

On the Relation Between Moral and Distributive Equality

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Philosophers dream of finding arguments with simple, clear, and universally accepted premises and striking, counterintuitive, and radical conclusions. In this chapter, I shall discuss two, closely related, arguments that aim to do just that. Each one relies on our fundamental commitment to moral equality, and claims to derive comprehensively cosmopolitan conclusions regarding the scope and grounds of distributive justice from that commitment. The first argument contends that, because our place of birth is a product of chance rather than choice, we ought to reject any argument that purports to narrow the scope and grounds of distributive equality to a group smaller than all of humanity. The second argument holds that our commitment to the idea of moral equality establishes a strong presumption in favor of a globally egalitarian baseline, from which departures can only be justified by some relevant exercise of agency or choice. I shall argue that both fail. While I will not establish the positive conclusion that our fundamental commitment to moral equality, properly understood, is *necessarily* neutral with respect to the scope or grounds of distributive justice, I hope to make at least some progress towards that conclusion. There may, in other words, be other ways of construing moral equality that do not either assume the distributive egalitarianism they are aiming to justify or need to add further, much more controversial, premises in order to produce it. But if there are such arguments, we

have yet to see them. And if I am right about the best way to characterize our commitment to moral equality, then it is unlikely that there are any.

3.1. THE FIRST ARGUMENT: THE MORAL ARBITRARINESS OF BIRTH

The first argument starts from a widely accepted premise among liberal egalitarians, namely that we ought to neutralize (or at least mitigate) inequalities in socioeconomic prospects that are the result of unchosen features of our circumstances. According to this view, it is unfair if, for example, some children in the US are born with lower prospects than other US children solely because of, say, their gender, or race, or the social class of their parents. How could it be right for some US children, through no fault or choice of their own, to do systematically and predictably worse than others over the course of their lives? Rectifying this morally arbitrary source of unfairness in the distribution of social benefits and burdens is seen as one of the central demands of any plausible theory of socioeconomic justice.

From this starting point, the argument goes on to assert that the endorsement of this widely shared premise of left-liberal egalitarianism entails a commitment to *global* egalitarianism, namely the thesis that the egalitarian demand to neutralize or mitigate unchosen inequalities in prospects extends across all persons. It is, after all, to no one's credit, or choice, or effort, that they were born in the United States rather than in Mali, and yet country of birth has a much larger effect on prospects, on average, than either class of origin, gender, or race. So if we have a pro tanto reason to rectify differences in prospects at a *domestic* level solely due to factors such as social class of origin, gender, or race—precisely because they are unchosen aspects of

our circumstances—then we must have the very same reasons to rectify differences in prospects due to country of birth at a *global* level. Call this the “argument from the moral arbitrariness of birth.” According to Simon Caney, “this reasoning is, I believe, either explicitly or implicitly present in almost all defenses of cosmopolitanism.”³

The argument is elegant in its simplicity. From a few widely shared premises a radical and far-reaching conclusion is derived. Indeed, it seems to sweep away, in a single blow, not only the idea that egalitarianism might have narrower than global scope but also the thought that the degree, extent, or depth of social interaction is at all relevant in the basic formulation and justification of principles of justice. This last implication is worth emphasizing since it touches on one of the most basic questions regarding egalitarian justice, namely the question whether such obligations are only triggered in the presence of relevant forms of social interaction.⁴ Does egalitarian justice generate demands only among those who, for example, wield direct and comprehensive coercive political power over one another? Or, on the contrary, does egalitarian justice hold among persons regardless of whether they are engaged in any kind of social interaction? Does the demand for equality apply to persons *as such* or only to persons *who stand in some social relationship*?⁵ (I shall call views that defend the dependence of egalitarian justice on facts about social interaction *relational*⁶ and those that deny this dependence, *non-relational*.) If the argument from the arbitrariness of birth goes through, then that would be a direct route from left-liberalism to the conclusion that egalitarian obligations apply to persons as such, and hence that non-relationism is true (if left-liberalism is true). It is, after all, just as much an unchosen aspect of our circumstances to be born in this or that country, or, indeed, this or that *scheme of social interaction*—whether characterized in terms of coercion, mutual exchange, or any other type of social interaction—as it is to be born

in this or that *family*. Simon Caney draws just this implication of the argument from the moral arbitrariness of birth:

If we accept [the argument from the moral arbitrariness of birth] (and it is a powerful line of reasoning), it causes problems for a [relational] perspective. Can someone not equally persuasively argue that ‘one’s life prospects of one’s access to opportunities’ should not depend on ‘morally arbitrary’ considerations such as which [relational] scheme one is born into? . . . [I]f it is arbitrary for some to face worse options because they come from a particular nation, is it not equally arbitrary to penalize someone for coming from a particular institutional scheme? The logic of the intuition underpinning cosmopolitanism thus subverts a [relational] perspective.⁷

So powerful is the argument usually taken to be that the burden of proof has been thought to lie squarely on the side of any left-liberal who wants to defend a relational and/or non-globalist conception of distributive justice.⁸

The most natural reading of the argument from the moral arbitrariness of birth⁹ can be reproduced using this schema (which I shall call *Comparative*):

- (1) We ought to neutralize (or mitigate) differences in prospects due to unchosen circumstances.
- (2) Country of birth is an unchosen aspect of our circumstances.
- (3) Therefore, we ought to neutralize differences in prospects that are due to country of birth.
- (4) Therefore, we ought to aim for global equality in prospects.

A few remarks regarding each of the premises are in order. (1) is neutral with respect to what counts as both a “prospect” and an “unchosen circumstance.” A “prospect” is

construed here as a term of art standing in for any candidate currency of justice. The unequal prospects which we should aim to neutralize might, that is, be specified in terms of resources, welfare, capabilities, opportunities, or some combination of the four. It makes no difference to the argument. Similarly, what counts as an “unchosen circumstance” is, of course, a matter of dispute among left-liberals. The important point for the argument is that on any (plausible) interpretation of that distinction, (2) will always come out true: country of birth would not count, on any (plausible) view, as something which we have chosen or merit in any relevant sense. This is good news for *Comparative*, since it means it is compatible with the full range of left-liberal theories of distributive justice, and hence quite general.

