

Equality

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Abstract. “Equality” is a notion about which disagreement arises not simply due to lack of clarity and precision (or intellectual dishonesty and bad faith). Rather, equality is an idea that implies and implicates some form of disagreement as a *constitutive* possibility of its horizon of discussion. This, in my view, is both a problem and an opportunity. I submit that equality is a plural notion: There are only *equalities*, practices aimed at removing situated circumstances of inequality and discrimination.

The Italian Constitution acknowledges equality as a fundamental value in Article 3. The structure of the Italian text seems to recognize a distinction between formal equality—equality before the law regardless of sex, race, language, religion, and so on—and the distinctly different idea of substantive equality, a notion that includes social inequalities that may prevent citizens from enjoying “effective participation [...] in the political, economic and social organization of the country”:

All citizens have equal social dignity and are equal before the law, without distinction of sex, race, language, religion, political opinion, personal and social conditions.

It is the duty of the Republic to remove those obstacles of an economic or social nature which constrain the freedom and equality of citizens, thereby impeding the full development of the human person and the effective participation of all workers in the political, economic and social organization of the country.

The chief distinction between formal and substantive conceptions of the concept of equality is that the latter notion has to do with distributive justice, while the former pertains principally to procedural justice.

As is well known, the Charter of Fundamental Rights of the European Union simply states that “everyone is equal before the law” (Art. 20 CFR), before turning

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to nondiscrimination issues, key kinds of diversity, and, specifically, to equality between men and women. However, under the same Title III (on equality), Articles 24, 25, and 26, crucially introduce the rights of the child, of the elderly, of people with disabilities—rights that, as we will see, imply a reasonable allocation of financial resources.

It should first be remarked that, while the distinction between formal and substantive equality may be useful, it is occasionally misleading. The distinction could easily lull us into a false sense of comfort, leading to intellectual laziness, as if a sharp line could be drawn between the two equalities, marking a clear dichotomy. Civil and political rights are so easy to uphold (all that is needed is a liberal ruler, uninterested in curbing our freedom), while social rights are expensive and specifically difficult to implement: the right to health, to a job that can bestow dignity on the individual and his or her family, the right to security. The protection and care necessary for the well-being of children can be quite expensive; the same can be said about policies aimed at enabling the elderly to “lead a life of dignity and independence and to participate in social and cultural life” or about the “measures” mentioned in Article 26, designed to ensure the independence and integration of persons with disabilities.

The contemporary debate has long since recognized that any picture which draws a sharp distinction between equalities, or between the rights they imply, is just that—a picture, a beam of intellectual light shed on some aspects of the problem, while some other doctrinal corners are left in the dark. Jeremy Waldron (1993, 7) is very clear on the subject:

In any case, the argument from first-generation to second-generation rights was never supposed to be a matter of conceptual analysis. It was rather this: if one is really concerned to secure civil or political liberty for a person, that commitment should be accompanied by a further concern about the conditions of the person’s life that make it possible for him to enjoy and exercise that liberty. Why on earth would it be worth fighting for this person’s liberty (say, his liberty to choose between A and B) if he were left in a situation in which the choice between A and B meant nothing to him, or in which his choosing one rather than the other would have no impact on his life?

Cass Sunstein and Stephen Holmes have famously remarked that civil and political rights are quite expensive, and that they are implemented by spending taxpayer money, just like those socialism-tainted social rights. A Swiftian proposal is made to celebrate tax payment day, essentially to underscore the link between money and civil and political rights (Holmes and Sunstein 1999a; cf. 1999b). In South America, Garzón Valdéz (1986) harped on similar chords. Both schools and prisons are expensive, after all, and yet, in the actual working of domestic politics, social rights can be extremely, *disproportionately* expensive.

A celebrated philosophical paradox may help us better understand the problem. The ancients called it the *sorites* (heap) paradox (see Sainsbury 2009). A man with no hair is bald. The same can be said of a man with only one hair. No doubt, a man with just two hairs on his head is still bald, a description that can legitimately be used for somebody with only three or four hairs. Which is the one hair that makes the difference? What minimum number of hairs should preclude a conclusion of baldness? There is no such number. Every situation is different, and yet we know for a fact that if there is no hair at all, that head is bald—plain and simple.

