Abstract

The acceptance of the idea of basic equality is widely recognized as one of the most significant achievements of modernity. However, what exactly does it mean to say that we are one another’s equals in some fundamental sense? How can it possibly be true, given that we are unequals in almost every other aspect of our lives? And, who, exactly, is meant to fall within its scope? In this introductory chapter, we outline the most significant challenges that theories of basic equality must face in answering these questions, as well as introducing some conceptual distinctions that clarify important aspects of this debate. This, in turn, provides background for understanding the questions that the essays in this book seek to answer.

Keywords

basic equality, moral equality, human equality, moral status, egalitarianism, egalitarian plateau, variation problem, scope problem
Introduction

Basic Equality:

An Analytical Introduction

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1. Introduction

The acceptance of the idea of basic equality is widely recognized as one of the most significant achievements of modernity. Ronald Dworkin and many others have observed that the claim ‘that we are all one another’s equals’ is at the foundation of contemporary normative theory: moral, political, and legal (Dworkin 1978: 272–273; see also Arneson 2014; Kymlicka 2002: 4; Miller 2007: 28; Pojman and Westmoreland 1997: 1; Scanlon 2018: 4; Sher 2017: 31). We have reached an ‘egalitarian plateau’. Sharing this same premise regardless of our other differences, we only disagree now about what follows from it: what can be found further up the mountain. This very idea of our ‘basic equality’ is, therefore, putatively a fundamental interpretative resource of normative theory, such that a primary test of plausibility between reasonable theories of justice is: which one best reflects the fact that we are one another’s equals?

This collection of original essays advances the debate about this fundamental commitment to the principle of basic equality by analysing its meaning, explanation, and scope. In this

2 Both authors contributed equally to the essay; we have adopted the convention of altering the order in which our names appear on published work.

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introduction, we outline the key issues that theories of basic equality are concerned with and the most significant challenges that they face, as well as introducing some conceptual distinctions that will help to clarify important aspects of this debate. This, in turn, will provide background for understanding the questions that the essays in this book seek to answer.

We will proceed as follows. Section 2 presents the ‘key theses’ related to the idea of basic equality. Sections 3–5 reflect the threefold structure of the book. Each section offers an explanation of the main issue addressed in the corresponding part of the volume, and provides a brief summary of each of its chapters.

2. Basic Equality: Key Theses

As observed above, the idea of basic equality is considered foundational to contemporary moral, legal, and political philosophy. In particular, we can distinguish between four key theses:

(1) **Basic Equality Thesis**: All human beings are one another’s equals.

(2) **Disciplinary Thesis**: All plausible theories are premised upon the claim that ‘All human beings are one another’s equals’.

(3) **Methodological Thesis**: A theory is more plausible than another theory if it offers a better interpretation of the shared premise that ‘All human beings are one another’s equals’.

(4) **Historical Thesis**: Only modern theories are consistent with the claim that ‘All human beings are one another’s equals’.

These four key theses, widely shared in the literature, are often combined with four further claims. First, there is a cognate claim, most clearly first expounded by Amartya Sen (1979).
that the fact that we are one another’s equals entails some kind of substantive egalitarianism as justice, most obviously an equal entitlement to something:

(5) **Egalitarian Thesis:** That all human beings are one another’s equals entails some form of substantive egalitarianism.

Second, following a line of work that goes from George Morgan (1943) to John Rawls (1971) to Bernard Williams (1973), it is argued that the claim that we are all one another’s equals must have some kind of ‘basis’—an explanation:

(6) **Explanatory Thesis:** If we are one another’s equals, then there must be some explanatory basis for why we are one another’s equals.

However, third—more implicit, admittedly, in the priorities and practice of analytic normative theory than explicit—there has been an assumption that, given all plausible theories share the same premise that we are one another’s equals, any explanation of such basic equality—or lack thereof—will be consistent with all plausible theories. This is to say that it will be ‘ecumenical’ between them—providing equal support (or not) to all theories, and thus offering no comparative dialectical advantage—no reason to choose—between them.

(7) **Ecumenical Thesis:** Any explanatory basis (or lack thereof) for why we are one another’s equals will be ecumenical between all plausible theories in its implications.

Finally, providing such an explanatory basis for basic equality—it turns out—is very difficult; indeed, some believe ‘insurmountable’ (Huši 2017: 376; see also Arneson 2014):
‘one of the most profound problems of moral philosophy’ (Christiano 2008: 17). Given the putative shared importance of the idea of basic equality for theories of justice—in the form of theses (1)–(7)—one might assume such a difficulty ought to precipitate a foundational crisis in normative theory. The reaction, however, to this difficulty has largely been deafening indifference. There appears to be little if no anxiety from those working higher up upon this putative foundation of normative theory that the foundation might be itself entirely ungrounded.

This disciplinary indifference might be thought to rest upon an assumption that no one could plausibly deny that we are one another’s equals, regardless of that fact’s current state of explanation. Something must have gone awry in our substantive reasoning or methodology to explain why it is so hard to explain the truth of basic equality, but its truth cannot be denied. As John Schaar puts it, ‘Nature … shouts ‘inequality’. We reply, ‘nonetheless, equality’, (Schaar 1964: 867):

(8) **Negative Thesis**: No one can plausibly deny the fact that we are one another’s equals.

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3 As early as 1942, Henry Spiegelberg proclaimed: ‘The situation is in fact so serious that some of the advocates of democracy are on the point of abandoning the whole doctrine of equality’ (Spiegelberg 1944: 102).

4 Thesis (8) might be thought to be a mere implication of Thesis (2). But one can hold (8) and reject (2). That is, one can try to build a plausible normative theory that does not rest upon basic equality, without affirming that basic equality is false. For example, some versions of utilitarianism do not rest on a commitment to moral equality, but they do not necessarily deny that persons are each other’s equals.
This late twentieth-century picture of a widely shared commitment to an ‘egalitarian plateau’ is undoubtedly attractive: a common foundation that frames a normative theory as a shared discipline. The work in this volume, however, reflects its unravelling. Each and every one of the eight theses above is challenged. The upshot, we suggest, is that the time for disciplinary complacency about basic equality is over.

3. The Meaning of Basic Equality: History and Import of Claiming to Be Equals

3.1 The Multiple Meanings of Basic Equality

The unravelling of the commitment to an ‘egalitarian plateau’ first begins upon attempting to define more precisely what the (1) Basic Equality Thesis that ‘all human beings are one another’s equals’ means, as a claim putatively shared by many historical and contemporary authors. This is not to ask what the claim should mean, but what those authors who have shaped and/or now constitute our supposed consensus do mean by it.

Beginning simply with what various authors say, however, we are confronted by a dizzying multiplicity. They speak of: ‘equal worth’ (Pojman 1997; Vlastos 1984: 43ff); ‘equal consideration’ (Benn 1967; Miller 2007: 28); ‘equal intrinsic weight’ (Haksar 1979: 17); ‘equal intrinsic value’ (Bedau 1967: 17; Frankena 1962: 14); ‘the equal primary importance of everyone’s life’ (Nagel 1991: 131); ‘entitlement to equal concern and respect’ (Dworkin 1978: 272–273; 1986: 191; 2000: 11); ‘the interests of each member of the community matter, and matter equally’ (Kymlicka 2002: 3–4); ‘fundamental equal moral status’ (Arneson 2014: 30); ‘equal basic dignity and worth’ (Arneson 2014: 30); ‘each person matters equally’, ‘the meaning of equality is specified by the principles of justice which require equal basic rights be assigned to all persons’ (Rawls 1999: 442); ‘some equality of value or rights is intrinsic in human nature’ (Morgan 1943: 116); [a]ll and every particular and individual man and woman...
… are and were, by nature all equal and alike in power, dignity, authority, and majesty’ (Lilburne 1986: 317); ‘innate equality, that is, independence from being bound by others no more than one can in turn bind them; hence a human being’s quality of being his own master (sui juris)’ (Kant 1996: 238), and many other formulations.

