

THE JUSTIFICATION OF EQUALITY*

THOMAS NAGEL
Princeton University

I

It is difficult to argue for the intrinsic social value of equality without begging the question. Equality can be defended up to a point in terms of other values like utility and liberty. But some of the most difficult questions are posed when it conflicts with these.

Contemporary political debate recognizes four types of equality: political, legal, social, and economic. The first three cannot be defined in formal terms. Political equality is not guaranteed by granting each adult one vote and the right to hold public office. Legal equality is not guaranteed by granting everyone the right to a jury trial, the right to bring suit for injuries, and the right to counsel. Social equality is not produced by the abolition of titles and official barriers to class mobility. Great substantive inequalities in political power, legal protection, social esteem and self-respect are compatible with these formal conditions. It is a commonplace that real equality of every kind is sensitive to economic factors. While formal institutions may guarantee a minimum social status to everyone, big differences in wealth and income will produce big distinctions above that —distinctions that may be inherited as well.

So the question of economic equality cannot be detached from the others, and this complicates the issue, because the value of the other types of equality may be of a very diffe-

* The 1977 Tanner Lecture at Stanford University, published by permission of the Tanner Lecture Trust.

rent kind. To put it somewhat paradoxically, their value may not be strictly egalitarian. It may depend on certain rights, like the right to fair treatment by the law, that must be impartially protected, and that cannot be protected without a measure of substantive equality. Rights are in an extended sense egalitarian, because everyone is supposed to have them; but this is not a matter of distributive justice. The equal protection of individual rights is usually thought to be a value independent of utility and of equality in the distribution of advantages. Later I shall comment on the relation among these values, but for now let us assume their distinctness. This means that the defense of economic equality on the ground that it is needed to protect political, legal, and social equality may not be a defense of equality *per se* —equality in the possession of benefits in general. Yet the latter is a further moral idea of great importance. Its validity would provide an independent reason to favor economic equality as a good in its own right. If, *per impossibile*, large economic inequalities did not threaten political, legal, and social equality, they would be much less objectionable. But there might still be something wrong with them.

In addition to the arguments that depend on its relation to other types of equality, there is at least one non-egalitarian, instrumental argument for economic equality itself, on grounds of utility. The principle of diminishing marginal utility states that for many goods, a particular further increment has less value to someone who already possesses a significant amount of the good than to someone who has less.¹ So if the total quantity of such a good and the number of recipients remains constant, an equal distribution of it will always have greater total utility than a less equal one.

This must be balanced against certain costs. First, attempts to reduce inequality may also reduce the total quantity of goods available, by affecting incentives to work and invest. For example, a progressive income tax and diminishing mar-

¹ This is obviously not true of things in which interest varies greatly, like recordings of bird songs, or horror comic books.

ginal utility make it more expensive to purchase the labor of those whose services are most in demand. Beyond a certain point, the pursuit of equality may sacrifice overall utility, or even the welfare of everyone in the society.

Secondly, the promotion of equality may require objectionable means. To achieve even moderate equality it is necessary to restrict economic liberty, including the freedom to make bequests. Greater equality may be attainable only by more general coercive techniques, including ultimately the assignment of work by public administration instead of private contracts. Some of these costs may be unacceptable not only on utilitarian grounds but because they violate individual rights. Opponents of the goal of equality may argue that if an unequal distribution of benefits results from the free interactions and agreements of persons none of whom violate one another's rights, then the results are not objectionable, provided they do not include extreme hardship for the worst off.

II

So there is much to be said about the instrumental value and disvalue of equality; the question of its intrinsic value does not arise in isolation. Yet the answer to that question determines what instrumental costs are acceptable. If equality is in itself good, producing it may be worth a certain amount of inefficiency and loss of liberty.

There are two types of argument for the intrinsic value of equality, communitarian and individualistic. According to the communitarian argument, equality is good for a society taken as a whole. It is a condition of the right kind of relations among its members, and of the formation in them of healthy fraternal attitudes, desires, and sympathies. This view analyzes the value of equality in terms of a social and individual ideal. The individualistic view, on the other hand, defends equality as a correct *distributive* principle —the correct way to meet the conflicting needs and interests of distinct people,

whatever those interests may be, more or less. It does not assume the desirability of any particular kinds of desires, or any particular kinds of interpersonal relations. Rather it favors equality in the distribution of human goods, whatever these may be whether or not they necessarily include goods of community and fraternity.

Though the communitarian argument is very influential, I am going to explore only the individualistic one, because that is the type of argument that I think is more likely to succeed. It would provide a moral basis for the kind of liberal egalitarianism that seems to me plausible. I don't have such an argument. This essay is a discussion of the form such an argument would have to take, what its starting points should be, and what it must overcome.

A preference for equality is at best one component in a theory of social choice, or choice involving numbers of people. Its defense does not require the rejection of other values with which it may come into conflict. However, it is excluded by theories of social choice which make certain other values dominant. Egalitarianism may once have been opposed to aristocratic theories, but now it is opposed in theoretical debate by the adherents of two non-aristocratic values: utility and individual rights. I am going to examine the dispute in order to see how equality might be shown to have a value that can resist these to some extent, without replacing them.

Though I am interested in the most general foundation for such a principle, I shall begin by discussing a more specialized egalitarian view, the position of John Rawls.² It applies specifically to the design of the basic social institutions, rather than to distributive choices, and perhaps it cannot be extended to other cases. But is the most developed liberal egalitarian view in the field, and much debate about equality focuses on it. So I will initially pose the opposition between equality, utility, and rights in terms of his position. Later I

² John Rawls, *A Theory of Justice* (Cambridge, Mass.: Harvard University Press, 1971). Some of my comments are developed in "Rawls on Justice," *Phil. Review* 82 (1973), 220-233.

shall explain how my own egalitarian view differs from his.

