

# THE PROBLEM OF BASIC EQUALITY

## A CONSTRUCTIVE CRITIQUE

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IT IS COMMON to assume that all (or nearly all) human beings are one another's *equals* in some basic moral sense. Indeed, some have argued that this assumption forms an “egalitarian plateau” for contemporary political philosophy: a foundational, shared premise from which all plausible theories must proceed.<sup>1</sup> However, there is a problem with this assumption of *basic equality*, indeed arguably “one of the most profound problems of moral philosophy.”<sup>2</sup> There must be *some* explanation as to why all (or nearly all) humans are equals with one another, but not with other beings. Most plausibly, this must, in part, be because we possess some nonnormative property or properties that ground our equality. Yet when we aim to isolate such nonnormative properties, we find that they tend to come in differing degrees across the human population. But this raises the question: If having some of a nonnormative property (like “rationality”) is supposed to be so important that it grounds having some of a basic moral property (like “worth”), then why does having more of that nonnormative property not also ground having more of that basic moral property? There is a seemingly unavoidable “pressure of reason” to conclude the exact opposite of basic equality: we must be one another’s *unequals*.<sup>3</sup>

This paper offers a targeted five-point critique of the current debate with respect to this problem, with the aim of laying the foundations for a new strategy. First, it claims that the debate should be refocused away from any particular concept(ion) of basic equality to a more agnostic proposition about the possibility of establishing equality in any basic moral property (section 1). Second, it rearticulates the problem in terms of grounding relations rather than supervenience (section 2). Third, it focuses on the current dominant approach to solving this problem, the nonscalar property strategy. It argues that proponents

<sup>1</sup> See Kymlicka, *Contemporary Political Philosophy*, 4; Dworkin, *Sovereign Virtue*, 11.

<sup>2</sup> Christiano, *The Constitution of Equality*, 17.

<sup>3</sup> Arneson, “Basic Equality,” 36.

of this approach have failed to properly distinguish between two different nonscalar properties defined in terms of scalar properties: *range properties* and *bare properties* (section 3). Once such properties have been disambiguated, it becomes apparent that current proponents of the nonscalar strategy have failed to solve the pressure of reason problem: they have merely shifted it (section 4). However, I end by arguing that this critique directs our attention to a possible alternative strategy—that is, grounding our equality on a *relative property* (section 5). I illustrate this strategy via a resuscitation of a neglected line of thought from the first contemporary analysis of the problem of basic equality by Herbert Spiegelberg.<sup>4</sup> While not seeking to offer a full-throated defense of a solution to the problem of basic equality, this illustration aims to build the case for moving beyond a nonscalar range or bare property strategy to explore the possibilities of equality in relative properties instead.

### 1. DEFINING BASIC EQUALITY

Philosophers who are nominally addressing the same *problem* of basic equality tend to formulate the *concept* of basic equality in different ways. They speak of “equal worth,” “equal consideration,” “equal intrinsic value,” “equal respect,” “fundamental equal moral status,” “equal standing,” “entitlement to equal amounts of something,” “the principles of justice which require equal basic rights be assigned to all persons … equal justice,” “equal status … [implying] that moral principles in some way assert that [each] has a right to something, may be owed something, may deserve something, or that it ought to receive a certain good,” and many other formulations.<sup>5</sup>

Are all of these formulations of basic equality equivalent? Are all these philosophers aiming to solve the same problem? Some argue (or more often appear to simply assume) that despite the apparent differences in the formulations of basic equality, they are synonymous, related by implication, or derivable (*qua* “conceptions”) from a common claim that we are equals in one of the more abstract properties (*qua* “concept”).<sup>6</sup> Others, however, stress the differences

4 Spiegelberg, “A Defense of Human Equality.”

5 Vlastos, “Justice and Equality,” 43; Benn, “Egalitarianism and the Equal Consideration of Interests”; Bedau, “Egalitarianism and the Idea of Equality,” 17; Williams, *Problems*, 236; Arneson, “Basic Equality,” 30; Sher, *Me, You, Us*, 32; Carter, “Respect and the Basis of Equality,” 539; Rawls, *A Theory of Justice*, 442; Christiano, “Rationality, Equal Status, and Egalitarianism,” 54.

6 Pojman and Westmoreland, *Equality*, 1; Dworkin, *Taking Rights Seriously*, 272–73; Sher, *Me, You, Us*, 31; Kymlicka, *Contemporary Political Philosophy*, 4; Miller, *National Responsibility and Global Justice*, 28.

and incompatibilities between them. They argue that beneath the thin veneer of a common commitment to sharing equality in *some* sense across political philosophy lies fundamental disagreement about *which particular* sense.<sup>7</sup>

Do we, then, need to resolve this debate or pick our own preferred formulation of basic equality in order to then formulate its *problem*? No. Indeed, there are distinct advantages to focusing on the following functionally defined proposition instead:

*Basic Equality*: All (or nearly all) humans are one another's equals in their possession of some basic moral property.

In this context, “basic moral property” is simply a placeholder for *any* property that will do the kind of theoretical work we expect of a concept(ion) of basic equality. Thus, a property is *moral* if, depending on one’s most primitive moral concepts, it involves having some (degree of) moral value, being the subject or object of a moral ought proposition (of some degree of binding force or lexical rank), or being the subject or object of a moral reason for action (of some degree of weight or lexical rank). And such a moral property is *basic* if it satisfies the following set of conditions. The property is generally *natural*—that is to say that its possession arises as a consequence of the normal course of environmental processes, such as birth, growth, or maturity. The property is generally *inalienable*—that is, it is not liable to be easily extinguished or transferred by its possessor to another, without the possessor themselves ceasing to exist. The property and its implications, generally, have *great weight* or *lexical priority*: we rarely (if ever) have reason, all things considered, to act in any way inconsistent with the value, ought proposition, or reasons for action constituting the basic moral property. Thus, collectively, these three conditions mean that when articulating a moral theory, the distribution of the property (equal or unequal) across a set of individuals will be theoretically *foundational*, or very close to foundational. This is to say that other major claims within a theory will be implied, or at least conditioned, by the fact of that distribution.

The advantages of addressing the proposition Basic Equality, rather than a particular concept(ion) of basic equality, are threefold.

First, Basic Equality is entirely agnostic with respect to the various formulations of basic equality listed above: it would be true if we are equals in any one, some, or all of the properties referred to by such formulations, or indeed any other properties not so referred, so long as they fit the criteria for being morally basic. In other words, we only have to justify that we share *one* basic

<sup>7</sup> Kirby, “Two Concepts of Basic Equality”; Waldron, *One Another’s Equals*, 3. See also Arneson, “Basic Equality,” 30.

moral property equally in order to justify that we are one another's equals in *some* basic moral property—that is, Basic Equality.

Second, as I shall demonstrate in the next section, this is appropriate because the problem of basic equality is that there is a strong argument against this very possibility. It is not merely an argument against any particular concept(ion)s of basic equality, but any possible concept(ion). It is an argument against Basic Equality. This is what makes the argument, *prima facie*, so devastating.