Let us suppose, as a thought experiment, a situation of extravagant inequality, a theoretical maximum divergence in point of distributive justice. Imagine that in a given country, all the wealth is in the hands of a single individual: All the landed property, all the means of production, all the cash and assets, the real estate—it all belongs to this one person. It is highly doubtful that, under such circumstances, any equality before the law can flourish or even survive. In such a scenario there are simply no available resources to pay for judges and lawyers, to hold elections, to prevent intimidation or blackmail, to generate security. The *sortes* paradox can now come in handy: What if all the wealth is in the hands of *two* individuals, not just one? What if it is legally owned not by a single person, but by a single family? What if it is not all the wealth, in all its forms, that is in the hands of a single man, but only the means of production, or all the media—newspapers, TV, internet providers? What if it is not all the wealth but just 99 percent of it? Maybe 95 percent? While from an abstract, conceptual point of view the notion of wealth enjoys a certain degree of autonomy (it is not *impossible* to be poor and healthy, poor and equipped with leadership skills and power, poor and wise and learned), it is also the case that, in interesting and different ways, the same notion is also historically linked to other spheres of practical human flourishing (it is increasingly *unlikely* that you can be poor and healthy, poor and in a position of leadership, and so on).

This thought experiment has only one purpose: to restate the obvious, and make it vivid.

First, it is clear that somewhere in the sand there is a line where *deep* social inequalities can affect legal and political equality.

Second, it is equally clear that this line is so far away, and so much part and parcel of our political culture, that even strong inequalities, or ones that in a Lockean sense can be accounted as “disproportionate,” are indeed compatible with Western liberal democracies: “it is plain, that Men have agreed to disproportionate and unequal Possession of the Earth” (Locke 1960, § 50, p. 320).

Third, it is clear that this line in the sand cannot be identified by any standard computation: Plato was comfortable stating that the richest man could not be more than five times richer than the poorest (as Aristotle reports in *Politics* 1266b). But we do not have the luxury of such clarity and simplicity, the reason being that there is a whole range of other factors that can play a crucial role in this area, shaping the final outcome: the Burkean manners of a population, the mainstream religion, the attitude of neighboring nations. When is it that a distributive inequality of *some* kind can jeopardize our cherished formal, legal, and political equality? This is not an easy question, to be sure. But that line does exist.

Fourth, and most problematic, if that line exists, is there any duty, obligation, necessity, or convenience in virtue of which we should be trying to detect its location (a temporary and, of course, “situated” location)? I submit that there is both a legal and a political obligation to do so. If we acknowledge that some macro-inequalities can theoretically be incompatible with the simple, regular workings of a liberal democracy, then a liberal democracy should be interested in knowing when it is time to be concerned about such inequalities, *even if it is ultimately impossible to answer this question in any conclusive way*. We cannot bracket that question, quoting Locke as mantra, or label it as irrelevant. The question about how much social, distributive inequality we are ready to countenance, support, or protect is a relevant one (even though it is complex and cannot be answered in any universal, Platonizing way).

This means that to speak of equality is to speak of a complex of problems. Equality from the point of view of distributive justice is an intricate subject, and this has to do with the extreme point reached by current inequalities. On the one hand, wealth reaches peaks that cannot even be understood except mathematically. There are amounts of financial wealth that seem to be simply digits on a screen: One is at a loss to even grasp what might be bought or accomplished with that amount of money. Here wealth seems to be an abstract, rarefied notion, an ozonic quality difficult to translate into any kind of everyday experience—you cannot buy planets, although, as Cecil Rhodes famously admitted, he would have been happy to annex them (see Millin 1933, 138). Lack of wealth, on the other hand, can be quite sanguine, and obscenely corporeal: It can affect bodies in the most brutal, physical meaning of the word; it can mean cruel death and painful, usually short, lives; human beings can be sold, trafficked, and exploited until they die.

