

Only X%: The Problem of Sex Equality

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ABSTRACT

When Mill published *The Subjection of Women* in 1869 he wanted to replace the domination of one sex by the other laws based on ‘a principle of perfect equality’. It is widely complained, however, that even advanced countries have still failed to achieve equality between the sexes. Power and wealth and influence are still overwhelmingly in the hands of men. But equalities of these kinds are not the ones required by the principle of equality that Mill had in mind; and, furthermore, a principle that demanded them would actually be incompatible with Mill’s. The conclusion is not, however, that social policies dealing with men and women are all they should be. It is just that although the fundamental problems of feminism could be – and to a considerable extent still can be – expressed in terms of requirements for justice and equality, we have now reached a stage where concentrating on these ideas can distort the real problems, and may actually impede the kind of progress that is needed.

EQUALITY AND EQUIVOCATION

When John Stuart Mill was writing about the subjection of women in the early days of the Women’s Movement, his aim was to show:

... that the principle which regulates the existing social relations between the two sexes—the legal subordination of one sex to the other—is wrong itself, and now one of the chief hindrances to human improvement; and that it ought to be replaced by

a principle of perfect equality, admitting no power or privilege on the one side, nor disability on the other.

(Mill 1869, 1)¹

The revolution in the relationship of the sexes² that has happened since that time, at least in advanced parts of the world, must be one of the most fundamental social changes there has ever been. And yet, it keeps being said, we are still falling far short of perfect equality between the sexes.

Everyone is familiar with an line of implied argument that goes more or less like this:

Justice demands sexual equality

*But only x% of CEOs/ senior academics/ government leaders.... are women;
Women have only x% of male earnings/ leisure time...; Men do only x% of house-
work/ child care....*

Therefore there is still unjust inequality between the sexes.

I say 'implied' and 'more or less' because the argument is not usually spelt out. The work is typically done by the assertion of the some element of the second premise with an exclamation mark, as if the first premise and the conclusion were too obvious to need stating.

Politically, this seems to have been very powerful. Not many people, these days, are going to say in public that feminism has been wrong to seek equality of the sexes; and as long as women are unequal to men in such striking respects it looks as though there is obvious ground for feminist complaint. The results are familiar on all sides. Academics, for instance, find themselves perpetually assailed by emails from university administrators about the need to address 'gender imbalance' in subjects that are male-dominated, or about fears that crediting characteristics like confidence and style in examinations or appointment procedures may unfairly benefit male candi-

1. The account given here is a rather free interpretation of Mill. He directly or indirectly makes all the points referred to, but they are scattered around the text and not presented in this form or with this emphasis. The page references are generally to places where the relevant points are mentioned, but there are usually many other places where similar remarks occur.

2. I follow Mill in using the term 'sex', rather than the currently familiar 'gender', throughout.

dates. More widely, policies may be demanded to make sure that there are as many women as men involved in sport, or occupying important positions in public administration. The anxiety is everywhere among people who are supposed to be committed to sexual justice, because they seem to keep falling short of their commitments to equality.

However, the political usefulness of a form of argument is often inversely proportional to its moral integrity, and, as they stand, implied arguments of this kind are spurious. Equality, *tout court*, is not a possible requirement of justice at all, because nothing can be simply equal or unequal to anything else. Things can be equal or unequal only in particular *respects*, and unless the kind of equality required in the first premise—the moral principle of equality—is the same as the kind fallen short of in the second, such arguments are fallacies of equivocation. Sex equality sounds a reasonable, even self-evident, aspect of justice; but if the details are left unclear the ideal can seem to work as a blank cheque, apparently underwriting objections to any kind of sex inequality at all. Pursuers of equality need to make sure that the kinds that keep eluding them really are the ones they set out to catch. It may be intuitively clear that some kind of sex equality is a fundamental requirement of justice, but what kind of that is, and what it does and does not entail, is not in the least clear.

What I shall try to show is that the ‘ideal of perfect equality’ advocated by Mill is of a fundamental kind that nearly everyone accepts, at least by implication, and that this kind must be regarded as an essential aspect of sexual justice. Then, in the light of this, I shall consider claims of the ‘only x%’ kind, and argue that they cannot in general be treated as unjust by the standards of Mill’s principle, because the two inequalities are of quite different kinds. This means that if the inequalities of outcome identified by ‘only x%’ complaints are to be regarded as unjust, a different kind of equality principle is needed to support them. However, I also argue that any attempt to apply this other kind of principle to the case of men and women would actually lead to conflict with Mill’s principle. The rhetoric of the ‘only x%’ complaints is, in general, seriously misleading.

The conclusion of all this, however, is not that conservative opponents of radical change in the relations of the sexes are right to resist such change. It is rather that the some of the most fundamental problems we now face need addressing in a quite different kind of way, which can often be inappropriately obstructed by the language of equality and justice.

MILL'S IDEAL: IMPARTIALITY

The particular concern of Mill and his fellow campaigners for change in the situation of women was the laws and institutions that differentiated the sexes at the time, and which, as Mill said, brought about the subordination of one sex to the other. He divided his concerns into two distinct, but related, areas. First there were all the laws, as well as other institutions, that systematically kept women out of the territory regarded as men's: professions, higher education and political participation. These limitations on women's activities had the additional effect of giving most of them no real alternative to marriage; and the laws governing marriage were Mill's other target. These placed women, their property, and their children under the control of their husbands, with virtually no chance of escape—in a situation that Mill said amounted, legally, to slavery (Mill 1869, 53-58). What he and other campaigners wanted was access for women on the same terms as men to all the areas from which they were currently excluded, and equality in the marriage contract.

