then (at least) as a moral impulse--and that it is not "really" a demand for justice or reason or proper application of rules. Of course, in some sense equality is an aspect of these concepts--but they are aspects of equality too. General concepts frequently incorporate other concepts, or features of other concepts, within them, and the latter are not thought to lose their validity. But Lucas has argued that Equality is "really" only the principles of Universalizability and Common Humanity, plus envy.⁹ I would suggest instead that the first two are parts of a legitimate political concept (equality), just as they and other notions, such as need, merit, fairness, etc., belong to the idea of justice without reducing it to nothingness.

In short, whether or not the equality principle can be logically explained away or rendered absurd, I shall proceed on the assumption that something is there that is worth exploring--if only because it has occupied such a central and influential position (against much opposition) in modern Western political thought.

Egalitarianism

Something should be said here about the terms "egalitarianism" and "egalitarian". They are actually more difficult to deal with than "equality" itself; in fact, many problems attributed to the principle seem to stem from confusion over the meaning of these derivative expressions. Now if equality is a legitimate political (or social, philosophic, etc.) principle, it must be applicable to those spheres in some sort of coherent way. It must give rise to policies, or sets of policies, that are not self-contradictory. The results of one policy might conflict with those of another, but they must be reconcilable--they cannot mutually exclude one another. Secondly, those policies cannot negate or make impossible the productive functioning of the spheres to which it is applied. That is to say, political equality cannot

be such as to unreasonably restrict political discourse, social equality cannot destroy the bases or curtail the vital operations of social existence, and so on.¹⁰

With this in mind, I propose: (i) to refer to "egalitarianism" as a doctrine which consists of such sets of policies designed to implement the equality principle; (ii) to describe these policies or programmes, etc. as "egalitarian"; and (iii) to identify their proponents as "egalitarians". Thus "equality" "egalitarianism" and "egalitarian" will be seen as closely related terms. This does not mean that the connection is tight in a formally logical sense--the fact that egalitarian policies cannot render impossible the functioning of the areas in which they are being used permits a fair degree of latitude as to whether a policy is a coherent application of the equality principle. (For what constitutes impossibility of productive functioning? This is a matter of judgment.) Nevertheless, the terms are to be seen as rationally related to one another. The assumption is that if the principle is legitimate, then it is rational, and so are its derivatives. To the extent that a purportedly "egalitarian" policy or programme is inapplicable,¹¹ then, it cannot be considered egalitarian (i.e., a rational extension of the principle, in fact. These usages are stipulative, rather than conventional.¹²

This approach is, of course, opposed to that of Oppenheim, who has urged that egalitarianism be treated purely as a descriptive concept.¹³ His critique of the use of such terms for normative purposes is well-taken, up to a point: there is much confusion over the meaning of policies recommended because they are egalitarian, when their substantive content is left unspecified. He feels that:

Value words should be used exclusively to express the advocacy of some goal or principle; the advocated state of affairs should be characterised exclusively by descriptive terms. Following this practice would make for much needed clarity in our moral discourse.¹⁴

I think, however, that we should recognize the fact that "egalitarianism" and "egalitarian" refer to an ideal that is often seen as comprehensive and programmatic, and against which policies or programmes, or even whole societies, are measured. This usage may be problematic, but it is conventional--it is how these terms are normally understood. It does not seem proper to call a policy egalitarian if, for instance, it reduces an inequality by a very small amount, yet leaves a great disparity. But this is what Oppenheim calls for in his proposal "to consider a rule of redistribution egalitarian if it reduces and inegalitarian if it increases the percentage difference between the holdings of those to whom the rule is being applied."¹⁵ One can say that such a policy is more egalitarian than the previous one, but to say that it is egalitarian is to ignore the fact that if a rule or relation or set of relations is to be deemed egalitarian, it must come reasonably close to an ideal of equality. Granted, it is difficult to determine the precise content of this ideal--this is no reason to scrap it altogether. The more suitable approach, I believe, is to admit that it cannot be finally empirically concretized and try instead to come to some understanding of the variety of ways in which it is used and in which it seems to make sense. Whether or not a policy is egalitarian then becomes a matter of judgment supported by reasons, rather than one of empirical calculation.¹⁶

Now, prescriptively, egalitarianism can be viewed in a number of ways. It can be seen as a particularly irrational ideology, a universal panacea that is recommended for every situation. Or, on the other hand, it can be viewed as a disposition or value orientation--a reasoned and generally programmatic call for more equality in various contexts.

Whether it is an ideology or one of the other "comprehensive patterns of cognitive and moral beliefs about man, society and the universe in relation to man and society, which flourish in human societies",¹⁷ depends

upon how one wishes to define ideologies, outlooks, systems of thought, etc. Certainly there are facets of egalitarianism which seem ideological. For example, Shils notes that "ideologies are responses to insufficient regard for some particular element in the dominant outlook [of an ongoing culture] and are attempts to place that neglected element in a more central position and to bring it into fulfillment."¹⁸ And Germino holds that the term should be used "to refer to a set of ideas about the ordering of society claiming the prestige of (phenomenal) science, based on an immanentist, reductionist epistemology, and aiming at the transformation of the world through making it conform to abstractions divorced from the realities of human existence in society."¹⁹ Now if ideology is interpreted so as to include many types of belief pattern, and egalitarianism to entail the institutionalization of equality to the exclusion of all other values and ideals, then egalitarianism is an ideology. But both Shils and Germino have complained that ideology tends to be used too loosely, and we have already seen that egalitarianism is not "divorced from the realities of human existence", at least in the sense in which I am using it. If a person were to stress equality over all else, if his programme were highly explicit, internally integrated, comprehensive, urgent, and intensely concentrated,²⁰ he could be considered an ideologue--but he would no longer be an egalitarian.

The views of most serious theoreticians would in reality fall somewhere between these two positions, but the important distinction is between those who regard egalitarianism as irrational and those who do not. Some writers seem to regard all egalitarians as members of the former group rather than the latter. Others who are more moderate feel that some egalitarians belong to one, and some to the other. I do not think that either view is appropriate for our purposes, because each allows the designation "egalitarian" to be adopted by (or applied to) anyone who claims (or is claimed) to be an egalitarian, rather than by or to a person who actually

is one.²¹ This creates problems for serious discussion because, as Oppenheim has pointed out,²² when there are numerous and varied policy proposals in circulation purported to be justified by the principle of equality, it is difficult to know what is egalitarian and what is not. There is a tendency to lump them all together and conclude that they are all logical extensions of the principle, which is then criticized as inapplicable, irrational and/or dangerous. Hence I think it preferable to use the term "egalitarian" to denote a rational proponent of the equality principle, and not permit it to be adopted by, or attached to, those who cannot properly formulate it. This does not mean that there is one correct line to which an egalitarian must hold--only that his use of the concept must be reasonable and intelligible. This usage is, I feel, in the interest of clarity and understanding.

By way of summary, then: Egalitarianism will be treated as a belief or social philosophy centred around the ideal of equality. An egalitarian is a person who sees equality as the most important social ideal, although he recognizes that others are important as well. Thus under certain circumstances he might call for an increased emphasis on other values, such as liberty or excellence, or even conceivably a decrease in equality (where, say, incentives were found to be necessary after they had been removed). Such a policy would be inegalitarian in the descriptive sense, but it would not necessarily be antiegalitarian (where egalitarianism is seen in terms of equilibrium or harmony, instead of uniformity).²³

An egalitarian wants as much equality as possible in human affairs. Inasmuch as he recognizes the existence of other values as legitimate, he will not want to see them trampled upon in the name of equality. ("As possible" therefore refers to what is rationally and morally desirable rather than to what is conceivable under extreme conditions.) The normal egalitarian stance, though, will be one in which it is deemed necessary to bring about more equality in the world or, where there is very much already, to maintain

a given level. An egalitarian could condone a decrease in equality where there were very good reasons for doing so; this would be highly atypical, however, and could only occur where too much equality had been achieved at the expense of other values essential to the "good life".

Lakoff's Conceptual Scheme

As previously mentioned, the orientation of this study is primarily conceptual; nevertheless, we might turn briefly now to a consideration of Lakoff's historical treatment of the concept.²⁴ He sees three different formulations of the idea in Western political thought, each of whose roots he traces back to ancient Greece. He regards each conception as a separate "unit-idea" with its own history and rationale; the proponents of each believe their version to be the "real" one, and none can be proved incorrect because they are all based on different ideas of human nature. Thus:

In describing human nature, the Liberal stresses the capacity for reason and the will to autonomy; the Socialist stresses common humanity, identical needs, and the inclination to produce labor; the Conservative stresses the power of the antisocial passions. For society, the Liberal advocates individualism, the Socialist collectivism; the Conservative poses the choice of anarchy or absolutism wherever graded hierarchy is ruled out.²⁵

The corresponding equalities, in essence, would be for the Liberal--equality of opportunity; for the Socialist--equality of need; and for the Conservative--the equal innate depravity, hostility, or envy of all men. These formulations are not quite parallel, but they convey the general idea.

Lakoff's survey is useful, in that it allows one to impose some order on the numerous and disparate treatments that have emerged over the years. The approach is particularly helpful to the historian of ideas; however, I am not sure that it is well suited to strictly conceptual analysis. The historian of ideas looks for broad affinities rather than minute differences--if there is too much overlap, he steps back further and adopts a more general perspective, or switches it altogether. Distinctions are everything to the

analyst, though, so that, while the three "unit-ideas" would be well to bear in mind, I do not agree that they constitute the only framework for discussion. It may well be that it is impossible "to isolate the pure ore of egalitarianism proper", as Lakoff claims in his criticism of Berlin's suggestion,²⁶ but this does not require the use of his particular approach. (For one example of the problems that might ensue, we have only to note the placement of the ideas of "common humanity" and "identical needs" in the Socialist column. Today many Liberals stress humanity and need as criteria relevant to equal treatment, while Socialists are certainly not unanimous in the belief that men have identical needs [which would presumably call for equal satisfaction]. And the matter could be complicated even further if one accepts the thesis that there are many affinities between Socialists and Conservatives vis-a-vis their conceptions of society,²⁷ or if one simply notes the manner in which the three doctrines have intertwined and influenced one another as they have evolved.)

Despite the overlapping and shifting criteria, however, Lakoff's framework provides us with certain insights into the connection between various notions of equality and the major belief patterns. Thus we can see that the equality principle tends to become part of a complex of attitudes and values, etc. and that it tends to have different implications for different people. (I would think, though, that this might be due as much to the complexity of the principle as to any human disposition to perceive the world in ideological terms.) In any case, awareness of these patterns can serve to order our thoughts somewhat when we try to take into account the relations between equality and other concepts, and between the various equalities themselves.

The Formal Principle

By way of introduction to the principle itself, we might now look at some of the formal constructions that have been put forth in its behalf. A

list might read as follows:

1. "All men are (created) equal."
2. "All men should be equal."
3. "All men should be treated equally." ("All men to count for one and no one to count for more than one.")
4. Equals should be treated equally."
5. "Unequals should be treated unequally."²⁸
6. "All persons are to be treated alike, unless good reasons can be given for treating them differently."²⁹
7. "Where two or more people are treated differently, or suffer different experiences, their difference in experience ought to correspond to some initial difference of attribute or condition between them, this latter difference being moreover, relevant to--and constituting a justification for--the corresponding difference of experience."³⁰

Many more could be added, but all would be alike in that they are formal--not one of them "of itself can tell us how the particular members of a society should be treated."³¹ Common re-formulations which are still not substantive but are somewhat more specific are:

1. "To each according to his need." (where it is understood that "it is benefits to persons, not allocation of resources as such, that are meant to be made equal").³²
2. "People's opportunities for satisfying whatever wants they may happen to have should be equal."³³
3. "...if there are any moral rights at all, it follows that there is at least one natural right, the equal right of all men to be free..."³⁴
4. "Each man has an inalienable right to the protection of his moral interests, his person, and his estate...."³⁵
5. "Equality of consideration is the only thing to the whole of which men have a right."³⁶
6. "The interests of each person should be subject to equal consideration."³⁷

Although these principles are all formal, it does not mean that they are insignificant. While they do not offer definite or positive instructions on how to treat individuals, they nevertheless convey a moral impression-- a feeling for what constitutes equal treatment, and perhaps more importantly, for what is unequal treatment.

CHAPTER II

EQUALITY AS FACT

The Notion of Factual Equality

It has been asserted that "nature is the most obvious candidate to sponsor political ideas, whether egalitarian or anti-egalitarian."³⁸ The fact that nature is an obvious choice for either side of the issue should give us an indication of its actual justificatory power. Certain difficulties immediately present themselves. Firstly, how can any sort of factual equality tell us what we really want to know--how men should be treated? And if the is-ought gap can be bridged, a second question arises--Assuming that there are many similarities and dissimilarities among men, how do we know which ones are relevant to the way men should be treated? Despite these problems, egalitarians have directed considerable energy to proving that men are in fact equal. This is perhaps understandable if we recall that many people have been and are being mistreated precisely because they are considered inferior or unequal as human beings. Hence Williams' statement: "Such investigations enable us to understand more deeply...what it is to be human, and of what it is to be human, the apparently trivial statement of men's equality as men can serve as a reminder."³⁹ At any rate, this line of inquiry has played a definite role in egalitarian thought.

When I said earlier that I would not be so concerned with equality in a descriptive sense, I was referring to description by empirical measurement. While it is evident that men are not equal in every respect, it also seems

that when they are measured very precisely, they are equal in no respect. Speaking less strictly though, we can still say that A and B are equal (i.e., similar) in certain respects. The next problem is that while two people, or very many people, may be equal in certain respects, it is more difficult to show that everyone is equal in certain respects, or in any, for that matter. This can be done by expanding the criteria of judgement once again: just as A and B may differ in height by 1/16" and yet be considered equal (i.e., similar), so may X and Y be considered equal, though they differ in height, weight, and sex, and skin colour, by mere virtue of the fact that they have these characteristics. However, this amounts to saying that all human beings are equal because they are human. While this may be true, in that equality means similarity, which depends on the precision of one's criteria, the statement is meaningless--we are told what we already know, that all men are human. We still know nothing about how to treat them, nor do we even have any empirical equalities which can suggest policy prescriptions. The problem here is with the word "human". It is a general term meant to distinguish an entire species from other species of life and forms of matter--but it cannot provide us with any internal knowledge of that species. The egalitarian who is interested in this approach must relate "all men" to an idea which possesses some meaning within the species. In fact, many theorists have attempted to do so by pointing to some important attribute which all men have in common. ("Important" in the sense of "morally significant".)