This, however, is only one side of the problem, and a quick change in perspective should be enough to make us see things from a very different angle. There has always been a time when rich men could enjoy a spectacular, luxurious lifestyle: This was true of Croesus, king of Lydia, and Polycrates, tyrant of Samos (as we learn from Herodotus, *Histories*, 1.3, 39–44, 120–5), just as it was true of William Randolph Hearst and his Hearst Castle in California. Throughout that long stretch of history, however, extravagant wealth found its limit in the time allotted for its enjoyment, because money could not buy immunity from old age and disease. On the other hand, the extraordinary advances that have since been made in geriatric medicine have increased life expectancy, but this implies that if someone is rich enough, and only in that case, they can buy for themselves anywhere from twenty to thirty years of additional quality life—a treasure that no millionaire of times past could even have dreamed of, as Prosper Mérimée’s gambler, Federigo, knew all too well in his negotiations with Death. This means that because of such a treasure—available but so expensive—inequality can be more extreme than it has ever been: The wealthy elitists in the movie *Elysium* (2013), who can afford a futuristic health technology, are already born, even if for the time being they do not seem inclined to live in a secluded environment. In other words, the claim that all human beings have the right to live the natural course of their life, as Martha Nussbaum famously argued on the basis of her capabilities approach (e.g., Nussbaum 1992), is a tall order, even more so in light of the proclamation in Article 25 CFR that “the Union recognises and respects the rights of the elderly to lead a life of dignity and independence.” It touches the subtlest aspects of the Western notion of equality (for an entertainingly compelling read, see Harari 2017).

One such subtle aspect of the notion of equality, as we have seen, is its controversial link with (a notion of) anthropology. Even formal equality is somehow linked to a substantive, and more sanguine, kind of equality—one that in turn cannot be understood without asking key questions about the human condition, life expectancy, and the conditions for its flourishing. It is a situated equality, heavily context-dependent: Health technologies can, and do, radically alter the picture. Under such circumstances, it becomes increasingly difficult to uphold an abstract, top-down, universal notion of equality.

One deceptively easy way to frame this problem is to scrutinize the subjects of such equality in order to at least offer a shared, universal notion of equality. But this is not such an easy task. So, for example, we won’t necessarily get anywhere in that

regard simply by saying that all human beings are equal, or are equally endowed with human rights. Thus, while Bartolomé de las Casas thought that the inhabitants of the New Continent were full-fledged human beings, Juan Ginés de Sepulveda maintained that their status was that of *homunculi*, something a bit different, and of course inferior, to proper (white European) men and women.

And yet this is just an aspect of the mentioned complexity of a situated notion of equality. If we take it for granted that a shared, unproblematic notion of human being is available, this will simply mean that on that basis we can support a notion of *basic* equality among them, i.e., the idea that they are equal in a pertinent respect, maybe because they share the same DNA, or because they are all children of an almighty God, or again because they are all endowed with *logos*, a discursive kind of reason. These basic assumptions of equality are never neutral, because they seem to be good premises for *normative* arguments about equality: If human beings are equal (basic equality), we should treat them equally, or as equals, with a Dworkinian equal concern and respect (Dworkin 1978, 176–7). If they are equal, we should not discriminate against them, and we should not support any institution that involves or implies such discrimination. The end result tends to be that “any discrimination [...] shall be prohibited” (Art. 21 CFR).

The conceptual movement from basic equality (human beings are equal) to normative equality—they should be treated as such, e.g., they should have political rights of universal suffrage on a one-head, one-vote principle—seems obvious and reassuring: Basic equality is a premise, a *prius*, a cause, an assumption; normative equality is a consequence, a *posterius*, an effect, a conclusion. It’s simple and plain, so why should I complain?

Although there is plenty of work on equality, there is precious little in the modern literature on the background idea that we humans are, fundamentally, one another’s equals. [...] So the distinction between basic equality and equality as an aim is fundamental to Dworkin’s work. Yet Dworkin has said next to nothing about the nature and grounding of the principle of equal respect. (Waldron 2002, 2–3)

It is the scheme found in the *Declaration of Independence* penned by Thomas Jefferson: “We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.” Equality comes first, then. And this is a basic equality: Men *are* (created) equal.

