

Why Equality has Nothing to do with Social Justice

1. Introductory Comments

On the 4th of July, at political conventions, in campaign speeches, and on other similar occasions, we hear a lot of hot air from bloviating politicians. They talk about democracy, freedom, justice, and equality. Sometimes they use these terms in such a way as to make it appear that they are interchangeable – as if the terms all meant pretty much the same thing.¹

Yet the terms are not synonymous. Properly used, they indicate completely different things. ‘Democracy’, for example, indicates a system of government in which ultimate political power is in the hands of the people. Other forms of government would be monarchy, oligarchy, plutocracy, theocracy, etc. ‘Freedom’, on the other hand, has nothing to do with forms of government. The citizens of some country have political freedom to the extent that the government does not impose restrictions on their movement, choice of friends, jobs, speech, religion, etc. Clearly, a country could rate high in democracy while rating low in freedom. And a pure monarchy could grant high levels of freedom to its citizens. Then you’d have lots of freedom but no democracy.

That leaves justice and equality. It may seem that justice and equality are the same thing – or at least that they are somehow intimately connected. When we were little children, we were taught that the only fair way to divide the cookies would be the equal way. If I get three cookies, then each other child should get three cookies. “Fair and equal”, as Miss Williams used to say in kindergarten.

But my view is that the fact that something is being distributed equally implies nothing about how just or unjust that distribution is. Suppose it is up to me to distribute some commodity among some people. Suppose I want to distribute that commodity in a fair or just way. If you tell me that one possible distribution is an *equal* distribution and all

¹ And they also sometimes confuse the issue further by mentioning due process of law; respect for human rights; free, fair, and open elections; and “the American Way”.

the others are *unequal*, you have given me some worthless information. I still have absolutely no insight into how I should distribute the commodity among those people. The equal distribution might be more just or less just.

More generally, my view is that equal distributions are not in any way automatically to be favored either morally, or socially, or legally, or etiquettically or in any other normative way. They are not necessarily better, or more just, or in any other way preferable.

I would like to defend my view. I would like to explain why equality is irrelevant in all these ways. However – as should be obvious – that would be a substantial undertaking. I would have to discuss the fundamental principles of all these various normative realms and I would have to formulate various principles about equality, and I would have to give arguments to show that the egalitarian principles are no more plausible than various non-egalitarian alternatives. It would take at least a big book to do that, and I have just 45 minutes here today. I cannot do it all.

So I am going to try to explain why I think that equality has nothing to do with *social justice*. More exactly, I am going to try to explain why I think that the fact that one distribution of social goods² is more nearly equal than another does not imply that the one distribution is more socially just than the other; from the fact that some distribution of social goods is perfectly equal, nothing follows concerning how socially just it would be.³

My procedure here will be as follows: First, in Section 2, I will say a few words to make sure there is no confusion about what equality is. Then I will say something about

² When I speak here of “social goods” I mean to be alluding to whatever goods (and evils) it is whose distribution bears on the social justice of some arrangement. Later I will introduce an assumption about the nature of these social goods, though in fact I have no firm views about this question and, so far as I can tell, it has no direct bearing on the main points I want to make about equality.

³ I also think that nothing follows about how intrinsically good it would be; or about how extrinsically good it would be; or about the strength of our [prima facie] obligation to bring it about. These claims about intrinsic goodness, extrinsic goodness, and [prima facie] moral obligation to produce are different from the claim about social justice. They are interesting and important claims. But I am not going to present arguments on these topics here today. I am going to stick to questions about the social justice of equality.

social justice. In this way I will try to make the subject matter of my thesis a bit clearer. Then in Section 3 I will state an egalitarian principle about social justice. I will not claim that this is “the Aristotelian view”, but I will cite a few passages in Aristotle that seem to suggest this view about social justice. I will then formulate an opposing view about social justice. This one is based directly on some things that John Stuart Mill said in *Utilitarianism*. Mill seems to say that the just distribution is not necessarily the equal distribution, but rather is the distribution according to *desert*. I will attempt to explain this. Then in Section 4 I will attempt to show that the equality principle is implausible as it stands. If it is to express a plausible view about social justice, it needs to be modified. In Section 5 I describe some likely modifications. Once suitably modified, I will attempt to show, the original principle about equality has morphed into a version of the principle about desert. In other words, when we finally get a plausible version of the egalitarian view, we discover that it has transformed itself into a version of the desertist view. The core of the revised egalitarian view can be stated without even mentioning equality. In Section 6, in an attempt to clarify the position I mean to defend, I anticipate some possible objections and give some replies.