Yet, third, despite this, the agnosticism of Basic Equality also permits us, in attempting to solve this problem, to be entirely open with respect to *both* the possible basic moral property or properties in which we might be equals *and* their possible nonnormative grounding property or properties. Any *pair* will do. Thus, to recast the challenge of solving the problem of basic equality, we are actually searching for a pair (or pairs) of properties. We are not merely searching for any possible nonnormative basis for a particular, predefined basic moral property. Indeed, and perhaps most importantly, we may be led to infer the former from the latter. We may *discover* (or at least clarify) the sense(s) in which we are one another's equals by such attempts to defend the proposition Basic Equality.

## 2. THE ARGUMENT AGAINST BASIC EQUALITY

The argument against Basic Equality, as the functionally defined proposition stated above, starts with the assumption that a human's possession of any basic moral property must be grounded in her possession of a nonnormative property—that is, its “basis.”<sup>8</sup> Sometimes, however, in discussions of basic equality, authors speak of a relation of “supervenience” rather than grounding.<sup>9</sup> Both relations imply a modal relationship such that if fact A (fully) grounds fact B, then, necessarily, if A, then B. Yet, unlike supervenience—at least as it is typically understood today—a grounding relation is asymmetric, since it does not also follow that if A grounds B, then necessarily, if B, then A.<sup>10</sup> And, further, unlike “one-way supervenience,” which is also asymmetric, it implies more than necessity between A and B. It implies an “explanatory” or “determinative”

<sup>8</sup> Rawls, *A Theory of Justice*, 441.

<sup>9</sup> Carter, “Respect and the Basis of Equality,” 549; Thomas, “Equality within the Limits of Reason Alone,” 540–41. Jeremy Waldron is quite adamant that he will continue to use the term “supervenience” in framing the problem of basic equality in the face of the emerging contemporary literature on grounding. However, when explaining what he means by “supervenience,” he cites a definition from Simon Blackburn from 1999 that many today would take to characterize well the grounding relation in contrast to supervenience (Waldron, *One Another's Equals*, 61n30).

<sup>10</sup> See Berker, “The Unity of Grounding,” 735.

connection: “a movement, so to speak, from antecedent to consequent.”<sup>11</sup> Thus, if *A* grounds *B*, then the fact that *A* obtains *explains why* *B* obtains. *B* obtains *in virtue of* (or *because of*) *A*.<sup>12</sup>

Further, discussions of basic equality may benefit from two key distinctions between types of grounding.<sup>13</sup> First, there is *full* and *partial* grounding: *A* fully grounds *B* if *A* by itself is sufficient to ground *B*. *A* is a partial ground for *B* if *A* and some other fact, or facts, are sufficient to ground *B*. Second, we might speak of *mediate* and *immediate* grounding: *A* mediately grounds *B* if *A* only grounds *B* by grounding *C* (that may ground *D*, . . . *E*, . . .) that grounds *B*. *A* immediately grounds *B* if no such “chaining” of grounding conditions is required.

Thus, applying these clarifications, the starting assumption in the argument against Basic Equality is that if a human has a basic moral property, then that fact must be partly grounded by the fact that she has a nonnormative property, which will partly explain why the human has the basic moral property. Such grounding will only be partial because we might assume that the fact that the human has a basic moral property will be fully grounded by the conjunction of (at least) two facts: that she possesses the nonnormative property (a nonnormative fact) *and* a general moral principle (or “bridge law” as Gideon Rosen puts it) that, for any object (or relevant subset of objects, of which the human is a member), possession of this nonnormative property entails possession of the basic moral property (a normative fact).<sup>14</sup> Thus, we expect a structure like:

*Basis of a Basic Moral Property:* For any particular object *P*, *P* has basic moral property *M* because (1) *P* has nonnormative property *X*, *and* (2) for any object, the fact that it has *X* entails the fact that it has *M*.

So, for example, one might argue that the fact that a particular human being has the capacity to reason (a nonnormative property) partly explains why she

<sup>11</sup> Fine, “Guide to Ground,” 38; see also McLaughlin, “Varieties of Supervenience.”

<sup>12</sup> Those who articulate the problem of basic equality in terms of supervenience tend to introduce a further constraint on any possible solution—that is, any putative basis must not merely co-vary with the property of being a moral equal but also be “relevant” (Thomas, “Equality within the Limits of Reason Alone,” 544; Carter, “Respect and the Basis of Equality,” 541). But this relation of “relevance” between subvening and supervening properties would seem to be merely a search for an *explanatory* relation between them. In which case, the concept of grounding is simply being introduced by another name.

<sup>13</sup> Fine, “Guide to Ground,” 50–51.

<sup>14</sup> Rosen, “Metaphysical Relations in Metaethics.” There remain as agnostic as possible with respect to the ongoing debate as to such a principle’s modal status, explanatory role, and significance for debates between naturalism and nonnaturalism. In addition to Rosen, see Morton, “Grounding the Normative”; and Berker, “The Explanatory Ambitions of Moral Principles.”

has moral worth (a plausible basic moral property). It only partly (rather than fully) explains why she has moral worth because it is also explained, putatively, by a general moral principle that any object (human or otherwise) that has the capacity to reason has moral worth. If these claims are true, then it is a short step to establishing something close to Basic Equality: assuming that not just *this* human, but all (or nearly all) humans have the capacity to reason, then they all (or nearly all) must have moral worth. The trouble, of course, is that the very last step required to establish Basic Equality does not follow: it does not follow that all (or nearly all) humans have *equal* moral worth.

This last step is the real difficulty in establishing Basic Equality. On the one hand, *prima facie* the most plausible candidate nonnormative properties for *X* within the structure Basis of a Basic Moral Property are scalar: rationality, sentience, intelligence, empathy, agency, a sense of justice, a good will. Even “conceptions of the good” can be more or less complete.<sup>15</sup> And, further, as a matter of empirical fact, human beings do possess such properties to varying degrees.<sup>16</sup> On the other hand, there is what Richard Arneson calls a “pressure of reason” to presume that if a scalar nonnormative property grounds a scalar basic moral property, then *ceteris paribus* a greater (or lesser) degree of that nonnormative property must surely proportionally ground a greater (or lesser) degree of the basic moral property.<sup>17</sup> As Louis Pojman puts it, “If *P* constitutes human worth, then it would seem that the more of *P* that a person has, the better he or she is.... If reason is really all that makes us valuable, then the more of it the better.... If our ability to will the good is what gives us value, then it would seem that some people are more valuable than others because they have greater ability to will the good than others.”<sup>18</sup> This presumption is defeasible. Hence, the “*ceteris paribus*.” But it does mean that the onus of proof is shifted onto the proponent of Basic Equality.

Assuming any human’s possession of any basic moral property is grounded in such a scalar nonnormative property but that humans tend to hold the latter to different degrees, it follows that *ceteris paribus*:

*No Basic Equality:* All (or nearly all) humans are not one another’s equals in their possession of *any* basic moral property.

<sup>15</sup> Schaar, “Some Ways of Thinking about Equality,” 867.

<sup>16</sup> Spiegelberg, “A Defense of Human Equality,” 106.

<sup>17</sup> Arneson, “Basic Equality,” 36.

<sup>18</sup> Pojman, “A Critique of Contemporary Egalitarianism,” 484–85. See also, Carter, “Respect and the Basis of Equality,” 541; Christiano, “Rationality, Equal Status, and Egalitarianism,” 56.

