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JUSTICE, RESPECT, AND TREATING PEOPLE AS EQUALS*

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Some believe that the ideal of social equality provides us with a very different way of thinking about justice to approaches that start from the question of how goods should be distributed among people.¹ But in so far as this ideal offers a vision of a society of equals - a society whose members have equal standing because they are treated as equals, that is, as having equal inherent worth, not only within its institutions and practices but also by each other in their ordinary interactions - we might wonder whether it takes us beyond what justice alone requires of us in our treatment of one another, encompassing a broader ideal of civic friendship or respectful behavior. In response it might be said that any failure to treat a person as an equal is an injustice, so there is no reason to think that this conception of a society of equals takes us beyond justice. In the present chapter I challenge this response, arguing that social equality, when it is understood in the way described, involves but extends further than what justice requires of us.²

My argument is developed by exploring a number of cases which suggest that failing to treat others as equals is not always intrinsically unjust. In section 1, I present these cases and consider some ways in which this conclusion might be resisted but argue that none are successful. These cases nevertheless cause varying degrees of moral discomfort. In sections 2-4, I examine the resources that are available to us in characterising them in order to make sense of our unease and to explain why we nevertheless think that they involve morally objectionable behavior. I ask whether it is the disrespect shown that bothers us, or whether it is the unjust effects that flow from these forms of behavior when they are widespread, or the failure to act as one should

towards one's fellow citizens, or some combination of these. Reflection on these questions brings into view an ideal of social equality that includes but goes beyond what justice requires, grounded in the value of recognition respect and in what I call the good of equal membership.

Some may think that my argument involves an excessive and unhealthy preoccupation with distinguishing justice from other values. There are at least two different ways of thinking about justice that have a bearing on the issue of whether the ideal of social equality goes beyond justice. The first way treats justice as one value amongst several. This leaves scope for considerable debate regarding what considerations fall under the rubric of justice,³ and makes room for my argument that social equality is an ideal partially distinct from justice. (It also leaves scope for debate about how much weight considerations of justice possess, compared to considerations relating to other values, when evaluating states of affairs, designing institutions, or devising policies.) The second way regards 'justice' as an umbrella term that shelters any weighty consideration that is relevant to our evaluation of an outcome or a form of behaviour, or to our judgements about how the basic structure of society should be designed. According to this view, there can be very different kinds of considerations of justice or very different aspects of justice, and indeed these may come into conflict with one another. From this perspective, if considerations of social equality are, in general, weighty in our assessment of outcomes, forms of behavior, or basic institutions, then they automatically count as considerations of justice.

Does it matter in the end which way we think about justice, that is, as one value amongst several, or as a formal category to which any weighty evaluative consideration relevant to the assessment of actions, policies or institutions, gets assigned?⁴ Is it simply question-begging to accuse the latter view of encouraging

confusion between justice and other values? G. A. Cohen has argued that the principles Rawls defends, such as the difference principle, masquerade as principles of justice but smuggle in a commitment to values such as Pareto efficiency and publicity that are conceptually distinct from justice.⁵ This accusation ultimately rests on an appeal to “ordinary language” considerations: Cohen thinks it is intelligible to make claims such as ‘These arrangements are just but unstable’, or ‘This distribution is just but it is not Pareto efficient’, or ‘The application of this principle is not publicly checkable but it is nevertheless a principle of justice’. (And we might add to this that it makes sense to say ‘This person is not being treated as an equal, but she is nevertheless being treated justly’.) I share this view and think that ordinary language considerations do have some authority here – enough authority to justify the idea that we should treat justice as one weighty value among several.⁶

Critics will, however, demand an account of what justice is and what distinguishes it from these other values.⁷ Like Cohen, I do not try to give a fully satisfying answer to this question. But I suggest that a person’s behavior comes within the purview of justice only if it advantages or disadvantages another or, at least, is intended to do so. Here ‘disadvantage’ and ‘advantage’ are to be understood broadly. A person is disadvantaged (or advantaged) if she is made worse off (or better off) when judged according to some appropriate standard, whether in absolute or relative terms; or if she suffers psychological harm (or receives psychological benefits); or if she is subjected to behavior that is part of a dominating relationship. This condition is enough to prepare the ground for my argument that failing to treat people as equals is not always intrinsically unjust.⁸

1. Cases, intuitions, and responses

Let me begin with the cases that I believe motivate the idea that failing to treat people as equals is not always intrinsically unjust. (In principle one case would be enough, but presenting a variety of them makes the argument more persuasive whilst at the same time giving reason to think that the kind of behavior to which I am drawing attention is more widespread than it might seem at first glance.)

