The Basis and Value of Distributive Equality (Draft)¹

Ian Carter and Olof Page

Most people, or at least, most of those loyal to liberal democratic institutions, favor the equalization of something among some set of individuals. Not everyone would call themselves an 'egalitarian', because that label is normally reserved for a person who favors equality (or less inequality) of material resources or opportunities or capabilities or wellbeing or something similar. But few of the inhabitants of a liberal democracy would deny, for example, that their fellow citizens should have equal voting power. If we abstract from the nature of the good that we favor equalizing and the scope of the set of individuals among whom we favor equalizing it, we can ask the following question: 'What kind of value attaches, specifically, to the fact of the relevant good being distributed *equally* rather than *un*equally among the relevant set of individuals?

Two answers to this question have dominated the literature on the value of distributive equality. On the one hand, there are those who have affirmed that distributive equality (at least of certain goods, such as wellbeing or voting power or liberty) is *intrinsically valuable*. On the other hand, there are those who have denied that equality (of anything) has any non-instrumental value and have claimed that the notion of equality therefore plays *no essential role* in characterizing or motivating our (non-instrumental) ethical and political prescriptions. Those in the first camp think that equality (of something), or the diminution of inequality (of that thing), has value 'for its own sake', or value 'in itself'. Prominent examples include Thomas Nagel, Kai Nielsen, Larry Temkin, Serena Olsaretti, and Hillel Steiner.² Those in the second camp believe, on the contrary, that concepts other

¹ Esta es una versión más breve de un artículo del mismo título. Es posible que, al no revisar todas las cuestiones de edición que abreviar un texto comporta, algunas referencias entre notas no calcen con la numeración señalada o no remitan a la nota que deberían remitir.

² T. Nagel, "Equality," in *Mortal Questions* (Cambridge: Cambridge University Press, 1979); K. Nielsen, *Equality and Liberty: A Defense of Radical Egalitarianism* (Totowa, N.J.: Rowman and Allanheld, 1985); L. Temkin, "Equality, Priority, and the Levelling Down Objection," in *The Ideal of Equality*, eds. M. Clayton and A. Williams (Basingstoke: Palgrave Macmillan, 2002); S. Olsaretti, "Unmasking Equality?

than equality are doing all the fundamental normative work, and that any so-called 'egalitarian' features of a normative theory are merely a by-product of the pursuit of what really matters – desert, or sufficiency, or priority for the worst off. Prominent examples include Joseph Raz³, Harry Frankfurt⁴, Shelly Kagan⁵, and Derek Parfit.⁶ Recent work has seen the identification of some intermediate positions, such as the view that distributive equality has a kind of non-instrumental value that is conditional upon the realization of some other value.⁷

In our view, this discussion contains a flaw that has obscured the true nature of the value of distributive equality. The flaw consists in a tendency simply to focus on a particular distribuendum and then to ask what kind or degree of value is possessed by the fact of equalizing it (or reducing its inequality). This tendency ignores the role of the *basis* of equality – or what has recently come to be called 'basic equality' – in determining the nature of the distribuendum and the value of distributing it equally. As a result, it mistakenly considers the nature and value of distributive equality in isolation from the phenomenon that serves to ground it. The *basic equality* of a given set of individuals consists in the fact of there being a morally relevant feature that those individuals possess equally, such that those individuals should be treated as equals and should therefore be

³ *The Morality of Freedom* (Oxford: Clarendon Press, 1986).

Kagan on Equality and Desert". Utilitas 14 (2002): 387-400; H. Steiner, "Equality, Incommensurability and Rights," in *Rights, Culture, and the Law. Themes from the Legal and Political Philosophy of Joseph Raz,* ed. L.H. Meyer, S.L. Paulson, and T. Pogge (Oxford: Oxford University Press 2003). Some other prominent egalitarians appear sympathetic to this view but do not address the issue directly. See in particular Amartya Sen, *Inequality Reexamined* (Oxford: Oxford University Press, 1992); Ronald Dworkin, *Sovereign Virtue.* (Cambridge, Mass.: Harvard University Press, 2000); Will Kymlicka, *Contemporary Political Philosophy. An Introduction*, (2nd ed. Oxford: Oxford University Press, 2002). Nils Holtug, *Persons, Interests, and Justice.* (Oxford: Oxford University Press, 2010) chap. 7, uses the term 'egalitarian' simply to *mean* someone who affirms the intrinsic value of distributive equality.

⁴ "Equality as a Moral Ideal," *Ethics* 98 (1987): 21-48 and "Equality and Respect," in H. Frankfurt, *Necessity, Volition, and Love* (Cambridge: Cambridge University Press, 1999).

⁵ "Equality and Desert," in *What Do We Deserve? A Reader on Justice and Desert* (Oxford: Oxford University Press, 1999).

⁶ Derek Parfit, "Equality or Priority?," in *The Ideal of Equality*, ed. M. Clayton and A. Williams, (Basingstoke: Palgrave Macmillan). See also Peter Westen, "The Empty Idea of Equality," *Harvard Law Review*, 95 (1982): 537-96; and, for a legal argument along Razian lines, John Stanton-Ife, "Should Equality be a Constitutional Principle?," *King's Law Journal* 11 (2000): 133-52.

⁷See, e.g., Andrew Mason, "Egalitarianism and the Levelling Down Objection," *Analysis* 61 (2001): 246-54 and Kasper Lippert-Rasmussen, "The Insignificance of the Distinction between Telic and Deontic Egalitarianism," in *Egalitarianism. New Essays on the Nature and Value of Equality* (Oxford: Clarendon Press, 2007).

accorded equal amounts of something. It is only because individuals *are* equals in this sense that they are entitled to equality of something. Despite receiving some attention in recent years,⁸ the notion of basic equality has been largely neglected in philosophical writings about distributive equality.

Because they have steered clear of the problem of identifying the relevant property in virtue of which individuals count as equals, philosophers who place non-instrumental value on distributive equality have tended to treat it as an ideal that is somehow freestanding with respect to individuals' entitlement-grounding features. On the other hand, those who are skeptical about that non-instrumental value have tended to assume that by pointing to those entitlement-grounding features, they have already shown that what really matters is not distributive equality itself but something like 'respecting people' or 'giving them what they deserve'.