2. Equality and Social Justice

Let us begin by reminding ourselves what equality actually is.

Suppose there is a group of people. Perhaps they live in the same country, or in the same city. Suppose there is some item – money, freedom, rights, social status, whatever. Suppose it is possible for members of the group to have amounts of the item. We can say that a distribution of the item to the members of the group is just an account specifying, for each member, the amount of the item that he or she gets.⁴

We can say that there is equality in the distribution of the selected item I in the selected group G if and only if the amount of I received under that distribution by any

⁴ When I speak of a “distribution”, I do not mean to suggest that someone is actually going to *hand out* bundles of the distributed item. Ages, weights, IQs, and other items that cannot be handed out may still be distributed (in the relevant sense) to the members of a group. A distribution may be thought of as a function from group members to numbers, where the numbers indicate the amount (on a suitable scale) of the item possessed by the member.

member of G is of the same size as the amount of I received by each other member of G. Each member of G has just as much of I as each other member has. If no particular group is selected, or if no particular item of distribution is mentioned, then any claim of equality is to that extent incomplete, or perhaps empty.⁵

Obviously, some distributions of some items in some groups are unequal. Consider the distribution of ages among the people in this room. We are not all of the same age. So the distribution of ages among us is an unequal distribution.⁶ If everyone in the room were of some age between 18 and 22, the distribution would more closely approximate an equal distribution. And if everyone here were exactly 20 years old, the distribution would be perfectly equal.

I am going to be claiming that equality has nothing to do with social justice. Therefore, we need to have some grasp on the concept of social justice.

Questions about the amount of social justice in some community presumably have something to do with the way in which some selected benefits and burdens are distributed among the members of the community. When we compare two communities in terms of social justice, and we say that the distribution of the relevant benefits and burdens in the one is more just than the distribution in the other, we are saying that there is something better, or more valuable in a certain way, about the way in which those benefits and burdens are distributed among the members of the one community as compared to the way those benefits and burdens are distributed among the members of the other community. But we should be clear that we are not talking about the total amount of benefits; nor are we talking about the average level of welfare in either community. These measures of betterness are

⁵ For completeness there should also be a relativization to times. I will suppress that here since, so far as I can tell, nothing of present significance depends upon it.

⁶ In some contexts it is important to be able to compare two unequal distributions. In such cases we may want to be able to say that one distribution more closely approximates the equal distribution than the other one does. We may want to say, for example, that if everyone in this room had an age between 18 years and 22 years, then that distribution of ages would be closer to equality than the distribution of ages that we actually have. The precise determination of the extent to which a distribution approximates equality is a very tricky question.⁶ If my main point in this paper is correct (and if it carries over into other evaluative realms), this is a matter of very small importance.

not relevant. We are talking about how “fair” or “just” the distributions are. Surely we can imagine a community in which everyone is living at a relatively low level of welfare, but in which no one has any complaint on grounds of unfair treatment. Such a community might rate high on the scale of social justice, though low in other respects.

Similarly, the members of a community might enjoy lots of benefits, even though many citizens do have complaints about fairness. Members might agree that they are reasonably well off, but at the same time they might be annoyed about what they perceive as injustice in the distribution of social rights. Such a community might have a low level of social justice in spite of the fact that each member has a lot of freedom, or welfare, or money. Social justice is a matter of a certain aspect of the distribution, not of the absolute amount of goods distributed.

When we speak of social justice, then, we are speaking about the fairness of the distribution of some benefits and burdens in some community.⁷ But which are the relevant benefits and burdens? This is sometimes known as the question about the “currency of justice”.