Prima facie, such multiplicity in locutions of (1) suggests some form of conceptual disunity beneath, rather than supposed unity, that is, the denial of (2) the Disciplinary Thesis. To clarify, let us assume that (1) involves each author saying some ‘version’ of it, such that:

(1a) Basic Equality Thesis: ‘All human beings are one another’s equals’ in a (particular) morally significant sense.

This, however, should be distinguished from the more agnostic claim:

(1b) Basic Equality Thesis: ‘All human beings are one another’s equals’ in some (any) morally significant sense.

Of course, it is unlikely that many (if any) theorists mean (1b) by their claims that ‘all human beings are one another’s equals’, although it does necessarily follow from (1a) a fortiori. However, distinguishing (1b) is useful for two reasons: first, as we shall see below, the problem of basic equality is the negation of (1b), not merely (1a). And second, it permits us to make the following further distinction with respect to the disciplinary thesis:

(2a) Disciplinary Thesis: All plausible theories are premised upon the claim that ‘All human beings are one another’s equals’ in a (particular) morally significant sense.

(2b) Disciplinary Thesis: All plausible theories are premised upon the claim that ‘All human beings are one another’s equals’ in some (any) morally significant sense.

Those, like Dworkin, who most prominently espouse the Disciplinary Thesis appear to be asserting (2a). Yet we can see in the multiplicity above evidence that (2a) is false.

Nonetheless, some have not lost faith. In this volume, for example, George Sher holds that ‘it
is widely agreed that all normal humans have equal moral standing’ and that what is meant by this claim, by consequentialists and non-consequentialists alike, is that ‘two beings will have the same moral standing if their interests count equally toward what morality requires’ (Sher, this volume: 287). On this view, any equality in deontic incidents, like rights, will then be derived from this claim of equality of interests.

Sher is not alone, but, as Kasper Lippert-Rasmussen indicates, also in this volume (85-86), it can be argued that attempting to define the concept of basic equality only with respect to interests fails to include those non-consequentialist views that see rights as fundamental, or at least as not grounded upon any assumption about interests (for example, ‘will theorists’, such as Hart (1982; 1983)). Other authors in this volume, therefore, admit multiple senses of basic equality not reducible to any one sense. The most popular version takes there to be not one but two morally significant senses of basic equality in play, consequentialist and non-consequentialist. This is a position proposed by Richard Arneson in earlier work (Arneson 2014: 30), although it is anticipated even earlier by George Morgan (1943: 115–116). In this volume, Andrea Sangiovanni puts the thought as follows: ‘There is something that all are equal in the possession of that generates significant and basic moral duties owed to beings that possess it—duties of equal respect (mostly in nonconsequentialist accounts) or equal consideration of welfare (mostly in consequentialist ones)’ (Sangiovanni, this volume: 104).

Whilst this ‘bifurcated’ concept of basic equality may seem to be a plausible characterization of the concept shared at the centre of much contemporary analytic moral theory, looking even a bit beyond these bounds we quickly see this claim too to be under-inclusive. As Lippert-Rasmussen points out, it is unable to account for the sense in which a virtue theorist might have a commitment to basic equality (Lippert-Rasmussen, this volume: 85). Or, as Nikolas Kirby observes in earlier work (Kirby 2018), it fails to capture the sense
shared by classical social contract theorists in which our fundamental equality is our equal fundamental authority, not our equal rights or interests.

Does the acceptance of the multiplicity—the polysemy—of ‘basic equality’ entail a rejection, therefore, of (2a) and thus aspirations for unity in normative theory? Some authors are reluctant to give up quite yet. Their strategy is abstraction amidst multiplicity: to identify a concept sufficiently neutral between all these various meanings. Jeremy Waldron holds: ‘[B]asic equality … requires that all persons be given the benefit of whatever principles of social justice we come up with’ (Waldron, this volume: 72). Lippert Rasmussen contends that basic equality is a position that holds for all equals: the same basic moral considerations apply to all of them (Lippert-Rasmussen, this volume: 86). Ian Carter ties basic equality to: ‘equality of certain entitlement-grounding properties’ (Carter, this volume: 127 see also Carter and Page, forthcoming). And, finally, Kirby offers an entirely functional definition, where ‘we are all one another’s equals’ is cashed out as the claim that ‘all (or nearly all) humans are one another’s equals in their possession of some basic moral property’ where ‘basic moral property’ is simply a placeholder for any moral property that is putatively ‘natural’, ‘inalienable’, with ‘great weight or lexical priority’, and thus ‘theoretically foundational’ (Kirby, this volume: 176-177; see also, Kirby, forthcoming).

It is plausible that such a concept of basic equality can be crafted so abstract that (almost) all contemporary plausible theories do share it, thus making (2a) true. However, the worry is that any such unity is trivial: so formal that nothing substantive is really shared between theories by virtue of this common premise (Sangiovanni, this volume: 104; see also Floris and Spotorno, forthcoming; Kirby 2018; Nathan 2014). (2b) just picks out a collection of claims that share a common feature of concepts, rather than any meaning common to those concepts. If this is true, then the Methodological Thesis (3) is immediately under threat, since there is no
common concept that various theories can be considered to be competing conceptions. The plateau has begun to crack.

3.2 Overview of the Chapters

Is it possible to concede the proliferation of meaning(s) of basic equality, resulting in disunity in moral, political, and legal theory, and, thus, reject (2a) and (3), but still hold that our shared commitments to basic equality are a kind of modern achievement—that is, Historical Thesis (4)—and vital to justifying any ‘egalitarian’ theorizing—that is, Egalitarian Thesis (5)? These are the questions that the chapters in Part I of this volume address.

Let us begin by making a similar distinction to that above:

(4a) **Historical Thesis**: Only modern theories are consistent with the claim that ‘All human beings are one another’s equals’ in a *(particular)* morally significant sense.

(4b) **Historical Thesis**: Only modern theories are consistent with the claim that ‘All human beings are one another’s equals’ in *some (any)* morally significant sense.

(5a) **Egalitarian Thesis**: That all human beings are one another’s equals in a *(particular)* morally significant sense entails some form of substantive egalitarianism.

(5b) **Egalitarian Thesis**: That all human beings are one another’s equals in *some (any)* morally significant sense entails some form of substantive egalitarianism.