In this paper we argue that distributive equality possesses a kind of 'constitutive value' that derives from its relation to basic equality. This constitutive value does not count as intrinsic value, but it does entail that the notion of distributive equality plays an essential role in many of our non-instrumental political prescriptions. We therefore reject both of the opposed views set out above, as well as intermediate views that continue to ignore the way in which distributive equality is grounded in basic equality. Instead of arguing for or against the non-instrumental value of distributive equality in isolation from the entitlement-grounding features of the relevant individuals, philosophers ought to inquire more precisely into the connection between distributive equality and its basis – that is,

⁸ On the notion of basic equality, see Bernard Williams, "The Idea of Equality," in *Philosophy, Politics and Society*, Series II, ed. P. Laslett & W.G. Runciman (Oxford: Blackwell, 1962), 110-31; John Rawls, *A Theory of Justice* (Harvard, Mass.: Harvard University Press, 1971), § 77; D. A. Lloyd Thomas, "Equality Within the Limits of Reason Alone" *Mind* 88, (1979): 538-53; Richard J. Arneson, "What, If Anything, Renders All Humans Morally Equal?," in *Singer and His Critics*, ed. D. Jamieson (Oxford: Blackwell, 1999), 103-28; Geoffrey Cupit, "The Basis of Equality" *Philosophy* 75 (2000): 105-125; Jeremy Waldron, *God, Locke, and Equality* (Cambridge: Cambridge University Press. 2003), chap. 3; Ian Carter, "Respect and the Basis of Equality" *Ethics* 121 (2011): 538-71, and "Basic Equality and the Site of Egalitarian Justice" *Economics and Philosophy* 29 (2013): 21-41; *Do All Persons Have Equal Moral Worth? On Basic Equality and Equal Respect and Concern*, ed. Uwe Steinhoff (Oxford: Oxford University Press, forthcoming).

into the substantive content of basic equality and the way in which it grounds distributive equality.

The approach adopted in this paper is only minimally substantive, and is best described as metatheoretical. The minimally substantive element of our theory consists in a set of abstract assumptions about the nature of basic equality and of the conception of justice in which it plays a role, assumptions that we hold to be present, at least implicitly, in an extensive range of such conceptions (including many conceptions that are not normally called 'egalitarian'). Once these assumptions are in place, our argument can be applied to *all* of the (non-instrumental) claims about the value of distributive equality arising within that range of conceptions of justice, incompatible as those claims may be in other respects. The importance of our analysis depends not on its lending support to one or another of the substantive conceptions concerned, but on its revealing a structure of reasoning which, though often only implicit, is common to them all. This structure provides a framework within which discussions about particular substantive theories of equality ought to take place.

In section 1 we clarify the basic concepts on which our thesis about the value of distributive equality rests. In section 2 we expound that thesis and argue against the view that distributive equality has intrinsic value. In section 3 we distinguish our thesis from the view that distributive equality has an intrinsic or extrinsic value that is conditional on its realizing some other value. In section 4 we argue gainst the view that the notion of distributive equality is normatively redundant and rebut the objection that this view is implied by our thesis: despite our emphasis on the individuals' entitlement-grounding features. Finally, in section 5, we show how our thesis can be reformulated as a thesis about desert, and how this reformulation dissolves the supposed contrast between equality and desert.

Our concern throughout is with non-instrumental justifications of distributive equality. We leave aside the question of whether and, if so, how far there is instrumental value in distributing certain goods equally – for example, because doing so promotes social harmony or increases aggregate utility or minimizes domination. Distributive equality may well have instrumental value in these ways, but our concern here is with the value that attaches to equal distributions regardless of such contingent matters – that is, in virtue of individuals' enjoying the relevant goods as a matter of entitlement.

1. Distributive Equality, Basic Equality, and Proportional Justice

We begin by defining three fundamental concepts that form the building blocks of our argument in favor of the constitutive value of distributive equality. These fundamental concepts are: distributive equality, basic equality, and proportional justice.

1.1 Distributive equality

Distributive equality characterizes a state of affairs in which each member of a given set of individuals possesses or receives or is accorded the same amount of some good. The relevant good is here understood as something of which the amounts that individuals enjoy (or receive, or are accorded) can be changed through human behavior (whether through individual initiative or public policy). We shall refer to this good as 'x'. It is possible, of course, to distribute burdens as well as benefits, but we can extend the meaning of 'good' to cover the absence or reduction of such burdens.

Given the metatheoretical ambition of this paper we shall examine the non-instrumental value of 'equality of x' while leaving open the nature of x. This said, it remains the case that the nature of x has to be specified in order to make sense of the claim that some particular case of distributive equality has value. Thus, the object of our investigation is the value of there being equality of something in particular, not the more abstract fact of there being 'equality', or 'an equal distribution'. The need to specify the nature of x', is attributive rather than predicative: a state of affairs can have the property 'being an equal distribution of x', but there is no such thing as the property 'being equal' such that a state

of affairs characterized by an equal distribution of x has the two properties 'being a distribution of x' and 'being equal'.⁹ It follows that any claim about 'the value of distributive equality' must be interpreted as a claim about 'the value of there being equal x', where x stands for a particular good.

In what sense, then, do we leave open the nature of x? Not in the sense of making a normative claim to the effect that distributive equality has value *whatever the good being distributed*, as if one could plausibly ascribe value to equality in abstraction from its being equality of something. Rather, we leave open the nature of x in the sense of remaining neutral between the different equalizanda implied by the various members of a certain set of theories of justice prescribing equality of something. The contours of that set will emerge in section 2, below. If you adhere to one of the conceptions in that set, you should accept our thesis about the kind of value that you attach to equality of x, where 'x' is defined by your conception.

The relevant equalizanda tend to fall into one of the following two classes: (i) goods that are personal in the sense of being possessed by individuals – goods like opportunity, liberty, wellbeing, welfare, resources, basic capabilities, voting power, the social bases of self-respect, or some more-or-less complex kind of social or political status; (ii) more fundamental goods that are directly expressive of interpersonal moral attitudes – goods like concern or care or respect. The equalization of one of the more fundamental attitudinal goods contained in the second class might or might not be thought in turn to ground the equalization of one or more of the personal goods contained in the first class. For example, Ronald Dworkin thinks that showing equal concern can at times ground unequal wellbeing.

⁹ We are here applying a point originally made by Peter Geach "Good and Evil," *Analysis* 17 (1956): 33-42 and more recently defended by Judith Thomson *Normativity* (Chicago: Open Court, 2008), chap. 1 in reference to the adjective 'good'. There is no such thing as the property 'being good' such that a good book has the two properties of 'being good' and 'being a book'.

From the above list of goods it should be clear that we are not here adopting the distinction, made in some recent egalitarian writings, between 'distributive equality' and 'social' or 'relational' equality, where what is meant by 'social' or 'relational' equality is something like the equal status expressed by the fact of individuals relating to each other in certain ways – for example, in ways that avoid oppression, exploitation, or humiliation.¹⁰ It is unclear what is really distinctive about so-called 'social' or 'relational' equality: income, wealth, negative liberty, and voting power, are all social or relational goods (they are enjoyed by a person in virtue of her relations with others), even though they are not goods that are directly expressive of interpersonal moral attitudes; and concern, care, and respect are all goods that can be accorded to people in different degrees and in this sense are distributable through human behavior. In any case, for present purposes distributive equality should be understood as contrasting not with 'social' or 'relational' equality usith *basic* equality.¹¹

We take it for granted that no coherent conception of justice prescribes equality of everything. At most, it prescribes equality of some goods and permits, or prescribes, inequality of others.¹² For example, a coherent conception of democratic justice might prescribe equality of voting power together with inequality of the social power deriving from positions of authority, while a coherent conception of economic justice might prescribe equality of opportunity together with inequality of income or, as just mentioned, equality of concern together with inequality of certain material goods. We are concerned

¹⁰ Advocacy of this kind of 'relational egalitarianism' is not to be confused with the Parfitian claim that egalitarianism is necessarily 'relational' inasmuch as it concerns the relation between the levels of goods people enjoy. See Derek Parfit, "Equality or Priority?," 104-105.
¹¹ Sometimes when people deny that distribution are all in the interval of the interva