Local Shop. A man refuses to shop at his local store because it is run by a member of a particular ethnic minority. Instead, he walks to a store that is further away and more expensive because it is run by someone from his own ethnic group. It is not simply that he is opposed to the immigration policies which have led to a rise in the numbers of people from this ethnic minority; it is because he thinks that members of this group are inferior because they generally lack various qualities, such as honesty and integrity, that are widespread amongst members of his own ethnic group, so he doesn't want to give them his custom.

Moving House. A family moves out of their house because their new neighbours are from a particular ethnic minority. This is not because they are worried about a fall in its market value because, say, the prejudices that are widespread in their society may lead to a drop in demand for properties in a neighbourhood that has a high proportion of this ethnic group. Rather, they share those prejudices because they believe that members of this group are inferior and they do not want to live next door to anyone who belongs to it.

School Choice. In selecting a school for their daughter, her parents look at the ethnic composition of different schools. This is not because, say, they worry about the effects of sending her to a school where many of the pupils speak a different first language or that a disproportionate amount of the school's resources will be devoted to bringing pupils up to speed in the language of instruction, but simply because they do not want her to associate with those from ethnic minorities. They would rather send their daughter to a school that is further away, and which scores less well in terms of the other qualities that they value in a school, than send her to a school that has a high proportion of ethnic minority children because they believe that those who belong to these minorities are inferior.

Cashier. When shopping at the supermarket, a man tries to avoid going through a checkout that is being operated by a member of an ethnic minority. He would rather queue for longer, or even shop elsewhere (perhaps paying more money for his groceries) than have to interact with a cashier from that minority because he believes that members of this minority are inferior.⁹

These cases should make us feel morally uncomfortable. But although in each one there is a failure to treat the members of an ethnic minority as equals, the behavior described does not seem to be intrinsically unjust. In the remainder of the section I shall clarify this claim and consider some potential ways of resisting the idea that these cases are counter-examples to the view that failing to treat others as equals is always intrinsically unjust.

The idea of an action being intrinsically unjust stands in need of further elucidation. Let me stipulate that a failure to treat someone as an equal is intrinsically unjust when it involves an injustice that is grounded solely in those features of the action that make it a failure to do so. In a well-known paper Donald Davidson pointed out that there are often multiple descriptions of the same action: turning on the light may sometimes be re-described as ‘alerting a prowler’;¹⁰ so too refusing to shop at one’s local store can sometimes be re-described as ‘failing to treat the shopkeeper as an equal’. So let me stipulate further that a description of a particular action that reveals the features which make the action a failure to treat someone as an equal also justifies the claim that this action is intrinsically unjust if and only if it justifies the claim that the action is unjust and that its injustice is grounded solely in those features. So understood, there could in principle be cases in which failing to treat others as equals is not intrinsically unjust without it necessarily following that such a failing can *never* be intrinsically unjust. It is intelligible, at least, to suppose that in a range of cases the descriptions that reveal the particular features that make these cases failures to treat other people as equals do not show that they involve any intrinsic injustice, whereas in another range of cases the relevant descriptions might show that an intrinsic injustice is involved. For example, it might be that the failure to treat another as an equal that is involved in *Cashier* is not intrinsically unjust, whereas the failure to do so that is involved in an employer denying a woman a job because he believes that members of the ethnic group to which she belongs are inferior is intrinsically unjust. After all, in the case of *Cashier* no one seems to be disadvantaged by the lack of interaction described, unlike in the case where a woman is denied a job as a result of an employer’s belief in her inferiority. Both are failures to treat people as equals but the particular features in each case that make that so (not interacting

with the cashier because of a belief in the inferiority of the ethnic group to which she belongs in the first case; refusing the woman a job because of a similar belief in the second) differ in such a way that arguably in the second case that failure is intrinsically unjust whereas in the first it is not.

Do the intuitive judgements I am relying upon involve assuming that the “victims” in each case are unaware of the fact that they have not been treated as equals? If the victims were assumed to be aware of the way in which they were being treated, would we still be inclined to say that the behavior to which they were subject was not intrinsically unjust? We should not suppose that a person can be treated in a way that denies her equal moral worth only if she is aware of that happening. My argument gets off the ground so long as it is possible for there to be cases of the sort I believe I have described, in which a person is unaware that she is not being treated as an equal but no intrinsic injustice is involved. Even when the victim is aware that she is not being treated as an equal, unless the failure to do so disadvantages her in some way, or at least is intended to do so, it is unclear that the concept of justice has any purchase. Of course, if she feels humiliated, or suffers from damage to her self-respect as a result of being aware that she is at the receiving end of this kind of behavior, then the concept of justice gets a foothold. But if that happens, any injustice involved is extrinsic rather than intrinsic to the failure to treat her as an equal since it relies on these psychological effects, yet these effects are not required in order for it to be true that she has not been treated as an equal.