## 3. “NONSCALAR” STRATEGY: RANGE PROPERTIES AND BARE PROPERTIES

A number of replies to the argument against Basic Equality have been proposed. One might reject the starting assumption that the possession of a morally basic property needs to be grounded in any nonnormative fact about humans: it is just an ungrounded fact.<sup>19</sup> Or insofar as it is grounded, it is grounded in our “humanity” and whatever then grounds the fact that we are human.<sup>20</sup> Or one might argue that our equal possession of a particular morally basic property is not even a fact about humans, but rather it is a proposition that we each (should?) choose to assume about humans when engaging with them.<sup>21</sup> Or one might accept the starting assumption of the argument above but argue that the nonnormative property may be theological or transcendental, thus voiding any presumption that it is likely to be spread unevenly among us.<sup>22</sup> Or one might argue that it follows as a formal principle of rule application.<sup>23</sup> Or one might look to universal prohibition against treating others as inferiors.<sup>24</sup> Or one might even concede that Basic Equality may be false but hold that some (many?) moral arguments need not actually rely on it to justify many forms of so-called egalitarian rights.<sup>25</sup>

I shall not rehearse these arguments here. I take them all to meet convincing counters already supplied in the literature (cited in the respective footnotes above). Instead, I shall focus my critique on what is currently considered by many to be the most promising line of thought—that is, the nonscalar strategy. The nonscalar strategy rejects the claim that only scalar properties are plausible bases of basic moral properties, and aims to identify a nonscalar property instead. If the property lacks scalarity, so the thought goes, Arneson’s pressure

<sup>19</sup> Gosepath, “On the (Re)Construction and Basic Concepts of the Morality of Equal Respect,” 125. But see Husi, “Why We (Almost Certainly) Are Not Moral Equals,” 388.

<sup>20</sup> Vlastos, “Justice and Equality”; Frankena, “The Concept of Social Justice.” But see Wilson, *Equality*, 93; Schaar, “Some Ways of Thinking about Equality,” 875–82.

<sup>21</sup> Macdonald, “Natural Rights”; Arendt, *On Revolution*. But see Waldron, *One Another’s Equals*, 55–61.

<sup>22</sup> On the theological, see Waldron, *One Another’s Equals*, 175–214. But see Thomas, “Equality within the Limits of Reason Alone,” 539–40. On the transcendental, see Kant, *Groundwork of the Metaphysics of Morals*. But see Williams, *In the Beginning Was the Deed*.

<sup>23</sup> Westen, *Speaking of Equality*; Lucas, “Against Equality”; Frankfurt, *On Inequality*. But see Waldron, *One Another’s Equals*, 66–83.

<sup>24</sup> Sangiovanni, *Humanity without Dignity*. But see Floris, “Two Concerns about the Rejection of Social Cruelty as the Basis of Moral Equality.”

<sup>25</sup> Husi, “Why We (Almost Certainly) Are Not Moral Equals,” 381–84; Steinhoff, “Against Equal Respect and Concern, Equal Rights, and Egalitarian Impartiality.” But see Waldron, *One Another’s Equals*, ch. 1.

of reason will not so much disappear as work in reverse.<sup>26</sup> If a nonscalar nonnormative property grounds a morally basic property, then *ceteris paribus* having the same nonscalar nonnormative property must surely ground the same (or same level of) the basic moral property. The initial challenge, however, is to find a relevant nonnormative property, given that *prime facie* most of the plausible bases of a basic moral property are scalar.

In response, the literature actually bears out two different types of candidate nonscalar properties, but they are currently not distinguished. The first property is what John Rawls calls “a range property.”<sup>27</sup> If we can define a range of degrees in a scalar property, then there is a property of falling inside that range. This latter property is nonscalar. It is a range property. For example, take the property of having length: it is scalar. Things can be longer or shorter. However, if we simply define a range of length values (e.g., more than ten meters), then objects will either fall within this range (by having any length more than ten meters) or not. This means that objects can have nonscalar properties in virtue of having some particular degree of a scalar property within a defined range. More formally:

*Basis of a Range Property R:* For a particular object  $P$  and particular range of degrees  $N$ ,  $P$  has the nonscalar property  $R$  of having scalar property  $G$  within range of degrees  $N$  because (1)  $P$  has scalar property  $G$  to a particular degree  $D$  and (2) particular degree  $D$  falls within the range of degrees  $N$ .

A range property, however, should be disambiguated from what I shall call a *bare property*. Instantiations of a scalar property may always come in degrees, but we can define a nonscalar property that is simply having that property to *any* degree. For example, the property of having length is scalar, but the property of having *a* length is nonscalar. One either has *a* length or not. The key difference between a range property and bare property is that the latter does not require us to define a threshold, or in fact any range at all. More formally:

*Basis of a Bare Property B:* For a particular object  $P$ ,  $P$  has the nonscalar property  $B$  of having scalar property  $G$  to some degree because  $P$  has scalar property  $G$  to any particular degree  $D$ .

Now, with these two different nonscalar properties in hand, and drawing on the distinction flagged above between mediate and immediate grounding,

<sup>26</sup> Williams, *In the Beginning Was the Deed*: “For differences in the way people are treated, some general reason should be given” (98).

<sup>27</sup> Rawls, *A Theory of Justice*, 444.

we can distinguish within the current literature two different (sub)strategies to ground our basic equality.

One strategy aims to ground our possession of a basic moral property immediately on our possession of a range property. The other strategy aims to ground our possession of a basic moral property immediately on our possession of a bare property. It is true that our possession of this latter bare property is itself likely to be based on our possession of a range property. This leads to the common conflation of the two properties.<sup>28</sup> But, strictly speaking, in the latter case, there is a *grounding chain* from range property *to* bare property *to* basic moral property.

Rawls adopts the first strategy. He states:

The question of equality arises. The natural answer seems to be that it is precisely the moral persons who are entitled to equal justice. Moral persons are distinguished by two features: first they are capable of having (and are assumed to have) a conception of the good (as expressed by a rational plan of life); and second they are capable of having (and are assumed to acquire) a sense of justice, a normally effective desire to apply and to act upon the principles of justice, at least to a certain minimum degree.

Now at first glance, one might be tempted to see Rawls proposing something like the second strategy with a grounding chain: a range property (having a capacity to have a conception of the good and sense of justice, at or above a certain minimum degree) grounds an intermediate property (moral personality), and having such moral personality grounds our equality. However, Rawls offers no definition of the term “moral personality” beyond its two distinguishing features. It is not a new property grounded by the range property. Instead, “moral personality” is his elliptical name for the range property.<sup>29</sup> Hence, we should be able to eliminate reference to moral personality, effectively taking him to claim that “it is precisely [that those *capable of having a conception of the good and sense of justice, at least to a certain minimum degree*] are entitled to equal justice.”

<sup>28</sup> See Waldron, *One Another's Equals*, 118–19. Waldron appears to define “range property” as a bare property that is *grounded by* what I have termed a range property.

<sup>29</sup> Of course, I could be wrong, interpretatively, about Rawls. Moral personality may be a new property that we have *in virtue* of having the range property of meeting the minimum threshold of relevant capacities. But if moral personality is not the range property itself (as I define “range property”), but instead a different property that we have *in virtue* of having that range property, then without any further elaboration, Rawls has given us no reason to hold that this new property is also nonscalar. Moral personality (still yet to be defined) might well come in degrees. Of course, Rawls may well then hold that he is concerned with the *bare* property of having a moral personality to some (any) degree. However, he is then just as vulnerable to the critique below (section 4 below).