¹¹ Sometimes, when people deny that distributive equality is intrinsically valuable, what they really mean is that equality of *one* good is not intrinsically valuable even though equality of some *other* good *is* intrinsically valuable. Martin O'Neill, for example, claims that 'distributive equality' is only 'instrumentally valuable', and calls his own egalitarian vision 'Non-Intrinsic egalitarianism'. By 'distributive equality' he means equality in terms of 'how well off' people are (in terms of something like resources or wellbeing). But he also claims that the end to which this 'distributive equality' is a means is 'intrinsically valuable for egalitarian reasons'; Martin O'Neill, "What Should Egalitarians Believe?," *Philosophy and Public Affairs* 36 (2008): 119-56, 130. 'Egalitarian reasons' must favor equality of *something*, otherwise they would not be egalitarian. For O'Neill, that something is a kind of social status, a status people enjoy in virtue of their 'living together as equals'. 'Non-intrinsic egalitarianism' is therefore a misleading label.

¹² Amartya Sen, *Inequality Reexamined*, chap. 1.

here with all and only those things that ought (on the relevant conception of justice) to be distributed *equally* (or less unequally).

1.2 Basic Equality

Two or more individuals are basically equal if there is a property, y, that they possess equally, and possession of property y is morally relevant in determining individuals' entitlements to some distribuendum, x. We assume here that basic equality constitutes the so-called 'the basis of equality', where the term 'equality', in 'the basis of equality', means distributive equality, and distributive equality is understood as an entitlement of individuals.¹³ Specifying the nature of y is an important requirement of any normative theory prescribing equality as a matter of entitlement: on such a theory, individuals ought to be *treated as equals* in some morally relevant sense, and they ought to be treated *as* equals in that sense because they *are* equals in that sense. If they are equals in some morally relevant sense, there must be some morally relevant *feature* that they possess equally. A theory of basic equality must specify that feature and its importance in grounding certain entitlements.

Partly owing to its neglect in egalitarian thought, the notion of basic equality has sometimes been confused with the idea of showing 'equal concern and respect', following Dworkin's characterization of the latter as amounting to 'treating people as equals'¹⁴. Treating people as equals might well amount to, or include, treating them with equal concern and respect, and the latter might therefore be called 'the basis of equality' in a less deep sense than the one we are here assuming. However, since the appropriateness of treating two individuals as equals in a certain sense depends on their *being* equals in that sense, this less deep 'basis of equality' still requires a further basis (in the form of an account of basic equality). On our analysis, concern and respect are best understood as

¹³ Most philosophers use the expressions 'basic equality' and 'the basis of [distributive] equality' to refer to the same thing. An exception is Geoffrey Cupit "The Basis of Equality", who thinks that we can have entitlement-based reasons to treat people *as* equals even if there is *no* sense in which they *are* equals. We are unconvinced by Cupit's argument, but do not pursue the point here.

¹⁴ Ronald Dworkin, *Taking Rights Seriously* (London: Duckworth, 1977).

currencies of distributive justice, albeit more fundamental and less tangible ones than currencies like voting power or resources.

The term 'basic equality' should be understood, in the present context, as referring to a kind of equality that qualifies as both significant in its entitlement-grounding implications and universal in scope. It qualifies as significant in its entitlement-grounding implications if, from the standpoint of the relevant conception of justice, it consists in equality of some y the possession of which grounds entitlements to some significant good or goods; and it qualifies as *universal in scope* if it obtains between all of the individuals that can plausibly be said to be covered by the relevant conception of justice – for example, all persons, or all citizens, or (as John Rawls would say) all citizens within the 'normal' range of basic moral capacities, or (as an English seventeenth-century radical might have said), all English males. Just as we remain neutral over what x stands for in the notion of distributive equality, so we remain neutral about what y stands for in the notion of basic equality – not in the sense of holding that anything at all can qualify as the relevant property in terms of which basic equality obtains (a claim that would be patently false), but in the sense of remaining neutral between competing conceptions of justice that affirm both that a certain set of individuals is descriptively equal in terms of some property and that possession of that property grounds an entitlement to some important good or goods.

Establishing a kind of descriptive equality that qualifies as both morally significant and universal in scope is no simple matter, given that the members of what intuitively counts as the relevant set of individuals will typically be found to differ in terms of all the empirical properties that most immediately come to mind as morally relevant in grounding intuitively plausible entitlements. Consider the empirical property of autonomy, or self-awareness, or the capacity for rational choice, or the capacity for pleasure and pain, or the capacity to form, revise, and pursue a conception of the good. These properties are scalar, and exist in different degrees in different individuals.¹⁵ And yet, basic equality is a pervasive and fundamental (if often only implicit) assumption, not only in so-called 'egalitarian' writings, but in the greater part of modern western political

¹⁵ This difficulty is widely recognized. See the works cited in note 3, above.

thought. We assume that people are equals in some fundamental sense. And yet, there are *no scalar empirical properties* of persons that they happen to possess equally. Hence the tendency of contemporary political philosophers to speak of the 'problem' of basic equality.

In this paper we make two further substantive assumptions about basic equality. First, we assume that the problem of explicating the notion of basic equality *can be solved*; second, we assume that the solution must consist in pointing to a morally relevant *binary* property possessed by all the relevant individuals – that is, a property that is either possessed or not possessed, and is therefore necessarily possessed equally by all those who do possess it.¹⁶ If there *is* a solution to the problem, it is not to be found in the identification of a scalar property of persons, for all the scalar properties are possessed unequally. It must, therefore, be found in the identification of a binary property.

The most plausible way to identify a binary property that counts as both entitlementgrounding and universal in scope is by pointing to a range property. A *range property* is a property that is possessed by individuals in virtue of their possessing certain scalar properties *within a given range*. This is John Rawls's suggested solution to the problem of basic equality. For Rawls,¹⁷ the relevant range property is that of 'moral personality', where moral personality exists in virtue of individuals' possession of certain basic agential capacities at or above a minimum threshold. Although this is indeed a promising way to identify an entitlement-grounding, universally possessed binary property, nothing in our argument assumes either that Rawls has identified the correct range property or that the relevant binary property must be a range property.

It is important that basic equality itself be established without appeal to the value of distributive equality. Basic equality is supposed to ground entitlements to equal shares of something, and not *vice versa*. Thus, a theory of basic equality needs to include a

¹⁶ Skeptics might point out that reference to a binary property implies only a 'closure principle' and does not require use of the notion of *equality*. See Joseph Raz, *The Morality of Freedom*, 219-20. However, redescribing basic equality in a way that dispenses with the term 'equality' would not affect our argument in this paper, for that argument concerns the value of *distributive* equality.

¹⁷ Theory of Justice, 505.

convincing statement about why the relevant property is relevant, and why it is a binary property – a statement that refers exclusively to non-comparative features of the individuals concerned, and is independent of the equality of entitlements that is generated. For example, Rawlsians need to give an independent reason for holding moral personality to be the relevant entitlement-grounding property, and for conceiving of moral personality as a range property (such that we should treat persons as equals), rather than as a scalar property based on people's underlying scalar agential capacities (such that we should treat them as unequals). Some attempts have been made to supply such a reason.¹⁸ However, our aim here is not to provide a justification for the moral relevance of any particular binary property. We simply assume that, from the standpoint of the relevant conception of justice, a satisfactory justification can be given.