Rawls' theory assigns more importance to equal protection of political and personal liberties than to equality in the distribution of other benefits. Nevertheless it is strongly egalitarian in this respect also. His principle of distribution for general goods, once equality in the basic liberties is secure, is that inequalities are justified only if they benefit the worst-off group in the society (by yielding higher productivity and employment, for example).

This so-called Difference Principle is used not to determine allocation directly, but only for the assessment of economic and social institutions, which in turn influence the allocation of goods. While it is counted a good thing for anyone to be made better off, the value of improving the situation of those who are worse off takes priority over the value of improving the situation of those who are better off. This is largely independent of the relative quantities of improvement involved, and also of the relative numbers of persons. So given a choice between making a thousand poor people somewhat better off and making two thousand middle class people considerably better off, the first choice would be preferred. It should be added that people's welfare for these purposes is assessed in terms of overall life prospects, not just prosperity at the moment.

This is a very strong egalitarian principle, though it is not the most radical we can imagine. It is constructed by adding to the general value of improvement a condition of priority to the worst off. A more egalitarian position would hold that some inequalities are bad even if they benefit the worst off, so that a situation in which *everyone* is worse off may be preferable if the inequalities are reduced enough. So long as the argument remains individualistic such a position could seem attractive only for reasons stemming from the connection between economic and social equality.³

³ The argument would be that improvements in the well-being of the lowest class as a result of material productivity spurred by wage differentials are only apparent: damage to their self-respect outweighs the material gains. And

Later I shall discuss Rawls' arguments for the view, and offer some additional ones, but first let me say something about the two positions to which it is naturally opposed, and against which it has to be defended. They are positions that do not accord intrinsic value to equality but admit other values whose pursuit or protection may require the acceptance of considerable inequality. Those values, as I have said, are utility and individual rights.

From a utilitarian point of view, it doesn't make sense to forego greater benefits for the sake of lesser or benefits to more people for the sake of fewer just because the benefits to the worst off will be greater. It is better to have more of what is good and less of what is bad, no matter how they are distributed.

According to a theory of individual rights, it is wrong to interfere with people's liberty to keep or bequeath what they can earn merely in order to prevent the development of inequalities in distribution. It may be acceptable to limit individual liberty to prevent grave evils, but inequality is not one of those. Inequalities are not wrong if they do not result from wrongs of one person against another. They must be accepted if the only way to prevent them is to abridge individual rights to the kind of free action that violates no one else's rights.

Both types of theory point out the costs of pursuing distributive equality, and deny that it has independent value that outweighs these costs. More specifically, the pursuit of equality is held to require the illegitimate sacrifice of the rights or interests of some individuals to the less important interests of others. These two theories are also radically opposed to one another. Together with egalitarianism they form a trio of fundamentally different views about how to settle conflicts among the interests of different people.

even inequalities that genuinely benefit the worst off may destroy non-distributive values like community or fraternity. See Christopher Ake, "Justice as Equality," *PEPA* 5 (1975), 69-89, esp. 76-77.

III

What is the nature of the dispute between them? The units about which the problem arises are individual persons, individual human lives. Each of them has a claim to consideration. In some sense the distinctness of these claims is at the heart of the issue. The question is whether (a) the worst off have a prior claim, or (b) the enforcement of that claim would ignore the greater claims of others not among the worst off, who would benefit significantly more if a less egalitarian policy were adopted instead, or (c) it would infringe the claims of other persons to liberty and the protection of their rights.

Now this looks like a dispute about the value of equality. But it can also be viewed as a dispute about *how* people should be treated equally, not about whether they should be. The three views share an assumption of moral equality between persons, but differ in their interpretations of it. They agree that the moral claims of all persons are, at a sufficiently abstract level, the same, but disagree over what these are.*

The defender of rights locates them in the freedom to do certain things without direct interference by others. The utilitarian locates them in the requirement that each person's interests be fully counted as a component in the calculation of utility used to decide which states of affairs are best and which acts or policies are right. The egalitarian finds them in an equal claim to actual or possible advantages. The issue remains acute even though most social theories do not fall squarely into one of these categories, but give primacy to one interpretation of moral equality and secondary status to the others.

All three interpretations of moral equality attempt to give

* This way of looking at the problem was suggested to me by a proposal of Rawls (personal communication, Jan. 31, 1976):

Suppose we distinguish between the equal treatment of persons and their (equal) right to be treated as equals. (Here persons are *moral* persons.) The *latter* is more basic: Suppose the Original Position represents the latter *re* moral persons when they agree on principles and suppose they *would* agree on *some* form of equal treatment. What more is needed?

equal weight, in essential respects, to each person's point of view. This might even be described as the mark of an enlightened ethic, though some theories that do not share it still qualify as ethical. If the opposition of views about distributive equality can be regarded as a disagreement about the proper interpretation of this basic requirement of moral equality, that provides a common reference against which the opposing positions may be measured. It should be possible to compare the quality of their justifications, instead of simply registering their mutual incompatibility.

What it means to give equal weight to each person's point of view depends on what is morally essential to that point of view, what it is in each of us that must be given equal weight. It also depends on how the weights are combined. And these two aspects of the answer are interdependent. Let us consider each of the positions from this point of view.

