

EQUAL VALUE: OR EQUAL RIGHTS TO EQUAL LIBERTIES?

by

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That most persuasive and most readable of Anglican apologists, Professor C. S. Lewis, once maintained that "A world in which I was really (and not merely a useful legal fiction) as good as anyone else, in which I never looked up to anyone wiser or cleverer or more learned than I, would be insufferable."

1) In saying this Lewis was perhaps making only a for him unusually cautious claim. For here he seems to have been thinking of a world in which the most extravagantly Procrustean ideals have ^{in fact} been completely realized. In such a world it would indeed be paradigmatically irrational for one person to look up to another as "wiser or cleverer or more learned". For, since no one would in fact be "wiser or cleverer or more learned" than anyone else, any such admiration would be altogether wanton and unwarranted. With appropriate alterations the same has to apply to all possible superiorities or inferiorities in any other direction which could by anyone be thought to matter. For these must necessarily, for Procrustean, constitute inequalities; which are, to them, intolerable.

Certainly, like Lewis, I would find such an ideally equal world insufferable. I also nastily suspect that, in so far as the Procrustean pretend to disagree, it is because they privately see themselves as members of an élite of equalizers - superior in every crucial way to the rabble of the equalized.¹ But to assert that really everyone already is

"as good as anyone else" is not to advocate, as an ideal, a (future) world in which in truth no one is "wiser and cleverer or more learned" - or more anything else which might matter - than anyone else. It is, rather, to assert what is often called "the principle of equal value"; a principle which has, ^{presumably, to be construed as implying that,} any and all actual superiorities or inferiorities notwithstanding, always and everywhere every human being and every human life ideally ought to be equally valued.

This, surely, is an implication which, given a few moments of critical thinking, anyone must see to be preposterously paradoxical and utterly indefensible. We therefore have a welcome opportunity to quote a characteristic comment by the most acerbic of poet scholars: "Three minutes thought would suffice to find this out; but thought is irksome, and three minutes is a long time."²

For, if we say that, always and everywhere, every human being and every human life is exactly as valuable as every other, then we become committed also to saying, for instance, that Lenin, Hitler, and Stalin, or Mao Tse-tung and Pol Pot, were each no less and no more worthy to be treasured than any of their myriad murdered victims. In order to preserve this grotesque and perverse conclusion we shall have systematically to devalue every possible human characteristic, action, or achievement. For if any type or token of any of these is allowed to be preferable to any other, then we can scarcely hope to show that all the actual and now admitted evaluative superiorities and inferiorities either

just chance to cancel out or else are so guided by Providence as to ensure that always and reliably they do.

It thus becomes clear that "the principle of equal value" is one to which adherents cleave: not because, in the light of careful and critical consideration, it appears correct; but because, however intrinsically implausible, it seems to them either to follow from or to be presupposed by some prior, absolute, inescapable commitment. In this "the principle of equal value", as applied to individual human beings, resembles a parallel principle, applied to collective cultures. We can find a statement of that parallel principle coming as the conclusion of a contribution to a collection of essays on Race, Culture and Intelligence: "And finally we cannot accept quality distinctions between cultures."³

Since it is clear that the word 'culture' is here being employed in the comprehensive and value-neutral sense favoured by social scientists, and since this particular author was a Professor of Education, albeit in the notoriously Radicalized Open University, we have to allow that it must at least have crossed his mind that this cherished contention cannot consist with any suggestion that it is better to be well rather than badly educated; a suggestion which one might have thought to be demanded from his cloth.