I have argued¹⁰ that the problem with this argument is that the conclusion at (4) follows from the premises only if we clear up an ambiguity in (1), but doing so renders the argument trivial. (1) says that we ought to neutralize *differences in prospects* due to unchosen circumstances. “Differences in prospects,” however, just means *inequalities in prospects*. Put another way *Comparative* says that departures from equality are pro tanto (or at the very least prima facie) unjustified if they are the result of people’s unchosen circumstances. But this reformulation makes it very clear that equality is here *assumed* as a baseline rather than *derived* as a conclusion.¹¹ The argument therefore only goes through if, as I said, we first resolve an ambiguity regarding the *scope* of equality. Are the relevant “differences” in (1) global or narrower than global? To make the argument valid, we must supply the missing modifier “global” before “differences”; otherwise, it straightforwardly fails. (1), that is, should read, “We ought to neutralize [global] differences in prospects due to unchosen circumstances” which would make (3), “Therefore, we ought to neutralize

[global] differences in prospects that are due to country of birth.” But if we do that, the argument becomes trivial. We might as well write:

- (a) We ought to neutralize global differences in prospects.
- (b) Therefore, we ought to aim for global equality.

Are we moving too quickly? What if we modify “differences” in (1) with “domestic” and “differences” in (3) with “global”? The argument would no longer be trivial; indeed, it seems to be exactly what is required:

- (1) We ought to neutralize [domestic] differences in prospects due to unchosen circumstances.
- (2) Country of birth is due to unchosen circumstances.
- (3) Therefore, we ought to neutralize [global] differences in prospects that are due to country of birth.
- (4) Therefore, we ought to aim for global equality in prospects.

The problem with this patch is that (3) (and therefore (4)), does not follow. To see why, consider what would be the case if the argument were valid. If the desired transformation of “domestic differences” in (1) to “global differences” in (3) were successful then one could not validly replace the “global” in (3) with “domestic,” since (3) would be compelled by the argument. But consider just such a replacement:

- (1) We ought to neutralize [domestic] differences in prospects due to unchosen circumstances.
- (2) Country of birth is due to unchosen circumstances.
- (3) Therefore, we ought to neutralize [domestic] differences in prospects that are due to country of birth.
- (4) Therefore, we ought to aim for [domestic] equality in prospects.

This argument strikes me as valid. The key here is whether we can construe (3'') in a plausible way. But there seems to be no problem doing so. (3'') says that we should add country of origin to the list of unchosen circumstances that do not justify unequal treatment at a domestic level (alongside, for example, race, class, gender). It says, for example, that we pro tanto ought not, in arranging our domestic institutions, to discriminate against people solely because of their country of origin; country of origin is a factor “arbitrary from a moral point of view” and therefore cannot justify differential treatment at the bar of justice.¹² The validity of this argument shows conclusively that (2) does nothing to transform “domestic” into “global” as was hoped.

The failure of *Comparative* has little to do with the underlying pattern, namely equality. Indeed, because the distinction between factors due to unchosen circumstances and those due to choice or merit does nothing to establish any one particular pattern, *Comparative* can be generalized (and so, therefore, can its failure).

Take *General*:

(5) We ought to neutralize departures from [domestic/global] baseline pattern y that are due to unchosen circumstances.

(6) Country of birth is due to unchosen circumstances.

(7) Therefore, we ought to neutralize departures from [domestic/global] baseline pattern y that are due to country of birth.

(8) Therefore, we ought to aim for a [domestic/global] baseline pattern y .

General can take any value for y . The baseline pattern y could, for example, be specified by prioritarian, sufficientarian, or utilitarian standards. In all these cases, the argument would still be unsuccessful.

3.2. THE SECOND ARGUMENT: MORAL EQUALITY AND THE EGALITARIAN BASELINE

A promising line of response to this objection is to try to generate a presumption in favor of a globally egalitarian baseline strong enough to rebut all relational views, from which the rest of the argument from the arbitrariness of birth would follow. One way to do so would be to point to our commitment to the *moral* equality of all persons (or all human beings¹³), and to argue that this commitment entails a strong presumption in favor of a globally egalitarian *distributive* standard. (In what follows, I will refer to this second argument as the “argument from moral equality.”) In responding to my critique of the argument from the moral arbitrariness of birth, Kok-Chor Tan, for example, writes:

As an account of distributive equality, what luck egalitarianism seeks to do is to explicate why equal distribution is the baseline from which deviations have to be justified. It takes the equal moral agency to be the basic starting point and interprets this ideal to mean that, as equal moral agents, all are entitled to equal life prospects unless choice (but not circumstance) determines otherwise . . . [L]uck egalitarianism [therefore] comes to the global debate already armed with an egalitarian default.¹⁴

One is then urged to look to chapter 4 of Tan’s book for the argument from moral equality to distributive equality. And, in fact, there we find again the thought that “the moral difference between luck and choice, along with the presumption of the moral equality of persons, suggests to luck egalitarians a moral default of equality in distribution.”¹⁵ But, strikingly, Tan goes on to write:

In explicating what I take to be the implicit starting point of luck egalitarianism, that of equal moral agency and how the ideal is interpreted to support equal distribution as a default independent of luck but subject to choice, I have not provided any argument for it. I take this ideal of equal moral agency and its egalitarian entailment to be a basic and starting *intuition* common to most accounts of luck egalitarianism.¹⁶

It is one thing to say that one will not argue for the basic commitment to moral equality, since, we may assume, that initial starting point is indeed widely shared (though understood, as we will see in a moment, in very different ways). But it is quite another not to provide any argument for the entailment from moral equality to the strong presumption in favor of global distributive equality, which is much more controversial (and, indeed, precisely what is in question). Lacking such an argument, how can we support the crucial premise that “we ought to neutralize [global] inequalities in prospects due to unchosen circumstances”? How does the mere appeal to “equal moral agency” generate a strong presumption in favor of global distributive equality?