Might it be argued that failing to treat people as equals is always intrinsically unjust, but only *pro tanto* unjust, and that we have a right of free association that in some cases permits us to act unjustly in this way? Perhaps we are tempted to err in thinking that failing to treat people as equals is not always intrinsically unjust because

in these cases we focus on the fact that this right is being exercised legitimately and neglect the element of injustice that is nevertheless involved in its exercise.

This is not the place to provide a full analysis of the right of freedom of association, its grounding, and its scope. But it doesn't seem to me that this diagnosis illuminates the cases I have described since it is difficult to see them as exercises of a right of free association at all. With the possible exception of *School Choice*, the interactions that are being avoided hardly count as 'refusing association' and the interests that are protected by such a right do not seem to be at stake in them. Furthermore, any plausible analysis of the right of free association will acknowledge that it has limits, and that it does not give one the right to exclude others whenever one wants or on whatever basis one chooses. It is therefore questionable whether such a right ever permits people to exclude in a way that involves an injustice. For example, when access to important goods or networks is at stake, the exclusion of women or members of ethnic minority groups from an association generally involves an injustice. In these cases, the opportunity-interests of those excluded are damaged in such a way that they are being discriminated against unjustly and there is good reason to think that the right of free association does not license such exclusions.¹¹ Given the limited scope of the right to free association, it is unclear whether there is any space for the idea of an exercise of that right that is unjust because it fails to treat some as equals but which is nevertheless morally permissible.

In a further response to my claim that the forms of behavior described earlier do not involve any intrinsic injustice, it might be argued that this claim rests upon an implicit assumption that is open to question, namely, that principles of justice apply only to the basic structure of society, and to the behavior of individuals only in so far as they are acting as occupants of particular roles that are part of this structure, not to

behavior that merely takes place within it. According to this view, when people act as public officials, their behavior is governed by principles of justice, but not when they act merely as consumers, house-buyers, or parents. But the idea that principles of justice apply only to the basic structure of society has been challenged,¹² so if my interpretation of the cases I have described rests upon that idea, then it is on shaky ground.

Let me simply assume for the sake of argument that the restriction of principles of justice to the basic structure in this way is indefensible. If we remove this restriction, would this then give us reason to mistrust our intuitions, depriving us of any further reason to resist the idea that failing to treat people as equals is always intrinsically unjust? Would it mean that we lacked any basis for not regarding the forms of behavior I have described as intrinsically unjust? It might be argued that when we act as occupants of roles that are part of the basic structure, principles of justice require us to treat those who are also subject to this structure as equals, so if these principles apply not only to the basic structure but also to personal behavior that takes place within it or in its shadow, then they will require us to treat others as equals in that behavior – including the cases I have described.

But even if we cannot justify restricting principles of justice to the basic structure, there is still the question of precisely what principles should govern personal behavior. We should not simply assume that the same principles of justice that apply to the basic structure, and to those acting as occupants of particular roles that are part of this structure, should also apply to personal behavior or to roles that are not part of this structure.¹³ We might be ‘monists’ and suppose that the same principles apply to both, but we do not have to be. We might instead be ‘dualists’ and suppose that at least partly different sets of principles apply to each. Even if justice

requires us to treat people as equals when we act as public officials or perform other roles defined by the basic structure, it does not follow that justice itself requires us to do so outside of these roles. Indeed my interpretation of the cases described earlier can be viewed in part as an attempt to defend a dualist perspective of this kind.

It would be a mistake to think that what is doing the work in my argument is an appeal to some prior – and as yet untheorised - distinction between public and private spheres of action. I am not supposing that the behavior I am describing is private, in the sense that it should not be of concern from the point of view of public policy. For reasons that I give later in this chapter, I think we should have moral concerns about these forms of behavior, and nothing I say rules out the possibility that these concerns may be sufficient to justify some sort of response from the state, such as public condemnation. My claim is simply about whether the behavior in the cases described earlier can properly be regarded as intrinsically unjust. If it cannot be regarded in this way, then failing to treat people as equals is not always intrinsically unjust and the vision I have outlined of ‘a society of equals’ appears to include but go beyond what justice itself requires.

2. Unjust effects

If the forms of behavior described in section 1 are not intrinsically unjust, what explains our moral unease about them? One answer would be that it is simply their unjust *effects*. If this is the correct answer, then we do not need to postulate an ideal of social equality that goes beyond what justice requires in order to make sense of that unease, and indeed the value and significance of social equality could be accommodated within a fully developed theory of justice.

There is no doubt that an act can be unjust in terms of its effects even if it is not intrinsically unjust. Indeed it might be thought that even paradigm cases of unjust discrimination, in which, say, a member of an ethnic group is denied a particular job or a place at a particular university because that group is regarded as inferior, involve no intrinsic injustice, for the injustice of the discrimination depends on the way in which a pattern of exclusion of this kind means that the opportunities of members of a group are systematically diminished.¹⁴ (This might even make us start to wonder whether there are *any* cases of failing to treat others as equals that involve an intrinsic injustice.)