1.3 Proportional Justice

Our thesis about the value of distributive equality appeals to the idea that an individual is entitled to possess x insofar as she possesses some entitlement-grounding feature, y. We shall characterize the relation between possession of x and possession of y as one of proportional justice. A *principle of proportional justice* states some function mapping degrees of possession of y onto entitlements to x.

A principle of *absolute proportional justice* states that the absolute amount of x to which an individual, A, is entitled, depends (according to some function) on the absolute degree to which A possesses property y. A principle of *comparative proportional justice* states that the relative amounts of good x to which two individuals A and B are entitled depend on the relative degrees to which A and B possess property y. Among the possible principles of comparative proportional justice, the following two will be relevant to our discussion. The first states that if (and only if) A possesses y to a greater degree than Bdoes, then the share of x to which A is entitled is greater than that to which B is entitled.

¹⁸ For a respect-based justification of the moral relevance of the Rawlsian range property, see Carter "Respect and the Basis of Equality".

Call this the *ordinal principle of comparative proportional justice*. The second states that if (and only if) A and B possess y equally, then the shares of x to which A and B are entitled are equal. Call this the *egalitarian principle of comparative proportional justice*.

Assuming interpersonal comparability in terms of degrees of possession of x and y, the egalitarian principle of comparative proportional justice is logically entailed by the ordinal principle. The converse, however, does not hold: the egalitarian principle states only that possessing y equally entails having equal entitlements to x; it neither states nor logically entails that those who possess y to a greater degree are entitled to more x (still less does it calibrate particular degrees of possession of y to entitlements to particular amounts of x). The egalitarian principle therefore says less than the ordinal principle, even though most people, including egalitarians, tend of course to accept or assume the validity of the ordinal principle in many contexts. This last point will become relevant in section 4, below.

2. An Argument for the Constitutive Value of Distributive Equality

Let us say that a thing (an object or a state of affairs) has *intrinsic* value if it has value in itself, and that it has value in itself if it has value in virtue of its internal properties. Another way of expressing this idea is by saying that a thing has intrinsic value if it has value independently of its relations to other things. By contrast, a thing has *extrinsic* value if it has value in virtue of its external properties, that is, in virtue of its relation to some other thing or things. These definitions of intrinsic and extrinsic value have been much debated,¹⁹ but they command a fairly broad consensus and are sufficiently clear for present purposes. Some writers on the value of equality have taken the contrary of intrinsic value to be instrumental value.²⁰ We instead assume that the contrary of intrinsic value is extrinsic value.

¹⁹ See Recent Work on Intrinsic Value, eds. T. Rønnow-Rawmussen and M. J. Zimmerman (Dordrecht: Springer, 2005). ²⁰ See, in particular, Raz *The Morality of Freedom*, 177-78, 200-201. The Razian terminology has been

adopted by some egalitarians. See, e.g., Serena Olsaretti, "Unmasking Equality? Kagan on Equality and

Extrinsic value can be either instrumental or non-instrumental, depending on whether the relation in question is causal or non-causal. A thing has instrumental extrinsic value if it is a causal condition – we may leave aside here in exactly what sense – for some other thing that has intrinsic value. What interests us in the present context is a kind of non-instrumental extrinsic value, which we shall call 'constitutive' value. Let us say that a thing has *constitutive* value if it is *a non-causally necessary but insufficient condition*²¹ for the existence of some other thing that has intrinsic value.²²

Many are understandably skeptical of the view that an equal distribution of x is valuable *merely* in virtue of its being an equal distribution of x. However, to deny that distributive equality has such intrinsic value is not to deny that it makes an essential contribution to justice; on the contrary, in light of the fit between distributive equality and basic equality, it is plausible to say that distributive equality (of a certain good or family of goods) has *constitutive* value.

Our thesis is that distributive equality (that is, equality of some good, x) has constitutive value from the standpoint of a particular conception of justice if, from that standpoint, an equal distribution of good x is a non-causally necessary but insufficient condition for conformity to what we have called 'the egalitarian principle of comparative proportional justice'. It is a necessary but *insufficient* condition, because another necessary condition is the presence of basic equality. To illustrate the point less formally and more intuitively:

Desert," 388-89; Andrei Marmor "The Intrinsic Value of Economic Equality," in *Rights, Culture, and the Law. Themes from the Legal and Political Philosophy of Joseph Raz*, ed. L.H. Meyer, S.L. Paulson, and T. Pogge (Oxford: Oxford University Press, 2003); Jeremy Moss "Egalitarianism and the Value of Equality," *Journal of Ethics and Social Philosophy*, 2 (2009): 1-6, www.jesp.org. Because he sees all non-instrumental value as intrinsic value, Raz has to distinguish between different 'kinds' of intrinsic value, one of which, in our view, is plainly a kind of *extrinsic* value. Leaving aside this point, what matters in substantive terms is that most theorists of the value of equality have either affirmed what we are calling the 'intrinsic value' of distributive equality, or else have denied that distributive equality has *any* kind of non-instrumental value. Notable exceptions are Marmor "The Intrinsic Value of Economic Equality" (see note 14, below) and Andrew Mason, "Egalitarianism and the Levelling Down Objection," (see section 3, below).

²¹ A more complex definition would accommodate multiple realizability with a formula like 'non-causally necessary but insufficient member of a set of sufficient conditions'. In the case of instrumental value, a similarly complex account of causality would accommodate multiple available means to a given end.

²² Since any one thing is constitutive of itself, a more precise name for the kind of value captured by this definition would be 'non-intrinsic constitutive value'.

unequal distributions bother us when, and only when, we think they involve *treating equals unequally*. For example: people favor equality of voting power because they think citizens are *equal* in some relevant sense; theorists who *opposed* equality of voting power (for example, J.S. Mill) felt comfortable about doing so only because they held citizens to be *un*equal in the relevant sense.

From within the relevant conception of justice, it is standardly assumed that justice itself is intrinsically valuable: a state of affairs counts as just if it possesses the property 'justice'; a just state of affairs is intrinsically valuable in virtue of its possession of that property. Our thesis depends on that standard assumption together with the further claim that one kind of justice consists in conformity to the egalitarian principle of comparative proportional justice. Call this kind of justice 'egalitarian proportional justice'. A state of affairs characterized by egalitarian proportional justice is necessarily one that features both equality of x and equality of y. Equality of x and equality of y are, then, both internal properties of a state of affairs characterized by egalitarian proportional justice, properties in virtue of which that state of affairs counts as just and therefore as intrinsically valuable. Equality of x itself, on the other hand, has value not in virtue of this relation it qualifies as a necessary but insufficient condition for egalitarian proportional justice. Equality of x and equality of y are conjunctively constitutive of egalitarian proportional justice. Equality of x and equality of y are conjunctively constitutive.