IV

The moral equality of utilitarianism is a kind of majority rule: each person's interests count once, but some may be outweighed by others. It is not really a majority of *persons* that determines the result, but a majority of interests suitably weighted for intensity. Persons are equal in the sense that each of them is given a 'vote' weighted in proportion to the magnitude of his interests. Although this means that the interests of a minority can sometimes outweigh the interests of a majority, the basic idea is majoritarian because each individual is accorded the same (variable) weight and the outcome is determined by the largest total.

In the simplest version, all of a person's interests or preferences are counted, and given a relative weight depending on their weight for him. But various modifications have been suggested. One doubt voiced about utilitarianism is that it counts positively the satisfaction of evil desires (sadistic or bigoted ones, for example). Mill employed a distinction between higher and lower pleasures, and gave priority to the

former. (Could there be a corresponding distinction for pains?) Recently, Thomas Scanlon has argued that any distributive principle, utilitarian or egalitarian, must use some objective standard of interest, need, or urgency distinct from mere subjective preference to avoid unacceptable consequences. Even if the aim is to maximize the total of some quantity of benefit over all persons, it is necessary to pick a single measure of that quantity that applies fairly to everyone, and pure preference is not a good measure. "The fact that someone would be willing to forego a decent diet in order to build a monument to his god does not mean that his claim on others for aid in his project has the same strength as a claim for aid in obtaining enough to eat (even assuming that the sacrifices required of others would be the same)."⁶

Even if a standard of objectivity is introduced, the range of morally relevant interests can still be quite broad, and it will vary from person to person. The individual as moral claimant continues to be more or less the whole person. On the other hand, anyone's claim can in principle be completely outvoted by the claims of others. In the final outcome a given individual's claims may be met hardly at all, though they have been counted in the majoritarian calculation used to arrive at that outcome.

Utilitarianism takes a generous view of individual moral claims and combines them aggregatively. It applies the resulting values to the assessment of overall results or states of affairs, and derives the assessment of actions from this as a secondary result. One is to do what will tend to promote the results that appear best from a point of view that combines all individual interests. The moral equality of utilitarianism consists in letting each person's interests contribute in the same way to determining what in sum would be best overall.

V

Rights are very different, both in structure and in content.

⁶ T. M. Scanlon, "Preference and Urgency," *J. Phil.* 72 (1975), 659-660.

They are not majoritarian or in any other way aggregative, and they do not provide an assessment of overall results. Instead, they determine the acceptability of actions directly. The moral equality of persons under this conception is their equal claim against each other not to be interfered with in specified ways. Each person must be treated equally in certain definite respects by each other person.

In a sense, these claims are not combined at all. They must be respected individually. What anyone may do is restricted to what will not violate the rights of anyone else. Since the designated aspect of each person's point of view sets this limit *by itself*, the condition is a kind of unanimity requirement.

Rights may be absolute, or it may be permissible to override them when a significant threshold is reached in the level of harm that can be prevented by doing so. But however they are defined, they must be respected in every case where they apply. They give every person a limited veto over how others may treat him.

This kind of unanimity condition is possible only for rights that limit what one person may do to another. There cannot in this sense be rights to have certain things—a right to medical care, or to a decent standard of living, or even a right to life. The language of rights is sometimes used in this way, to indicate the special importance of certain human goods. But to preserve distinctions I shall use it only for claims that place a condition of unanimous acceptability on action. There can be no literal right to life in that sense, because there are situations in which any possible course of action will lead to the death of someone or other; and if everyone had a right to stay alive, nothing would be permissible in those situations.⁶

⁶ I have suggested elsewhere that there may be circumstances in which nothing is permissible—true moral dilemmas in which every possible course of action is wrong. But these arise only from the clash of distinct moral principles and not from the application of one principle. See "War and Massacre", *Philosophy & Public Affairs* (1972), 123-144.

Rights of the kind I am considering escape this problem because they are agent-centered. A right not to be killed, for example, is not a right that everyone do what is required to insure that you are not killed. It is merely a right not to be killed, and it is correlated with other people's duty not to *kill* you.

Such an ethic does not enjoin that violations of rights be minimized. That would be to count them merely as particularly grave evils in the assessment of outcomes. Instead, rights limit action directly: each person is forbidden to violate directly the rights of others even if he could reduce the overall number of violations of rights indirectly by violating a few himself. It is hard to account for such agent-centered restrictions. One thing to say about them by way of interpretation is that they represent a higher degree of moral inviolability than principles requiring us to do whatever will minimize the violation of rights. For if that were the principle, then violation of the right would not always be wrong. The moral claim of a right not to be murdered even to prevent several other murders is stronger than the claim which merely counts murder as a great evil, for the former prohibits murders that the latter would permit. That is true even though the latter might enable one to prevent more murders than the former. But this does not go very far toward explaining agent-centered rights. A serious account would have to consider not only the protected interests but the relation between the agent and the person he is constrained not to treat in certain ways, even to achieve very desirable ends. The concern with what one is doing to whom, as opposed to the concern with what happens, is an important primary source of ethics that is poorly understood.

Having noted that rights yield an assessment in the first instance of actions rather than of outcomes, we can see that they also define individual moral claims more narrowly than does utilitarianism, and combine them differently. The utilitarian constructs an impersonal point of view in which those of all individuals are combined to give judgments of utility,

which in turn are to guide everyone's actions. For a defender of rights, the respects in which each person is inviolable present a direct and *independent* limit to what any other person may do to him. There is no single combination of viewpoints which yields a common goal for everyone, but each of us must limit our actions to a range that is not unacceptable to anyone else in certain respects. Typically, the range of what may be done because it violates no rights is rather large.

