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WHAT DOES EGALITARIANISM REQUIRE?

By David Schmidtz*

Abstract: *Rawlsian theory notoriously claims that basic principles of justice apply to the design of a society's basic structure. G. A. Cohen found it disturbingly convenient to treat fundamental principles as merely political rather than personal—that is, as applying exclusively to questions of institutional design and saying nothing about how to live. Instead, to Cohen, a sincere champion of egalitarian principles would, as they say, "walk the talk."*

KEY WORDS: G. A. Cohen, incentives, status, dimensions of equality, ideal theory, income, redistribution, progress

I. Should Egalitarianism Be a Way of Life?

In 2000, G. A. Cohen published *If You're an Egalitarian, How Come You're So Rich?*[1] He says that an egalitarian might grudgingly accept a Rawlsian basic structure that incentivizes productivity for the sake of the least advantaged. However, Cohen insists, a sincere egalitarian cannot simply leave it at that.

To Cohen, sincere egalitarian commitment is personal, not merely political. In accordance with their egalitarian commitment, sincere egalitarians who become wealthy—as wealthy as Cohen—would personally decline incentive payments. Of course, such behavior is not what Cohen observed—even in his own case.

To Nigel Pleasants, egalitarianism is obviously a commitment to equality in some form. But egalitarianism comes in "flavors," as Richard Arneson puts it. Some emphasize outcomes, calling for equal shares of something; some emphasize ongoing relationships, calling for day-to-day equal treatment. So, what would mark any particular dimension of equality as worth achieving or any equalization program as worth implementing? Furthermore, must we choose any particular dimension as the one along which equality is worth wanting?

Perhaps not. We might instead suppose that, in a diverse polity, everyone ideally gets something they can live with. A diverse polity's *political* ideal

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[1] G. A. Cohen, *If You're an Egalitarian, How Come You're So Rich?* (Cambridge, MA: Harvard University Press, 2000).

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will be a negotiated compromise where no one gets their *moral* ideal. Ideally, everyone will see their cherished dimension of equality honored in some way. Yet it is a political *ideal*, not a moral compromise, that no one gets everything when that would mean realizing one vision at the expense of someone else's.

II. Equality of Income

As Jeffrey Paul observes, one might infer from the tenor of public discourse that the primary focus of egalitarian commitment is equality of *income*. This cannot be right, Paul thinks, since those who espouse an end of equalized income tend to champion income taxes as a means to the end of equal net income despite incomes taxes having no history of actually serving this end. In fact, Paul says, income tax rates, no matter how progressive, seldom measurably affect the amount of wealth controlled by the richest of the rich.[2]

Thomas Christiano, while endorsing calls for egalitarian redistribution of income, stresses that income redistribution is not the core of a deeper egalitarian commitment to the "regulation and shaping of markets to achieve a distribution of power." To Christiano, egalitarianism mandates democratic forms of worker participation in the marketplace itself, not only in the realm of narrowly political governance. Joseph Heath likewise explains in compelling personal terms how mere redistribution of income cannot address the core of economic inequality or of what makes economic inequality problematic.

III. Equality of Status

In the nineteenth century, if you saw women fighting for a right to have bank accounts, patents, or property deeds in their own name and asked them whether they were fighting for liberty or equality, they may well have been puzzled by the implication that there is a trade-off. Equality was about political *status*, not *slices* of an economic pie. Fighting for equal status was fighting for freedom. Likewise, declaring in the eighteenth century "that all men are created equal" prefaced a pledge of life, liberty, and sacred honor to a fight *for* freedom, not against it.

[2] Paul offers this as a matter of robust statistical observation. But how is that possible? Could making tax brackets officially more progressive have a counter-progressive effect? How? For a possible answer, see Shruti Rajagopalan, "The Equity-Complexity Trade-Off in Tax Policy: Lessons from the Goods and Services Tax in India," *Social Philosophy & Policy* 39, no. 1 (Summer 2022): 139–87. Rajagopalan observes that simple tax systems (such as a flat tax) yield observable results. Observable results can always be interpreted as insufficiently equitable. That opens the door for the richest of the rich to lobby for something more complex, always ostensibly for the sake of equity. But complexity always works to the advantage of those whose lawyers are adept at exploiting complexity's loopholes. Are loopholes inevitable? No, but that is just to say that the richest of the rich hire lawyers to make sure the loopholes are there, hidden in the footnotes of a bill of legislation that no one (not even the legislators who each wrote a few hundred pages of the bill) will ever actually read in its entirety.