Although it might seem surprising at first to attribute constitutive value to basic equality as well as to distributive equality, the two are indeed alike in this respect. The asymmetry between them lies, instead, in their different functions as constituents of a situation characterized by egalitarian proportional justice. Basic equality is *the basis of* distributive equality; distributive equality is *based on* basic equality. Basic equality is not a moral goal, but a morally relevant fact. Thus, the egalitarian principle of comparative proportional justice prescribes the promotion of equality of x among individuals that have equal y, not the promotion of equality of y among individuals that enjoy equality of x. The mere fact that something is equally possessed is not a reason to equalize something else, unless the thing that is equal is morally significant in the way we have described, in which case, in our language, it counts as 'y', not as 'x'.

This is not to deny that promoting the possession of y might itself be a moral goal for some independent reason. For example, if y stands for the Rawlsian range property of moral personality, most people would claim that promoting the possession of y among cognitively impaired humans (who find themselves below the minimum threshold) is, other things being equal, morally good. However, if *equality* of moral personality were a goal, and that goal were entitlement-based, then it would count as a case of equality of xin the context of our analysis, and we would need to identify a further equally possessed, entitlement-grounding feature, y, as the moral basis for the pursuit of equality of moral personality.

Distributive equality, then, has constitutive value from the standpoint of any conception of justice that not only prescribes distributive equality but also has *two additional features*: first, it includes the affirmation of basic equality; second, it includes, among its fundamental principles, the egalitarian principle of comparative proportional justice.²³

The proponent of the intrinsic value of distributive equality might object that the above account really only amounts to a more laboured version of her own thesis. Obviously, she might say, what has intrinsic value is an equal distribution *not just of anything, but of good x* (for example, wellbeing), where that distribution obtains *not just among any individuals* (say, the set containing all humans, dogs, and oysters), *but within a particular set of individuals*, *S*, where membership of *S* is of course implicitly determined by reference to an *equally possessed property* (for example, being a human or a person or a citizen). This, the proponent of the intrinsic-value thesis might continue, is exactly what

²³ As far as we are aware, the only example to date of a reasonably well-developed argument for the 'constitutive' value of distributive equality is Marmor, "The Intrinsic Value of Economic Equality". Marmor's argument does not establish any connection with the basis of equality, and it is limited to the defense of 'rough economic equality'. In our view, it is open to a sufficientarian version of the 'by-product objection' (see section 4, below). See also Raz's reply to Marmor, (Raz, "On the Value of Distributional Equality") at 265 of the same volume. The idea that equality might have some kind of 'constitutive' value is also mentioned briefly in Stephan Gosepath's "Equality," in *Stanford Encyclopedia of Philosophy*, http://plato.stanford.edu/entries/equality/ (2007) and Moss, "Egalitarianism and the Value of Equality".

'distributive equality' *means*: equality of x among the members of set S. Thus, the objection runs, the thing which possesses intrinsic value, and which, in our argument so far, we have called 'egalitarian proportional justice', is really nothing other than 'distributive equality' properly understood.

This objection assumes an enlarged definition of distributive equality according to which distributive equality is by definition just. If we say, 'Distributive equality simply is the combination of equality of x and equality of y', and we say, in addition, that distributive equality (so defined) has intrinsic value, then our claim must be that the value of distributive equality depends on the relation between its two components (equality of x and equality of y), and that this relation is itself one of its intrinsic properties. The relation in question is that of egalitarian proportional justice. Thus, we shall be saying that justice is itself one of the intrinsic properties of distributive equality.

In our view it is a mistake to define distributive equality as something that is necessarily just. The relation of proportional justice is itself extrinsic to the relation of distributive equality. Distributive equality is a relation between the members of a given set of individuals that holds in terms of their possession of some good, x. Proportional justice is a relation between their possession of x and their possession of something else, y. Even from the standpoint of the a conception of justice affirming both equality of y and the egalitarian principle of comparative proportional justice, we can conceive of a world in which the members of the set of individuals picked out by that conception possess y*un*equally. In this alternative world, it is still open to us to give equal amounts of x to this set of individuals (or indeed, barring conceptual impossibility, to any other set of unequal individuals). In such a case we would say that distributive equality has been realized within that set of unequal individuals. The notion of basic equality is therefore not an essential part of the notion of distributive equality. The test for the intrinsic value of equality of a given distributive good among a given set of individuals is the following: from the standpoint of the aforementioned conception of justice, would we affirm that equality of that good has value in that alternative world (in which the relevant individuals have unequal y? If, as we believe, the answer to this question is 'no' (or at least 'not

necessarily'), then (from the standpoint of that conception of justice) distributive equality does not have intrinsic value.

We conclude this section with two brief clarificatory points about the nature of the foregoing argument. A first point concerns the relation between our thesis and two types of egalitarianism originally identified by Derek Parfit²⁴ and subsequently much discussed in the literature: 'telic egalitarianism' and 'deontic egalitarianism'. According to telic egalitarianism, distributive inequality is bad in itself; according to deontic egalitarianism, distributive inequality is unjust, and therefore bad not in itself, but because of the way in which it is brought about by human agents. Our thesis fits neither of these two categories. If telic egalitarianism. On the other hand, our thesis does not rule out conceptions of justice on the basis of which, in the light of individuals' equal possession of *y*, one can ascribe proportional injustice to an unequal distribution of *x* regardless of whether (or, if so, in what way) that distribution of *x* was brought about by human agents.

A second point of clarification concerns the role of proportional justice in our argument. Larry Temkin²⁵ has appealed to the notion of proportional justice in his argument in favor of the *intrinsic* value of distributive equality. Our own appeal to that notion demonstrates only that distributive equality has *constitutive* value. Whence the difference? The answer is *not* that Temkin rests his case on the enlarged definition of distributive equality discussed above; he does not. Rather, the difference lies in the fact that, while we have presented an argument from proportional justice, Temkin presents only an argument from an *analogy* between distributive equality and proportional justice.

Temkin's primary aim is to convince us that distributive equality is an *impersonal* value, a value the realization of which need not be good for any particular person. Many of those who deny the non-instrumental value of equality do so because they fail to see that some values are impersonal in this sense. Proportional justice is appealed to by Temkin as a

²⁴ "Equality or Priority?"

²⁵ "Equality, Priority, and the Levelling Down Objection"

good *example* of an intrinsic, impersonal value: in terms of proportional justice, we consider it better for saints to be rewarded and sinners to be punished than for saints to be rewarded and sinners to be rewarded even more, even though the former situation is not better either for the saints or for the sinners. And, if proportional justice is an intrinsic, impersonal value, 'the same may be true of other ideals, such as equality²⁶. Unfortunately, those who would deny that distributive equality has any non-instrumental value can answer Temkin by accepting his point about proportional justice while adding that the same is *not* true of distributive equality.

Temkin attempts merely to draw an analogy between distributive equality and proportional justice understood as two distinct intrinsic, impersonal values. By contrast, our argument implies that distributive equality *is itself prescribed by* proportional justice. It is prescribed by proportional justice because the egalitarian principle of comparative proportional justice is itself a principle of proportional justice. Once it is made clear how proportional justice itself prescribes distributive equality, Temkin's view that the latter is an impersonal value becomes much more compelling.

