ON EQUALITY

Comments on:


B. Williams, The Idea of Equality, in: Bernard Williams, Problems of the Self ( )

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Egalitarians, like Procrustes, command that one size fit all. The differences between people notwithstanding, they say, the proper distributive principle is equality. In the first part of this paper, I will argue that this is a difficult and initially implausible conception; the simple justifications given for egalitarianism by some recent philosophers seem inadequate. In the second part, I will attempt to explain why and when egalitarianism nonetheless does have a powerful moral force. I conclude that a procrustean bed may be the best one available.

The Implausibility of Egalitarianism

Isaiah Berlin's discussion of equality centers around a cake: a convenient place to begin. Berlin says, "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." This, he says, follows from the principle that "similar cases should be accorded similar treatment." It does not, and understanding why not will help us to see some of the basic difficulties with egalitarianism.

The principle Berlin cites derives ultimately from Aristotle's principle of distributive justice: "persons who are equal should have assigned to them equal things." Politics, Book III, Ch XII, §1. The Aristotelean Principle seems to me fundamental to any notion of justice.
or fairness. But it does not go very far; it states merely that
treatment of people ought to be justified by reference to differences
or similarities in the people or their situations, rather than by purely
irrelevant factors such as, say, the phases of the moon or what the dec-
ision maker had for breakfast. This excludes the clearest forms of
arbitrariness, but, as Aristotle recognizes, it leaves much unresolved:
"equals and unequals, yes; but equals and unequals in what?" Id. at III.
xii.2. Not unlike the old equal protection, the Aristotelian Principle
requires that some justification be offered, without specifying any
theory of what constitutes equal situations or which differences may be
cited to justify unequal treatment. See Railway Express v. New York, 336
US 106 (1949) (Sup. Ct. uses seemingly trivial distinction to justify
differential treatment); Los Angeles v. Manhart, 435 US 702 (1978) (fact
that women live longer is not sufficient to justify requiring larger con-
tributions to pension plan). The principle that equals must be treated
equally only makes clear the need for a substantive theory of equality.

Berlin takes our common humanity ("all men are members of the class
of human beings") to be sufficient to make us equals, similarly situated,
who should be treated equally, until the contrary is established. But
this must be either a verbal trick (birds, buttons, and Berlin all belong
to the class of things-with-names-beginning-with-B; surely that does not
create a presumption that they should be treated similarly and mean that
no explanation need be given when each receives a third of a cake?). Or
it hides a strong moral theory that the most important distinction in
questions of distribution is whether or not the recipient is a member of
the class of human beings. Only by reference to this standard are people
equals and hence to be treated equally.

Williams, in part, seems to subscribe to this latter theory. Men, he says, are in fact equal: they all feel pain and desire affection, they all desire self respect, they are "necessarily" self-conscious, they all have moral capacities which entitle them to respect of others and to "the effort of understanding". But even were we to accept, arguendo, Williams' assertion that all men share these characteristics (an implausible assumption: Williams' desire for self respect, as defined, requires that Socrates' unexamined life be not merely not worth living but also non-existant), no one would claim that they share them equally. The house slave who refused emancipation surely did not have the desire "not to be the instrument of another's will" which Williams identifies as essentially human to the same degree as did Nat Turner and others who were willing to die rather than be slaves. While both are humans, Eichmann surely has less of a claim to the "effort of understanding" than does Ghandi. Although, as humans, all people may be deserving of respect, they are not equally deserving. If we must treat them equally -- or rather, as if they were equals -- it is for a different reason.

Williams' argument, then, is faulty. People have different moral capacities as they have different physical capacities. The Aristotelean Principle commands us to treat them according to these differences and not according to a false equality. Unless, that is, all of the characteristics Williams lists are relevant only in their qualitative, not quantitative, aspects, he is correct that all people do share them in some degree, and we therefore return to Berlin's notion that bare "membership in the class of human beings" is sufficient to justify equality.
In one respect, the human/nonhuman distinction probably is the only relevant one. Moral justification must, to my mind, be given for actions concerning humans but perhaps need not be for nonhumans. This point is controversial* and I will not argue it. For our purposes, the important point is, rather, that in any given situation requiring moral explanation, mere humanity will rarely be the only or even the critical factor. People are unique, hence different from one another; often those differences will be morally relevant. Thus the people in question will be unequals who, according to the Aristotelean Principle, ought to be treated unequally. Mere humanity only tells us that they are in the realm of morality.

The Aristotelean Principle leads more easily to the notion of treating each person as an individual than it does to the egalitarian idea of similar treatment for all. Isaiah Berlin's claim that we need not justify equal division of cake seems precisely wrong; the Principle tells us, at least, that an equal division must be wrong, even if it cannot tell us without a fuller theory of which differences are most relevant, which unequal distribution would be right.

* Peter Singer and many other utilitarians would extend morality to include animals; Chris Stone, Should Trees Have Standing?-Towards Legal Rights for Natural Objects, 45 Southern Calif. Law Rev. 450 (1972) extends it to inanimate objects, cf. Sierra Club v. Morton, 405 US 727 (1972) (Douglas, J. dissenting) (wilderness areas have rights too); the Supreme Court long ago held that certain organizations are entitled to the same consideration as people, Santa Clara Cty v. Southern Pac. R.R., 118 US 394 (1886) (corporations are "persons" entitled to due process of law), Buckley v. Valeo, 426 US 1 (1976) (corporation, as distinct from either its managers, stockholders or employees, has first amendment rights); and international law as well as many philosophers grant rights to peoples or nations that are different from and not summations of the rights of the individuals who compose them (genocide is commonly considered worse than mass murder, even when the numbers go the other way; U.N. Charter Art I 42 (self-determination is a right of peoples not people)).
People are almost certainly differently situated with respect to cake: They have different desires, different needs, and different deserts. It would be a peculiar, not an obviously correct, division of cake to give Marie Antoinette and the starving sans culotte equal pieces: individuals vary in their needs, and often distributions ought to take account of that. It would also require some explanation if Henny-Penny, having done all the work with no help from her neighbors, received only the same share of the cake she baked as did Ducky-Wucky, who watched her exertions and laughed. Individuals may have contributed in different ways to the creation of the object being distributed and those differences surely also will be morally relevant.