In Chapter 1, ‘On the Historical Emergence of Basic Human Equality’, Teresa Bejan can be taken to be denying (4b). She traces assertions of basic equality, *in different kinds of morally significant senses*, all the way back to premodern classical and medieval sources. She argues

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5 But, as we shall explore further below, so too is the Ecumenical Thesis (7).
that it made sense to claim that ‘we are one another’s equals’—isotes—in classical Athens, but that particular sense owed its roots to the agora. The term derived from the balance-beam scale at the centre of its commerce. Isotêta existed where there was balance between two objects on the scale. Bejan argues that this, indeed, implied the possession of some measure to the same degree, but that the fundamental meaning of equality was the balance—the harmony—achieved by the tool itself. Thus, she argues, in ancient Greece the concept of ‘equal justice’ presupposed who was to be weighed, and was constituted by balance, without entailing quantitative sameness. ‘Equality-as-balance’, however, is not our only classical egalitarian inheritance. Bejan also traces two distinctly Roman ideas of ‘equality-as-indifference’ and ‘equality-as-parity’. The former is the property of being subject indifferently to the same set of rules and principles, a precursor we might think to our more modern idea of ‘equality before the law’—even though, as Bejan emphasizes, in Rome the crucial question would remain, but which law? One could be another’s equal at natural law, but not at civil law. The latter idea of ‘equality as parity’, by contrast, derives its origins from the idea of pairing or matching different objects together. Being ‘paired’ is the property of collecting together objects otherwise incommensurable, by rough comparison, as peers.

Finally, Bejan argues that these classical concepts of equality—as balance, indifference, and/or parity—pass into subsequent medieval Christian thought. However, their meaning explains why such equality in the eyes of God has few implications for social structures of hierarchy. We could be equals in terms of balance and indifference, but not parity. Thus, as she denies the historical thesis (3b), Bejan also shows how past authors disprove (5b): as medieval Christian thought shows, one can have a concept of basic equality that lacks any form of substantive egalitarianism.

Of course, denying (4b) and (5b) does not entail rejecting (4a) and (5a). It is plausible that there is a particular sense (or indeed sub-set of senses) in which we are one another’s equals.
that only begins to be asserted in modernity and does imply substantive egalitarianism. Indeed, this might be a more accurate rendering of the moral progress that several contemporary philosophers discussed above envisioned: not that authors began to claim in modernity that all humans are one another’s equals, but that they began to hold that we are equals in sense(s) that have real egalitarian implications. But what exactly is an ‘egalitarian implication’?

As observed above, the most influential view of what made a conception ‘egalitarian’ is Amartya Sen’s (1979) claim that egalitarianism necessarily requires distributing something equally among us as equals—whether that be money, welfare, utility, resources, capabilities, advantages, opportunities, or so on:

(5c) **Egalitarian Thesis (Distributional):** That all human beings are one another’s equals implies the equal distribution of something.

This framing grounded the ‘currency of egalitarian justice’ debates of the 1980s and 1990s. However, in the late 1990s, a number of authors began challenging this thesis. Led by Elizabeth Anderson, Samuel Scheffler, and Jonathan Wolff, these ‘social, ‘democratic’, or ‘relational’ egalitarians argued that justice primarily requires equality in relations rather than some valuable good(s)—that we are all able to relate to one another as equals, rather than hold an equal amount of some valuable good(s) ([Anderson 1999](#); [Scheffler 2003](#); [Wolff 1998](#)). Whilst the content of such a claim was—and many argue continues to be—somewhat vague, relational egalitarianism stands as distinctly opposed to relations of inferiority, domination, arbitrary power, status, and disesteem. Accordingly, relational egalitarians maintain that distributive equality is not important in and of itself, but it matters only if—and to the extent that—it is necessary for persons to stand in relations of equality with one another. However, if relational equality stands as an alternative (or at least an addition) to distributional equality, then how is relational equality supposed to stand with respect to basic equality?
Prima facie, the most intuitive proposal would be something like:

(5d) Egalitarianism Thesis (Relational): That all human beings are one another’s equals implies that all human beings must relate to one another as equals.

In Chapter 2, ‘Basic and Relational Equality’, Jeremy Waldron explores this thesis. In particular, he considers two different possible ways in which (5d) might be true. The first is that relational equality is implied by basic equality because the former defines the latter. On this view, simply what it means (or at least should mean) for us to be one another’s equals is to owe each other relations of equality: the absence of inferiority and superiority, dominated and dominator, esteemed and disesteemed, and so forth. However, Waldron observes that this view is unable to account for the non-relational implications that are entailed by basic equality: for instance, ‘If X is punished much more severely for a given offence than Y is, then there ought to be some sort of egalitarian concern about the disparity whatever the impact is on the relationship between X and Y (if indeed they are even known to one another)’ (Waldron, this volume: 76). It follows from this then that relational equality is only an aspect—albeit a very important one—of what it means for us to be one another’s equals.

Accordingly, Waldron’s main contention is that basic equality and relational equality are to be understood as two distinct normative commitments. Specifically, the former must ground the latter:

(5e) Egalitarianism Thesis (Relational grounding): The fact that all human beings should relate to one another as equals must be grounded upon the fact that we are all one another’s equals.

It is at this very point that Kasper Lippert-Rasmussen, in Chapter 3, ‘Should People Who Are Moral Equals Relate as Social Equals? Should People Who Are Not Moral Equals Relate as Social Unequals?’, takes his point of departure. First, Lippert-Rasmussen rejects (5d). He
argues that relational equality, at best, is a possible, indeed instrumental, implication of the commitment to basic equality, understood as a commitment to something falling within the scope of the Basic Equality Thesis (1b), whereby ‘all human beings are one another’s equals in some (any) morally significant sense’. However, secondly, and more importantly, contra Waldron, Lippert-Rasmussen also denies (5e). He aims to demonstrate that we can have sufficient reasons for relational equality even if (1b) is false. Specifically, Lippert-Rasmussen argues that relational equality is compatible with holding that although persons do not have equal moral status, they either (i) have an incommensurable moral status, or (ii) they each have a sufficient moral status, such that a sufficient number of important things cannot be done to them. Lippert-Rasmussen’s chapter, then, is an attempt to cut one contemporary theory of justice—indeed an avowedly egalitarian theory—free of needing to assume basic equality. In doing so, he comes to question all the other theses above: but most dramatically the Negative Thesis (8), as he is willing to concede that we may not be equals. However, far from being an implausible conclusion, this—so Lippert-Rasmussen argues—is a significant result because, despite the widespread popularity of basic moral equality, ‘it is far from clear that there is any real prospect of a knock-down argument for basic moral equality being provided by those who subscribe to it’ (Lippert-Rasmussen, this volume: 25).

In the last chapter of Part I, Chapter 4, ‘Is There a Thing Called Moral Equality? (And Does It Matter if There Isn’t?)’, Andrea Sangiovanni might be thought to be offering, on the one hand, a more radical decoupling of normative theory from basic equality than Lippert Rasmussen, and, on the other hand, a way of avoiding the radical implication of rejecting the Negative Thesis (8). In particular, Sangiovanni’s negative argument aims to show that the main senses in which contemporary theories claim that all human beings are one another’s equals—

6 This kind of argument is anticipated by Cupit (2000) and Morgan (1943).
such as the idea that persons have equal fundamental rights, or the view that their comparable interests ought to matter equally—are ‘otiose’. Akin to Lippert-Rasmussen, his aim is to show that basic equality does no real work in most moral theorizing: both the Disciplinary Thesis (2) and the Methodological Thesis (3) are false. This, however, does not mean that we should abandon the commitment to moral equality; rather, we must reinterpret it. To do this, we need to distinguish between two distinct roles that the commitment to moral equality has historically played in political and social discussion. First, it has undermined ‘the structures that serve to enable the oppression of the ‘inferior’ by the ‘superior’—structures, that is, constituted by (objectionable) social status hierarchy’ (Sangiovanni, this volume: 110). Second, it has provided the basis for extending our moral concern to at least some nonhuman animals. Crucially, Sangiovanni observes, arguments for the moral status of nonhuman animals and against social status hierarchy come apart. This has two significant implications: first, it reveals that arguments for moral equality are neither necessary nor sufficient to justify social status equality. This is a direct rejection of Waldron’s (5e) thesis above. Second, it shows that our commitment to social status egalitarianism should ultimately be understood as a commitment against relations of inequality.

