Review of: Andrea Sangiovanni, *Humanity Without Dignity: Moral Equality, Respect and Human Rights* (Cambridge, MA: Harvard U.P., 2017); Jeremy Waldron, *One Another's Equals: The Basis of Human Equality* (Cambridge, MA: Harvard U.P., 2017)

"Equality", wrote de Tocqueville, is "our fate". Nearly two hundred years later, as every day brings new evidence of the concentration of wealth in the hands of the global super-rich, it may seem that he could hardly have been more wrong. The extraordinary resonance of Thomas Piketty's *Capital in the Twenty-First Century* suggests that inequality has become the most pressing economic issue of our time.

Not everyone agrees that inequality is objectionable, of course. According to the Oxford economist, Paul Collier, for example (writing in the TLS September 23, 2015) the problem is not wealth but poverty: it is only if the poorest are poor because the rich are so rich that we should care. Inequality itself is neither here nor there. What is striking, however, is that nowadays even sceptics about equality start from the assumption that the well-being of the poor matters as much as that of the rich. In that case, arguably, equality has indeed triumphed: people are taken to have equal value as human beings, even though how much material equality (if any) that requires remains open.

If basic human equality is now agreed on, perhaps it would be best just to accept it and not bother about its justification. Yet, as Jeremy Waldron makes clear in *One Another's Equals*, his Gifford Lectures, to have a proper debate about what kind of political arrangements equality requires we first need to fix ideas about

what it amounts to, and, in trying to do that, we are inescapably led back to foundational questions.

One concept frequently invoked – especially at the beginning of treaties and constitutions, when lawyers reach for their most uplifting vocabulary – is that of "dignity". Dignity, it is supposed, is something all human beings have in common that gives a foundation to their claims to human rights. The first sentence of the Universal Declaration of Human Rights reads: "All human beings are born free and equal in dignity and rights"; while Article 1 of the German Basic Law states: "Human dignity is inviolable. To respect and protect it is the duty of all state power. The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world."

But is dignity really helpful? If dignity is a transcendental inner kernel imparted to human beings at birth (or, perhaps, conception) it looks suspiciously as if it is just the religious doctrine of the soul, re-branded – a matter of faith, not discovery. Less obviously, if dignity is something that we have just by being human and that we cannot lose however we are treated, why should it need protecting? What could threaten it? And, without an answer to that question, what route is there from dignity to the human rights that are said to be derived from it?

As the title of his book makes clear, Andrea Sangiovanni is unconvinced by attempts to use innate human dignity as a magic beanstalk with which to climb up into the clouds of modern human rights doctrine. He is particularly severe on contemporary Catholic natural law theory, which, he argues, derives morally

absolutist conclusions about bio-ethics only by smuggling in implausible essentialist metaphysics at its starting-point. But how to do better?

Sangiovanni's own proposal is to turn the problem round. Instead of looking for a fundamental characteristic that is shared by all human beings, we should ask what is wrong with treating people unequally. Our commitment to equality is best explained by "a rejection of certain modes of inferiorizing treatment" which are, he says, "socially cruel". At first sight, it might seem as if this is an argument that assumes its conclusion. Yes, indeed, it would be socially cruel to treat people unequally when they ought to be treated equally, but why should it be obligatory to do that in the first place?

Sangiovanni responds to such objections with an explanation that has two elements. Unequal treatment, he says, becomes socially cruel when it "involves the unauthorized, harmful and wrongful use of another's vulnerability to attack or obliterates their capacity to develop and maintain an integral sense of self". These are, of course, extremely abstractly formulated criteria and the route from them to particular cases correspondingly complex, but I am not convinced that Sangiovanni is right in claiming that they point unambiguously towards social equality.

Pope Leo XIII is best known nowadays for his encyclical *Rerum Novarum* of 1891, on the relationship between labour and capital, which established the idea of the "dignity of labour" in Catholic social thought. As his other encyclicals make clear, this was part of a much broader doctrine of human dignity as part of a divinely sanctioned hierarchy:

> He hath willed that the choirs of angels be distinct and some subject to others, and also in the Church has instituted various orders and a diversity of offices, so that all are not apostles or doctors or pastors, so also has He appointed that there should be various orders in civil society, differing in dignity, rights, and power, whereby the State, like the Church, should be one body, consisting of many members, some nobler than others, but all necessary to each other and solicitous for the common good.

When hierarchy is appropriate, subordination is not a violation of dignity:

> The woman, because she is flesh of his flesh and bone of his bone, must be subject to her husband and obey him; not, indeed, as a servant, but as a companion, so that her obedience shall be wanting in neither honour nor dignity.

Of course, such views now seem outrageous to almost everyone (including modern Catholics) yet, plainly, Pope Leo and those who accepted his teaching were convinced that a properly constituted hierarchical order would protect human vulnerability and allow human beings to develop an appropriate sense of themselves in just the way that Sangiovanni requires. The fact that this was so widely believed in the relatively recent past makes the idea that inequality is inherently "socially cruel" much less obvious.

As Leo XIII illustrates, religious arguments about equality are often less than impressive. The author starts with a premise about some empirically inaccessible realm of supposed facts (what heaven is like, what happened when God created human beings) and appeals to that as an analogical basis from which to draw normative conclusions about human social relations (that society should be based on hierarchy, that women should obey men).