For this reason the morality of rights tends to be a limited, even a minimal morality. It leaves a great deal of human life ungoverned by moral restrictions or requirements. That is why, if unsupplemented, it leads naturally to political theories of limited government, and in the extreme, to the libertarian theory of the minimal state. The justification of broad government action to promote all aspects of the general welfare requires a much richer set of moral requirements.⁷

This type of limited morality also has the consequence that the numbers of people on either side of an issue do not count. In a perfectly unanimous morality the only number that counts is one. If moral acceptability is acceptability in a certain respect from each person's point of view, then even if in other respects one course of action is clearly more acceptable to most but not all of the people involved, no further moral requirement follows.⁸

⁷ The issue over the *extent* of morality is one of the deepest in ethical theory. Many have felt in an objection to utilitarianism that it makes ethics swallow up everything, leaving only one optimal choice, or a small set of equally optimal alternatives, permissible for any person at any time. Those who offer this objection differ over the size and shape of the range of choices that should be left to individual inclination after the ethical boundaries have been drawn.

⁸ John Taurek has recently defended essentially this position in his paper, "Should the Numbers Count?" (*Philosophy & Public Affairs*, Vol. 6, No. 4 [Summer, 1977], 293-316.) He holds that given a choice between saving one life and saving five others, one is not required to save the five: one may save either the one or the five. I believe that he holds this because there is at least one point of view from which saving the five is not the better choice. Taurek does believe that some moral requirements derive from special rights and obligations, but in cases like this, where there are fundamental conflicts of interest, it is impossible to define a condition of universal acceptability, and the choice is therefore not governed by any moral requirement.

The moral equality of rights, then, consists in assigning to each person the same domain of interests with respect to which he may not be directly interfered with by anyone else.

VI

Oddly enough, egalitarianism is based on a more obscure conception of moral equality than either of the less egalitarian theories. It employs a much richer version of each person's point of view than does a theory of rights: in that respect it is closer to utilitarianism. It also resembles utilitarianism formally, in being applied first to the assessment of outcomes rather than of actions. But it does not combine all points of view by a majoritarian method. Instead, it establishes an order of priority among needs and gives preference to the most urgent, regardless of numbers. In that respect it is closer to rights theory.

What conception of moral equality is at work here, i.e. what equal moral claim is being granted to everyone and how are these claims combined? Each individual's claim has a complex form: it includes more or less all his needs and interests, but in an order of relative urgency or importance. This determines both which of them are to be satisfied first and whether they are to be satisfied before or after the interest of others. Something close to unanimity is being invoked. An arrangement must be acceptable first from the point of view of everyone's most basic claims, then from the point of view of everyone's next most basic claims, etc. By contrast with a rights theory, the individual claims are not limited to specific restrictions on how one may be treated. They concern whatever may happen to a person, and in appropriate order of priority they include much more than protection from the most basic misfortunes. This means that the order of priority will not settle all conflicts, since there can be conflicts of interest even at the most basic level, and therefore unanimity cannot be achieved. Instead, one must be content to get as close to it as possible.

One problem in the development of this idea is the definition of the order of priority: whether a single, objective standard of urgency should be used in construing the claims of each person, or whether his interests should be ranked at his own estimation of their relative importance. In addition to the question of objectivity, there is a question of scale. Because moral equality is equality between persons, the individual interests to be ranked cannot be momentary preferences, desires, and experiences. They must be aspects of the individual's life taken as a whole: health, nourishment, freedom, work, education, selfrespect, affection, pleasure. The determination of egalitarian social policy requires some choice among them, and the results will be very different depending on whether material advantages or individual liberty and self-realization are given priority.

But let me leave these questions aside. The essential feature of an egalitarian priority system is that it counts improvements to the welfare of the worse off as more urgent than improvements to the welfare of the better off. These other questions must be answered to decide who is worse off and who is better off, and how much, but what makes a system egalitarian is the priority it gives to the claims of those whose overall life prospects put them at the bottom, irrespective of numbers or of overall utility. Each individual with a more urgent claim has priority, in the simplest version of such a view, over each individual with a less urgent claim. The moral equality of egalitarianism consists in taking into account the interests of each person, subject to the same system of priorities of urgency, in determining what would be best overall.

VII

It is obvious that the three conceptions of moral equality with which we are dealing are extremely different. They define each person's equal moral claim differently, and they derive practical conclusions from sets of such claims in different ways. They seem to be radically opposed to one another,

and it is very difficult to see how one might decide among them.

My own view is that we do not have to. A plausible social morality will show the influence of them all. This will certainly not be conceded by utilitarians or believers in the dominance of rights. But to defend liberal egalitarianism it is not necessary to show that moral equality *cannot* be interpreted in the ways that yield rights or utilitarianism. One has only to show that an egalitarian interpretation is also acceptable. The result then depends on how these disparate values combine.

Though my own view is somewhat different from that of Rawls, I shall begin by considering his arguments, in order to explain why another account seems to me necessary. He gives two kinds of argument for his position. One is intuitive and belongs to the domain of ordinary moral reasoning. The other is theoretical and depends on the construction by which Rawls works out his version of the social contract and which he calls the Original Position. I shall begin with two prominent examples of the first kind of argument and then go on to a brief consideration of the theoretical construction.

One point Rawls makes repeatedly is that the natural and social contingencies that influence welfare —talent, early environment, class background— are not themselves deserved. So differences in benefit that derive from them are morally arbitrary.⁹ They can be justified only if the alternative would leave the least fortunate even worse off. In that case everyone benefits from the inequalities, so the extra benefit to some is justified as a means to this. A less egalitarian principle of distribution, whether it is based on rights or on utility, allows social and natural contingencies to produce inequalities justified neither because everyone benefits nor because those who get more deserve more.

