

Two concerns about the rejection of social cruelty as the basis of moral equality*

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Introduction

The principle of moral equality is one of the cornerstones of any liberal theory of justice. In particular, most liberal political philosophers maintain that moral equality is grounded in persons' dignity *qua* moral agents: it is in virtue of their possession of the capacity for autonomy that persons have *equal* moral status. As many have noted, however, “dignity-first”¹ accounts of moral equality are vulnerable to the so-called *variations objection*: if moral status is based on the possession of a scalar capacity – like the capacity for autonomy – which confers worth on its holders, why do those who hold that capacity to a higher/lower degree not have a superior/inferior moral status (Arneson, 1999, p. 107)?

In *Humanity without Dignity: Moral Equality, Respect, and Human Rights*, Andrea Sangiovanni sets out a novel theory of moral equality which promises to avoid the variations objection and thus provide a solid justification for persons' equal moral status. In brief, Sangiovanni argues that to ground moral equality we need not look for a property that is equally held; rather, moral equality

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¹ This terminology is Sangiovanni's (2017, p. 73). All references without indication of author and year of publication are to Sangiovanni (2017).

must be grounded in the rejection of treating others as inferiors insofar as this constitutes an act of social cruelty.

By starting from the wrongness of treating others as inferiors, rather than from the possession of a status-conferring property, Sangiovanni proposes an ingenious way of looking at the question of the basis of moral equality. In this short piece, however, I will raise two concerns about the rejection of social cruelty as the basis of moral equality: first, Sangiovanni's account seems to give rise to disturbing implications as to how those beings that have *basic* moral status relate to each other. Second, grounding moral equality in the rejection of social cruelty may fail to capture some wrongs *qua* violation of moral equality.

While these objections may not provide us with sufficient reasons to favour dignity-first views, they do point to some worries that Sangiovanni, and those who want to follow his approach to the question of the basis of moral equality, have to address.

1. Moral equality and basic moral status

Sangiovanni's view of moral equality rests on a distinction between two kinds of moral status: *basic* moral status and *equal* moral status. The former consists in "a being's moral standing to be treated only in ways that we could justify from a common perspective" (p. 61), whereas the latter "refers to a being's moral claim to be treated as an equal" (p. 61).

In this section, I argue that Sangiovanni's account entails disturbing implications with respect to how those beings that have *basic* moral status relate to one another. To do this, it will be necessary first to examine what grounds basic moral status and what grounds equal moral status in Sangiovanni's view.

Sangiovanni's argument for the basis of basic moral status proceeds as follows: 1) a being has basic moral status when that being matters in its own right and for its own sake; 2) only a being that has a conscious, evaluative stance on the world matters in its own right and for its own sake;

3) therefore, a being has basic moral status if, and only if, it has a conscious, evaluative stance on the world (p. 65).

Equal moral status, instead, is grounded in the rejection of social cruelty, which is defined as “the *unauthorized, harmful, and wrongful use of another’s vulnerability to attack or obliterate their capacity to develop and maintain an integral sense of self*” (p. 76, emphasis in the original). It follows from this that a being has equal moral status if, and only if, it has the capacity to develop and maintain an integral sense of self.

Sangiovanni observes that nonhuman animals, infants and severely cognitively disabled human beings do not possess the capacity to develop and maintain an integral sense of self (pp. 66, 107, 269).² Hence, these beings do not have equal moral status. But what does this entail? In Sangiovanni’s view, the possession of a capacity does not confer worth on its holders, but it only makes them vulnerable to a particular kind of wrong (p. 102). Accordingly, those beings that do not have the capacity to develop and maintain an integral sense of self do not have equal moral status because they are not vulnerable to social cruelty, not because they are less worthy. In other words, the difference in moral status does not track an inequality in moral worth, but a difference in the wrong to which a being is vulnerable. Therefore, nonhuman animals, infants and severely cognitively disabled human beings do not have equal moral status; rather, they have a *different* – not *inferior* – moral status.

Indeed, although nonhuman animals, infants, and severely cognitively disabled human beings do not have *equal* moral status, they have *basic* moral status for they have a conscious evaluative stance on the world (pp. 66, 107). This, however, gives rise to the following problem: if the moral status of nonhuman animals, infants, and severely cognitively disabled human beings is grounded in the same basis, then this may imply that they are one another’s moral equals. Sangiovanni himself seems to acknowledge this implication when he observes that:

² I set aside the borderline cases, such as children and mentally ill human beings (pp. 106-108).

