



A Defense of Human Equality

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THE PHILOSOPHICAL REVIEW

A DEFENSE OF HUMAN EQUALITY*

"In society all are equal. No society can be founded upon anything but the concept of equality, never upon that of freedom. It is equality that I want to find in society; freedom, that is the moral freedom to subordinate myself, I bring along anyway. The society which I enter is therefore bound to tell me: You shall be equal with all the rest of us. All it can add is: We wish you would also be free; that is, we wish you to renounce your privileges with full conviction, by free and intelligent assent."—(translated from J. W. Goethe, *Maximen und Reflexionen, Werke*, Weimar 1887 ff., vol. 42, 2. Abteilung, p. 234)

1. *The Challenge*

"**E**QUALITY of all men is the biggest lie ever told." Thus Nietzsche sums up his great indictment of the "selfevident truth that all men are created equal".¹ The idea of human equality is nothing but the expression of the "slave's revolt in morals". Its first manifestation was the "Christian dynamite"² of the idea of human equality before God. Its final outcome is modern secular democracy.

Nietzsche and his immediate followers inside and outside philosophy were by no means the only challengers of human equality. Today his denunciation is echoed by a worldwide campaign against what is considered to be the foremost buttress of democratic philosophy. In fact, human equality represents the favorite target

* This paper was read in part at the Meeting of the Western Division of the American Philosophical Association at Madison in 1942. I wish to acknowledge the many helpful criticisms which I have received in the formulation of this article from Professors Brand Blanshard, Richard B. Brandt, and Maurice Mandelbaum, of Swarthmore College, and from Dr. Arnold Brecht of the New School of Social Research, as well as the practical help of several unnamed friends.

¹ *Gesammelte Schriften* (Musarion edition) XV 488; XVI 200.

² *Op. cit.* VIII 313.

of antidemocratic propaganda and argumentation. And human inequality is one of the basic articles of faith which the fascist rulers try to hammer into the minds of totalitarian youth.³ Thus Italian fascism in its fulminations against the "absurd conventional lie of political equalitarianism . . . asserts the irremediable and fertile and beneficent inequality of men, who cannot be levelled by any such mechanical and extrinsic device as universal suffrage".⁴ And National Socialism holds the "Jewish theory of the equality of all men" responsible for the "criminal absurdity of training a born half-ape (*i.e.*, a negro) until one believes a lawyer has been made of him, while millions of members of the highest culture race have to remain in entirely unworthy positions".⁵ It is not our task to decide whether it was not precisely the steamroller of authoritarian centralization and coordination ("Gleichschaltung") which has led to an equalization much more sweeping than any democracy would have dreamed of. But, however that may be, this does not affect the seriousness of the challenge to the idea of human equality. How, if at all, can it be met?

One may perhaps think that the whole anti-equalitarian campaign is based upon a grotesque misrepresentation of the idea of equality. Yet it cannot be denied that the champions of human equality are partly coresponsible for such misinterpretations. Some of their formulations read indeed as if all individuals were born with exactly the same physical and mental equipment and as if all individual differences were only a product of different environment. The situation is in fact so serious that some of the advocates of democracy are on the point of abandoning the whole doctrine of equality.⁶

³ See, *e.g.*, *The Nazi Primer. Official Handbook of the Hitler Youth*. Chapter I: The Unlikeness of Man, pp. 5-12. Harper & Brothers, 1938.

⁴ Benito Mussolini, Article on Fascism in the *Encyclopaedia Italiana*; translated in *The Corporate State*.

⁵ Adolf Hitler, *Mein Kampf*; translation (Reynal & Hitchcock, New York, 1939) 639; also Alfred Rosenberg, *Der Mythos des 20. Jahrhunderts* (1934) 202, 669.

⁶ Thus Professor George Morgan Jr. in a significant recent article on "Human Equality" (*Ethics* LIII 115-120) infers first—as a result of a trenchant analysis of seven "axiological" and four "pragmatic" theories of equality, all of which he finds wanting—that "relevance, equality of consideration, and the sacredness of life are the only universally valid forms of equality". His final conclusion, however, is that "the whole notion of

It seems therefore a matter of considerable importance to clear the idea of human equality from these fateful misunderstandings and to show that the full meaning of the old idea is not yet exhausted. It may be a matter of dispute whether the idea of human equality is really the *indispensable* basis of the democratic ideal, as the opponents of democracy would have it; in fact, by itself it would not even be the *sufficient* basis for supporting the postulate of democratic government, implying, as it does, not only the equal vote but also full control by the people and decision by the will of the majority. There are certainly other considerations than those of human equality which speak just as strongly in favor of a democratic order, political as well as ethical ones, for instance, the impossibility of a just appraisal of unequal abilities, or the desirability of a safety-valve for the pressure of public opinion, no matter how unreasonable. I do believe, however, that the idea of human equality has fundamental significance for man's idea of man, of his social relations and obligations. The obliteration and suppression of the idea of equality has already succeeded in destroying the feeling of a common human brotherhood, which is so fundamental for a truly human civilization.

The following discussion is an attempt to restore the reformulated idea of human equality to its original significance. In addition to that, it tries to find the foundations of this idea. For it is not only the *meaning* of the idea that has been misinterpreted. There is an even more important failure: the failure to discover the decisive *reasons* for our insistence on the fundamental need for equality.

2. *Unravelling the Problem*

Our first task will be a clear statement of the real issue. For rhetorical pathos and stereotyped slogans have blurred the discus-

equality is, after all, a somewhat cold and external thing which tends to drop out of focal consciousness as human relationships deepen in intimacy. . . ." What is to take its place is the "reality of comradeship in the trenches or in the cellars of London or in any of the deeper crises of man's existence; it is the sense of solidarity and communion. . ." I confess I fail to see how such a solution offers any better prospects than the doctrine of equality. For, unfortunately, the totalitarians deny just as violently any solidarity and communion among all the members of the human race as they oppose human equality.

sion to such an extent that the opponents mostly talk at cross purposes.