Equality of Intrinsic Human Worth

One theory stresses the equal intrinsic worth of every human being. It should be noted that the idea of worth seems to have some sort of prescriptive force. According to Ginsberg:

The notion of value, excellence, or goodness carries within it the notion of worthwhileness,

passing into obligatoriness. In recognizing anything as excellent we at the same time recognize it as worth having, worth doing, worth being, or pursuing, as imposing an imperative of action or of respect and admiration.⁴⁰

While Ginsberg may overemphasize the necessity of the connection between right and good, it is clear that there is a correlation between them. One does not have to be a thoroughgoing utilitarian to realize that it is generally right to do what is good or what promotes goodness, and wrong to do what is bad or what promotes badness. Thus if men are created equal in worth, there would seem to be a rationale for the type of treatment they should receive.⁴¹

This idea can be found in 3 prominent areas of Western thought: the Stoic, the Christian, and the Kantian. The Stoics believed that the "possession of the capacity to reason made men more alike than different."⁴² Their equality lay in the fact that all men equally had this capacity, not that they had it to the same degree. Raphael argues the stronger point that Stoic doctrine implied that men were equal in their potential for moral perfection:

The Stoics said that in virtue....a man may equal the gods; for to be perfectly moral is to do right to the utmost of one's capacity. An infinite being, with infinite capacity, cannot do more good than his capacity allows. Hence, if he does good intentionally to the limits of his capacity, he is perfectly moral. In this one respect a man may achieve perfection, he may be of as much moral worth as an infinite being.⁴³

The second group, the followers of Pauline Christianity, claimed that all men were equal before God. Although some men were morally superior to others, the fact that all were children of God gave them all an irreducible moral identity. "What mattered was that every man had a soul and that in the eyes of God all souls were equally worthy."⁴⁴

Finally, Kant postulated a Kingdom of Ends in which rational and autonomous men were equal in status as moral subjects and as moral agents.⁴⁵ The Kingdom of Ends was a purely formal world created for the purpose of

deriving a set of moral rules that would be rational; the autonomy, rationality, and intrinsic worth of every man was assumed, rather than proved.

The difficulty with the Christian and Kantian approaches is that one must accept the premise that there is a God or a Kingdom of Ends if one is to conclude that all men are equal in worth. "In neither case is it anything empirical about men that constitutes the ground of equal respect."⁴⁶

This is not true, however, of the Stoic theory that rationality is the basis of human equality. Although Lakoff dismisses it as "merely a wistful invocation of paradise lost implying no sanction of egalitarianism in the present," he appears to be confusing the implications of the doctrine with the use made of them. He cites Plamenatz' contention that the Stoics and Epicureans thought that:

"all men are by nature capable of virtue and happiness. But they never went on to say that they should therefore have equal rights and opportunities. They did not believe in political or legal or social equality."⁴⁷

But while as a matter of historical record the Stoics might not have used the idea to further the interests of egalitarianism, it is still conceptually interesting and significant. They did in fact conclude that men's rationality entailed an equality of respect,⁴⁸ even though they did not extend it to public affairs.

The notion has since been developed along various lines. We have seen that Raphael feels that all rational men are equal in their potential for moral perfection. It is this fact, rather than the notion of a transcendental Kingdom of Ends, that (according to Raphael) justifies the treatment of all rational men as "ends-in-themselves"--equals insofar as they are moral subjects and agents.⁴⁹ This theory is open to criticism, however. He speaks of moral "perfection"--"to be perfectly moral is to do right to the utmost of one's capacity."⁵⁰ This term is much too vague: there does not

seem to be any way to measure moral capacity or the degree to which one is fulfilling it. It can hardly serve as a criterion of moral behaviour unless it is related to specific actions, rather than to capacities and intentions. And if it is only meant to be a generalized state of ideal being which no one can possibly attain, the point that all men have an equal potential to reach it becomes meaningless. It is preferable, then, to speak of moral worth, which at least admits of recognition and description.

But not all men are of equal moral worth, in the objective sense. Nor do they have equal potential to become (objectively) morally worthy. Raphael avoids this problem by defining moral worth subjectively, so that it is achieved by doing the best of which one is capable. This creates the same difficulty mentioned above: how can this kind of moral worth be measured? Raphael might respond that it is not necessary that it be measurable, so long as it is accepted that it exists and that all men have equal potential to attain it--to be as good as they can. Thus goodness is defined in terms of individual capacity, and capacity in terms of potential, so that men are equal in their potential to fulfill their potentials for goodness. This does not seem to be saying very much, though, for it is the second potential, rather than the first, that would be significant for the notion of equal human worth. Upon examination, Raphael's thesis turns out to rely too heavily on specialized conceptions of goodness and equality, and consequently is of limited applicability.

John Wilson stresses rationality as simply an important human characteristic, rather than as the key to moral worth. He feels that it is the basis of human rights, but he does not tell us why an empirical characteristic necessarily gives rise to certain forms of treatment. In reality, it seems that his conclusion is based on the belief that all men are of intrinsic worth (but not moral worth), rather than on their reason. He states that:

Because each man can shape his own ends and can choose his own values....., there comes a point at which it is impossible to say that one man is superior or inferior to another: for "superior" and "inferior" only make sense in terms of some rule or criterion which is itself man-made....

...This particular similarity amongst men is plainly one of the most important. It will be the most reasonable basis for the belief that men have the equal right to decide their own destinies, since they have an equal capacity to do so: and for the belief they have an equal right to make their wills and purposes felt--to actualise them in the world--since the will and purposes of each man are ultimately as valid as those of his neighbour.⁵¹

Thus he says only that rational men have an equal capacity to decide their own values, ends, and destinies, whether these be good or bad; he does not try to derive the idea that men are of equal moral value in their capacity to choose to be good (or perfect). I am not sure that all men are equal in capacity to decide their values, etc., even if they can and do choose various goods to pursue (e.g., happiness, pleasure, excellence, altruism). But the point in general seems well taken: it is not as problematic as Raphael's, nor is it insignificant.

As mentioned, though, Wilson allows a conception of human value to enter by the back door, and do much of the justificatory work regarding the implications for human conduct. When he says that men's purposes etc. are of equal ultimate validity, and that this entitles them to certain rights, he is clearly referring to a prior equality of man qua man, as he is abstracted from his empirical identity. This does not follow from the fact that men can choose; rather it validates--gives special significance to--that fact. It is as though reason were not enough to perform the task desired, and equal intrinsic worth had to be introduced to bolster it. In any case, I shall return to the role of reason later; for the present I shall continue with the concept of human value as enunciated by Gregory Vlastos.

Vlastos contends that there is an essential human identity apart from

any recognizable empirical characteristics which give man merit; this special identity is valuable in and of itself.

So if there is a value attaching to the person himself as an integral and unique individual, this value will not fall under merit or be reducible to it. For it is of the essence of merit, as here defined, to be a grading concept; and there is no way of grading individuals as such. We can only grade them with respect to their qualities, hence only by abstracting from their individuality.⁵²

He goes on to argue that such a value does exist, and is recognized in relations involving love, politics, and morality. In each of these spheres men are given identities or rights simply because they are what they are--not for any status or merit or qualities they happen to possess.⁵³

While one can sympathize with Vlastos' feelings, it is more difficult to accept his reasoning. If it seems as though men's individual worth is recognized in our various relations,⁵⁴ we might also note that there is just as much evidence that such a value is not recognized, that men only perceive and act upon each other's qualities, and that it could hardly be otherwise. The position cannot be supported by the way men behave--the very nature of the proposition renders it incapable of proof or disproof; it is simply a matter of belief or faith.

In this it is similar to the traditional notions of natural law and natural rights.⁵⁵ These concepts are quite complex and have varied according to historical circumstance; nevertheless, the essential idea that there is a number of (God) given norms that are universal and rationally apprehensible has remained intact. With the rise of rationalism and the development of the modern scientific method, natural rights and law have had a much harder time of it, though the modern counterpart can be seen in the belief that certain truths are "self-evident". They cannot be justified--they are true simply because they are true. While this may sound foolish, the

alternative to self-evident truth is no truth (in a sense). In science there are no final truths, only hypotheses and probabilities. The same situation obtains in normative discourse: sooner or later justification comes down to one principle at best, and this ultimate principle must be accepted as "self-evident". Final truths can be found only in self-contained systems of logic, which are of little value in discussions of ends and ideals.

Nevertheless, it tends to create difficulties when we speak of self-evident truths, or even truths at all, with their absolutist connotations. It might be better instead to refer to propositions that are more or less true---their acceptability depending upon how well they can stand up to criticism, how closely they can be related to other widely accepted principles, and how useful they are to the problems of human affairs.⁵⁶ Statements that satisfied these conditions could be termed prima facie truths (or truths, if their prima facie nature were made clear). But many rights theorists seem to fall back on the position when pressed, as do egalitarians, that it is simply self-evident that all men are created equal, or that each man has a natural right to life, liberty, and estate. This is a weak type of argument, and is useful only as an indication that certain values are strongly or widely supported.

Empirical Equalities

The approaches thus far considered have concentrated on the idea that men are intrinsically equal in worth. Other writers have tended to focus on more empirically ascertainable qualities in their attempts to justify equal treatment. For example, it is often held that all men are equal in that they have certain needs. Benn and Peters speak of three classes of need: biological, basic, and functional.⁵⁷ It is clear that we are all equal in our biological need of food, water, shelter, clothing, and the like

(although different people need different amounts). We also have basic needs which are indeterminate: men need pleasure, affection, approval, social intercourse, relaxation, etc. They are indeterminate because there is no fixed amount that can be said to be proper or minimal. While men can survive without these goods, they cannot do so as social and civilized beings. Biological needs are "natural" while basic needs are "conventional", in the sense that the latter are necessary to man's social existence which he himself creates. Functional needs are similarly "conventional"--they are necessary to the operation of society. Plumbers need tools, scholars need books, farmers need trucks. And the community needs all these positions filled.

The further we get from biological needs, the less need seems to be connected with equality. Men may be equal in their need of food, clothing, and shelter, and possibly of social existence, but beyond this, needs seem to become more unequal, and come to reflect individual differences. De Jouvenal feels that the greater contributions of the upper class to society and culture entitle its members to greater income and wealth on the basis of need--they need more because they give so much more. Thus:

...keeping a man physically fit and keeping him fit for diverse social duties are not identical notions. The same basic expenditure on basic needs which keeps a labourer fit for his job will prove inadequate to keep a Treasury official fit for his specific task. Each specific task calls for "functional expenditure", which is in fact cost of production and should not enter into net income.⁵⁸

One might suspect that de Jouvenal would have a somewhat exaggerated notion of what a Treasury official needs, despite his claim of popular support.

Further on, he asserts that:

True aristocracies have never enjoyed an aristocratic status because they are strong...; true aristocracies have been willingly favoured by the people, who sensed that excellent types of mankind, in any realm, needed special conditions, and they have always delighted in

granting them such conditions.⁵⁹

Hence, not only does the concept of functional need allow for differences: it provides an entering wedge for great inequalities as well. But with regard to essential needs, men are equal, and this fact by itself has come to serve as the basis for a strong claim to minimally, if not fully, equal treatment.⁶⁰

This raises certain questions. Benn and Peters tell us that "needs are not simply matters of fact, but presume norms as much as do deserts."⁶¹ They are referring to the "basic" and "functional" needs, but the same point can be made about the entire category. According to Barry, need is not an independent justificatory principle, but a derivative one. He points out that:

no statement to the effect that X is necessary in order to produce Y provides a reason for doing X. Before it can provide such a reason, Y must be shown to be therefore a desirable end to pursue...A conclusive reason would require showing that the cost of X...does not make it less advantageous than some alternative course of action, and that any disadvantageous side effects of X are outweighed by its advantage in producing Y.⁶²

It is generally assumed, of course, that the end of survival is as legitimate and self-evident as any end can be. This is where equality comes in: people do not need equal amounts of food, etc. to survive, but they have equal need of survival. But this itself is a norm: the concept of need cannot on its own require equal treatment or anything else. It is necessary to postulate some value, such as survival or human dignity or happiness, before one can use the fact to prescribe treatment.

This applies as well to the other "empirical" approaches. Williams has pointed out that men are equal in that they all have the capacity to experience pain and suffering, affection for others, feelings of self-respect, and self-consciousness.⁶³ Men do not have these capacities to equal degrees,

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though, and it is conceivable that some do not have them at all. There are two kinds of response to this difficulty (which, it will be recalled, also cropped up in the discussions of need and of rationality). First, man can be defined so that he does have the characteristics of sentience, sympathy for others, self-consciousness, reason, etc. Thus, anyone who does not have them is not human, and is only regarded as such as a matter of "courtesy".⁶⁴ This solves the problem but at a rather large cost: for one of the reasons for trying to prove that all men are equal is that some individuals or classes or races have been considered sub-human, and hence undeserving of equal or fair treatment. Courtesies can always be withdrawn in the "public interest".

The second alternative has been suggested by Benn. He feels that it is not necessary that every person be rational to the same degree, or even at all. It is enough that rationality is universally recognized as "the characteristically human enterprise", so that it constitutes the norm of what it is to be human.⁶⁵ This reasoning can be extended to the other capacities of sentience etc. as well, I believe, for although they are not restricted to human beings, they would still qualify as norms.

According to Williams, these "equalities" give rise to an "equality of respect", for to fail to take them into account would be to act in a manner that was arbitrary, immoral, and "alien to the spirit of human understanding".⁶⁶ This argument has a certain weight, but this weight derives from the value we choose to give these qualities, rather than from the qualities themselves.

Human characteristics are also stressed by Frankena; he states that men do not have them equally, but goes on to say that they make men "similar", which is precisely the point that Williams, Wilson, and Benn were making. He writes:

...I accepted as part of my own view the principle that all men are to be treated as equals, not because they are equal in any respect but simply because they are human. They are human because they have emotions and desires, and are able to think, and hence are capable of enjoying a good life in a sense in which other animals are not...By the good life is meant not so much the morally good life as the happy or satisfactory life. As I see it, it is the fact that all men are similarly capable of enjoying a good life in this sense that justifies the prima facie requirement that they be treated as equals.⁶⁷

Thus men should be treated as equals, not because they are equal, but because they are equally men, and capable of the "good life".

This is similar to Benn's contention that "we should give to the interests of each the same consideration as claims to conditions necessary for some standard of well-being that we can recognize and endorse."⁶⁸ The idea is that all men (equally) have an interest in achieving a state of well-being, whether they realize it or not, and that all these "real" interests should be considered in moral decisions.⁶⁹ While Benn's principle has more substance than those suggested by Williams and Frankena, it does not appear to follow any more closely from the initial fact of men's equality or similarity.

