

REVIEWS

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One Another's Equals. The Basis of Human Equality, Jeremy Waldron.
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One Another's Equals contains the revised versions of Jeremy Waldron's 2015 Gifford Lectures, in which he aims to explain and vindicate our 'basic equality' as human beings.

To see why basic human equality is a problem, imagine that you have a good to share among a set of individuals, and you decide that you had better share it out equally. What is the moral basis of this decision? Is it that an equal distribution will maximize aggregate utility, thanks to the law of diminishing marginal utility? Or is it that the equal distribution seems to be fair, or just, in itself? If you think the latter, then you must hold that there is something about those individuals that gives them equal claims of justice. There must be some *property*, at the descriptive level, that they each possess equally. What is that property?

In specific contexts, the answer to this question might be fairly straightforward. For example, the descriptive property of having worked equal hours in the same kind of job grounds the justice of equal salaries. No such simple answer is available, however, when we ask what it is about human beings *as such* that leads us to accord them equal *basic* rights, such as the right to equal liberty, equal opportunities, or equal voting power, or to affirm that they have equal standing as parties to the social contract. All the morally relevant natural properties – rationality, personal autonomy, moral virtue, wisdom, strength of will, the capacity to empathize, and so on – seem to be possessed unequally. Might the idea of basic human equality be a mere hangover from western religious doctrines, the abandonment of which has left many of us affirming egalitarian principles that we cannot ultimately defend? Waldron takes this worry seriously. Despite being a Christian himself, and despite devoting a whole chapter to religious bases for equality, he believes

that his main arguments in favour of basic equality can and should be embraced by religious and secular theorists alike. In what follows, I shall concentrate on his secular arguments.

Waldron begins by distinguishing two ways in which one might characterize and defend basic human equality. First, one can make reference only to the category of the human, and try to show that there are no basic 'kinds' of human, such as a particular race or a particular kind of worker, that are superior or inferior to others in some sense that is relevant for the assignment of basic rights. Waldron calls this first kind of basic equality 'continuous equality'. Alternatively, one can explain basic human equality in a way that is external to the category of the human, by showing what makes humans special when compared to other animals and the rest of nature. The characteristics that make humans stand out from the rest of nature give them a special 'worth' or 'dignity', so that they are each ranked higher than members of other species and equally to one another. Waldron calls this second kind of basic equality 'distinctive equality' (30–1). As his previous works on dignity and status have made clear (Waldron 2012), Waldron believes in distinctive human equality. This position appears to have the advantage of already containing a view about what makes the relevant property of humans something that can command our attention and do the normative 'heavy lifting' that we expect of basic equality (141). This said, advocates of 'distinctive equality' might be open to the charge of having confused two separate questions: 'Are humans distinctive with respect to other animals?'; and 'If so, is the feature that makes humans distinctive possessed *equally* by all humans?' As we shall see, it is not obvious that a positive answer to the first question entails a positive answer to the second.

Waldron does not attempt to provide a single, clear-cut solution to the problem of identifying a property that we all possess equally. Indeed, he explicitly states that there might not be one correct answer, that the answer might consist in a plurality of properties, and that he will 'explore a few possibilities rather than settle on any one of them' (112). Nevertheless, one unifying feature of these possibilities is the fact of focusing on a *range property* (117–20). An individual possesses a range property if she falls within a certain range of a given scalar property. A range property is itself a binary property: one is either within a range or one is not. Therefore, all who fall within the range are equal *in that respect*. This range-property solution was first put forward by John Rawls (1971, sec. 77).

At the same time, Waldron recognizes that this is not enough: we also need to say what is so special about falling within a given range. And this is something that Rawls never really does: he does not say why we should focus on the range property he calls 'moral personality', consisting in the possession of at least a minimum of certain agential capacities, rather than directly on those variable capacities themselves. If we fail to justify the

importance of the range property, as opposed to the scalar properties it is based on, we are simply ducking the question of why people should be treated as equals rather than as unequals. In effect, we are begging the question in favour of basic equality.

Waldron considers several significant scalar properties of persons, together with some range properties that supervene on them and might be thought significant in their own right (for short, I shall sometimes refer to a scalar property as 'S' and to the supervening range property as 'R'). Hobbes, for example, claimed that in a state of nature we are all vulnerable to being killed by others. Since humans vary in their physical strength and cleverness, vulnerability to being killed is clearly a scalar property (S) and varies from person to person. But however strong you are, Hobbes said, there is always a possibility that someone will kill you. This sheer possibility of being killed is a range property (R) supervening on S, and Hobbes thought that possession of this R makes us all equal in a significant sense – that is, in a sense relevant for his account of the social contract (97–9).