Indeed even where the distributed object really was manna-from-the-heavens, lacking any previous human history, these considerations have been thought to apply. Thus, we are told that each Israelite ate what he collected (the work contributed affects his desert), that each collected according to his abilities (effort is also relevant), that each gathered according to his eating (needs are relevant) and according to his desires (manna, on one account, tasted like the food he most wanted). And then, "when they measured it with an omer, he that gathered much had nothing over, and he that gathered little had no lack." Exodus 16:18. The Rabbis quite correctly viewed the happy coincidence of all these disparate measures of the correct distribution as a miracle of importance at least equal to the provision of manna itself. Only with the active intervention of God will one omer per day be a clearly correct distribution. In more ordinary circumstances an explanation must always be given for choosing a rigid equality -- implying that only humanness is relevant -- over a
distribution that takes account of the differences among humans.

Before proceeding to discuss more carefully the conflicts among these morally relevant aspects of people and the implications for egalitarianism, it may be useful to further discuss Berlin's cake. It is of a size within the "circumstances of justice" (J. Rawls, A Theory of Justice §22), and it is readily divisible. Each of these aspects may be problematic. First, Berlin assumes that there isn't enough cake to go around. If there were, equal division would again seem absurd and irrational. Air (neglecting the problem of pollution) is a free good; there is enough for each to have as much as she wants. To take more would be irrationality beyond even the dog in the manger: the air hoarder would impose burdens on himself without any conceivable gain -- not even the satisfaction of knowing he is harming others. Cf. Exodus 16:19,28 (hoarding manna a sin). To allow a person less than she desired, on the other hand, would be to inflict needless and pointless harm, surely the epitome of immorality. In circumstances of surplus, to each according to her desire seems clearly the best distributive principle.

Equal distribution seems similarly lacking in appeal in cases of extreme scarcity. I cannot imagine, for instance, why Stradivarius violins would be distributed equally (whether by giving each an equal, short, time with it, or by giving equal chances in a fair lottery). Here it seems far more appropriate to give the violin to the person who can make the best use of it: to a talented violinist who will perform in public. Neither equality nor intensity of desire nor moral worth (in some general sense) nor, for that matter, ability to pay the market price, seems to give a good claim to use of this rare object. Great talent combined with
sufficient effort to realize it, even though "unequally and fortuitously distributed" (Williams, at 234) allows its bearer to make better use of this instrument, in what is clearly its proper use, and should therefore give a claim to it. See K. Marx, Money, in The Paris Manuscripts (1844) (money is the pimp between med and object; it transforms all incapacities into their opposites).

Finally, Berlin's cake is impersonal not only in its creation but also in its distribution. A group of friends, confronted with Berlin's finite and too small cake, would probably distribute it according to desires; a more critical good might be distributed according to needs. Desires and needs present difficult philosophic problems, especially in interpersonal comparisons, but in our daily lives, among friends, we are able to resolve the difficulties, at least some of the time, by empathy and mutual good feeling. Distributing the cake equally when some are hungry and others are on diets would be a rigid formalism of a most unfriendly kind. Lovers will go even further: for love, we give according to our ability, even when the loved one neither needs nor deserves the good. Far from demanding an egalitarian quid for every quo, lovers share freely. Not only scarcity, then, but conflict, or at least disinterestedness & ignorance, seems necessary before equal distributions have any appeal at all.

We see then, that egalitarianism is not the distribution that needs no explanation, nor is it derivable from the Aristotelean Principle in any immediately obvious way. Only if we take humanity alone to be the sole morally relevant classification will all humans be equal and will it be proper, following the Aristotelean Principle, to treat them equally. Usually characteristics which vary among people -- such as needs, moral deserts, talents, actual contributions to others, intents, effort and other more
prosaic aspects of ourselves and our situations -- will be relevant. To
treat people alike when they are not is to repeat the error of that law
which, "in its majestic equality, forbids the rich as well as the poor
to sleep under bridges, to beg in the streets, and to steal bread." A.
France, Le Lys Rouge ch.7. What remains to be seen is why this strange
idea has any appeal at all.

The Varieties of Egalitarianism

Egalitarian theories come in several distinguishable varieties,
which seek to answer the objections raised above in different ways. They
share, however, the common characteristic that, in contrast to utilitar-
ian and perfectionists theories, they are concerned with equalizing not
maximizing. The differences arise in the understanding of what is to be
equalized. [Similarly, utilitarians all seek to maximize the total
quantity without regard to distribution of some value -- but while
Bentham maximizes crude happiness and Mill the higher pleasures, modern
economists simply maximize wealth. My classification is different from
that in J.Rawls, A Theory of Justice (1971): his distinction between
classical and average utilitarianism concerns the meaning of maximization
itself.]

First is what Dworkin calls "objective" egalitarianism. Dworkin,
Egalitarianism, 10 Philosophy and Public Affairs __(  ). This is
the most commonly held position and the one I have been primarily
questioning above: each person should recieve an equal share of social
goods -- both political and legal rights, and economic resources. What
is being equalized is, roughly, the cost to the society of the individual.
I shall refer to this as egalitarianism Type I. Proponents include Dworkin, supra, and Rawls, A Theory of Justice (discussing the proper distribution of objectively measured primary goods without extensive reference to recipients).

In contrast are those egalitarians who focus on the recipient. Here there seem to be two subtypes. Type IIA received its most famous statement in Marx's Critique of the Gotha Program; he calls it "socialism" but others have claimed that it is the underlying principle of capitalism: To each according to his contribution. In its most objective form, this principle governs the distribution of profits to shareholders of a corporation: equal contributors receive equal benefits. Applied to labor, the principle specifies that each individual should get from society proportionally to what he gives to it. The giving may be measured objectively (i.e. by the benefit to society) or subjectively (i.e. by its cost, in effort or tsuris, to the worker). These variations will have dramatically different results, one rewarding the talented and the other punishing the lazy, but in each the equality is of return on investment, however measured. As they work, so shall they eat.