What exactly was the 'principle of perfect equality' that, by implication, underpinned these demands? It was not directly stated in the form of a principle, but it can be inferred from the kinds of argument Mill used against his opponents.

To the most extreme of these opponents, the deep-dyed conservatives, he had little to say. Some of them used explicitly religious arguments to justify women's position, and these Mill simply dismissed out of hand, saying that appeals to religion were resorted to only when something was 'too bad to admit of any other defence' (Mill 1869, 84). Others claimed that the present arrangements must obviously be best since they had been accepted for thousands of years, and these arguments he swept aside by pointing out that we were not in a position to make any such claim, since we had never tried anything else (Mill 1869, 7-8, 37). The opponents to whom he mainly addressed himself were ones who, like himself, were broadly liberal in their approach to politics, and wanted significant social change in other areas, but who nevertheless remained convinced that there was nothing radically wrong with the existing legal relationship between the sexes. And his way of dealing with these was not to offer new moral principles or even new empirical evidence, but to argue that liberals' arguments against the emancipation of women failed *by their own standards*. What they professed in other political contexts, and what they already knew about matters of fact, should have been enough to persuade them of his case for legal equality between men and women.

For instance, it was commonly claimed at the time that women were kept out of men's occupations because they were not capable of them. But in the first place—as everyone knew—at least some women had already shown clear ability to do all the things women were not supposed to be able to do, and to do them well (Mill 1869, 93). Second, there were so many obstacles placed in women's path, as again everyone knew since this was just the situation they were defending, that mere failure to match men's achievements was no evidence for inherent lack of ability (Mill 1869, 98): it was reasonable to presume that women were capable of much more than had ever appeared. And third, there was the logical clincher. Even if there really had been evidence for women's lack of ability that would still not have justified separate rules to exclude them from men's territory, since the rules and competitive structures already in place to exclude substandard men would automatically have the effect of excluding substandard women. 'What women by nature cannot do', as Mill said, 'it is quite superfluous to forbid them from doing. What they can do, but not so well as the men who are their competitors, the competition suffices to exclude them from' (Mill 1869, 48).

He also refuted by similar arguments the standard justifications of women's legal subordination in marriage. For instance, it was widely said that the legal position of women reflected their natural role, and was what women themselves wanted. But some women, at least, were already known to be protesting about their situation (Mill 1869, 24), so this was certainly not a universal truth about the nature of women. And again, it was reasonable to presume that there would be far more of these protesters if women had not been brought up from infancy to conform to the feminine ideal (Mill 1869, 25); in fact, it was reasonable to suspect that there were already far more women who would have liked to protest than actually did, but dared not because of their total dependence on their husbands (Mill 1869, 27-28, 145). And finally, yet again, if men really thought that women wanted to be in their subordinate situation, what was the purpose of all the laws and institutions designed to keep them there? (Mill 1869, 49-50). There is no more need for laws to force people into doing what they want to do than to prevent them from doing what they cannot do.

Challenges of these kinds to prevailing arguments against the emancipation of women, then, did not depend on the assertion of different, more liberal, political principles from those of his opponents, or even on the presentation of new evidence, but simply on the fact that the present position of women could not be justified in terms of the principles accepted by most of the opponents themselves—and, indeed,

was incompatible with them. The laws that kept women in their traditional female sphere were completely at odds with the ‘modern’ idea that people should not be chained to the situation they were born to, and should be free to make their own way in life (Mill 1869, 29-32), and the legal subordination of women to men was (‘now that negro slavery has been abolished’) the only form of slavery permitted by the law (Mill 1869, 147). The legal and conventional position of women was not derived from prevailing political ideals, but actually *overrode* them (Mill 1869, 36).

If arguments like this showed that the situation of women was unjust, what standard of justice was, by implication, being invoked? The essence of the matter seems to be this. The arguments showed that the legal and conventional situation of women was *arbitrary*, in the specific sense of not being justifiable in terms of any principles normally accepted by the advocates of that disadvantage. Against the prevailing nineteenth century background, the disadvantaging of women, and corresponding advantaging of men, amounted to *an end in itself*. A principle ruling out such arbitrary advantages and disadvantages could therefore support the campaign for sex equality in its traditional form.

The implied principle in question is difficult to pin down, but for now it will be enough to indicate the kind of thing it is. It is on the lines of Bentham’s dictum ‘Everyone to count for one, nobody for more than one’: the requirement that in the planning of social arrangements, everyone’s interests should be regarded as equally important. It is a requirement that philosophers have variously called ground-level impartiality, or equal consideration of interests, or positional indifference. It is not a substantive principle in its own right, in the sense of specifying who should have what, or what should and should not be done, or what institutions a society should have. It is merely a constraint, specifying that nobody should be subjected to a disadvantage that cannot be justified in terms of positive principles accepted by the people advocating that disadvantage. In itself, it specifies only that one group shall not be disadvantaged *simply* for the benefit of another, and that a necessary (though not sufficient) condition of acceptable disadvantage is an impartial principle that permits it³.