Finally, we might put to use a remark by Wilson:

Intrinsic equality rests on the fact that all human beings come into a particular category or mode of being. Their varying abilities to reflect and deliberate, to state the values or the rules they follow and to exercise will-power or effort, do not constitute the major issue. The point is rather that no human being can escape from his general category (except by suicide or by being reduced to an animal level), and above all that inclusion in this category gives all human beings a similar status vis-a-vis their fellows.⁷⁰

Men are equal because they are men. The fact that they belong to the species

entitles them to an irreducible status, and presumably to have this status taken into account when policies are being formulated and decisions made. Human value is still entailed in the notion of status, but this statement at least has the merit of straightforwardness and simplicity.⁷¹ A point made by Benn extends the implications:

If the human species is more important to us than other species, with interests worthy of special consideration, each man's for his own sake, this is possibly because each of us sees in other men the image of himself. So he recognizes in them what he knows of his own experience; the potentialities for moral freedom, for making responsible choices among ways of life open to him, for striving, no matter how mistakenly and unsuccessfully, to make of himself something worthy of his own respect.⁷²

Thus men value others simply because they are men, like themselves, rather than because they are children of God, or members of a moral community, or rational and sentient beings (although these qualities are often important). Human beings have value, not "intrinsically" or empirically", but because human beings generally believe that they do, and act accordingly.

Human Values and Good Reasons

Now all the arguments with which I have been dealing have been based on the premise that, in some respect, all men are equally valuable. Some have tried to prove the validity of this proposition, assuming that having done so, the case for equal treatment becomes obvious. In fact it does not, because the notion of intrinsic worth is so removed from reality that its prescriptions only have effect in an abstract, metaphysical world. Others have attempted to show that men are equally men in significant respects that cannot be ignored. But this is not quite right either. They should have contended that certain facts require certain kinds of conduct if we are to maintain a particular value structure, and hence, they must not be ignored.

While this value structure is not entirely arbitrary (as Perelman, for

example, claimed in his earlier work),⁷³ neither is it absolute or eternal. This point might seem not worth mentioning, but I believe that it tends to be passed over in normative discourse, and not only at the policy-making level. In justifying certain policies or beliefs, the appeal is too often made on behalf of values that are considered sacred and immutable--"natural" rather than "conventional". The danger in this stance lies in its inimicability to the spirit of rational justification: i.e., to the "good reasons" approach. Some theorists shy away from this sort of moral justification, possibly because perpetrators of clearly inexcusable policies and actions have invariably offered "reasons" for their behaviour. And what constitutes a "good" reason? Who is to decide?⁷⁴ Granted, this presents a problem; nevertheless, it cannot be solved by appealing to absolutes. The thought that all human beings are of "infinite worth" seems to me to obfuscate, rather than to clarify, matters of public policy. "Good reasons" seems much more suitable to analysis of the equality issue than any other approach.

CHAPTER III

EQUALITY AS NORM

Human Values

In order to decide how people should be treated, values must be proposed. I have already mentioned that I am not certain that right necessarily follows from good. But the relation seems to be strong, especially when one is speaking in general terms. I am not going to attempt to construct a list of all conceivable "goods"; however, there are several which might be put forth as general guidelines.

The most basic would appear to be survival.⁷⁵ After this might come avoidance or prevention of pain and suffering.⁷⁶ At a third level we might have the values of happiness, development of human potential, excellence,⁷⁷ freedom and well-being.⁷⁸ Harmony⁷⁹ and justice might be found at this level as well, or might be seen as more inclusive goods, belonging to a different category. Undoubtedly more could be found, but these will suffice for our purposes. Some overlap, and could probably be reformulated more suitably. Or the rough classification might be debatable. But if it can be agreed that these goods would rank high on any general list, we might be able to approach the subject of what constitutes proper treatment, and thus the idea of equality, more adequately.

It cannot be said that these values are "natural". They are created by men, just as human value is created by men. But we can say that some of them, such as survival, avoidance of pain, well-being, are conditions of

proper social existence.⁸⁰ By "proper", I mean "moral". To the extent that a society has rules, laws, customs, rights and duties, etc. that are moral, they must be intelligible, which means that they should be conducive to human welfare.⁸¹ It is possible that this is an overly narrow conception of morality;⁸² I shall say that it is stipulative.

According to Warnock:

no one is logically obliged to accept any given feature as a criterion of merit; and if we say...that certain features must necessarily be accepted as criteria of moral merit, we can and must go on at once to concede that no one, of course, is obliged by logic to engage in moral judgment or debate. That there are, as it were, necessary criteria of moral value does not imply that anyone, let alone everyone, necessarily evaluates things with reference to those criteria; it is only that we must do so if we are prepared, as we may not be, to consider the question "from the moral point of view."⁸³

I do not know about the necessity of this view; however, I think that there are good reasons for saying that morality must be concerned with human welfare. It would seem impossible to understand and accept a society as moral if welfare were a disvalue. And while the other goods listed might not be so compelling, I think that there are good reasons for regarding them as valuable too. Toulmin has expressed the point well:

If the adoption of /a/ practice would genuinely reduce conflicts of interest, it is a practice worthy of adoption, and if /a/ way of life would genuinely lead to deeper and more consistent happiness, it is one worthy of pursuit. And this seems so natural and intelligible, when one bears in mind the function of ethical judgements, that if anyone asks me why they are "good reasons", I can only reply by asking in return, "What better kinds of reason could you want?"⁸⁴

While the values of harmony and happiness might not be as final as the statement suggests,⁸⁵ they seem to have strong justificatory power under

normal circumstances. They can be elaborated and related to other aspects of goodness and obligation very easily, while situations conducive to conflict and unhappiness can be thought of as good or obligatory only with extreme difficulty and for special reasons. (Even then, it is likely that harmony would only be sacrificed in the interest of a greater harmony.) Hence, I shall assume that there are certain values which generally serve as good reasons for principles of human action, and that this is the sort of approach most suitable for examination of rules such as "All men should be treated equally."

Rights

To determine whether or not men should be treated equally we must look to morality. Morality can be said to consist of rules governing what ought and ought not to be done. In any sort of "developed" or sophisticated morality, these rules will comprise a more or less coherent system or code. The most convenient way to look at a moral code is in terms of duties and rights.⁸⁶ Men are obligated to do what should be done, and not to do what should not: hence the notion of duties. Generally, rights can be considered duties in reverse.⁸⁷ It should be noted that even a very sophisticated moral code does not have to be expressed in terms of rights and duties; however, any morality should be understandable or analyzable in these terms. It should also be mentioned that just as morality is conventional--created by men, rather than given--so are rights and duties. They are not natural or inalienable or absolute. These points have been well stated by Oliver Wendell Holmes:

I see no a priori duty to live with others... but simply a statement of what I must do if I wish to remain alive. If I do live with others they tell me that I must do and abstain from doing various things or they will put the screws on me. I believe they will, and being of the same mind as to their conduct I not only accept the rules but come in

time to accept them with sympathy and emotional affirmation and begin to talk about duties and rights.⁸⁸

Brown presents a more forceful argument on behalf of the existence of ("inalienable") rights, based on the strength of the connection between right and good. He sees this connection, I believe, in general rather than in absolute terms--in simple, straightforward situations we can know what is right by discovering what promotes good. This is a matter of moral inference. Thus, "an inalienable right is simply the right of a man to protection in avoiding the clearest possible cases of preventable evils and in securing the clearest possible cases of obtainable goods."⁸⁹ This is self-evident in the sense that:

One cannot deny its truth and admit the validity of moral inference. Moral arguments about the rights and duties of men in particular circumstances presuppose the validity of reasoning from specific instances of good and evil to specific instances of rights and duties. They presuppose, as a principle of moral inference, that statements about goods and evils confirm or disconfirm statements about rights and obligations. But since an inalienable right is the minimum possible right in respect to a class of indubitable goods, this right can be denied only by denying that statements about goods validate statements about rights. To deny this would be to reject the principle of moral inference.... It is logically impossible to deny a statement, where this requires the denial of the principle of inference presupposed in validating any statement of that kind.⁹⁰

While this principle does not have the status of immutable law, it appears to be generally valid, or reasonable. We shall turn now to the rights themselves.

Cranston distinguishes several classes of right, the most important of which for our purposes he calls a human right. According to Cranston, "human rights are a form of moral right, and they differ from other moral rights in being the rights of all people at all times in all situations."⁹¹ The

universal rights that he has in mind are the traditional ones to life, liberty, and property.⁹² Raphael agrees with the Lockean approach, adding that these are universal in the strong sense, while various political, economic, and social rights are universal in a weaker sense.⁹³ Vlastos refers to the "prima facie equality of men's right to well-being and to freedom."⁹⁴, while Brown's contention that "each man has an inalienable right to the protection of his moral interests, his person, and estate" has already been mentioned. Hart maintains that "if there are any moral rights at all, it follows that there is at least one natural right, the equal right of all men to be free."⁹⁶ He goes on to elaborate:

✓ In the absence of certain special conditions which are consistent with the right being an equal right, any adult human being capable of choice (1) has the right to forbearance on the part of all others from the use of coercion or restraint against him save to hinder coercion or restraint and (2) is at liberty to do (i.e., is under no obligation to abstain from) any action which is not one coercing or restraining or designed to injure other persons.⁹⁶

Finally a somewhat similar statement, with a moral element added, by Pennock: "if a right is a power or a privilege which an individual ought to have, then everyone ought to have those powers and privileges which are necessary for him to approach as nearly as possible to the goal of happiness or satisfaction, subject to his respect for the principle of equal rights for all."⁹⁷

Now, except for two points raised by Hart, and one by Vlastos, all these conceptions are quite similar. They stress the universality or equality of human rights, and they focus on human welfare. Men have equal rights to life, or liberty, or well-being, or the protection of moral interests, etc. They are equal because morality is concerned with human welfare, which is to say the welfare of all members of the species, not just some. Since ethical systems are created which assign rights and duties to individuals (through the

rules emanating from the central norm), it seems reasonable that in their most general form, rights should concern the welfare of the individuals within the species, and be extended to all men. Insofar as men subscribe to rational tenets of morality, then, they will allow that all men have equal rights.

Finally, the questions raised by Hart and Vlastos should be cleared up. Hart says that human rights apply to all rational adults. This issue has been dealt with earlier by saying that rationality is simply the species norm, but that everyone actually has rights (to equal treatment of some kind). But Hart apparently means this in a literal sense. This stems, I believe, from the good to which men are supposed to have the right: i.e., freedom. On the one hand, Hart probably thinks that to be free in any positive sense, men must be able to choose, etc. On the other hand, if freedom is seen negatively as absence of constraint, non-rational men and children should not be permitted to have it (he would say). He might have avoided this, either by using the notion of prima facie rights (which can be withdrawn in special cases of conflicting goods), or by extending his idea of the good to include well-being. As it stands, though, I feel his conception of human rights is too narrow.

It will be noted that Hart says "if there are any moral rights at all, it follows that..." This is not really a problem. As mentioned, there are no natural, unconditional rights to anything; the rights under discussion are all man-made. The latter exist, while the former do not.

The idea of prima facie rights has surfaced in several places. Rather than claim any particular right as supreme or indefeasible (whether natural or conventional), modern theorists tend to feel that any right or duty can be voided under certain circumstances. Where two prima facie rights or duties conflict, the one that is recognized is termed a right or a duty, while the other remains prima facie: valid in most situations, but not all.

This avoids the difficulty.⁹⁸ Thus Frankena modifies Brown's theory:

There is an inalienable *prima facie* right to each of the high order goods..., but no invariable actual right to any of them, since no one of these *prima facie* rights always takes precedence over the others. But there is still one actual right which holds without exception, namely the right to institutions providing "general protection" of our high order goods. We have this right because we have *prima facie* rights to these goods and we have *prima facie* rights to these goods because we are beings capable of enjoying them.⁹⁹

This reformulation is an improvement, in that it stresses the prima facie nature of rights. However, Frankena still retains one right which appears to be absolute. Now since rights stem directly from the fact that men have created institutions (society and morality) to look after their interests, it seems odd to say that men have a right to those institutions. The "right" is not prior to the institutions; the institutions are established in order to confer rights to human beings. It does not make sense to say that one has the right to be conferred a right. Frankena is trying to say, I think, that the very act of creating these institutions and the notion of right presumes, or automatically entails, a right to them. This would suggest the idea that men have the right to create rights simply because they have constructed the concept, that men have conferred upon themselves the right to set up institutions and rights, and that this gives all men the right of access to them. This seems mistaken, as well as confusing--some rights are of a higher order than others, but they are all prima facie, and they are all created by men.

The idea of a "first order" right arising from the mere fact of speaking in terms of, or institutionalizing, rights at all is similar to the notion that one always has the right to justice, or just treatment. Even this right is occasionally overruled, however, on grounds of utility. Nonetheless, it is certainly a high ranking right, and one that is particularly

suited to our discussion. Before dealing with the question of justice, though, I would like to turn to the concept of rules.

Rules

Berlin states that:

In so far as some minimum degree of prevalence of rules is a necessary condition for the existence of human societies (and this seems to be an almost universal, but still empirical law), and in so far as morality, both personal and political, is largely conceived of in terms of rules, the kind of equality with which obedience to rules is virtually identical, is among the deepest needs and convictions of mankind.¹⁰⁰

In fact, rules are the basis of any moral code, for they lay down standards by which actions can be judged right or wrong. They tell us what should or should not be done in any given instance. While their most obvious application is the system of positive law by which societies are governed, they are inherent in any form of ethical discourse.¹⁰¹

In this respect they are closely related to the concept of equality, for rules establish what should be done in all cases that are alike. They are impartial--"they allow of no exceptions". "To fall under a rule is pro tanto to be assimilated to a single pattern. To enforce a rule is to promote equality of behaviour or treatment."¹⁰²

Hence the notion of "equality before the law" and the maxim "All men should be treated equally". Men are equal in that they are all subject to impartial consideration under general rules.

Such prescriptions point to the limited applicability of rules, though, as far as equality is concerned. For the principles of generalization and universalizability are formal: they do not tell us what ends the rules should promote, nor how to establish the categories into which cases fall for impartial treatment.¹⁰³ Because they are rational, rules should classify situations according to relevant differences, but they do not tell us which

differences are relevant.¹⁰⁴ It should also be mentioned that rules should only be seen as guides to proper conduct--they cannot anticipate every factor which might be significant in a particular situation. Thus they must be subject to modification on grounds of equity. Finally, they must be interpreted, so that judges can decide which circumstances are related to which rules; this is particularly problematic when rules appear to conflict.¹⁰⁵

The Principle of Categorical Consistency

Such difficulties are not inconsiderable; however, an interesting attempt has been made to surmount them. Alan Gewirth has tried to inject some substantive content into the equality principle by providing a justification of egalitarian justice.¹⁰⁶ His work is particularly interesting at this point because it incorporates much of what we have dealt with thus far.

A justification of this nature presumes both a moral and a rational approach.

