

## Seen to be Done: The Roots and Fruits of Public Equality

**Christiano, Thomas. 2008. *The constitution of equality: democratic authority and its limits*. Oxford: Oxford University Press. 320pp**

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Published online: 25 August 2009  
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What is the ethical basis for democracy? What reasons do we have to go along with democratic decisions even when we disagree with them? When can we justly ignore democratic decisions? These three questions are intimately connected: understanding what is ultimately important about democracy helps us to understand the authority of democratic decisions over our personal views, and the limits of such authority. Thomas Christiano's ambitious new book, *The Constitution of Equality*, aims to provide such an understanding through a discussion of all three questions. Briefly put, in Christiano's view, *public equality* is the moral foundation of both democracy and liberal rights, and it serves to explain the authority of democracy as well as its limits.

The book aims first of all to ground the principle of public equality in a number of principles related to the nature of personhood, dignity, well-being and formal considerations of justice, on the one hand, and in the need for publicity for social justice, on the other (Chaps. 1 and 2). The book then aims to show how both democracy and basic liberal rights are grounded in the principle of public equality, which tells us that in the establishment of law and policy we must treat persons as equals in ways that they can see are treating them as equals (Chaps. 3 and 4). The account clarifies the nature and roles of adversarial politics and public deliberation in political life (Chap. 5). Finally, the book argues that democratic decisions have authority over personal views and that violations of democratic and liberal rights are beyond the legitimate authority of democracy, and that the creation of persistent minorities in a democratic society, and the failure to ensure a basic minimum for all persons weaken the legitimate authority of democracy (Chaps. 6 and 7).

I shall begin by addressing Christiano's view on the basis of equality, and then shall focus mainly on the central argument for public equality, democracy and its

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authority. I shall end with some briefer comments about both the argument for liberal rights as limits for democratic authority and the nature of public deliberation.

The first chapter defends the principle of *equal advancement of interests* as an abstract principle of justice. Christiano starts with the claim that persons have dignity which is to be respected or honoured, and not promoted like such values as pleasure, happiness or beauty.

The dignity and moral status of persons derives from their unique relation to intrinsically valuable aspects of the world, namely, their ‘capacity to recognize, appreciate, engage with, harmonize with, and produce intrinsic goods.’ (p. 14). Christiano calls this capacity also ‘authority’ concerning value (perhaps misleadingly, as it is ‘authority’ in a very different sense than the authority of democracy which is more central to the book). Christiano claims that the *equal* moral status of humans is based on the fact that ‘human beings all have essentially the same basic capacities to be authorities in the realm of value’ (p. 17). He notes the difficulty that people are obviously differently capable of appreciating intrinsic values, but proceeds with the premise that persons have equal moral status (p. 18).

Christiano understands well-being roughly as the happy appreciation and active engagement with intrinsic goods: in a slogan, well-being is the happy exercise of the distinctive authority of persons. Everyone has an interest in such exercise—it is what their well-being consists in. From these ideas of personhood, equal status and well-being, Christiano derives the principle of equal advancement of interests as an abstract principle of justice. While the chapter addresses central foundational questions, there is no separate discussion on why well-being (instead of, say, preconditions of well-being, or capabilities) is the currency of equality, or on what the role of personal autonomy is at this level of analysis.

The chapter ends with a discussion of the thorny levelling down problem. What does egalitarianism recommend in a situation where there are 16 indivisible goods and they are distributed to three persons so that one has six and the others have five? Is the recommendation to take away the sixth good and let it go to waste? In Christiano’s view, egalitarianism need not demand such levelling down. Egalitarianism is merely committed to the view that, for any unequal distribution, there exists a better, more equal distribution, ‘the ideal point’ (in this case each would get  $5\frac{1}{3}$ , which unfortunately is not realisable if the goods are indivisible). The second best distribution may be the Pareto-efficient slightly unequal one: 6, 5, 5. But 6, 5, 5 is in turn better than 5, 5, 5, so no levelling down, or wastefulness, is endorsed. The levelling down objection falsely assumes that egalitarians must hold 5, 5, 5 to be the ideal distribution.