Type IIB, while also focussing on the recipient, looks not at what she gives, but directly at what she should get. It is half of Marx's famous communist distributive principle: to each according to her needs. While Marx feels this principle is appropriate only in circumstances of surplus, it could also be applied in less abundant times. Each could, for instance, receive 60% of her needs, or as Nagel, at 116-118, advocating this position, suggests, everyone could have his most urgent needs fulfilled before anyone's less important ones are. As in Type IIA, subjective and objective varieties may be distinguished:
Marcx, subjectively, apparently leaves it to each individual to determine his own needs; Nagel, objectively, would have the society as a whole rank order needs and then provide resources to fill them in that order. An extreme subjective version, such as that called "subjective egalitarianism" by Dworkin, supra, might take one of the mental states utilitarians seek to maximize aggregately and instead seek to equalize it. As Dworkin points out, the familiar utilitarian problems of utility-monsters, perverse preferences and so on, would reappear in this form of egalitarianism.

The distinction between objective and subjective determination of needs is of critical importance in many of the recent disputes about medical care. Medical insurance has created a system approximating, for the insured, to each according to his needs. But needs are not pre-existing Forms independent of social values, capabilities, and wealth. On the one hand, most health plans exclude so-called "cosmetic" or "voluntary" surgery: face lifts are not considered to be "needs". Plastic surgery after a burn however is a need, and orthodonture, also primarily aesthetic, is apparently on the border (some plans cover it and many don't.) The boundary between needs and mere luxuries is fuzzy and likely to shift.

On the other extreme, doctors are often forced to distinguish between heroic and ordinary procedures. Here, apparently, a person's needs are so great that they may not have a valid claim to be met. In each case, in a regime of limited resources, the principle of Type I objective egalitarianism seems to place some -- extreme -- limit on the extent to which we are prepared to use subjective Type IIB needs egalitarianism. One person should not be allowed to swallow up too great a proportion of
social resources, even if at the end he will only have a small part of his needs met. Even though this cannot be justified by reference to the difference between needs and desires, the limit placed on heroic measures seems to me very similar to the one placed on 'voluntary' surgery: society is placing objective limits on a generally subjectively determined program of to each according to her needs.

In summary, Type I objective egalitarians ignore the effects on individual welfare and specify that the rights and resources commanded by each person be equal. In contrast, Type II B needs egalitarians may demand very unequal distributions of social resources to compensate for individual misfortune and lead to equal states of well being. Nagel, at 124 (equality demands giving more to the handicapped). Type II A contributionists are meritocrats, at least under some notions of what constitutes 'merit' and what kind of privilege it entitles one to (some highly inegalitarian meritocrats seem closer to Aristotle's aristocrats; in their view, resources and especially political power should not be given in proportion to merit, but rather should go entirely to those with more than some quantum of merit.) They may still be refered to as egalitarians for they must condemn inequalities that are not proportional to contribution.

A third theory which is refered to as egalitarianism is the notion of equal opportunity, or, careers open to talent. It might seem that equal opportunity is a version of Type IIA, since it too calls for distribution according to talents. But equal opportunity is a peculiarly limited notion. It takes the social structure and job structure as
given, and demands that jobs and prestige be distributed according to rarely defined "qualifications", rather than according to certain forbidden criteria: sex, race, nepotism, sometimes wealth. The concept is not clearly egalitarian at all: It challenges only which individuals sit in which positions, not what positions are available or who much of the social resources they command. Thus, it does not require that resources be distributed equally or that they be distributed in proportion to characteristics of the individual, whether his needs or her contribution. Any degree of inequality is acceptable, so long as no one is excluded, unfairly (in some poorly explained sense), from the competition for the desireable positions. Rather than the exploited and impoverished being blacks, it says, they should be the unqualified.

Thus, equal opportunity holds that tall women should have the same chance as tall men to compete for jobs as airline pilots. But it does not have anything to say about how many such jobs there should be, or what should happen to those who lose out in the competition, or even (usually) whether airplanes should be designed so that persons shorter than 5'5" can see out the windshield, Boyd v. Ozark Air Lines, 568 F2d 50 (8th Cir. 1977) (no consideration of modifying design of plane). But see Reynolds v. Wise 375 F.Supp 145, 151 (ND Tex. 1974) (job should be restructured to allow women and men -- as groups -- equal chances).

Usually, the theory leads in the direction that Williams follows: rather than redesigning planes to fit the people who want to be pilots, it suggests redesigning children to fit the planes.* But even after

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* Note the decisively anti-liberal aspect of Williams' discussion. Liberal theory has always shied away from attempts to remake people, instead taking people as they are and seeking to remake the world so that they can live together. Theoretically, this appears especially in the liberal psychology, which offers no account of the origin of the passions.
all those who wish to be pilots have been genetically manipulated, the number who can be pilots will not change: one arbitrary method of selection (height) will be replaced by another. Similarly, even if the other route is taken and jobs are restructured so that equal numbers of men and women, or proportional numbers of tall and short people, get the job -- the total number of pilots and hence the total number of failed applications, remains the same. Selection must continue. As

As enacted into law in the 1964 Civil Rights Act, the principle of equal opportunity prohibits selection on the basis of a few specified characteristics (race, religion, sex, etc., plus, because of the discriminatory impacts test, characteristics, such as height, that are strongly correlated with one of those.) But on an individual level, it provides no explanation for why it is better not to get a job because you failed a validated test then because you failed an invalidated one. Nor does it explain why two people who are very similar should get radically different treatment (one is hired, the other is not). Indeed, since the theory presses toward eliminating unnecessary qualifications to jobs, on the one hand, and increasing employee qualifications on the other, it inevitably leads to greater and greater arbitrariness. If all people are qualified for the job (and hence equal), what possible basis can there be for giving it to only one of them (and hence treating them as unequals).

[A better justification for equal opportunity would be to see it not as egalitarian at all, but rather as a principle of integration of groups. It expresses an aspiration to integrate (racially, sexually,...) the upper class (and necessarily, the lower class as well); to modify the

(footnote continued from previous page): People in their personalities and their bodies are simply givens. This would be inconceivable in, for instance, an Aristotelian account. See Aristotle, Nichomachean Ethics, Book II.
race relations of our society, without affecting the class relations at all. From this point of view, it may be less silly to advocate replacing the lottery of birth and color with a lottery of "validated" tests. In addition, to the extent that jobs actually have genuine and unchangeable requirements which some people, unchangeably, really are better able to fulfill, equal opportunity presumably increases efficiency.