The question, then, is whether there are any moral principles which are self-justifying. Since moral principles are advanced as basic reasons, another way to put this question is whether any moral principles are inherently rational. For if a principle is inherently rational, then it needs no further reason to justify it and is hence self-justifying.¹⁰⁷

Rationality, he says, has the formal requirement of freedom from self-contradiction, and the material requirement that it must take account of "the necessary features of one's subject matter."

Now the subject matter of morality is, primarily, human action. When human agents act, they do not merely engage in bodily movements; their action has certain necessary features which may be summarized as voluntariness and purposiveness. For insofar as men are agents, they initiate and control their movements (voluntariness) in the light of their intentions and purposes (purposiveness). This is why human agents can be held

responsible both for their acts and for the consequences of the acts.¹⁰⁸

These two characteristics are called the "categorical features of action."¹⁰⁹

Now in performing an action, an agent claims that he has a right to do so. If his "right-claim" is to be recognized as valid, it is logically necessary (by the principle of universalizability) that it be valid for any similar person in similar circumstances. This is, of course, purely formal in that the criterion of similarity is not specified. But according to Gewirth, there is a relevant similarity that cannot be refuted and that has substantive implications--the fact that every man is a "prospective agent who has some purpose which he wants to fulfill."¹¹⁰

Hence, insofar as the agent's necessary right-claim is restricted to what he is rationally justified in claiming, his claim that he has the right to participate in the transaction in which he is involved must refer to himself qua prospective agent who wants to realize some purpose of his...

It follows from this that every agent logically must accept the generalization that all prospective agents have the right to participate voluntarily and purposively in transactions in which they are involved.¹¹¹

Insofar as men are engaged in action, they are either agents or "recipients" of the actions of other agents. Agents have obligations, recipients have rights. The rights to act voluntarily and purposively (to obtain goods) are expressed as rights "to non-coercion by other persons, or freedom, and to non-maleficence from other persons, or welfare."¹¹² Maleficence consists in agents thwarting their recipients in their efforts to achieve their goals. Thus Gewirth derives the Principle of Categorical Consistency (PCC): Apply to your recipient the same categorical features of action that you apply to yourself.¹¹³ He concludes the justification by asserting that it is not merely another formal principle:

The PCC is a necessarily valid principle in two respects. It is formally or logically necessary in that to violate it is to

contradict oneself. It is also materially necessary in that, unlike other principles, the obligations of the PCC cannot be escaped by any agent by shifting his inclinations, interests, or ideas. Since the categorial features of action are involved in the necessary structure of agency; the agent cannot refrain from applying these features to himself and from claiming the right to apply them in his specific transaction qua prospective agent; hence he rationally cannot evade the obligation of applying these features to his recipient because of the latter's also being a prospective agent.¹¹⁴

Lastly, the PCC is prima facie rather than absolute--any action can justifiably be prevented which (i) contradicts it, or (ii) is incompatible with a social rule which is itself justified by the PCC.¹¹⁵

Gewirth's analysis is quite impressive in its logic and coherence; nevertheless, I do not feel that it has as much substance as he claims. It is applicable only in cases where a person's freedom or welfare is clearly being unjustly violated: e.g., where there is racial discrimination. While such instances have usually been regarded as logically justifiable under the equality principle, they are never thought justified in serious moral discussion. (Granted, "serious" is a normative term--the meaning seems evident enough.) Still, it is probably significant that the PCC can formally disjustify cases of this type. Most transactions involving human freedom and welfare, however, are not so clearcut. If X and Y both have equal prima facie rights to freedom and welfare, there is no way to settle any disputes that might arise from possible conflicts. In large societies, one man's pursuit of his ends invariably interferes with that of another; especially where two or more men want a limited supply of goods. Gewirth would resolve this by instituting social laws (compatible with the PCC) which would award the scarce goods to certain men according to another principle, such as utility. "Whatever sacrifices of individual interests these rules may require must themselves serve to foster the freedom and

welfare of each other individual."¹¹⁶ But he does not tell us how to determine the amount that one individual is expected to sacrifice for another, nor how much is to be returned to him by way of what I take to be some kind of "general benefits", nor how to know just how much is compatible with that of every other man. We can recognize violations of the PCC in the most extreme and obvious cases, but how do we know what constitutes a violation in a complex system of legitimized rules, all of which purport to be conducive to the maximum freedom and welfare possible? The answer is that we do not, and this is fairly serious because this is where the problems generally occur. Gewirth notes that the PCC would have disjustified Nazism had it been applied--but would anyone have needed it? If it were really useful as a substantive principle, it would be applicable to at least some of the more hazy areas of public policy with which men are most often concerned. Again, this is not to say that it is useless, or totally formal--only that it is not as effective as one might have been led to believe by Gewirth's optimistic claims.¹¹⁷

Rules do not take us as far as might be thought desirable in justifying equal treatment; what they do is give men an area of life that admits of equality in a certain limited sense. It seems that they lead us to the same sphere that we found earlier in the examination of rights--that of justice.

CHAPTER IV

EQUALITY AND JUSTICE

The Relation Between Equality and Justice

The idea of justice has underlain much of the discussion thus far. This is hardly surprising, for while justice might not be coterminous with morality, the two are still intimately associated. Inasmuch as egalitarians are interested in prescribing proper or right relations between men and social groups, it is reasonable to assume that they are seeking justice, or a just order. If they are not proposing total equality or anything like it (as I have maintained), then they would appear to be pursuing equality because they believe it is fair or equitable.¹¹⁸ They might wish to argue that more equality would have utilitarian value because it would (say) eliminate class conflict or increase productivity, but I think that equity is the primary concern.

If this is so, the question arises: Is there any point at all in referring to a principle of equality? If complete equality is not even felt to be desirable, and if it is equity or fairness that is sought, why do egalitarians not speak solely in terms of justice and equity?

The proper response is that there are many view of what is just. To the extent that justice includes principles that tend to collide with one another, proponents of one sort of justice will stress the principle that is most in line with their overall conception. Egalitarians and merit-orientians, for instance, are both interested in justice; to pursue their interests, they must work with their own principles (i.e., equality and merit, respectively). Thus, even if the concept of justice can embrace all

of equality, it does not mean that the latter cannot be treated as a distinct principle in its own right.

The foregoing suggests a potentially fruitful approach to our topic. If it is possible to analyze justice and then subtract all the parts that do not involve equality, we should be left with something that would contribute to our understanding of the equality principle.

The Aristotelian Notion of Justice

Aristotle drew the classical distinctions in the analysis of justice: (i) between justice as law and justice as fairness,¹¹⁹ and (ii) between corrective justice and distributive justice.¹²⁰ Justice as law seems fairly straightforward--he who obeys the law acts lawfully, and hence justly. Particular justice, or fairness, is more relevant to our concerns.

Equality is the key factor in corrective justice. (Also known as compensatory, rectificatory, emendatory, or retributive justice). The idea is that a man should be compensated for no more and no less than what he loses at the hands of another man. The relation is arithmetic: One of addition and subtraction: take from A and give to B.

Distributive justice, on the other hand, is geometric, or proportional. The idea here is that a man should get what he deserves. Desert, however, can be calculated in a number of ways. McKeon notes Aristotle's point that "the determination of merit in actual states takes the form of recognizing external signs like wealth, position, birth and power."¹²¹ As far as ideal states are concerned, though, different men have different conceptions of merit. Thus:

The oligarchs think that superiority on one point--in their case wealth--means superiority on all; the democrats believe that equality in one respect--for instance, that of free birth--means equality all round.¹²²

Aristotle felt that these views did not take into account the end for which

the state exists, i.e., virtue or "good action". The best criterion is excellence, or capacity suited to the task at hand. So that with regard to the state he held that:

Those who contribute most to an association of this character / i.e., who contribute most to good action / have a greater share in the polis / and should, therefore, in justice, receive a larger recognition from it / than those who are equal to them (or even greater) in free birth and descent, but unequal in civic excellence, or than those who surpass them in wealth but are surpassed by them in excellence.¹²³

The important points seem to be that (i) distributions should be made according to merit; (ii) merit should be determined according to relevant characteristics; and (iii) relevance should be based on the end of the activity related to the distribution. This is fairly straightforward; but while merit is no longer seen by most people to consist in wealth or free birth, the characteristics that are relevant to particular tasks or functions are often the subject of serious dispute.

Thus the criteria of desert generally comprise the centre around which arguments about justice revolve today. In fact, it has recently been asserted that all justice is meritorian (in the "broad" sense) and that equality is merely a "component" with very little status of its own.¹²⁴ Much of this sort of issue turns on the position from which one is viewing the question. For example, distribution according to need can be either egalitarian or meritorian, and an aspect of either corrective or distributive justice, depending upon the definitions one is using and the point one is trying to make.

Distributive Justice

At any rate, the four major factors that are thought to enter into questions of distribution are need, merit (or desert), natural capacity

(or ability), and utility. Each constitutes a claim with its own rationale and legitimacy; each is generally recognized as relevant to considerations of distribution. However, the claim that is actually felt to be the strongest will vary from case to case and from society to society, with the final result often incorporating several or all of the factors, stressing them according to their relative weights.

Equality can be seen as the norm from which departures must be justified.

The assumption is that equality needs no reasons, only inequality does so; that uniformity, regularity, similarity, symmetry...need not be specially accounted for, whereas differences, unsystematic behaviour, change in conduct, need explanation and, as a rule, justification. If I have a cake and there are ten persons among whom I wish to divide it, then if I give exactly one tenth to each, this will not, at any rate automatically, call for justification; whereas if I depart from this principle of equal division I am expected to produce a special reason. It is some sense of this, however latent, that makes equality an ideal which has never seemed intrinsically eccentric...125

This assumption has been criticized on the ground that any distribution requires justification: equal treatment is just as liable to be unfair as unequal treatment, and in many cases a form of treatment can be described as both equal and unequal (depending upon the point of view). Lyons claims that what is needed is a "doctrine of natural kinds", asserting that his argument "has not been against such a postulate but against attempts to do without it--by substituting a presumption of equal entitlement supposedly derivable solely from the reasonableness of treating similar cases similarly. This is not enough," he concludes.¹²⁶

Stone has expressed the case for presuming equality in more qualified terms. He has formulated a number of "quasi-absolute precepts of justice", the fifth of which is the formal equality principle. He says that while it cannot be considered absolute, "equality remains a general guiding principle,

properly to be departed from where obviously inappropriate or in conflict with other values to which justice must give priority in the given situation."¹²⁷ This is substantially weaker than Berlin's statement, and suggests another reason for the presumption of equality: its convenience. If it is postulated as a standard, not necessarily for attainment but simply for reference, it can be used to appreciate the relative significance of the various treatments possible. It is the most convenient across-the-board norm, similar to the stipulation "all other things equal" that is so frequently used in the reasoning process.

In any case, the criteria of need, merit, natural ability and utility might be more naturally regarded as related to inequality rather than to equality. There are obvious differences among men regarding the first three to justify countless departures from the norm, and all four enter into every phase of daily life. There are certain respects, however, in which they are open to considerations of equality.

We have already seen that, although needs can vary widely from person to person (even if one speaks only of "legitimate" needs, distinguishing them from wants), they are connected with equality insofar as they are basic or biological. All persons have equal needs up to a point; and these are recognized when societies take action to ensure that everyone enjoys a certain minimum standard of living. After this, apparently, needs become desires; i.e., once one is fed and clothed, etc., one can no longer speak of needing various commodities, such as new cars, but can only say that one wants them.

Nevertheless, an unequal need from one viewpoint can be equal from another. Vlastos' example of the man being hunted by the New York crime syndicate is relevant: although the man required a greater number of policemen to protect him than the average citizen, the amount of protection that

they both enjoyed was roughly similar. Both needed their lives protected; both received that protection.¹²⁸ Raphael pursues a similar line of argument with regard to the handicapped, the aged, et al.

Our unequal (greater) provision of care for them is an attempt to reduce the existing inequality; we want, so far as we can, to bring them to a level of equality with others in capacity to enjoy their lives. Thus the basis of the claim of special need is really a recognition of the claim to equality.¹²⁹

Thus when need is related to a state of well-being, inequalities can actually become equalities.

At first glance it might appear that the same kind of reasoning could make distribution according to merit egalitarian, in that everyone would equally get what he deserves. But this type of equality is different from the previous, because in the case of need, there was a final distribution of a good (well-being) which could be said to be equal. There is no such equality in the case of merit. The only sort of equality found here occurs under conditions of corrective justice, where injured persons are compensated for losses they have sustained at the hands of other persons.¹³⁰

Concerning natural capacity, the usual emphasis is on differences which, if encouraged, lead to inequalities. Raphael argues, however, that distributing goods according to talent is in keeping with egalitarian principles insofar as people receive the means to a present enjoyment, i.e., to the potential exercise of their capacities. There are differences, but not inequalities, both in the early training and in the careers for which people become qualified. Thus a differentiated distribution once again turns out to be an equality in disguise, as men obtain equal amounts of pleasure from being allowed to develop and use their natural abilities.¹³¹ The problems here are (i) that not everyone is permitted to exercise his talents, and (ii) that not everyone is happy with the talents that he has, or at least with those that have been chosen to be developed and applied to a career.

The connection between equality and natural capacity, then is rather tenuous with respect to distributive justice.

The fourth factor, utility, can also be linked with equality inasmuch as it calls for maximization of total welfare. The formula "the greatest good for the greatest number" has egalitarian implications, and if the goods produced are public benefits, such as increased supplies of food or advances in medicine, every person will benefit. These benefits, however, are indirect; the principle of utility is centred on maximizing welfare rather than on apportioning it fairly (or any way at all).¹³²

These four considerations all serve as criteria of distribution in various notions of justice. Given the value of human well-being and the capacity of men to choose between right and wrong, division of social goods according to need, merit, and/or ability can reasonably be seen as manifestations of justice. A just social order will fulfill the needs of its members (up to a certain minimum, at least); it will reward its members for choosing to behave well, rather than poorly; it will give its members what they need to develop their potentialities and pursue their goals (as far as this is possible). Although utility is concerned with welfare, it is so only in an aggregative sense, and is therefore not a part of distributive justice. All of these factors allow for the recognition of human differences.