Having defended the principle of equal advancement of interests as an abstract principle of justice in the first chapter, Christiano turns to *social* justice in the second. Social justice is the justice of institutions and relationships between persons. Central to social justice is the requirement that equality be publicly realised. Justice must not only be done, it must be seen to be done.

Why? The intuitive idea is that lack of publicity may harm social relationships even when justice in fact gets done. Suppose someone borrows money from you and without telling you, deposits it back into your account (without leaving you any

means of verifying it). Christiano suggests that this is a normatively defective case in comparison to one where everything is out in the open.

In more detail, Christiano appeals to four facts that characterise any moderately complex society. There is genuine *diversity* in the conditions of each person's well-being, and widespread *disagreement* about their interests and demands of justice. Furthermore, people are deeply *fallible* in their assessments, and tend to be *cognitively biased* toward their own well-being. Related to these four facts, there are the fundamental interests that people have. These include, first, an interest in getting the cognitive bias of others corrected, second, an interest in making the world an intelligible place where one can 'be at home' and live without alienation or estrangement, and third, an interest in being recognized and affirmed as an equal among other persons. (Towards the end of the book, a fourth one crops up, which is an interest in truth).

Throughout the book, considerable weight is placed on these four facts and the related interests. Given their importance, and given the systematic ambition of the book, the status of these facts and the related interests remains slightly unclear. They crop up in different places of the argument, playing different roles. They are invoked both to explain why public equality is important, and how democracy is based on public equality. They are also central in the discussions of public deliberation and liberal rights. Perhaps it is best to see the book as discussing realisations of equality only in societies characterised by these facts—and not saying anything about societies of other kinds. In any case, it is quite obvious that the four facts hold in modern societies, and it is equally obvious that they make a normative difference. Christiano is certainly right to stress their importance.

When are such interests in recognition, at-homeness, and cognitive correctness adequately met? Naturally, the answer depends on whether there are correct answers to such normative questions. Christiano thinks there are. So, one might expect that the interests are served ideally when all parties *know* the relevant normative truths, whatever they are, and treat each other accordingly. Even in the context of *diversity* of well-being, this would be so. Although people would differ in their genuine interests, ideally each person's different interests would be addressed—so ideally there need not be any disagreement.

But, Christiano stresses that in the further empirical conditions of disagreement, cognitive bias, and fallibility, things are different. In these non-ideal conditions, the truths about justice may not be known by all parties, and thus, one person's understandings (call her A) may be one thing and another person's understandings (call him B) may be another and the truth of the matter may be a third. So the question is, when should we say *under such conditions* that A adequately recognises and treats B? Or consequently, when is B justified in feeling inadequately treated?

Is the crucial thing that B is treated adequately by *B's standards*, or by *A's standards*, or by the standards that would in fact be *correct* standards of justice if people only knew them? Christiano accepts none of these options. Central to his defence of public equality is the idea that A truly treats and recognizes B justly as an equal when A treats him in accordance with the prevailing common *public* standards which apply to everyone in the common world and in whose legislation both A and B have an equal say (along with everyone else).

Why? It is because the other alternatives end up setting back the vital interests of the parties. If A relies on her own personal standards in treating B, however conscientiously, it is very likely that she does not get things right, under conditions of cognitive bias, fallibility, and diversity. She acts only on her own biased view, and does not capture what is really in B's interest, or what justice really demands concerning B. Thus B's interest in getting A's cognitive bias corrected would not be met. And even in cases where A would get things right, it might be that B (as a fallible judge himself) would disagree. In either case, B would not experience being adequately recognised, and could experience alienation from the social world. Thus his interest in being at home would not be met.

And if the way that A treats B is to be evaluated only with the standards B accepts, then there is (in addition to an obvious epistemological problem for A) a problem of why B should have a say and A not. This amounts to a subordination of A's judgements to B's judgements, and thus reflects a lack of equal respect towards A.