Some philosophers apparently believe that the amount of social justice in a community depends upon the way in which fundamental social rights are distributed within that community. They might say that these rights are the currency of justice. Others seem to think the relevant factor is “primary goods”; they think we have greater social justice when “primary goods” are more fairly distributed within the community.⁸ So they would say that primary goods are the currency of justice. Others might say the currency of social justice is welfare. Others have argued that social justice is really a matter of the quality of the distribution of *opportunity for welfare*. And yet others have claimed that what really matters is the opportunity for welfare that individuals receive *at the starting gate*. Since I do not want to

⁷ I assume that questions about the social justice of some distribution will not be confused with questions about the *legal* justice of that distribution. If the laws are bad enough, a completely unjust distribution might nevertheless be perfectly legal.

⁸ Rawls seems to say this in Sect 15 of *A Theory of Justice*. For him, the primary goods are the things a rational person would want regardless of the other things he might want. They are things that would be required for the fulfillment of any rational plan of life. (see p. 62 for definition)

get entangled in the question about the currency of social justice, I will simply make an assumption: let us assume that social justice is concerned with the distribution of *fundamental socially distributable rights*. I will assume that among these rights are such things as the right to move around freely, the right to speak your mind, the right to worship or not as you see fit, the right to own property, the right to associate with others (provided that they want to associate with you), etc.⁹ For present purposes it is not essential that we agree on the details. I encourage you to make use of your own preferred list of fundamental socially distributable rights. My hunch is that we will all make use of roughly similar lists of rights, but that differences of detail among them will make no difference today.

3. Two Principles about Social Justice.

In an often-quoted passage in his *Politics*, Aristotle says:

“In all sciences and arts the end is a good, and the greatest good and in the highest degree a good in the most authoritative [science] of all – and this is the political science of which the good is justice... All men think justice to be a sort of equality; ...” (*Politics*, Bk. III, Ch. 12)

In his *Nicomachean Ethics* he makes a similar remark, also suggesting a tight connection between social justice and equality:

“We have shown that both the unjust man and the unjust act are unfair or unequal; now it is clear that there is also a mean between two unequals, namely, that which is equal; for in any kind of action in which there is a more and a less there is also what is equal. If, then, the unjust is unequal, the just is equal, as all men believe even apart from argument.” (*Nicomachean Ethics*, Bk. V, Ch. 3)

Aristotle proceeds to ask about the currency of social justice. He mentions “offices of state” and “political rights”. But let us adjust this slightly, and assume a view according to

⁹ When I speak of “socially distributable rights” I mean rights that can, in principle, be distributed by a social group. The right to freedom of speech, for example, is typically a right that a group can distribute to its members. The right to have the parents of your choice, however, is not a right that any social group can give out. No group has the power to ensure that members get the parents they want. Nature seems to impose our parents upon us.

which *fundamental socially distributable rights* are the currency of justice. Then, if we otherwise stick closely to what Aristotle seems to be saying in these passages, we might conclude that Aristotle thought that social justice is fundamentally a matter of the equal distribution of these rights.¹⁰

If this were his view, then he would say that

E1: A community enjoys social justice if and only if fundamental social rights are distributed equally among the members of the community.¹¹

There's a form of egalitarianism for you. It is egalitarianism about social justice; it is based on the idea that the currency of social justice is fundamental social rights. The view is suggested by some remarks in Aristotle's *Politics* and his *Nicomachean Ethics*. Let us now turn to a completely different view about social justice.

In an often-quoted passage near the end of *Utilitarianism*, John Stuart Mill says this:

“[I]t is universally considered just that each person should obtain that (whether good or evil) which he deserves; and unjust that he should obtain a good, or be made to undergo an evil, which he does not deserve. This is, perhaps, the clearest and most emphatic form in which the idea of justice is conceived by the general mind.” (*Utilitarianism*, Ch. 5)

Mill here seems to be giving whole-hearted endorsement to a conception of justice that has nothing to do with equality.¹² He seems to be saying that the most just distribution of goods

¹⁰ The attribution of this egalitarian view to Aristotle will be clarified shortly. This is just provisional.

¹¹ I assume that social justice is a matter of degree. One community can enjoy a greater level of social justice than another. If E1 is correct, then a community's degree of social justice would be determined by its proximity to an equal distribution of fundamental social rights.