Equality of Opportunity

There is one good, however, which is widely thought to be subject to equal distribution, and that is opportunity. Everyone should have an equal chance to become what he might, for better or worse. No one should have an unfair advantage, that is, an advantage unrelated to what is required for the role one is attempting to fill. If a prospective teacher has a higher I.Q. than another, it is a fair advantage, but if he has a relative

on the selection committee who will use his influence, it is an unfair advantage. The common metaphor is that of a race--it is only fair that everyone start at the same place. Everyone will finish according to his desert, which is based on the quality (athletic prowess) relevant to the activity (the race). This has generally been considered the basis of the liberal conception of justice--equal opportunity plus desert--and is the usual alternative to the socialist ideal of equality of result.¹³³

Equality of opportunity has been attacked on two grounds. The first centres on its inapplicability. It is impossible for everyone to start off equally, if only because people are different. Much is made of the facts that children are bound to be raised unequally as long as they have parents who can give them varying amounts of training, affection, goods, etc., and that they will obtain further advantages when these parents use their influence on their children's behalf later in life. Even if all children were taken from their parents at birth, they would still have different experiences.¹³⁴ The argument can be taken further, but this seems sufficient. The problem with this type of reasoning is that it assumes that there are people who demand absolute equality, whereas in fact they only want something within reason. The idea is to have people obtain jobs, etc. because they have the relevant qualifications, because they are better suited than anyone else--not to seize infants at birth or manufacture new generations from test tubes. Charvet takes a sociopolitical principle to its "logical conclusion" and criticizes it as incoherent--thereby missing the whole point. His criticism does show, however, that there are difficulties in implementing the notion, mainly because there is no such thing as strict equality of opportunity. This means that one cannot use it in any strict, regulative sense--the spirit cannot be sacrificed to rigid legislative decree without undermining it and ultimately reducing it to absurdity.

The second attack focuses more properly on the principle's anti-egalitarian nature; it gives men the equal opportunity to become as unequal

as they can. It reinforces competitiveness and hierarchy, and feeds on men's baser impulses, such as ambition and selfishness; instead of demonstrating to men how alike they are and how much they have in common, the principle emphasizes their differences and fosters dissensus.¹³⁵

Many of these criticisms appear valid. However, it might be going a little too far to deny the connection between the equal opportunity principle and the ideal of equality. Inconsistency is characteristic of most concepts; it is mistaken, I think, to condemn equal opportunity as contrary to the spirit of egalitarianism merely because it does not equalize conditions. It is a legitimate application of the equality principle to a particular, delimited area of life and should be recognized as such.¹³⁶

Corrective Justice

Finally, I have already referred to the relation between equality and corrective justice; the original idea was to compensate injured people for losses they had sustained at the hands of persons (thus: legal damages) or of fate (thus: programmes for the handicapped). The notion has had an effect on modern social thought; liberal theorists have combined it with the idea of equality of opportunity, so that all sorts of handicaps, particularly environmental, are to be compensated for.¹³⁷ Another, but not necessarily more recent, version calls for compensation for the fact that some people are simply not as talented as others, and so are unable to acquire the good things of life.¹³⁸ The latter can be regarded as complementary to the idea of maximal equal satisfaction of need: where it is assumed that people's needs should be satisfied, the imbalance created by the workings of society must be corrected, as a matter of justice.

Justice as Procedure and Justice as Result

The second major element of justice that is relevant to the equality principle has been discussed, i.e., rules. The focus here is on procedure,

rather than on the resultant distribution. Thus it is held that every effort should be made to make good laws, but that the important thing is that they be impartially applied. "Indeed, it might be said that to apply a law justly to different cases is simply to take seriously the assertion that what is to be applied in different cases is the same general rule, without prejudice, or caprice."¹³⁹ This is what is meant by "equality before the law." The maxim is formal, in that it does not tell us which cases are different and which are alike; yet, as Beardsley has pointed out, this does not render the injunction null. He goes on to say with Berlin that equal treatment is a basic assumption in every activity involving rules: "There is, strictly speaking, no (moral) obligation to treat people equally, but only a (logical) requirement to supply a good reason for treating people unequally."¹⁴⁰ To say that it is a "logical requirement" is to overstate the case; however, if there is to be a rule for making rules, it makes sense to place the burden of proof on those who call for unequal treatment.

The presumption of equality and the notion of impartiality are not meaningless, but they are not strong and demanding either. The same can be said of other procedural rules. Benn's proposal of the equal consideration of interests and Barry's advocacy of equal opportunity, for example, are open to criticism for their formality: they are not incompatible with great inequalities. Liberal theorists have always been subject to this kind of attack: Rawls' idea of justice as fairness has similarly been criticized for its failure to take need into account. I am not certain that Utilitarian thinkers were as instrumental as Chapman believes in bringing considerations of need into the concept of justice; however, he is correct in stressing their concern with the final result rather than the social process itself.¹⁴¹

In any case, Rawls now emphasizes both procedure and final distribution in his theory of justice--the latter as a corrective or a check. This

involves a sort of "double equality" which has been criticized from all sides, but which can be commended at least for its relative moderation. The two principles of justice are:

1. "Each person is to have an equal right to the most extensive total system of equal basic liberties compatible with a similar system of liberty for all."
2. "Social and economic inequalities are to be arranged so that they are both:
 - (a) to the greatest benefit of the least advantaged, consistent with the just savings principle, and
 - (b) attached to offices and positions open to all under conditions of fair equality of opportunity.¹⁴²

Thus Rawls attempts to combine the values of liberty, equality, and public welfare in a single conception. He elaborates the two principles and establishes priorities, but for our purposes it will be sufficient to state his "general conception" of justice:

All social primary goods--liberty and opportunity, income and wealth, and the bases of self-respect--are to be distributed equally unless an unequal distribution of any or all of those goods is to the advantage of the least favored.¹⁴³

It can be seen that Rawls' "check" is more than the usual provision for equity, in that it actually governs the distribution of goods. Hence equality is a factor at both the beginning (equal rights to liberty) and the end (the least well off must benefit from any inequalities.)

It will be noted that he does not stipulate the amount of benefit that is to accrue to the least favoured vis-a-vis the most favoured. By "advantage" Rawls simply means, I believe, that the least favoured receive more than he would have if the inequality had not been introduced. There is no notion of relative advantage by which one might insist that the least favoured receive an equal share of any benefits arising from an inequality, or even a significant share.

For example, suppose there are 100 units to be divided among five men: the equal distribution is 20 apiece. But suppose more units could be created if the divisions were unequal, so that 200 units were produced. Rawls' principle would justify a distribution of 80 units for one man, 33 units for three others, and 21 for the least advantaged. Assuming that they all contributed to the increase through their (roughly equal) efforts, it does not seem just that one man's good increases 400 per cent while another's increases only 5 per cent, even if it was the talent of the former that was primarily responsible. The latter gains in absolute terms, but his relative position has slipped, and so in a sense the inequality was to his disadvantage. This is not to say that all distributions should be equal--only that the formula can justify greater inequalities than it might at first seem. Nonetheless, Rawls' approach is interesting in that it is one of the few attempts to combine the liberal and socialist conceptions of equality in one theory of justice.

The Negative Approach to Equality

Up to this point I have dealt with justice and equality in their positive senses. It has been suggested, however, that these topics are more fruitfully approached from a negative point of view. Thus justice is seen to consist in the correction of injustice: one "is not dealing with any general and positive ideal, but with the law, either as it is or as it might be if some rather specific injustice were removed or alleviated."¹⁴⁴ Benn and Peters have urged the adoption of a similar approach to equality:

Egalitarians have always been concerned to deny the legitimacy of certain sorts of discrimination resting on some given differences, i.e., they have challenged established criteria as unreasonable, and irrelevant to the purposes for which they were employed. Claims to equality are thus, in a sense, always negative, denying the propriety of certain existing inequalities.¹⁴⁵

Sartori makes the same point: the principle of "the right man in the right place", he says,

is an ideal that is never realized, since in its stead what we find only too often is the privileged man in a privileged place. And this is where the demand for equality actually and rightly starts. The claim for equality is a protest against unjust, undeserved, and unjustified inequalities. For hierarchies of worth and ability never satisfactorily correspond to effective hierarchies of power....Equality is thus a protest-ideal, a symbol of man's revolt against chance fortuitous disparity, unjust power, crystallized privilege.¹⁴⁶

There are advantages in this "corrective justice" type of approach. It is easier to criticize existing policies and programmes than it is to devise new ones in accordance with a general ideal. And one is spared the difficulty of defending newly created policies, which are often subject to criticism as severe as that of the old ones.

Thirdly, the negative approach has immediate practical implications: it can be applied to any situation simply by demanding that inequalities be justified. If they cannot, they are unjust and ought to be eliminated. Finally, the negative approach is the one that is actually used in the everyday world. People do not usually propose equalities, but call for the removal of inequalities.

The advantages are not surprising if one bears in mind that inequality "is not conventional but natural: it accords with the nature of men, who differ profoundly in intelligence, talent, and virtue; and it accords with the nature of things, which require hierarchy and degree."¹⁴⁷ Diversity is a condition of life, and whatever equality can be found is almost always liable to be an inequality when looked at from a different perspective. Thus Benn and Peters conclude that:

as fast as we eliminate distinctions we create new ones--the difference being that the one we discard we consider unjustifiable, while the ones we create seem reasonable.

If we can be said to make progress in this matter, it is by criticizing existing distinctions, by creating new ones that conditions seem to justify, as well as eliminating the ones they do not; and this is rather different from aiming at a theoretical and universal ideal equality, within which all the differences in treatment we should wish to preserve are somehow reconciled.¹⁴⁸

There is a good deal of truth in what they say; the idea of eliminating inequalities has certainly played a central role in egalitarian thought and practice. But this does not mean that the equality principle has no positive content. Sartori contends that "As an ideal expressing a protest, equality is intelligible and appealing; as an ideal expressing proposals--as a constructive ideal--it is not."¹⁴⁹ I would say that the idea has two legitimate aspects, one of which is more complex than the other. Complexity, however, does not seem to constitute sufficient reason for scrapping or ignoring an important element. The pursuit of justice and of equality as definite ideals may be open to criticism, but one can hardly say that they do not exist in any intelligible form. Raphael has stated their case well:

It is not true that the claim of justice for equal treatment (in the absence of relevant reasons for discrimination) is a purely formal claim of rationality or consistency, nor that it is a purely negative claim for the removal of arbitrary inequalities. It does include both of these, but in addition it is substantive and positive, relating to a combination of qualities possessed by all human beings and to a measure of equal satisfactions that are considered due to them in the light of their possession of common human qualities.¹⁵⁰

Men should be treated equally on certain occasions, then, as a matter of justice, which "presupposes a particular kind of evaluation of human beings as persons, and... has regard to what they themselves value and disvalue as benefits and burdens."¹⁵¹

The Concept of Justice

Justice is concerned with human well-being and the manner in which goods are apportioned. We have seen that a number of criteria present themselves when these kinds of questions arise, and that there is no easy way to determine which is to be brought to bear in concrete situations, much less which one comprises the essence of justice. Considerations of equality, merit, need, ability, impartiality, proportionality, and fairness (as reciprocity) run all through the concept and through each other as well. I find Raphael's statement--"if the special case of desert is subtracted, fairness [i.e., distributive justice] means equality "¹⁵²--as oversimplified as the opposite notion that justice means desert. It is impossible to isolate a coherent conception of egalitarian justice, if by that term one hopes to include all the equalities that inhere in the concept. It is more than a matter of addition and subtraction; nevertheless, we can say that the principle of equality is a legitimate constituent element of the idea of justice.

CHAPTER V

EQUALITY AND SOCIETY

Justice, Equality and Public Policy

It is apparent that justice is a complex affair; nonetheless, it stands as the most promising line of inquiry with regard to matters of equality. Justice regulates human conduct in a wide variety of particular circumstances. For our purposes, it can be said to consist of a system of rules, both general and specific, explicit and implicit, which inform and modify one another in concrete situations of procedure or distribution, according to what is fair or unfair (and to a lesser extent, according to what is right or wrong, good or bad). The question of when to treat people equally or unequally must be answered in terms of justice. It lends substance to the principle of equality, and the idea of equality--that which is espoused by egalitarians--is, in fact, some form or other of egalitarian justice: that is to say, a conception of justice that stresses more, rather than less, equality of treatment. Thus when we turn to the role that equality does and should play in society, in public affairs, we must determine what is just.

We have seen that various formulae have been advanced on behalf of equality that deal, directly or indirectly, with what is just. Hart proposes an equal right to freedom, and Brown an equal right to protection of one's moral interests, person, and estate. Gewirth has formulated a Principle of Categorical Consistency which gives rise to equal rights to freedom and well-being, while Rawls suggests two principles of justice, complete with priorities,

that combine the notions of equal freedom, equal opportunity, and redistribution to the least advantaged. Even Mortimore's rule of egalitarianism that any inequality should be permissible only to the extent that it leads to some greater equality of overall good, is presumably based on some sort of justice.

Not all of these formulae pretend to embrace all of the egalitarian ideal or all of justice. But it should be stressed that no simple rule can do so. The concepts of rights, justice, and equality all demand a balancing of shifting criteria and circumstances.¹⁵³ All rights are prima facie; all justice is a matter of weighing competing claims and deciding which are relevant; every equality is subject to displacement by another equality or a more important inequality, and is itself an inequality from a different perspective.

When dealing with the concept or the ideal of equality, then, we are necessarily concerned with equalities. It is much too vague to refer to equal treatment; instead we must speak of equality before the law, equality of opportunity, and equality of distribution, or result. Each is a valid and distinct principle with its own special sense of the term "equality". The three are not necessarily incompatible, in that they can all operate simultaneously within a given society, but they certainly do not entail or imply one another. In fact, as we have seen, equality of distribution, or result, can generally be viewed as a modification of the others, when they are being applied to the same good.

For instance, equality before the law might seem to dictate that X and Y pay the same income tax, or at least pay at the same rate, even though X makes ten times the amount that Y makes. These sorts of equality are modified by the idea of equal distribution, so that a progressive tax is instituted which yields unequal results. (X pays much more than Y, absolutely and proportionally). Nevertheless, the principle of equality

before the law is not done away with, for X and Y are still equally subject to the tax law which assigns them their categories, and equally subject to punishment for failure to comply with it. In addition it can be pointed out that they are being treated equally in that they are both being taxed according to their (unequal) capacities to pay. Thus the principles of equality before the law and equal distribution do not necessarily cancel one another out, although this appears to be the case if one looks at a certain set of results.

Another kind of difficulty is found when equalities appear to conflict over a particular good, when actually two distinct goods are involved. For example, there can be equal opportunity to fill certain positions, i.e., to rise in a social hierarchy, and at the same time be equality of result in the sense that, say, the salaries belonging to those positions might be approximately equal. The problem arises in the confusion of job and salary; when they are incorrectly treated as a single good, equal opportunity seems to be (and is) incompatible with equal result. This is not to say that all equalities are ultimately resolvable. In many cases we simply must choose the one which is appropriate to the context--i.e., most in line with other values. There are situations in which equality of any type is unsuitable; this fact should be recognized. Often it is not. Michael Young, for instance, believes that egalitarianism is actually concerned with human uniqueness, so that in a world with a pluralistic value system, "the anti-thesis of inequality would not be equality but difference."¹⁵⁴ Statements of this nature, I am sure, are what prompts Oppenheim to advocate that equality be used only as a descriptive concept. It is one thing to realize that equality is a moral impulse; it is quite another to insist that it is the only one in town, that it is in keeping with all that is good and proper. It is, after all, a social, political, and philosophic concept, subject to approximately the same limitations as all the others. When applying it to

social issues, then, it must be kept in mind that it is varied and does not always work in the same manner in each situation.