No doubt it was some muddled and misguided conviction - a conviction that this is imperatively required of every campaigner against racism- which nevertheless misled Professor Donald Swift to insist that "we cannot accept quality distinctions between cultures."⁴ Attachment to

similarly fallacious assumptions explains why the Education Committee of the London Borough of Brent, overriding all the protests that this was inconsistent with its own simultaneous denunciations of the alleged institutionalized racism and sexism of the white British, issued an ukase to all teachers subject to its authority: "The recognition that all peoples and cultures are inherently equal must be a constant from which all educational practice will be developed." It is obvious that acceptance of this fundamental is believed to be essential to a total and unqualified rejection of racism; which is why the Committee proceeds at once to emphasize that *it* "is not a negotiable principle".⁵

2) Confronted by a situation in which urgent practical commitments appear to presuppose false or even incoherent theoretical assumptions, the rational first reaction is not, breathing heavily and sweating with conviction, simply to reaffirm those unconscionable assumptions. Instead it is to ask whether they really are presuppositions of those commitments. If indeed they are, then for the rational person there is nothing for it but to review the practical commitments thus revealed as being ill-founded.

But in neither of the two instances so far considered is this in fact the case. Elsewhere I have shown that, in order to excoriate racism — the immoral, because unjust, advantaging or disadvantaging of (individual) human beings for no other or more relevant reason than that

they happen to be members of one particular racial set and not another — it is by no means necessary to maintain that every (collective) culture, in either the broad or the narrow sense of that word, is equally good or equally 'valid'; whether intrinsically or instrumentally. (By Cantor's Axiom for Sets the sole essential feature of a set is that its members share at least one common characteristic, any kind of characteristic: it is a useful term to introduce when it is desired to eschew the implications of such words as 'class' or 'community'.)

The contexts in which some people insist upon "the principle of equal value" are those in which others appeal to "the principle of equal consideration". Let us *now* call in evidence some famous manifesto commitments. *One* which is surely relevant is that essential but awkward addendum to "the Greatest Happiness principle" of classical Utilitarianism: everyone to count as one and none as more than one. Then again no historically instructed Englishman could fail to seize an occasion to quote a claim made by the russet-coated Captain Thomas Rainborough during the Putney debates of the New Model Army: "And I do believe that the poorest he that is in England hath a life to live, as much as the greatest he." Yet perhaps the most suggestive, and certainly the most occasionally appropriate of such manifesto commitments, is found in the American Declaration of Independence: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the pursuit of Happiness."

The central theses of the present paper are: that we should replace the manifestly false and ruinous "principle of equal value" by a much more defensible doctrine of equal rights; and that this can give both aficionados of that unconscionable principle and the rest of us, if not perhaps quite all that some might wish, then at least everything which anyone has any business to demand. In developing and defending such a doctrine the first two tasks are: to bring out what and all the Signers were here asserting; and to explain the distinction between option and welfare rights.

Several recent discussants seem to have mistaken it that the sentence quoted at the end of my last paragraph but one concluded with a full stop at "created equal". But the Signers were not at this point anticipating the notorious falsehood found in the Encyclopaedia of the Social Sciences during the twenties: "... at birth human infants regardless of heredity, are as equal as Fords."⁶ For Mr. Jefferson, aware of his own many and egregious talents, ^{al} could never have put his name to so infatuated an exercise in occupation/blindness and bigotry.

The truth is that the phrase "all men are created equal" was at once glossed. It was so glossed in order to explain that what was being asserted is an equality of rights; and a right is - in a happy phrase of the late Professor Stanley Benn - "a normative resource". To say that all men have rights is to say something about how we ought to treat each other; while to describe one person as being, in this normative respect, equal to another is neither to say nor to presuppose that the one in fact

now is, or at birth in fact was, equal to the other in either talent or temperament. The one actual equality which is essential to a doctrine of option rights is equality in our common humanity: the equal option rights of all mankind are and must be grounded only and precisely in our shared status as humans - "A man's a man for a' that."

The second task is to distinguish option from welfare rights: the former consist in claims to be left alone and unharmed; the latter constitute claims to be supplied with varieties of good. The rights to "Life, Liberty and the pursuit of Happiness" are all three of the first kind. One agreeably unhackneyed explication of the second element in this trinity is provided by the 1945 constitution of Kemalist Turkey: "Every Turk is born free and lives free. He has liberty to do anything which does not harm other persons. The natural right of the individual to liberty is limited only by the liberties enjoyed by his fellow citizens." The practice, of course, presents every kind of problem. But the principle is luminous. About the third, the one thing which needs to be said here is that it is, of course, a claim to be left free to pursue, not to be supplied with the means to achieve, happiness.