There is first the difference between *equality as a fact* and *equality as an ideal*. This distinction may appear so obvious that it should have occurred to anyone who considers the question at all seriously. Yet most anti-equalitarians seem to think at once that the principle of equality was meant as a statement about factual equality. That may have been true of some earlier equalitarians. But it was certainly not true of the celebrated French triad of "Liberty, Equality and Fraternity".⁷ The nineteenth century brought at any rate a decided shift from equality as an asserted fact to equality as a postulated⁸ ideal. This ideal in itself may be questioned, but it certainly does not conflict with the fact of existing inequalities. For facts are neither sufficient proof nor sufficient disproof of ideals.

A second distinction is perhaps less obvious, that between *actual* and *potential* equalities. Beings that are actually unequal may still be potentially equal. It may often be a rather elusive puzzle to determine whether such an unactualized potentiality exists. But there are clearly cases, chiefly in biology, where experimental methods, by eliminating the inequalities of environment, show conclusively that, *e.g.*, certain organisms are potentially equal and actually different only as a result of different climatic conditions.

Even more important is the distinction between equalities and inequalities according to how *essential* or *unessential* the strata of human existence are to which they refer. Equality and inequality are both relations. According to a well established theory, relations always exist with reference to specific "respects". Thus things may be equal with respect to weight but not with respect to shape; and persons may be equal in fortune but unequal in character. Equality before God, in one of its possible meanings,

⁷ The same holds for such staunch defenders of the idea of equality as the American John Taylor in his noteworthy controversy with John Adams, the advocate of natural inequality, in which he states quite definitely and explicitly that the doctrine of human equality does not assert "equality of stature, strength or understanding, but an equality of moral rights and duties". (P. R. Anderson and M. Fisch, *Philosophy in America*, 224.)

⁸ Cf. the illuminating account by T. V. Smith, *The American Philosophy of Equality* (Chicago 1927) Chapter iv; also R. H. Tawney, *Equality* (London 1931) 52 f.

seems to refer to such an equality in a special respect. Some of these respects are obviously quite superficial, peripheral, unessential, such as color of hair or eyes or height of body as such; others, such as physical and mental constitution, character, intelligence, energy, sociability, concern much more fundamental strata of human nature. The decisive question, therefore, will be whether the obvious inequalities between men reach the fundamental strata of the human personality; and, if they do reach these strata, how wide is the range of variations within them?

One type of this distinction between equalities according to their different respects is of particular significance for our specific problem. Human equality may refer primarily to the descriptive characteristics of human nature like height, weight, etc. The question of this *descriptive* equality has to be distinguished from the question whether men are equal or unequal in their *values*, as expressed, *e.g.*, in their contributions to civilization and, ultimately, to the universe as a whole, and again from a third question, that of their equality with respect to *rights (or freedoms) and duties*. Finally, there is a kind of equality which can be designated best by the term *equality in dignity*; this equality would mean that men, regardless of their contributions to a larger whole, have a certain common rank by virtue of which they possess a claim to equal respect and consideration.⁹

These four issues are largely independent of each other. Although equals in descriptive characteristics would generally be equals in value as well, it is by no means certain that unequals in descriptive characteristics would have unequal values: men and women, though descriptively unequal, might still have the same human value. Similarly, persons of unequal value might possess the same rights and duties, not only before the law but before the court of ethics as well: the equal "rights" of persons standing in line before a counter may illustrate this. Again, people might even have unequal claims to public benefits, for instance, to a higher education, and still be equal in dignity, *i.e.*, in their ultimate ranking and in their claims to full and impartial consideration.

⁹ For the concept of equality in dignity *cf.*, *e.g.*, Leonard Nelson (*Kritik der praktischen Vernunft*. Göttingen, 1916, p. 132, 520), where dignity itself is defined as the "claim of a person to consideration of his interests".

The distinction between equality as a fact and equality as an ideal postulate is certainly far from new.¹⁰ But the more specific issues of equality in value, of equality in moral right and duty, and of equality in dignity, have not yet been sufficiently heeded and kept apart. Nor have all of these distinctions been fully utilized.

3. *Human Inequalities and Human Equalities*

It is not the purpose of this discussion to give a full answer to all these questions. That would presuppose a complete study of the human structure, of human values, of human rights and duties, of human dignity and of human destination, and, moreover, a determination of their relative significance within the framework of human nature. This would seem to be one of the major tasks of a philosophical anthropology. Here I shall at least indicate some of the more obvious results which the utilization of our distinctions would seem to yield. I claim that, once these distinctions have been properly observed, these results can be fully established, either by direct insight or by deductive reasoning.

There is no total or partial *equality in descriptive characteristics* among human beings, neither an actual nor a potential one. It is not only in the subhuman sphere that biology gives conclusive evidence of congenital inequality. Human genetics confirms that, except for the case of identical twins, men fail to be potentially equal, that inequalities exist in the very germplasm of human beings, inequalities which cannot be accounted for by different environment or by different selfdetermination. As far as the mental equipment of man is concerned, intelligence-tests are hardly needed to prove the fact of inequality. It is true that men still have enough in common to preserve the unity of the human species; and, generally, what they have in common belongs to a more fundamental stratum of human nature than their perhaps more striking inequalities. But even in these common characteristics of man we find differences in degree which sometimes amount to differences

¹⁰ Cf., e.g., T. V. Smith loc. cit. and the literature quoted by him. Also Leonard Nelson, *System der philosophischen Rechtslehre und Politik* (Leipzig, 1924) 331 and Arnold Brecht, "The Search for Absolutes" in *Social Research* VII (1940) 215 ff.

in quality, and that, to be sure, even among normal persons.¹¹

But is there not perhaps, at least for every religious person, some kind of descriptive equality in what has often been called the equality before God, before whom, it is said, all our differences become insignificant? Unfortunately, this idea of equality before God, apart from its other presuppositions, is far from clear in its meaning. In spite of its present popularity it has been very little analysed, either by historians or by systematic theologians. Thus there seems to be little hope that such a theological concept could restore human equality to its former dignity of a selfevident truth extending to the whole of human nature.