Daniel Bell expresses similar feelings with regard to inequality: his statement is well suited to the present topic:

The difficulty with much of this discussion is that inequality has been considered as a unitary circumstance, and a single principle the measure of its redress [i.e., fairness], whereas in sociological fact there are different kinds of inequality. The problem is not either/or but what kinds of inequality lead to what kinds of social and moral differences. There are, we know, different kinds of inequality--differences in income and wealth, in status, power, opportunity (occupational or social), education, services, and the like. There is not one scale but many and the inequalities in one scale are not coupled completely with inequality in every other.¹⁵⁵

We have only to substitute the word "equality" to understand the egalitarian approach to society.

There are, of course, those who purport to be egalitarians and cause no end of difficulty through their misunderstanding and misuse of the equality principle. Thus the "affirmative action" programmes of the United States have been used in many instances to institute not only preferential treatment but quotas on behalf of minorities.¹⁵⁶ Seabury has noted that "in the current view, equality of opportunity can only be deemed truly equal if in its results it places a proportional representation of each biological category [i.e., race, sex, and age] in the positions of effective status within every major institution."¹⁵⁷ Now it is obvious that such an outlook is a misuse of the equal opportunity principle; however, affirmative action might not necessarily be incompatible with the idea of equal result. It might be justified under the notion of compensatory justice--certain groups are thought to be undeservedly disadvantaged or "needy", so temporary action should be taken to bring them up to an equal level of well-being with other

Americans.

At first glance, this is a plausible case; further inquiry, however, uncovers problems. Firstly, it is pointed out that "quotas, once established as institutional practice, prove as vigorously able to perpetuate themselves as do Texas oil-depletion allowances, and for the very same reason."¹⁵⁸ It is not a matter of introducing a temporary inequality in the interest of a greater equality; there is no guarantee that the inequality could be phased out. Secondly, quotas are unfair to those who are slightly more qualified for positions than are the persons who receive them because of race, etc. It can be said that the injustice is temporary, etc., but again, this is probably not true.

Finally, and most important, quotas are inegalitarian. They select certain groups for benefits and not others. There does not seem to be any clear reason why a poor black person who has been systematically denied opportunities should be preferred to a poor white person who has been denied them. The injustice is experienced by both; justice should consist in both being given opportunities, or whatever good is being distributed. The criteria of race, sex, and age are not arbitrary, and compensation is not unreasonable to a degree. But equality of result or of condition does not consist in selecting some disadvantaged persons over others, on a group basis, for compensation. Such policies instead conduce to the establishment of special interest groups who will pursue their interests at the expense of the common good which is central to the egalitarian thesis.¹⁵⁹ When benefits are extended to all who need them in the form of education, medical treatment, etc., it is true that "equalization of results provides the conditions that make possible a greater measure of equality of opportunity", so that they "come together as alternative or complementary means to the same end--the achievement of justice in determining fitness and place."¹⁶⁰

But a selective quota system does not do this; it denies, or at least ignores, the egalitarian ethic. Such policies can be criticized, then, on grounds of utility, fairness, and equality.¹⁶¹

Another area of contemporary concern is education. Insofar as education is a means to some future goal, it should be equal in the sense that each person should be enabled to develop his potential. We have already seen that there are practical difficulties here (p. 46); nevertheless, some type of equal treatment is clearly called for. Students have an equal claim to the books, facilities, and teacher attention that will enable them to realize their potential. This claim does not have to be exercised--some students do not want the benefits of education. Nor does it always have to be recognized--there are competing claims, such as those of utility: in a poor society, there might be a scarcity of resources, so that only some students can receive the type of education they desire. The claim to education is a strong one, however, and is generally recognized under the principle of equal opportunity.

Raphael has also pointed out that education can be an end in itself--it is a source of enjoyment and satisfaction, and is a condition under which people live significant parts of their lives.¹⁶² Consequently, there is a claim to equal treatment on grounds of fairness; the relevant equality here is one of result. The idea is that students in publicly supported schools should be educated under approximately equal conditions. It is wrong that one high school should have, say, double the per capita expenditures of another in the same city; I think this can also be extended beyond municipal boundaries to a whole country. This is presently a matter of controversy in the U.S., not only because of the equalization aspects but because of the centralized control that would be necessary to implement such a scheme.¹⁶³ Inasmuch as education is an obvious good that is supplied

by the state, though, there is a strong claim to equal access to it.

A third claim has recently been made on behalf of "open admissions" to universities.¹⁶⁴ University degrees are seen as tickets to careers and economic well-being, and so the equal opportunity principle is said to justify the elimination of entrance qualifications. This question alone is difficult enough: the issue at hand, however, is even more complicated. The emphasis apparently is on the degree more than on the education itself, so that what is desired is a result rather than an opportunity. Granted, the degree gives one further opportunities. But within the context of education, it is an equal result that is sought.

I shall deal firstly with the more straightforward matter of open admissions as equal opportunity. The principle justifies them and, in fact, many American state universities have a policy of relatively open admissions (i.e., they admit anyone who has a high school degree). Many students who would not have been accepted by schools with more stringent requirements fail during their first or second years. They are given the opportunity, and are unable to take advantage of it. This is simple enough. Some states, however, cannot afford to offer education to thousands of students who are destined to fail. This is especially problematic when high school standards within those states are uneven, so that some students are not prepared at all for formal education beyond what is basic. Thus there are good reasons to limit admissions in many states on grounds of utility. In effect what they do is give everyone equal access to education, but establish a cutoff point before students get to the university level. This seems legitimate, for although tertiary education is an opportunity, it is so only in the sense that a particular job constitutes an opportunity for a similar but higher ranking one. Jobs are not given out to everyone who wants them merely because they afford opportunities for future goods. It is the same with higher education: the opportunity consists in the equal chance to compete

for positions based on certain criteria relevant to the nature of the function involved. Where the number of positions is unlimited, and there are no other reasons for limiting enrolment, the equal opportunity principle requires open admissions; otherwise it only means that a reasonable cutoff point and testing procedure be used in determining who is to receive higher education and who is not.

Now I have mentioned that frequently it is the degree, rather than admittance to the university, that is desired. The object of pursuit, then, is a matter of equal result, not opportunity. Since most unqualified students cannot handle the curriculum, special remedial programmes have been instituted to give students the necessary skills for higher education. This does not seem unreasonable in principle--as we have noted, compensation is often the better part of justice. In actual practice, though, there are objectionable features to such policies.

Firstly, the universities themselves have been assigned the task of remedying the deficiencies (at City University of New York, at any rate).¹⁶⁵ Thus, not only is the university expected to provide education; it now must prepare students to be educated as well. Not only is it to give everyone the opportunity to be educated; it must go beyond this and make students "equal", so that they can succeed, rather than so they can try to succeed. Thus the university is being prevailed upon to take on the social function of equalization in addition to that of education. It is one thing to make the university accessible to everyone who can use it; it is another matter to insist that it ensure that everyone actually is able to use it. The point might seem insignificant, but it seems dangerous to give the university a responsibility totally divorced from its valuable proper function of education. The more it is used as an instrument of social policy, the less likely it is to be able to carry on its own policies and programmes effectively. (This does not appear unrealistic when it is noted that various schools of

CUNY have been giving degree credits for remedial course work.¹⁶⁶ This does not signal the collapse of the American university system, but it certainly constitutes a change in educational policy brought on by its new "non-educational" role, and a devaluation of its standards.)

I should probably mention here that the objection is not to remedial courses, but to the university giving them. They should be provided by the state in line with the idea of equal opportunity, but in separate institutions designed for the purpose. Or better yet, primary and secondary education should be made more thorough and effective so that compensatory education is not necessary after high school. This might be unrealistic; in any event, the preparation should occur before admission to university rather than after.

Against Equality

The foregoing problems seem to arise naturally from general political concepts such as equality. My point is that the difficulty is caused by the person who misinterprets or misuses the concept--often for the sake of his own particular interests for which he is seeking justification--rather than by the concept itself. It is he who is responsible for criticism of egalitarianism on the ground that it is rooted in envy:¹⁶⁷ the equality principle is no more based on envy than is any other. Envy is a human weakness, and certainly not peculiar to egalitarians.

A second line of attack is based on the idea that egalitarianism is propounded by a small minority of the population, primarily "intellectuals", who are dissatisfied with bourgeois civilization and their role in it. The majority of the people are perfectly satisfied with social inequalities, provided there is fair access to them (equality of opportunity) and equality before the law.¹⁶⁸ This is a persuasive argument in favour of limiting the extent of equality when one is considering questions of more or less;

however, one should bear in mind that the majority is not always right. If "the people" were to support the institution of slavery (as they have been known to do), it would still be morally unjustifiable.

Equality of result has also been criticized on the ground that it would take away incentives necessary to the operation of society. The need for incentives has generally been recognized by egalitarians; differences of opinion have arisen over the nature and the extent of those actually required to maintain the social process. Socialist theorists in the Soviet Union seem to have modified their original attitudes towards incentives, and have come to use them more and more.¹⁶⁹ This indicates that past egalitarians were somewhat overly optimistic in their views, but does not prove that inequalities of wealth and income currently found in Western industrialized societies are at a minimum level or anywhere near it.

Further reasons for inequalities have been offered by Nisbet within the context of the American experience:

There is something, after all, that appeals to the imagination, to the risk-taking sensibility, to the ever present hope of "hitting it big", in a non-egalitarian society, where channels of mobility are at least reasonably open. Beyond this, hierarchy and inequality are key elements of the social bond...And there is, finally, the seemingly ineradicable American respect for merit, and for goods and statuses arrived at (or which appear to have been arrived at) through merit.¹⁷⁰

The opportunities to "hit it big" and to take risks can be adequately provided through the introduction of lotteries and Grand Prix-style road racing. Functional hierarchy and social differentiation are not incompatible with egalitarianism. But merit is a legitimate rival of equality as a criterion of just distribution. Once basic needs have been attended to, it affords the basis of a differentiated distribution of various goods. This is quite proper. It should be kept in mind, however, that the notion

of desert does not necessarily justify an inegalitarian society. This is so because (i) people are specifically, not generally, deserving. No one deserves more of everything. X might deserve a higher salary than Y because of the nature of his occupation, but Y might merit greater respect than X because of his moral qualities. It is conceivable that each person could get what he deserves, with the total good of each being roughly equal. (ii) Furthermore, not all differences are inequalities. Two people can have different occupations or homes or preferences, but this does not mean that they are unequal. They might be unequal according to some standard of value, but it is not always clear which standard is relevant. In many situations it does not make sense to speak of inequality. (iii) Finally, even when distribution according to merit does create inequalities, there is no rule to dictate their size. X might be much more deserving than Y, but we do not know how much more of which particular good he ought to receive. There does not seem to be any reason to believe that a lawyer deserves ten times the income of a manual labourer (unless, perhaps, one is a lawyer).

To the extent that merit is thought to be a component of justice, then, distributions will tend away from absolute equality. This is acceptable to the egalitarian; he is opposed to unreasonable, not all, inequalities.

The last criticism that warrants examination holds that the equality principle is unworkable in any or all of its manifestations. It is incoherent and inapplicable as an instrument of social policy, and is therefore meaningless. There is some substance to this argument. The egalitarian might say that he is interested in an ideal, not a rule to cover every circumstance. The ideal of liberty, for example, is also difficult to implement. Of course, men know when they are free (i.e., not being coerced), but men also know when they are being treated equally.

At this point the critic might respond with the question: "Do they?

If X works 40 hours and produces 100 units while Y works 40 hours and produces 80 units, does the principle of equality require that they receive equal or unequal pay cheques? There is no way to decide--the same treatment can be equal from one point of view and unequal from another. The problem with equal treatment is that one needs an external standard to determine whether or not men are being treated equally--but the standards are constantly shifting from case to case. This looks more like a matter of fairness or justice than of equality."

As I see it, the egalitarian response cannot be totally convincing, but it is not meaningless either. For even if equal treatment presumes standards of justice, it remains a kind of equality: one might say that it is only justice, but then one might also say that justice is only equality in accordance with the relevant standards. And it is not true that standards constantly shift from case to case--they might not be absolute, eternal, or self-evident, but at any given time there will be a general consensus on which standards are relevant. They can be defended with good reasons, and replaced with better reasons, but there is a limit on the number of reasons which can be considered good. Thus in some situations equal treatment will consist in an equal rate of pay per hour, and in others an equal rate per unit produced. There is no a priori rule but, on the other hand, standards are not arbitrary. The workers in the example will know whether or not they are being treated equally, and if this does not constitute a logical justification, it does bring out the fact that the principle, ideal or impulse of equality exists.

CONCLUSION

We have seen that despite great efforts to demonstrate the contrary, there are no compelling similarities that all men share, save the fact that they are men. This characteristic does not give rise to any absolute rights. Nevertheless, men, being men, have joined together and formed societies. Out of social existence, certain values have been created with human welfare at their centre. As men's social systems have become more complex, so have their rules for regulation of conduct. Insofar as these systems focus on the central values, they manifest themselves as systems of morality, legality, and justice, both formally and informally.

The idea of equality has been found to be a basic, if not necessarily the dominant, element in these spheres. This idea is complex and multifaceted. It is difficult to apply consistently to human concerns. Some of these difficulties can be avoided in certain circumstances by adopting Oppenheim's common sense descriptive approach. This approach, however, is limited to the world of fact. Where value choices are involved, equality should simply be thought of as one value among many, each with its own validity. The substance or implied consequences of the equality principle can then be compared with those of the others; social institutions and policies, etc. will emerge from their reconciliation. This does not mean that equality or any of the others, such as liberty or authority, are to be emasculated. It is characteristic of such broad concepts that they cannot be applied in wholesale fashion: they must take other values into account. Nor does it mean that supporters of various principles will all agree on some grand compromise--it is only that awareness of many values,

such as merit, utility, authority, liberty, and equality, and recognition of their legitimacy, is in the interest of sound policy-making.

Oppenheim is correct in insisting that equality should not be used as a laudatory term. Nor should it be a pejorative term. The fact that a policy is egalitarian or inegalitarian should not automatically provoke reactions of praise or condemnation. But this is not to say that the normative content should or can be removed. Equality is a normative expression--people do feel one way or the other about it.

The idea of equality, then, is not unlike other theoretical concepts. It might be difficult to understand and to use, but it is mistaken to conclude that it should be altered or eliminated. It has a place when reasonably and thoughtfully applied to public affairs. It is a constant, if not internally consistent, moral impulse, and must be recognized as such.