The problem, I submit, is that notions of basic equality are themselves cultural constructions (albeit of the most valuable kind); they can be the outcome of practices of normative equality. This would mean that it is possible to conceptualize basic equality as an effect—a *posterius*, a result, an outcome, an end point—while a practice of normative equality can be taken as the starting point, the input, the cause, the *prius*, the necessary pragmatic assumption. This, of course, implies that we need to ask ourselves what can be the motivating factors behind practices of normative equality—the reasons for such a performance.

It is better to start from inequality. There are things that have always been known, but that are kept by individuals in the lower strata of their consciousness, and by scholarly communities at the periphery of public discussion.

With piercing understanding, Jeremy Bentham had already perceived that women were *made* unequal by a set of laws and institutions, of beliefs and shared manners (see Facchi 2006).

In Italy, Giuseppe Mazzini wrote clear words on this subject (with interesting comparisons between women, African-American slaves, and Italians):

Cancel from your minds every idea of superiority over Woman. You have none whatsoever. [...]

Long prejudice, an inferior education, and a perennial legal inequality and injustice, have created that *apparent* intellectual inferiority which has been converted into an argument of continued oppression.

But does not the history of every oppression teach us how the oppressor ever seeks his justification and support by appealing to a *fact* of his creation? [...]

The Slaveholders [*sic*] of America declare the black race radically inferior and incapable of education, and yet persecute those who seek to instruct them.

For half a century the supporters of the reigning families have declared the Italians unfit for freedom, and meanwhile, by their laws, and by the brute force of hireling armies, they close every path through which we might overcome the obstacles to our improvement, did they really exist, as if tyranny could ever be a means of educating men for liberty. (Mazzini 1862, 99–100)

Women were also forbidden to serve in the army, as were gay men. In September 2011, then US President Barack Obama repealed the infamous “don’t ask, don’t tell” (DADT) policy. Gay men could not come out as gay while serving in the army, but they could not be directly asked about their sexuality. Being openly known as gay could result, and often did result, in an immediate discharge. Among the motivational factors of such a norm was plain prejudice: Gay men are immoral; they are not virtuous; they are also susceptible to blackmail, creating a vulnerability in the system. Again, the surface movement is from a basic inequality (“Gay men are different because they lack moral virtue”) to a normative inequality (“Therefore, they are not allowed, and shouldn’t be allowed, to openly serve in the army, and if caught they must be dismissed”). It is too simple to remark that it is precisely such a normative practice that makes them vulnerable to blackmail: If an openly gay man is discharged *latae sententiae*, he will need to hide his secret, a potential victim for anyone who somehow learned of his sexual orientation. This is just too simple to be interesting. Let us therefore focus on the moral-virtue problem.

Integrity, along with courage, is the most important military virtue. Integrity means believing in what you say and saying what you believe in. It means obeying orders and rules not just out of fear of punishment, but because the rule and the order have been internalized and embraced. Yamamoto Tsunetomo (2014) urged his samurai to behave, even in solitude, as if he were in front of a distinguished public. If obedience to orders is of this kind, it will make a difference in the battlefield, when a split second can separate success from failure, and instant performance of the received command is therefore critical. As a virtue, integrity is a high expression of sincerity and authenticity. Virtues, however, do not live or flourish in a vacuum. Aristotle (*Nicomachean Ethics* 1103a) devoted some clear words to the subject: In order to acquire the *ethos* (with long *e*, eta) of courage, you have to get into the habit (*ethos* with short *e*, epsilon) of performing brave actions; you have to practice courage—there is no other way. Gay and lesbian soldiers under DADT were required to hide, to lie—even to their comrades, even to their superiors in the chain of command, even to the psychologists who would visit them. In a nutshell, they were forbidden to

practice a most relevant moral virtue, integrity, and were therefore prevented from sustaining and cultivating that very same virtue. The normative practice of inequality would tentatively make them basically unequal (from the relevant point of view). The next step would be to take that relevant (moral) inequality as a starting point, rather than as a result, and to claim that since they lack moral integrity, they should not be allowed in the army (Zanetti 2015).