This leaves descriptive equality among human beings in a rather precarious position. One might hope for a better line of defense in human *equality-in-value*. However, even this hope is on the whole fallacious. Assuming that there is such a thing as objective value independent of the value-perceiving subject,¹² can we seriously doubt that men possess higher or lower values depending upon whether they are, for instance, more or less integrated and forceful personalities; more or less efficient in their work and thought,

¹¹ The difficulty of appraising the relative importance of the common features of men as compared with their distinguishing characteristics is the crucial difficulty for Professor Paul Weiss' courageous attempt to buttress the "principle of human equality", as expressed in the right "to exercise the functions characteristic of beings of the human kind, equally deserving of human shelter and food, of an opportunity to grow, feel, think and know, and to protection against injury, disease, and unnecessary pain", by the argument that all men belong to one natural group. ("Democracy and the Rights of Man" in *Science, Philosophy, and Religion, Second Symposium*. New York, 1942; see also Professor Morris R. Cohen's critical remarks p. 288). This attempt leaves it, furthermore, unexplained how the fact of such membership in the group entails the *obligation* of treating them as equals. The additional premises needed for such a deduction require at least explicit statement.

¹² Recently, Hans Kelsen (*Vom Wesen der Demokratie*, Tuebingen, 2nd ed., 1929) and especially Gustav Radbruch ("Le relativisme dans la philosophie de droit" in *Archives de philosophie du droit et de sociologie juridique* IV, 1934) have argued that a relativism of values can supply an adequate basis for the absolute postulates of equality, democracy, and related ideals. But that can hardly be achieved without additional absolute standards, which are introduced here surreptitiously. The more obvious consequence of an axiological relativism is the reckless selfassertion of one's own subjectivity in claiming one's superiority over anybody else, as Fascist activist subjectivism practices it so impressively. To admit that other subjectivisms would have just as much right as oneself already presupposes the acknowledgement of an objective standard above the parties, i.e., of some kind of justice which demands the consideration of the subjectivistic claims on an equal level.

ugly or fair in their appearance, graceful or clumsy in their manners? Is there really no final difference between the man who, in his unique value, is practically irreplaceable, and those who, in Schopenhauer's terms, are only mass products ("Fabrikware") of nature? Of course, it might be extremely difficult to evaluate these differences impartially. And that in itself may be an important argument for treating men as equals in spite of the fact that we believe them to be unequal in value. But some of these differences are certainly pronounced enough to allow of general assessment and recognition.

It should, however, not be overlooked that among the moral values there are *some* which involve a potential equality in one important respect. If we exert ourselves for a certain cause with all the energy at our disposal, however weak it may be, the outcome of such exertion will certainly vary. But the intrinsic ethical value of our effort, as distinguished from the value of the *result*, will not depend upon the latter. Nor will this value be dependent upon the actual goodness of our cause. If the agent was in good faith and was, without undue negligence, mistaken about the goodness of his cause, such error will certainly affect the value of the *act* which proceeds from his effort. But it will not impair the value of the effort itself. Intrinsically this effort will have the same value as if it were spent on a truly good cause. The moral value of our effort, then, depends exclusively upon the question how much of our momentary intellectual and moral energies was used in the attempt to ascertain and to realize the right goal. The absolute amount of our energies and of our effort is immaterial. It is only the relation between them which counts. Now these effort-values reflect also upon the agent. It is this fact which gives every agent equal access to the moral values consequent on moral effort. In the court of this particular value he faces no handicaps. Everybody who is able to run at all is given an equal chance. The tasks assigned to different individuals may be very different. In fact, the higher the abilities, the more exacting will be the demands; the smaller the means the more lenient will be the expectations. All that matters is: how big were our efforts in proportion to our unequal and varying momentary equipment?

However, these values are by no means the only human values. It may even be questioned whether they are man's *supreme* values. Nor is it certain that they are the only *moral* values. Besides, the potentiality of equality in moral value can never guarantee that men's moral score is actually equal.

Suppose, then, that men are equal neither in descriptive characteristics nor in value. Would it follow that they ought not to have the same right and duties? First of all, facts in themselves can never sufficiently justify either rights or duties; not even values can, at least not immediately. Thus the fact of inequality in descriptive characteristics as well as in values does not yet entail inequality of rights and duties. Actually, the situation does not allow of sweeping answers. It is true that equals generally ought to have equal rights and duties. But if it comes to unequals we have to consider that certain rights and duties depend upon *specific* qualifications which, as a matter of fact, are not equally distributed, for instance those of studying and teaching; it is a fatal misunderstanding of the postulates of equality, if, for the sake of equal justice, a gifted pupil is not offered the opportunity for a more rapid and individual advance than his less gifted companions. On the other hand there are a good many differences, and even rather fundamental ones, which are obviously unessential with regard to educational and other rights and duties, for instance sex differences; relevant in this case is only the intellectual aptitude, and this does not appear to depend upon sex. In other words, inequality in rights and duties among unequals presupposes that their inequality is relevant to the particular rights and duties in question. In this connection it should also be remembered that greater gifts do by no means always entail greater rights, as is often so glibly assumed; as a rule they mean decreased privileges as a consequence of increased duties: "And to whomsoever much is given, of him shall much be required."¹³

On this basis, then, I maintain that with regard to a number of fundamental moral rights and duties there exists full equality and that such equality can be clearly demonstrated. At this place I shall undertake this only for a few representative cases.