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Exploring this theme, Clare Chambers notes that justice in distribution is one thing, while the justice of recognition—of equal status—is something else. *Implicit* recognition, she adds, cannot adequately substitute for explicit recognition. Interestingly, neither can the latter substitute for the former. For example, Chambers says, eliminating (explicit) gendered pronouns can help make gendered oppression invisible. (Saying "they ignored them" does not convey what "he ignored her" conveys.) Chambers likewise sees an aching appeal to our common humanity in the slogan "Black Lives Matter," despite the fact that many of us hear the response "All Lives Matter" not as emphasizing our common humanity but as, in context, racist.[3] Chambers reflects on how to make inequalities visible without making them worse.

Must we also make *equalities* more visible? Or could egalitarianism instead require us to pretend not to see progress along dimensions where progress has been real? Is acknowledging progress offensive? Does it somehow give oppressors an undeserved break? As Pleasants observes, economic progress since 1870[4] has worked to the advantage of the least advantaged, and thus arguably has fostered equality along precisely those dimensions that poor people care about most. To be sure, even if the game of commercial society is manifestly a win-win game, the fact remains that some indices of inequality between rich and poor have widened. For example, life expectancies advance during economic booms, and if everyone's life expectancy doubles, then any preexisting gap (say, between men and women) will double as well—as measured in a particular way. To represent that as bad, we report a gap that is widening as measured in years rather than as a percentage change from a base year. So too with gaps in wealth that, measured in a particular way, have a way of rising when an economy booms.[5]

If we ask what egalitarianism *doesn't* require, opposing progress is surely high on the list. Yet, it is difficult not to hear today's discourse as damning

[3] Chambers reports that Cambridge University is campaigning to "Break the Silence" regarding sexual harassment. To Chambers, the implicit premise is that the onus is on women to raise each other's awareness. Analogously, if there were a campus epidemic of bicycle theft, a consciousness-raising campaign might focus on "the main things you need to do to prevent your bike from being stolen," but Chambers might find that response not quite serious if it were limited to consciousness-raising, with no commitment to stepping up law enforcement.

[4] The abrupt change in the trajectory of the human condition beginning around 1870 is chronicled by Deirdre McCloskey, *Bourgeois Virtue: Ethics for an Age of Commerce* (Chicago, IL: University of Chicago Press, 2006).

[5] As Pleasants notes, Thomas Piketty says, "inequality has increased in all regions of the world since the 1980s" and "has come at the expense of the bottom 50 percent of the distribution." Note, however, that when Piketty says, "at the expense of," he never actually says that the bottom 50 percent is *poorer*; he knows they are not. Rather, Piketty means that the income *share* of the bottom 50 percent has decreased from 20–25 percent to 15–20 percent. Thomas Piketty, *Capital and Ideology*, trans. Arthur Goldhammer (Cambridge, MA: Harvard University Press, 2020), 1. As Piketty realizes, this may mean a lot to academics, while meaning little to the least advantaged. As Amartya Sen once remarked (following a presentation of mine at the Royal Society of London in 2016), the question that professed egalitarians need to ask is: What are the dimensions of rising inequality that poor people care about? Michael Moore may hate falling behind his fellow one-percenters, but changes in the pecking order at the top are of no concern to the bottom 50 percent.

the complacency of celebrating that billions today are living better lives than our ancestors could have hoped for in 1850 or even 1980. Is it immoral to settle for progress? Must we reject progress on the grounds that progress takes time and neither starts from nor leads to equality along all dimensions?