The other point is directed specifically against utilitarianism. Rawls maintains that utilitarianism applies to problems

⁹ Rawls, pp. 74, 104.

of social choice —problems in which the interests of many individuals are involved— a method of decision appropriate for one individual.¹⁰ A single person may accept certain disadvantages in exchange for greater benefits. But no such compensation is possible when one person suffers the disadvantages and another gets the benefits.

So far as I can see, neither of these arguments is decisive. The first assumes that inequalities need justification, that there is a presumption against permitting them. Only that would imply that undeserved inequalities are morally arbitrary in an invidious sense, unless otherwise justified. If they were arbitrary only in the sense that there were no reasons for or against them, they would require no justification, and the aim of avoiding them could provide no reason to infringe on anyone's rights. In any case the utilitarian has a justification to offer for the inequalities that his system permits: that the sum of advantages is greater than it would be without the inequality. But even if an inequality were acceptable only if it benefited everyone, that would not have to imply anything as strong as the Difference Principle. More than one deviation from equality may benefit everyone to some extent, and it would require a specific egalitarian assumption to prefer the one that was most favorable to the worst off.

The second argument relies on a diagnosis of utilitarianism that has recently been challenged by Derek Parfit.¹¹ But even if the diagnosis is correct, it does not supply an argument for equality, for it does not say why this method of summation is not acceptable for the experiences of many individuals. It certainly cannot be justified simply by extension from the individual case, but it has enough *prima facie* appeal to require displacement by some better alternative. It merely says that more of what is good is better than less, and less of

¹⁰ Rawls, pp. 27, 187.

¹¹ "Later Selves and Moral Principles" in A. Montefiore, ed., *Philosophy & Personal Relations* (London: Routledge & Kegan Paul, 1973). Parfit suggests that utilitarianism could express the dissolution of temporally extended individuals into experiential sequences rather than the conflation of separate individuals into a mass person.

what is bad is better than more. Someone might accept this conclusion without having reached it by extending the principle of individual choice to the social case. There is no particular reason to think that the principle will be either the same or different in the two cases.

In utilitarianism intrapersonal compensation has no special significance. It acquires significance only against the background of a refusal *in general* to accept the unrestricted summation of goods and evils a background to which it provides the exception. This background must be independently justified. By itself, the possibility of intrapersonal compensation neither supports nor undermines egalitarian theories. It implies only that *if* an egalitarian theory is accepted, it should apply only across lives rather than within them. It is a reason for taking individual human lives, rather than individual experiences, as the units over which any distributive principle should operate. But it could serve this function for anti-egalitarian as well as for egalitarian views. This is the reverse of Rawls' argument: no special distributive principle should be applied *within* human lives because that would be to extend to the individual the principle of choice appropriate for society. Provided that condition is met, intrapersonal compensation is neutral among distributive principles.

Next let me consider briefly Rawls' contractarian argument. Though he stresses that his theory is about the morality of social institutions, its general ideas about equality can I think be applied more widely. The Original Position, his version of the social contract, is a constructed unanimity condition which attributes to each person a schematic point of view that abstracts from differences between people, but allows for the main categories of human interest. The individual is expected to choose principles for the assessment of social institutions on the assumption that he may be anyone, but without assuming that he has an equal chance of being anyone, or that his chance of being in a certain situation is proportional to the number of people in that situation.

The resulting choice brings out the priorities that are gen-

erally shared, and combines interests ranked by these priorities without regard to the numbers of people involved. The principles unanimously chosen on the basis of such priorities grant to each person the same claim to have his most urgent needs satisfied prior to the less urgent needs of anyone else. Priority is given to individuals who, taking their lives as a whole, have more urgent needs, rather than to the needs that more individuals have.

There has been much controversy over whether the rational choice under the conditions of uncertainty and ignorance that prevail in the Original Position would be what Rawls says it is, or even whether any choice could be rational under those conditions. But there is another question that is prior. Why does what it would be rational to agree to under those conditions determine what is right?

Let us focus this question more specifically on the features of the Original Position that are responsible for the egalitarian result. There are two of them. One is that the choice must be unanimous, and therefore everyone must be deprived of all information about his conception of the good or his position in society. The other is that the parties are not allowed to choose as if they had an equal chance of being anyone in the society, because in the absence of any information about probabilities it is not, according to Rawls, rational to assign some arbitrarily, using the Principle of Insufficient Reason. The Original Position is constructed by subtracting information without adding artificial substitutes. This results directly in the maxim in strategy of choice, which leads to principles that favor the worst off in general and impose even more stringent equality in the basic liberties.

Suppose Rawls is right about what it would be rational to choose under those conditions. We must then ask why a unanimous choice under conditions of ignorance, without an assumption that one has an equal chance of being anyone in the society, correctly expresses the constraints of morality. Other constructions also have a claim to counting all persons as moral equals. What makes these conditions of unanimity

under ignorance the rights ones? They insure that numbers do not count¹² and urgency does, but that is the issue. A more fundamental type of argument is needed to settle it.

VIII

The main question is whether a kind of unanimity should enter into the combination of different points of view when evaluative judgments are being made about outcomes. This is an issue between egalitarian and utilitarian theories, both of which concern themselves with outcomes. Rights theories are opposed to both, because although they use a kind of unanimity condition, it is a condition on the acceptability of actions rather than of outcomes. In defending an interpretation of moral equality in terms of unanimity applied in the assessment of outcomes, I am therefore denying that either utilitarianism or rights theories, or both, represent the whole truth about ethics.