NOTES

¹Felix E. Oppenheim, "Egalitarianism As A Descriptive Concept", American Philosophical Quarterly, 7 (April, 1970), pp. 143-52.

²Isaiah Berlin, "Equality", Proceedings of the Aristotelian Society, New Series, 56 (1955-56), pp. 313-14.

³The connection between egalitarianism and the principle of equality is discussed below, pp. 6-11.

⁴For example, see Berlin, "Equality", pp. 311-19, 326; Hugo Adam Bedau, "Egalitarianism and the Idea of Equality", in Equality, Nomos IX, eds. J. Roland Pennock and John W. Chapman (New York: Atherton Press, 1967), pp. 13-27; H. J. McCloskey, "Egalitarianism, Equality and Justice", Australasian Journal of Philosophy, 44 (May, 1966), p. 57; J. R. Lucas, "Against Equality", in Justice and Equality, ed. H. A. Bedau (Englewood Cliffs, N. J.: Prentice-Hall, 1971), pp. 147-51; J. Charvet, "The Idea of Equality as a Substantive Principle of Society", in Contemporary Political Theory, eds. Anthony de Crespigny and Alan Wertheimer (New York: Atherton Press, 1970), pp. 157-68; Robert Nisbet, "The Pursuit of Equality", Public Interest, No. 35 (Spring, 1974), pp. 115-16; Arnold Brecht, Political Theory, (Princeton, N. J.: Princeton University Press, 1959), pp. 151, 411-12; and Giovanni Sartori, Democratic Theory (New York: Frederick A. Praeger 1962), pp. 328-34.

Benn's comment is pertinent: "A favorite way of discrediting the egalitarian, however, is to make it appear that he seeks to remove forms of discrimination that neither he nor anyone else, would for a moment question." "Egalitarianism and the Equal Consideration of Interests", in Equality, Nomos IX. p. 65, n.2.

Not all of these writers are opposed to the equality principle: e.g., Bedau uses the notion of "radical egalitarianism" as a straw man to show that egalitarianism proper is not what its critics claim. Nevertheless, the terminology is still unfortunate.

⁵See also S. I. Benn and R. S. Peters, The Principles of Political Thought, (New York: The Free Press, 1959), pp. 131, 448, n. 8; David Thomson, Equality, (Cambridge: University Press, 1949), p. 5.; Michael Walzer, "In Defense of Equality", Dissent, 20 (Fall, 1973), pp. 401-3; and David Spitz, "A Grammar of Equality", Dissent, 21 (Winter, 1974), pp. 63-6; as well as Benn, "Egalitarianism".

⁶Charvet, "Idea"; pp. 157-68; Lucas, "Against Equality", pp. 138-51.

⁷Lucas, "Against Equality", pp. 139-42.

⁸As Spitz has observed, such critics, "contest not equality but a caricature of equality." "Grammar", p. 78.

⁹Lucas, "Against Equality", pp. 141-51.

¹⁰ Bedau has noted that "it is in fact not possible to eliminate all inequalities, either because role-differentiation is necessary to the existence of any social system and role-stratification is equally necessary (as the cause or consequence) to role-differentiation, or for other less sophisticated reasons, e.g., because some inequalities can be removed only by introducing others, or because social inequalities are an inescapable consequence of natural (individual) inequalities....[Hence:] The question... for those with egalitarian sentiments is this: What are the minimum inequalities required to maintain a given social system and what is the cost, in terms of existing institutions that would need to be changed and of the frustration of other values, to achieve this minimum?" See "Egalitarianism", p.21.

¹¹ That is, if it does not allow for necessary or unavoidable inequalities of the type mentioned in n.10.

¹² It is possible that the principle itself is not legitimate--that it is ill-founded and inapplicable to human affairs. This would make its derivative notions irrational as well. This question will be considered throughout the paper; the point that I wish to make here is that what is true of "equality" is also true of "egalitarianism" and "egalitarian".

¹³ Oppenheim, "Egalitarianism"; see also his article "Equality: The Concept of Equality", International Encyclopedia of the Social Sciences (1968), 5, pp. 102-8.

¹⁴ "Egalitarianism", p. 152.

¹⁵ Ibid., p. 150. (Emphasis in the original. All emphases in subsequent quotations are from the original statements, unless otherwise noted). For example, if A has 99 units and B has 1 unit, and redistribution policy takes 1 unit from A and gives it to B, A's percentage of the total will be reduced to 98 per cent and B's increased to 2 per cent. The percentage difference is now "only" 96 per cent, rather than 98 per cent. According to Oppenheim, this policy would be egalitarian.

The difficulty is even more pronounced when one is dealing with broad programmes or with whole societies: how can they be defined as egalitarian or inegalitarian without reference to some ideal standard? This, of course, is the point that Oppenheim is trying to make--they cannot be so defined under any circumstances, so why try? He feels that it is a mistake to pursue social equality as an ideal, anyway (I believe); instead, societies should try to achieve justice, or perhaps maximum utility, which would include whatever degrees of equality were felt to be desirable. The argument is quite reasonable, but cannot be validated merely by stressing the descriptive sense of the term and brushing aside the normative.

¹⁶ This is not to say that Oppenheim's approach is not instructive. In certain situations his descriptive method would be very useful. But I do not feel that it does all that he wants it to do, nor do I agree with the way he handles the normative side of the problem by ignoring it.

¹⁷ Edward Shils, "Ideology: The Concept and Function of Ideology", International Encyclopedia of the Social Services, 7, p. 66.

¹⁸ Ibid., p. 67.

¹⁹Dante Germino, Beyond Ideology: The Revival of Political Theory (New York: Harper & Row, 1967), p. 51.

²⁰See Shils, "Ideology", p. 66-8.

²¹This applies to rules, relations, institutions, etc. as well, when "egalitarianism" is used as an adjective.

²²"Egalitarianism", p. 143.

²³I am not saying that inequalities are actually equalities, but that they are compatible with egalitarianism. On the former point, see Brian Barry's criticism of Sartori in Political Argument (London: Routledge & Kegan Paul, 1965), p. 120, n.1, and Bedau's remark that "Philosophers have assumed, or come close to assuming, that because an inequality may be just or justified, it is really an equality after all, as though the justice or justifiability of certain arrangements could only be expressed by pronouncing the arrangement 'equal', as though the most important thing to say on behalf of the morality of an arrangement is that it is equal." ("Egalitarianism", p. 13).

²⁴Sanford A. Lakoff, Equality in Political Philosophy (Cambridge: Harvard University Press, 1964).

²⁵Ibid., p. 238.

²⁶Ibid., p. 5-6.

²⁷See Louis Hartz, The Founding of New Societies (New York: Harcourt, Brace & World, 1964), Chapters, 1,2, and G. Horowitz, "Conservatism, Liberalism, and Socialism in Canada: An Interpretation", Canadian Journal of Economics and Political Science, 32 (May, 1966), pp. 143-71.

²⁸It has been pointed out that numbers 4 and 5 are two distinct principles. See H. L. A. Hart, The Concept of Law (Oxford: Clarendon Press, 1961), p. 155, and James I. MacAdam, "The Precepts of Justice", Mind, 77 (July, 1968), pp. 360-71.

²⁹Monroe C. Beardsley, "Equality and Obedience to Law", in Law and Philosophy ed. Sidney Hook (New York: New York University Press, 1964), p. 36.

³⁰J. G. H. Newfield, "Equality in Society", Proceedings of the Aristotelian Society, New Series, 66 (1965-66), pp. 199-200.

³¹Charvet, "Idea", p. 154.

³²Gregory Vlastos, "Justice and Equality", in Social Justice, ed. Richard B. Brandt (Englewood Cliffs, N. J.: Prentice-Hall, 1962), p. 42.

³³Barry, Political Argument, p. 120.

³⁴Hart, "Are There Any Natural Rights?", Philosophical Review, 64 (April, 1955), p. 175.

³⁵Stuart M. Brown, Jr., "Inalienable Rights", Philosophical Review, 64 (April, 1955), p. 192.

³⁶E. F. Carritt, cited in Benn and Peters, Principles, p. 448, n.5.

³⁷See Benn, "Egalitarianism", passim.

³⁸John Wilson, Equality (London: Hutchinson, 1966), p. 33.

³⁹Bernard A. O. Williams, "The Idea of Equality", in Justice and Equality, p. 122. See also Lucas, "Against Equality", pp. 140-41.

⁴⁰Morris Ginsberg, On Justice in Society (Ithaca, N. Y.: Cornell University Press, 1965), p. 20.

⁴¹See W. T. Blackstone, "On the Meaning and Justification of the Equality Principle", Ethics, 77 (July, 1967), pp. 245-47. He believes that this simply replaces the problem of "is-ought" with one of "good-ought", and that there is still an unwarranted logical jump. It might also be mentioned that the human worth approach does not avoid the original fact-value difficulty, for we would still need to know how to get from the characteristics that all men share to the question of their goodness. The problem then becomes one of how to get from men's equal intrinsic value to how they should be treated. This will be discussed below.

⁴²Lakoff, "Christianity and Equality", in Equality, Nomos. IX, p. 118.

⁴³D. Daiches Raphael, Moral Judgement, (London: George Allen & Unwin, 1955), p. 132.

⁴⁴Lakoff, "Christianity", p. 118.

⁴⁵See Raphael, Moral Judgement, pp. 130-34, and Williams, "Idea", pp. 121-24.

⁴⁶Williams, "Idea", p. 122.

⁴⁷Lakoff, Equality, p. 244, n.2. The article only refers to Plamenatz' comment by page number. The quotation is included in the book, however, where he makes the same point. In both cases the page number cited is the same.

⁴⁸See Benn and Peters, Principles, p. 39.

⁴⁹Raphael, Moral Judgement, pp. 132-34.

⁵⁰Ibid., p. 132.

⁵¹Wilson, Equality, pp. 98-9.

⁵²Vlastos, "Justice", p. 43.

⁵³Ibid., pp. 44-8.

⁵⁴Joseph Margolis adopts a similar stance, finding men's "hidden equality" assumed in the areas of science, religion, tragedy, and comedy. See "That All Men are Created Equal", Journal of Philosophy, 52 (June, 1955), 337-46.

⁵⁵See A. P. d'Entreves, Natural Law: An Historical Survey (new York: Harper Torchbooks, 1951), esp. pp. 21-2, and 48-62.

⁵⁶Many propositions are, of course, self-evident enough in ordinary circumstances. (e.g., "This is a tree" or "Happiness is good".) My point applies to statements that tend to generate dispute, either because of their context or their normative character. Much of this section relies on my understanding of Brecht, Political Theory, Part One.

⁵⁷Benn and Peters, Principles, pp. 162-70.

⁵⁸Bertrand de Jouvenal, The Ethics of Redistribution (Cambridge: University Press, 1952), pp. 55-6.

⁵⁹Ibid., p. 80.

⁶⁰See L. T. Hobhouse, The Elements of Social Justice (London: George Allen & Unwin, 1922). He holds that everyone should have enough to exist, with extra benefits for children, the aged, etc. (p. 133). Beyond this, distributive justice consists in "equal satisfaction of equal needs, subject to the adequate maintenance of useful functions... /i.e./ to a condition prescribed by the needs themselves. This condition is the maintenance of the functions upon which the common good depends, and this involves differential treatment of individuals in accordance with the nature of their services to the community." (p. 111). Thus, "need simply as need is a claim, but not a completely validated claim till its bearing on function has been considered." (p. 133).

⁶¹Benn and Peters, Principles, p. 164.

⁶²Barry, Political Argument, p. 48.

⁶³Williams, "Idea", pp. 118-26.

⁶⁴See Wilson, Equality, p. 99.

⁶⁵Benn, "Egalitarianism", pp. 70-1.

⁶⁶Williams, "Idea", p. 126.

⁶⁷William K. Frankena, "The Concept of Social Justice", in Social Justice, p. 19.

⁶⁸Benn, "Egalitarianism", p. 70.

⁶⁹See also S. I. Benn, "'Interests' in Politics", Proceedings of the Aristotelian Society, New Series, 60 (1959-60), pp. 123-40.

⁷⁰Wilson, Equality, p. 103.

⁷¹Wilson's position, however, is not as clear as the statement would seem to indicate. For he appears to believe that man by definition has the capacity of choice. But while the ability to reason is important, Wilson feels (I think) that man's "human-ness", rather than the major defining characteristic, justifies a kind of equality.

⁷²Benn, "Egalitarianism", p. 70.

⁷³See Ch. Perelman, "Concerning Justice" (c. 1945), Chapter 1 is his The Idea of Justice and the Problem of Argument, trans. John Petrie (London: Routledge & Kegan Paul, 1963), pp. 45-60. His view has been modified in more recent articles printed in the same book.

⁷⁴See John Rees, Equality (New York: Praeger, 1971), pp. 130-33.

⁷⁵Ibid., p. 134-37; see also Hart, Law, pp. 187-89.

⁷⁶For example, see Stephen Edelston Toulmin, An Examination of the Place of Reason in Ethics (Cambridge: University Press, 1950), pp. 160, 223.

⁷⁷For example, see de Jouvenal, Ethics, esp. Lecture II; see also John Rawls, A Theory of Justice, pp. 325-32.

⁷⁸See Vlastos, "Justice", pp. 49-63.

⁷⁹See Hobhouse, Elements, Chapters 1-6; see also Toulmin, Reason, pp. 166-71, 223-24.

⁸⁰Hart's comment (Law, p. 167) on the requisites of any social existence at all is relevant here:

"....the social morality of societies which have reached the stage where this can be distinguished from its law, always includes certain obligations and duties, requiring the sacrifice of private inclinations or interest which is essential to the survival of any society, so long as men and the world in which they live retain some of their most familiar and obvious characteristics. Among such rules obviously required for social life are those forbidding, or at least restricting, the free use of violence, rules requiring certain forms of honesty and truthfulness in dealing with others, and rules forbidding the destruction of tangible things or their seizure from others. If conformity with these most elementary rules were not thought a matter of course among any group of individuals, living in close proximity to each other, we should be doubtful of the description of the group as a society, and certain that it could not endure for long."

⁸¹See G. J. Warnock, Contemporary Moral Philosophy (London: Macmillan, 1967), pp. 67-71. He says that morality is concerned with human welfare, but he is clearly speaking in a positive, rather than neutral, sense. Similarly, D. S. Shwayder asserts: "that there should be such ways of classifying human actions as morally interesting hangs ultimately on the fact that moralities, however much they vary, must be adequate to the regulation of certain kinds of behaviour, such as bringing physical damage or death to one's fellows." "Moral Rules and Moral Maxims", Ethics, 67 (July, 1957), p. 284.