¹² He goes on in this chapter to develop a view about justice that seems to be inconsistent with what he says here. His views seem to have been that the distinction between actions that are in general morally right and actions that are required by considerations of justice corresponds closely to the distinction between imperfect duties and perfect duties. In the former case an action is right simply because it leads to best consequences. In the latter case, there is some specific person who will benefit from it, and we have an obligation to do that good for him because he has a right that it shall be done. As Mill says, “Justice implies something which it is not only right to do, and wrong not to do, but which some individual person can claim from us as his moral right.”

and evils within a group is the distribution that allocates to each individual precisely those goods or evils that he or she deserves. As applied to specifically *social* justice, and assuming that the currency of justice is social rights, a view based on this insight would be this:

D: A community enjoys social justice if and only if fundamental social rights are distributed among the members of the community according to desert.

There's a form of desertism for you. It is desertism about social justice; it is based on the idea that the currency of social justice is fundamental social rights.

Since different people can have different degrees of desert, this desertist conception of justice implies that a perfectly just distribution of social rights can be one that is not an equal distribution. So, though I would not characterize this as a form of *anti-egalitarianism*, I would characterize it as a form of *non-egalitarianism*.¹³ This is a view according which equal distributions are no more to be favored than distributions in which some people get a lot of rights and others get only a few; or distributions in which no two people get the same amount of rights. The only case in which an equal distribution could be socially just, on this view, would be the case (one in a million, perhaps) in which all the members of a community deserved to have exactly the same fundamental socially distributable rights.

4. Why the Pure Egalitarian Conception Needs Modification.

According to the egalitarian conception of social justice there is perfect social justice in a community if and only if the package of fundamental social rights distributed to any one member is the same as the package of such rights distributed to each other member. The motto of this approach is "Equal rights for all!"

There are several obvious difficulties with this sort of egalitarianism. In order to bring these difficulties into sharp focus, I would like to ask you to imagine a little

¹³ I reserve "anti-egalitarianism" for views according to which equality is a *bad* thing, or something *to be avoided* or rejected. I use "non-egalitarianism" for views according to which equality in itself is neither good nor bad, neither to be sought nor rejected.

community. Certain features of the community have been emphasized in order to help us focus more clearly on questions about social justice. A short story provides background:

Suppose a big plane is flying across the ocean on an international flight. Suppose the passengers are the typical motley group – some from this country, some from that. Some of the passengers are black, some white, some Asian, some are of various mixed racial ancestry. Several different religions are represented, too. Some are old, some are young; two are infants traveling with their mother. Some are frail and elderly; some are young and healthy. One or two passengers have diabetes. Some are smart, some are stupid. One or two are very smart, and one or two are suffering from real intellectual deficits. Most of the passengers are morally decent but not exceptional people. A few are real saints, and (alas) a few are real sinners. The sinners are a small band of terrorists bent on hijacking the plane.

Suppose the hijackers attempt to hijack the plane, but their effort goes awry. The pilot and copilot are wounded and unable to control the plane, which begins to lose altitude. Some heroic passengers overpower the hijackers and tie them up as the plane falls. The plane crashes into the ocean and miraculously almost everyone survives: only the mother of the two infants is lost. The survivors discover that they are within a hundred yards of a deserted island. Everyone makes it ashore. The terrorists are still tied up. The frail elderly are still in their wheelchairs. The mentally disabled are still unable to understand what's going on. The babies are crying.

Suppose the survivors find that there are some limited resources on the island – food, a small supply of fresh water, materials with which to construct shelters, etc. In addition, they managed to retrieve some first aid kits containing a supply of insulin. The resources are barely sufficient to support such a large group of people, though they recognize that if they cooperate, they may survive. Suppose, in this situation, that the survivors recognize that they may be stuck on this island for quite a while. They decide

that as a first step, they should agree to a fair distribution of fundamental social rights. “Let’s try to do this fairly,” they say.¹⁴

The egalitarian principle about social justice implies that there would be perfect social justice in this community if and only if all members of the community were to get the same package of socially distributed rights. In order to evaluate the proposal, let us imagine a certain package of rights, and then imagine what would happen if every member received precisely the rights in that package – neither more nor less. We can then reflect upon the level of social justice that would obtain under those circumstances.

Suppose the package of rights contains:

RFS: The right to freedom of speech; you can say anything you want (short of “fire!” in a crowded theater)¹⁵.

RW: The right to worship as you see fit.