Suppose we document that progress (even during economic booms) has a history of converging on equality along *some* dimensions: specifically, dimensions that poor people care about, such as life expectancy, reduction of infant mortality, access to indoor plumbing, access to smartphones, internet services, factory-made shoes, and so on. Would documenting such progress be insensitive? To whom? Must we reject what the least advantaged would call progress in their material quality of life because that is not what privileged revolutionaries care about?

IV. Representatives Don't Need Incentives but Do Need to Care

Alan Hamlin and Zofia Stemplowska aptly summarize Cohen's key objection to John Rawls:

> [I]f we assume, following Rawls, that individuals are motivated to comply with justice, then the need to trade off equality and well-being disappears. It only arises in the first place because talented people demand incentive payments to become more productive. But people who are motivated to realize justice fully would not demand incentive payments but rather increase productivity without them.[6]

As Pleasants might agree, what Cohen misses here is that Rawls's contractors have by hypothesis accepted a tougher assignment: they contract for a world populated by agents other than themselves. Furthermore, contractors are representatives. To represent competently, contractors identify basic structures apt for the human condition that their clients actually face. In particular, for contractors to know psychology, as Rawls assumes they do, is for contractors to know that psychologies of citizens are exactly what they are.[7] Therefore, consistently egalitarian representatives don't care whether *consistently egalitarian representatives* need incentives. That isn't the problem. The problem they face is that representatives who care about their clients don't bet their clients' lives on our actual (not idealized) fellow citizens being impervious to incentives.[8]

[6] Alan Hamlin and Zofia Stemplowska, "Theory, Ideal Theory, and the Theory of Ideals," *Political Studies* 10, no. 1 (2012): 57.

[7] John Rawls, *A Theory of Justice*, rev. ed. (Cambridge, MA: Harvard University Press, 1999), 137, 145. See also David Schmidtz, "History and Pattern," *Social Philosophy & Policy* 22, no. 1 (Winter 2005): 148–77.

[8] David Schmidtz, "Realistic Idealism," in *Methods in Analytical Political Theory*, ed. Adrian Blau (Cambridge, UK: Cambridge University Press, 2017), 131–52.

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By hypothesis, qua Rawlsian contractor, you are behind a "veil of ignorance." Behind this veil, you do not *know* whether you personally need incentives. What you know (and have a fiduciary duty to care about) is that compliance is an achievement, not a given. The relevant *political* ideal is to create conditions where people can afford to expect their neighbors to comply.

V. Noncolonial Egalitarianism

Kaveh Pourvand considers it an empirical question whether the state is effective at fostering cultures of equal treatment. He says that we cannot establish from the armchair whether the state or civil society is more effective at promoting egalitarian justice. This is broadly consistent with Cohen's moralized critique of the Rawlsian premise that the basic structure is the subject to which basic principles apply. Pourvand, however, sees his own approach as more radical than Cohen's. Cohen treats the "personal" as *complementing* state action to achieve justice, whereas Pourvand sees personal moral obligation as to some extent contingently *substituting* for state action. Pourvand asks: What observably (as opposed to imaginably) fosters equality in our daily experience? Is it the state? Corporations (with or without subsidies and bailouts)? Commercial culture in general? Or something else?

In part, the question concerns what happens when we centralize the power to distribute. When people have strong views about justice, disagreement about justice will be widespread. When you create the power to pursue an agenda in which *you* strongly believe, someone will end up holding that power, and whoever holds that power will use it to pursue an agenda in which *they* strongly believe. To Pourvand, it is difficult to see any path from what we actually know about today's democracies to a conclusion that we should sit back and leave it to the state to give us the particular equality we want. By contrast, he says, "the civil society solution is to allow different understandings of distributive justice to hold sway in different associations, such as friendly societies, charities, churches, and so on. In other words, we disaggregate the common social world as much as possible into different jurisdictional spheres so that different understandings of distributive justice can live side by side" and decline to imagine that the game is "winner take all."