The right to life also should be similarly construed. It is the right of individuals not to be killed against their wills. It is not a right to be supplied either with a subsistence income or even with an opportunity to earn an adequate wage. Neither Nature herself nor the rest of mankind owes any of us either a living or even an opportunity to

make one; and everyone still needs to remember this before bringing children into the world.⁷

Again, just as any right of free association is at the same time and necessarily a right not to join, so any right to life must at the same time and necessarily be a right to end life if and when that is the right-bearer's own wish.⁸ If, therefore, President Reagan has, and takes two or three chances to appoint to the Supreme Court ^{unfashionably} justices construing its function to be *drawing out and enforcing* the true implications of America's foundation documents - rather than the editorial recommendations of the Washington Post, the New York Times, and the New York Review of Books - then we should expect that court to strike down all laws against not only suicide but also assisting others to suicide.

Nor is it to the point to object that few if any of the Signers thought that they were putting their names to a demand for the decriminalization of suicide and assistance to suicide. Maybe they did not, any more than many of them saw that their demands must apply also to women and to blacks. But what these or any other utterances actually imply is determined by their conventional meanings rather than by the fleeting intentions of particular utterers.

As a final reflection on the nature and implications of the right to life let us ponder for a moment a short item culled from a recent issue of that doughtily libertarian magazine Reason: "Our second Doublespeak Award goes to Mr James Loucks, President of Crozer Chester Medical Center of Chester, Pennsylvania. Loucks got a court order allowing his hospital

to give a Jehovah's Witness a blood transfusion. The woman had requested in writing that the hospital respect her religious beliefs and not give her a transfusion under any circumstances, but Loucks says he ignored her wishes 'out of respect for her rights'."

Like other major currencies the currency of rights has in recent decades been subject to inflation. And, just as money tends to lose value the more of it that governments print, so the more that is asserted to be a matter of natural or universal human right the less force any particular claim of this sort is going to have. In the good old days of the American Declaration of Independence the Founding Fathers of the United States mentioned only three supposedly universal, unalienable, self-evident, and necessarily equal rights.

But since World War II such declarations - more frequent and much less eloquently written as well as, on the part of so many of the signers, totally insincere - have embraced ever-lengthening lists. In these lists all the new members, if not absolutely all the members, are welfare rather than option rights. In the most notorious, adopted in 1948 by the UN General Assembly, the table of specification covers, not one modest clause in a single world-shaking sentence, but six printed pages. In what would have appeared to the Founding Fathers a crescendo of absurdity we are told: (Article 22) "Everyone ... has a right to social security"; (Article 24) "Everyone has the right to a standard of living adequate for the health and well-being of himself and his family ..."; and then - for the moment - finally (Article 26): "Everyone has the

right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory", and so on, through an oddly intrusive clause specifying that all education must "further the activities of the United Nations", to the incongruous and inconsistent even if welcome conclusion that "Parents have a prior right to choose the kind of education that shall be given to their children."

There is no good reason why such a list should ever end; no rationale either provided or available for including in it one claim and not others: and hence no justification offered for - to reclaim a recently misappropriated phrase - Taking Rights Seriously. Again, if any rights are to be natural and universal, then they must be equally valid, although certainly not by the same token equally respected, at all times and in all places. If, however, we take it that ought presupposes can, then there are no such rights to what is not, and cannot possibly be made, universally available. While everyone everywhere and always could have enjoyed the option rights of the 1776 Declaration, if only their neighbours had been prepared to discipline themselves in the appropriate ways, there have been many periods, and there have been and are many places, where the total available resources could not satisfy the half of these fashionably proliferating welfare claims. And, furthermore, both the number of such less happier lands, and the numbers of their poor inhabitants, would surely tend to increase exponentially if a guarantee of

generous welfare provision for all were to remove every prudential check upon human multiplication; thus automatically undermining that guarantee.