Eliminating “moral personality” as a term, however, makes the problem of any such immediate grounding strategy transparent. This strategy cannot explain why being within the relevant range (having a capacity to have a conception of the good and sense of justice to certain minimum degree) is special or, at least, special enough to ground a morally basic property that one did not necessarily have before. For any range  $N$  that supposedly grounds our basic morally equality, I can propose another proximate range  $N + 1$ , or  $N - 1$ , and ask what explains the difference in treatment between  $N$  and these ranges. However, since the grounding is *immediate*, then *ex hypothesi*, there is no other fact to offer an explanation. Without an explanation, the immediate grounding on the range property seems entirely arbitrary.<sup>30</sup>

Contemporary approaches, therefore, learn this lesson from Rawls’s failure and actually adopt the second strategy—even if only implicitly. For example, take Thomas Christiano’s argument. Christiano begins by identifying a scalar feature that he takes only humans to have to *any* degree (i.e., being a “rational being”): “Rational beings are capable of reflection on the norms that govern their behavior and the norms that govern the formation of belief and inference … a higher order capacity that does not seem present in the case of other higher mammals.”<sup>31</sup> Christiano argues that being such a rational being is a “discontinuity” with other animals. By this, he seems to imply that there is another scalar property (a continuity) that we do share with other animals, although to a higher degree (e.g., other reasoning capacities), but at a certain threshold of these capacities, a new property (i.e., being capable of reflection on norms) is triggered. While this latter property is triggered by being above this threshold (i.e., the range property of being above that threshold of other reasoning capacities), it is *not* that range property. It is a different, *bare* property of having *some* (i.e., *any*) capacity to reflect on norms.

George Sher’s argument has the same structure. Following Bernard Williams, he identifies consciousness or “subjectivity” as a basis for a morally basic property in which we are equals. Of course, this is a scalar property; people are more or less conscious of themselves and the world around them. However, possessing this scalar property to different degrees still entails that we have a bare property—that is, being a subject *with* (any) mental contents: “If the reason we are moral equals is simply that each of us has (is?) a subjectivity of a certain sort … then any variations in the contents of our beliefs and aims, *and in the capacities that gave rise to these*, will simply drop out as irrelevant.”<sup>32</sup> The

<sup>30</sup> Arneson, “What (If Anything) Renders All Human Persons Morally Equal?,” 108–9.

<sup>31</sup> Christiano, “Rationality, Equal Status, and Egalitarianism,” 62.

<sup>32</sup> Sher, *Me, You, Us*, 36–37.

latter italicized phrase is referring once again to the presumed scalar property (*qua* “capacities”) that we must have within a certain range to have the bare property (i.e., subjectivity). But once again, that range property should not be confused with the bare property it, in turn, grounds.

Tom Parr and Adam Slavny argue that our possession of the “capacity for a conception of the good” (CCG) grounds our morally basic property. One has a CCG “if and only if she can form, revise, and pursue beliefs about the good on the basis of critical deliberation.”<sup>33</sup> Now Parr and Slavny expressly contrast scalar aspects of this CCG (e.g., exercising it well) and the nonscalar property of exercising it *“tout court”*: “Our interest in the *mere* exercise of a capacity does not vary according to how well we exercise it, as exercising a capacity poorly entails exercising it *tout court* just as [much] as exercising it well.”<sup>34</sup> CCG, therefore, appears to be a bare property. However, they then say, “The capacity to pursue a conception of the good *tout court* is a range property. There is a threshold below which an individual lacks the necessary subvenient properties for the CCG.”<sup>35</sup> But by their own definition, CCG does not identify a threshold on any scalar property. It is the property of having *any* capacity for a conception of the good, not of having that capacity above a threshold. Instead, a better view is that, once again, having this *bare property* is grounded by some range property but is not itself that range property.

Jeremy Waldron might also profit from distinguishing between range and bare properties. His recent gloss on Rawls’s definition is as follows:

Rawls’s idea involves a relationship between two associated properties. There is the property *R*, which operates in a binary way (either you have *R* or you don’t), and property *S*, which is a scalar property admitting of differences of degree. We say that *R* is a range property with respect to *S*, if *R* applies to individual items in virtue of their being within a certain range on the scale indicated by *S*. In the simplest cases, *R* is like a threshold. If you are over a specified threshold on scale *S*, you qualify for property *R*. But the range may have an upper limit as well, or it may be configured in a more complicated way in a two- or *n*-dimensional model.<sup>36</sup>

Waldron here appears to define “range property” as a property *R* that one possesses “in virtue of” possessing a scalar property *S* at some degree that falls inside a specified range of degrees of *S* (e.g., above a “specified threshold” and

<sup>33</sup> Parr and Slavny, “Rescuing Basic Equality,” 842.

<sup>34</sup> Parr and Slavny, “Rescuing Basic Equality,” 843.

<sup>35</sup> Parr and Slavny, “Rescuing Basic Equality,” 843–44.

<sup>36</sup> Waldron, *One Another’s Equals*, 118–19.

below “an upper limit”). By contrast, adapting Waldron’s variables, I simply define “range property” as the property *R* of possessing scalar property *S* at some degree that falls inside such a specified range of degrees of *S*. In other words, Waldron’s range property is any property that is *grounded* (qualified for) by possessing what I term to be a range property.

In itself, of course, such a difference of terminology should not be a problem. However, Waldron’s definition of “range property” does not entail that a range property is nonscalar (“binary”). For example, just because I pass the threshold level of cognitive capacities (*S*) to have moral agency (*R*), does entail that such moral agency will be nonscalar. Indeed, we might expect such moral agency to come in degrees, in part, as a very function of further higher degrees of cognitive capacities above the relevant threshold. So if being “nonscalar” is meant to be a necessary feature of a range property, as Waldron also claims, then his definition fails. But of course, there is a nonscalar property that we do necessarily possess when we possess a so-termed range property, that is, the bare property of having *any* degree of that so-termed range property. And, indeed, upon illustration, that is, precisely what Waldron is interested in. Thus, according to Waldron, Hobbes’s explanation of basic equality involves a scalar property “strength of body” and a so-termed range property, *but actually bare property*, “for each person *P*, the property someone else has of being a non-dismissible mortal threat to *P*”—that is, being some (any) degree of nondismissible mortal threat to *P* (after all, “non-dismissible” just means that we have reason to pay some [any] degree of attention to the threat, but of course, some threats may deserve more attention than others).<sup>37</sup> Or for Locke, according to Waldron, the scalar property is reason in general and the so-termed range property, *but actually bare property*, is “the ability to know God through engaging in abstract thought”—that is, having some (any) ability to know God through engaging in abstract thought.<sup>38</sup>

Finally, the best-known contemporary attempt to articulate a basis of basic equality could also benefit from a distinction between a range property and bare property. Ian Carter states:

My suggestion, then, is that equality of certain entitlements is justified because those entitlements should be assigned on the basis of personhood, and while the agential capacities on which the ascription of personhood is based are themselves ultimately scalar properties (as they must be, on any naturalized account of the basis of Kantian respect), it is appropriate to treat personhood as a range property because it is

<sup>37</sup> Waldron, *One Another’s Equals*, 120–21.