Pourvand's idea, in effect, is that there is something profoundly egalitarian in acknowledging that many conceptions of justice are equally good in their own way; moreover, conceptions committed to being peaceful and to not being in the grip of a colonial compulsion to wipe out rivals are the ones that can safely coexist. It is the colonial conceptions that do not countenance genuine equality; they are the ones saying that only a world hegemony—in which their vision obliterates diverse alternatives—is truly safe for (what they call) justice. Needless to say, monolithic conceptions of justice (or of

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diversity, ironically) may claim to be egalitarian on their own terms, but when the concentrations of power they license have a robust history of doing the greatest damage to the least advantaged, there comes a time to acknowledge that the professing of egalitarianism by those with colonial ambition is insincere.

Pourvand cautions that "we should not exaggerate the degree of centralized coordination the state is capable of. Coordination problems can arise *within* the state."[9] The thing about real governments is that they leave no room for our imaginary ideal of a state that relentlessly pursues the "one true" vision. What history teaches us is that the ideal government for our world is a state consisting of layers of checks and balances. Working within those layers, some officials try to identify and implement the best possible response to a problem. Other bureaucrats try to ensure that protocols are being followed regarding minority vendors, union vendors, pricing guidelines, and so on. Some of the layers are a response to the fact that any agency with power to do the right thing also, by that very fact, has power to do the wrong thing. This implies, at best, layers of other agencies whose fiduciary responsibility to the public is to limit opportunities to do wrong. When bureaucratic watchdogs do their jobs, they also make it more difficult to do right. We have bureaucratic safeguards for a reason; this is what bureaucratic safeguards do. The state in practice will seem indecisive, conflicted, and inefficient *at best.* It will be easy to imagine a decisive despot pursuing our cherished vision more relentlessly. Realistically, we try to ensure that bad people can't easily capture the state by making sure *no one* can easily capture it. It is thus a political ideal that the state cannot fall under the spell of our—or anyone's—moral ideal.

John Meadowcroft analyzes Cohen's metaethical theorizing and argues (as Pourvand, Chambers, and Christine Sypnowich might agree) that it seems natural and fruitful to suggest a more liberal form of relational egalitarianism that does less to rationalize the creation and capturing of centralized power. Stefanie Haeffele and Virgil Storr bring the conversation full circle, voicing reservations about the corrupting power to equalize income (given what such power actually is used for by the kind of people who devote their lives to capturing it). But then Haeffele and Storr go on to explain how a Hayekian analysis of our reservations about creating that much power also plants the seeds of a more substantive (and less purely procedural) egalitarianism than Friedrich Hayek himself endorsed.

VI. Oppressive Egalitarianism

Christine Sypnowich sees a parallel between Cohen's idea—that a sincere egalitarian gives to a point of having no more than the least advantaged—

[9] For discussion of this topic, see the recent volume of *Social Philosophy & Policy* on The Administrative State (38, no. 1 [Summer 2021]).

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and Peter Singer's view that a sincere utilitarian gives to a point of marginal disutility.[10] Cohen and Singer each see moral theory, sincerely applied, as *theorizing about what to do.* Accordingly, to them, professing to believe a theory that specifies what to do while declining to obey its plain marching orders is hypocritical.

Sypnowich says that Cohen intends to express respect for individual freedom while "needling individuals to do more for equality, even when the best possible egalitarian institutions are in place. For the egalitarian who cares about equality, this prospect cannot help but be oppressive." Sypnowich laments "Cohen's regrettable conversion to luck egalitarianism that causes him to sever justice and community in an unhelpful way." Like Sypnowich, Eric Mack sees the turn toward luck egalitarianism as taking egalitarian theorizing, including Cohen's, down an unpromising path. Mack offers an extensive reconstruction and critique of Shlomi Segall's Cohen-inspired work.

As Sypnowich notes, Singer says, "[I]f it is in our power to prevent something bad from happening, without thereby sacrificing anything of comparable moral importance, we ought, morally, to do it."[11] To motivate this principle, Singer offers a remarkably provocative thought experiment that we now call SHALLOW POND:

> SHALLOW POND: If I am walking past a shallow pond and see a child drowning in it, I ought to wade in and pull the child out. This will mean getting my clothes muddy, but this is insignificant, while the death of the child would presumably be a very bad thing.[12]

Sypnowich finds Singer's reasoning compelling. To be sure, many scholars hedge Singer's utilitarianism with contrary intuitions. And of course, we all have contrary intuitions—regarding separate personhood, personal projects, and so on. However, for argument's sake, suppose we simply ask: What would an uncompromising utilitarianism say about SHALLOW POND?[13]

On my view, here is what an uncompromising utilitarianism should say. What you need to do in SHALLOW POND is obvious. Wade in. Save that baby. Then get on with your life. You most likely will never be in that situation again. Hardly any of us have been in that situation even once.