This means that the practical effects of implementing this minimal principle derive from whatever positive principles and values are already in the background. In the nineteenth-century context, it would justify the political aims of contemporary feminists for the limited range of rights currently possessed by men. Against a

3. For instance, the liberal principle that jobs should go to the people best qualified to do them makes non-arbitrary the disadvantage of people who are not very good at anything.

background of different positive principles, it would have had different implications⁴. This is something Mill makes clear when discussing women and the vote. There was at the time considerable debate about how far into the working classes it was safe to extend the franchise, and Mill was involved in this debate, but his opinions on this subject were irrelevant to his arguments about the enfranchisement of women. ‘Under whatever conditions, and within whatever limits, men are admitted to the suffrage, there is not a shadow of justification for not admitting women under the same.’ (Mill 1869, 96-97)

A useful image for clarifying this point is of society as a game or race of some kind. If you are complaining about the rules and conventions of some race, one basis for your complaint may be that the whole thing is wrongly conceived, and that it should be based on different principles. If the race in question is of a winner-take-all variety, for instance, you may recommend instead a caucus race in which all win and all have prizes, or a fun run that has no winners, or a handicap to give the poorer competitors a sporting chance, or a competition that accomplishes something useful to the community like the ploughing of fields or the harvesting of apples. If you advocate an altogether different kind of race from the kind your opponents approve, that amounts to a criticism of the principles and values they think should determine its structure.

However, you might also make a quite different kind of complaint about the current race. Quite irrespective of whether you disapproved of the principles underpinning its fundamental rules and conventions, you might complain that some of the competitors were being subjected to disadvantages that were arbitrary, in the specific sense of not being justifiable in terms of the general principles, whatever those were. Whether or not you prefer caucus races to apple-harvesting races, you can still object to women’s having to run either with balls and chains attached to their ankles, or to other players’ being allowed to trip them up with impunity, if the underpinning principles can give no justification for this⁵. Such disadvantaging not only gives arbitrary benefits to men (allowing them to get more of the prizes, or at least to enjoy the race more); it is also unjustifiable in terms of whatever principles underlie the race as

4. If this kind of female inequality is removed against a background of feudal aristocracy, for instance, it (probably) entails that the eldest child of the ruler, of either sex, succeeds to the throne, while the wife of the toiling peasant has the same rights (virtually none) as her husband.

5. The qualification is important. Impediments of some sort could well be an integral part of the setup of the race—as, for instance, in the case of a handicap race. The balls and chains referred to here are to be understood, throughout, as arbitrary.

a whole. In the apple-harvesting kind of race, for instance, the women not only win fewer prizes, but also gather fewer apples for the good of all than they would otherwise have done. In other words, if a group is arbitrarily disadvantaged in this sense it has (schematically) *an unfairly small share of an unfairly diminished whole*. And you can make this kind of complaint quite irrespective of whether you accept the background principles on which the race is based. Its foundation is a quite different sort of principle, neither in competition with the positive background principles nor reducible to them.

This, then, seems to be the kind of idea that was in effect being appealed to by the feminists of the nineteenth century, who were seeking equality for women within the political status quo. Even if they would have preferred a different kind of race altogether, they still wanted to remove the balls and chains arbitrarily attached to the ankles of women. It was in virtue of this that they were feminists, rather than, or as well as, political campaigners of a more general kind.

Since this principle of ground-level impartiality or equal consideration of interests is negative and minimal, with no positive implications of its own, it specifies nothing about the particular kinds of value a society should have or how it should be organized. But it is worth noting that this minimality has a corresponding advantage, which is that the principle is now effectively beyond controversy. People may not go around expressing an explicit commitment to ground-level impartiality and equal consideration of interests, but their implicit acceptance of it is shown by the logical contortions and empirical fantasies they will adopt rather than admit to contravening it. The nineteenth-century liberals who opposed women's emancipation could simply have claimed that it was appropriate for men to be given arbitrary privileges, but they did not. Instead they entangled themselves in the absurdities of trying to make out that women needed to be forbidden to do what they were alleged to be incapable of doing, and forced into what they would have chosen of their own accord. The principle of equal consideration of interests, somehow understood, is in practice hardly controversial at all, and may reasonably be regarded as the threshold any rule or standard must pass to count as moral in kind. It must obviously be an essential basis of any campaign for justice for women.

The idea that women have been treated wrongly in this way is caught by the familiar idea of *discrimination*, with its implication that women have been, and are, excluded from all kinds of positions, not *because* they are unsuited to them, but *in spite of* the fact that they may be able to do them perfectly well. The word needs to be

treated with care, because in practice its meaning is often stretched, so that its connotations of injustice can be transferred to quite different kinds of complaint. When I use it here, it will have only this limited meaning.

IMPARTIALITY AND EQUAL OUTOMES

Now, in the light of this, consider again the rhetorical ‘only x%’ complaints. The first question to ask is whether they show that women are unjustly treated by the standards of the principle of impartiality or equal consideration of interests. In other words, if we fill in the implied argument mentioned earlier, and put this in as the first premise, can we reach the injustice conclusion?

It may be helpful to take a particular illustration rather than dealing in abstractions, so consider the complaint that only x% of senior managers are women, and consider the implied argument as a whole. Spelt out, it seems to look more or less like this:

Justice demands impartiality/non-discrimination

But only x% of senior managers are women

So women are still unjustly treated/discriminated against

The underlying idea is that there are in place criteria for selecting senior managers, and that the shortfall of women shows either that there is discrimination at the point of selection, or, if women really are less suitable at that point, that they must have been discriminated against earlier, in their education⁶. The difference in numbers of women and men is *evidence* for discriminatory treatment somewhere along the line.

Now, obviously, if two groups emerge with unequal outcomes of this kind there must be *some* kind of inequality of input between them, but from the outcome alone it is impossible to tell where those inequalities are. They may stem from discriminatory treatment, but they may also depend on differences intrinsic to the groups

6. Note that if the complaint is about the criteria used for appointing managers it comes into the category of complaints about the rules of the race, rather than about discriminatory application of them.

themselves, or in their situations. In order to attribute an inequality of outcome to arbitrary discrimination, therefore, you need to eliminate the other possibilities. But this presents obvious difficulties.