[i]t is noteworthy that on my account ... we do not say that conscious, evaluatively sensitive nonpersons that could have been persons (e.g., severely cognitively disabled human beings) have a *higher status* than conscious, evaluatively sensitive nonpersons that couldn't have been persons. (p. 66; emphasis in the original)

This should also hold true, on pain of contradiction, for infants. Sangiovanni, however, argues that this is far from implausible because “what matters morally with respect to beings with conscious, evaluatively laden mental lives will therefore depend on what it is like to live the life of a being of that kind, including the goods made possible by the kind of conscious mental life it is” (p. 66). So, for example, even if infants and kittens both have basic moral status, we will owe them different things because what it means to be an infant is different – in both actual and potential terms – from what it means to be a kitten.

This may well be true, but it still leaves the following worry for Sangiovanni's view: his account cannot explain whether the right of infants to be treated in ways that can be justified from a common perspective should have priority over the same right that kittens have in a case of limited resources and conflicting claims, other things being equal. The reason for this is that if infants' and kittens' right to be treated in a way that we can justify from a shared perspective is grounded in the possession of the *same basic* moral status, then it is unclear why the right of the former should be weightier, or more stringent, than the right of the latter in a case in which only one can be fulfilled.

To put it another way, according to Sangiovanni, the possession of basic moral status generates a duty to be treated in a way that is justified from a shared perspective. Sangiovanni, then, is right to point out that conferring basic moral status to both infants and kittens does not entail that they have to be treated in the *same* way because the treatment that is owed to them depends on the kind of beings that they are as well as the kind of beings that they will be. However, conferring basic moral status to both infants and kittens does entail that in the case in which only one of the two can be treated in a way that is justifiable from a common perspective, priority cannot

be given to the right of the former over the right of the latter, other things being equal. This, I submit, is a conclusion that is hard to accept.³

To be sure, there may be some further moral reasons as to why priority can be granted to infants, such as, for example, obligations to third parties, like family members. These, however, are not moral obligations that are *owed to* them in particular, *qua* moral status holders. But, as Sangiovanni observes, this is precisely what is at stake in the debate on moral status and moral equality (pp. 101-2).

One may think that Sangiovanni could revise his view by arguing that infants have a further and different moral status than kittens, because the former, but not the latter, possess another status-conferring property.⁴ In this case, his account would be able to justify the priority of infants' right to be treated in a way that is justifiable from a common perspective over that of kittens. Nevertheless, to address this challenge, much more needs to be said by Sangiovanni. As it stands, his view is unable to provide a convincing answer to an important and difficult question in moral philosophy, and one that we usually require theories of morality to have an answer to, namely, how we justify giving priority to human infants over nonhuman animals, other things being equal.

2. The limits of a negative conception of moral equality

As we saw above, Sangiovanni argues that persons' *equal* moral status is grounded in the rejection of treating others as inferiors, insofar as this constitutes an act of social cruelty, which represents an attack on, or an obliteration of, one's capacity to develop and maintain an integral sense of self (p. 76). More precisely, Sangiovanni observes that there are five paradigmatic cases of treating others as inferiors which involve social cruelty: 1) dehumanisation: "treating others like animals"; 2) infantilization: "treating others like children"; 3) objectification: "treating others like objects";

³ For why Sangiovanni's view may also entail disturbing implications with regards to how the rights of beings with *different* moral statuses should be prioritised with respect to one another, see Floris (2019, pp. 241-5).

⁴ I am grateful to one of the editors of this journal for raising this possibility.

4) instrumentalisation: “treating others as instruments”; 5) stigmatisation: “treating others as polluted”⁵ (p. 74).

Persons’ equal moral status, then, is grounded in the rejection of these forms of inferiorising treatment. If this is true, however, there may be circumstances in which persons do not relate to each other as moral equals, but Sangiovanni’s view is unable to condemn these as wrong *qua* violation of persons’ equal moral status. To illustrate this, consider the following case.

Imagine a society which endorses the following fundamental principles: no individual, or group, must be regarded as deprived of some essential human features; no individual, or group, can be the object of, or the instrument for, others’ desires or goals. Finally, no individual, or group, can be identified as the bearer of any stigma. Furthermore, in this society, while it is generally held that deliberative processes are the right procedure to determine political outcomes, it is also believed that in cases of reasonable disagreement, the final decision should be up to a single person X, whose entitlement is grounded in the will of God.