[10] Peter Singer, "Famine, Affluence, and Morality," *Philosophy & Public Affairs* 1, no. 3 (1972): 229–43.

[11] Singer, "Famine, Affluence, and Morality," 231.

[12] Singer, "Famine, Affluence, and Morality," 231.

[13] David Schmidtz, *Living Together: Inventing Moral Science* (New York: Oxford University Press, 2023), esp. Part II ("After Solipsism"). See also Richard Miller's reflections on SHALLOW POND within the context of a thoughtful critique of libertarian moral theory in his "Learning from Libertarianism," in *The Routledge Handbook of Libertarianism*, ed. Jason Brennan, Bas van der Vossen, and David Schmidtz (New York: Routledge, 2018), 3–21.

Singer wants to apply the lesson of Shallow Pond to world famine. Does it apply? Consider one reason for saying no, namely, the story of hunger will never be a story that ends with you wading in, saving the day, being the hero, then getting on with your life. If the challenge were literally to save a drowning baby, one key fact would be this: If I ever literally pull a drowning baby out of a pond, I will get up the next morning to a life of my own.

By contrast, with world famine, circumstances impose no external limit on any duty you feel to save the hungry, which means morality for the human condition as we know it requires human beings as we know them to become skillful at crafting artificial, self-imposed limits. Strikingly, then, Singer circa 2021 asks people to give not to a point of marginal disutility, but to an arbitrary limit such as one percent of their income.

Needless to say, on the one hand, act-utilitarianism entails that giving one percent has nothing to do with how much we truly ought to give. On the other hand, if Singer's personal quest were to maximize how much he can get us to give, one percent may be his maximally influential request.

Without meaning to criticize this personal quest as such, I observe only that moral theorizing as usually understood is an attempt to articulate truths about morality, not to be maximally influential. If it is *true* that one percent is what we should give in a certain life circumstance, then that truth fits well with morality as I conceive it. It does not, however, fit with act-utilitarianism. It does not fit with an analogously uncompartmentalized egalitarianism either. Do our egalitarian intuitions have no natural limits? Must they gobble up our lives?

Sypnowich says that Cohen's "compartmentalized approach seems a poor model for socialism." She concludes, "The burden of a nagging unease should be lifted from individual egalitarians for two reasons. First, institutions are much less ad hoc and contingent in their provision than are individual gestures. Second, it can be onerous to be beset with difficult personal choices at every turn."

The parallel Sypnowich sees between Singer and Cohen illustrates the disquieting burden of walking the theoretical talk. But here is a more general issue. While Sypnowich accuses Cohen of compartmentalizing, the fact remains that our need to compartmentalize is, as a matter of observation, an inescapably deep feature of the human condition. If moral theory cannot make sense of the compartmentalizing that is among our main tools for coping with the human condition, then so much the worse for moral theory.

Consider a feature of the human condition never (to my knowledge) made explicit by moral theorists: we solve problems, but we do not have (and cannot solve) problems except as defined by sets of constraints. External constraints tend not to be sufficiently constraining to give us well-defined problems. That is why we continuously impose constraints on ourselves: so that we can have well-defined problems. In particular, we give ourselves budgets: a month to find a house, an allowance for charitable giving, and so on. The limits you craft will be somewhat arbitrary, in the

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same way that you cannot find a house unless you arbitrarily limit how much time you spend looking, which neighborhoods you check, what portion of your income you will spend on housing, and so on. Operating within self-imposed limits that give us tolerably well-defined projects, thereby enabling us to stop one quest and get on with others, is at the core of the daily business of living a life. Although Singer didn't say much about it, he needed to set limits.