In the first place—almost too obvious to mention—most women's circumstances have always been different from men's, quite irrespective of any discrimination, just in virtue of their biology. If Mill had miraculously had his way in 1869, and all sex inequalities of treatment had instantly ended, he would certainly not have expected this to result in equality of outcome between the sexes in such matters as status and achievement. Once a woman married—as most presumably would have done, even without the pressures Mill was castigating—there would be no further choice for most of them about pregnancy and breast-feeding, and that would inevitably limit time and opportunity for other things. For most of history there was nothing at all arbitrary about a sexual division of labour (as opposed to sexual inequality of status and rights), and in Mill's time this was still the case. Even though many women with children did have to go out to work, their extra ties to the children necessarily put them at a disadvantage to men from the point of view of competing in the world beyond the home.

Of course now, with contraception, bottle feeding and labour-saving devices of all kinds, these restrictions are far fewer than they were. But still in the nature of things women, on average, are necessarily more tied down by children than are men. Whatever the future may hold in the way of male pregnancy or in vitro gestation, this difference between the situations of men and women is something that for most women, in most parts of the world and for the foreseeable future, is bound to continue. Women and men are, in this sense, often naturally in different circumstances, which means that, for those women, difference of outcome certainly cannot be confidently attributed to discrimination.

It will be said by many, of course, that if women are held back by children that is in itself discrimination: society should be organized so that men take their fair share, and that society as a whole should be responsible for making sure women with children can compete with men elsewhere on equal terms. I shall return to such issues later. For the moment, however, all that needs to be said is that even if so, this is not an issue that comes into the arbitrary discrimination category: if it is called discrimination, this is an instance of stretching the term to cover different kinds of complaint. If a woman who has small children cannot do as well in senior management positions as competitors (male or female) who have no such responsibilities, that is no more

evidence for discrimination against her than if people with hobbies that absorb their time and interest do less well in their professions than do others without those interests. If women with small children should have special concessions in other areas, that is once more a question about the underlying rules of the race, rather than about arbitrary treatment within them.

For now, anyway, for the sake of pursuing this particular question—that of whether unequal outcomes of the kind we are considering can provide evidence of arbitrary discrimination—consider only women who have no children. If even they are disproportionately represented among senior managers, can that be regarded as evidence of discrimination?

This brings us to the most contentious issue of all in this area: whether there are natural differences between the sexes that might account for differences of outcome, quite irrespective of any discrimination or difference of circumstance. Mill claimed that we could not yet know about the extent of natural similarities and differences between the sexes, because their systematically different treatment had prevented any controlled experiments (Mill 1869, 38-39). We knew that there had been differential treatment, so we could not know how many, if any, of the observed differences between men and women could be attributed to differences in nature. Now, however, there are many circles in which it seems to be beyond question that there are no fundamental differences in character and ability between the sexes, and that all differences are ‘socially constructed’.⁷ This means that the question of whether ‘only x%’ claims can be regarded as evidence of discrimination comes down to the question of whether there is any justification for replacing Mill’s agnosticism with this claim about the sexes’ essential natural similarity in all but the most obvious respects.

It is important to stress that because the question being asked here is about *evidence* it must be treated as purely scientific. It is not about political policy, such as whether affirmative action policies of some kind are justified, or whether the benefit of any doubt should always be given to women. The positive evidence for discrimina-

7. The term “gender” was originally commandeered to refer to such supposedly nonbiological differences, and it is a sign of how taken for granted the social construction view has become to feminism that the substitution of “gender” for “sex” rapidly became compulsory among the politically enlightened. Since I regard the social construction view as mistaken, and seriously misleading in the pursuit of justice for women, I still resist the use of ‘gender’ for ‘sex’ – though I am afraid the battle to preserve its use has probably already been lost. It has now spread to the population at large; I have even noticed it, as a flagrant anachronism, in television dramatizations of Jane Austen.

tion given by any ‘only x%’ complaint can only be as strong as any positive evidence that the sexes are intrinsically alike in all relevant respects.

It is sometimes said that natural sameness in unknown respects is the reasonable presumption to make unless there is positive evidence to the contrary. But, as a matter of science, this is certainly not true. If two things seem the same you may well presume they are the same in all respects until your science advances far enough to show subtle differences; science had to go a long way before it could identify the difference between ordinary and ionized water, for instance. But if two kinds of thing are different in systematic and striking ways, as are men and women, no scientist would decide that it was reasonable to presume they must be alike, on average, in unknown ways unless there was positive evidence to the contrary. In creatures as complex as higher animals, where the mental, emotional and physical are inextricably entwined, it cannot possibly be taken for granted that physical differences do not influence the other characteristics. Scientific rationality involves exploring the obvious differences, to find out how much they are and are not connected with less obvious differences. A great deal of *positive* evidence would be needed to reach the conclusion that there were no differences between men and women on average in subtle areas of character and ability and emotions.

Since sameness in unknown respects is not a reasonable presumption to make in the case of organisms that are conspicuously different in known respects, the question is what positive evidence have we have now, when science has moved far beyond the days of Mill. It does seem that Mill was right in his speculation that the average woman was not at all inferior to the average man in matters of intellect, general intelligence, inventiveness and the like, though there are interesting differences of detail and variation. But in many areas—emotions, interests and many others—there is strong and increasing evidence of tendencies to many kinds of difference. Ordinary experiment and observation is being increasingly reinforced by developments in other parts of science: understanding of the effects of hormones, for instance, and the great advances that are coming from the direction of evolutionary theory. It is no part of this paper to enter into the details of scientific controversies, but in view of both these considerations—presumptions it is and is not reasonable to make in the absence of positive evidence, and such positive evidence as there is—it is hard to see how anything but determined ideology could form the basis of any insistence that average differences of outcome between the sexes must be attributed to social construction and other kinds of discrimination.