3. Constitutive Value and 'Conditional' Value

The constitutive value that we have ascribed to distributive equality might be called a kind of 'conditional' value. However, using the latter term is potentially misleading, given the difference between our position and what has come to be known as 'conditional egalitarianism'.

The term *conditional egalitarianism* was introduced by Andrew Mason and is generally used to refer to the view that the promotion or preservation of distributive equality has value only when combined with the promotion or preservation of some other good.²⁷ In

²⁶ Ibid., 151.

²⁷Andrew Mason, "Egalitarianism and the Levelling Down Objection"; Niels Holtug, "A Note on Conditional Egalitarianism," *Economics and Philosophy* 23 (2007): 45-63; N. Holtug and K. Lippert-

particular, it is normally taken to refer to the view that a reduction in the degree of inequality of x contributes value to a situation only when it is combined with a certain kind of efficiency in terms of x – for example, only when it increases at least one person's share of x (where x is normally understood as welfare or wellbeing). Mason appeals to this notion of conditional egalitarianism in a discussion of the so-called leveling-down objection to the value of equality. If distributive equality has intrinsic value, then it seems we must say that the distribution $\{1x, 1x\}$ is, in at least one respect, an improvement on the distribution $\{2x, 1x\}$; yet, the leveling-down objection goes, the former distribution does not seem to be better in *any* respect²⁸ In answer to this objection, it might be claimed that we can resist ascribing value to the practice of leveling down by saying that the value of a reduction in inequality is conditional on its making someone better off in terms of x.

This answer to the leveling-down objection might in principle be understood as qualifying *either* the thesis that equality of x has intrinsic value or the thesis that it has constitutive value in our sense. Our argument for the constitutive value of equality of x is therefore logically prior to the above kind of argument for 'conditional egalitarianism'. The two arguments are similar inasmuch as we have argued that equality of x has value only in combination with equality of y. In this sense, it would not be technically incorrect to call the constitutive value of distributive equality a kind of 'conditional value': equality of y is a kind of 'enabling condition' that triggers the value of equality of x. Nevertheless, unlike 'conditional egalitarians', we have provided an egalitarian reason for the conditional justice. Whether or not 'conditional egalitarianism' is ultimately defensible, there are no reasons internal to our argument for saying that the constitutive value of equality of x is subject to the *further* condition that it realize efficiency in terms of x.²⁹

The contrary view – that the further condition of efficiency in terms of x is already entailed by our argument – might be thought to be supported by our assumption that x is

Rasmussen, *Egalitarianism. New Essays on the Nature and Value of Equality*; Iwao Hirose "Reconsidering the Value of Equality," *Australasian Journal of Philosophy* 87 (2009): 301-12.

²⁸ Parfit, "Equality or Priority?," 98-99.

²⁹ On the difficulty of supplying a reason for this further condition, see Holtug "A Note on Conditional Egalitarianism", at 56-61.

always *a good*. Thomas Christiano's response to the leveling down objection is based on this assumption. In his essay on the foundations of egalitarianism,³⁰ Christiano claims that 'the principle of equality' itself entails a preference for Pareto-superior unequal distributions (of the relevant good) over Pareto-inferior equal distributions. Because 'a necessary condition for [distributive] equality mattering is that the thing being equalized is such that more is better than less', there is an 'internal connection' between 'the idea of equality and the value of the relevant fundamental good that is equalized'³¹.

We agree that there is an 'internal connection' between the value of distributive equality (of x) and the value of x (see section 1.1, above). To the extent that distributive equality is valuable, it is a distribution of good things the entitlement to which is grounded in some equally possessed feature of the individuals concerned. However, this internal connection entails only the following: that, from the standpoint of the relevant conception of justice, distributive equality has value only if it is equality of x (where x is owed to people in virtue of their having y), and not if it is equality of some other thing. The internal connection *does not* entail that 'equality where each individual has 1x' has less value in *terms of equality* than 'equality where each individual has 2x'. The lesser value in such cases is in terms of x, rather than of equality in its distribution. It is perhaps significant that Christiano avoids using the expression 'value of equality' and refers only to a 'principle of equality', or to an 'egalitarian principle'. He is not directly interested in the kind of *value* that attaches specifically to distributive *equality*. There is indeed some plausibility in saying that a 'principle of equality' (or an 'egalitarian principle') prescribes actions based *both* on the value of distributive equality *and* on that of Pareto-efficiency. Rawls's difference principle is an obvious example of such an egalitarian 'principle'.

³⁰ Christiano "A Foundation for Egalitarianism". In this essay Christiano anticipates several of the points in our argument for the constitutive value of distributive equality. He notes that egalitarians need a theory of 'equal moral status', or, in our terms, a theory of basic equality (54-55); he refers to a 'principle of propriety', which is similar to what Geoffrey Cupit, *Justice as Fittingness* (Oxford: Oxford University Press, 1996) calls 'fittingness' (see note 18, below) and to what we would call a general notion of proportional justice; and he also recognizes the role of what we have called the egalitarian principle of comparative proportional justice, under the name of the 'generic principle of justice' (Christiano "A Foundation for Egalitarianism," 47).

³¹ Christiano "A Foundation for Egalitarianism," 72; Thomas Christiano and Will Braynen, "Inequality, Injustice and Levelling Down," *Ratio* 21 (2008): 392-420, at 397-98.

4. The By-product Objection

Having rejected the claim that equality of x is intrinsically valuable, we must now fend off a possible attack from the opposed camp. For it is sometimes claimed – though not always in so many words - that distributive equality is merely a by-product of proportional justice (each person getting their due in virtue of certain of their features) and is therefore normatively redundant. The thought, here, is that the nature of a just distribution is determined not by the value of distributive equality but by the fit between an individual's features and her entitlements. If we think that it is right for A and B to enjoy x to the extent that they possess y, then our justification of a given distribution of x will consist in our pointing to A's and B's possession of y and our determining, on that basis, their entitlements to x. Even where we turn out to favor an equal distribution of x, the reason we do so is not that we think that *equality* in the distribution of x itself contributes value to that distribution. Equality in the distribution of x will be merely an incidental by-product of our having correctly related the possession of x to the possession of y in cases in which people happen to have equal y. Therefore, everything that needs to be said can be said without referring to distributive equality. Versions of this objection can be found in the work of Joseph Raz,³² Harry Frankfurt,³³ and Shelly Kagan.³⁴ Let us call it the 'byproduct objection' to the value of distributive equality.

The by-product objection is normally raised against the thesis that distributive equality has intrinsic value. It might, however, seem even stronger when applied to our thesis that distributive equality has constitutive value: according to our thesis, we need to make reference to distributive equality when characterizing certain states of affairs as just; according to the by-product objection, we have removed that need exactly through our insistence that individuals' entitlements depend on their possession of certain morally relevant features.

³² The Morality of Freedom.

³³ "Equality as a Moral Ideal," *Ethics* 98 (1987): 21-48 and "Equality and Respect," in H. Frankfurt, *Necessity, Volition, and Love* (Cambridge: Cambridge University Press, 1999).

³⁴ "Equality and Desert," in *What Do We Deserve? A Reader on Justice and Desert* (Oxford: Oxford University Press, 1999).