Distinctions Collapse: Identicalness, the Nightmare of Egalitarianism

The question arises, why egalitarians have not been more careful to distinguish these different theories and to specify which they are advocating. The primary reason must be that, in the world as we know it, they have often pointed in the same direction. Nagel's ultimate concern is to equalize welfare (Type IIB). But he advocates equalizing resources. Nagel, at 107. In a highly unequal society such as ours, where some people lack adequate food, housing, and basic schooling, equalizing resources will also aid to equalize welfare. The question of whether the handicapped should recieve a greater share of economic resources than others is not yet ripe for live controversy so long as they are recieving a less than equal share.

In our society proponents of objective egalitarianism and of "needs" egalitarianism will agree that the poor aren't getting enough. Egalitarians of every stripe (except possibly some objective Type IIA contributionists) will condemn a 10% unemployment rate, and all egalitarians, even the most capitalistic, will think that equal pay for equal work is at least a vital first step. Even those non-egalitarians who believe that a certain minimum level of income, rather than equality, is what justice calls for, will be able to join in a united front for
most of the live issues today.

Theoretically, then, welfare or needs egalitarianism (Type IIB) will resemble objective egalitarianism (Type I) if needs are defined objectively, persons are assumed to have similar needs, especially fundamental needs, and resources are insufficient (or their distribution is insufficiently egalitarian) to reach more individualized needs. An objective egalitarianism, on the other hand, may approach subjectivity, if it draws the line between the person and social resources in such a way as to make talents or handicaps social, rather than personal, attributes. In this case, which Williams approaches in his discussion of equal opportunity, a talented individual might receive less of more conventional economic resources, so that her total resources will be equal to a less talented person’s. Alternately, if talents are subject to social manipulation, they will be allocated equally just as other resources are.

The logical end point of this procedure is the collapse of objective egalitarianism into subjective egalitarianism by making not only each person’s share of social resources identical, but by making the people themselves identical. If each individual has the same talents and handicaps, including, especially, those talents necessary for whatever form of mental state is thought desireable, then objective egalitarianism will produce subjective egalitarianism. Uniformity, while not required by either theory, resolves the tension between them.

Uniformity can also resolve a different theoretical tension, one central to Williams’ justification of egalitarianism. He, following Berlin, seeks to derive objective egalitarianism from the Aristotelian Principle that equals should be treated equally. But only by imagining a bare category “man”, abstracted from all individuating characteristics,
could Berlin think it obvious that no explanation is needed if different people are treated identically. To use the principle that similar cases must be treated alike to establish that two persons should be treated alike, it must first be established that the two persons are relevantly alike. Under the Aristotelean Principle, only like cases need be treated alike; only equals equally. This requirement is unproblematic in only one situation: where the two candidates for equal treatment are identical. In any other situation, the Principle provides no guidance until it is supplemented with a theory of what makes cases similar or equals equal. 

Thus, radical egalitarians may be spared theoretical embarrassment by making people identical. Berlin does this theoretically, by characterising them as "men" and no more. The partisans of Pol Pot sought to do it practically, by reducing people to their "naked shivering nature" in a way Burke never considered. Burke, Reflections on the Revolution in France (Mahoney, ed., 1955) 87. When people are in fact the same, then subjective egalitarianism, objective egalitarianism, and the Aristotelean Principle all agree in their counsels. The nightmare of uniformity is the unifying horror of simplistic egalitarianism.

But none of these theories seek to create or justify uniformity. That they would be neater in such a hell is neither a point in favor of uniformity nor the death knell for the theories themselves. What is needed is an explanation that confronts the differences between people and explains why, or when, respect for our fellow humans would lead us to treat them the same.
An Aristotelean Analysis of the Egalitarian Theories

Williams and others have tried to connect objective egalitarianism to the Aristotelean Principle. If the derivation worked, it would be a strong defense of egalitarianism. But the Principle seems to be formal and almost empty: it doesn't tell us what makes unique human beings the same or how people, all of them humans, should be differentiated. And, it doesn't say what the treatment of differences should be; the Principle seems equally compatible with Nagel's idea that the handicapped should be compensated as with Spencer's notion that the handicapped should be penalized. Each points to a difference, explains why it is relevant, and specifies differential treatment.

Williams points out that the Principle at least excludes differentiation by criteria which are clearly irrelevant, such as, in most cases, skin color. But I doubt that this gets us far enough: while the grossest forms of pure racism are perhaps based on wholly irrelevant characteristics, the more common and more difficult varieties of ethno- or group-centrism are often based on real differences (generally overgeneralized). Skin color may be relevant only to impersonators and sun-protection experiments, but language, religion, and culture -- which also differentiate peoples and races -- are at least prima facie relevant to nearly every aspect of life. Williams' simple argument that no one would claim that color is relevant, not even racists, doesn't apply here.

Rather, to explain the correct treatment of these differences we must return to the basis of all morality: respect for others, in both their sameness and their difference.
Where people are different, the Aristotelean Principle needs a mediating principle, to fill in the lacunae and give it meaning. Subjective egalitarianism (Type IIA & B) and equal opportunity (Type III) each seem to result from simple mediating theories. Type IIB, Nagel's needs egalitarianism, like Utilitarianism (a close relative), says that the only relevant distinction between people is their mental states. Two people with equal desires or needs are equal; hence they should be treated the same. [Utilitarianism, though focussing on the same side of the human experience, seems incompatible with the Aristotelean Principle: rather than treating these two people the same, it will treat them in such a way as to maximize the sum of their mental states. However, if in fact people were the same, the two theories would lead to similar results. This is the hidden assumption underlying Nagel's argument that utilitarianism commands egalitarianism because of diminishing marginal utilities.]

Type IIA, Marx's socialism, seems to follow from the idea that all that counts is your contribution. What you get out should be proportional to what you put in (with a theory of contributions that excludes luck, market placement, and in the Marxian version, ability to command capital). Equal contributors should get equal pay (as is thought appropriate for corporate stockholders, where elaborate safeguards seek to guarantee that those with a controlling interest will not take a more than proportional share). Here, as in IIB, proportionality is the rule for inequalities.