RA: The right to meet with and exchange ideas with others who want to meet with you.

RP: The right to own property if either you can acquire it on your own or purchase it from someone else.

RM: The right to move around freely without any interference from the group.

But suppose the package does not contain any right concerning the provision of food, medical treatment, clothing, or shelter. Suppose it does not contain any other rights.

¹⁴ Note that they did *not* say “let’s try to do this in the way that will maximize the utility of the survivors.” Nor did they say, “let’s try to do whatever we morally ought to do.” Their aim is to ensure *social justice* in their newly founded community.

¹⁵ Since there is no theater on the island it is hard to see the relevance of the parenthetical restriction.

If every member of the group were to receive precisely this package of rights, there would be perfect equality of socially distributed rights in their community at the imagined time.¹⁶ However, the level of social justice on the island would be minimal. The infants, having lost their mother, would be left to fend for themselves. (Note that there is no right to have your diaper changed in the package of rights listed above.) We could imagine that no one would tend to their needs and they would be left to starve and die. This seems completely unjust. The diabetics would have no claim on the insulin. (There is no right to health care in the list given above.) If those holding the first aid kits chose not to hand over the insulin, the diabetics could go into shock and might even die. The terrorists who tried to hijack the plane, on the other hand, would have the right to move freely around the island, worshipping and speaking and owning property like everyone else. (The rights to freedom of speech, worship, and movement assure this.) Again, this seems to me to be a violation of the demands of justice.

In general, it seems to me seriously unjust to give all these people the same package of rights when, as we know, they are different in important ways. Some are more needy; some are meritorious; and some are just a bunch of terrorists whose misbehavior got them all into this pickle in the first place.

5. Equality for Equals; Inequality for Unequals

Earlier, I quoted a passage in which Aristotle says that everyone thinks that justice is a form of equality. I allowed you to infer that Aristotle was a pure egalitarian. That was very misleading. Aristotle (in the very passage from which I quoted) makes it clear that he does not accept the pure egalitarianism we have been discussing. Instead, Aristotle maintains a sort of modified, or watered down, egalitarianism. He says:

¹⁶ It is interesting to note that there would be perfect social equality if everyone received a package of rights containing no rights at all; or just one right. Equality requires no more than that they all get the same package of rights.

“... all men think that justice is equality ... not, however, for all, but only for equals. And inequality is thought to be, and is, justice; neither is this for all, but only for unequals. When the persons are omitted, then men judge erroneously.”¹⁷

So Aristotle’s view was not that justice requires that everyone be treated alike. Rather it was that justice requires that equals be treated equally, and that unequals be treated unequally.

In the planewreck case, I asked you to imagine that everyone gets exactly the same package of rights. Surely Aristotle would say that these people are not all equals, and so he would say that justice requires that they get unequal rights rather than equal ones. Presumably, he would say that the infants and diabetics must get special rights because they are unequals. They are unequal in virtue of the fact that they have extra innocent needs. The terrorists, similarly, must not get rights to such things as freedom of movement around the island. In this case, perhaps he would say that they are unequals because of their past evil behavior.

Let us attempt to state this “equal rights for equals; unequal rights for unequals” theory clearly. In order to do this, we must assume that the community can be broken down into “peer groups”. One peer group, we may assume, will contain the infants; another will contain the terrorists; another the diabetics; another the heroic passengers who subdued the terrorists. Assume that each peer group contains people who are “equals”. Assume that people in different peer groups are “unequals”. Then we can say:

E2: A community enjoys social justice if and only if fundamental social rights are distributed equally within each peer group of the community, and unequally among people who are not co-members of the same peer group.

According to E2, justice requires that if a given person has a certain package of rights, then everyone in that person’s peer group must have the same package of rights. People not in that person’s peer group must not have the same package of rights. The

¹⁷ *Politics* Bk. III, Ch. 9.

implications for the planewreck case may seem fairly clear. Instead of saying that justice requires that everyone get the same package of rights, we need only say that justice requires that *within each peer group* everyone gets the same package of rights. So all the infants get the same set of rights as each other; and all the terrorists get the same package of rights as each other. But the infants get different rights from the terrorists.