¹³ Luke XII 48.

Most universally acknowledged and perhaps best accredited among all equal rights that are independent of factual equalities is today the right to equality of opportunities. To be sure, the full meaning of this right and the problems which it involves are rarely fully realized.¹⁴ Nevertheless, it seems safe to assert that, at least before we know anything definite about native inequalities, each individual, however unequal, should have an equal chance of demonstrating and developing his gifts independent of the advantages or handicaps to which, for instance, economic differences expose him. The greatest possible equalization of educational facilities at the start of our careers is one of the most obvious expressions of this right. But it should be added at the same time that this equality of initial opportunities does by no means imply that the one who on the basis of equal opportunities turns out to be a "stepchild of nature" should simply be abandoned to his fate. As soon as a native inability is revealed, there may be reason for any number of compensatory opportunities. The need for this initial equality of opportunities may be comparatively obvious even for the denier of other equalities. For without equality of opportunities it would be impossible to determine and evaluate in an objective and impartial way even those natural inequalities which, according to him, should be the basis for differential treatment.

Some equal rights may be deduced from other equal rights of a more fundamental character. Such rights would include, for instance, the democratic right of equal vote regardless of factual inequalities among the citizens, both in their descriptive characteristics and in their values, and, in particular, regardless of the undeniable differences in their political judgment and efficiency. For a demonstration of this right I shall have to make here simply the assumption, which in itself would, of course, require much more thorough substantiation, that every person capable of determining his own acts and in that much of shaping his own fate has a right to make use of this capacity to the widest possible extent; and that this right to selfdetermination, which equally belongs to all but the demonstrably insane or feeble-minded, includes even the right to make one's own mistakes. Such a right would entail that any de-

¹⁴ See, e.g., Hastings Rashdall, *Theory of Good and Evil* I 230, who argues that equality of opportunity would bear too heavily on the weak.

termination of one's fate by others, *i.e.*, any political compulsion by social action, be as far as possible avoided and at least be kept at a minimum. Now every political decision of the community involves a restriction of our freedom of individual selfdetermination and means in that much political compulsion. Political compulsion can be minimized only if everybody is given the same consideration in the formation of the political decisions which direct social action. To be sure, the majority will always determine the fate of the dissenters. But in the case of a majority vote it will at least be only a minority which has to suffer determination of its will by others. It is thus, I submit, the interest in maximization of selfdetermination and in minimization of social compulsion which forms the real and primary basis for the equal vote. This would imply that the current criticism of the democratic process as being less efficient than totalitarian practices could be dismissed as immaterial, quite apart from the factual question whether it is true that even in the long run totalitarianism can guarantee greater efficiency.

In this context the preceding examples may suffice. Needless to say a comprehensive philosophy of moral rights and duties will have to examine these and other equalities in much greater detail, each with regard to the special issues involved.

4. *The Basis for the Postulate of Human Equality*

The chief positive result of applying our distinctions to the issue of human equality has been: There is an ethical equality with respect to a number of definite moral rights and duties. It includes such fundamental rights as those to equal opportunity, to equal selfdetermination, to equal social protection against undeserved hardship, to equal treatment by the public courts and authorities, and to similar benefits. There is, however, no equality with regard to the *descriptive* features of human nature nor with regard to the actual *values* of human beings. Ethical equality in rights and duties can therefore not be based upon equality in descriptive characteristics nor upon equality in value.

But this result makes the postulate of human equality a complete paradox. It deprives equality of all connection with the world

of facts. What is it, then, that requires and justifies a distribution so contrary to all existing order? Why equality?

a. *Earlier Arguments*

(I) The answers to this question are none too numerous. Among them there is, for instance, one which tries to defend ethical equality by considerations of *social utility*. But such a defense would hardly work except under strictly limited conditions. Very often it might be much more advantageous to fulfil the demands of the stronger, the more powerful, and the more efficient, especially as long as the weaker group will be unable to revolt successfully against discrimination.¹⁵ No wonder, therefore, that J. S. Mill states quite frankly that social expediency may support inequality as well as equality.¹⁶

(II) An original *pragmatic justification* of the postulate of human equality has been advanced by Professor T. V. Smith. As a consequence of his functional interpretation of the ideal of equality he suggests that, even if, as a matter of fact, men are not equal, they should be treated as equals in order to encourage community cooperation. "It will hardly be thought to demand argument that men work together better, when they regard themselves as substantially equal."¹⁷

Unfortunately, this argument is at the present moment no longer as impressive as it was before the surge of totalitarianism. One might now even argue that cooperation is most efficient in a "corporative" organization after the totalitarian model, in which the members of the social body, like the members of the physical body, are assigned unequal parts. This seems all the more suggestive, since what Professor Smith calls the "utter centrality of oneness with the group" is nowhere stressed to such an extent as in a totalitarian state. Granting for the moment the supreme value of cooperation, one might argue that it would be best secured when everybody takes the place for which he is best fitted by his special (unequal) qualification, and when all collaborate for the sake of

¹⁵ Cf. the typical difficulties of a modern biologist pleading for democracy in J. B. S. Haldane, *The Inequality of Man* (London, Chatto & Windus, 1932) 24 ff.

¹⁶ J. S. Mill, *Utilitarianism*, Chapter v.