4. The Explanation of Basic Equality

4.1 The End of Ecumenicism: Why the Basis of Basic Equality Matters

Following the Explanatory Thesis (6), it is an intuitive assumption that if we are one another’s equals, then surely there is some kind of explanation for that fact. But as foreshadowed above, ...

7 For further discussion, see also Lucas (1965: 298), Raz (1986: 219–220), Westen (2014), and Wollheim (1955: 288).
and as we shall detail further below, there is a seemingly intractable problem, or indeed, as we shall distinguish, at least two problems in providing that explanation. However, it was also noted above that current normative theorists in general are largely complacent about such a problem, since any solution (or lack thereof) would be ecumenical with respect to them: that is, (7) the Ecumenical Thesis—no comparative dialectical advantage turns upon if and how our basic equality is explained. Yet the developments outlined in the preceding section provide two reasons to hold that (7) is false.

First, if we follow Lippert-Rasmussen’s and Sangiovanni’s arguments above, then we can explain the justice of relational equality without reference to the fact that we are one another’s equals. Putatively, therefore, they offer the prospect of a plausible contemporary normative theory that does not rely upon the claim ‘that we are all one another’s equals’ in any sense. This position denies the Disciplinary Thesis (2b)—‘all plausible theories are premised upon the claim that “all human beings are one another’s equals” in some (any) morally significant sense’. This means, however, that any problem of basic equality that exists for other theories is not their problem. And thus, if others cannot find a solution to that problem, then ceteris paribus relational egalitarians have a comparative dialectical advantage over them.

Alternatively, even if Lippert-Rasmussen and Sangiovanni are wrong, and (2b) remains true, there is still reason to hold that (7) is liable to be false, because (2a) is false. That is, even if, in accordance with (2b), all plausible normative theories have a premise that holds that we are all human beings in some (any) morally significant sense, if that is a different sense in each theory, then it is likely that both the explanation(s) for, and the implication(s) of, the truth of such different ways in which we are equals will themselves be different. For example, why would we expect the explanation (if any) of the fact that we have equal worth to be the same as the fact that we have equal dignity, or equal value, or interests of equal concern, or so on? And why would we expect the implications of such an explanation for the rest of normative
theory to be the same? As Ian Carter is fond of reminding us in this context, citing Joseph Raz, ‘the ground of an entitlement determines its nature’ ([Carter 2011]: 542; [Raz 1986]: 223).

Either way, the upshot is that assessing the competing explanations and meanings of basic equality matters for normative theory, far more than has been hitherto appreciated. Complacency about it is unjustified. Even if one continues to sustain the Negative Thesis (8)—that no one can plausibly deny that we are one another’s equals—then it still matters how one goes about not denying it.

4.2 Grounding and Justification

Before introducing the problem of explaining basic equality, it is worth addressing one particular difference of terms within the existing literature, and indeed this volume. Some authors speak of the problem of ‘grounding’ basic equality, others of ‘justifying’ basic equality, and others use the terms interchangeably. Obviously, terms can be defined in any way an author wishes, but two concepts do need to be distinguished.

In contemporary metaphysics, ‘grounding’ has become a technical term. In short, ‘A grounds B’ is a relationship of explanation. It is the because or in virtue of relationship. For some, causal explanations fall within its scope. For others, it’s the term we use to refer to non-causal explanations, such as constitutive or normative explanations. For some, grounding is a relationship between predicates, such that having X grounds having Y. For others, grounding is a connective between sentences such that ‘A has X’ grounds ‘B has Y’. Without any need, however, to adjudicate these technical disputes, and just adopting the latter usage, we can say
that the search for the ‘basis of basic equality’ is looking for a fact that grounds the fact that we are one another’s equals.⁸

‘Justification’, at least within normative theory, is typically understood as sufficient reason to promote, realize, and/or respect that state of affairs; or what ‘makes it right for someone to act in a certain way’ (Alvarez 2017). Something is unjustified, or lacks justification, therefore, if it lacks a reason to promote, realize, and/or respect that state of affairs (or nothing makes an action ‘right’). However, in the normative domain, one might take justification to be the ground of facts about normative states of affairs. For example, we might say that the fact that your life will be saved by this healthcare policy might be taken, ceteris paribus, as a justification for securing it. But we can also say that the fact that your life will be saved by this healthcare policy, ceteris paribus, grounds the fact that we should secure it. However, compare:

Grounding of Basic Equality: By virtue of the fact G, it is true that we all have equal worth.

⁸ Until this recent analysis emerged, philosophers often used the term ‘grounding’ interchangeably with ‘supervenience’, including in debates about basic equality. But, at least now, the term ‘supervenience’ is taken to be a logical relation between properties, that is, property A supervenes upon property B, such that there is a kind of reciprocal entailment in their instantiation. If and only if X has A, then X has B, or for any object, no change with respect to A can occur without a change with respect to B and vice versa. Supervenience, therefore, unlike the grounding relations does not presuppose an explanatory relationship. Further, they have different extensions: A may ground B, without B supervening upon A. For example, when B is over-determined, such when other properties would explain B’s instantiation, if A were not instantiated (Berker 2017: 735; Fine 2012: 38; McLaughlin 1995).
**Justification of Basic Equality:** Fact J is sufficient reason to promote, realize, and/or respect a state of affairs where we all have equal worth.

The first claim leaves open the possibility that there is no particular reason why we *should* be equals. Fact G makes it true that we are equals but does not necessarily make it true that this is a valuable state of affairs. By contrast, the second claim is precisely asserting a reason why we *should* be equals (perhaps if we were not now, or were liable to become unequals in the future). Fact J makes it true that our equality is a valuable state of affairs, but not necessarily that we are (always) one another’s equals.

With this distinction in hand, we take most but not all theorists of basic equality today to be discussing the *grounding* of basic equality, not its justification (if any). However, early work on basic equality does explore the latter. This is why for example George Morgan, Henry Spiegelberg, and Isaiah Berlin all discuss basic equality as a putative *ideal*, not just an idea—something to be achieved, not merely explained—and thus see the need to address the apparent implication of such an ideal that we ought to *equalize* certain personal qualities, making us all uniform in any, or indeed all, domains (Berlin 1955; Morgan 1943; Spiegelberg 1944). In a cognate fashion, for example, in this volume Andrea Sangiovanni argues that a search only for grounding without justification would lead to a position that: ‘If it turns out that there is no morally relevant range or binary property on which moral status might be grounded then [one] would be happy to welcome inequalities in status among people with (presumably) different psychological capacities’ (Sangiovanni, this volume: 107). Since he holds that to be an acceptably counter-intuitive conclusion, he presses that we must instead be searching for a justification of basic equality instead: why equality in status amongst human beings is always, regardless of such capacities, a state of affairs to promote, realize, and respect. Indeed, for
Sangiovanni this is part of why we should turn away from the search for a grounding for basic equality at all, and instead aim to articulate a free-standing justification of relational equality.