It is also clear that in some of the cases sketched earlier, the victims of the behavior described are made somewhat worse off than they would otherwise have been. In *Local Shop*, the shopkeeper loses some custom that he would otherwise have had; in *School Choice*, the pupils at the school may be losing the opportunity to interact with a fellow pupil in a way that would enhance their educational experience (and indeed the daughter might be deprived of the opportunity of being educated in a multicultural environment). Although these particular effects may not by themselves seem to raise any significant issue of justice, they appear to do so when they are part of a wider pattern of behavior. In *Local Shop*, if others follow suit, the shopkeeper may end up considerably worse off than she would otherwise have been because of the custom that she loses, and she may even be driven out of business, especially when others are encouraged to behave in a similar fashion.

The way in which individual actions may be repeated across a society also explains how they may have a variety of bad effects some of which are not simply 'material'. Taken together these individual actions may create what I shall call an accumulative harm, and this accumulative harm may be either expressive or non-

expressive.¹⁵ Let me stipulate that an accumulative harm occurs when none of the individual actions involved are harmful, but taken together, they cause harm. One paradigm case is perhaps that of environmental emissions. Although each car pollutes the environment, no individual car causes any harm to it. (Here I am assuming that its emissions could be absorbed without any negative effect at all on the environment.) It is only when the emissions of different cars are combined together that they can properly be said to harm the environment and other people in virtue of doing so. This is an example of a non-expressive accumulative harm. The effects created by *Moving House* and *School Choice*, when they are reproduced across a society, can be similar: they may result in the informal segregation of groups, and they may mean that some lack access to social networks and other kinds of social capital, which result in them suffering from material disadvantage.¹⁶ These patterns of behavior may also be part of dominating relationships in which some exercise arbitrary power over others.

There are also *expressive* accumulative harms. As a result of being subject to a pattern of behavior involving a variety of different individuals failing to treat them as equals, the victims receive the message that they are regarded as inferior; they may then feel humiliated and internalise a sense of their own inferiority, that is, suffer damage to their self-respect and self-esteem. This can be a consequence not only in cases such as *Moving House* and *School Choice*, but also *Cashier* and *Local Shop*. Once a pattern of this kind has been established, even individual acts tend to have harmful effects as a result of being seen as part of this pattern. Indeed it might plausibly be claimed that, when such a pattern has developed, the individual acts concerned can be unjust independently of their effects because of the meanings they express. This wouldn't entitle us to say that they were *intrinsically* unjust, since their injustice depends in part on extrinsic properties, namely, their place in a pattern of

behavior that has a particular significance. But might it, together with an appeal to the unjust effects of these actions, fully explain why we are morally uneasy about failures to treat people as equals even when they are not intrinsically unjust? If it were a sufficient explanation of why these acts are morally problematic, we would not need to appeal to any account of social equality that takes us beyond justice. There remains a suspicion, however, that there *is* something objectionable about the individual acts involved independently of their role in generating harms or expressing objectionable meanings. These acts would seem to be morally problematic – perhaps even morally wrong – even if they didn't play such a role.

3. Disrespect

What reason might be given for holding that the acts I have described, considered individually and independently of any harmful effects or objectionable meanings they may have, are morally objectionable? In claiming that not treating people as equals is morally wrong even when it is not intrinsically unjust, and even when it does not produce or contribute to harmful or unjust effects or express objectionable meanings, have we simply reached bedrock? One possibility would be that it is always morally objectionable to fail to treat a person as an equal because it is always *disrespectful* to do so, even when there is no intrinsic injustice involved and even when the context is such that no objectionable meaning is expressed. I don't think that the principle that we should treat people with respect gives us *independent* grounds for thinking that we should treat them as equals, but it may provide an explanation of what it means to treat people as equals that deepens our understanding of why the failure to do so is always morally objectionable.

Someone who holds that we have an obligation always to treat others with respect need not believe that it is the foundational principle of the whole of our morality, as Kant arguably did.¹⁷ Our obligation to respect persons might simply be regarded as one important component of an adequate moral outlook. This is not an uncontroversial position, however; it competes with the view that the idea of respect for persons is purely formal, and that we respect persons whenever we act in accordance with the duties that we owe to them. So understood, the idea of respecting persons would not be an independent source of moral duties.¹⁸ What then might be said in favour of the opposing view, that it is such a source?