¹⁷ *The American Philosophy of Equality* (Chicago, 1927) 276 ff.

the whole, the less significant member in his subordinate post working in the spirit of spontaneous subordination, the superior one in his commanding position providing care for his subordinates. Such a system is definitely workable in the case of a well functioning ecclesiastical group or of an army. To that extent, at least, it seems to promise a more successful cooperation than an equalitarian society, where the inferior members would be apt to be bungling and unduly conceited, while the more gifted ones would lack the incentives for greater efforts and for a sustained interest in responsible work.

(III) Probably the most obvious argument for the ideal of equality is based upon the postulates of *justice*. In fact, since Plato and Aristotle, justice and equality, if not actually identified, have always been thought to be intimately related.¹⁸ Yet, according to the traditional conception, justice demands only that an equal share be assigned to equals, and not equal to unequals.¹⁹ So this kind of justice can never justify equal treatment of unequal human beings, once inequality-in-fact has been admitted.

b. *The Argument from the "Moral Chance"
of Inequality*

There is, however, a deeper sense of justice in which it does require equality not only of equals but of unequals as well.

The argument for the demand of universal equality based on this conception which I am going to suggest rests on the following two premises: (1) *undeserved discriminations call for redress*, (2) *all inequalities of birth constitute undeserved discriminations*. I shall conclude that (3) *all inequalities of birth call for redress*. Such redress implies, at least in principle, the cancellation of all inequalities of birth by equalization. In this sense, then, it follows that (4) *equality is a fundamental ethical demand*.

¹⁸ Cf. the recent discussion of this topic by Dorothy M. Emmet, "Justice and Equality", *Philosophy* XIV (1939) 46 ff; Gerhart Husserl (*Ethics* XLVII (1937)) simply declares that "an act is to be just, if it bears the stamp of equality" (274). Cf. also Arnold Brecht, "The Search for Absolutes", *Social Research* VII (1940) 215 ff.

¹⁹ This would also apply to Leonard Nelson's attempt (*Kritik der praktischen Vernunft* 180) to derive the postulate of equality from the moral law. Inasmuch as there is qualitative inequality between persons, unequal treatment seems to him perfectly legitimate—Cf. Arnold Brecht loc. cit., pp. 215 ff.

(1) In the first premise the term "discrimination" means any kind of unequal lot by way of privilege or handicap ; "undeserved" indicates the lack of legitimating support by a moral title such as moral desert ; "redress" stands for any measure which restores the unsettled balance.

The premise that undeserved discriminations call for redress thus implies that only morally deserved inequalities justify unequal lots: without such special justification all persons, whether equal or unequal, ought to have equal shares.

I submit that the first premise thus interpreted contains a truth which is at least as selfevident as any other ethical insight. In order to make this truth fully apparent one might in addition refer to the severe moral disequilibrium which the violation of the demand for redress entails. This disequilibrium is, moreover, apt to rouse in a person with a clearly developed sense of justice and fairness a feeling of outrage. A further confirmation may be found in the sphere of Law. Here the lack of a title for a particular benefit serves, under specified conditions, as the basis of an action for restitution because of "unjust enrichment". A legal institution of this type is, as a rule, not unconnected with ethical truths. In the case under discussion it may well be claimed that the ethical demand for redress of undeserved discriminations forms the ultimate basis for the legal regulation.

(2) It will require much more to establish my second premise to the effect that all inequalities of birth constitute undeserved discriminations. All I can do at this place is to point out certain aspects of the fundamental status of man which may help to make this assertion more evident.

Among our inequalities some are *initial* inequalities or inequalities of birth. Others arise only during the course of our lives. It is next to impossible to determine how many of the second inequalities are morally deserved. Most of them are certainly on a level very different from that of the inequalities of birth. But even they are based on the conditions, equal or unequal, implied by our birth. The first step toward determining the ethical significance of our inequalities is therefore to appraise the inequalities of birth.

There is a sense in which none of our unequal characteristics, whether actual or potential, is part and parcel of our innermost selves. We find ourselves "born into" very different stations of life, into extremely varied social environments and groups, into most diverse families, nations, states, denominations, classes, majorities or minorities. Moreover, we awake to the consciousness of our selfhood to discover ourselves already irrevocably assigned to the "rôles" of being male or female, white or colored, native or foreign, strong or weak in physical and mental constitution. We are in these respects from the very beginning equipped with very unequal "gifts", both in body and mind. We thus distinguish clearly between ourselves, who are born into such different stations, and the physical and mental equipment into which we are born, which is, as it were, allotted to us.

But it is not only this natal endowment which we thus distinguish from ourselves, who are "born into" it. The inequality of these endowments is likewise an initial fate into which we find ourselves born. Inequality, too, is therefore something extraneous to our innermost selves.

It is this fundamental human plight of being born into our initial stations and their inequalities which is sometimes rather vaguely referred to by the phrases "chance of birth" or "accident of birth". To be sure, these expressions are nowadays used very loosely and thoughtlessly. Generally they are applied only to the more peripheral circumstances of a man's life.²⁰ I maintain that these phrases are the expression of a fundamental aspect of human existence.

For it is chance in a specific and very definite sense which is ultimately responsible for all we initially are and have. Prior to any conscious action or choice of our own we find ourselves already born into our stations and into their inequalities. They are, as it were, thrown upon us, certainly without any consciousness of our having deserved them. Nor is there any objective evidence that they depend upon any moral desert. This lack of a moral title and primarily of any moral desert for our initial

²⁰ Thus James Bryce (*Modern Democracies* (New York, 1929) I 62) uses this phrase only with regard to the "external conditions of well-being".

shares I am going to call here "moral chance". I maintain that in this moral sense it is merely chance which discriminates between us, which grants or denies one individual a set of brilliant "gifts", mental and physical health and vigor, or the heritage of a great family tradition,²¹ and which makes him a member of this or that vaunted community and withholds this privilege from other "less fortunate" fellow beings.