Whether basic equality needs a grounding and/or a justification is an important question. But our only point here is to highlight the need for theorists of basic equality to distinguish more carefully grounding and justification in terminology, so that they might position themselves clearly within this debate.

4.3 The Problem of the Explanation of Basic Equality

In Section 3, we emphasized the apparent multiplicity of possibly conflicting senses in which theorists have asserted that we are one another’s equals, and indicated that it is hard to find a coherent way in which one theorist could assert all of them—let alone everyone do so at the same time. The startling thing about the problem of basic equality, however, is that it entails the putative negation of all of them at the same time. It is the negation of (1b), not merely some particular version of (1a), that is at stake:

(1*) No Basic Equality: There is no morally significant sense in which we are all one another’s equals.

The argument for (1*) begins with the Explanatory Thesis (6): if we are one another’s equals, then there must be some explanatory basis for this fact. This basis—this grounding—will, putatively, explain why we are one another’s equals, and indeed why other entities are not, such as plants, or non-sentient animals (see Section 5.1). Thus, we expect the explanation to be a fact about us, something that holds true of only us, and not others. However, when searching for such an explanation we assume that we should limit the domain of possibilities in a few ways. First, we are looking for an empirical fact: if we want to explain the difference in moral status between empirical beings, then presumably we need to ground that difference (at least in part) in an empirical difference. Second, obviously, non-relevant properties are
also excluded candidates. For example, (almost) all human beings, and only human beings, have a long opposable thumb compared to finger length, but it is hard to foresee how any moral implication could be explained by this fact.

So we are in search of non-normative properties all human beings have, which all other beings lack, that could plausibly be morally relevant. Candidate properties are rationality, imagination, language, and capacity for virtue, among others. But this generates the following problem:

**Variation Problem:** Any plausible candidate basis of basic equality will come in degrees, and thus, *ceteris paribus*, any difference of degree in the candidate basis should ground a difference of degree in any morally significant property that it grounds.

For example, let us take what is typically assumed to be the most obvious candidate for the basis of human equality: rationality. ‘Rationality’, of course, is a complex concept, and can be defined in many ways, but in any way that one cuts it, human beings will be rational to differing degrees. Some human beings are just more reasonable, consistent, coherent, and logical in their beliefs, attitudes, and actions than others. However, so the argument goes: if the fact that we are rational is so significant that it grounds the fact that we possess some kind of basic moral import, then surely greater rationality will ground greater moral import? As Louis Pojman illustrates: ‘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

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9 For further discussion, see Jaworska and Tannenbaum 2023.
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’ (Pojman 1991: 484–485).[^12] There is what Richard Arneson describes as a kind of inescapable ‘pressure of reason’ to so conclude (Arneson 2014: 36).

The Variation Problem is such a significant challenge because it does not merely appear to exclude an explanation for why we are all one another’s equals, that is, the No Basic Equality thesis (1*), but instead invites explanations for the fact that we are all unequals. Any argument that one might make for the fundamental moral import of any particular property that comes in degrees, like rationality, can easily serve as a premise in the argument that, by the pressure of reason, surely, we must be one another’s equals, that is:

(9) **Basic Inequality**: We are unequals with respect to one another.

Following (8), some might take (9) to be a somewhat idle conclusion: something no one, in good faith, could rely upon in normative argument. But counter-examples exist, not just in popular culture, but in contemporary philosophy (Kekes 2003; Steinhoff 2014). Yes, sexist, racist, able-ist, and other discriminatory views are included within this set. Indeed, it may be no coincidence that interest in the basis of basic equality emerged among Anglo-American authors in 1942–1945. However, as Uwe Steinhoff has powerfully argued, such a dark history of inegalitarian views should not be taken to discredit all such views (Steinhoff 2014: 142–145). Indeed, as he observes, only a respectable theory of basic inequality, grounded in a plausible basis of unequal moral worth, can explain why human beings—like Adolf Hitler—are our moral unequals due to their evil. Is that not an attractive conclusion?

[^12]: For further discussion, see also Carter (2011: 541), Christiano (2014: 56), Floris (2023a: 38–39), and Kirby (forthcoming).
4.4 Overview of the Chapters

Over the last eighty years, a number of solutions, or dissolutions, of the ‘Variation Problem’ of 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 non-normative fact about humans: it is just an ungrounded fact (Gosepath 2014; cf. Husi 2017: 388). Or, insofar as it is grounded, it is grounded in our ‘humanity’, and whatever then grounds the fact that we are human (Frankena 1962; Vlastos 1984; cf. Schaar 1964: 875–884; Wilson 1966: 93). 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 must choose to assume about humans when engaging with them (Arendt 2006; Macdonald 1946; Phillips 2021; cf. Waldron 2017: 55–61). Or, one might accept the starting assumption of the argument above, but argue that the non-normative property may be theological (Waldron 2017: 175–214; cf. Thomas 1979: 539–540) or transcendental (Kant 1996; cf. Williams 1973), thus avoiding any presumption that it is likely to be spread unevenly amongst us. Or, one might argue that Basic Equality follows as a formal principle of rule application (Frankfurt 2015; Lucas 1965; Westen 2014; cf. Waldron 2017: 66–83). Or, one might look to the universal prohibition against treating others as inferiors (Sangiovanni 2017; cf. Floris 2019). Or, one might argue that the basis of moral equality lies in an independent moral requirement which offers a coherent and plausible explanation for why the variations to which the status-conferring property is held above a significant threshold are morally irrelevant (Carter 2011; Floris 2023b; cf. Arneson 2014: 44–48). Or, one might even concede that Basic Equality may be false but hold that some (many?) moral arguments need not actually rely upon it to justify many forms of so-called egalitarian rights (Husi 2017; Steinhoff 2014; cf. Waldron 2017: Ch. 1).
All of these strategies have, so far, met powerful counterarguments (duly cited). Thus, Part II of this volume includes a mix of prominent contemporary arguments, revised and redefined, and new strategies to overcome the variations problem.

In Chapter 5, ‘Basic Equality and the Contexts of Opacity Respect’, Ian Carter returns to defend an answer that he first proposed in his 2011 paper ‘Respect and the Basis of Equality’ (Carter 2011). Carter’s proposal begins with a position which was first put forward by John Rawls. Rawls appreciated the Variation Problem. His solution was to isolate what he called a ‘range property’. A range property is non-scalar—it does not come in degrees—unlike the other scalar candidate properties for basic equality hitherto discussed. More precisely, the range property is the non-scalar property of holding some scalar properties within a certain range; hence, it is either possessed or it is not. A non-scalar property, however, so the thought goes, may ground a property that is scalar, but in doing so ceteris paribus will ground the same degree in that latter property. However, prima facie, there appear to be no relevant non-scalar properties that all, and only, humans possess. So for Rawls the basis of basic equality was having ‘moral personality’, which is the range property of holding the capacities to form a conception of the good and have a sense of justice above a ‘minimum threshold’. Two problems, however, arise for Rawls’s range property view. The first is providing a reason for marking the threshold at any particular point (the ‘arbitrariness objection’) (Arneson 1999; 2014). The second is explaining why, even assuming the threshold is non-arbitrary, we actually have a reason to ignore differences in the ‘underlying’ scalar property above the threshold (the

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11 Since without relevant difference in grounding property, there is no reason for a difference in grounded property.
underlying Variation Problem, *redux*). In short, it is not clear that Rawls has made much progress at all.