In a response to the argument I have just made, Pablo Gilibert adopts the same strategy as Tan. Echoing Pogge¹⁷, he writes: “The cosmopolitan idea of moral equality . . . says that all individual persons are ultimate units of equal moral respect and concern for everyone.” Gilibert goes on to say:

Of course . . . we cannot simply assume that moral equality translates into distributive equality. An argument is needed for that. But such an argument will be severely constrained by the idea of moral equality. This constraint proceeds by demanding from us that we produce a morally reasonable

understanding of what persons, as ultimate units of equal moral concern and respect, are owed when it comes to the design of distributive schemes.¹⁸

A guiding conception of moral equality should, that is, constrain the kinds of admissible arguments in favor of particular principles of distributive justice. I agree. But what conception of moral equality does Gilabert use to argue that any admissible conception of distributive justice must secure a default presumption in favor of global distributive equality?¹⁹ As I understand the argument, Gilabert interprets the idea of moral equality (sometimes glossed as the idea of equal moral worth) in terms of a basic demand for *universal fairness* in the distribution of benefits and burdens. He writes:

The (reasonable) thought is that it is unfair for some to face harsher life-prospects than others through no choice or fault of their own. It is wrong for some to see themselves as entitled to better initial life-prospects than others. What is the scope of this concern about fairness? Well, if we are committed to [the idea of moral equality], then we must assume that it is in principle universal. Isn't the wellbeing of all persons morally important, and equally so?²⁰

Stated in this way, the argument moves too quickly and elliptically. There are two problems. First, it is important to clarify an important ambiguity with respect to the claim that “it is wrong for some to see themselves as *entitled* to better initial life-prospects than others.” For the claim to be uncontroversially true, we must construe “entitled” to mean “morally deserve.” But if we read “entitled” here as meaning *morally deserve* to have greater initial prospects than others—such that it would be wrong if such people were *not* granted greater prospects as a kind of reward for moral merit—then the relational theorist should reject that reading as a false characterization

of their view. No relational theorist that I know of claims (or implies) that, say, Britons *morally deserve* more than people from other countries. Rather, the claim is that British residents and citizens have special obligations to one another in virtue of the social relations in which they stand—special obligations which require them to create and maintain relations of distributive equality within Britain but not across the world. A better reading would therefore construe “entitled” as meaning it is *morally permissible* for some to have better initial life prospects than others, so the claim should read “it is wrong for some to see themselves as possessing a *moral permission* to do better over an entire life than others.” This is a claim that, absent further qualification, the relational theorist of course rejects: absent further information (such as a colonial history, or other special circumstances of international interaction), it is permissible for some countries to “do better” than others, but this is only because there is no non-relational moral obligation to maintain global patterns of equality (not because they “morally deserve” to do better). But if we construe the claim in this way, its intuitive force subsides: indeed it is equivalent in meaning to the rejection of a presumption in favor of global distributive equality, which is precisely what is at issue.

Second, the argument seems to rest on something like the following principle (call it *Extension*): If a moral judgment (e.g. of fairness) is made which involves weighing the comparative claims to welfare or well-being (or, more broadly, to prospects) of only a proper subset of all human beings, then consistency with the principle of moral equality requires one to make the same judgment with respect to all human beings. But if this is the principle appealed to, then it would, at a stroke, eliminate the possibility of nonderivative special obligations *tout court*.²¹ Comparing the well-being of my two children, I conclude that fairness requires me to give them

roughly equivalent gifts for their respective birthdays. *Extension* would require me to extend this judgment to all of humanity, such that it would be unfair if I didn't recognize a moral obligation to give an equivalent gift to all children across the world.

We might of course accept that there are no nonderivative special obligations. But this conclusion would require further argument; it cannot be assumed as an uncontroversial premise. Furthermore, even if we accept the conclusion that there are no nonderivative special obligations, there is a further problem with *Extension*, namely that it elides the distinction between giving someone's interests special weight because of the morally relevant nature of a relationship, and giving someone's interests special weight because they are intrinsically of greater moral worth. Once this distinction is made, it becomes obvious that relational forms of egalitarianism—which deny that distributive equality applies to human beings as such—need not deny that all persons are of equal moral worth. When the relationist says that members of relational schemes have special obligations of egalitarian justice to one another, this is not because their interests are somehow intrinsically more important or weighty than those of others. Rather, the argument is that the character and nature of the social relations in which individuals stand can give them special moral reasons to reject inequalities that those not sharing in those relations lack.²² Consider a familiar analogy. When I claim that I have a special obligation to save my daughter (rather than a stranger) from drowning, I do not believe this is because my daughter's interests are intrinsically more morally weighty than those of others. I do not, for example, believe that others, unrelated to my daughter, also have an obligation to save her rather than the stranger. My reasons stem from the moral significance of our relationship, rather than from her greater moral worth. And the same thing, of course, can be said with respect to the birthday gifts: the reason I consider only the well-being

of my children when considering how to allocate gifts is because of the special importance of our relationship, not because I believe that my children are of greater moral worth than other children. *Extension* is false, and so the counter-argument collapses.

3.3. THE ARGUMENT FROM MORAL EQUALITY: A SECOND LOOK

One may wonder whether more sustained reflection on the idea of moral equality might reveal a way of deriving the desired commitment to global distributive equality. In this section, I shall argue that it does not.

The idea of moral equality is grounded in the idea that all human beings possess equal moral worth or dignity or authority. This is usually taken to include the further claim that we must treat the claims, circumstances, attitudes, and well-being of all (and only) human beings as having equal, general, and ultimate standing in our deliberations about what to do. The idea of *moral* equality is much more demanding than the idea of *formal* equality. Formal equality merely requires us to be consistent. It tells us that, if we treat people differently, we must have some reason to treat them differently; otherwise, we ought to treat them the same. Moral equality requires much more, that is, than merely owing someone *a* justification for our actions. Saying to your slave, “you are my slave because I bought you and because you have lost the war (or because you are of the wrong race)” satisfies formal equality, but not moral. Satisfying the idea of moral equality sets constraints on the kinds of reasons that can be appealed to in the justification of our actions. How demanding are these constraints, and what is their nature?