The case of Hobbes is illustrative, but Waldron, like Rawls, is more interested in properties that reflect our agential capacities, capacities that give us a special *moral worth* as humans. Having highlighted the worth of humans' rational powers, Waldron focuses in particular on the capacity for moral agency, interpreted, along Kantian lines, as involving the capacity to act on principle and against natural inclinations, and on the capacity for personal autonomy, understood as the power to plan one's life rationally and to reflect and act on a conception of the good. To these, Waldron also adds the capacity for love.

Now these capacities do indeed make humans stand out, but they are all scalar properties. What reasons are there – independent of the commitment to basic equality that we are trying to explain and ground – to focus on a range? I can find only two such reasons in Waldron's book (139–40). First, our focus on R – on the mere fact of a person's possessing S above a minimum threshold – might be 'explained by our sense of the specialness that that property [S], held to whatever degree, confers upon the individual beings who have it' (139). In this connection, he cites the Kantian sense of 'awe' that one experiences on becoming aware of the presence of S (presumably a naturalized version of the Kantian capacity for moral agency) in oneself and in others (140). As a justification for R (as distinct from S), however, this reason sounds question-begging. It seems to amount to saying that R (as opposed to S) is significant because we have a sense of its being significant. Second, Waldron suggests, R might be significant as a prerequisite for certain kinds of social interaction. For example, we need the capacity for love, irrespective of its degree, 'to engage in very deep interaction with any other being that has the capacity for love'; similarly, a Kantian will say that simply being a moral agent is

both necessary and sufficient for belonging as a legislator to a kingdom of ends (140). Here too I have my doubts. Possession of a minimum of S can indeed be a necessary condition for entering into certain kinds of social relation, but this fact does not entail that the way we treat each other within those relations ought to be based on R rather than on degrees of S. For example, a person choosing between two lovers might very well choose on the basis of their differing capacities for love; and a republic of ends containing all moral agents might yet assign greater voting power to the more intellectually capable.

Waldron is at pains to emphasize that our focus on R, which grounds our sense that we are all equals, must not be allowed to eclipse the importance of variations in S, for the latter highlight the special worth of each individual as a unique being. When we contemplate a human being, he says, we instead ‘scintillate’ back and forth between R and S.

It is not completely clear to me what Waldron means by ‘scintillation’. He says that people ‘sparkle’ in virtue of what makes them different from one another (172). This suggests that they sparkle just in virtue of their differences in terms of S. But he also seems to be saying that they sparkle in our eyes because we rapidly shift our focus back and forth between their possession of R and S (as where two alternating lights create in our eyes a sparkling effect if they alternate fast enough). Mostly, however, he says that *we, the observers*, ‘scintillate’ as we shift our attention back and forth between R and S. In the latter sense, scintillation is a property of the observer, not of the observed, and a more accurate if prosaic term might have been ‘oscillation’. In any case, the notion of scintillation does not itself provide us with any additional reasons for focusing on R rather than *merely* on S. At certain points Waldron seems to imply that it does provide such a reason. Consider, for example, the following claim: ‘Because our individuality is a huge element of what is valued fundamentally in each person, it must be part of *the point* of the range property we are interested in that it makes that individuality possible by accommodating differences of choice and differences of merit’ (158, emphasis added). Does this claim really explain, even in part, the *point* of the range property? I see no reason to think so. The valuable individual differences do not *depend on* the range property in order to exist and be appreciated. Rather, the importance of the latter limits the moral significance or sphere of application of the range property.

Waldron’s discussion of ‘scintillation’ includes a criticism of my own attempt to make sense of basic equality in terms of ‘opacity respect’ – a kind of respect which, I have suggested, requires us to turn a blind eye to the particular degrees to which persons possess certain fundamental agential capacities above the minimum threshold (Carter 2011). Waldron takes me to task for having thereby mistakenly endorsed a view that tells us to ignore variations in S, and with it the differences that make

people 'sparkle' (171-72). As I see it, my own view is not so different from Waldron's in this respect, as I do not claim simply that variations in S should be ignored. Rather, I claim that they should be ignored *for certain purposes*, and that this explains our tendency to treat persons as equal for certain purposes (and as unequal for other purposes). It is difficult to see how one can avoid *ever* turning a blind eye to differences in S if one believes in human equality, given that doing so is exactly what focusing on a range property consists in. My own position on the relevance of S coincides with that of Rawls, as cited by Waldron: 'Differences above the minimum may be important *for some purposes*, Rawls says, but not for the basics of justice and respect' (123, emphasis added). The real difference between Waldron's position and mine is that I attempt to ground the relevance of a range property in contexts characterized by certain kinds of relation, in light of a particular account of respect.