So too with Cohen; he didn't say much about it, but he needed to set limits. We all do. Limits give us room to breathe. We flesh out budgets, adding details as we go. Thus, we complement our one-month home-hunting budget with a further constraint that, for example, we look at houses within walking distance of school. We pick limits somewhat arbitrarily, as we must, precisely because there is nothing arbitrary about our need for limits. Budgets of time, money, and distance acknowledge that we have other things to do, and we would not be better people if we were consumed by a single goal. There is a reality here from which moral theory is well-advised to begin. Namely, we wake each morning to a frontier of new opportunities and new decisions. We know how to cope with this frontier. Our way of coping is difficult to explain in standard rational choice terms, but it works. We stipulate budget limits that help us fabricate compartmentalized structures of separate pursuits that add up to what is recognizably a life. They limit us even while liberating us to pursue goals that come into focus within those constraints.

The projects that make up our days are pursued within compartments defined in part by budgets. Singer, for example, inhabits multiple compartments: he gets up on a given day and his heart tells him today is his day to worry about factory farming. Tomorrow will be about laboratory animals. The day after will be for taking care of his mom. The day after that will be for worrying about world famine. Sometimes, instead of helping the poor, he writes about doing so. Cohen spent many days analyzing justice. He also spent time helping students, telling jokes, and choosing wine for the high table at All Souls College. And it's difficult to see any of these as days when Singer or Cohen were being immoral. Singer has a life, as did Cohen. What makes it right for Singer to find his own way—to find *fistfuls* of ways—of making it good that he lived? Where is the theory that draws lines such that people like Singer have room to live a life? Singer's utilitarianism is not that theory. Neither is Cohen's egalitarianism.

Morality arguably requires us to operate within constraints that compartmentalize the projects that make up a real life, and thus prevent any given project from becoming an obsession that sucks the life out of us. Our constraints are often self-imposed, often somewhat arbitrarily. Yet, we must respect them, for they are our key tool for giving ourselves room to cope with the human condition's core political and moral challenges: the core political challenge of identifying habitable limits on what to expect from each other, plus the core moral challenge of identifying what to expect from

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ourselves. A theory is not serious if it draws a line between hypocrisy and sincerity such that living a life falls on the side of hypocrisy.

It is a largely empirical question which patterns of mutual expectation function in such a way as to command the respect implicit in deeming them moral. But whatever social morality turns out to be, it does not go to heroic lengths to fool me into thinking that morality revolves around me. Theorists need to realize that moral theorizing isn't a game you win by demanding the biggest sacrifice. The adult challenge of moral theorizing is more demanding than that. It needs more imagination than that.

After Henry Sidgwick's 1874 *Methods of Ethics,* philosophers fell into treating moral theorizing as theorizing about what to do. In contrast, David Hume and Adam Smith were eighteenth-century empiricists. To them, moral theorizing at its best was observation-based, and at its best could tell us what works and how things work, although it could not tell us what to do. Budgeting observably works. Compartmentalizing observably works. As Hume might have observed, such devices enable us to live lives that are useful and agreeable to ourselves and to others.

Our compartments may not easily fit together, but they are real, despite having been fabricated, and they give us lives filled with quotidian tradeoffs. When we look at the space in our lives taken up by any given compartment, it is always an option to ask ourselves whether we could have given a bit more, and typically the honest answer will be, "Yes, of course." But it isn't our fault, neither is it even regrettable, for us to be built that way, for us to acknowledge that there comes a time to quit, and that moral theory does not draw that line.

Observably, some basic structures have a history of enabling and empowering people to mind their business in ways that cumulatively add up to a famine-proof society. As a general observation, I see functional structures treading lightly when it comes to dictating destinations. Morality has a social strand, which demands that we respect patterns of mutual expectation in our society that serve the common good by helping us to know what to expect from each other, thereby helping us to anticipate, first, how to stay out of each other's way and, second, how to be forces for good: valuable and esteemed cooperators.