What we want to understand is whether, in this society, there are any wrongs *qua* violation of equal moral status, according to Sangiovanni’s view.

In chapter 3, Sangiovanni examines when and why discrimination is wrong *qua* violation of equal moral status. In a nutshell, Sangiovanni argues that an act of discrimination is wrong when and because it expresses inferiorising social messages in one of the modes of inferiorising treatment that involve social cruelty (p. 174). Hence, the question that needs to be addressed is the following: does the structure of this hypothetical society express one or more of the inferiorising attitudes identified by Sangiovanni?

To start with, it seems reasonable to exclude dehumanisation and objectification, at once. Infantilization, also, does not seem to be at stake here: everybody is involved in the deliberative

⁵ By polluted, Sangiovanni means “marked out for special types of exclusion, disdain, or contempt on account of properties of their physical aspect, character, or background” (p. 74).

process – that is, no one is assumed to lack the *equal* capacity to stand up and speak for themselves – despite the fact that the society’s religious tradition confers on X the right to have the final word in cases of reasonable disagreement.

One may, then, argue that citizens are treated as instruments insofar as they are consulted only because this is deemed necessary to bring about the best outcomes. But this conclusion is unwarranted, for the hypothetical society defends deliberation on procedural grounds. To be sure, one may insist that X’s superior authority implies that citizens are not treated as ends in themselves. Whether this is true or not, it does not concern us here because an injunction against treating persons merely as instruments does not entail an imperative to treat them as ends in themselves.

We are, then, left with stigmatisation. Is X’s superior authority inconsistent with society’s prohibition against considering any individual, or group, as the bearer of any stigma? The citizens are not excluded from the deliberative process; moreover, X’s superior authority does not necessarily need to express a message of disdain or contempt. Hence, to consider this an instance of stigmatisation seems a semantic stretch.

If the analysis above is correct, on Sangiovanni’s view, there is nothing wrong with a society such as the one described above. This, however, does not seem to be a convincing conclusion, for this society is not a society of moral equals, as citizens are in a morally relevant sense inferior to X’s superior authority.

Sangiovanni may want to respond that, *contra* what I have suggested, the hypothetical society does involve at least one of the inferiorising treatments that involve social cruelty. Accordingly, his account can indeed provide us with *a* reason to condemn such a society on the grounds that it violates persons’ equal moral status.⁶ But even if this were so, one may doubt that Sangio-

⁶ For example, one may suggest that the justification of X’s authority must involve at least one of the modes of inferiorising treatment insofar as it is likely to be grounded in a particular capacity that X is the only one to possess. But this need not be so. Imagine a religion which prescribes that citizens should adopt a lottery system to elect X. Alternatively, one may observe that any decisions made by X may be inferiorising especially because X’s decisions do not have to take account of the interests of the citizens. But this, again, need not be so. Citizens may have consultative

vanni's view can capture the *right* reason why X's superior authority constitutes a wrong *qua* violation of equal moral status. Indeed, it is reasonable to maintain that this is not so much because X's superior authority entails a violation of the citizens' capacity to develop and maintain an integral sense of self. Rather, more fundamentally, the wrongness seems to lie in the fact that X's superior authority constitutes a violation of the *equal* respect that is owed to X's and the citizens' *equal* capacity for autonomy.

All in all, then, I argue that grounding moral equality in the rejection of social cruelty may not rule out all the grounds for treating others as *inferiors*, at worst; or, it may fail to provide us with the right reasons to condemn some wrongs *qua* violation of equal moral status, at best.

The example, however, points to a deeper problem arising with Sangiovanni's negative conception of moral equality, namely: it can only generate normative prescriptions against treating others as inferiors, but it is unable to ground a duty to refrain from treating others as *superiors*. And, this may be a disturbing conclusion for those who believe that relating to each other as equals is valuable in and of itself.

Sangiovanni defends his negative conception of moral equality by claiming that "it seems strange to argue that we wrong another in treating them incorrectly as more worthy than they are in fact" (p. 103). To begin with, one may note that even if Sangiovanni is right about this, this does not imply that moral equality should not have intrinsic value, for holding that treating persons as moral equals is intrinsically valuable does not entail that failing to do so wrongs someone, in particular. For example, maintaining that living in a hierarchical society which is devoid of an ethos of solidarity is bad in and of itself does not imply that persons have a right to live in a society of equals. To justify the move from the former to the latter, a substantive argument is needed.