Equal Opportunity does not call for proportional treatment in cases of inequality. The mediating theory of relevant differences says that job qualifications are the relevant factor. Then, people equal in this
respect should be treated equally: they should not be discriminated against on the basis of other factors. But while those with more of this relevant factor (qualifications) are to get more of the social benefit (desired jobs) than those with less, they do not get more linearly or proportionally to their qualifications.* The theory doesn't preclude any degree of inequality, so long as those on top are the most qualified candidates for the position. However, if it is admitted that qualifications are not immutable, since both people and jobs can be modified, the theory seems simply assumes that all differences are irrelevant. Hence it doesn't or going even further, and making them irrelevant. The pressure is to make everyone qualified for all jobs. Then there will be equal opportunity in the strong sense: anyone (not just regardless or whether born in a log cabin or a mansion, but even whether peanut farmer or second rate actor) can grow up to be President.

Objective egalitarianism takes a different approach. Apparently the theory simply assumes that all differences are irrelevant. Hence, it doesn't have the same pressures to make them irrelevant. On the other hand, it seems to be just the "law in its majestic equality" writ into absurdity. In what respect are people identical, so that they merit identical treatment regardless of what you or I might think of as dif-

* This can be seen by imagining an economy with two types of jobs: good, and bad, and with two types of workers, qualified and unqualified. Even assuming that workers and jobs can be ranked within these broad classes, so that the most qualified worker gets a job before the second most, and so on, there is still no reason to believe that jobs and workers will match. There could be 2% good jobs and 90% qualified workers. If that is the case, small differences in qualifications would sometimes lead to radically different treatment, while large differences in qualifications might lead to essentially similar treatment.
For certain rules, there don't seem to be any (or many) relevant differences between people. Thus the fundamental moral principle forbidding gratuitous injury seems to identify only capacity for injury (with no quantitative component) as relevant. All humans (and perhaps others, see supra p4n) are similarly situated. The differences between them are irrelevant. (Of course, what constitutes an injury will vary; one person's insult is another's compliment.)

But in distribution of economic goods, as opposed to gratuitous injuries, the differences between people do seem relevant. If the objection to distribution according to need is that effort and its result also seem relevant, and the objection to distribution according to contribution is that needs are important, and to both, that certain goods (Stradivarius, and perhaps professorships) ought to be distributed according to socially determined talents, then the objection to objective egalitarianism must be that it ignores all of these aspects. The other theories are one sided; it is no sided. Is the drive to equality just a drive to sameness, to conformity, motivated by envy or by a desperate attempt to deny the separateness of human from human, to regain the unity of the fetus and its mother; a new and crueler form of kabbalistic mysticism seeking impossible oneness?

Part II: The Justifications of Egalitarianism

Membership
Oneness indeed. The first and fundamental basis for egalitarianism is a sense of unity, a sense that we are all in this together, that our common participation is the crucial element. To emphasize that membership in the group — whether it be a group of friends buying beer, or a nation-state holding elections, or humanity itself — is the salient factor, we can treat it as the only salient factor. All are equally members, thus, if only membership counts, all should be treated equally.

The privileges of citizenship are the clearest example of a circumstance where it is appropriate to treat membership as the only relevant factor. Voting, for us the paradigmatic act of citizenship, is done in a way that would cheer the strictest objective egalitarian. One person, one vote. Greater social contributions do not lead to extra votes (contrast voting in corporations-for-profit). Minimal understanding of the issues involved and poor ability to govern do not lead to fewer votes. Even literacy is not required. While the special needs of certain voters are sometimes invoked to justify the shape of a voting district (United Jewish Organizations of Williamsburg v. Carey, 97 S.Ct. 996 (1977)), they can never justify departures from the cardinal principle of one man one vote. See Kramer v Union Free School District, 395 US 621 (1969) (state may not restrict right to vote in school board elections to those paying school taxes or with children). Either we have, as Burke accuses, stripped man to his abstract, shivering nakedness, or we have concluded that only citizenship is a relevant difference in determining which people are equals to be treated equally.

The equality we use defines membership in the community. Each person, not each tribe (as in Lebanon) nor each geographical unit
(equal representation for counties, once common, is now unconstitutional, Reynolds v. Sims, 377 US 533 (1964); but see US Const. Art.I,§3 (equal representation for states in Senate)), nor each interest group (but see R. Dahl, Who Rules (suggesting that, de facto, is our system), but each person is equal and a member. People are the members, not capacities for happiness, as a utilitarian might prefer. Equality is by individuals, not by dollars or by IQ points. We use this equality despite the seeming absurdity of giving the needy, competent and interested no more power than the incompetent, uninterested and unaffected, because only objective egalitarianism can express such a strong commitment to the idea that the only relevant difference is membership in the group.

Economic egalitarianism stems, in part, from a similar idea. While mainstream American economic ideology remains strongly influenced by the classical laissez-faire idea that the economy and its workings are acts of nature, outside of politics, egalitarians invariably take the structure of the economy and income distributions it generates to be objects of political struggle like any other. If, in a non-Marxist fashion, consumption is seen as conceptually independent from production, it will almost surely be seen as a privilege of citizenship. Thus, like votes, it should be distributed proportionally to all sectors of society. This is particularly true where the use of a generally market economy is justified by the metaphor of a fair bargain: bargains seem fair only if the bargainers bargain from roughly equal starting points. But this is a point that has been extensively discussed by critics of Nozick, and I will not pursue it.
Extreme economic egalitarians, thus, tend to tie economics to politics, and to see the economy as the product of the group, which, therefore, should be distributed according to membership in the group. The kibbutz, for instance, which has gone as far as any modern democratic society or sub-culture in making economics the conscious subject of political choice, practices an extreme and often rigidly objective form of egalitarianism. Thus in one kibbutz movement, when the community decides to purchase a certain number of televisions, they are distributed strictly according to seniority. No account is taken of personal preferences, and members may not forgo their television in order to, for instance, receive priority in the line for stereos. [The other, larger movement has now made consumer goods—except cars—fully fungible; and in both movements many other goods, such as child care, food, and medicine, are distributed according to (self-defined) need or desire, while still other goods, such as jobs, higher education, and time for artistic pursuits, are distributed in part objectively (i.e. by taking turns), and in part according to talent and (community-defined) need.]