In a well-known paper, Stephen Darwall distinguishes between appraisal respect and recognition respect.¹⁹ Recognition respect in relation to persons requires giving appropriate weight in one's practical deliberations to facts about persons, and regulating one's conduct in a way that gives due consideration to those facts. In contrast, appraisal respect involves a positive appraisal of a person in virtue of their qualities, that is, features of them that manifest excellence of one kind or another.²⁰ Giving recognition respect to other people, we might say, involves giving appropriate acknowledgement of their intrinsic value in one's thoughts and actions, which at the very least means acting in ways that are consistent with their intrinsic value. Of the two notions of respect that Darwall distinguishes, it is this one that offers us the best hope of explaining what is wrong with the failure to treat others as equals, but two questions need addressing. First, what is the intrinsic value of persons? Second, what kinds of thoughts and actions, if any, are ruled out if one is to give appropriate acknowledgement of their intrinsic value? I am going to put aside the second question and simply assume that the forms of behavior described in the cases in section 1 do involve a failure to give appropriate acknowledgement of the intrinsic value of the

ethnic minority members who are subject to this behavior. Indeed the failure to treat them as equals seems to amount to nothing other than the failure to give them equal recognition respect. But this makes the first question, concerning the intrinsic value of persons, more pressing and indeed invites a third question: why are persons entitled to *equal* recognition respect?

What then is the intrinsic value of persons? Here it is worth distinguishing between the notion of intrinsic value and the notion of non-instrumental value.²¹ Let me stipulate that intrinsic value is the value that something has in virtue of its intrinsic properties, that is, properties that do not depend even in part on the existence or nature of anything else.²² In contrast, extrinsic value is the value that something has in virtue of its extrinsic properties, that is, properties which depend at least in part on the existence or nature of something else. If something has merely instrumental value, then its value is purely extrinsic. But something may have extrinsic but non-instrumental value, for example, something may have non-instrumental value partly in virtue of its rarity or unusualness. Armed with these distinctions, we can identify two types of non-instrumental value, one of which makes its possessor intrinsically valuable, whereas the other makes its possessor extrinsically valuable. (Here I am following Joseph Raz, though using different terminology since he treats ‘intrinsic value’ as a synonym for ‘non-instrumental value’.²³) A work of art can have non-instrumental aesthetic value, but that value seems to be extrinsic because it is dependent on the existence of those who are capable of appreciating aesthetic value. In contrast, valuers – that is, those who are both capable of giving recognition respect to what is of value, and capable of engaging with it, so coming to appreciate that value and potentially enriching themselves in the process – have non-instrumental value that is intrinsic since their value rests upon a capacity the existence of which

(logically at least) doesn't depend upon the existence or nature of anything else, even there being anything else of non-instrumental value.

Even if we bracket the difficulties introduced by those who were valuers but now lack the capacity to be so, and those who have the potential to become valuers but have not yet realised that potential, we still have the question of why valuers are entitled to *equal* respect in virtue of their capacity to be valuers, given that they may differ in terms of the depth and extent of their capacity to give appropriate weight to what is of value and to engage with it. If people possess this capacity to different degrees, why doesn't this affect the degree of recognition respect to which they are entitled? In accordance with one common pattern of response to this type of question, it might be argued that each person is entitled to equal recognition respect in virtue of possessing this capacity above some minimum threshold, and possessing this capacity to different degrees above that threshold does not affect their entitlement to equal recognition respect.²⁴ But it is one thing to state that position, quite another to justify it: why should such differences have no impact upon people's entitlement to equal respect? There is a difficult challenge and indeed there is now a sizeable literature that addresses it;²⁵ I shall merely gesture towards that literature rather than attempt to carve out a position within it.

Failing to treat others as equals involves a failure to give them the equal recognition respect to which they are morally entitled. But why isn't this failure always intrinsically unjust? It seems clear that some failures to treat people as equals are morally worse than others. We might think that it is only particularly egregious violations of our moral obligation to treat people as equals that are intrinsically unjust (as opposed to merely morally wrong) and that these violations are intrinsically unjust because they involve a more serious form of disrespect. We might hold that when

people are treated with *contempt* in virtue of (say) their race or sex, this is a particularly serious violation of the obligation to treat others as equals because (we might stipulate) it involves treating them as if they have *no* intrinsic value and may even involve treating them as if they had disvalue. On other occasions someone might fail to treat others as equals because they are operating with a demeaning stereotype, without necessarily treating them with contempt in this sense; she may, for example, suppose that members of an ethnic minority tend to be dirty or less honest and as a result fail to give due acknowledgement of their equal intrinsic value in various aspects of their thought and action, without necessarily supposing that they have no such value. In the first type of case, we might think that the disrespect involved is so serious that it is intrinsically unjust, whereas in the second type of case the disrespect is less serious, so there is no intrinsic injustice even though it is morally wrong.