⁸²It has been asserted (with reference to Toulmin) that "any attempt to claim one function or rationale of morality as the function or the purpose of morality so circumscribes what can count as moral considerations that its effect is unwittingly to advocate one limited moral outlook as the moral point of view." Kai Neilson, "Ethics, History of (Twentieth Century)", Encyclopedia of Philosophy, 3, p. 111.

⁸³Warnock, Philosophy, p. 68.

⁸⁴Toulmin, p. 224.

⁸⁵Toulmin has been criticized on this point. See, for example, Neilson, "Ethics", p. 111; and George C. Kerner, The Revolution in Ethical Theory (Oxford: Clarendon Press, 1966), pp. 136-37.

⁸⁶See Hobhouse, Elements, Chapter 2, esp. the last few lines of n.l, p. 35.

⁸⁷"We can say, roughly, that to have a moral right to something is for someone else to be morally obligated (in the objective sense) to act or refrain from acting in some way in respect to the thing to which I am said to have the right, if I want him to." Richard B. Brandt, Ethical Theory (Englewood Cliffs, N. J.: Prentice-Hall, 1959) p. 436. See pp. 434-54 for further discussion. See also D. D. Raphael, "Human Rights, Old and New", in Political Theory and the Rights of Man, ed. D. D. Raphael (Bloomington: Indiana University Press, 1967), pp. 54-67; Bernard Mayo, "What are Human Rights?", ibid., pp. 72-80; and Benn and Peters, Principles, pp. 101-07.

⁸⁸Cited in Brecht, Political Theory, p. 284.

⁸⁹Brown, "Rights", p. 199. The goods to which he refers are a man's "moral interests, his person, and estate." (192).

⁹⁰Ibid., p. 199.

⁹¹Maurice Cranston, "Human Rights, Real and Supposed", in Rights of Man, p. 49.

⁹²Ibid., p. 49.

⁹³Raphael, "Human Rights", pp. 61, 65.

⁹⁴Vlastos, "Justice", p. 52.

⁹⁵Hart, "Rights", p. 175.

⁹⁶Ibid., p. 175.

⁹⁷J. Roland Pennock, Liberal Democracy: Its Merits and Prospects (New York: Rinehart and Company, 1950), p. 102.

⁹⁸See Ginsberg, Justice, chapter 3, esp. p. 77; Brandt, Ethical Theory, pp. 438-40; and Hobhouse, Elements, pp. 41-6

⁹⁹William K. Frankena, "Natural and Inalienable Rights", Philosophical Review, 64 (April, 1955), p. 231.

¹⁰⁰Berlin, "Equality", p. 306.

¹⁰¹Perelman asserts that "Justice...is inconceivable without rules". Idea of Justice, p. 41.

¹⁰²Berlin, "Equality", pp. 306, 305.

¹⁰³See Richard E. Flathman, "Equality and Generalization, A Formal Analysis", in Equality, Nomos IX, pp. 38-60.

¹⁰⁴As Benn and Peters put it: "rules do not classify themselves". See Principles, pp. 82-5.

¹⁰⁵The relation between rules and justice is dealt with in Perelman, Idea of Justice, esp. pp. 29-60, 61-7, 98-108, 154-58; Perelman, Justice (New York: Random House, 1967), pp. 20-34; and Julius Stone, Human Law and Human Justice (Stanford, California: Stanford University Press, 1965), pp. 326-30.

¹⁰⁶See his articles, "The Justification of Egalitarian Justice", American Philosophical Quarterly, 8 (October, 1971), pp. 331-41; "Obligation: Political, Legal, Moral", in Political and Legal Obligation, Nomos XII, ed. J. Roland Pennock and John W. Chapman (New York: Atherton Press, 1970), pp. 55-88; and "Categorical Consistency in Ethics", Philosophical Quarterly, 17 (October, 1967), pp. 289-99.

¹⁰⁷Gewirth, "Obligation", p. 66.

¹⁰⁸Ibid., p. 67. See also Shwayder, The Stratification of Behaviour (London: Routledge & Kegan Paul, 1965), pp. 51, 173. "An act exists if and only if an animal behaves with purpose." (p. 173)

¹⁰⁹See "Justification", pp. 332-33.

¹¹⁰Ibid., pp. 333-36.

¹¹¹Ibid., pp. 336, 338.

¹¹²Ibid., p. 339.

¹¹³Ibid., p. 339.

¹¹⁴Ibid., p. 339. See also "Consistency", pp. 294-97.

¹¹⁵See "Justification", p. 341.

¹¹⁶Ibid., p. 341.

¹¹⁷See Norman E. Bowie, "Equality and Distributive Justice", Philosophy, 45 (April, 1970), pp. 140-48, for similar criticism of egalitarian formulae of justice.

¹¹⁸John Rawls uses "fairness" in a narrow sense to mean compliance with rules to which one has previously agreed, either explicitly or implicitly. Thus it is "reciprocity in treatment", in Chapman's phrase. Raphael, on the other hand, has a broader conception in mind; asserting that fairness (or equity) "is in fact the same as distributive justice". Perelman also uses the terms in this wider fashion. Both sides equate justice and fairness, but the implications are quite different between the two, as Chapman has shown. My usage here follows that of Raphael and Perelman.

See Rawls, "Justice as Fairness", in Contemporary Political Theory, pp. 202-06, and Justice, pp. 111-14, 342-50; John W. Chapman, "Justice and Fairness", in Justice, Nomos VI, eds. Carl J. Friedrich and John W. Chapman (New York: Atherton Press, 1963), pp. 147-69; Raphael, "Equality and Equity", Philosophy, 21 (July, 1946), p. 132 and passim.; and Perelman, Justice, chapter 2.

¹¹⁹ See The Ethics of Aristotle / The Nicomachean Ethics, trans. J. A. K. Thomson (London: George Allen & Unwin, 1953), Book 5, chapters 1, 2, pp. 121-25. See also Richard McKeon, "Justice and Equality", in Justice, Nomos VI, pp. 54-7.

¹²⁰ Ethics, Book 5, chapters 2-5, pp. 125-35.

¹²¹ McKeon, "Justice", p. 56.

¹²² Aristotle, The Politics of Aristotle, trans. Ernest Barker (New York: Galaxy Books, 1962), p. 118.

¹²³ Ibid., p. 120. Additional material supplied by Barker. See also Rees, Equality, pp. 92-6.

¹²⁴ Roger Hancock, "Meritorian and Equalitarian Justice", Ethics, 80 (January, 1970), pp. 165-69. By "meritorian", Hancock means proportional, or fair, which is to say, "just". Actually he is speaking of "just justice" versus egalitarian justice, so that it is not surprising that he finds the latter somewhat lacking.

¹²⁵ Berlin, "Equality", p. 305.

¹²⁶ Daniel Lyons, "The Weakness of Formal Equality", Ethics, 76 (January, 1966), p. 148. See also Newfield, "Equality", pp. 200-02; and Charles Frankel, "Equality of Opportunity", Ethics, 81 (April, 1971), pp. 196-97.

¹²⁷ Stone, Human Law, p. 344.

¹²⁸ Vlastos, "Justice", pp. 40-3.

¹²⁹ Raphael, Moral Judgement, pp. 86-7. See also Raphael, "Equity", pp. 125-26.

¹³⁰ See Joel Feinberg, "Justice and Personal Desert", in Justice, Nomos VI, pp. 85-7. Benn and Peters' treatment of the concept is also useful. See Principles, pp. 157-62. Barry's remarks are interesting:

"'Desert' flourishes in a liberal society where people are regarded as rational independent atoms held together in a society by a 'social contract' from which all must benefit. Each person's worth (desert) can be precisely ascertained-- it is his net marginal product and under certain postulated conditions (which it is conveniently assumed the existing economy approximates) market prices give

each factor of production its net marginal product. Life is an obstacle race with no special provision for the lame but if one competitor trips up another, the state takes cognizance of this fact; thus compensation is given only when there is negligence on one side but not the other."

Political Argument, pp. 112-13. See also Friedrich A von Hayek, The Constitution of Liberty (London: Routledge and Kegan Paul, 1960) for a slightly different critique of merit.

¹³¹ Raphael, "Equity", pp. 128-30.

¹³² Brandt argues that the implications of utilitarianism are egalitarian in certain respects: "The consistent utilitarian, everything considered, will conclude that approximate equality of income should be a substantial aim of policy, to be deviated from only where the benefits of inequality are shown to be considerable." Ethical Theory, p. 420; see also pp. 415-20. Nevertheless, utilitarianism has been effectively criticized as inadequate to questions of justice. See, for example, Rawls, Justice, pp. 150-92, and "Justice as Fairness", pp. 209-13; Raphael, Problems of Political Philosophy (London: Pall Mall Press, 1970), pp. 194-200, and "Conservative and Prosthetic Justice", in Contemporary Political Theory, pp. 184-89; and Bedau, "Justice and Classical Utilitarianism", in Justice Nomos VI, pp. 284-305.

¹³³ The socialist ideal is often formulated as "From each according to his ability, to each according to his need"; equality of result in this context is usually seen as a combination of need satisfaction and equality of condition. For brief discussions of liberal and socialist views of justice and equality, see W. B. Gallie, "Liberal Morality and Socialist Morality", in Philosophy, Politics, and Society, ed. Peter Laslett (Oxford: Basil Blackwell, 1956), pp. 120-28; and Raphael, Political Philosophy, pp. 186-94. Note also the statement of G. W. Mortimore, "An Ideal of Equality", Mind, 77 (January, 1968), p. 229:

"At the back of a good many egalitarian claims, there lies the idea that the ideal society is one where everyone is equally happy, enjoys equal levels of welfare and good. The egalitarian is in favour of any inequality of treatment which will conduce to this end...The egalitarian does not aim at equality of treatment, in any respect: he aims at equality in the distribution of what results from the treatment, equal and unequal, meted out to men."

¹³⁴ See Charvet, "Idea", esp. pp. 157-58.

¹³⁵ See John H. Schaar, "Equality of Opportunity, and Beyond", in Contemporary Political Theory, pp. 135-53. As well, see Michael Young, The Rise of the Meritocracy: 1870-2033 (London: Thames and Hudson, 1958).

¹³⁶See Charles Frankel, "Equality of Opportunity", Ethics, 81 (April, 1971), pp. 199-211, for a balanced appraisal. Barry discusses the notion in terms of fairness. Political Argument, pp. 102-06; 120-21.

¹³⁷See H. J. Spiegelberg, "A Defense of Human Equality", Philosophical Review, 53 (March, 1944); Ginsberg, Justice, p. 106; and Benn and Peters, Principles, pp. 136-37.

¹³⁸For example, see Christopher Jencks et al., Inequality (New York: Basic Books, 1972), chapters 1, 9.

¹³⁹Hart, Law, pp. 156-57. See also Perelman, Justice, p. 20: "...justice concerns itself with being impartial...Just behaviour is regular. It conforms to rules, to standards."

¹⁴⁰Beardsley, "Equality", p. 37.

¹⁴¹See Rawls, "Justice as Fairness", and Chapman, "Justice and Fairness", passim.

¹⁴²Rawls, Justice, p. 302

¹⁴³Ibid., p. 303.

¹⁴⁴Frank H. Knight, "On the Meaning of Justice", Justice, Nomos VI, p. 23.

¹⁴⁵Benn and Peters, Principles, pp. 131-32.

¹⁴⁶Giovanni Sartori, Democratic Theory (New York: Frederick A. Praeger, 1962), p. 327.

¹⁴⁷Spitz, "Grammar", p. 66.

¹⁴⁸Benn and Peters, Principles, pp. 132-33.

¹⁴⁹Sartori, Democratic Theory, p. 328.

¹⁵⁰Raphael, Political Philosophy, p. 194.

¹⁵¹Ibid., p. 178.

¹⁵²Raphael, "Equity", p. 132.

¹⁵³See, for example, Ginsberg, pp. 66, 77; and Radoslav A. Tsanoff, "Social Morality and the Principle of Justice", Ethics, 67 (October, 1956), p. 16.

¹⁵⁴Michael Young, "Is Equality a Dream?", Dissent, 20 (Fall, 1973), p. 420.

¹⁵⁵Daniel Bell, "Meritocracy and Equality", in The Coming of Post-Industrial Society (New York: Basic Books, 1973), pp. 451-52.

¹⁵⁶ See Elliott Abrams, "The Quota Commission", Commentary, 54 (October, 1972), pp. 54-7.

¹⁵⁷ Paul Seabury, "The Idea of Merit", Commentary, 54 (December, 1972), p. 44.

¹⁵⁸ Ibid., p. 44.

¹⁵⁹ I have drawn on Bell, "Meritocracy", pp. 416-19, 438-39; and Seabury, "Merit", pp. 44-5, for several of these points.

¹⁶⁰ Spitz, "Grammar", p. 74.

¹⁶¹ Michael Walzer states that quotas are wrong, but no worse than a host of other inequalities in American society, and hence excusable. This seems to be a rather poor justification. See "Equality", p. 407-08.

This is not to say that no case at all can be made for them. If they were controllable, temporary, and kept within reasonable limits, so that the presumably less qualified beneficiaries of preferential treatment could still be considered qualified in an absolute sense (e.g., job applicant X could have (say) an I.Q. of 118 to job candidate Y's 120, and still be qualified for the position); and if it were clear that a society such as the U. S. was not going to become fully egalitarian in the foreseeable future, then I would say that, on balance, some type of quota system would be justifiable and desirable.

¹⁶² Raphael, "Equity", pp. 128, 130.

¹⁶³ See Daniel P. Moynihan, "Equalizing Education--In Whose Benefit?", Public Interest, Number 29 (Fall, 1972) pp. 69-89, for relevant commentary.

¹⁶⁴ Much of this is based on points raised by Bell, "Meritocracy", pp. 414-23; and by Martin Mayer, "Higher Education for All?", Commentary, 55 (February, 1973), pp. 37-47. See also Seymour Martin Lipset, "Social Mobility and Economic Opportunity", Public Interest, Number 29 (Fall, 1972), pp. 103-06; Lester C. Thurow, "Education and Economic Equality", Public Interest, Number 28 (Summer, 1972), pp. 66-81; and Hannah Arendt, "The Crisis in Education", in Between Past and Future: Six Exercises in Political Thought (New York: Viking Press, 1961), pp. 179-80.

¹⁶⁵ See Mayer, "Higher Education", pp. 39-47.

¹⁶⁶ Ibid., p. 41.

¹⁶⁷ See von Hayek, Liberty, p. 93; and Lucas; "Against Equality", p. 150.

¹⁶⁸ See Irving Kristol, "About Equality", Commentary, 54 (November, 1972), pp. 41-7; and Nisbet, "Equality", pp. 103-20.

¹⁶⁹ See Bell, "Meritocracy", p. 450.

¹⁷⁰ Nisbet, "Equality", p. 104.

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