This modified form of egalitarianism may seem somewhat more plausible, but in fact it confronts huge problems. One problem¹⁸ concerns the peer groups. Merely saying that the people in the subsets are “equal” in some way is obviously insufficient. In what ways must they be equal? Shall we say that people who are equal in age are equal for purposes of social justice?¹⁹ That would imply that we have social justice only if people of equal age get equal packages of rights. This is completely implausible. Suppose some of the terrorists are the same age as some of the heroes. This view would imply that they all should be treated alike because they are all of the same age, and that would be crazy. In order to make the idea at all plausible, we need to construct the peer groups in such a way that it will be reasonable to think that justice will be served if people in peer groups are treated equally. And how can that be done?

I think this problem can be partly solved if we borrow an idea from Mill. We can say that the relevant sort of equality is *equality of desert*. As before, we can imagine the community broken down into peer groups. But now we can say that within each peer group are members who are equal to each other with respect to desert. In other words, within each peer group, each member is just as deserving of social rights as each other member; and across peer groups, no one is exactly as deserving of social rights as anyone in another peer group. We can call these “equality-of-desert peer groups”. Thus, (making some natural simplifying assumptions) we can say that the two infants are the sole members of one equality-of-desert peer group. Each infant deserves just as much as the other. Justice will be served if they get equal packages of rights. The terrorists are the sole members of another equality-of-desert peer group. Justice then will require that they get equal packages of rights.

¹⁸ And this is a problem that Aristotle discussed and tried to solve.

¹⁹ Aristotle mentions “complexion” and height, and remarks on how silly it would be to distribute political rights on the basis of such considerations.

Then it begins to make sense to say that social justice is a matter of equal rights for equals – because the “equals” in this case are taken to be people who are equally deserving.

The general idea here can be stated in this way:

E3: A community enjoys social justice if and only if fundamental social rights are distributed equally within each equality-of-desert peer group of the community, and unequally among people who are not co-members of the same equality-of-desert peer group.

But even with this addition, problems with the egalitarian approach remain. Suppose all the members of each equality-of-desert peer group have the same package of rights. Then E3 would declare that social justice reigns in their community. However, there is no social justice if the package of rights delivered to each peer group is different from what the members deserve. For even if within each peer group the members are given the *same* rights, it is still possible that they all have far *fewer* [or far more] rights than they deserve. This can be seen by reflection on the planewreck case. Suppose the infants are given a package containing the right to move around freely, but not containing the right to have their diapers changed. They are members of an equality-of-desert peer group, and they are getting equal rights, but they are not being treated fairly. They are given some rights that they do not need, and are being deprived of rights that they deserve. Suppose, further, that the terrorists are members of an equality-of-desert peer group. Suppose they all get the same package of rights. Suppose it contains the right to move freely around the island and the right to get their diapers changed. Then even though they are equally deserving and are getting equal rights, there is no justice. They are getting some rights that are of no value to them, and they are getting other rights that they do not deserve.

I can think of only one plausible way to solve this problem.²⁰ We need to make another use of the concept of desert. We need to suppose not only that the peer groups contain people who are equally deserving, we must also suppose that the package of social rights distributed to the members of each such group contain rights that the members of the group deserve. Then not only will equally deserving people be treated equally, they will be given equal doses of the rights that they deserve. This means that all the members of each equality-of-desert peer group will get an equal package of rights; but in addition, it will mean that the package of rights they receive will contain a set of rights that the members of that group deserve. This must be the Aristotelian conception of equality (twice adjusted for desert).

The twice-modified idea can be stated in this way:

E4: A community enjoys social justice if and only if fundamental social rights are distributed equally within each equality-of-desert peer group of the community, and fundamental rights are distributed unequally among people who are not co-members of the same equality-of-desert peer group; and each equality-of-desert peer group receives a package of rights that its members deserve.

I am inclined to think that E4 formulates a fairly plausible conception of social justice. For according to E4, justice requires not only that social rights be distributed equally to the equally deserving, but that within each group of equally deserving individuals, the rights distributed to the members of that group are the rights that member deserves.