While kibbutzim thus use egalitarian and particularly objective egalitarian distributions to an extreme degree, they extend the egalitarianism only to members of the particular kibbutz. While they recognize a general obligation on the part of richer kibbutzim to help poor ones, and of the whole kibbutz movement to serve the nation as a whole, extreme egalitarianism has never— even in theory— been thought to extend beyond the membership of the primary group. American egalitarians as well generally seem to halt their arguments at the border; that is where membership is perceived to end.
Groups choose, or theorists advocate that they choose, to share and share alike, not because, as Berlin suggests, they are all men, but to emphasize that we are all in it together. Equality of distribution expresses a moral judgement that the common enterprise, the common involvement, and the common responsibility are more important than the differences in individual contributions.

Some insurance schemes, for instance, seem explicable only on these terms. In Los Angeles v. Manhart, 98 S.Ct. 1371 (1978), the city provided as part of its benefits a pension plan. The distribution principle was, in general, from each according to his salary, to each according to his need (that is, constant monthly payments until death). On the free market, such an annuity could not be sold: those individuals cheaply identifiable as unhealthy would be able to buy a cheaper pension elsewhere, and thus rates would have to rise for the remaining, poor risks. By providing insurance rather than a cash bonus, the city was benefiting the obviously healthy at the expense of the obviously sick (they also provided a life insurance program on the same terms, which benefits precisely the opposite group). More importantly, they were affirming the notion that need and membership in the community of city employees, not ability to pay market rates, were the relevant distinctions in determining who should get pension payments. On this background the Supreme Court's decision that the city could not require women to make a larger contribution to the pension plan (they were not offered a discount on the life insurance plan), even though that would be "actuarily fair", makes sense. The plan was not constructed according to actuarial fairness (that is, to each according to his dollar contribution) but according to the principle of to each according to membership
and need. By suddenly shifting to a different principle in just one instance, the city was excluding women from full membership in the community, a discriminatory act clearly forbidden under Title VII. Even in individualistic America, communitarian based egalitarian notions, such as actuarialy-unfair employer provided insurance schemes, have much appeal.

Egalitarianism, in short, can stem from a wider notion of politics. When political community is not simply an aggregation of individuals ("We the people of the United States...", where people is taken to mean the persons, not the nation) for mutual defense, but rather a common enterprise of building a common life, the power to appropriate consumer goods will appear to be a political power properly distributed according to membership in the political community. Taken strictly, this is objective egalitarianism (Type I). Modified with a notion of distribution according to needs, it is the foundation of the European social democracy. And, as we have noted, in actual politics, actual inequalities are likely to be so great as to be indefensible under any theory other than might-makes-right (cf. Nozick, who provides precisely that justification), thus mitigating the difficult theoretical conflicts between the different one-sided egalitarian theories.

In the context of political community, certain varieties of egalitarians will be distinguished by what they take to be the prepolitical starting point. Thus, those who would reject economic egalitarianism in all its forms, while retaining political egalitarianism, at least formally by an equal right to vote, can best do so by maintaining that the Market is an act of God, and its results are independent of the political
process. Within the egalitarian camp, those who perceive handicaps --
either physical or social (eg illiteracy) -- as givens, will see payments
to the handicapped or illiterate as violations of the principle of equal
shares to each citizen. The extra needs of the handicapped or poor may
appear indistinguishable (at least in the realm of justice, if not in
that of mercy/charity) from other citizens' desires for caviar, so long
as the needs are perceived as autonomous, self (or God) created, individ-
ual or otherwise separate from the bundle of social goods. In contrast,
those who believe that not abolishing the market is a political act, and
that choosing to use pesticides or cars is a decision to benefit many of
us at the expense of a certain number of unemployed, birth defects, and
accident victims, will see payments to the losers in our pursuit of
economic growth and efficiency as necessary to ensure that each citizen
receives an equal share. Cf. US Const. Amend. V ("nor shall private prop-
erty be taken for public use, without just compensation").

Liberal Egalitarianism

In a liberal state such as ours, however, citizenship is of only
minimal importance. The nation is devalued; a liberal state chooses
pluralism over community. Membership in the group, therefore, is not as
important as it might be, for instance in a greek city-state or a Rousseauian national republic.

Liberal states often offer nearly full privileges to non- or less
than full- citizens. Recently, for instance, the Supreme Court held
that resident but alien children are entitled to the same public ed-
ucation as citizens, Plyler v. Doe, 50 L.W. 4650 (1982). Indeed the
United States is so diverse that its "members" share only the most ab-
stract common interests; they lack not only a civil religion and an
official language, but even a sense that they are indeed one nation, a people, different and distinct in the manner of other nations. Since they are not a close knit group, membership in the group seems a weaker justification for egalitarianism. Liberal egalitarianism has different roots.

The liberal tradition identifies the major philosophic problem of politics as coercion. In contrast to perfectionists of various varieties, the liberals have not sought to achieve an ideal state in which some value -- wisdom (Plato), community, justice, Godliness (Augustine), the literature of the nation (Ahad HaAm), or its honor and success -- will be best promoted. Rather, they have taken a seemingly more limited goal: the state should at least ensure peace, and at best end coercion as well.

In pursuit of this goal, liberals have promoted two major theoretical ideal types of non-coercive relationships. The first, closely tied to classical economic liberalism and perhaps paradigmatically represented in our First Amendment, is the model of laissez-faire. That term is ordinarily restricted to economics, but I mean to include and even emphasize the non-economic areas discussed in J.S. Mill, On Liberty. It is, simply, the refusal to exercise collective power.

This first attempted solution to the problem of legitimate rule is to have as little rule as possible. Communal power will be used only to prevent the exercise of private power. In such crucial areas as artistic taste, family life, political speech and religious practice, the liberal simply declines to rule. The liberal state exists to allow
private individuals to fulfill their private goals so long as they don't interfere with others doing the same. In Hobbes' famous phrase, the laws should be like Hedges: "set, not to stop Travellers, but to keep them in the way." T. Hobbes, Leviathan ch.30 (1651). Unlike the perfectionist state, the liberal state does not demand that people head in any particular direction; it merely directs traffic to prevent collisions.