Ethics offers no brief for any such discriminations of moral chance. It allows for no inherited desert. In its court everyone is given an equal start. And for each one the initial score is zero. This equality of our initial score is the basic ethical equality among all human beings. It follows that all initial inequalities in the form of privileges and handicaps are ethically unwarranted.

The fact that all our inequalities of birth are thus without a moral title establishes at the same time a secondary ethical equality: In the fate of being blindly subject to the unequal chances of our unequal births we are all equals.

The ethical equality of our initial scores and the ensuing equality in the moral chance of our factual inequality do not, however, imply that our innermost selves are completely equal. To be sure, there may be good reasons for believing in such an ultimate equality. But even if these reasons should be inconclusive and if, consequently, our innermost selves should be unequal, we should remain equal in the fate of being equally born to the same ethical start and to the position of equally lacking a moral title to whatever inequalities of birth there may be among us. The only essential similarity between these selves refers to the fact that they are all *human* selves, equipped with the fundamental characteristics of human nature, and primarily with reflective selfconsciousness.²²

²¹ With regard to the prerogatives of nobility, this point was made very impressively in the first of Pascal's "Trois discours sur la condition des grands", as recorded by Arnauld (*Oeuvres complètes*, ed. Brunschvicg, IX, 365 ff.). He even pointed out that, because of this chance of birth, we should consider ourselves equals "in a true and ultimate sense".

²² In a correspondence about this point Dr. Arnold Brecht of the New School for Social Research raised the objection that the argument above proved too much. For it would not only apply to human beings but would have to be extended to animals as well, from the anthropoids down to the smallest microbes, since ostensibly they also are what they are without any previous desert, merit, or demerit. This objection overlooks the question of what it involves "to be born into" any kind of existential station.

Such reflections are by no means unfamiliar to the man in the street. Whenever he tries to do full justice to others, he finds, for instance, that "After all, it is not the poor devil's fault that he 'happens to be' illegitimate. You cannot hold him responsible for having a poor constitution. You cannot blame him for having been born stupid." Or, in evaluating the merits of a man, the average person is likely to argue that "After all, he just 'happened to have' a fine 'start', a marvelous physique and a brilliant mind, and you cannot credit him for that personally. But look at what he made of that start." It seems, then, that in daily life we distinguish very well between the chance equipment of a person and his personal merits or demerits, and that we discount the former when we try to judge him fairly.

Obviously there must be a being of its own which, in such a case, would have to be *born into* whatever station or plight. Unless one should plead for some kind of speculative pansychism, it does not make any sense to say that something is born into being, for instance, a particular plant or stone.

Now this situation may be somewhat different in the case of higher animals. To be sure, it seems highly improbable that they are capable of any behavior involving ethical merit or demerit. And that in itself would make the correlative term "moral chance" inapplicable. I should, however, not hesitate to admit that, if the selves of animals were really as human as children's stories and animal fables would have it, our attitude toward them would have to change fundamentally. Meanwhile it seems noteworthy to me that even our actual behavior toward them does vary, apparently according to the closeness of their mental structure to our own. We do not treat anthropoids, horses, dogs, and cats, whether domestic or not, on the same level with insects or even with cattle. Does perhaps the greater similarity of their expressions and of their other behavior to our own suggest to us subconsciously that, after all, we might as well have been in their places?

It appears, then, that as far as the moral chance of birth is concerned, we have to consider the basic difference between human and animal selves (if any). Human selves simply would not fit into the mould of an animal and vice versa. By this I do not mean to say that a human self requires exactly the kind of equipment which we empirically find in men, *i.e.*, the actual human body and its peculiar mental outfit, with its special type of sensation, perception, memory, speech, and the like. But this human self must be one with at least the possibility of reflective consciousness of his selfhood. Under such circumstances, then, it seems reasonable that we do not grant animals an equal status with ourselves, even if they should have selves who are born into their existential station by the mere "chance of birth".

It may be added that basically the same consideration would apply to the problem of our attitude toward imbeciles and lunatics, only in an increased degree. What is it that forbids us to dispose of these "unfortunate" fellow beings in the way in which totalitarian eugenics is reported to do? Is it not again the consciousness that it is through no merit of our own that we have been spared their fate and that it is through no fault of theirs that they do not share our better lot?

(3) The next step follows directly from the preceding premises: If it is mere chance in the moral sense here defined which underlies our initial factual inequalities, these are in an ultimate sense void of moral justification. Our unequal shares constitute an "unjust enrichment" (or an unjustified deprivation), *i.e.*, undeserved discriminations. "Corrective justice" demands redress for inequalities which are supported by nothing but the "chance of birth" in accordance with the equality of our initial ethical score of zero.

(4) But does such redress necessarily call for the establishment of absolute equality? Certainly not in *all* cases of unjustified discrimination. Such discrimination may require nothing beyond the restoration of the status quo. Or it may demand some kind of an amend for irreparable damage.

Furthermore, it should be clear that inequalities which do not represent initial advantages or disadvantages but merely varieties on an equal level are in no way subject to cancellation. The postulate of equality does not require dull uniformity. Only inequalities that involve privileges or handicaps call for anything like redress.