<sup>38</sup> Waldron, *One Another’s Equals*, 121–22.

appropriate to show opacity respect toward beings that meet a certain absolute standard of moral agency.<sup>39</sup>

Here, like Rawls, Carter first refers to “personhood” as if it might be a bare property that is grounded by (“based” on) having a different range property (i.e., being within a threshold of scalar agential capacities). However, he clarifies that, once again like Rawls, he is just naming the latter range property “personhood.” Thus, it seems, he is arguing that this range property immediately grounds the morally basic property or properties in which we are equals. But this, then, would leave Carter in the same position as Rawls. Without an intermediately fact to explain why a *particular* threshold of agential capacities triggers such morally basic properties, this immediate grounding relation is arbitrary. It does not help his argument that one of the morally basic properties that also might be triggered by reaching this threshold is a right to “opacity respect,” if that threshold itself remains unexplained.<sup>40</sup>

However, Carter *does* have a possible explanation. He just does not make it explicit. Later in the paper, he argues that what grounds our duty of opacity respect is not “being within some threshold of agential capacities” *qua* range property. It is instead “agency itself” *qua*—at least as I suggest—bare property.<sup>41</sup> What is this bare property? We have to infer the meaning from Carter’s reasoning, but it seems to be whatever nonnormative capacity only humans have, which explains why only humans are liable to some (any) reactive attitudes such as praise, blame, and resentment. The duty of opacity respect is then needed precisely so that these attitudes are not “dismantled” or “explained away.” Thus, on my reading, Carter—unlike Rawls—has an (extended) chained version of the second strategy, where our “being within some threshold of agential capacities” (*qua* range property) grounds some new nonnormative property “agency itself” (*qua* bare property), which in turn grounds both the moral property of

39 Carter, “Respect and the Basis of Equality,” 554.

40 Alternatively, Carter can be read as arguing that the right to opacity respect not merely explains why we cannot assess differences above the threshold but also identifies the threshold: in other words, we know someone has met the threshold of empirical agential capacities when they have this right to opacity. But when we go to then search for the nonnormative property that grounds the opacity, it ends up being the meeting of this very undefined threshold. This is because Carter argues that the imperative of opacity respect is grounded on the need for outward dignity (another moral property), which is grounded by “dignity as agential capacity” (another moral property). What is dignity as agential capacity? It is the dignity we have “in virtue of our agential capacities.” However, what agential capacities ground such dignity? An individual possesses “*dignity as agential capacity* [when they] possess at least a certain absolute minimum of the relevant empirical capacities” (“Respect and the Basis of Equality,” 556).

41 Carter, “Respect and the Basis of Equality,” 558.

being liable to reactive attitudes (another bare, but this time moral, property) and also the right to opacity respect (*qua* another bare moral property), and together these latter two moral properties ultimately ground “equality of certain entitlements” (*qua* equality in a morally basic scalar property).

#### 4. BARE PROPERTIES: A FALSE HOPE

So my interpretive claim is that most current purported proponents of the *range property only* strategy must be deploying a *chained bare property* strategy instead. The *prima facie* attraction of such a strategy is that it solves the arbitrariness problem of the range property only strategy, and thus eliminates the pressure of reason to accord proportionate significance to the variations in the scalar property that underlies the range property. The relevant threshold marks a nonarbitrary, nonscalar distinction with respect to that latter scalar property: below this threshold, an object does not have the bare property; above this threshold, it does. So, for example, following Christiano: below a threshold level of particular rationality, rationality is insufficient to ground any capacity to reflect; above that threshold, rationality is sufficient to ground at least *some* capacity to reflect. This is, indeed, a nonarbitrary, nonscalar distinction between two different ranges of rationality.

The problem for these proponents of the chained bare property approach, however, is that instead of solving the pressure of reason problem, they have merely *shifted* it. While they have explained why we can safely ignore differences in the particular scalar property that underpins the range property above the threshold (e.g., for Christiano, rationality), they have only done so by introducing a *new* scalar property that underpins the bare property (e.g., for Christiano, the capacity to reflect). Their approach simply moves the pressure of reason problem. They now must explain why differences in that new scalar property do not ground proportionate differences in the moral property.

To continue with Christiano, he assumes, following the “late scholastics,” that “inasmuch as human beings are rational beings [that is, capable of reflection], . . . persons are not made merely for each other’s use. The idea here is that each person has a kind of original right against others.” He then simply jumps to a claim that this right will be equal for each human: “It does not admit of the idea that one may treat one person some of the time or in some respects as a means while others may never be treated as mere means.”<sup>42</sup> But why? It is perfectly possible to think of a hierarchy of human instrumentalization; in fact, arguably, that has been the dominant political theory in history. So, if being a

<sup>42</sup> Christiano, “Rationality, Equal Status, and Egalitarianism,” 63–64.

rational being is so important as to ground a right not to be instrumentalized, then why does greater rationality (*qua* capacity to reflect) not ground a greater right not to be instrumentalized? We could still conclude that all (or nearly all) humans have a right not to be instrumentalized, but this just means we have the bare property of having such a right of *some* lexical rank or scope, but not necessarily of *equal* rank or scope.

Similarly, George Sher argues that the bare nonnormative property of having a “consciousness” grounds certain interests “in (say) accomplishing his rational ends, or in having the opportunities or resources to do so.” He then asserts that we have equality in some scalar morally basic property: “As long as two people both meet this requirement [having a consciousness], the fact that their plans differ in complexity and sophistication will not mean that one has more of an interest in succeeding than the other.”<sup>43</sup> But once again, why? Sher never explains. So, the pressure of reason problem reemerges: If consciousness is so important, then why is more consciousness not more important?

Parr and Slavny claim that having “CCG *tout court*” grounds having “a weighty interest in being the author of their own lives.” They then outsource the key question of the comparative equal weight of that interest to theories of “self-authorship”: “We will not develop a specific account of our interest in self-authorship here.... Being the author of one’s own life, on most plausible conceptions, is an interest in exercising a capacity *tout court*, rather than exercising it well.”<sup>44</sup> But once again, this will not do since in debates about Basic Equality we are calling into question this very intuition that such conceptions tend to take for granted. We have to answer the riposte: If having a CCG grounds an interest in self-authorship, then why does having a greater (more complete, more internally consistent, more accurate, more reflective and self-originating) CCG not ground a greater interest in self-authorship?

Much the same may be said for Waldron’s own illustrative examples, although I take him, himself, to ultimately adopt a theological strategy to defending Basic Equality.<sup>45</sup>

But what of Carter’s approach? Carter’s argument—at least as I interpret it—is different from the others. Carter does not try to argue that the possession of a nonnormative bare property *immediately grounds* the possession of equal degrees of some morally basic scalar property in each of us. Instead, he argues that possessing a nonnormative bare property (“agency itself”) immediately

43 Sher, *Me, You, Us*, 40.

44 Parr and Slavny, “Rescuing Basic Equality,” 844.

45 Waldron, *One Another’s Equals*, 185.

grounds possession of a corresponding moral bare property (“liability to reactive attitudes”):

Possession of nonnormative bare property *A* grounds possession of moral bare property *M*.

Carter, then, is delaying the further step—where possession of a bare property grounds possession of equality in some scalar property—until it is between types of moral property:

Possession of a moral bare property *M* grounds possession of equality in some scalar moral property *X*.