This argument is not, of course, intended to suggest that continuing discrimination does not exist. It certainly does, as we know perfectly well on other grounds. For instance, there are experiments where people are asked to assess essays or articles, and it turns out that the assessment is strongly influenced by whether the supposed author is given a male or female name. And in some particular contexts we may even be able to infer discrimination from ‘only x%’ claims. If women and men have comparable success in universities that make special efforts to treat the sexes equally, for instance, and others still have great inequalities of outcome between them, that gives reasonable grounds for suspicion that there are inequalities of treatment in the second group. Arguments along these lines are complicated and need to be made for each case individually, but there are certainly cases in which continuing discrimination can be demonstrated.

That, however, is not the issue here. There is no problem about investigations to determine the extent of discriminatory treatment between the sexes: it positively needs to be done if we are to achieve ground-level impartiality of treatment. Here the question is only of whether inequality of outcome between the sexes can provide the relevant *evidence*, and in general it cannot. Without considerable further evidence in particular cases, ‘only x%’ claims cannot be regarded as evidence of infringement of Mill’s principle of equality. There is a slip in the implied argument. The kind of equality demanded in the first premise is not the kind shown to be lacking by the ‘only x%’ complaint.

INEQUALITY AS INTRINSICALLY UNJUST

But, it may be said, if men and women do differ by nature in many ways, and if the result of treating them with Millian impartiality is that men go on having most of the power and influence, that means the background itself is wrong. Society should be arranged so that the sexes are equally successful, and until that is done women will still be unjustly treated.

If this move is made, it is to a quite different position. It is no longer a ball-and-chain complaint, but a complaint about the principles on whose basis the race has been designed in the first place. The suggestion now is that even if arbitrary discrimination has been eliminated, there is still something wrong about a race that has more male than female winners. Justice demands that we change the underpinning values,

until the results are equal between the sexes. So the question now is whether ‘only x%’ complaints can be justified by arguments along these lines.

The challenge for anyone who thinks they can be justified in this kind of way, is, once again, to fill in the details of the implied argument. It would need to begin with some kind of positive equality principle: a principle about the running of society that made it important not just to treat people impartially, but to guarantee some degree of equality between them in their actual possession of some good.

As soon as you start trying to do this in any detail, the complexities become apparent. For instance, you need to decide *which* goods you think should be equalized. There is a long-running dispute, for instance, between people who think we should equalize opportunities in some way (perhaps by giving people equal education and letting the competition rip thereafter), and people who want to equalize outcomes (perhaps by making sure everyone has the same pay). Examples like this show that equalizing some things may be incompatible with equalizing others. Then you need to decide such matters as how important *equality* considerations are in comparison with other things that may be regarded as important, such as increasing the overall quantity of whatever is good. There is so much controversy about such matters—even among people who agree that equality considerations matter at all—that even if you could find a principle that satisfied you, not many other people could be expected to agree with it. So even if your principle were of a form that could support your ‘only x%’ complaint, you could not expect other people to share your view that this was a matter for indignation. While everyone seems to accept that there should be no arbitrary balls and chains, there is no agreement at all about the fundamental principles that should underlie the race as a whole.

But as well as that problem, there is another that goes deeper than mere scope for controversy. Consider again a complaint of the ‘only x%.....’ variety, with its implication that justice requires sex equality in that particular respect. What positive ideal of justice would, if accepted, support this conclusion? If you think that society should be arranged so that men and women on average have equal pay, for instance, what impartial principle might do the job of justifying this?

The most obvious possibility lies in some kind of general egalitarianism. If everybody should be equal in the respect at issue (in this case pay), this would in itself have the implication that men and women should be equal. But anyone who held a principle of that kind would have no basis for special complaints about inequality of pay between women and men in particular. All inequalities of the pay would be

equally open to objection. This means that a special concern for the equalizing of women and men makes sense only against a background of general ideals that allow for *inequality* in that respect.

Perhaps it might be said that all *groups* should be equal; but that would not improve matters. If *all* groups should be equal, the logical implication is once again that everyone should be equal. And if, on the other hand, it is only particular groups that should be equal, this runs straight back to the original difficulty of finding a principle that demands the equalizing of some groups but not others, while still regarding everyone's interests as equally important

This is a serious difficulty. If equality of outcome between men and women is treated as being of particular intrinsic importance *without* there being an adequate justification, any such equalizing is in itself, paradoxically, open to exactly the same objection as the original unequal treatment of women. It would itself involve an infringement of ground-level impartiality.

You can see this by imagining that you have worked out the general criteria by which, counting all individuals' interests equally, you can decide whether a society is getting better or worse. In particular, you have decided the relative importance of making people's possession of some good more equal and increasing the total amount of that good. Suppose also that you are an extremely powerful dictator and can do anything you like, and that after a series of social experiments you have identified the social institutions that produce the best outcome by those standards, whatever they are. All other known arrangements make things worse. If your egalitarianism is of such a strong variety that such a situation must involve no inequality between individuals, the problem of sex inequality does not arise. If on the other hand there is general inequality, it is a priori likely, by the arguments of the previous section, that one sex will on the whole tend to be better off in the respects you are concerned with than the other. But if this happens, and you then equalize the sexes (or just increase the equality between them), you will, *ex hypothesi*, make things worse overall *by your own criteria*.⁸ In that case, the individual advantage and disadvantage brought about by equalizing the sexes will be *in spite of*, not *because of*, the general principles in the background; and this is just what ground-level inequality of consideration consists of.