In the case of most of our natal inequalities, however, the principle of redress does require, if not a total redistribution, at least some kind of equalization of fates, much according to the same principles which in the case of a public calamity demand an equalization and compensation for abnormal individual losses. High inheritance taxes, far-reaching social-security measures, are some of the more obvious means to promote such equalization. And, even more important, the postulate of equality calls for the greatest possible prevention of initial inequalities by equal social and medical hygiene and protection. Moreover, in as far as the science of genetics provides us with reliable knowledge about human heredity, it suggests a eugenic policy which prevents the birth of hopelessly handicapped individuals.

On the other hand, the demand for equality does not require that, regardless of the consequences, every privilege or handicap be discarded and equality be made retroactive, as fanatical levellers would have it. That this is not the case can best be seen by considering that equalization constitutes by no means an unambiguous program. It can be achieved by a variety of procedures none of which, judged alone by the standards of the desired equality,

would seem preferable. Thus one way of establishing equality would be by achieving *equality in kind*, another by securing only *equivalent* shares. Equality in kind may in turn be realized by three different methods :

1. by the transfer of an excessive share from the overprivileged to the underprivileged party. Such a procedure would obviously be feasible only in the case of material goods ; it would be out of the question in the case of mental advantages.
2. by an increase in the assets of the underprivileged party up to the level of the overprivileged without depriving the latter of his present benefits. In the case of the mentally handicapped this would amount to inflicting upon him an extra dose of training, obviously with a very dubious chance of success and in all probability even against his definite desire.
3. by the destruction of the excessive share of the overprivileged party in the way suggested by the proverbial Solomonic justice. An equalization of mental differences would in this case have to consist in withholding from the overprivileged party a normal education or in other appropriate measures of stultification, certainly again of very problematical effectiveness, quite apart from more serious objections.

Mechanical equalization is, then, in a good many cases a physical impossibility. There remains, however, even in such cases the possibility of achieving at least an equivalence of benefits. And such an equalization of benefits in goods of equal significance may again be obtained by two different procedures :

1. by giving the underprivileged party benefits which would make his status equivalent to that of the overprivileged. It is by no means certain that this is always possible. In what sense physical enjoyments could, for instance, make up for inaccessible intellectual benefits is quite a problem, not to say a moot question.
2. by taking equivalent benefits away from the overprivileged. Even here we should have to consider that certain mental advantages simply cannot be taken away from its owner without destroying his entire personality. And how are we to determine such equivalences?

Which one of these five possible methods of equalization are we

to choose, supposing that all or several of them are applicable to the case in question? The principle of equalization or redress in itself cannot help us to decide this. For such a decision we need an additional standard. The one which would recommend itself best appears to be that of the common well-being of all those fellow beings involved in the fate of inequality.

This principle would rule out from the very start any kind of Solomonic justice. For any destruction of values would impoverish the community as a whole and thus reduce the common well-being. The only exception to this rule would be the case where the existence of inequalities promotes a spirit of caste snobbery and segregation destructive of the solidarity of the fellows-in-fate. In such situations the destruction of individuality may be preferable to the preservation of inequality, however valuable for other reasons. Also it should be considered that the destruction of native advantages may easily constitute a cruel injustice against the better equipped individual. To keep him down and prevent him from developing his special gifts would penalize him for a fate which was, after all, his too through no fault of his own. To choose this destructive way of equalization would simply mean to give way to the forces of envy and blind resentment.

For the same reason it will be, as a rule, undesirable to choose the method of equalization by transfer, unless the implied deprivation of the overprivileged works at the same time for the general, including his own, good. What seems most important is that the underprivileged person receive an improvement of his lot. In this it should however be carefully considered whether such a compensation is likely to work out for his own good, It is very doubtful whether this can be achieved by an equalization in kind, considering how different the meaning of equal goods may be for unequal persons. All that can safely be stated is that the underprivileged should be granted such equivalents for his handicaps as will provide him with the means for that type of well-being for which he is best fitted. It would by no means be a suitable compensation to give the mentally handicapped more means for physical pleasures if these would only endanger his well-being and would be used in a way injurious to the community. All that he can expect is,

for instance, more facilities for his physical development, for healthful recreation and enjoyment, and similar compensations for the handicap of not being able to share the more exacting enjoyments accessible to the mentally privileged. It would be definitely against the common interest to waste a useless amount of goods and education on the handicapped. It may well be that such limitations make it permanently impossible for us ever to achieve a full and satisfactory compensation. Regrettable though this may be, it does not constitute a good reason for taking to destructive equalization against the overprivileged party. It is after all in the equal interest of all that his gifts be not wasted. Equality thus does, for instance, not stand in the way of a qualitative democracy which would offer an individualizing education adjusted to the individual needs, inclinations, and capacities, of its members. If such treatment should involve special privileges for the superior members of society, it only demands that they be accepted in the spirit of favors which entail special obligations.

It appears, then, that equal consideration of their cases,²³ regardless of the chance inequalities of birth, is the only absolutely equal claim shared by all. This consideration implies that, with respect to the fundamental boons of human existence, everyone should have equal opportunities; or, if unable to utilize them, access to equivalent resources of a life worth living, *i.e.*, to those sources of "happiness" which are suited to his individual nature. In considering individual cases we should, therefore, not disregard the relevant inequalities of the persons involved. What we *should* disregard is that the person we have to deal with is either friend Tom or Mr. Jones, whose nose we happen to dislike.