As I have said, acceptance of egalitarian values need not imply total exclusion of the others. Egalitarians may allow utility independent weight, and liberal egalitarians standardly acknowledge the importance of certain rights, which limit the means that may be used in pursuing equality and other ends.¹² I believe that rights exist and that this agent-centered aspect of morality is very important. The recognition of individual rights is a way of accepting a requirement of unanimous acceptability when weighing the claims of others in respect to what one may do. But a theory based exclusively on rights leaves out too much that is morally relevant, even if the interests it includes are among the most basic. A moral view

¹² Since the Difference Principle is applied not to individuals but to social classes, conflicts of interest within the worst off or any other groups are absorbed in a set of average expectations. This means that the numbers count in a sense *within* a social class, in determining which policy benefits it most on average. But numbers do not count in determining priority among classes in the urgency of their claims. That is why the problems of this conception of social justice are similar to those of a more individually tailored egalitarianism.

¹³ Such a view is defended by Ronald Dworkin in *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1977).

that gives no weight to the value of overall outcomes cannot be correct.

So let me return to the issue of unanimity in the assessment of outcomes. The essence of such a criterion is to try in a moral assessment to include each person's point of view separately, so as to achieve a result which is in a significant sense acceptable to each person involved or affected. Where there is conflict of interests, no result can be completely acceptable to everyone. But it is possible to assess each result from each point of view to try to find the one that is least unacceptable to the person to whom it is most unacceptable. This means that any other alternative will be more unacceptable to someone than this alternative is to anyone. The preferred alternative is in that sense the least unacceptable, considered from each person's point of view separately. A radically egalitarian policy of giving absolute priority to the worst off, regardless of numbers, would result from always choosing the least unacceptable alternative, in this sense.

This ideal of individual acceptability is in fundamental opposition to the aggregative ideal, which constructs a special moral point of view by combining those of individuals into a single conglomerate viewpoint distinct from all of them. That is done in utilitarianism by adding them up. Both the separate and the conglomerate methods count everyone fully and equally. The difference between them is that the second moves beyond individual points of view to something more comprehensive than any of them, though based on them. The first stays closer to the points of view of the individuals considered.

It is this ideal of acceptability to each individual that underlies the appeal of equality. We can see how it operates even in a case involving small numbers. Suppose I have two children, one of which is normal and quite happy, and the other of which suffers from a painful handicap. Call them respectively the first child and the second child. I am about to change jobs. Suppose I must decide between moving to an expensive city where the second child can receive special

medical treatment and schooling, but where the family's standard of living will be lower and the neighborhood will be unpleasant and dangerous for the first child—or else moving to a pleasant semi-rural suburb where the first child, who has a special interest in sports and nature, can have a free and agreeable life. This is a difficult choice on any view. To make it a test for the value of equality, I want to suppose that the case has the following feature: the gain to the first child of moving to the suburb is substantially greater than the gain to the second child of moving to the city. After all, the second child will also suffer from the family's reduced standard of living and the disagreeable environment. And the educational and therapeutic benefits will not make him happy but only less miserable. For the first child, on the other hand, the choice is between a happy life and a disagreeable one. Let me add as a feature of the case that there is no way to compensate either child significantly for its loss if the choice favoring the other child is made. The family's resources are stretched, and neither child has anything else to give up that could be converted into something of significant value to the other.

If one chose to move to the city, it would be an egalitarian decision. It is more urgent to benefit the second child, even though the benefit we can give him is less than the benefit we can give the first child. This urgency is not necessarily decisive. It may be outweighed by other considerations, for equality is not the only value. But it is a factor, and it depends on the worse off position of the second child. An improvement in his situation is more important than an equal or somewhat greater improvement in the situation of the first child.

Suppose a third child is added to the situation, another happy, healthy one, and I am faced with the same choice in allocation of indivisible goods. The greater urgency of benefiting the second child remains. I believe that this factor is essentially unchanged by the addition of the third child. It

remains just as much more urgent to benefit the second child in this case as it was when there were only two children.²⁴

The main point about a measure of urgency is that it is done by pairwise comparison of the situations of individuals. The simplest method would be to count *any* improvement in situation of someone worse off as more urgent than any improvement in the situation of someone better off; but this is not especially plausible. It is more reasonable to accord greater urgency to large improvements somewhat higher in the scale than to very small improvements lower down. Such a modified principle could still be described as selecting the alternative that was least unacceptable from each point of view. This method can be extended to problems of social choice involving large numbers of people. So long as numbers do not count it remains a type of unanimity criterion, defined by a suitable measure of urgency. The problem of justifying equality then becomes the problem of justifying the pursuit of results that are acceptable to each person involved.

Before turning to a discussion of this problem, let me say why I think that even if it were solved, it would not provide the foundation for a correct egalitarian theory. It seems to me that no plausible theory can avoid the relevance of numbers completely. There may be some disparities of urgency so great that the priorities persist whatever numbers are involved. But if the choice is between preventing severe hardship for some who are very poor and deprived, and preventing less severe but still substantial hardship for those who are better off but still struggling for subsistence, then it is very difficult for me to believe that the numbers do not count, and that priority of urgency goes to the worse off however

²⁴ Note that these thoughts do not *depend* on any idea of personal identity over time, though they can *employ* such an idea. All that is needed to evoke them is a distinction between persons at a time. The impulse to distributive equality arises so long as we can distinguish between two experiences being had by two persons and their being had by one person. The criteria of personal identity over time merely determine the size of the units over which a distributive principle operates. That, briefly, is what I think is wrong with Parfit's account of the relation between distributive justice and personal identity.

many more there are of the better off. It might be suggested that this is a case where equality is outweighed by utility. But if egalitarian urgency is itself sensitive to numbers in this way, it does not seem that any form of unanimity criterion could explain the foundation of the view. Nor does any alternative foundation suggest itself.