One of the admirable features of *One Another's Equals* is that Waldron is a believer who does not take his religious faith as a reason to lower argumentative standards:

> I don't mean to eschew scripture altogether, but its use has got to be associated with *argument* – argument that addresses systematically, and not just sporadically or opportunistically, all the challenges and antinomies that basic equality gives rise to.

Yet that does not make religion irrelevant. Many of the West's deepest convictions about equality and inequality are plainly Christian in origin, and, as Waldron points out:

> If we were to go ahead with a purge of religious ideas from our account of human worth, human dignity and basic equality, it is an open question how much that purge would take with it.

We do, in fact, have an instructive example of what a thoroughly secular view of human value looks like: utilitarianism. In its purest, Benthamite, form, what makes human beings the subject of moral concern for utilitarians is not their capacity for rational thought or moral choice but simply the fact that they can feel. Utilitarianism is thus fundamentally egalitarian: immediately destructive of distinctions between human beings based on rank, gender or intellect. Yet it also has two other, very radical, consequences.

The first is to extend the field of moral equality beyond the boundaries of the human to include animals. The only reasonable answer to Bentham's basic question about moral status ("Can they suffer?") is, of course, "yes". Many modern utilitarians embrace this whole-heartedly and look forward to the day when "speciesism" will become as infamous as racism. More troubling, however, is what utilitarianism tells us about how human beings may (or may not) treat one another.

If all that matters are pleasure and pain, then where they are located – that is, who has them – is, strictly speaking, of no ethical significance. So, if we can increase the net amount of well-being by taking pleasure away from Peter for the sake of a greater amount of pleasure to Paul, there is an overriding reason to do it. First-year philosophy students are confronted with safely imaginary examples: macabre hospitals where healthy individuals are put to death painlessly and their organs harvested to save the lives of multiple patients who would otherwise die, and so on. But there is also the disturbing suspicion that the willingness of modern fanatics like Stalin, Mao or Pol Pot to break whatever eggs are necessary to make their utopian

omelettes shows what aggregation looks like in practice if individuals do not have basic human rights to protect them.

Nor is this just a matter of Bentham's reductive view of mankind as being "under the governance of two sovereign masters, pain and pleasure". Accept that there are things that are of value independent of any pleasure they might bring with them and the problem still remains. Indeed, in some ways the picture is even worse. If other things (say, knowledge or beauty) are good, and if some people are more productive of those than others, then such people should be favoured. Put this apparently plausible view together with the bio-social assumptions that were dominant in the late nineteenth century when it emerged, and you have an alarming cocktail.

Waldron devotes a chapter to the Reverend Hastings Rashdall whose "ideal utilitarianism" leads him to frankly racist conclusions. For those of us who assume that racists are all spiteful inadequates, incapable of rational argument, Rashdall is an eye-opener. His position is that anyone who makes a distinction between the moral importance of animals and human beings must make a similar distinction within humanity itself:

> However inconsiderable the differences of capacity among human races or individuals may be when compared with the differences between the lowest man and the highest beast, the distinction that we make between them implies the principle that capacity does matter.

Even when we reject the idea that humanity can be usefully sub-divided into "races", the principle that "capacity does matter" still demands a response, and Waldron struggles to give one.

At the heart of his answer is that being human is what he calls a "range property". Consider the property of "being in Scotland". A place is in Scotland if it lies within certain geographic boundaries. And you can have those qualifying properties in greater degree (Edinburgh is further within the borders of Scotland than Gretna Green). But that does not make Edinburgh more Scottish than Gretna: both meet the standard, although one is closer to the edge than the other.

This is certainly an ingenious solution, but I think that Hastings Rashdall, if he were still with us, could make a powerful reply: "You and I are agreed that human beings produce things that are valuable other than pleasure, and that some people produce more of those things than others. But now you tell me that the mere fact that people can produce some of those good things gives them equal entitlements to those who produce more. Yet you haven't given me any reason why that should be so, whereas I have given you a clear and obvious one why capacity matters: favour those who are more productive and there will be more of the things that are valuable than there would be otherwise."

To my mind, this objection remains unanswerable so long as the argument is framed at the level of the value of different goods. That is why the idea of dignity will not go away: it is a way of saying that *who has* those goods matters and that this cannot just be reduced to the value of the goods themselves. If equality is to be worth having, it must mean more than that we are all equally fungible instruments

for some objective end – whether that end be mere pleasure or something more complex and refined. Yet have we not gone round in a circle? Rather than giving an independent reason to see human beings as holding rights against one another, has not dignity become a rather high-flown way of re-stating the commitment to treat them as if they do?

In a famous letter, Lincoln wrote that "If slavery is not wrong, nothing is wrong." A philosopher's way of interpreting that sentence would be that, in a case like slavery, our moral judgement that it is iniquitous is more robust than any principle that we might invoke to justify it. If we cannot find (as Waldron vividly puts it) "some little nugget of humanity – some unitary soul within, some amulet or highly polished *je ne sais quoi* that would be the host of our dignity and the explanation of our worth", what more can we hope for?

Michael Rosen

Department of Government

Harvard University

22 November 2017