It is this claim to equal respect of men's ultimate selfhood, based on their equal existential plight, which seems to me to be at the root of what we mean by the phrase "equal human dignity". Certainly, with regard to their actual achievements and conditions in life, men seem to have very different degrees of dignity and may, for that reason, be worthy of more or less respect. Still, no one who is born into this world can claim any special birthright over

²³ For the conception of equal consideration *cf.* Hastings Rashdall, *The Theory of Good and Evil* I 224 ff.

anyone else; for in a moral sense all start equally, without initial merit or demerit. To this extent no one has ever more and ever less than an equal claim to impartial consideration of his case in all of its relevant aspects. This basic claim to equal respect of his selfhood gives man a certain ultimate dignity. Such dignity does by no means grant to man anything like absolute perfection worthy of veneration or worship, as an exaggerated humanism *à la* Comte seems to imply. Dignity in the sense here upheld means nothing but a fundamental claim implied by human nature. In this sense, but only in this sense, is it true that "each one is to count for one and no one for more than one", as Bentham postulated so justly but, in view of his predominant interest in sheer maximization of happiness, so inconsistently.

How far can the use of a category like moral chance be reconciled with a religious interpretation of human existence? Is it not a flat denial of "Divine Providence" to speak about the human situation as a matter of chance?

Such an objection would be a serious misunderstanding of what I have in mind. "Moral chance" denies divine providence as little as it denies strict mechanistic determination. In fact, the Christian interpretation of human existence supplies most valuable confirmation of the considerations suggested above. Thus the Christian idea of Grace implicitly acknowledges the ethical unaccountability of the inequalities of our initial fates.²⁴ Because of this unaccountability it stresses the special obligations implied in our privileges, which are not, and even cannot be, morally deserved.²⁵ It is only

²⁴ See *e.g.*, Jeremy Taylor: "If a man be exalted by reason of any excellence in his soul, he may please to remember that all souls are equal; and their differing operations are because their instrument is in better tune, their body is more healthful, or better tempered: which is no more praise than it is that he was born in Italy." (*The Rules and Exercises of Holy Living*. Chapter II Section IV: On Humility #6). Also Hastings Rashdall: "In most men at least this feeling (of humility) will be strengthened by the recognition that the differences between themselves and their fellows are largely due . . . not to any efforts which begin exclusively with themselves. To use theological language, the good man will ascribe his goodness to 'grace', recognizing that his good qualities are due in the first instance to parentage, influence, example, social tradition, education, community, Church and ultimately, if he is a religious man, to God." (*The Theory of Good and Evil* (2nd ed., Oxford 1924) I 206.)

²⁵ Cf. Jeremy Taylor: "Whatsoever other difference there is between thee and thy neighbour . . . if it be good, thou hast received it from God; and then thou art more obliged to pay duty and tribute, use and principal to him: and it were a strange folly for a man to be proud of being more in debt than another." (*ibid.* #8)

the speculation about a migration of the souls, as represented in ancient mysticism or in Indian thought, which, by explaining our earthly fates from merit or guilt incurred in a previous existence, flatly contradicts the idea of such moral chance of birth. But not only is the hypothesis of preexistence gratuitous. It is certainly not without significance that Plato, in order to free the Deity of any suspicion of injustice, felt the need of justifying the inequalities of our births and fates by a prenatal choice of our lots, a choice in which, as he is anxious to show, the odds were even for every participant.²⁶

c. *Related Arguments*

It may be worth pointing out that it is not only justice in the form of the demand for the redress of undeserved discriminations which supports the equalitarian demand. It is, for instance, but the minimum of *charity* to fulfil the demands of justice. Already justice expects that we should give equal consideration to all those who are initially unequal. How much more does charity enjoin that we should not let others be at the undeserved disadvantage to which the "accident of birth" exposes them.

Moreover, on quite a different level, it is precisely Nietzsche's ideal of *noble-mindedness* which, if thought through to its full consequences, would lead to the demand of equal treatment as a duty of the privileged, if not as a right of the underprivileged. Nietzsche himself seems to be dangerously close to such an unaristocratic conclusion when he gives expression to his love for "the one who is ashamed when the die has fallen in his favor and asks: Have I, then, been cheating?"²⁷ Certainly it would be unworthy of anybody who shares this lofty attitude to accept unearned privileges over his fellow-beings such as the ones granted by the "accident of birth".

And even from the recent cult of heroic selfreliance, which would like to owe everything to its own efforts, it is not a far cry to the acknowledgment of the demand for an equal start.

But these alternative arguments are hardly conclusive to anyone who does not accept the ideals of charity, or noble-mindedness, or

²⁶ *Republic*, Book X, 614B ff. (Myth of Er); also *Timaeus* 41D.

²⁷ *Thus spake Zarathustra*. Preface, 4; Old and New Tables, 4.

selfreliance, as binding. It is largely for this reason that the argument based on the demands of justice seems to me to carry much more weight. Besides, all other arguments have to use the additional premise of the "moral chance" of our inequalities of birth.

d. *Conclusion*

To restate, then the central idea of my principal vindication of human equality: The postulate of equality, as far as it is valid, has its ultimate basis in the demands of a fundamental human justice which requires equal consideration even of unequals who equally owe their factual inequalities to the "chance of birth". It is thus not equality of factual being but equality of ethical status, as indicated by the equal initial ethical score of each individual, which constitutes the foundation for the postulate of human equality. The paradox of the ideal of equality in the face of all the factual inequalities among men disappears once one discovers its basis in the need of redress for the unwarranted privileges and handicaps of our unequal stations at birth.

The most notable thing about this vindication of the idea of human equality seems to me that so little of it has entered into philosophical discussion. I am certainly well aware that this vindication raises issues which exceed by far the scope of this paper. All I could hope to do was to point out a dimension of facts and problems from which new and deeper insights into the ultimate reasons for the postulate of human equality may be obtained. Such insight may help not only to solve a theoretical problem but also to strengthen those who, while still believing in the ideal of equality, seem to have lost its clear meaning and its reassuring support. Unless the ideal of human equality in its redefined sense can be justified from such a deeper conception of our existence, there seems to me little hope of defending it successfully against the present onslaught.

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