Now, the Charter of European values is first and foremost an act of normative equality: It is about prohibitions (Art. 21), respect for diversity (Art. 22), “measures” providing specific advantages (Art. 23), and the commitment to “well-being” (here formal equality is clearly intertwined with the equality dependent on distributive justice). However, the outcome of such practices, legal provisions, institutions, and so on, will be some kind of *basic* equality. It will not, of course, be anything carved in stone. Nevertheless, in virtue of the logic of situated equality here presented, disregard for the value of equality enshrined in the Charter could have the worst kinds of consequences.

If European institutions treat migrants or refugees as potential criminals, they will certainly create the cultural and normative conditions that—from a basic-equality point of view—can turn those men and women into unequal men and women. The shield of a cherished notion of formal equality will not work: As is well known, it is always possible to enact laws that only *look* egalitarian, abstract, and general—like that liberal law mentioned by Anatole France that “in its majestic equality” would forbid everybody, rich and poor alike, to sleep under the bridges (France 1894, chap. 7). The law, in other words, implies and reinforces a narrative of equality and inequality: of *basic* equality and inequality.

A racist scholar could try to make the case that African-American children score not as high as white ones in IQ tests. From this alleged basic inequality he could question the rationality of programs aimed at helping black students enroll in college: In light of objective, scientific data, our racist would claim, such programs are just a waste of time and money. Let us suppose, for the sake of argument, that black children adopted into white British families nevertheless score quite well in the same tests. No wonder: Living in a nice neighborhood, far from violence and fear, spending a good deal of time socializing in activities supervised by adults, having the right kinds of toys, and maybe some travel experience, and so on, are all factors that can deeply impact that most plastic and reactive organ, the human brain. This means that a *normative practice* like affirmative (or positive) action can now be understood from a different point of view. The black students who—basically unequal though they may be—enroll in medical or law school will land higher-paying jobs, live in better neighborhoods, and have children who will enjoy the same kinds of benefits enjoyed by those black kids adopted into white British families. In other words, basic equality (in the area here considered relevant, i.e., IQ) will be accomplished as a *result* of a practice of normative equality, in this case affirmative (or positive) action (Zanetti 2012).

To speak of equality therefore means to speak of who and what we truly are, of who and what we can be, of who and what we can be forbidden to be or become. It means to speak of what we want to be.

The movement from normative equality to basic equality is, as I have said, counterintuitive, even if the complexity of the two-way movement is somehow implied in the blurry line between formal and more substantive equality.

The second movement may well be perceived as counterintuitive because it stands at odds with an important tenet of the Judeo-Christian tradition. In this tradition it is perfectly OK to claim that, since we are all children of the one God (basic equality), we should all be treated as equals and never be sold into slavery (normative equality, and of course I deliberately chose here what, from a scriptural point of view, is a contentious example). However, the first attempt—to propose an equality practice with some kind of basic equality in view—was not a happy chapter in human history. In a line much beloved by Goethe, the serpent tempted Adam and Eve to eat of the forbidden fruit so that they could become equal with God: *Eritis sicut Deus, scientes bonum ac malum* (“Ye shall be as gods, knowing good and evil”). Disobedience can certainly be an equality practice, even if in this case it gave rise to quite unfortunate consequences (Gen. 3:5).

The wise words that advise *not* to get involved in an equality practice are those addressed by Abdiel to Satan in Milton’s *Paradise Lost* (6.174–81):

Unjustly thou depriv’st it with the name
Of servitude to serve whom God ordains,
Or Nature; God and Nature bids the same,
When he who rules is worthiest, and excels
Them whom he governs. This is servitude
To serve the unwise, or him who hath rebelled
Against his worthier, as thine now serve thee,
Thyself not free, but to thyself enthralled.