8. Except in the limiting cases where two possible states come out equal, and one of them contains more sex equality than the other. In that case the principle of impartiality would entail that the two would be of equal value irrespective of sex equality

Another way of expressing all this is that if the best obtainable outcome, by whatever general criteria you please, results in overall inequality, the principle of equal consideration of interests specifies that it does not matter who comes where in the spread. It is *intrinsically* no worse that one group should be towards the bottom of the heap than that there should be a heap at all.

Treating any kind of positive sex equality as a requirement of justice, therefore, must potentially involve overriding whatever general principles are in the background, and in doing so discriminating against the members of whichever sex would otherwise have been better off. Positive principles of sex equality are actually in conflict with Mill's impartiality principle. If the first matters, the second is unacceptable. Equalizing the sexes in the possession of some good is not a legitimate aim.

This shows why it is so important to distinguish between the need for equality in the sense of impartiality from positive equality principles that might be recommended as the basis of rules of the race. They are totally different in kind—neither in conflict nor reducible to each other—and only the first kind of equality seems relevant to relationship of the sexes.

My suspicion is that what underlies the prevalence and power of the 'only x%' rhetoric may be a similar conflation of these quite different kinds of equality. Negative equality ideals have immense moral power, and also are directly relevant to the traditional aim of ending discrimination against women. Their problem is that they have, on their own, no direct practical implications. Positive equality ideals, on the other hand, while highly controversial, do support positive practical requirements that can be applied directly to states of affairs. If the two are conflated, the power and sex-applicability of the first may merge seamlessly with the specificity of the second, and give the appearance of providing a justification of inequality complaints. But they are distinct, and neither can justify the 'only x%' complaint.

That must sound outrageous to many feminists. It sounds like an argument that plays directly into the hands of men who say that we now have impartiality in the treatment of men and women, and if women are still worse off that is because they are naturally inferior. Any further equalizing would amount to discrimination against men.

However, the matter does not end here. The problems about justifying policies of positive equalizing between the sexes do not imply that change cannot be justified at all. The implication is only that large tracts of the problems about managing

a world that contains men and women need to be formulated in different terms, as I shall try to show.

THE WIDER PROBLEM

This final section hints at the vast reach of the problems we are now confronting. What I want to do is sketch (only sketch) a wider view of problems about the relationship of the sexes, and suggest the need to recognize issues that it is difficult to characterize in terms of justice and equality.

First, as a way into this, return to the fact that arbitrary discrimination against women, which is wrong by just about everyone's standards, is still going on. Such discrimination is harder to demonstrate now than it used to be, and it cannot be directly inferred from inequalities of outcome. But, as mentioned already, there is positive evidence that it occurs, and it is reasonable to presume that it is far more widespread than can be demonstrated with any certainty. If so, anyone who agrees that such discrimination is unjust should accept that measures should be taken to try to prevent it.

There are many ideas about what these might be. Some, for instance, take the form of trying to prevent discrimination directly, by instituting blind refereeing of articles, or insisting that people making appointments begin by listing the qualities they are looking for, and then writing a report assessing each candidate strictly in terms of how they measure up to the requirements and justifying the eventual selection in those terms. But presumably we should also be trying to tackle the fundamental causes of traditional arbitrary discrimination, and if we are to attempt that we need to understand those causes. Some of them, no doubt, lie in the wishes of men to keep women in their subordinate position. But there is evidence that discrimination is also perpetrated by women (as anti-feminists never fail to point out) so it cannot all be attributed to a peculiarly male form of original sin. It is also clear that much discrimination—by men as well as women—has no malign motivation at all, and is entirely unconscious and unintentional. It seems to be rooted in deep, traditional beliefs about the natures of the sexes, which systematically distort judgments about individuals.

If this is so, how might we try to eliminate such discrimination? We need to try to change the way people think about women. If people underestimate women's abilities because they are not used to seeing them in particular roles, one way to dislodge those preconceptions might be to flood the relevant areas with women, until the

sight of them was so familiar that nobody retained any of the former presumptions. Some of this might be achieved by encouraging more applications from women and making sure they were not discriminated against if they did apply, but if that did not produce enough women to do the job of dislodging prejudice, perhaps more radical measures might be considered. Perhaps the standards of admission might be lowered for women, to produce greater equality of representation between the sexes.

The trouble is, of course, that policies of this kind look like straightforward cases of reverse discrimination. If impartial selection policies result in unequal numbers of men and women selected, and we try to impose greater equality, we are doing exactly what was ruled out by all the earlier arguments. We are arbitrarily benefiting the women who are admitted too easily to these desirable positions, arbitrarily disadvantaging the men who should by rights have been appointed, and getting the job less well done. If the principles of equality that form the basis of feminism are flouted in such kinds of affirmative action, surely morally committed feminists should be opposed to them.

But in fact this description of such a situation is mistaken. If a policy of getting men and women more equally represented in some situation is given a justification of this form there is no discrimination, because femaleness is a characteristic directly relevant to the job that now needs to be done. It has been decided that the people appointed should both be able to do the original job—senior-managing, or whatever—and contribute to the dislodging of discriminatory attitudes to women. Schematically, the purpose of the job has changed: part of the job description is now contributing to the dislodging of prejudices about women. Changing the purpose of a job in various ways when circumstances demand is perfectly normal—as when a school decides that it needs its new maths teachers to be able to teach physics as well. The change affects which candidates are chosen, but if there is a genuine need for physics there is no discrimination against the maths-only teachers who would otherwise have been appointed. The purpose of the affirmative action described here is to achieve the end of dislodging prejudice, not to benefit the selected women who are advantaged by it. That advantage is merely a by-product of its real purpose, which is their *instrumental* value in achieving the desired outcome.