Yet, morality is not one-dimensional. Ultimately, I side with Cohen when he observes that whatever morality's interpersonal strand demands of us in our situated circumstances, morality's personal strand demands more. The personal, largely self-authored strand demands that we choose a goal and throw our lives at rising to the challenge it poses. This more personal strand concerns what it takes for each of us to live with integrity and to be a person of whom it is reasonable to have high expectations—all while operating within demanding yet not suffocating confines of an interpersonal strand of morality embodied by mutual expectations that inform our community at its observably functional best. (The latter is not merely a matter of *observing* our community, but of *evaluating* what our community is at its best.)

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Our task as students of moral science is partly a task of deciding what to expect from ourselves. The human condition makes a place for a moral responsibility that puts SHALLOW POND in context: that responsibility is less social and more personal, arising not from a need to live with others, but from a need to live with ourselves. But that task is constrained. It is limited. It is disciplined by a more inherently social task: to discover which of the evolving patterns of cooperation and coordination we inhabit are observably making our world a better place.

VII. WHAT DOES JUSTICE REQUIRE OF EGALITARIANISM?

A final thought: Cohen asks us to imagine a world of two persons.[14] They receive manna from heaven in one of two possible distributions: (5,5) or (7,6). While the first vector of numbers is equal, the second is better for each. Cohen invites us to see the second as obviously better, yet also obviously unjust. To Cohen, the second vector might be the right one to choose, all things considered, but not because it is more just; indeed, it is less so given Cohen's intuition that justice is a matter of avoiding accidental inequality.[15]

To put flesh on the bones of this example, let Cohen's vectors be units of life expectancy, as extended by alternative cancer treatments. Treatment (5,5) extends two lives by five good years, whereas treatment (7,6) extends one patient's life by seven years and the other by six. Imagine saying, "It's a trade-off. Justice requires treatment (5,5), but (7,6) would be better on humanitarian grounds." Imagine saying, "Compared to (7,6), (5,5) is *bad* because the second patient gets one year less, but (5,5) is *just* because the first patient gets two years less."

Political theorists ponder how to form a community, keep it together, and make it worth keeping together.[16] If I am terrified by a prospect of my children growing up in what I call a just society, then I need to rethink what I call justice. I accept Cohen's premise that growing up in a just society guarantees little, but the *prospect* should be better than the prospect of growing up in an unjust society. Distribution (5,5) can't be what justice amounts to. Even when justice is cruel, it isn't *petty*.

Again, Cohen concedes that what he calls justice should sometimes be compromised for humanitarian reasons.[17] There is a nugget of truth here. Any judge knows there can be reason to temper justice with mercy in

[14] G. A. Cohen, *Rescuing Justice and Equality* (Cambridge, MA: Harvard University Press, 2008), 316.

[15] Cohen, *Rescuing Justice and Equality*, 8.

[16] Cohen warns against confusing rules of regulation with fundamental principles. So lest we get confused, let's be clear: To say that political theory asks what makes communities work is not to propose a regulation; it is to identify political theory's subject matter.

[17] Cohen, *Rescuing Justice and Equality*, 271–72, 302–4. Oddly, from his premise that humanitarian values can trump egalitarian ideals, Cohen does not infer that egalitarian ideals are fact-sensitive. Why not? I regret not having a chance to ask. He would have had an interesting answer.

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exceptional cases. However, if the human condition is the exceptional case—if *reality* is the exception to the rule—then we need to rethink justice. Of course, we can imagine a case where, on humanitarian grounds, demanding justice would be wrong. But here is the thing: we should not need to be *imaginative* to come up with a case where demanding justice would be *right*.[18]

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[18] A remark about the grand conversation that is philosophy. Years ago, on a hike, a graduate student told me she had me figured out. She said my arguments in class were so strangely inconclusive (she may have used the word 'flimsy') that it seemed I was not even trying to win. What she suddenly realized, she said, is that it is actually true that I'm not trying to win. I'm simply giving students something to think about. I never forgot that.

The point is, I discussed Cohen's work often but never thought that Cohen and I were having a debate that would end with Cohen saying, "Okay, you win. I concede." In fact, Cohen gave me plenty to think about and always treated me as if I were returning the favor. My dealings with him were unfailingly cordial, constructive, and even warm. In some unstated Canadian way, we were fellow travelers. His untimely death was a real loss.

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