IX

For a view of the more uncompromising type, similar in structure to that of Rawls, we need an explanation of why individual pairwise comparison to find the individually least unacceptable alternative is a good way to adjudicate among competing interests. What would it take to justify this method of combining individual claims? I think the only way to answer this question is to ask another: what is the source of morality? How do the interests of others secure a hold on us in moral reasoning, and does this imply a way in which they must be considered in combination?

I have a view about the source of other-regarding moral reasons that suggests an answer to this question. The view is not very different from the one I defended in *The Possibility of Altruism*,¹⁵ and I will only sketch it here. I believe that the general form of moral reasoning is to put yourself in other people's shoes. This leads to acceptance of an impersonal concern for them corresponding to the impersonal concern for yourself that is needed to avoid a radical incongruity between your attitudes from the personal and impersonal standpoints, i.e. from inside and outside your life. Some considerable disparity remains, because the personal concerns remain in relation to yourself and your life: they are not to be replaced or absorbed by the impersonal ones that correspond to them.¹⁶ (One is also typically concerned in a personal way for the interests of certain others to whom one is close.) But we derive moral reasons by forming in addition

¹⁵ Oxford, Clarendon Press, 1970.

¹⁶ In this respect my present view differs from the one in the book.

a parallel impersonal concern corresponding to the interests of all other individuals. It will be as strong or as weak, as comprehensive or as restricted, as the impersonal concern we are constrained by the pressures of congruency to feel about ourselves. In a sense, the requirement is that you love your neighbor as yourself: but only as much as you love yourself when you look at yourself from outside, with fair detachment.

The process applies separately to each individual and yields a set of concerns corresponding to the individual lives. There may be disparities between a person's objective interests and his own subjectively perceived interests or wishes, but apart from this, his claims enter the impersonal domain of reasons unchanged, as those of an individual. They do not come detached from him and go into a big hopper with all the others. The impersonal concern of ethics is an impersonal concern for oneself and all others as individuals. It derives from the necessary generalization of an impersonal concern for one's own life and interests, and the generalization preserves the individualistic form of the original.

For this reason the impersonal concern that results is fragmented: it includes a separate concern for each person, and it is realized by looking at the world from each person's point of view separately and individually, rather than by looking at the world from a single comprehensive point of view.

This, it seems to me, makes pairwise comparison the natural way to deal with conflicting claims. There may be cases where the policy chosen as a result will seek to maximize satisfaction rather than equalizing it, but this will only be where all individuals have an equal chance of benefitting, or at least not a conspicuously unequal chance.¹⁷ At the most basic level, the way to choose from many separate viewpoints simultaneously is to maintain them intact and give priority to the most urgent individual claims.

¹⁷ I leave aside the question when the equality of chances can be counted as real enough to supersede the inequality of actual outcomes. Perhaps that applies only to certain kinds of outcomes, and certain ways of determining chances.

As I have said, equality is only one value and this is only one method of choice. We can understand a radically egalitarian system just as we can understand a radical system of rights, but I assume neither is correct. Utility is a legitimate value, and the majoritarian or conglomerate viewpoint on which it depends is an allowable way of considering the conflicting interests of numbers of different people at once. Still, the explanation of egalitarian values in terms of separate assessment from each point of view is a step toward understanding; and if it does not imply that these values are absolute, that is not necessarily a drawback.

RESUMEN

El autor comienza observando la existencia de cuatro tipos de igualdad, a saber, la política, la social, la legal y la económica. Luego apunta que la igualdad económica es necesaria para proteger a los otros tres tipos de igualdad. Sin embargo, la defensa de la igualdad económica puede no ser la defensa de la igualdad *per se*, y ésta última es la que constituye una idea moral básica.

Menciona dos argumentos en favor de la igualdad económica: uno de tipo utilitario y otro que también puede ser deontológico. El primero señala que la consecución de la igualdad económica puede resultar inaceptable porque viola ciertos derechos individuales.

Hay dos tipos de argumentos en favor del valor intrínseco de la igualdad, a saber, el comunitario (la igualdad es buena para la sociedad considerada como un todo) y el individualista (la igualdad es un principio distributivo para resolver conflictos entre individuos diferentes entre sí).

El autor escoge el punto de vista liberal de J. Rawls porque éste ha intentado una justificación individualista del mismo. En esta forma, aunque oponiéndose a Rawls, el autor elucida la concepción moral que subyace a la teoría de aquél.

Rawls usa un principio igualitario según el cual la igualdad en la distribución de las libertades políticas y personales es más importante que la igualdad de los otros beneficios. Sin embargo, la desigualdad sólo se justifica cuando beneficia a los menos favorecidos en la escala social.

Rawls ofrece dos tipos de argumentos, uno intuitivo y otro teórico. Ambos van dirigidos a eliminar la posición utilitarista. El autor considera primero el argumento intuitivo, que consta de tres puntos: 1º) No es razonable aceptar un prospecto de vida más bajo para favorecer a otros. 2º) Las contingencias naturales y sociales que influyen el bienestar de las gentes, no son justas. 3º) El utilitarismo aplica el método de la decisión individual a los problemas sociales.

Del primero dice el autor que, para ser válido como objeción a la compensación interpersonal que propone el utilitarista, necesita una premisa según la cual es peor sacrificar a los que están abajo

que a los que están arriba en la escala social. Pero ésta es la conclusión que se busca probar.