It is not obvious, however, that it is the seriousness of the disrespect involved in a failure to treat others as equals that alone determines whether the concept of justice is appropriately deployed or not. Why should we suppose that displaying or expressing contempt towards a person because of her race or sex (for example) is to show a kind of disrespect that is intrinsically unjust, whereas the disrespect that is expressed in treating her as inferior on grounds of race or sex is not intrinsically unjust even though it violates a *pro tanto* moral obligation? If we want to understand why the disrespect involved in failing to treat a person as an equal is intrinsically unjust in some cases but not others, it seems to me that we would do better to focus on whether or not by its nature it disadvantages her, for example, by depriving her of some other important good. Independently of whether a failure to treat others as equals involves contempt or some less serious negative attitude, disrespectful behavior may by its nature deprive people of an important good, for example, a job or

a higher education place. It may also have wider effects, perhaps in virtue of contributing to an accumulative harm. In both kinds of case, the concept of justice is surely triggered. But is it triggered even in cases – perhaps merely hypothetical – when the behavior does not have these wider effects and no one suffers disadvantage as a result of being treated with contempt or merely as inferior? My inclination here is to say ‘no’. As I suggested earlier, unless someone suffers from disadvantage as a result of this kind of behavior, either because she suffers psychological damage, or is deprived of, or receives less of, some good in a way that makes a difference to how well her life goes, or the behavior is a constitutive part of a dominating relationship in which she is being subjected to the arbitrary exercise of power, then it does not come within the purview of justice. Of course, the kinds of behavior I described in section 1 are likely to have wider effects, especially when they involve contempt; but then the injustice is a consequence of these effects and is not intrinsic to the behavior itself.

4. Civic duty

If I am right, the failure to treat others as equals is not always intrinsically unjust, but it is always morally problematic. But is it *only* the lack of equal recognition respect that makes the failure to treat others as equals morally objectionable independently of its wider effects and any objectionable meaning it might possess? As I have argued elsewhere, we might think that a failure to treat others as equals can also involve failing to be a good citizen or indeed may violate one’s duty *as a citizen* to treat one’s fellow citizens as equals.²⁶

Citizenship, it might be thought, is a relationship between equals. Part of what it is to be a citizen, at least when citizenship is understood as an ideal, is to be a member of a collective body that makes decisions that importantly affect one’s

conditions of existence, and in which one has equal standing because one has equal opportunity to participate on equal terms not only in the political sphere but also in civil society and public spaces, and because one is treated as an equal in these contexts. Citizenship, so understood, might be regarded as non-instrumentally valuable, as realising what I call the good of equal membership.²⁷ According to this account of citizenship, the rights and entitlements of citizenship are grounded in the conditions required to secure the complex good of equal membership. The duty to treat fellow citizens as one's social and political equals – that is, to treat them as equals in the political process, and in civil society and beyond - might also be regarded as partially constitutive of the good of equal membership, rather than simply a means to its promotion. Indeed, doing so helps to explain why it is an obligation that is owed to fellow citizens in particular. For if the obligation to treat one's fellow citizens as equals were grounded simply in the idea that this best promotes the good of equal membership, then it is unclear why it should be owed to one's fellow citizens rather than to humanity in general.

The obligation of citizenship to treat one's fellow citizens as equals might be thought to govern public debate between citizens, particularly over matters of basic justice. Some might argue that it entails an obligation to restrict oneself to public reasons in that debate, that is, to reasons it would be reasonable to expect to be shared by any citizen who held a reasonable moral view or doctrine, that is, a moral view or doctrine compatible with the equal moral standing of fellow citizens. I have argued against that idea elsewhere²⁸ but it is nevertheless plausible to suppose that our duty to treat fellow citizens as equals places some constraints on what reasons we may permissibly offer in public debate. Racist and sexist reasons, for example, surely

violate that duty because of the way in which they dishonour the good of equal membership.

The duty of citizenship to treat one's fellow citizens as equals might also be thought to extend beyond the so-called public sphere and to govern interactions in civil society and beyond. But although appealing to the good of equal membership and the constitutive duty to treat one's fellow citizens as equals can help to explain what is morally objectionable about failing to treat others as equals in the various cases described in section 1 when they are conceived as interactions between fellow citizens, by its nature it cannot explain why it is morally problematic to behave in these ways towards visiting non-nationals or towards those who are not yet one's fellow citizens, such as resident aliens who have not yet naturalised. (Indeed grounding the obligation to treat one's fellow citizens as equals in this way in the good of equal membership would not by itself entail that the failure to treat others as equals was always intrinsically wrong: its wrongness would be conditional upon the relationship of citizenship obtaining, even though when that relationship obtained its wrongness would not depend on its effects.) Might this be regarded as a flaw in a citizenship-based account of the wrongness of failing to treat others as equals? The best that could be said in response is that there is a duty to treat resident aliens as if they were citizens if they intend to naturalise, since this will aid their induction. But what of visitors and residents who have no intention of remaining for long or becoming citizens? Here it seems we would need to fall back, at least in part, on the idea that there is a failure of respect that does not necessarily amount to an injustice, or indeed to a violation of a duty of citizenship, when they are not treated as equals.