However, with this latest modification we have come to a view that makes all talk of equality superfluous. You can begin to see this if you note that there could be a community

²⁰ It might appear that there is another solution. Perhaps we could make use of “conditional rights”, like the right to have your diaper changed *if you are a needy infant*, or the right to move freely around the island *if you are not a terrorist*. We could say that social justice requires that people get equal package of these conditional rights. The problem with this approach concerns the content of the “if” clauses. Suppose someone proposes that everyone be given this right: the right to vote *if you are a white male*; or this right: the right to own property *if you are descended from the king*. Clearly, even if everyone has an equal package of such rights, there will be no social justice on the island. The rights themselves carry their injustice within their “if” clauses.

in which this twice-modified egalitarianism is satisfied, even though no two people get the same package of rights. Imagine, for example, that some group is composed of lots of very small equality-of-desert peer groups. Specifically, imagine that each equality-of-desert peer group has only one member.²¹ Then this form of egalitarianism would imply that social justice requires a distribution of rights according to which no two members get the same package of rights. Within each peer group (containing just one member) there would be a set of rights deserved by that member alone. Thus, though E4 purports to be a form of egalitarianism, its conception of justice does not require that there be *equality* of anything.

A deeper point, suggested by this, is that equality really plays no essential role in this principle. We can simply drop all mention of equality without affecting the impact of the principle. Note that within each equality-of-desert peer group, each member is getting the rights he or she deserves. Why not just say, then, that social justice requires each person to get the rights he or she deserves? When this condition is satisfied, it will follow automatically that if two people are equally deserving, they will get equal rights. But there is no need to mention equality, since this is a trivial corollary of the fundamental principle.

The upshot of this is that when the equality principle is suitably modified, it becomes equivalent to the desertist principle. We end up saying that social justice requires that people get the rights they deserve. While we can mention equality if we like, it is really playing no role. The crucial factor, and the factor that makes for social justice, is that each person is getting the rights that he or she deserves. Thus, equality is irrelevant in two ways. First, because there can be a perfectly just society in which there is no equality of social rights. Second, because we can state the relevant principle of justice without mentioning equality (or anything equivalent to equality). Where social justice is concerned, what matters is that each person gets what he or she deserves, not that anyone gets the same as anyone else.

6. Some Possible Objections and Some Replies

²¹ An easy way to see this: change the planewreck example so that there is only one infant; only one terrorist; only one hero; only one diabetic; etc.

By way of conclusion, I want to discuss some possible objections. In this way I hope to forestall some misunderstandings.

Objection 1: Am I then just some sort of elitist? Do I prefer arrangements in which some people (perhaps over-educated white males like me) get larger packages of fundamental social rights? Am I opposed to arrangements in which everyone gets treated equally?

Reply 1: No. I suspect that I prefer social arrangements that would also be preferred by thoughtful people who consider themselves to be egalitarians. When people are equally deserving, I prefer to see them enjoying equal rights. The difference between me and the thoughtful egalitarian comes out in our explanations of justice. The egalitarian says that he likes these arrangements because they manifest so much equality. I like them, on the other hand, because they manifest such a neat fit between desert and receipt.

Objection 2: If we assume that all people are equally deserving of certain rights (e.g., the right to life; or the right to a fair trial if accused of some serious crime; etc.) then doesn't the desertist view imply that in many cases, if social justice prevails people will in fact end up with equal (or at least very similar) packages of fundamental social rights?

Reply 2: Yes, the desertist view implies that when people are equally deserving, social justice requires that they receive equal packages of rights. Insofar as people (perhaps especially on Day One) are equally deserving, the theory implies that it is just for them to have equal rights. But the theory explains the justice of this arrangement by appeal to the fact that the individuals are getting what they deserve; not by appeal to the fact that they are getting *the same*. And furthermore the assumption that people are equally deserving is implausible. In fact people are not equally deserving. Some deserve more because of innocent need or heroic sacrifice. Others deserve less because they have already had too much, or because they have been bad. So the cited equivalence of desert is not often found in real life.²²

²² I am inclined to think that people have different desert levels even on Day One. Consider a newborn infant with a serious health problem, or one whose parents are unable to care for him. Such a child might deserve differential help from others. Of course, it is unlikely that a person could be born already deserving benefits because of previous good behavior, or penalties because of

Objection 3: Why does it seem so natural and easy to claim that the “default” position is the position of equality of rights? That is, when we know very little about some community, it seems that the natural thing to say is that justice requires that people get equal rights. Doesn't this show that equality has a kind of priority?