The third objection to any claim that there are any natural and universal human welfare rights is this. All such claims can and should be challenged by putting Ayn Rand's crucial question, followed by a more philosophical supplementary: "At whose expense?"; (i) "What is the basis of the obligation supposedly falling upon the unspecified prescribed providers of all these desired and desirable benefactions?" With option rights it is different. There the obligation rests as equally and fairly on everyone as the rights: everyone equally both ought to, and can, respect everyone else's equal rights to liberty and against injury. Let us, therefore, conclude the present Section 2 by quoting from a Sage it seems no longer - under the rule of the Small Helmsman - dishonoured in his own country. For a disciple once asked Confucius whether his rule of conduct - The Way - might be epitomized in a single word. The Master replied: "Is not 'reciprocity' the word?"¹⁰

3) The upshot of the previous Section 2 would appear to be that really there is no hope of excogitating any systematic and persuasive rationale for a doctrine of natural and universal welfare rights. Certainly those who drafted these modern declarations seem to have produced only more or less arbitrarily compiled lists of all the obvious sorts of welfare benefits which, they hoped, it would be generally agreed to be A GOOD

THING for everyone to enjoy; with no questions asked or answered, either about who was to be made to pay for these benefits or about how the necessary wealth is to be produced.

Elsewhere I have at some length tried to show that and how it is possible to develop such a systematic and persuasive rationale; always providing that we restrict our ambitions to justifying as natural and universal only option rights.¹¹ Here it must suffice to suggest that any secure construction will have to employ Kantian materials. Consider first "The Formula of the End in Itself" under which Kant's Categorical Imperative becomes: "Act in such a way that you always treat humanity, whether in your own person or in the person of any other, never simply as a means, but always at the same time as an end."¹²

These formulations as they stand will, of course, not do. One sufficient reason why they will not do was urged by Kant's admiring critic Schopenhauer. It is, strictly, incoherent to speak of "ends in themselves". There can be no more "ends in themselves" unrelated to the persons whose ends they are, than there can be sisters in themselves, unrelated to any siblings of whom they are the sisters.¹³

Again, Kant's talk of "rational nature" as "something whose existence has in itself an absolute value", and of - genuflect- "rational beings", is likely to suggest creatures who are rational as opposed to irrational, or who are intellectual and unemotional as opposed to lowbrow and emotional. So we need to distinguish two non-commendatory understandings of what is often the diploma expression 'rational being'.

We are all rational beings in both of the two understandings now to be distinguished; while in both cases you have to be a rational being, in the sense of a being capable of the relevant kind of rationality or irrationality, before any question can arise of either commending your actual rationality or condemning your actual irrationality. (Throughout his exceedingly long life Bertrand Russell made much cheap and unfair fun of Aristotle's characterization of man as the rational animal. But as Russell should have known, and hopefully did know, Aristotle was in this context using the term 'rational' in a capability rather than a commendatory sense.)

The rational beings to all of whom the imperatives of morality apply, and "whose existence" might be said to have "in itself an absolute value", are not an out-of-this-worldly élite of would be bodiless Platonic dialecticians, forever and exclusively engaged in discerning inconsistencies and drawing inferences. They are also those very same creatures in their and our other aspect as agents who can and cannot but make choices. Neither they nor we are, what nothing could be, ends in themselves or ends in ourselves. ^{but,} What they are and we are is the creatures who are able to, and cannot form ends for themselves ; ~~ourselves;~~ and which in giving to themselves or to others their reasons for acting thus but not thus are, however irrational or non-rational those reasons, rational beings.