At the heart of our commitment to moral equality is the idea that we are owed respect *merely as human beings*, as individuals, rather than as occupying a certain role, or displaying a certain excellence, or exhibiting a range of valuable properties, such as beauty, or charisma, or grace.²³ It is in this sense that we possess *equal* worth; if we fixed only on our particular properties and excellences and merits, our worth would be *unequal*. In a much-cited essay, Gregory Vlastos writes:

To be sincere, reliable, fair, kind, tolerant, unintrusive, modest in my relations with my fellows is not due them because they have made brilliant or even passing moral grades, but simply because they happen to be fellow members of the moral community. It is not necessary to add ‘members in good standing’. The moral community is not a club from which members may be dropped for delinquency. Our morality does not provide for moral outcasts or half-castes. It does provide for punishment. But this takes place within the moral community and under its rules . . . Here, then, as in the single-status political community, we acknowledge personal rights which are not proportioned to merit and could not be justified by merit [Vlastos is here referring to human rights]. Their only justification could be the value which persons have simply because they are persons: their ‘intrinsic value as individual human beings’, as Frankena calls it; the ‘infinite value’ or the ‘sacredness’ of their individuality, as others have called it. I shall speak of it as ‘individual human worth’; or ‘human worth’, for short.²⁴

Assuming for the moment that such an attitude of respect is required of us, what are its grounds? Put another way: In virtue of what properties do we have equal worth or dignity or authority, given the myriad particular ways in which we differ from one another? The question is a notoriously difficult one to answer. The Christian says that

we have equal dignity and respect in virtue of having a soul—a will and capacity to reason—that stands apart from any particular action or thought. The soul, in turn, has intrinsic and ultimate value because it is made in the image of God. The Kantian says that we have dignity and respect in virtue of our equal freedom as rational agents, a freedom we have independently of any particular action we choose or particular judgment we make. Our rational freedom has intrinsic and ultimate value, in turn, because it is the condition for all valuing. The trouble with both views is that they seem to require a “two-world” metaphysics that is at odds with our modern-day, secular, scientific world view. If we have such a soul or rational freedom—a soul or freedom that is independent of any of its particular manifestations in the empirical world—where exactly do we locate it? If it does not belong to the natural world, then why are we warranted in believing we possess it? It may seem tempting to abandon the metaphysical commitment, but maintain the moral one. But, if we do so, then we are left with the full panoply of human variation to contend with, and it becomes obscure why we are justified in treating people as if they had *equal* worth or dignity or authority, or as if they had an *equal* capacity to set ends and pursue them. What morally relevant properties do all human beings possess in *equal measure*? If there are no such properties (and it is difficult to find any that are relevant in the right way²⁵), then why shouldn't our regard for persons *vary* with respect to the moral merit of the particular properties they bear?

But no matter. In the following, I will simply assume that there is some justification of our basic commitment to moral equality. For our purposes, what matters is that the attitude of respect that reflects our basic commitment is grounded (however it is grounded) in considerations that abstract both from the moral merit of our actions or character and from all of our non-moral, particular circumstances and

properties (including how rational, prudent, or emotionally attuned we might or might not be). This has important implications, as I now seek to show, for how and whether a commitment to distributive equality follows from moral equality.

The key point is that, even though respecting people requires treating them as *bare persons* rather than as *bearers of this or that particular property or set of properties*, this doesn't imply that we can't praise them or reward them or punish them. Respecting persons entails only that *when* we treat people unequally—including when we praise them or punish them—we must do so in a way that maintains and recognizes their basic moral standing. So, for example, even if I can't stand to be around you, if you were to suffer a stroke in my presence, and ask me to call an ambulance, I should call rather than let you die. Not to call would be to treat you like an animal, as less than fully human; it would be a fundamental form of disrespect for your humanity, for your person. (Or imagine a similar scenario but where it is a mass murderer that requires your attention.)

The structure of our commitment to moral equality is similar to the structure of the distinction, often drawn, between treating someone as a means and treating them as *mere means*.²⁶ The “mere means” principle is, of course, a key component of Kant's Formula of Humanity, but here I intend to use it in its much more ecumenical and intuitive sense. We will see why this stipulation is important in a moment. Put in our terms, the distinction requires us to separate how we treat someone in their capacity as a person independently of their particular properties, and how we treat them as someone with particular properties that are grounds for (legitimate) discrimination in our attitudes and actions with respect to them. When I peek over at your watch to see the time, I use you, a stranger, as a means. Or when I hire you, but not someone else, for the sole reason that I believe you will make my business grow

at a faster rate, I treat you as a means. But there is surely nothing wrong in this, nothing wrong with giving you preference because of your possession of the special property of *being-good-at-making-my-business-grow*, or in singling you out for the possession of the property *wearing-a-watch-that-I-have-no-reason-to-believe-doesn't-work*. The reason is that, even though I treat you as a means, I do nothing to undermine your humanity (often interpreted as your capacity to set ends and pursue them). I would not, for example, cut off your arm in getting the time, or force you to work night and day at no pay.

The question now becomes: How do we draw the distinction between treating someone in legitimately discriminatory ways and treating someone in a way that violates their basic dignity *qua* person? Answering this question in the right way is essential for our inquiry in this section, since the burden of proof on those who want to argue that our commitment to moral equality *entails* a presumption in favor of distributive equality must show that failing to recognize the presumption amounts to violating people's inherent dignity or worth or standing. But in what sense, exactly, does someone who believes that distributive equality is only a demand of justice among those who stand in some social relation to one another fail to respect the inherent dignity or worth or standing of persons? Why can't a relationist simply say that realizing distributive equality only among those related in a certain way is a legitimate form of discrimination grounded in the special moral relevance of the relation (analogously either to the employer and time-telling cases or to special obligations of family or friendship or contract or promise)?