In fact, by delaying this move until it is between moral properties, he is able to argue that such equality in a scalar moral property is *grounded by the combined effect of two bare moral properties*, both of which are themselves grounded by the nonnormative bare property. He argues that, on the one hand, agency itself grounds some (any) liability to reactive attitudes. On the other hand, it also grounds the imperative of opacity respect. Such opacity respect is an “external perspective,” “evaluative abstinence,” a “blindness … that avoids evaluation of the agential capacities on which moral personality supervenes.”<sup>46</sup> Without opacity respect, agency itself is at risk of being dismantled (and, by assumption, we have reason not to dismantle agency). However, such opacity respect neutralizes the moral significance of any degrees of difference in one’s liability to reactive attitudes. Thus, the *combined effect* of these two bare moral properties, both grounded by the same nonnormative bare property (agency itself), is that we only have reason to treat people as if they are liable to reactive attitudes to the same (full) extent. Collectively, therefore, they ground equality in a further moral property: equality in entitlements. So, in the end, we have:

1. Possession of nonnormative bare property *A* grounds *both* possession of moral bare property *N* *and* possession of moral bare property *M*.
2. *Both* possession of a moral bare property *N* *and* possession of moral bare property *M* ground possession of equality in some scalar moral property *X*.

There is something promising about the prospect that our final equality in a moral property might be grounded by some relation between two or more other moral properties, which are themselves grounded by a nonnormative property. However, Carter’s argument as it stands has two flaws.

<sup>46</sup> Carter, “Respect and the Basis of Equality,” 552.

The first is that, at best, Carter's argument establishes that any individual with agency is due some (any) degree of opacity respect by others (a bare property). However, it is not clear exactly why each individual is due the *same*, equal degree of opacity respect. After all, the imperative to treat another with opacity respect may come in degrees too. It may be true that *adherence* to the imperative does not come in degrees—one either treats another with opacity respect or not—but the *strength or lexical priority* of that imperative might vary across individuals. Thus, it might be *more* imperative to treat one individual with opacity respect, despite the costs to them or others, than another individual. And indeed, if what explains the imperative in the first place is the value of agency—giving rise to the reason not to dismantle that agency—then surely there is a stronger, more stringent imperative to protect the person with *more* agency since dismantling it would be a greater loss than dismantling *lesser* agency.

However, even if Carter can respond to this first problem, he will still be left with a second problem that goes to the argument for needing opacity respect at all: “looking inside” at people’s degrees of agency—that is, the underlying nonnormative property that grounds liability to reactive attitudes—will not necessarily lead to such dismantling of agency itself.<sup>47</sup> It is perfectly possible to look inside people’s agency and distinguish between those aspects of their lives that ought to ground reactive attitudes and those that ought not. Take, for instance, the common law mitigatory defense of “provocation,” which converts an act that is otherwise murder to manslaughter because of some “sudden or temporary loss” of self-control.<sup>48</sup> Once provocation is established, however, the law does not consider the individual’s agency to be dismantled or explained away. The individual is still held responsible for their act. Thus, they are still liable to be convicted for manslaughter. But they are thought to be less culpable than if they had acted in a premeditated or purely malicious fashion. This reasoning might entail a kind of basic inequality—that is, we are unequally liable to reactive attitudes. But the point is that this conclusion has not come at the putatively unacceptable cost of dismantling agency since agency remains—although it has been reduced or qualified.<sup>49</sup>

<sup>47</sup> A deeper critique would simply press that in relying upon Strawson, Carter inherits his problem: the undesirability of such dismantling does not mean it is unwarranted. See Wolf, “The Importance of Free Will.”

<sup>48</sup> R v. Duffy, [1949] 1 AER 932 (CA), per Devlin J.

<sup>49</sup> A similar point is made by Arneson, “Basic Equality,” 48.

Christopher Bennett has recently sought to defend Carter against a similar objection.<sup>50</sup> As Bennett formulates the objection, the imperative of opacity respect appears to be inconsistent with defenses such as duress, loss of control, and automatism, as well as court practices of taking into consideration agential factors in pretrial, sentencing, and parole hearings.<sup>51</sup> Bennett takes this to be an unattractive, counterintuitive implication for Carter. Coming to his defense, however, Bennett argues that contrary to the objection, such court practices are consistent with adhering to the imperative of opacity respect. He argues that this is so *because they are consistent with respect for the party's agency*. They are consistent with respect for the party's agency because they hold the party "accountable" only for what they have truly "done," in the sense of what they are properly "answerable for" as a function of their "intentions" and "reasons" for acting. In particular, excusatory defenses (like provocation) simply determine "whether in a full sense one can be said to have done the thing in question."<sup>52</sup>

The problem for Bennett (and thus also Carter) is that one can concede that such court practices are indeed consistent with respect for the party's agency, but press that they are so precisely because they are inconsistent with opacity respect—that is, they involve looking inside and assessing the *degree* of agency that a person is exercising in the relevant scenario, and thus what they are accountable for and in what way. The burden of Carter's argument, by contrast, at least as I understand it, is to show that any such attempt to assess the degree of an individual's agency will entail a dismantling of their agency altogether. Indeed, one might be tempted to turn Bennett's argument around on Carter: since such court practices are not merely consistent with but *necessary* for respect of the relevant party's agency, and yet they are inconsistent with the imperative of opacity respect, it follows that in these circumstances opacity respect is inconsistent with respect for the relevant party's agency.<sup>53</sup>

<sup>50</sup> Bennett, "Intrusive Intervention and Opacity Respect." I thank an anonymous reviewer for bringing this to my attention.

<sup>51</sup> Bennett, "Intrusive Intervention and Opacity Respect," 270–71.

<sup>52</sup> Bennett, "Intrusive Intervention and Opacity Respect," 271.

<sup>53</sup> At the end of his argument, Bennett does assert that despite all the explicit assessment that goes on in such court practices of a party's degree of control over themselves and their knowledge, rational functions, and other capacities, an underlying level of opacity respect remains because the practices "involve... taking the exercise of one's agency at face value, not second-guessing or pre-empting it.... They are compatible with the idea that a person is defined by how they will to present themselves, and that 'the mess inside' that issues in such action should be treated as opaque" ("Intrusive Intervention and Opacity Respect," 271). However, it is difficult to assess this parting assertion since Bennett does

### 5. A REVIVED STRATEGY: RELATIVE POTENTIAL

With the failure of both the bare and range property strategies, and indeed the current pessimism about other approaches, are there any grounds for optimism in solving the problem of basic equality?<sup>54</sup>

The chained bare property strategy was an improvement over the range property only strategy because it suggested that progress can be made by focusing on a nonnormative scalar property that begins in the human range—that is, all (or almost all) human beings have at least some (any) degree of this nonnormative scalar property—which thus gives us a nonarbitrary range-defining threshold for some further, deeper, nonnormative scalar property possibly shared with other beings. The strategy failed, however, because it could not explain why we would then ground any basic moral property simply on the *bare* fact of having some (any) of that nonnormative scalar property, rather than on the degrees of that property. It could not escape the pressure of reason problem once shifted, not even with opacity respect.

We might conclude, therefore, that we need an approach that does not ignore such differences of degrees, but rather in some way works with such differences to ground an equality.<sup>55</sup> But how might this be possible?