Thus the first model of liberalism has as its hallmark the limited state. Hobbes' Leviathan ends the wars of religion by making religion not worth fighting about. The resolution of battles over collective identity, he suggests, is to have no collective identity. The Leviathan state has no religion, no nation it seeks to create or preserve, no civilizing mission. Each person can decide those things for himself; no one need fear that he will have a foreign way of life imposed upon him, and thus each can go his merry way.

Politics, then, is abolished. The questions that were central to ancient politics and to the wars of Hobbes' day are simply removed from the public agenda. The problem of power and oppression is finessed; each subject is equal since each may pursue whatever goals she wishes. The Hedges guide them in their ways, preventing them from using certain means to their ends that would unduly interfere with others. But they remain free to reach their ends, and the ends remain their own.

In this circumstance, the refinements of different forms of equality, or of how goals are chosen, or of the relative merits of different goals and routes to them, seem of secondary importance. The primary point is that each person is free from coercion. If he must still come to grips with the traditions into which he is born, that is an
individual psychological problem, not a source of social and political oppression and conflict.

In this tradition, the task of the "watchman" state is to erect the hedges and guard them; to assure that people do not interfere improperly with each others pursuit of the good life. Politics -- non-existent in Hobbes -- reappears only to control the power of the state itself. Paradigmatically, a constitution limits the state, with enforcement both by courts and elections, which by rotation of officeholders serve to limit corruption. Faction is the great fear, for factions reintroduce politics. They seek to use the state to further particular goals, not just to keep the highways clear for all.

Classical liberalism took this approach to its logical limits and beyond. The Bill of Rights, Due Process, and limited government restricted politics to its bare minimum. Spencer leaves the state only a police force, eliminating even foreign policy as a possible source of conflict. In the theories, this was represented by basing the legitimacy of the state on a unanimous social contract: if the state can do only what everyone would agree to, then it must not be coercing anyone. There is no room for political debate because there is no room for disagreement -- the state can only do what no one could rationally oppose. And, if there is no disagreement, then talk of equality is irrelevant. Everyone is getting what they want anyway.*

* Note the contrast to one theory of the First Amendment, which justifies it as protecting the basis of politics, namely, political debate. In the paradigmatic liberalism I have presented here, the primary purpose of the First Amendment is precisely the opposite: to prevent the state from taking controversial positions that might lead people to participate in politics. Art, thus, must be at least as protected as political speech, since it too arouses passions when censored (and where free, is perhaps less of a threat to the non-political society).
This approach, however, suffers from a fatal flaw. It depends on the possibility of a non-coercive, peaceful, private sphere in the absence of state regulation. Commentators on J.S. Mill's essay, On Liberty, have often noted the difficulty of finding any actions which fall completely and clearly into his protected zone. All actions seem to affect others. Economic liberalism, similarly, died a quick and overdue death as a natural consequence of the recognition that the results of a "free" market are neither inevitable, neutral, or coercion-free.

If the decision to permit the market to operate empowers some and impoverishes others, then it is a suitable subject for politics of the kind Hobbes thought he could prevent. We don't have the option of privatizing economics as Hobbes sought to (and we have largely succeeded in) privatizing religion. Economics is inherently political. Laissez-faire is as much a political act, oppressing some to benefit others, as any other collective decision. Once it is clear that the Great Depression could have been avoided, neutrality is impossible. All actions -- and especially the act of not acting -- are exercises of power which help some and hurt others. Politics must return.*

Here the second paradigm of liberalism appears. When the market itself is perceived as just a tool of economic regulation, which gives some people power over others, then the state must intervene on behalf of victims of this power, just as it must help victims of other forms of coercion such as muggings. Either the polluter's right to property or the neighbors' rights to clean air, living trees and freedom from

* The theoretical equivalent is the discovery that there are no universal means or primary goods. We have no choice but to promote some notions of the good at the expense of others. If neutrality is impossible, politics is essential.
nusiance must be restricted. No simple theory of "other-affecting actions" can finesse the need for a collective setting of substantive priorities. We must decide where the hedged ways will lead.

All the options involve exercise of power; therefore, the question must shift to how that power can be made compatible with freedom. Rousseau's answer was correct: only if each person wills his own law can he be free. When power is freely acquiesed in, it is no more coercion than slavery is slavery if the 'slave' freely chooses to submit her will to the master's in recognition of his superiority. Choice and voluntariness rob slavery of its essence; consent legitimates power. In Rousseau's ideal republic, a miraculous legislator changes the very nature of the people and creates the unanimity -- not on means alone, but also goals -- that is the essential, and impossible, prerequisite to political freedom.

Those who despaired of a fourth legislator to add to Rousseau's three, looked in a different direction. Power over other people is a relative concept; if two people have equal power, it cannot be said that one is coercing the other. Even though, in any specific issue, one might appear to imposing her will on the other, overall these victories and defeats should balance out. Thus it could be said that neither had coerced the other: freedom. In contrast to the first model of rights and limited government, this is a model of democracy and equality.

The power of the first model is its claim that the government can regulate means to ends without regulating the ends themselves. This pure proceduralism, then, it is claimed, allows each to pursue her own
substantive ends. Since the rules only prevent people from coercing one another, and the state only enforces the rules, there is no coercion (except against coercion). In contrast, the second model allows the collective use of power even to further substantive ends; thus it does not fall under the criticism that procedure determines substance. The democratic model takes its legitimacy not from neutrality but from equality. Every individual can coerce as much as he is coerced. The coercions thus cancel each other out and we are left with no one subservient, no one a master.

Equality of power is thus deeply rooted in the liberal tradition. Without Rousseau's unanimity, only equality can justify public power. Without the mythology of classical economics, nothing can justify ignoring private power.