The argument presented in section 2 provides us with a short answer to the by-product objection: proportional justice is indeed what is doing the work in establishing people's entitlements to x, but the egalitarian principle of comparative proportional justice *is itself* a principle of proportional justice, and *it prescribes equality of* x. Therefore, the idea of proportional justice itself includes the idea that distributive equality is a necessary part of what counts as just. But this short answer is in need of further support, for the skeptic might retort that the egalitarian principle of comparative proportional justice is itself surplus to requirements. In particular, she might claim that the notion of proportional justice (section 4.1), or *ordinal comparative* proportional justice (section 4.2).

4.1 Absolute Proportional Justice

The most common version of the by-product objection assumes that what is meant by proportional justice is *absolute* proportional justice. Shelly Kagan's version of the objection appeals to what he calls 'desert', a criterion that is identical to what we are here calling absolute proportional justice. Harry Frankfurt's version appeals to 'respect', where to respect persons is to treat them appropriately, and appropriate treatment of persons depends on the individual nature of each person and not on how each fares relative to others. Like Kagan, Frankfurt is here appealing to a notion of *absolute* proportional justice.

For the most part, however, it is a mistake to think that a principle of absolute proportional justice, together with information about possession of y, determines entitlements to absolute amounts of x.³⁵ Only in very limited cases (for example, those applying the *lex talionis*) do we think of the nature of y as sufficient to determine the absolute amount of a particular good or bad due to a person. For most goods, including

³⁵ The mistake has been noted, for example, in Olsaretti "Unmasking Equality? Kagan on Equality and Desert," 397; Christiano "A Foundation for Egalitarianism," 53; Richard J. Arneson, "Desert and Equality," in *Egalitarianism. New Essays on the Nature and Value of Equality* (Oxford: Clarendon Press, 2007), ed. N. Holtug and K. Lippert-Rasumussen, 279-80.

the kinds of goods typically distributed in accordance with theories of societal distributive justice, it is simply incorrect to hold that our reasoning from people's entitlementgrounding properties to their entitlements to those goods rests on a notion of absolute proportional justice. Consider, for example, the properties (v) and the distributive goods (x) that liberal democrats and egalitarians typically have in mind when they prescribe distributive equality. It makes no sense to say, for example, that, because a person's agential capacities are at a certain absolute level, she has an entitlement to a certain absolute amount of liberty or resources or capabilities; or that, because a person's capacity for pleasure or pain, or her degree of self-awareness, are at a certain absolute level, she is entitled to a certain amount of utility or wellbeing. Neither does it make sense to say that, because a person possesses the Rawlsian range property of moral personality, there is an absolute amount of liberty or opportunity or resources or wellbeing to which she is entitled. The problem here is not that of being able to measure x and y in absolute terms (except where x is essentially an interpersonally comparative good and therefore simply does not exist in absolute amounts, as in the case of voting power). Rather, the problem lies in relating the two scales of measurement such that a given number of units of ygrounds an entitlement to a given number of units of x.

4.2. Comparative Proportional Justice

The by-product objection might nevertheless be reformulated in terms of comparative proportional justice. Thus reformulated, it might run as follows: according to comparative proportional justice, if A possesses y to a greater degree than B does, then A should get more x. If A does not possess y to a greater degree than B does, and B does not possess y to a greater degree than B does, and B does not possess y to a greater degree than B does, and B does not possess y to a greater degree than A does, then A and B should get equal x. But this equality of x is merely a by-product of comparative proportional justice. What has constitutive value is 'the outcome of comparative proportional justice', not 'distributive equality'. This is true even if, in many important cases, the outcome of comparative proportional justice happens to be an outcome characterized by distributive equality.

This reformulation of the by-product objection appeals to what we have called the 'ordinal principle' of comparative proportional justice. It assumes that the ordinal principle describes the essence of comparative proportional justice. It could appeal, alternatively, to some other non-egalitarian comparative principle (one that includes some particular cardinal function), but the ordinal principle is the weakest available and therefore allows the reformulated objection to be stated in its strongest form.

We certainly have reason to endorse the ordinal principle of comparative proportional justice. As we shall now see, however, there is no good reason to hold that the validity of the ordinal principle renders the egalitarian principle normatively redundant.

It might be suggested that the normative redundancy of egalitarian proportional justice is established by the following argument: even in a context characterized by basic equality, the validity of the ordinal principle of comparative proportional justice is *sufficient* to establish the justice of an equal distribution; therefore, the egalitarian principle can be considered redundant. However, we can construct an equally valid argument by switching the roles of the two principles: in a context characterized by basic equality, the validity of the *egalitarian* principle of comparative proportional justice is sufficient to establish the justice of an equal distribution; therefore, the ordinal principle can be considered redundant. However, we can construct an equally valid argument by switching the roles of the two principles: in a context characterized by basic equality, the validity of the *egalitarian* principle of comparative proportional justice is sufficient to establish the justice of an equal distribution; therefore, the *ordinal* principle can be considered redundant. If we restrict our attention to the distributive implications of basic equality, neither principle has logical precedence over the other.

Of course, if we broaden our focus to include unequal as well as equal entitlementgrounding properties, it *remains* true that the ordinal principle can do all the work, whereas it is *no longer* true that the egalitarian principle can do all the work. Why need this fact be of concern to the advocate of the egalitarian principle? Perhaps it will be said that the egalitarian principle should therefore be dispensed with on grounds of parsimony: better to affirm only one basic principle than two if the one basic principle will generate the same set of prescriptions. It is not clear, however, what pull this purely formal consideration should have all on its own. What matters is not whether the ordinal principle could, logically, do all the work carried out by the egalitarian principle, but, more substantively, whether the source of the value of egalitarian proportional justice lies exclusively in the fact of conformity to the ordinal principle of proportional justice. In order to answer this question, we need to reflect on the nature of our fundamental moral reasoning about the sorts of goods we aim to distribute and the bases on which we aim to do so. If this fundamental moral reasoning includes valid cases of reasoning that take us *directly* to the egalitarian principle, rather than to the egalitarian principle *via* the ordinal principle, it is plausible to infer that the substantive moral weight that we attach to the egalitarian principle is, at least in part, *independent* of the substantive moral weight that we attach to the ordinal principle.

The temptation to affirm the contrary - to claim, that is, that our attachment to the egalitarian principle must itself depend entirely on a logically prior attachment to the ordinal principle - probably derives from the perception of two undeniable facts about distributive and basic equality that we noted in our initial presentation of those notions: first, the 'x' in 'equality of x' must stand for something of which individuals can enjoy more or less, and of which it is better, ceteris paribus, that they enjoy more; second, possession of property y grounds entitlements to x independently of the resultant equality in the amounts of x to which the relevant individuals are entitled. In the light of these two facts, it is tempting to think that behind the interest in identifying an entitlementgrounding property, y, there must lie an assumption to the effect that the more y one possesses, the more x one is entitled to. It is this assumption that establishes the intuitive validity of the ordinal principle and that leads us to think of the egalitarian principle as a superfluous entailment. However, if y is a binary property, as we have suggested it must be if basic equality is to be established in a way that is both significant and universal, then the above-mentioned assumption – that the more y one possesses, the more x one is entitled to – cannot figure at all in the reasoning that links possession of y to entitlements to x. If, for example, y is the range property of moral personality, it makes no sense to say that the more of a moral person one is, the more x one is entitled to, for moral personality is, ex hypothesi, something of which one cannot have more or less.