Carter’s proposal aims to address the second objection. His argument is that merely passing the minimum threshold of the range property of moral personality triggers, for others, in certain domains, a duty of what he calls *opacity respect* to refrain from taking into account the varying subvenient agential capacities above the relevant threshold. Accordingly, a commitment to opacity respect provides an independent explanation for the moral salience of the range property.

In this chapter, Carter addresses one of the most pressing objections that has been raised against his view: according to this line of critique, persons do not have a fundamental duty to treat each other as opaque—indeed opacity respect is even an inappropriate moral attitude at least in some contexts, such as more intimate interpersonal relations. But if this is true, then opacity respect is unable to offer a compelling explanation for the appropriateness of treating people as equals ([Arneson 2014; Wollner 2014]).

To address this challenge, Carter distinguishes between different ‘contexts of practical reasoning’, which provide different kinds of reasons for treating persons in a certain way. Carter argues that, on the one hand, while opacity respect is not appropriate in all contexts, neither is a commitment to basic equality; on the other hand, the contexts in which opacity respect is appropriate are also those in which we generally believe that persons should be regarded as equals. The upshot is that an appeal to opacity respect explains when and why it is appropriate to consider and treat persons as equals.

In *Chapter 6*, ‘Equal Moral Status and the Collective Nature of Rationality’, Thomas Christiano proposes a defence of the range property view which, unlike Carter’s, does not rest on a commitment to an independent moral requirement. Christiano holds that human rationality—that is, the imperfect ability to apprehend what is valuable—grounds persons’
basic moral status. This, however, gives rise to the Variation Problem—or, as Christiano calls it, the ‘continuity argument’: if the possession of rational capacity grounds status, why does not the possession of greater rational capacity ground superior moral status? Christiano develops two arguments in response to this challenge. The first is a negative and intuitive argument, according to which it appears unfair to give greater opportunity for wellbeing to those persons who have a higher rational capacity because this amounts to ‘giving more to those who have more’. Christiano calls this the fairness consideration.

The second positive argument is based on the collective nature of rationality. Specifically, the ‘Participation Argument’ runs as follows: ‘A. Each person’s status is grounded in their capacity to participate in the collectively rational process. B. If their status is grounded in the capacity to participate in the collectively rational process, then their status is determined by the impersonal worth of the collectively rational process. But C. If each person’s status is grounded in the same thing, then it is grounded in something of the same impersonal worth. D. If each person’s status is grounded in a thing with the same impersonal worth, then each person must have equal status. Therefore, each person has equal moral status’ (Christiano, this volume: 163).

Christiano defends the Participation Argument from several objections: first, one may argue that if persons’ moral status is grounded in their capacity to participate in the collectively rational process, then unequal degrees of capacity to contribute to the collective process should generate unequal degrees of moral status. But Christiano rejects this objection by observing that it has the implausible implication of making persons’ moral status contingent on arbitrary factors—such as what society or historical moment they live in. This is the ‘Societal Variation Argument’. However, Christiano notes that the Societal Variation Argument may be unable to justify the moral equality of all persons because there may be some persons whose capacities are less valuable in any society. For example, severely disabled but still rational persons may
be less capable of occupying any role in society. This is the ‘Extreme Disability Argument’. One possible answer to this objection is to expand the set of possible societies—not only socially, but also physically and logically possible—so as to have a more inclusive account of the value of a person’s participation in the collective rational activity. While this answer has some plausibility, insofar as it makes the degree of persons’ moral status invariant across possible worlds, Christiano observes that it is ultimately unclear what is the limit of the set of possible societies in which the variability of participation is relevant. The Participation Argument may, therefore, be unable to justify the moral equality of all human persons.

In Chapter 7, ‘Basic Equality: Worth, Luck and Weight’, Nikolas Kirby begins with a proposal he suggests might assist both Carter and Christiano, among other ‘range property’ advocates (for example, Rawls (1971) and Waldron (2017)). This is to substitute the search for a so-called range property for what he terms a ‘bare property’. A bare property is also a non-scalar property defined by reference to a scalar property. But unlike a range property, it does not require defining any range on that scalar property by reference to some threshold(s). Instead, it is simply the ‘bare’ property of having any (some) degree of the underlying scalar property. Hence, a plausible bare property basis for basic equality would be a property—like say moral reasoning capacity—that (almost) all and only humans have to any degree at all. Without the need to define a threshold on the underlying scalar property, then, one of the problems facing the range property strategy disappears: the arbitrariness objection. We are still left, however, with the Variation Problem. However, unlike Carter, but somewhat akin to Christiano’s intuitive ‘fairness argument’, Kirby’s strategy is an attempt to explain how we can base equality upon a bare property in a way that properly considers variation in the underlying scalar property, rather than explaining why we should ‘ignore it’.

Kirby’s strategy is in fact inspired by a suggestion found within one of the original papers on the problem of basic equality by Henry Speigelberg (1944). Drawing upon Spiegelberg,
Kirby argues that (almost) all and (perhaps) only human beings have rational agency to some (any) degree. On this basis, (almost) all and (perhaps) only human beings can live lives of any degree of moral worth in the sense of worthy of genuine praise, resentment, and other reactive attributes. Of course, in part as a function of differences in degrees of moral agency, human beings will lead lives of different degrees of moral worth. But Kirby argues that the prohibition on circumstantial moral luck entails that the former differences should discount the latter. The result, he argues, is that each human being, because of having some (any) degree of moral agency, has equal ability to attain any degree of moral worth, regardless of what particular degree of moral agency they possess.

Whilst the arguments in Chapters 5, 6, and 7 constitute different direct solutions to the Variation Problem of basic equality, the subsequent three chapters constitute more ‘indirect’ (dis)solutions. Each aims to undermine, in some way, the very assumptions that create the problem in the first place.

In Chapter 8, ‘Equality and Moral Status: Challenges to Their Grounding’, Agnieszka Jaworska and Julie Tannenbaum develop a comprehensive account of different kinds of moral equality, and elaborate a novel response to the Variation Problem. First, they distinguish between four different kinds of moral status: Moral Status #1 concerns regard for an entity’s existence and welfare; Moral Status #2 concerns regard for an entity’s autonomy; Moral Status #3 concerns opacity towards an entity’s agential capacities; Moral Status #4 concerns treatment of individuals by social systems (political, legal, economic, linguistic, etc.). Jaworska and Tannenbaum explain that an entity can have more than one type of moral status, and that while different kinds of moral status identify different areas of moral concern, ‘degrees of status mark variations in the extent to which we should have that type of concern’ (Jaworska and Tannenbaum, this volume: 204). This gives rise to two questions: (1) In virtue of what does an
entity have (at least one type of) moral status? (2) Do entities have the same degree of moral status?

As to the former, Jaworska and Tannenbaum argue that a plausible theory of moral status should be neither under-inclusive nor over-inclusive (see discussion of the Scope Problem below, Section 3). Hence, drawing on their previous work (Jaworska and Tannenbaum 2014), they argue that a high degree of Moral Status #1 should be grounded in the incomplete realization of sophisticated cognitive and emotional capacities: such an account provides a principled and compelling justification for why (almost) all human beings have a high degree of Moral Status #1, and their moral status is superior to that of (almost) all nonhuman animals.