Overall, then, I am not convinced that Waldron has himself provided a solid grounding for basic human equality. His main point seems to be that we focus on a range of some S (or set of Ss) because we are so struck by the importance of S, and therefore by the mere presence of S, that any interpersonal differences pale into insignificance by comparison. This seems a fragile basis for the moral relevance of the range property within the confines of human affairs. If we stand back and observe humans and the rest of nature from afar, as if through a pair of binoculars, we shall indeed be struck above all by what humans have in common. But who says that we should look at humans through binoculars when deciding their individual dues as particular members of a human society with rules for distributing the benefits and burdens of social cooperation? The sceptic will simply retort that in such a context we ought instead to look with a magnifying glass and consider the different degrees to which the relevant scalar properties are possessed. Thus far, the decision on which of these two perspectives to adopt seems fairly arbitrary. And neither will it help to say that we scintillate (or oscillate) between them. Whether we use the binoculars on their own or in combination with the magnifying glass, it is the binoculars that are doing all the work in Waldron's account of basic equality.

The final chapter of Waldron's book contains some interesting discussion of the issue of how to classify humans that are severely cognitively impaired. If we follow Waldron in basing human equality on the possession of a minimum capacity for moral agency and personal autonomy, must we conclude that such disabled humans are not our equals? One solution would be to lower the threshold of the range property so as to include them in the circle of equals, but, as Waldron notes, we shall then run into the objection famously posed by Peter Singer (1979) to the effect that such a low threshold will admit many non-human animals too.

Waldron provides some effective counterarguments to Singer's view that disabled humans are just like normal adult chimpanzees or dolphins. The alternative view he presents includes a sophisticated account of the relevant range properties as dynamic rather than static and as varying along the normal trajectory of a whole human life. He begins by noting that we can respect human babies as parts of such a trajectory in virtue of their natural potential as normal human organisms. He then applies this idea to the case of cognitively impaired humans, claiming that they too have a potential, although we understand this potential in a different way, by considering our tragic sense of their misfortune, which is based on a sense of what they might have been. This application is likely to prove controversial, for Waldron has in mind here a kind of biological teleology, according to which disabled humans possess many attributes the 'purpose' of which is to develop and exercise the capacities for moral agency and personal autonomy referred to above. If we abandon the notion of a Creator, we shall indeed be left with what biologists mean when they say that such disabled humans are organisms that were 'meant to' develop and exercise those capacities. The idea of 'potential' *seems*, in Waldron's argument, to be *explaining* why he and others are inclined to include disabled humans in the set of *equal* humans; in fact, however, the relevant biological criteria telling us that a disabled human has that potential (whereas a chimpanzee, even applying some very advanced technology, does not) are themselves defined in terms of membership of the human species – that is, the possession of human DNA. If species membership is itself necessary to define the concept of potential being appealed to, then Waldron's position appears to remain open to the Singerian charge of speciesism.

Is it so shameful to deny that the severely cognitively impaired are basically equal to normal adults? Waldron is evidently moved by an implicitly affirmative answer to this question. However, one source of his worry in this regard might be his own insistence on 'distinctive equality', according to which exclusion from the circle of equals automatically brands the excluded as having an inferior worth. Perhaps, then, distinctive egalitarianism ought to be abandoned in favour of continuous egalitarianism among normal adult humans. Waldron himself is ultimately equivocal on whether or not the severely cognitively impaired are equal to normal adults. He seems to consider them to be equal inasmuch as they are humans, but at the same time to admit that they do not have the characteristics that ground that equal standing on the basis of which we assign a number of important equal rights to normal adults, including political rights. Perhaps we should simply say that babies, children and cognitively impaired adults have different sets of rights – they do not, for example, have the right to vote, but they do have certain rights to care, and certain privileges, that normal adults do

not have. This differentiation need not entail a ranking of such groups in terms of moral status, and neither need it threaten the basic equality of normal adult humans.

If you are interested in egalitarian thought, even in the very broadest sense of 'egalitarian', you will find much of interest in this engaging and readable book. However, if you are looking for a solution to *the* problem of basic equality you are likely to come away disappointed.

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Ian Carter is Professor of Political Philosophy at the University of Pavia, Italy. He is the author of *A Measure of Freedom* (Oxford University Press, 1999) and co-editor of a number of volumes including *Freedom: A Philosophical Anthology* (Blackwell, 2007, with Matthew H. Kramer and Hillel Steiner). His research interests include the concepts of freedom, rights, equality, and respect.

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Minimal Morality: A Multilevel Social Contract Theory, Michael Moehler.
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Human social orders are characterized by disagreement. In order to live better together we need to find some set of rules that can help us achieve social cooperation rather than conflict. This very real and very serious problem has been the central concern of social contract theorists, public reason liberals and contractarians alike. Michael Moehler's *Minimal Morality: A Multilevel Social Contract Theory* (hereafter *MM*) is the most recent contribution to this rich and broad research tradition.

Moehler begins by noting a shortcoming with public reason approaches to the problem of social cooperation: in searching for rules that all agree to, public reason liberals tend to idealize heavily, focusing on so-called 'reasonable' persons who possess certain shared liberal sensibilities.

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