It is tempting to think that the citizenship-based reason I claim to have identified is redundant: if we have a strong moral reason to treat others as equals

because not doing so involves failing to give them the equal recognition respect to which they are entitled, then why do we need to appeal to the way in which it represents a violation of citizenly duties? Shouldn't we make use of Ockham's razor here? But I think that would be a mistake. The wrongness of failing to treat a person as an equal may be over-determined – there may be a number of reasons that speak in favour of its wrongness – but if we want a full and complete understanding of its wrongness then we need to appeal to these other reasons as well. Furthermore, we should not assume that the force of each of these reasons can be understood in isolation, independently of their relationship to each other. The reasons involved may be holistic in character, interacting with each other in various ways:²⁹ the fact that a failure to treat another as an equal represents a failure to comply with one's citizenly duties seems to intensify or accentuate the wrong that is involved in failing to treat them with the recognition respect to which they are entitled;³⁰ so too, the fact that a failure to treat a person as an equal contributes to an accumulative or other form of collective harm may also intensify the wrong involved.

5. Conclusion

A failure to treat others as equals is not always intrinsically unjust, but it is always morally problematic. My contention is that what makes such a failure morally problematic is the fact that it involves withholding or denying the equal recognition respect to which they are morally entitled, and that when it occurs in the context of the relationship of citizenship, it also involves a failure to fulfil a duty of citizenship. If I am right, social equality, when it expresses an ideal of a society the members of which are treated as equals within its basic institutions and practices and by each other in their ordinary interactions, has value that is partially independent of justice. The

value of social equality is partly a consequence of the importance of treating others with respect, but in order to understand fully its distinctive value we need to place it in the context of the relationship of citizenship and, in particular, the good of citizenship, that is, the value of living together as equals as part of a collective that makes decisions that significantly affect its members conditions of existence.³¹

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NOTES

¹ See especially E. Anderson, “What is the Point of Equality?,” *Ethics* 109 (1999): 287-337; S. Scheffler, “What is Egalitarianism?,” *Philosophy and Public Affairs* 31 (2003): 5-39. For relevant discussion, see also C. Schemmel, “Why Relational Egalitarians Should Care About Distribution,” *Social Theory and Practice* 37 (2011): 365-390; C. Fourie, “What is Social Equality? An Analysis of Status Equality as a Strongly Egalitarian Ideal,” *Res Publica* 18 (2012): 107-26; E. Anderson, “The Fundamental Disagreement Between Luck Egalitarians and Relational Egalitarians,” *Canadian Journal of Philosophy* Supplementary vol. 36 (2012): 1-23.

² The view that social equality goes beyond what justice requires is also defended by David Miller: see his “Equality and Justice,” in *Ideals of Equality* ed. A. Mason (Oxford: Blackwell, 1998). See also M. O’Neill, “What Should Egalitarians Believe?,” *Philosophy and Public Affairs* 36 (2008): 119-156, especially pp. 133ff.

³ See P. Tomlin, “Internal Doubts about Cohen’s Rescue of Justice,” *Journal of Political Philosophy* 18 (2010): 228-247, at p. 242.

⁴ Conflicts between different considerations that are conceptualised on one model as conflicts *between* justice and other values will be conceptualised on the other model as conflicts *within* justice, between different aspects of justice. Perhaps in this way the tragic conflicts that Isaiah Berlin and others have argued are part of the human condition will become less visible in the context of designing institutions or devising

policy. But in the end, it is not clear that it would lead to any *necessary* failure to appreciate the tragic political choices we have to make: see Tomlin, “Internal Doubts about Cohen’s Rescue of Justice,” pp. 243-45.

⁵ G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008), Ch. 7.

⁶ The basic thought here is that in theoretical reflection there is a reason to respect the distinctions that are made in ordinary language unless they are confused in some way. This of course allows us to develop new concepts and make further distinctions when our theorising would benefit from doing so.

⁷ Indeed a failure to do so is one of the charges that Andrew Williams levels against Cohen: see A. Williams, “Justice, Incentives and Constructivism,” *Ratio* 21 (2008): 476-493, at p. 491.

⁸ For those who are resistant to thinking of justice as one weighty value amongst several, what follows should be understood as drawing attention to an important but neglected dimension of what justice requires in our interactions with one another once the requirements of social equality are worked out fully. If I am wrong about the nature of justice, my argument is not merely semantic.

⁹ We might add to this description that if the customer has no choice but to go through this till, he places his money on the counter rather than putting it in the hands of the cashier, so as to avoid physical contact with him or her. See L. Blum, “Race, National Ideals, and Civic Virtue,” *Social Theory and Practice* 33 (2007), pp. 546-51, for a discussion of such behavior.

¹⁰ See D. Davidson, “Actions, Reasons and Causes,” *Journal of Philosophy* 60 (1963): 685-700. Reprinted in his *Essays on Actions and Events*, second edition (Oxford: Oxford University Press, 2001).