If the conceptual movement from normative equality to basic equality is accepted as sensible within a rational discussion of the notion of equality, it becomes possible to draw some conclusions. Normative equality is first and foremost a *practice*: It can take place within a legislative body enacting a statute that bars discrimination, in a court of law ruling in such a way as to implement some kind of equality, but it can also take place by street protest, by political activism and civil commitment, or by acts of civil disobedience. The equality that forms the subject of Title III of the Charter is normative equality—a value that is intended to trigger further equality practices.

The idea is that some kind of inequality and discrimination is perceived as such, and that these painful circumstances trigger a practice of normative equality that in turn will create a new kind of basic equality. This perceived injustice does not need to be exhaustively deduced, as such, from any set of moral absolutes (Finnis 1991); and, conversely, the practice does not need to be justified in absolute theoretical terms.

In Giambattista Vico’s masterpiece, *The New Science*, the plebeians—the so-called *famuli*, who are deemed as basically different from the patricians (almost another species)—engage in various kinds of situated equality practices, fighting for the right to solemn nuptials and for an agrarian law. In fact, after many years of cruel inequality, such family servants “must have grown weary of it” (*se ne dovettero attediare*) (Vico 1999, 253). This is not just about perfect reasoning; it is about a reasonable perception (the injustice of unequal treatment), which nevertheless is not without consequences: “At first, people desire to throw off oppression and seek equality” (Vico 1999, 109). Here it is not necessary to appeal to any kind of abstract notion of equality: People simply *desire* to throw off oppression, and therefore they *seek* equality. This desire is a reaction to oppression itself, and it is presumably triggered by an array of factors, like the duration of such an oppression (“after a long period of time”: Vico 1976, 210).

The outcome of such “heroic contentions” is that Vico’s plebeians eventually *become* equal to the patricians (basic equality as an outcome). The anthropology narrative implied in their success is a shared citizenship, and therefore a basic equality between plebeians and patricians, who “‘had not descended from heaven,’ *non esse coelo demissos*” (Vico 1999, § 415).

There is, however, a little problem. Women were not considered at all: Vico’s plebeians, and Vico himself, never even considered inequality between men and women. The detected, perceived, inequality was only between *male* patricians and plebeians. Half the population, a trifle, was therefore left out by such an accomplished, and sublime, *universal* equality (see Zanetti 2011).

While equality must every time claim to be universal, it can never be that. All we are left with are situated equalities. There is no such thing as universal equality: There are only practices of normative equality that, under different circumstances, having first detected different kinds of inequality and discrimination, reshape the notion of basic equality implied by different norms, institutions, and practices.

Equality is a therapy—actually a condominium of therapies—for different kinds of diseases: It is not a state of good health. Equality is an *aequalitas aequans*, never an *aequalitas aequata*. Every result of a normative equality practice can be faulted for having forgotten about those who are in some way left out. There is always somebody who is left out. On the other hand, there is always a specifically relevant issue, a situated hot problem.

Equality is a critical category, by its very logic bound to a performative necessity to conceptualize itself as a substantive category, that is, as based on, and implementing, a universal notion of basic equality. This equality, however, is nothing if not the outcome of the normative narrative of those equality practices. Vichian plebeians could not ask for “equality for *just us*” (the males); forced by the very logic of the notion of equality, they had to demand, and fight for, *universal* equality. According to African-American folk wisdom, when white men say *justice* they mean *just us*. This is the kind of pressure that migrants and refugees are experiencing.

Again, there is no such thing as good health: There are only, sometimes, efficient therapies against given kinds of illness. That is a sobering thought. It suggests, among other things, never to add insult to injury—never to underestimate the complaints of those who are left out by the outcome of an equality practice, however commendable it may be (inspiring and valuable ideas in Lindahl 2018). There cannot be any such thing as a (or the) Great Emancipation or the Last Emancipation: There can only be partial, situated, context-dependent, contingent *emancipations*. No capital-E Equality can be achieved. We can single out a specific *inequality*, and then fight so as to make sure it is blotted out, so that the specific “difference” that was the ground for discrimination no longer has any legal impact.