El segundo punto asume demasiado porque presupone que las desigualdades tienen que justificarse. Aún si las desigualdades no benefician a todos bien puede ser que los beneficien en alguna medida.

Del tercero dice que la generalización del caso de un individuo al caso general no está justificada en sí misma, pero tiene en principio un atractivo cuya eliminación exige el proponer una mejor alternativa.

Sin embargo, el autor piensa que el último punto es interesante porque lo que está en cuestión son los individuos. La cuestión es, entonces, si (a) los que están en peor posición tienen un derecho primario como quiere el liberalismo igualitario, o si (b) preferir a los que están en la peor posición dañaría los derechos de otras personas en su libertad y en la protección de sus otros derechos, como quiere la teoría liberal de los derechos fundamentales o garantías del individuo; o si finalmente (c) esa preferencia ignoraría los derechos de otros, que no están entre los peor situados y que se beneficiarían mucho más si se adoptara una política menos igualitaria como quiere el utilitarismo.

El autor cualifica que aun cuando ésta parece una discusión acerca del valor de la igualdad, se trata en realidad de una disputa acerca de *cómo* debería tratarse a la gente en forma igual. Es decir, los tres puntos de vista asumen la igualdad moral entre las personas pero difieren en su interpretación de esa igualdad. Si bien todos intentan dar igual importancia al punto de vista de cada persona, esto depende de dos cosas: lo que es moralmente esencial para ese punto de vista y cómo debe combinarse lo que es importante para cada una de las personas.

El utilitarismo es objetable porque, aun cuando parte de las demandas de los individuos, una vez que éstas se calculan desde el punto de vista mayoritario resulta difícil que cada uno obtenga satisfacción.

La teoría liberal de los derechos resulta demasiado rígida e impide tomar medidas que prevendrían males mayores. A diferencia de la teoría utilitarista, que introduce un punto de vista impersonal que decide cuál es el camino a seguir, la teoría de los derechos no permite un punto de vista único que resulte de la combinación de los puntos de vista individuales. Empero, en la medida en que defiende un mínimo de derechos como inviolables, deja una gran parte

de la vida humana libre de restricciones y conduce en forma natural hasta las teorías liberales del estado policía. Por otra parte, esta moralidad excluye un buen número de elecciones por la manera en que logra la unanimidad.

El igualitarismo liberal es menos igualitario y usa una noción más viva del punto de vista personal al establecer un orden de prioridad de las necesidades, dando preferencia a las más urgentes. La prioridad incluye la vida de la persona y el intento de evitar los peores prospectos para ella misma y para sus allegados. La dificultad consiste en el criterio de la urgencia: o bien se construye un criterio objetivo o se lo construye subjetivamente y entonces difiere de persona a persona. Luego quedan otras dificultades, como la de qué intereses son más urgentes y si se antepone la igualdad material a la espiritual o no.

Los detalles de una posición igualitaria —concluye el autor— dependen de varios factores, pero queda una cuestión que por simple resulta la más difícil: si los intereses de las diferentes personas deben combinarse por mayoría o mediante una forma de unanimidad.

Esta última es la posición de Rawls. Aún suponiendo que tuviera lugar una elección bajo las condiciones que Rawls especifica y que esa elección fuese racional, quedaría por determinar si lo que esa elección decide es lo correcto. ¿Expresaría esa elección las restricciones de la moralidad? ¿Sería verdad que los números no cuentan y que lo que importa es la urgencia?

Dos cuestiones resultan cruciales: la primera, si la igualdad moral debe interpretarse en términos de unanimidad o de mayoría; la segunda atañe a la comprehensividad de la moralidad y la objetividad de la clasificación en orden de procedencia de los intereses moralmente relevantes.

Las respuestas a la primera consisten, o bien en tratar de incluir cada punto de vista y encontrar soluciones aceptables para cada uno, o bien en encontrar un nuevo punto de vista combinando los puntos de vista individuales. El autor propone un método que consiste en escoger la alternativa menos inaceptable considerando cada punto de vista. Esto no implica que siempre se deba ayudar al peor ubicado en la escala social. Este método logra una solución que toma en cuenta a todos sin dejar de discriminar los puntos de vista individuales.

Respecto a la segunda cuestión, se incluye un criterio bastante

objetivo de aceptabilidad o inaceptabilidad que puede eliminar las medidas subjetivas y limitar lo que se espera que cada individuo sacrifique en beneficio de los demás. El criterio de urgencia determinará esos factores.

¿Cómo justificar ese método? El autor piensa que responder esa pregunta presupone responder éstas otras: ¿Cuál es la fuente de la moralidad? ¿Cómo influyen los intereses de los demás en el razonamiento moral? ¿Implica esto una manera según la cual esos intereses deben considerarse en combinación?

La respuesta del autor es que la forma general del razonamiento moral incluye el acto de ponerse en la posición de las otras personas y aceptar una preocupación impersonal por ellos, que corresponda a la preocupación impersonal que uno mismo debe aceptar respecto de sí para evitar una incongruencia entre las actitudes hacia sí y hacia los demás. La idea es amar al prójimo como a sí mismo pero no más de lo que uno se ama a sí mismo cuando se contempla desde fuera.

La preocupación impersonal que así resulta, es fragmentada porque incluye una preocupación para cada persona y se realiza al mirar al mundo desde cada punto de vista, separada e individualmente. Así ubicados se mantienen intactos los puntos de vista y se da prioridad al más urgente. Todos los intereses con alguna objetividad tienen que encontrar un lugar aún si se tiene que conceder un lugar especial a alguno(s).

(Resumen de E. Villanueva)