Democratic equality is expressed first and foremost in the right to vote. What was under the first model only a convenient mechanism to keep public servants from abusing their trust now becomes the core legitimating element of the regime. Only if everyone has equal power -- at least, an equal vote -- will the bargains and compromises balance out, leaving the bargainers and compromisers free even though subject to the law they have made. If the starting points are unequal, the result has no legitimacy: it is simply the consequence of those with more power using it on those with less. But if they are equal, far more flexibility and a more efficient result are possible than under the rigid non-interference first model.
A simplified example may make that point clearer and also illustrate the problems that remain. Faced with a dirty kitchen, a group of liberals under the first model would refer to each person's right to be free from coercion by the others and require each to clean up his own mess. Those messes that don't belong to anyone would just sit there. The equal power alternative legitimizes bargaining and might result in different schemes, for instance, each taking a turn cleaning for the others or one doing the cleaning in return for exemption from the cooking. This allows the benefits of cooperation to develop further. It also keeps the kitchen cleaner: the messes resulting from entropy can be dealt with as easily as those that are someone's fault.

A more sophisticated account will note that these arrangements have not removed the possibility of coercion. A tremendous excercise of power in involved in determining the "normal" level of cleanliness. Imagine that some inhabitants want an extremely clean kitchen, while others only care that it not be extremely dirty. Under the first model, if extreme cleanliness is taken to be the norm, then each person must clean to that level. Those who do less are imposing on the others, just as if they were not cleaning at all. (In addition, once the option of model II exists, those who insist on model I, with its omnipresent entropic messes, are also illegitimately interfering with the rights of others.) But if the norm is only moderate cleanliness, the positions reverse: those who want more are unreasonably imposing on others in asking them to clean beyond the minimal "normal" threshold. If the clean-freaks want the kitchen cleaner, they should do it themselves.

Under the second model a similar problem arises (actually, it may be even more complicated, since if turns are taken cleaning, there will also have to be some notion of a normal mess). Where the norm is set drastically modifies the results of bargaining by supposed equals. Thus, if the normal level of cleanliness is thought to be low, those who want a clean kitchen will have to compensate the messy; alternatively, if cleanliness is regarded as the norm, those who don't want to clean will have to do extra work in some other area.

Neither mutual respect and forbearance from other-affecting actions, nor initial equality of power and bargaining are enough to yield determinate results. If the norm is called into question, it appears as an arbitrary exercise of power by one side on the other. Unless, by accident, miracle, or Rousseauian Legislator, everyone agrees (without bargaining, see Rousseau, Social Contract, at ) that a certain norm is correct, some people start with unjustified advantages over others. These free riders can parlay this initial inequality into later inequalities; since their extra power results from mere accidents of market placement, it has no moral force. While the results might appear to stem from free agreement among equals, in fact they result from power plays, using imbalances in the initial distribution of power resulting from the norm. Clearly unless the norm itself can be defended (and ordinarily it cannot) the resulting distribution does not meet the requirements of either liberal model. Power has been excercised and not in equal quantities. Thus some can properly complain that they have been coerced.
Yet another problem threatens the possibility of an ideal liberalism under the equal power model. Thus far we have discussed simplified models in which only two voters exist. With more voters, the problem of coalitions arises. The equal power model is based on the assumption that those going into the bargaining process as equals will also come out as equals. But under a majoritarian regime, 51% of the voters could appropriate all the political goods, leaving 49% with nothing. (Economic monopolies are homologous if not precisely analogous.) See Mobile v. Bolden, 446 US 55 (1980) (facially neutral winner take all system used to exclude black minority from city council).

The theory of equal power assumes that the result of a bargain among equals will give each person an equal share as measured in some combination of the various subjective scales. But if some people can form coalitions more easily, they can win a greater than proportional share of the victories. Olson, The Logical of Collective Action. In the extreme example given above, 51% of the voters should win about 51% of the time; instead they can win all the time. The other 49% are completely excluded, which must mean that they have less than 49% of the power.

Thus, we see that liberalism demands an activist state to end private coercion, and it demands an equal distribution of political power to prevent public coercion. This demand for equal power is the true source of liberal egalitarianism. Yet the realities of collective action seem to make equal political power an impossibility. Majorities can oppress minorities, and well organized minorities can exert unjustifiably large power, even if every individual retains only equal power.
For this reason, liberal egalitarians may not be satisfied with attempts to broaden the right to vote, reduce the power of money in politics, reduce gerrymandering or form countervailing coalitions of the under-organized. In addition, they may advocate the various forms of distributive egalitarianism: not as moral imperatives in their own right, but as approximations of the results that could be expected from a political process that combined equal power on the individual level with bargaining, while somehow disallowing coalitions to assure proportionality. By retreating to imaginary politics, the philosophers can eliminate not only the problems I have discussed, by also other possible sources of unequal power such as differential knowledge and ability (see Rawls, A Theory of Justice), or even the non-fungibility of material goods (see B. Ackerman, Social Justice in the Liberal State).

These accounts necessarily lose the richness of real politics. They cannot adequately confront the diversity of real goals or real people, and do not reflect the full range of compromises that people might be willing to make. It is impossible to predict from the standpoint of pure theory how people who desire different things with different intensities and have different recognitions of each others competing claims based on needs, deserts, or desires would divide up the world. But the simplified philosophic explorations of how self interested people in an ideal politics would decide may influence real people. Real people, after all, seem to have difficulty acting in pure self-interest unless they can find a moral justification for their actions, and often act against their (narrowly conceived) interests when they believe that morality requires it.

Liberal theory, starting from the premise that coercion is immoral, makes justification of any political decision extremely difficult. The
easiest one to justify, though, is a decision that seems likely to have been agreed to by equals, were there equals who could agree to it. That decision will be closest to the liberal idea of non-coercion.

Furthermore, it is hard to see how self interested equals could agree on anything but equality of some sort. Of course, it is not impossible: Rawls argues that they would sacrifice equality for economic growth, Hobbes that they would give it up for physical security. Thus imaginary liberal politics returns us to the premise Isaiah Berline sought to derive from Aristotle: equal distributions (not of cake, but of political goods) are presumptively more justifiable than unequal ones. We must tell a far more elaborate story to explain how equals could have reached an unequal political endpoint. And then, even if that effort succeeds, defenders of inequality must show why we should treat an unlikely story of why other people would consent as binding on people who may be too unequal in power to consent at all, and in any case, have not consented. If even equal distributions may be used to disadvantage some (recall Mobile v, Bolden), how much the more so with unequal ones.