If *y* is a binary property, it is indeed much less natural to accompany the affirmation of basic equality with an assertion of the *ordinal* principle of comparative proportional justice than it is to accompany it, more straightforwardly, with an assertion of the *egalitarian* principle. It may sometimes be possible to reason from a binary property to an entitlement to a *non*-comparative good by means of a principle of *absolute* proportional justice. For example, it might be said that 'the winner of the race' is entitled to a gold medal, or that 'the victim of the attempted murder' is entitled to impose the death penalty on her adversary. We have seen, however, that in the kinds of cases that concern us here, absolute proportional justice must give way to comparative proportional justice. We are therefore left with a *binary* property that grounds an entitlement to a *relative* amount of some *scalar* good. Such an entitlement is most naturally determined by direct reference to the egalitarian principle of comparative proportional justice. There is no reason to think that the ordinal principle must play a part in, or be presupposed by, this piece of fundamental moral reasoning.

Notice the parallel between the supposed primacy of absolute proportional justice with respect to comparative proportional justice, discussed above in section 4.1, and the supposed primacy of the ordinal principle with respect to the egalitarian principle. In both of these cases, the former kind of proportional justice might seem to render the latter kind normatively redundant, inasmuch as all the distributive questions answered by the latter kind seem already to be answered by the former kind. Nevertheless, just as we appeal directly to a principle of comparative proportional justice where the goods and features involved are ones relation to which it makes no sense to talk of absolute proportional justice (for example, the assignment of wellbeing or liberty or voting power in virtue of the features of moral personality or sentience or the capacity for political agency), so we appeal directly to the principle of egalitarian proportional justice where the goods and features involved are ones in relation to which it makes no sense to talk of ordinal agency), so we appeal directly to the principle of egalitarian proportional justice where the goods and features involved are ones in relation to which it makes no sense to talk of ordinal agency), so we appeal directly to the principle of egalitarian proportional justice where the goods and features involved are ones in relation to which it makes no sense to talk of ordinal proportional justice (that is, the assignment of a relative amount of a scalar good in virtue of a binary property).

We do not, then, require an ordinal function (still less do we require a specific cardinal function) mapping degrees of y onto degrees of x in order to endorse the egalitarian principle of proportional justice. And neither is it substantively plausible, where y is a binary property, to say that we *first* establish that ordinal or cardinal function and *then* endorse the egalitarian principle as an entailment.

Might the by-product objection be reformulated by appeal to a more general idea of proportionality rather than to such a specific function – that is, by appeal to the general idea that individuals should possess x in proportion to their possession of y? Here too, there is no reason to think that we endorse the egalitarian principle because we endorse the general notion of proportionality. It is at least as plausible to think that we build up from the egalitarian principle towards that more general idea. Here is a plausible story that bears out the latter view. First, we endorse the basic idea, implicit in all principles, that like cases should be treated alike. Second, we see how this basic idea applies to distributive scenarios involving like properties (y) and scalar goods (x). Third, we seek a criterion for judging between alternative ways of treating dissimilar cases dissimilarly. In particular, we consider the allocation of such goods on the basis of scalar properties, and we extrapolate from particular intuitions to arrive at the general idea of proportionality. Fourth, we see how cases in which y is equal, no less than cases in which y is unequal, are cases to which this general idea of proportionality applies. On this story, it is simply false to say that we endorse egalitarian proportional justice because we endorse the wider notion of proportionality, as if that wider notion were somehow more fundamental in a moral sense.

The same point applies, *a fortiori*, to the hypothesis that all principles of proportional justice themselves derive from some yet more general idea, such as that of fittingness.³⁶ The idea of fittingness is simply that of a correspondence between individuals' natures

³⁶ On the notion of fittingness, see Cupit *Justice as Fittingness*, (Oxford: Oxford University Press). Cupit notes that 'justice as fittingness' often does not involve quantification, be it cardinal or ordinal (10, 12 n. 9). This point supports our claim that y need not be a property of which one can have more or less. Cupit also notes that '[j]ustice [as fittingness] requires that we avoid treating equals as unequals, and a number of precepts may be understood as deriving from this general principle', 31. This point suggests that the egalitarian principle of comparative proportional justice is plausibly interpreted as a fundamental principle of fittingness.

and the treatment they ought to receive. This correspondence needs to be spelled out, and the only way of doing so is in terms of principles like the egalitarian principle of comparative proportional justice, the ordinal principle of comparative proportional justice, some principle of absolute proportional justice, and so on. There is no deeper, determinate account of fittingness such that the idea of fittingness itself somehow generates these principles, rather than being a more abstract idea that serves to show what those principles have in common.

We conclude that it is both logically coherent and substantively plausible to say that the egalitarian principle has independent moral validity as a fundamental principle of comparative proportional justice. The by-product objection fails, even when reformulated in terms of comparative proportional justice.

The important truth in the contributions of Raz, Kagan, and Frankfurt lies in the relation between distributive equality and the entitlements individuals possess in virtue of certain of their features. Given the essential justificatory role of this relation, it makes no sense to say that distributive equality has intrinsic value. It is a mistake, however, to think that this truth renders the notion of distributive equality normatively redundant.

5. Conclusion

We have tried here to capture the structure of all arguments to the effect that the equalization (or reduction of inequality) of a certain good has non-instrumental value. On our account, the non-instrumental value of distributive equality depends on its basis in the equality of the entitlement-grounding features of the relevant individuals. This basis of equality serves to *explain* the non-instrumental value we ascribe to the equalization (or the reduction of inequality) of various goods: some kind of basic equality is presupposed whenever we prescribe equality (or the reduction of inequality) of some good in a way that is both non-instrumental and non-arbitrary. Even where we do not acknowledge the fact consciously, the appeal to basic equality is always present at the back of our minds.

We prescribe equality of something because we believe in a basic form of proportional justice, a form expressed by the idea of a fit between distributive equality and basic equality. The prescription of distributive equality does not rest on its intrinsic value. On the other hand, that prescription does play a fundamental role in many ethical and political theories, whether democratic, economically egalitarian, or libertarian, for it is *constitutive* of the notion of justice that those theories employ. Pointing out that distributive equality is a product of 'desert' or 'respect' serves to clarify this last point rather than to undermine it.

In the light of these reflections we ought, as theorists, to avoid the tendency simply to pick an important good (such as wellbeing) and then ask about the value of equalizing it, as if the hypothesized value of the equalization could somehow be freestanding with respect to the individuals' entitlement-grounding features. We ought to spend less time testing our raw intuitions against successive examples of equal or unequal distributions of a given good, and more on developing a substantive account of the basic equality that grounds entitlements to equal shares of some goods rather than others. This substantive account of basic equality will give us a better understanding of the *weight* of claims to equality of certain goods. As a result, it will also help us to see more clearly how far, and in what contexts, equality of those goods should be balanced against values that genuinely compete with it.

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