My suggestion is the idea of *relative* potential. Let me illustrate the concept in the abstract first, and then I will deploy it in the context of basic equality. Imagine a line of boxes of different sizes from, let us say, one cubic meter up to one hundred cubic meters. Each box, therefore, varies in the scalar property of volume. Now we might begin to fill each box with contents. Each box clearly has *different* storage potential in *absolute* terms: each can hold a different volume of contents measured by cubic meters. However, each box has the *same* potential in *relative* terms: no matter their absolute volume, each and every one has the potential to be filled 1 percent or 10 percent or 50 percent, all the way up to 100 percent. Hence, in relative terms, we can make best use of a box (100 percent volume) or worst use (0 percent) of a box; it can be equally full or equally empty, regardless of its absolute volume. This is a kind of equality: each box has the same potential to be filled to any *relative* extent.

not explain what exactly remains taken at “face value,” or what part of the “mess” is not open for court assessment.

<sup>54</sup> On other approaches, see notes 14–20 above.

<sup>55</sup> Waldron also gestures in this direction with his discussion of scintillation, but he only demonstrates how current secular conceptions of basic equality appear to do this, rather than aiming to explain *why* (*One Another’s Equals*, ch. 4). His primary argument remains theological.

This is quite an odd example, I concede. We are not boxes. But consider this somewhat neglected passage, one of the first contemporary explorations of the problem of basic equality, by Herbert Spiegelberg.<sup>56</sup> He states:

It should, however, not be overlooked that among the moral values there are some which involve a *potential equality* in one important respect. If we exert ourselves for a certain cause with all the energy at our disposal, however weak it may be, the outcome of such exertion will certainly vary. But the intrinsic ethical value of our effort, as distinguished from the value of the result, will not depend upon the latter.... The moral value of our effort, then, depends exclusively upon the question how much of our momentary intellectual and moral energies was used in the attempt to ascertain and to realize the right goal. The absolute amount of our energies and of our effort is immaterial. It is only the relation between them which counts. Now these effort-values reflect also upon the agent. It is this fact which gives every agent equal access to the moral values consequent on moral effort. In the court of this particular value he faces no handicaps. Everybody who is able to run at all is given an equal chance. The tasks assigned to different individuals may be very different. In fact, the higher the abilities, the more exacting will be the demands; the smaller the means the more lenient will be the expectations. All that matters is: how big were our efforts in proportion to our unequal and varying momentary equipment?<sup>57</sup>

I take the underlying logic of Spiegelberg's argument to be the same as our somewhat odd box example above. In virtue of having some degree of agency, all (or almost all) human beings, unlike other animals, will have the potential to perform actions of ethical value. All of us can achieve a range of ethical values given our agential ability. However, this range is liable to be different for different human beings. For some (small boxes), their potential is small: no matter how such individuals use their agential ability, they can only achieve goals of minor ethical value at best. However, for others (large boxes), their potential is

<sup>56</sup> This neglect is in part because Spiegelberg himself sets this argument to one side in settling on his final argument for basic equality, where he argues that our basic equality lies in being given "an equal start" at the beginning of our lives in the overall challenge of acquiring ethical value. This is because each individual's "ethical score" will always begin at zero (116). Yet this argument has far fewer prospects of success than the one contained in the neglected passage: not only would other animals also share an ethical score of zero, but it is also hard to see how such an ethical score can ground any positive claims. Being equally nondeserving is unlikely to ground a foundational ethical claim to equal rights, respect, consideration, or concern.

<sup>57</sup> Spiegelberg, "A Defense of Human Equality," 108 (emphasis added).

great: these individuals have the ability to attain goals of very great ethical value at best. However, just as with filling our boxes, each of us will have the same potential relative to these constraints. After all, each of us, no matter our degree of ability, can do our best with that degree of ability: achieving the best ethical goal available to us. And indeed, each of us, no matter our degree of ability, can also do our worst: achieving nothing valuable at all.<sup>58</sup> And each of us can act in between.<sup>59</sup> So we each have the same equal relative potential—that is, the ability (at least) to attain the highest ethical value available to us (or the lowest, or in between). Spiegelberg's key claim, then, is that it is just such performance relative to potential that really determines the moral value of our efforts. Here, he is introducing a distinction between "ethical value" *simpliciter* (or the "value of the result") and "moral value" (or "intrinsic ethical value"). He claims that our degrees of relative performance in attaining ethical value now ground degrees in the further absolute value, moral value. One's best possible performance will have the same moral value as anyone else's, regardless of any differences in absolute terms. Conversely, one's worst possible performance will have the same moral value as anyone else's, and *mutato mutandis* in proportion, for every possible performance in between. And thus, to repeat: "It is this fact which gives every agent *equal access* to the moral values consequent on moral effort. In the court of this particular value he faces no handicaps."<sup>60</sup>

One might concede at this point that all individuals who possess agency to *any* degree thereby have "equal ethical potential" *qua* the equal ability to attain moral value. However, one might wonder whether such equal ethical potential is a *basic moral property* in the functional sense we have defined above (section 1). One might grant that it is plausibly inalienable and natural, in the rough senses defined above, but ask what implications exactly it is meant to have. In particular, drawing on our functional test for a basic moral property detailed above (section 1), does it have implications of such great weight or lexical priority that its possession by all (or almost all) human beings is theoretically foundational?<sup>61</sup>

<sup>58</sup> Or indeed, achieving the lowest degree of ethical (dis)value available, if one permits both negative and positive values.

<sup>59</sup> For Spiegelberg's argument to give us a perfect equality, there must be a continuous range of options within the range. This is, no doubt, a requirement that grounds an objection that must be met in defending the strategy beyond this paper.

<sup>60</sup> Spiegelberg, "A Defense of Human Equality," 108 (emphasis added).

<sup>61</sup> Thank you to an anonymous reviewer for pushing me on this point.

Spiegelberg's own argument, I admit, is not entirely clear.<sup>62</sup> However, a plausible argument, and at least for the instant purposes of illustration, is the "fittingness" of ensuring that those with the *equal ability to attain moral value* have, as far as possible, *equal ability to attain ethical value*. It is true by definition that each individual will have the equal ability to achieve moral value regardless of their ability to achieve ethical value—that is, regardless of their differing endowments *qua* different levels of energy at their disposal or handicaps. However, this does not ground a reason to ignore such differences in our endowments if we can ameliorate them. Instead, quite the opposite, so the argument might go. It is only fitting that each agent's moral performance has the same *weight* in the world. Only in this way does one agent's moral performance *matter* as much as anyone else's performance.