The key case for the argument from moral equality is this one. Imagine a divided world in which there is no social interaction or relation between an internally egalitarian group A and another internally egalitarian group B, but where the

members of A are at a much higher level of well-being and resources than those of B, where this difference is a product of chance more than choice, and where the members of A know of the existence of B but not vice versa. Let us say further that communication between the two groups is possible, and exchange that would produce an overall equality between the two groups is also possible (and relatively transaction-cost-free). Suppose that the members of A decide not to transfer resources to B. Have the members of A violated the inherent dignity of the members of B by treating them as mere means? It is very important that the question we are asking is not whether we believe there is *some* moral argument (let alone some moral intuition) that A should transfer resources to B. The question at this stage is rather, more narrowly, whether *some appeal to moral equality, for example, by way of the mere means principle* can be used to generate support for the conclusion that A ought to transfer resources to B. I don't see any plausible sense in which it can be argued that the members of B are being treated as mere means in this case, especially if, as I might further add, the members of A would have been willing to transfer resources to B had the members of B been below a humanitarian threshold. If there is such a sense, then we need an argument in favor of it, which we lack at the moment.

It might be thought that a more robust and complete version of a Kantian view—one, for example, that attends to more than just the bare, partial, and intuitive formulation of the Formula of Humanity, or to the other instances of the Categorical Imperative²⁷—might deliver a more robust defense of the argument from moral equality, or, if not a Kantian view, then some other conception of our fundamental equal dignity or worth. But here we must be careful. In thinking through such possible alternatives, we must be attentive to an often overlooked distinction between what I will call a “general” and a “specific” conception of moral equality. “General”

conceptions of moral equality issue in comprehensive first-order normative theories of the moral domain. Providing a general conception of moral equality, on this view, *just means* providing an account of the subject matter of morality, including either its central, first-order principles, or a framework for deriving such first-order principles. Examples include Kant’s overall account of the moral domain (which would include the Formula of Humanity), or Scanlon’s moral contractualism, or Dworkin’s “unified” view from *Justice for Hedgehogs*, or Sidgwick’s utilitarianism, or Parfit’s Triple Theory.²⁸ General conceptions often (though not necessarily) begin with a specification of an “egalitarian plateau”—the commitment to an abstract construal of moral equality, such as “equal respect”—and then treat comprehensive moral or political theories as interpretations of that overarching commitment.²⁹ “Specific” conceptions of moral equality are less ambitious. They do not claim to provide a comprehensive first-order moral system, but to explain why and in what sense we possess equal dignity or worth or standing merely as human beings. Specific conceptions claim only to elucidate a proper subset of first-order normative systems; not surprisingly, they often provide the grounds of a theory of human rights rather than of moral rights in general. And, largely as a result, specific conceptions are best understood in terms of what they characterize as *violations* of fundamental moral equality, and are much more ecumenical in their conclusions.

The reason this distinction is important for our purposes is that we must understand the argument from moral equality to appeal to a *specific* conception. If the argument from moral equality required appeal to a *general* conception, then it would fail in its primary ambition, which is to argue for a radical, surprising conclusion from widely shared and uncontroversial premises. Returning to our earlier discussion, if moral equality entails a presumption in favor of global distributive equality only

because we are treating moral equality as coterminous with a comprehensive first-order moral theory (such as Kant's, or Scanlon's or Sidgwick's or Parfit's), then the conclusion is only as good as the moral theory of which it is a part.³⁰ That is surely a much less interesting result, especially as no arguments are offered either for or against any such comprehensive, and obviously much more controversial, system.

Is there a specific conception of moral equality—beyond a citation of the “mere means” principle—that can help the case for global distributive equality? As I mentioned in the introduction, my aim here is not to show that no such conception is possible or conceivable. My aim is more modest, namely to suggest that according to some of the most plausible candidates for a specific conception, none can be used to underwrite the argument from moral equality. The way I will pursue this point further is to focus our attention on the class of paradigmatic *violations* of basic moral equality. The best specific conception, whatever it is, should be able to provide a theory of basic moral equality that captures how these violations share some aspect or aspects that explain in what sense our equal dignity or worth or standing has been undermined. My conclusion will be that once we isolate the rough contours of the class of such violations, it will become obvious that, *even if we assume that denying a presumption in favor of distributive equality is wrong*, its wrongness is not best captured as a violation of the idea of moral equality.

Paradigmatic violations of the idea of moral equality involve treating human beings as nonhuman or subhuman, as beasts or animals. We might imagine humanity as embodying a community, and each person as having an equal standing to raise and answer claims within that community.³¹ Humanity is here understood as an irrevocable status rather than an achievement; something we have merely in virtue of our inherent dignity or worth or standing (however that is grounded). On this reading,

to treat someone as an outcast from this community, as a non-member who has lost its privileges and immunities, would be to violate the respect we owe them as human beings. This is why Avishai Margalit says that exclusion from the human community amounts to a particularly deep form of *humiliation*, which involves not only an injury to someone's self-respect but also a pervasive loss of control over their vital interests.³² It is important, once again, to emphasize that violating a moral obligation that we have towards someone is not sufficient to violate the demand for respecting their moral equality (recall the distinction between specific and general conceptions of moral equality). We might, for example, break a promise, or lie to them, but still respect them as a person if, for example, we come to recognize the wrong we have done (even while we're doing it), if we give them standing to question us or demand explanation, if we feel ashamed. A violation of a moral obligation only becomes a violation of basic moral equality if the other's interests or demands are given no weight in our deliberations, if we feel we owe them nothing much in the way of justification, if we treat them as we would treat an animal or a machine, as outside the give and take of moral justifications. Seen from this point of view, it becomes clear why paradigmatic violations of moral equality include the concentration camp, slavery, mass exterminations, human trafficking, forced labor, large-scale but avoidable starvation, caste societies, and torture. In all of these cases, human beings are treated as outside of the normal range of human concern, humiliated in a way that comprehensively undermines their capacity to control their vital interests, and denied an equal standing to make a claim or demand on the perpetrators. In all of these cases, the victims cannot expect a response that treats them as fellow members of a single community of reciprocal justification.