Of course someone who really wanted greater female equality as an end in itself might offer instrumental arguments of this sort as an excuse for them, but a genuinely instrumental argument for greater sex equality works quite differently in practice from one that demands equality as a requirement of justice. All instrumental justi-

fications of policies are endlessly sensitive to changing circumstances and changing evidence, and may be in many ways tentative. In the case of a policy like the one described above, people who thought of implementing it would need to consider whether the aim of dislodging prejudice was sufficient to justify any reduction in the standards to which the original job was being done, and that alone is a complicated matter. It involves assessing the value of both aims, and the probability of achieving adequate success in them. The results also need perpetual monitoring, so that if the policy is not producing the desired outcome, or if its cost becomes too high, it can be adjusted or abandoned. In the case of affirmative action of this kind, for instance, it would be essential to keep the lowered standards for women high enough to make sure that the job was still done well, since the effect of appointing bad female senior managers would just be to entrench the old preconceptions. Such tentativeness and continuing assessment is quite unlike the situation that would result if the appointment of more women were seen in itself as a direct requirement of justice, rather than as a means to some further end.

In this particular case the purpose of the policy is to dislodge prejudice, and therefore part of its justification is the original feminist aim of eliminating discrimination against women. But it also introduces a more general point. A policy of this kind is neither required by justice nor forbidden by it. It is not obviously necessary for the purpose of achieving justice for women, because it might not work, or other policies might be better, or its costs might be too high; it is not obviously unjust to men, because the selection policies it involved have a plausible justification. It comes into the category of innumerable other things we try with a view to achieving other aims: plausible and worth trying, but to be regarded as experiments in need of constant monitoring.

What I want to suggest, briefly, is that far more of our questions about the relationship of the sexes need to be seen in these terms. Relatively few potential policies can be seen as requirements of, or forbidden by, clear principles of justice.

What we can see is that we are in uncharted territory, because the position of women in large parts of the world has completely changed in the last half century or so. Political change has taken them out of their legal subordination to men, and technological change has to a large extent freed them from their biology: they can choose not to have children, or to limit their number. On the other hand, they have emerged into a public world whose structures developed without their say, and without any direct consideration of their interests. It is overwhelmingly likely that there must be

better ways of arranging the fundamentals, by any impartial standards, but we have little idea as yet of what these may be.

Consider again the thought experiment mentioned earlier of working out your ideal principles of justice, and experimenting until you had found the social arrangements that brought about the best possible balance of equality and quantity in the goods you valued. If either sex emerged better off than the other, and you imposed sex equality on that arrangement, you would be making everything worse by your own standards, and in doing so discriminating against the sex that would otherwise have been better off. That remains true as a matter of logic, but how does the point connect with the practical problems that confront us? Apart from the fact that most people never get anywhere near formulating a coherent set of standards, let alone agreeing with others if they do, it would in practice be absolutely impossible to tell when the best possible way to realize them had been reached. Whatever you achieved, there would always seem to be ways in which you might make things better. Even if we ever agreed about ideal standards by which to assess and compare societies, we would still have no practical prescription for producing the best possible outcome. All we can do is keep experimenting, and making adjustments in the light of the results.

In the beginning, the political aim of feminists whose aim was negative equality was the breaking down of formal barriers. Their claim was that there was no justification for laws keeping women out of higher education, or politics, or high office, or for making them legally subject to their husbands. But although the first aims were clear, the later ones have not been. We know that the traditional arrangements were wrong; we can show, for instance, that traditional marriage arrangements cannot possibly be justified in general terms since they *simply* gave power to men, and in doing so infringe the principle of negative equality. But that does not even begin to suggest what positive arrangements should be put in their place. We know that the exclusion of women from the professions and politics was unjustified, and we have reason to think that radical rearrangement will be needed if women are to do what they are capable of doing; but again it is not in the least obvious what arrangements would be best.

There are indefinitely many possibilities. Trying to make the sexes and their activities as alike as possible—sometimes called androgyny—can be recognized as a possible direction to move in, and worth thinking about; but there is no reason to presume, just because there was for a long time an unjustified determination to keep women off men's traditional territory, that all tendencies to sex differentiation must

be a bad thing. Ideas of androgyny are often themselves a direct reaction against the past, rather than a radical rethinking. And this is true in general. Much of what feminism has achieved so far has involved only a direct reaction to the previous state of things: anti-discrimination laws, women having children on their own, easy divorce, a sexual free-for-all, child-minding while women work in traditional environments—rather than radical, structural change. The need for rethinking is, furthermore, being increased all the time by technology, which affects both family structures and connections, and the nature of work.

My own view is that many of the issues currently discussed in terms of justice and equality could better be seen in this wider context: questions about whether and under what circumstances there might be single-sex institutions of various kinds; whether the institution of marriage should remain, and if so what rules should surround it; what responsibility there should be for children; whether we should try to make men and women more similar in their activities, or accept some deep differences, and so on. These issues look quite different when they are removed from discussion in terms of justice and equality, and seen as matters that need to be experimented with.