Reply 3: No. It is important to recognize that in the case described we are not totally in the dark about the imagined community. We are given one important piece of information about the members of the community: we are told that each of them is a person. We may think that each of them deserves certain rights simply in virtue of being a person. Since they are alike in being persons, their deserts are so far alike. The desertist principle therefore implies that pending further information about the members, they are to be given equal fundamental social rights. Since by stipulation we know nothing more about the members, there is no basis for thinking that anyone deserves any more or any less. Therefore, the apparent egalitarianism of this distribution is misleading. We are moved to think this distribution is just primarily because of considerations of desert.

It is important to keep in mind that when we are distributing benefits and burdens we may have more in mind than sheer *justice*. Sometimes we are concerned with increasing total levels of welfare, or happiness, or satisfaction. Sometimes we are concerned with avoiding anger and resentment and hurt feelings. Sometimes we are concerned with following the law, or keeping our word. For all these reasons we may choose an equal distribution. But none of this bears on the central point here, since none of these reasons is directly relevant to social justice. If we were simply trying to maximize social justice, and did not have any of these other considerations in mind, then, it seems to me, the appropriate course would be to try to distribute fundamental social rights according to desert.

Objection 4: Suppose the left-handers are getting systematically short-changed with respect to these rights. Suppose they think that this violates the demands of social justice. Surely

previous bad behavior. That sort of desert will arise only later, after the child has had a chance to engage in suitable (or unsuitable) behavior.

they will say “equal rights for lefties!” Doesn’t this show that equality has at least something to do with social justice?

Reply 4: No. For when the lefties demand “equal rights for lefties” they are just speaking loosely. They can’t literally mean *equal rights* since they undoubtedly know that different members of their community are getting different packages of rights. They can’t be demanding rights equal to all of them, since it is not the case that all the others are getting the same. The infants are getting certain rights; the terrorists are getting others. With whom would the lefties choose to be equal?

I think that when the lefties demand “equal rights for lefties” what they really mean is that they want the rights that they deserve; this means that they want it to be the case that their left-handedness not be taken as a basis for giving them more, or for giving them less. So on my view, “equal rights for lefties” really means this: “do not give lefties any greater rights merely because of their left-handedness; do not give lefties any lesser rights merely because of their left-handedness. Left-handedness should play no role in the distribution of rights.” I grant that this motto is a bit less catchy than “equal rights for lefties!”, but it seems to me that this motto more accurately expresses what the lefties want – and the crucial point is that it makes no mention of equality.

Objection 5: But wasn’t Rawls right when he said that this appeal to desert is impracticable?²³ Isn’t it really hard (or impossible) to figure out who deserves what? And if we can’t determine who deserves what, won’t it be hard to determine which social arrangements are just?

Reply 5: Rawls was right. It is hard – maybe impossible – to figure out who deserves what. But this is no objection to the desertist view. Maybe the conclusion to draw is this: justice requires that people receive the social rights they deserve; it’s hard to know what people deserve; therefore it is hard to know what justice requires. Why should we assume that it would be easy?

²³ Rawls, *A Theory of Justice*, p. 312.

Objection 6: People often get angry and resentful when they are receiving less compensation for equal work, or when they are being called upon to make greater sacrifices than others. They seem to like it better when there is equality of such things. Furthermore, we risk social instability when the distribution of such things gets blatantly unequal. Doesn't this show that equality has some bearing on social justice?

Reply 6: No. It is just as reasonable to suppose that citizens with smaller paychecks are angry because they think they are getting less than they deserve, or because they think that rich people are getting bigger paychecks than they deserve. Perhaps equality is irrelevant here, too. Furthermore, the cited fact (if it is a fact) would only tend to show that seriously unequal distributions may have bad consequences, not that such distributions are unjust. This may give us a reason to avoid such distributions, but that reason is not based on a fear of injustice. It is based on considerations of total utility.

So now perhaps you can see why it makes sense to cheer when windbag politicians say nice things about democracy, or freedom, or receipt proportional to desert, but why it makes no sense to cheer again when they say nice things about equality. If we already have receipt proportional to desert, it would only make things worse to revise the distribution by making it more closely approximate equality.