Does providing a relational justification for restricting the scope and grounds of distributive equality represent a denial of such fundamental moral equality? It should be clear that there is no plausible sense in which it does *even if we assume that the relationist is wrong about the limits of our moral obligations*. As in the birthday case discussed in section 3.2, there is no sense in which the relationist claims (or implies) that those who do not stand in the relevant relation are subhuman, no sense in which the relationist claims (or implies) they lack inherent dignity or worth or standing, no sense in which they are treated as standing outside a single community of mutual justification. Compare, for example, a caste society—a society, that is, in which the lower orders are treated as inferior by nature and status. Such a society is defined not just by the fact that one group is accorded different rights and entitlements than another group. All minimally complex societies do so (compare the rights of professors within a university, say, with the rights of students; or the rights of veterans with the rights of non-veterans). What distinguishes such a society are the reasons the lower orders are accorded different right and privileges, and the attitudes which those reasons justify. The lower orders are accorded different rights and privileges because they are treated as having less worth and dignity than the higher orders; often, though not necessarily, this will be because of their birth or race. The very same act done to a member of the lower order, say, assault, will as a result carry much smaller moral opprobrium—it will be considered less wrong—than the same act done to someone in the higher order.³³ Whatever it is that distinguishes the lower orders, in turn, will justify attitudes, for example, of disdain, contempt, and perhaps even disgust, or at the very least of condescension. And those same facts about the lower orders will be taken to justify corresponding attitudes in whoever looks upon them; the facts will provide, that is, impersonal reasons for *anyone* to form

corresponding attitudes, whatever their particular relation to the lower orders.³⁴ It should be clear that the relational justification for a restriction in the scope and grounds of distributive equality could not be more different. When a relationist says, for example, that a citizen or resident of Japan has a claim to egalitarian shares with respect to other Japanese citizens and residents, but not to an egalitarian share vis-à-vis other British citizens and residents, this is not because the Japanese are considered by nature to be of lower rank or order than the British (or vice versa). The justification, rather, is rooted in relational facts about relevant forms of social interaction between Japanese citizens and residents and British citizens and residents. Were a Japanese citizen to acquire British citizenship (or vice versa), the claims would change accordingly. The differential rights and privileges, furthermore, do not ground or reflect any attitudes of disdain, or contempt or disgust, and the reasons for the British to treat British citizens and residents differently from Japanese citizens and residents (and vice versa) are agent-relative; they are not, that is, reasons for anyone, whatever their particular relation to the persons in question, to treat the Japanese (or the British) differently. Once again, the argument from moral equality collapses.

3.4. CONCLUSION

In this chapter, I have argued that two popular arguments in favor of comprehensively cosmopolitan conclusions regarding the grounds and scope of distributive equality fail. The first argument appeals to the idea that our country of birth is morally arbitrary; the second to our basic commitment to moral equality. I have claimed that neither argument can support the conclusion that distributive equality applies all and only to human beings; neither, that is, can be used to show that the grounds of

distributive justice must be non-relational and its scope therefore necessarily global. Along the way, I also hope to have shown that it is unlikely that any more thoroughgoing reconstruction of our commitment to moral equality could support comprehensive cosmopolitanism. Perhaps there are other arguments, grounded in other considerations, that might do the trick. But, if so, we have yet to see them.

Notes

- ¹ I say “neutralize (or at least mitigate)” because some egalitarians, such as Ronald Dworkin, only aim to *mitigate* but not to *neutralize* the effects of unchosen circumstances. See Ronald Dworkin, “Equality, Luck and Hierarchy,” *Philosophy & Public Affairs*, 31 (2003), 190–8, at 191. This nuance does not affect the structure of the argument presented here, so I mostly leave it aside in what follows.
- ² See, e.g. Simon Caney, *Justice Beyond Borders* (Oxford: Oxford University Press, 2005), 123; Simon Caney, “Global Distributive Justice and the State,” *Political Studies*, 56 (2008), 487–518, at 505–6; Kok-Chor Tan, “The Boundary of Justice and the Justice of Boundaries: Defending Global Egalitarianism,” *Canadian Journal of Law and Jurisprudence*, 19 (2006), 319–44, at 319; Kok-Chor Tan, *Justice without Borders* (Cambridge: Cambridge University Press, 2004), 56; David A. J. Richards, “International Distributive Justice,” in J. R. Pennock and C. J. W. (eds), *Ethics, Economics, and the Law* (New York: New York University Press, 1982), 287–293, at 290; Charles R. Beitz, “Cosmopolitan Ideals and National Sentiment,” *The Journal of Philosophy*, 80 (1983), 591–600, at 593; Thomas Pogge, *Realizing Rawls* (Ithaca: Cornell University Press, 1989), 247; Thomas Pogge, “An Egalitarian Law of Peoples,” *Philosophy & Public Affairs*, 23 (1994), 195–224, at 198; Darrel Moellendorf, *Cosmopolitan Justice* (Boulder: Westview Press, 2002), 55; Brian Barry, *Theories of Justice* (Berkeley: University of California Press, 1989), 239; Brian Barry, “Humanity and Justice in Global Perspective,” in *Liberty and Justice: Essays in Political Theory* (Oxford: Clarendon Press, 1991), 159–81, at 226.
- ³ Simon Caney, “Cosmopolitan Justice and Equalizing Opportunities,” *Metaphilosophy*, 32 (2001), 113–34, at 115.
- ⁴ My use of “egalitarian justice” and its cognates is meant to be fairly ecumenical, including both the set of principles that evince some concern with narrowing the gap between better and worse-off individuals over an entire life (leximin, strict equality, equality of opportunity, etc.), and the set of prioritarian principles that, though not comparative, would produce, in normal circumstances, distributions with a strongly egalitarian character (i.e. where the weights attached to the well-being of worst-off individuals over an entire life are significant).
- ⁵ In saying “persons as such,” I mean to restrict the domain of equality to actually existing persons. I leave aside the important question whether non-relationists are bound to affirm

an even more unrestricted form of egalitarianism (one, for example, that also includes, e.g. nonhuman species or all generations that have ever lived or will ever live).