This view, however, seems vulnerable to the Variation Problem: if the relevant capacities are held to unequal degrees, how can their possession ground equal degrees of moral status? In response, Jaworska and Tannenbaum observe that the Variation Problem implicitly rests upon what they call the ‘Continuity View’: ‘if B is the basis of an M degree of X, then a greater degree of having or exhibiting B corresponds to a greater degree of X’ (Jaworska and Tannenbaum, this volume: 213). This view, however, cannot simply be assumed, but must be argued for.12 Thus, Jaworska and Tannenbaum attempt to show through several examples that it is intuitively plausible to maintain that the possession of different degrees of status-conferring properties can nonetheless give rise to rights of equal strength. Hence, they conclude that we have compelling reasons to hold that what matters is that entities possess a significant property up to a sufficient degree, and that they have equal moral status regardless of the variations above the relevant threshold.

12 A similar line of argument has recently been proposed also by Zoltan Miklosi (2022).
In Chapter 9, ‘When Equality Needs No Justification’, Anne Phillips put forwards a radical and powerful response to the problem of explaining equality: Phillips’ main contention is that we should reject the Explanatory Thesis (6)—‘if we are one another’s equals, then there must be some explanatory basis for why we are one another’s equals’. In her view, while we can, and arguably should, engage in arguments about why equality matters, we should refuse to seek a justification for why we ought to regard other humans as our equals. Basic moral equality is ‘a commitment we make to ourselves and others to regard one another as equals’ (Phillips, this volume: 225).

In particular, Phillips argues that current theories of the basis of moral equality fail in several ways: first, by anchoring moral equality to the possession of some intrinsic features, they embrace a logic of justification which has historically legitimized the exclusion and the subjugation of several groups of human beings—such as women and people of colour—deemed to possess morally relevant features to an inferior degree. Second, the language of ‘moral equality’ deprives equality of much of its normative force by suggesting that what matters is that people are considered and treated as moral equals in a minimal sense, despite severe material inequality between them. Finally, current theories of moral equality rely on the language of ‘moral worth’ and ‘moral status’ which makes individuals’ possession of basic human rights conditional on meeting some presumed standard of sufficient worthiness, thereby inevitably opening the possibility that some people have greater moral worth than others.

5. The Scope of Basic Equality

5.1 The Scope Problem: Who Is a Moral Equal?

Let us concede that a solution of some kind, direct or indirect, exists for the Variation Problem of basic equality. This, however, is not the only challenge that theories of basic equality must
face: indeed, a theory of basic equality must also define the scope of the beings that have equal moral status, that is, it must determine who is a moral equal. Theories of basic equality must therefore address the following problem:

**Scope Problem**: For any plausible candidate basis of basic equality, there exists (or possibly exists) a human who lacks that basis, and/or a non-human entity who has that basis.

Different views of the scope of basic equality have been proposed in the literature. Some have defended the following version of (1), the Basic Equality Thesis:

**(1c) Basic Equality (of Human Species)**: All human beings are one another’s equals *qua* human beings.

This idea is prominent in the Jewish and Christian traditions, for example, which maintain that human beings are one another’s equals (and superior to all other entities) because they are God’s special creatures. But (1c) has also been defended on secular grounds. Thus, some have argued that human equality is based in the membership of the species *homo sapiens*: all human beings are moral equals simply by virtue of being human beings (Williams 2006: Ch. 13). The speciesist account of moral equality, however, has been strongly criticized: many have pointed out that species membership is simply a biological

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13 For instructive discussions of Christian accounts of moral equality, see Sangiovanni (2017: 27–31), and Waldron (2017: Ch. 5).
feature that has no moral significance in and of itself. Hence, speciesism is a wrongful form of discrimination, which can justify neither human moral equality nor human moral superiority (McMahan 1996; Singer 2011).

In light of this criticism, several philosophers have attempted to identify an intrinsic property which is morally significant and therefore can be a plausible candidate for the basis of moral equality. According to these views, then, those beings that possess the relevant status-conferring property are one another’s equals in virtue of being ‘moral persons’:

(1d) **Basic Equality (of Persons)**: (Almost) all human beings are moral equals *qua* moral persons.

Many have claimed that the possession of highly sophisticated cognitive capacities—such as the capacity for rational and moral agency—offers a plausible justification for why persons are each other’s equals and superior to nonhuman animals and other living entities.\(^{14}\)

Critics, however, have pointed out that these views are objectionably under-inclusive. Indeed, grounding basic equality in the possession of sophisticated capacities has the disturbing implication of excluding many human beings who do not possess such capacities, such as infants and severely cognitively disabled human beings, from the scope of basic equality. This is known as the *under-inclusiveness objection* (Floris 2021).

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\(^{14}\) Most notably, this position has been defended by Kantian theories of the basis of basic equality. See Christiano (2014), Kant (2002 [1785]) and Rawls (1971). For a recent attempt to defend a more inclusive Kantian view capable of ascribing moral status also to nonhuman animals, see Korsgaard (2018).
Accordingly, in response to the under-inclusiveness objection, it has been argued that the scope of basic equality should be broadened: the possession of highly sophisticated cognitive capacities is not necessary for being a moral equal. This line of argument has been defended most prominently by animal ethicists—such as Peter Singer and Tom Regan—who hold that basic equality is grounded in ‘sentience’ (Singer 2011) or ‘being-subject-of-a-life’ (Regan 1983). Since both human beings and (most) nonhuman animals are sentient beings and ‘subjects-of-a-life’, they ought to be considered and treated as each other’s equals. Some environmental ethicists have gone a step further, contending that the scope of basic equality should be expanded even more widely: this is because an entity counts morally simply if it is ‘alive’ (Schweitzer 1929) or is ‘a teleological-center-of-life’ (Taylor 2011 [1986]; cf. Floris and Porro forthcoming). It follows from this that not only nonhuman animals but also all living entities have equal moral status. These theories of animal and environmental ethics, then, reject 1(d) in favour of:

1(e) **Basic Equality (of Living Entities):** All human beings and (most) nonhuman animals (as well as (most) other living entities) are moral equals.

However, some have observed that these theories of basic equality avoid the under-inclusiveness objection only at the price of being over-inclusive. As we have seen, in fact, these theories entail that nonhuman animals (and other living entities) have a moral status that is equal to that of some human beings. But many find this conclusion hard to accept. What we need, instead, is a theory of the scope of basic equality which is capable of including (almost) all human beings within its scope while at the same time providing a principled justification for why human beings have a moral status that is superior to that of nonhuman animals and other living entities. Thus, for instance, Jaworska and Tannenbaum have argued
that the possession of the capacity to engage in ‘person-rearing relationships’ is a necessary and sufficient condition for having full equal moral status ([Jaworska and Tannenbaum 2014]). Others have affirmed that beings who have the potential to become rational agents are moral equals (Arneson, this volume; [Kagan 2019]). Since the capacity to engage in ‘person-rearing relationships’ and the potentiality to become rational agents are significant properties that almost all human beings possess—but nonhuman animals and other living entities lack—these views might be able to account for (i) the moral equality of (almost) all human beings, and (ii) the human moral superiority over all other living entities. In other words, they offer an attempt to rescue 1(d) from the under-inclusiveness objection without endorsing the over-inclusive 1(e).

The Scope Problem is a pressing challenge that any theory of basic equality must face. As illustrated above, the literature on ‘basic equality’ shares this Scope Problem with a cognate literature of practical ethics on ‘moral status’, inclusive of animal rights, the rights of the unborn, disability rights, and now emerging theory on artificial intelligence. Somewhat surprisingly, however, despite sharing this problem, theorists of basic equality and moral status have rarely engaged with one another. In order to initiate just such exchange, the last set of chapters aims to explore how to address this problem, in light of particular solutions to the Variation Problem. If nothing else, they demonstrate just how much any theorizing about the so-called margins of basic equality—such as with respect to children, human foetuses, humans with severe mental disabilities, the truly evil, higher-primates, ancestor species, super-intelligent robots, and the like—will depend upon the explanation of our equality in central cases.