However, this complex, bottom-up notion of equality implies that its workings cannot rely exclusively on traditional institutions (a parliament, a court of justice). These institutions can work wonders, but they can also reflect the biases and prejudices of the majority, uncritically reinforcing its narrative of basic equality (and inequalities), deaf to the cry of those who are left out. While there is no magic wand that can prevent this from happening, there are nevertheless possible remedies. This is the last step of this paper, and a short one.

Moral philosophy distinguishes primary interests from critical interests (see Appiah 2005, 166–70, briefly discussing Joseph Raz’s “nested” goals and Harry

Frankfurt's "wantons"). It is possible to have a primary desire to eat dark chocolate, because it is so tasty and, indeed, delicious. It is possible, however, to have a competitive critical desire not to gain too much weight, because of a health issue or because of a pleasure in looking fit. Being aware that the primary desire could interfere with such a critical interest in health or looks—a critical interest that in part actually defines the identity of someone who chooses such a plan of life—this person asks whoever is in charge of their grocery shopping never to buy dark chocolate. It will be hard, later on, when the primary desire kicks in, but the plan of critically desired "good looks" will hopefully be accomplished.

As a people, Italians (who are at the same time Europeans) can critically decide that they want to honor compassion and solidarity, that they do not want to discriminate against the poor and the marginalized. They are in favor of, say, homeless shelters (whether they are used to house Italian nationals or immigrants) or of legal aid centers where homeless persons can meet and be informed of their rights. But such a shelter or center may well be of no comfort to those Italians who happen to live in the area. To begin with, it could depress real estate values. So, for those who live in the neighborhood, the primary desire may well be to just get rid of the facility: not in my backyard, please. However, there may also be an activist organization (recognized by the legal system) that is committed to furthering European values, as it were, and whose sole purpose and mission is to make sure those homeless people can find food and shelter, regardless of the real estate market.

The critical interest indirectly served by the legal protection of organizations of this kind makes sure that it is disproportionately difficult to chase those homeless migrants away, to get rid of the unsightly, pesky little shelter. While the political institutions, sensitive as they are to mainstream consensus, could easily turn a deaf ear to the cries of the vulnerable and of those who are left out, fearful of backlash at the next electoral cycle, such a private organization could be adamant, unrelenting in its effort to advance the critical interest espoused by those European institutions that (through a collective decision informed by the Charter of Fundamental Rights or through specific legal provisions, or both) value, and cherish, a European identity that embraces the idea of a hospitable, compassionate country.

There is nothing mysterious about such proceedings: In order to be, and remain, a rule-of-law country, we must validate and protect lawyers who, as lawyers, do not care about the rule of law *per se* but only about their occasional unsavory clients. The critical interest in living under the rule of law fosters practices and institutions that will compete against occasionally strong (and understandable) primary interests, like ridding ourselves of dangerous and clever mafia men who can afford to hire the best legal sharks to protect themselves, without the cumbersome procedure of a fair trial. And so on.

In order to validate equality as a practice—to validate the value of such a complex notion of equality—it becomes critical to enable such organizations and institutions to flourish; if all we are left with are *situated* equalities, it could well be that, just like Vico's plebeians, even those who cherish a given notion of formal and universal equality could be blind to new forms of inequality and discrimination, of vulnerability and pain. Sometimes vulnerabilities are hidden in plain sight: like Edgar Allan Poe's purloined letter (Poe 1945), they are sometimes invisible just because they are in front of our nose. It is easy to fall prey to biases and prejudice in the current conjuncture, when the European migration and refugee crisis is unfolding.

The notion of equality here discussed, radiating from Title III of the Charter, is therefore a plural notion: There are only *equalities*, practices aimed at removing situated circumstances of inequality and discrimination. It is a bottom-up notion, one that blurs the traditional line between formal equality (equality before the law) and substantive equality (distributive justice). It is a critical notion: It does not offer any perfect equality paradigm, any substantive solution to problems of equality. It simply suggests that we take seriously the cry of those who grow weary of unequal treatment, and of those among us who perceive that very cry as unacceptable.

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