- ⁶ Sometimes the term “associativism” is used to denote what I have called relationism; see, e.g. Moellendorf, *Cosmopolitan Justice*. One reason why I do not use this term is that it is often used slightly differently, namely in the context of obligations generated by psychological ties of fellow-feeling; cf. critiques of “associative obligations” in A. John Simmons, “Associative Political Obligations,” *Ethics*, 106 (1996), 247–73; Christopher H. Wellman, “Relational Facts in Liberal Political Theory: Is There Magic in the Pronoun ‘My’?,” *Ethics*, 110 (2000), 537–62. Relational views include associativist views of this kind, but are not limited to them.
- ⁷ Caney, *Justice Beyond Borders*, 111–12.
- ⁸ Consider that arguments in favor of statism, internationalism, and nationalism in the literature often, at some point, grapple with the argument. See, e.g. Michael Blake, “Distributive Justice, State Coercion, and Autonomy,” *Philosophy & Public Affairs*, 30 (2001), 257–96, at 257; Thomas Nagel, “The Problem of Global Justice,” *Philosophy & Public Affairs*, 33 (2005), 113–47, at 16; Andrea Sangiovanni, “Global Justice, Reciprocity, and the State,” *Philosophy & Public Affairs*, 35 (2007), 2–39, at 24–5; David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2007), 31–3.
- ⁹ I consider a second, less natural one in Andrea Sangiovanni, “Global Justice and the Moral Arbitrariness of Birth,” *Monist*, 94 (2011), 571–83.
- ¹⁰ Sangiovanni, “Global Justice and the Moral Arbitrariness of Birth.”
- ¹¹ Cf. Susan Hurley, *Justice, Luck, and Knowledge* (Cambridge, MA: Harvard University Press, 2003), 66–7, 156ff.
- ¹² Cf. the US Supreme Court’s application of a strict equal protection analysis in cases involving non-citizens, such as *Graham v. Richardson* 403 US 365 (1971), in which several State laws providing welfare benefits only to US citizens (or those who had been resident for at least 15 years) were struck down. The Court claimed that “the Arizona and Pennsylvania statutes in question create two classes of needy persons, indistinguishable except with respect to whether they are or are not citizens of this country” at 371. Also see Article 9 of the South African Constitution: “The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language *and birth*.”
- ¹³ I will not draw any distinction between persons and human beings in what follows, or on the general “demarcation” problem inherent in defining the scope of our commitment to moral equality. I assume, for the sake of argument, that the relevant scope of moral equality plausibly includes all and only human beings or all and only persons, as do all the arguments under discussion.
- ¹⁴ Kok-Chor Tan, *Justice, Institutions, and Luck: the Site, Ground, and Scope of Equality* (Oxford: Oxford University Press, 2011), 184.

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- ¹⁵ Tan, *Justice, Institutions, and Luck*, 89.
- ¹⁶ Tan, *Justice, Institutions, and Luck*, 89–90.
- ¹⁷ Thomas Pogge writes: “Three elements are shared by all cosmopolitan positions. First, individualism: the ultimate units of concern are human beings, or persons rather than, say, family lines, tribes, ethnic, cultural, or religious communities, nations, or states. The latter may be units of concern only indirectly, in virtue of their individual members or citizens. Second, universality: the status of ultimate unit of concern attaches to every living human being equally not merely to some subset, such as men, aristocrats, Asians, whites, or Muslims. Third, generality, this special status has global force. Persons are ultimate units of concern for everyone.” Thomas Pogge, “Cosmopolitanism and Sovereignty,” *Ethics*, 103 (1992), 48–75, at 48–9. In his chapter in this volume, Blake convincingly argues that, if this is the central feature of any cosmopolitanism, then there are no contemporary political theorists that disagree with it. Second, Blake convincingly argues that one cannot derive what I have referred to as *comprehensively* cosmopolitan conclusions regarding the scope and grounds of distributive justice from this account of what it means to treat people as equals.
- ¹⁸ Pablo Gilibert, “Cosmopolitan Overflow,” *Monist*, 94 (2011), 584–92 at p. 588. It should also be said that Gilibert’s trenchant piece also takes issue with a claim I made in passing, namely that the idea of moral equality “at most provides further grounds for a principle of formal nondiscrimination . . . that says that any principle should be justifiable to all concerned parties in terms they could not reasonably reject, where the notion of reasonable rejection is taken in a formal way” (587). I agree that the principle of moral equality, properly construed, can do much more than that. This chapter is an attempt to see how far such an appeal can take us, and so to take up Gilibert’s challenge.
- ¹⁹ But see also the much more comprehensive discussion of what Gilibert refers to as “humanism” in Pablo Gilibert, *From Global Poverty to Global Equality: A Philosophical Exploration* (Oxford: Oxford University Press, 2012), especially chapters 5 and 6. I did not see the manuscript in time to include a discussion of these chapters here.
- ²⁰ Gilibert, ‘Cosmopolitan Overflow’, at p. 589.
- ²¹ By “nonderivative special obligations,” I mean special obligations whose grounds refer to principles that themselves take a relational form of this general type: “For all persons x and y, if xRy, then x has a special obligation of kind F towards y,” where R is a constant denoting a social relation. An example might be: “For all persons x and y, if x accepts significant benefits from y, then y has a special obligation towards x to reciprocate.” On this view, *derivative* special obligations are ones whose grounds refer to non-relational principles such as “For all persons x, x ought to act in such a way as to maximize well-being”; in such cases special obligations are derived from non-relational, general duties owed to all persons.
- ²² For different types of relationism, see Blake, “Distributive Justice, State Coercion, and Autonomy”; Nagel, “The Problem of Global Justice”; Miller, *National Responsibility and Global Justice*; Sangiovanni, “Global Justice, Reciprocity, and the State.”