From these familiar non-moral facts of our human nature nothing can be immediately deduced about either any rights which must be possessed

by, or any obligations which must be incumbent upon, beings such as we. To attempt any deduction of this form would be flagrantly to violate what has come to be called Hume's Law. This forbids us to attempt to deduce conclusions about what ideally ought to be from premises stating or purporting to state only what, quite neutrally and non-committally, actually is the case.¹⁴ However, to borrow another characteristic concept from Kant, "as legislating members of the Kingdom of Ends", as creatures, that is, prescribing laws to apply to all creatures adopting and pursuing ends for themselves, we ourselves can lay it down that all rational agents are to be respected in their pursuit of their own chosen ends; or, in the favourite words of a more recent generation, their doings of their own things.

Indeed, if we are committed to prescribing principles to apply equally to all such beings, principles which as ourselves such beings we could will to become universal law, then it would seem that we can scarcely fail to prescribe: both that all individuals must have the right to pursue their own ends, save in so far as this pursuit violates the equal rights of others; and that everyone must be under the reciprocal and corresponding obligation to respect those equal rights of everyone else. The notions of equality and of reciprocity enter here because no one can consistently claim such universal human rights for themselves except in so far as they concede to others the same rights, the same liberties.

At the end of the day what we have is very much the classical liberalism of the Founding Fathers; which is, as some US citizens may need to be reminded, very far removed from what is customarily called liberalism or left-liberalism in the USA today. I ruefully remember how during 1978-9, within a single week, the LA Times described Jane Fonda, Bella Abzug and J.K. Galbraith as all 'liberals' or 'left-liberals'. (It was, by the way, in the course of that academic year that my consistent and principled rejection of racism, even when euphemistically and fashionably commended as positive discrimination, led to my becoming the sole object of the last student demonstration to be harangued by my then temporary colleague Herbert Marcuse.)

NOTES

1. Both for a consideration of more and less extravagant versions of this Procrustean ideal, and for a development of the contention that it serves as the uniting and justifying ideology of the New Class of its enforcers, see my The Politics of Procrustes: Contradictions of Enforced Equality (Buffalo: Prometheus, 1981).
2. A.E. Housman Juvenalis Saturae (Cambridge: CUP, Revised Edition 1931), p.xi.
3. K. Richardson and D. Spears (Eds.) Race, Culture and Intelligence (Harmondsworth: Penguin, 1972), p.156.

4. For sortings out of several of the commonest confusions, see both "The Jensen Uproar" in my Sociology, Equality and Education (London: Macmillan, 1976) and "Clarifying the Concepts" in F. Palmer (Ed.) Anti-Racism (London: Sherwood, 1986).
5. Book I: Education for a Multicultural Democracy (Brent: Borough Education Committee), p.7.
¹⁹⁸⁴
6. Quoted by F.A. Hayek New Studies in Philosophy, Politics and the History of Ideas (London: Routledge and Kegan Paul, 1978), p.290.
7. For an examination of an Aristotelian source of the always more popular/ contrary doctrine, see The Politics of Procrustes, pp.148ff.
8. See my "The Right to Death" in Reason Papers VI (Santa Barbara, CA: Reason Foundation, 1980).
9. Compare, perhaps, my Introduction to Malthus: An Essay on the Principle of Population (Harmondsworth, and Baltimore: Penguin Books, 1971).
10. The Analects, translated by W. Soothill (Taiyuanfu, Shansi: Soothill, 1910), XV, 23.
11. "Could there be Universal Natural Rights?", in the Journal of Libertarian Studies 6: 277-88 (1982).
12. Immanuel Kant, Groundwork of the Metaphysics of Morals, in The Moral Law, translated by H.J. Paton (London: Hutchinson, 1948), pp.90 and 91 (italics and capitalization as in the original).

13. Arthur Schopenhauer, On the Basis of Morality, translated by E.R.J. Payne (Indianapolis, Ind.: Bobbs-Merrill, 1965), p.95.
14. See, for instance, my David Hume: Philosopher of Moral Science (Oxford: Blackwell, 1986), pp.144-9.