To illustrate, one might imagine two moral twins: two individuals who perform equally well, indeed at a high level, in the domain of moral value during their lives—displaying virtues of generosity, courage, conviction, and so on. However, they do so relative to different endowments—agential and otherwise. Hence, they finish their lives having created the same degree of moral value, but very different degrees of ethical value. This is to say that their lives have had very different impacts on the world. The first twin, we might think, was born with great agential capacities and rose to become a leader in their nation, saving it from crises and steering it forward. The fact that they provided a good moral performance, given these opportunities, mattered not only in itself but also for everyone else in their nation. Their life was a "great life" (i.e., one of great importance). By contrast, the second twin, we might think, was born without such agential capacities and stayed in the village, raising a family, relating with friends, and in general just being a good person. In doing so, their good moral performance mattered somewhat—it was valued by those around them—but it certainly did not matter on the same scale as the first twin's. The second twin's life, and best efforts at being a good person, simply did not matter that much, at least compared to their moral twin. It was merely a "little life" (i.e., one of little importance)—not because they chose a different, less important path, but because that path to importance was simply not available to them, due to differences in their endowment. So the tentative suggestion is that, *ceteris paribus*, this is a kind of injustice: it is unjust that individuals equally capable of living lives of moral value matter unequally in the domain of ethical value. One might take this as a kind of very abstract argument for policies that aim to equalize our opportunities—not so much opportunities for power, welfare, resources,

<sup>62</sup> Indeed, he seems to walk away from it, and he turns to a somewhat different argument later on that we should all have equal opportunities because we all start from an ethical score of zero (Spiegelberg, "A Defense of Human Equality," 109, 116).

or personal gain, although somewhat equal distribution of these might follow as a further consequence, but instead opportunities to “matter,” to make the world a better place (or indeed fail to do so).

There are, of course, a number of possible objections to Spiegelberg’s overall argument, at least so reconstructed.<sup>63</sup> For example, it relies on an assumption of a continuous range of options within any range to establish the equal ability to have *any* level of the further moral value.<sup>64</sup> It also needs to supply an account of moral responsibility *qua* “achievement” that survives the contemporary travails of compatibilism and Frankfurt-style examples.<sup>65</sup> One might question whether the moral implication that I have inferred does indeed follow, or if it does follow, whether it is sufficiently fundamental.<sup>66</sup> These are points for further research. However, my current claim is, merely, that such objections reflect progress beyond the pressure of reason problem altogether. These are not so much problems about how a scalar property could *possibly* ground an equality in another property but rather problems about whether we *actually* have a particular pair

63 Let us allay one concern, however. By “equal relative potential,” Spiegelberg means “potential” in the sense of “ability” (literally “potential,” as in *potentia, -ae*; “power, ability, force”). This is the same sense in which many other authors offer rational capacity, for example, as the basis of basic equality—that is, the *ability* to act rationally. For Spiegelberg it is the *ability* to achieve moral value as he defines it. To have such a kind of potential *qua* ability across a lifetime is just the spatiotemporal sum of one’s ability as it varies from time to time across that lifetime. There is, to my knowledge, nothing particularly problematic in itself about positing a potential in this sense as the basis of basic equality. This is in contrast, however, to another sense of the term “potential,” where “potential” means the current property that a being (e.g., a fetus) has of possibly having (or likely having) a future property (e.g., rational capacity, or indeed the ability to achieve moral value) because of both the being’s current internal (or “essential”) properties (e.g., genetic code) and relevant external conditions (e.g., normal, natural development inputs). This is a far more problematic use of the term “potential” since clarifying what counts as internal and relevant external properties is hard. After all, given sufficient genetic intervention (as an external condition), the fetus of *any* animal has the potential for rational capacity. However, to be clear, this problem does not apply to Spiegelberg or any account that merely uses “potential” in the current “ability” sense. For further discussion, see McMahan, “Challenges to Human Equality”; Arneson, “What (If Anything) Renders All Human Persons Morally Equal?”; Vallentyne, “Of Mice and Men.”

64 Although even if this did not hold, each individual would still have equal ability to attain their highest and lowest values of that moral value.

65 Frankfurt, “Alternate Possibilities and Moral Responsibility.”

66 An alternative or even complementary implication would be to ground a theory of proportional desert on the underlying moral equality, arguing that it is only fair that we are rewarded (or indeed punished) in proportion to our moral performance because we have all had equal ability with respect to moral value in our lives: “I’ll say it again—it is easier for a camel to go through the eye of a needle than for a rich person to enter the Kingdom of God!” (Matthew 19:24).

of such properties, and if so, whether the latter is sufficiently morally basic. In short, my argument in this paper has merely been to justify further exploration of this style of argument from relative potential, even if one rejects the particular Spiegelbergian version. To characterize that style more formally:

1. All (or nearly all) humans possess nonnormative scalar property  $X$  to some (any) degree naturally and inalienably (e.g., some [any] degree of agency as a bare property).<sup>67</sup>
2. Possession of nonnormative scalar property  $X$  of some degree  $a$  grounds possession of ability  $Y$  to achieve value  $e$  in some continuous range between 0 and  $r$ ; and  $r > 0$  (e.g., some [any] ability to achieve ethical value).
3. The magnitude of range  $r$  varies as a function of the size of  $a$  (i.e., consistent with the pressure of reason).
4. For any human with the ability  $Y$  with range  $r$ , that human has the potential to achieve any particular value of  $e$ , between 0 and  $r$ .
5. There is a further value  $m$  calculated such that  $m = e/r$  (e.g., moral value).
6. For any value of  $e$  and  $r$ ,  $m$  will vary between 0 and 1 (i.e., between 0 percent and 100 percent).
7. Thus, for all humans, each with any degree  $a$  of nonnormative scalar property  $X$  grounding some (any) degree of ability  $Y$  to achieve value  $e$  in a range between 0 and any  $r$ , each human will also have the same (equal) ability  $Z$  to achieve  $m$  between 0 and 1 (e.g., equal ability to attain moral value).
8. Given 7, since those humans who possess nonnormative scalar property  $X$  do so naturally and inalienably, then those humans will also possess equal ability  $Z$  naturally and inalienably.
9. For any set of humans, the fact that those humans possess equal ability  $Z$  has implications of great weight or lexical priority for how they should be treated (e.g., it is fitting that those with equal ability to attain moral value should have the equal ability to attain ethical value).
10. Thus, given 8 and 9,  $Z$  is a basic moral property (as per the definition in section 1).
11. *Basic Equality*: All (or nearly all) humans are one another's equals in their possession of some basic moral property (i.e., *by virtue* of possessing some (any) degree of nonnormative property  $X$ ).

<sup>67</sup> In the loose sense of “natural” and “inalienable” defined in section 1.

## 6. CONCLUSION

This paper began by clarifying the distinction between various concept(ions) of basic equality and the agnostic proposition Basic Equality—that is, all (or nearly all) humans are one another's equals in their possession of some basic moral property. It then argued that the problem of basic equality is really an equally agnostic argument against Basic Equality: the pressure of reason argument. Ever since John Rawls's rather cursory reflection on the basis of basic equality, however, most theorists of basic equality have taken his range property strategy to offer the best possible hope of solving its problem. However, this paper has argued that while a range property grounded on an underlying nonnormative scalar property that we might share with other beings (like rational capacities) is, indeed, likely to be an incidental output of identifying a further nonnormative property that we (most likely) only share with (at least almost) all other human beings (like rational agency), the really hard task of avoiding the pressure of reason remains: Why do the scalar degrees of this further nonnormative property not then ground proportional scalar degrees of any basic moral property it grounds? While other theorists after Rawls have implicitly adopted a cognate chained bare property strategy to counter this riposte, I have argued that it still fails. Yet hope lies in the remainder. As Herbert Spiegelberg tangentially illustrated, it is possible that individuals with abilities of different scale can still have a kind of equality between them: one of equal relative potential. Much would be needed to flesh out and justify such an approach, but *prima facie*, the debate would be moving to new terrain, overcoming the pressure of reason problem to instead focus on the foundational moral implications, if any, of equal relative potential.<sup>68</sup>

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