5.2 Overview of the Chapters
Part III begins with Giacomo Floris’ chapter, ‘The Basis of Children’s Moral Equality’, which examines how the Variation Problem can be overcome when this applies to the question of the explanation of children’s moral equality. According to Floris, the basis of moral equality is to be found in a fitting, basic, and independent moral attitude that offers a coherent and plausible rationale for why the variations above the threshold for moral status are morally irrelevant (Floris 2023b). Floris’ chapter then starts with a critical discussion of what is arguably the most influential attitude-based view of the basis of moral equality: Carter’s (2011) theory of opacity respect. Floris argues that while Carter’s view offers a plausible explanation for the equal moral status of persons—understood as fully competent adults who hold a wide range of sophisticated agential capacities—it is unable to account for the moral equality of children. This is because opacity respect is either not an appropriate response to children’s moral status, or it is not basic to what we owe to children. Hence, opacity respect does not have enough normative weight to justify a solid commitment to children’s moral equality.

Floris thus contends that children’s moral equality must be grounded in another kind of moral attitude which is owed to children qua moral status holders. In particular, children’s moral equality is entailed by a commitment to a duty of what he calls ‘positive respect’, which requires providing children with those social conditions that foster their developmental process into well-adjusted adults endowed with a proper and stable capacity for moral personality. The reason for this is that unequal consideration and treatment precludes, or at least is a significant obstacle to, the provision of some goods that are crucial to the cultivation of proper and stable capacity for moral personality, namely, a robust sense of self-respect and access to integrated friendship. Therefore, it is inconsistent with a duty of positive respect towards children. Hence, children’s moral equality is a constitutive requirement of what is owed to children qua moral status-holders.
In Chapter 11, ‘Basic Human Moral Equality’, Eva Feder Kittay defends the 1(c) Basic Equality (of Human Species) Thesis: ‘All human beings are moral equals *qua* human beings’, by arguing that being human is a sufficient—yet not necessary—condition for having full equal moral status. First, Kittay develops a critique of moral individualism, the view according to which moral status is ascribed not on the basis of species membership, but in virtue of a being’s intrinsic properties. She rejects Singer’s (2011) theory of moral equality by showing that it rests on an inadequate knowledge of the human beings that he excludes from the scope of equal moral status. This leads Singer to attribute to cognitively disabled human beings fewer and less developed capacities than those that they actually possess, thereby making implausible comparisons between them and some nonhuman animals—such as, for example, normally functioning chimpanzees.

Kittay also criticizes McMahan’s (2003) moral individualist account, which measures the degree of a being’s moral status according to the degree of its psychological unity—the higher the degree of psychological unity, the richer a being’s life is. She argues that this view is vulnerable to two pressing objections: first, it is reasonable to maintain that the amount of goodness and the capacity for goodness in a being’s life are not fixed. But if this is true, does that mean that our moral standing varies throughout our lives? Few would accept this conclusion. Second, even assuming that capacities are fixed, who determines what counts as good—especially in the case of interspecies comparisons? McMahan’s theory, then, does not offer a principled and plausible way of determining the degree of a being’s moral status.

In light of the difficulties, Kittay argues that we should reject moral individualism in favour of a relational view which grounds our moral obligations on the special relationships we stand in towards each other. For example, Kittay argues that her disabled daughter has equal moral status not because she holds some valuable properties, but because she stands in a special relation to her. Crucially, this kind of special relationship ought to be recognized as morally
significant by everyone—not only by those who partake in it—thereby grounding one’s equal moral status in the eyes of everyone. More generally, then, Kittay’s main contention is that all human beings are moral equals because they are all a ‘mother’s child’.

In previous work, George Sher argued that humans are moral equals because they all have a subjective perspective of their own, that is, humans have—or are—a separate consciousness (Sher 2014). However, as several critics have pointed out, Sher’s view seems to entail that at least some nonhuman animals have a moral status that is equal to that of human beings: after all, cats and dogs, for example, also have subjective perspectives. So, why ought humans to be considered and treated as morally superior to nonhuman animals? Sher’s view, then, appears to be committed to a version of 1(e), Basic Equality (of Living Entities): ‘All human beings and (most) nonhuman animals are moral equals’ ([Arneson 2014: 44–45]). In Chapter 12, ‘First among Equals’, Sher defends his theory of basic equality from this pressing objection.

Sher does not deny that this implication follows from his view, but contends that this is not an implication that we should resist because it is compatible with favouring humans over nonhuman animals. The reason for this is that the fact that all persons are moral equals and facts about persons’ circumstances relevant to whichever principles we accept enter at different stages of our moral deliberations. For instance, we can consistently claim that all persons are moral equals, but that those persons who have committed crimes must be punished, whereas those who have not should not similarly be punished, because ‘committing a crime’ is a relevant fact that must be taken into account when determining what is owed to persons as equals. Analogously, then, holding that humans and nonhuman animals are moral equals is consistent with affirming that they ought to be treated unequally in accordance with the ways in which they differ. But what exactly are the factual differences that justify unequal treatment between human beings and nonhuman animals, and what kind of unequal treatment might they licence? Sher observes that it seems reasonable to hold that the greater mental powers of
humans provide us with a plausible explanation for why our duties to humans are not the same as those that we owe to animals. However, what exactly is the difference in the content of these duties will, in turn, depend on the moral outlook—for example, act-consequentialism or contractualism—that a normative theory is based upon.

In Chapter 13, ‘Basic Equality, Rational Agency Capacity, and Potentiality’, Richard Arneson elaborates a defence of the Rawlsian range property view, according to which persons are moral equals because they all possess some significant rational agency capacities within a certain range. As observed above, the range property view has been subject to several criticisms: first, it is difficult to determine the minimum degree of rational agency capacities necessary to qualify for personhood in a non-arbitrary way. Second, it looks as if the range property view simply stipulates that the variations above the relevant threshold do not matter, thereby begging the question against the Variation Problem.

In response, Arneson notes that the appeal of the range property view—or what he calls the ‘rational agency capacities’ (RAC) account—stems from the fact that it offers a convincing explanation for a wide array of common-sense moral beliefs, such as: the special and unique value of human beings; the unequal moral considerability of nonhuman animals; and the rejection of speciesism. In this sense, the RAC account allows us to reach a ‘reflective equilibrium’ between our moral principles and our considered judgements about particular cases.

However, Arneson observes that the RAC account runs up against the ‘young childicide’ problem: late-stage foetus and new-born humans lack developed rational agency capacity and therefore are not protected by the deontic constraints associated with the full moral status of personhood. To avoid this disturbing implication, Arneson proposes a revision of the RAC account, which incorporates the potential to develop rational agency capacity, whose possession increases a being’s moral considerability. This, Arneson argues, provides us with
the theoretical resources to rule out ‘young childicide’, while at the same time affirming that young children have a moral status that is superior to that of nonhuman animals, who hold some developed rational agency capacities to the same degree but lack the potential for rational agency capacities. The RAC account, then, offers the most plausible defence of the 1(d) Basic Equality Thesis.

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