¹¹ See S. White, "Freedom of Association and the Right to Exclude," *Journal of Political Philosophy* 5 (1997) 373-391, especially pp. 382-85.

¹² For relevant discussion, see Cohen, *Rescuing Justice and Equality*, Part I; L. Murphy, "Institutions and the Demands of Justice," *Philosophy and Public Affairs* 27 (1998): 251-291; T. Pogge, "On the Site of Distributive Justice: Reflections on Cohen and Murphy," *Philosophy and Public Affairs* 29 (2000): 137-169; A. Williams, "Incentives, Inequality, and Publicity," *Philosophy and Public Affairs* 27 (1998): 225-247; D. Estlund, "Liberalism, Equality, and Fraternity in Cohen's Critique of Rawls," *The Journal of Political Philosophy* 6 (1998): 99-112.

¹³ See Murphy, "Institutions and the Demands of Justice"; C. Fourie, "Justice and the Duties of Social Equality," Ph.D thesis, University College London, 2007; S. Shiffrin, "Incentives, Motives, and Talents," *Philosophy and Public Affairs* 38 (2010): 111-142.

¹⁴ In fact I would resist the idea that the wrongness involved when a belief in the moral inferiority of a candidate influences an appointment to an advantaged social position derives solely from its place in a wider pattern, such as the way in which a pattern of discrimination systematically diminishes the opportunities of members of a group. In cases in which a failure to treat a person as an equal involves depriving her of an important good, such as a job, my view is that it is also intrinsically unjust as a result. For a critique of this view, however, see K. Lippert-Rasmussen, *Born Free and Equal? A Philosophical Inquiry into the Nature of Discrimination* (Oxford: Oxford University Press, 2014), especially Chs. 4 and 6.

¹⁵ See A. Kernohan, *Liberalism, Equality, and Cultural Oppression* (Cambridge: Cambridge University Press, 1998), pp. 71-75.

¹⁶ Elizabeth Anderson has also argued forcefully that the segregation of African Americans is the underlying cause of many of the injustices from which they suffer, including lack of fair access to jobs, public goods, consumer goods and services, and various forms of capital (see E. Anderson, *The Imperative of Integration* (Princeton, NJ: Princeton University Press, 2010), especially Chs. 1-4).

¹⁷ For a critique of this idea, see W. K. Frankena, "The Ethics of Respect for Persons," *Philosophical Topics* 14 (1986): 149-167, at p. 149.

¹⁸ See J. Raz, *Value, Respect, and Attachment* (Cambridge: Cambridge University Press, 2001), p. 126.

¹⁹ S. Darwall, "Two Kinds of Respect," *Ethics* 88 (1977): 36-49.

²⁰ I share Joseph Raz's view that this is not so much a distinction between two types of respect as a distinction between two types of objects of respect that place different demands on us: see Raz, *Value, Respect, and Attachment*, p. 137, n. 17.

²¹ For the importance of keeping these notions apart, see C. Korsgaard, "Two Distinctions in Goodness," in her *Creating the Kingdom of Ends* (Cambridge: Cambridge University Press, 1996), 249-274.

²² See J. Dancy, *Ethics Without Principles* (Oxford: Oxford University Press, 2004), p. 170. There are different ways of understanding what it means to say that something is intrinsically valuable. Following G. E. Moore, it might be said that something has intrinsic value if and only if it would have value were it alone in the universe. This is not how I shall understand the notion, however. For relevant discussion, see Dancy, *Ethics Without Principles*, Ch. 9.

²³ See Raz, *Value, Respect, and Attachment*, pp. 145-58.

²⁴ Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971), p. 443.

²⁵ For relevant recent discussion, see I. Carter, “Respect and the Basis of Equality,” *Ethics* 121 (2011): 538-571, esp. 538-560. See also G. Cupit, “The Basis of Equality,” *Philosophy* 75 (2000): 105-125; J. Waldron, *God, Locke and Equality* (Cambridge: Cambridge University Press, 2002), Chs 1-2; L. Pojman, “On Equal Human Worth: A Critique of Contemporary Egalitarianism,” in *Equality: Selected Readings* eds L. Pojman and R. Westmoreland (New York: Oxford University Press, 1997), 282-299.

²⁶ See A. Mason, *Living Together as Equals: The Demands of Citizenship* (Oxford: Oxford University Press, 2012).

²⁷ See Mason, *Living Together as Equals*, for a more developed account of what is valuable about the good of equal membership

²⁸ Mason, *Living Together as Equals*, Ch. 6.

²⁹ See Dancy, *Ethics Without Principles*, especially Ch. 5.

³⁰ See Dancy, *Ethics Without Principles*, pp. 41-42.

³¹ See Mason, *Living Together as Equals*, Chs 1-2.