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- ²³ Cf. Darwall's distinction between "recognition respect" on one hand, and "appraisal respect," esteem, and praise on the other in Stephen L. Darwall, *The Second-Person Standpoint: Morality, Respect, and Accountability* (Cambridge, MA: Harvard University Press, 2006). The kind of respect pertinent to the idea of moral equality is recognition respect.
- ²⁴ Gregory Vlastos, "Justice and Equality," in J. Waldron (ed.), *Theories of Rights* (Oxford: Oxford University Press, 1984), 141–76, at 55.
- ²⁵ Even the "capacity for rational or moral self-direction or thought or action" varies from person to person. And so do "potentials" for the same things. Both the concept of a capacity and a potential are modal concepts. But what kind of possibility is involved? What counts as having a "potential" for, say, rationality? For example, if we assume that it is causally possible (i.e. though improbable it is not against the laws of nature) for an ape to develop a gene mutation that makes it as intelligent (in all the relevant ways) as a human being, then would this mean that all apes have the "potential" for, say, fully-fledged rational self-direction? And in what sense does someone who is severely mentally disabled, for example, have a "capacity" for rational self-direction? Is capacity here meant to be synonymous with "potential" (in which case we run into the problem just mentioned)? Or does capacity here mean an ability that we have "in normal circumstances"? From that point of view, it doesn't look like the severely mentally disabled do have such an ability (since there are no normal circumstances in which they can exercise rational self-direction). But if this is the case, then does this mean that they do not count as our moral equals? Does that mean we don't owe them equal respect? For similar points, see, e.g. Jeff McMahan, *The Ethics of Killing: Killing at the Margins of Life* (Oxford: Oxford University Press, 2002); Jeff McMahan, "Challenges to Human Equality," *The Journal of Ethics*, 12 (2008), 81–104; Ian Carter, "Respect and the Basis of Equality," *Ethics*, 121 (2011), 538–71.
- ²⁶ For some of the difficulties involved in formulating a plausible version of the "mere means" principle, see Derek Parfit, *On What Matters* (Oxford: Oxford University Press, 2011), vol. 1, ch. 9.
- ²⁷ I leave aside here whether the three formulations of the Categorical Imperative lead to different conclusions regarding which maxims are permissible, which impermissible, and which obligatory, or whether they each divide the terrain of our moral permissions and obligations in exactly the same way. For the sake of argument, we can treat the Second Formulation of the CI as capable of generating the complete set of moral obligations and permissions on its own. I also leave aside whether the mere means principle is equivalent to the full statement of the Formula of Humanity, which also includes the idea that we must always treat the humanity in others as an end (in addition to the idea that we must never treat the humanity in others as a mere means).
- ²⁸ Immanuel Kant, *Practical Philosophy*, ed. M. Gregor (Cambridge: Cambridge University Press, 1999); Thomas Scanlon, *What We Owe to Each Other* (Cambridge: Harvard University Press, 1998); *Justice for Hedgehogs* (Cambridge: Harvard University Press,

2011); Henry Sidgwick, *The Methods of Ethics*, 7th edition (London: MacMillan, 1907); Parfit, *On What Matters*.

²⁹ On the idea of an egalitarian plateau, see Ronald Dworkin, “The Original Position,” *The University of Chicago Law Review*, 40 (1973), 500–33; Ronald Dworkin, “Comment on Narveson: In Defense of Equality,” *Social Philosophy and Policy*, 1 (1983), 24–40, at 25; Will Kymlicka, *Contemporary Political Philosophy* (Oxford: Oxford University Press, 2002). This is also true, I believe, of views that begin with an underlying commitment to “equality,” and then treat the main question of distributive justice as an answer to the question “equality of what?,” as if a commitment to moral equality already (necessarily?) implies a commitment to the equal distribution of some object of value (whether freedom, or welfare, or resources). See, e.g. Amartya Sen, *Inequality Reexamined* (Oxford: Oxford University Press, 1992), 18–19. Proceeding in this way elides the crucial distinction between “general” and “specific” conceptions of moral equality under discussion in the text. As another example of this elision, it would be useful to reconstruct and compare Dworkin’s uses of the terms “equal concern and respect” from the earlier writings, in which it seems clear that he is referring to a basic moral equality that is universal (and hence global) in scope, to the later interpretation of “equal concern” as a virtue specifically of *sovereigns* (as in *Sovereign Virtue*) to the much more universal language of “dignity” and “respect” (along with the “Kantian” interpretation of them) in *Justice for Hedgehogs* (but where “equal concern” is preserved as the particular virtue of sovereigns). On Dworkin’s variable use of these terms, see the helpful Alex Brown, “An Egalitarian Plateau? Challenging the Importance of Ronald Dworkin’s Abstract Egalitarian Rights,” *Res Publica*, 13 (2007), 255–91.

³⁰ Here I leave aside the question whether, in any case, the best interpretation of Kant or Scanlon or Parfit or Sidgwick or Dworkin supports theories of distributive justice that are relational or non-relational in character. It seems clear, for example, that Kant, Scanlon, and Dworkin support broadly relational theories of justice, whereas Sidgwick and Parfit non-relational ones.

³¹ Cf. Vlastos, “Justice and Equality”; Joel Feinberg, *Social Philosophy* (Englewood Cliffs, NJ: Prentice-Hall, 1973), 88–94; Avishai Margalit, *The Decent Society* (Cambridge: Harvard University Press, 1996), 89–112.

³² Margalit, *The Decent Society*, 115ff.

³³ See, for example, Anthony Appiah, *The Honor Code: How Moral Revolutions Happen* (New York: Norton, 2010).

³⁴ For the lower orders themselves it will be taken to justify a corresponding attitude of shame, or humility, for example.