Consider, for instance, ideas about maternity leave and free child care. These demands cannot be justified on obvious grounds of justice to women: there is no clear principle of justice according to which, if you make a decision to use your child-bearing abilities (abilities that men do not have), employers and the state should make arrangements to make sure you lose nothing else. Nor can such arrangements be obviously rejected on grounds of justice to men—though the question of whether men in general should support children in whose production they have no say is a legitimate one. But it is perfectly reasonable to recognize that what women do in the area of childbearing is relevant to just about every other part of social life, and we need to try to find out what effect different arrangements have on other parts of society, not just on women. If subsidized child care turns out to have widespread benefits it may be justified in those terms, even if it is not a direct requirement of justice to women. And it is not legitimate to block those possibilities out of hand on the grounds that the incidental benefits to women are unfair to men.

It is virtually impossible to do anything systematic about implementing impartiality in the assessment of radically new structures as they are proposed, because we have hardly anything to go on. We can identify failures of impartiality when arguments justifying the position of women fail in their proponents' own terms; but

when radical change is proposed, and we are trying to guess the results of different kinds of organization and think through fundamental principles and values, it is difficult to see how a positive test for impartiality could possibly work.

However, one thing is clear. At least part of the reason for the radical unsuitability of many traditional social, economic and political—and even domestic—arrangements is that women had little or no say in their setting up. It seems plausible, therefore, that the most reliable way to make sure that men's and women's interests are equally represented in all future social experimenting is to have the sexes themselves equally represented in all organizations that make major decisions about laws and institutions.

We still tend to accept the liberal ideal of choosing the person best able to do whatever job needs to be done (whatever that means), and it is commonly said as an article of faith that sex is irrelevant and should not come into the matter. This is the usual objection to quota proposals. But there is another point of Mill's, about representative government in general, that should not be overlooked. Although, from the point of view of competence and efficiency, we want people with the greatest expertise to do whatever needs to be done, decisions cannot be left to the experts alone because nobody can be trusted to represent anyone else's interests. There are two elements involved in government: competence, and simple representation of interests. Given men's long record of rigging the arrangements for their own benefit, women need to represent their own interests in full force. (As men will need to represent theirs, if—as may happen—the power pendulum swings the other way.) If we do this, the purpose will not be to give equal political power to men and women because they are intrinsically entitled to equality in powerful positions, but as an instrumentally valuable means to equal consideration of interests.

Such a possibility is at least worth considering; and as long as there is no losing sight of the kinds of argument needed to assess it, there will be no harm in doing so.

Perhaps this is a suitable proposal on which, tentatively and provisionally, to end.

CONCLUSION

The underlying thesis of this article is the importance of distinguishing two radically different kinds of principles about equality, and the implications for assessing 'only x%' complaints.

The kind of principle that I have argued relates to women (and, incidentally, to many other disadvantaged groups—but that is a very long story) is the minimal principle of equal consideration of interests, which has itself no substantial implications. The practical implications follow from whatever general principles are in the background. What this principle loses in practical specificity, however, it gains in power: this is a principle that, by implication, everyone accepts, and whose occurrence can often be decisively demonstrated—even if not by such usefully obvious tests as equality of outcome. The other is the broad political question of the extent to which we should aim for distributive equality—and of what—in society as a whole. Answers to this question have substantial implications for policy, but on the other hand they are intensely controversial, and there is no sign of agreement in sight. And, most importantly, they cannot justify positive sex equalization without infringing the principle of negative equality. It is essential to recognize the two as distinct, and only the first as dealing directly with the matter of sex equality.

But the distinction seems to be easily overlooked, as can be illustrated by a controversy that pervaded left-wing politics some time ago. When modern feminism got going in the late nineteen-sixties there was a good deal of argument with other radical groups about what should be regarded as the Primary Struggle. Socialists were inclined to say that the global injustices of poverty and inequality were far more fundamental than women's problems. Justice to women, as to everyone else, would follow from the establishment of True Socialism, and there was no point in trying to get equality for women against the background of an unjust political system, because both women and men would still be unjustly treated at the end of it. Feminists, on the other hand, were inclined to argue that the oppression of women by men was the root of all other evils, and were not pleased by the implication that they should go on typing envelopes and washing the leaders' socks until the Revolution had triumphed and put everything right.

This debate provides a good illustration of the distinction being discussed here, because it overlooked the *irreducibility* of the two kinds of issue. Working to eliminate balls and chains is neither a substitute for working to change the fundamental values that underpin the rules of the race, nor a rival to it. And the same is true the other way round. It is true that removing the arbitrary disadvantage suffered by women does nothing, in itself, to change underlying social ideals; but the reverse applies as well. Changing the underlying ideals does nothing—except possibly by accident—to remove the arbitrary disadvantaging of women. Since arbitrary disadvantage is by

definition a matter of disadvantaging women *in spite of* underlying general principles, rather than because of them, there is no reason to think that a change of generalizable principles will affect the disadvantage to women. And that is not just a matter of theory: we have seen over and over again—in the French and American and Russian and Chinese revolutions, as well as in gentler kinds of change—how radical political changes can leave attitudes to women virtually unchanged, and make it essential to establish the pursuit of sex equality as a separate issue. The fact that neither kind of campaign can bring about justice in all respects on its own is not a shortcoming of either, just an inevitable consequence of their irreducibility.

And in case impartiality without equality of outcome still sounds too little as the goal of a campaign for sex equality, there is one further point to bear in mind. Feminists have very good reason to be suspicious about a principle of equality that allows for the possibility of women's remaining at a real disadvantage to men; but the same principle works the other way round. After all, if men went to so much trouble to devise special impediments for women, that rather suggests an apprehension that that without those impediments, women might get ahead.

Remember the early history of intelligence testing. Women kept doing better in the original tests, so the tests were re-worked until men did equally well: that is what the pattern recognition elements are for. That is the kind of thing that can happen if positive sex equality is adopted as an ideal. Perhaps it is just as well that it cannot be justified.

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