– yet not decisional – authority; accordingly, X may be required to decide in virtue of what is best for them and, moreover, to explain citizens why she thinks that her decision is in their best interest. I thank one of the editors of this journal for prompting me to discuss these two possibilities.

But the point could be made stronger: one may argue that there is nothing strange in holding that we wrong a person if we treat her as a moral superior. In particular, I contend that superiority is an affront to moral equality, the wrongness of which – to paraphrase Sangiovanni – lies in being an attack on, or an obliteration of, persons’ fundamental agential capacities, namely: the capacity for a conception of the good and the capacity for a sense of justice (Rawls, 1971).⁷

On the one hand, being considered moral superior precludes, or it is an obstacle to, a person’s access to a range of relational resources that presuppose equal moral standing, which are necessary – or, at least extremely important – to maintain and exercise the capacity for a conception of the good. To illustrate this, consider the case of friendship. Friendship is a paradigmatic example of a relation that can occur only among moral equals, which is essential for persons’ capacity for a conception of the good, insofar as it helps to promote social criticism that is crucial to persons’ ability to elaborate and revise their life plans (Cordelli, 2015, p. 97).

On the other hand, moral superiority is also detrimental to the capacity for a sense of justice. Indeed, it seems reasonable to hold that being considered a moral superior may undermine a person’s capacity and willingness to take others’ standpoint into account when deliberating the right course of action. Put differently, being considered as a moral superior may affect a person’s sense of justice because it is an obstacle to one’s capacity to treat others as moral equals.

If the argument above is correct, then there are strong reasons to maintain that superiority is an affront to moral equality which raises a moral concern in and of itself because it constitutes an attack on, or an obliteration of, persons’ fundamental agential capacities. Accordingly, in a society where there are no relations of inferiority between X and anyone else, moral inequality is still problematic because superiority is an obstacle to X’s ability to maintain and exercise her capacity for a conception of the good and her capacity for a sense of justice. And, only a positive conception

⁷ According to Rawls, these subvenient agential capacities form the capacity for moral personality which is the basis of persons’ moral status (Rawls, 1971, p. 505). The view that the capacity for moral personality – or, more generally, the capacity for autonomy – grounds persons’ moral status is widely shared among liberals. See, for example, Dworkin (2000) and Carter (2011).

of moral equality – which holds that moral equality is valuable in and of itself – can capture this wrong *qua* violation of equal moral status.

Finally, it should be noticed that, *pace* Sangiovanni (pp. 103-4), a positive conception of moral equality does not entail that treating persons as superiors and treating persons as inferiors are *equally* wrong. On the contrary, it can rank the wrongfulness of these two violations of moral equality in terms of the extent to which such violations undermine persons' capacities for a conception of the good and a sense of justice. So, while, as I have just noted, being considered as a moral superior is an obstacle to a person's access to a range of relational resources that are necessary to maintain and exercise the capacity for a conception of the good as well as it may impair one's sense of justice, it is hard to deny that most common forms of inferiorising treatment like those identified by Sangiovanni – i.e., dehumanisation, infantilization, objectification, instrumentalisation, and stigmatisation – entail a more serious violation of these agential capacities, other things being equal. Hence, a positive conception of moral equality can provide us with a principled way to rank the wrongfulness of these two different kinds of wrongs *qua* violation of equal moral status.

To conclude, then, Sangiovanni's negative conception of moral equality may run against the following problems: grounding moral equality in the rejection of social cruelty may fail to rule out some grounds for treating others as inferiors, and it is unable to account for the intrinsic value of the principle of moral equality.

Conclusion

Dignity-first views may not have yet found a definitive answer to the question of moral equality. Sangiovanni's *Humanity without Dignity*, then, explores a new avenue for the justification of the principle of moral equality: in a nutshell, persons' equal moral status is grounded in the rejection of social cruelty. Sangiovanni's theory represents an important contribution to the debate about

the basis of moral equality; in this short piece, however, I pointed out that his view gives rise to disturbing conclusions with respect to how those beings that have basic moral status relate to each other, and argued that the rejection of social cruelty may fail to capture some wrongs *qua* violation of moral equality.

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