So should not A treat B in accordance with objectively *correct* standards of justice? After all, cognitive bias and fallibility are bad things because they lead us astray from the correct standards. As such, could there be anything amiss in a case where A successfully and without ulterior motives treats B in accordance with correct standards of justice? Perhaps not, if both A and B know that this is the case (although perhaps what justice requires is underdetermined in the absence of public rules). But, as Christiano stresses, given the fact of widespread disagreement, and the facts of diversity, cognitive bias, and fallibility, we cannot assume such an ideal of mutual knowledge as the typical case. What A believes to be the fact of the matter seems to B to be merely A's private view, and vice versa—even in a case where one of them is in fact right.

So, Christiano's message is that we need *public* rules to be able to tell when B's experiences of inadequate recognition, or of alienation, are justified. Publicity removes the epistemic difficulties—we can expect that there isn't widespread disagreement, fallibility, or cognitive bias concerning public norms, and that there is no fundamental diversity either: the public rules are the same for all. Further, to avoid subordination, we ought to grant both A and B an equal say in the formulation of such public rules—public equality is needed. The four facts and the related interests justify *public* equality over mere abstract equality.

In Chapter Three, Christiano argues that democracy is a uniquely fitting way to realise public equality. Everyone should have an equal say in collective decision-making processes concerning the organisation of society. If someone's judgement is not taken seriously, then their interests are set back. The decisions are likely to reflect the cognitive bias of those in power and the exclusion from decision-making is in itself a lack of recognition and probably a violation of 'at-homeness'.

Christiano holds that democracy is intrinsically important in the context of a common world, 'a world in which the fulfillment of all or nearly all of the fundamental interests of each person are connected with the fulfillment of all or nearly all of the fundamental interests of every other person.' (p. 80). (This leaves it open whether democracy is intrinsically good or unimportant, *outside* the common world.)

The territorial state is a paradigm example of a common world whereas various sub-state associations do not concern everyone's basic interests equally, so they need not necessarily be democratic in Christiano's view. Christiano also suggests that global economic interdependencies are not sufficiently significant to meet the criteria for a common world. He notes that multinational production comprises less than 10% of even the world's most integrated economies. That, however, seems to be a misleading figure to quote, as whole national economies (especially developing countries with massive debts) are deeply dependent on a global economy.

Christiano writes further that 'it must be the case that the individuals have roughly equal stakes in the things that connect them in order to justify giving each an equal say in these relationships' (p. 83). Again, this is a convincing claim, although it also invites a couple of follow-up questions: who should have more say when the stakes are unequal? If their stakes in global justice are not equal, who then ought to have greater say—the rich or the poor? Furthermore, is it good or bad or neutral that the condition of common world holds—and whether there's reason to bring it about if it does not. In comparison, it would be absurd to suggest that one ought to bring about a war so that *jus in bello* (right conduct in war) could take place; but perhaps one ought to bring about a common world so that valuable democracy can be realised. In fact, Christiano's subsequent discussion of authority suggests that it is indeed good that the conditions of democracy hold and that democracy be realised.

In Chapter Six, Christiano ultimately appeals to a natural duty to treat other human beings as equals and to bring about democratic institutions as the uniquely appropriate way of doing so. But democracy is appropriate only in a common world, so there seems to be a natural duty to promote the existence of a common world. Where democratic institutions are appropriate, they have authority, and the citizens have a duty, owed *to* the democratic assembly, to obey (p. 249).

Christiano distinguishes three concepts of legitimate political authority, which are suitable in different contexts. Authority as the full *right to rule* captures the inherent authority of democratic assemblies (which satisfy the principle of public equality), and is correlated with a duty owed *to* the authority. Lesser authority, as the capacity to impose duties, captures the instrumental authority of courts and government agencies. And still lesser authority, as justified coercion, suits the authority of hostile but justified occupation powers (which do not have a full democratic right to rule).

The democratic assembly has a valid claim, grounded in public equality, 'to shape the common world of citizens by means of law and policy' (p. 243). This right includes a (limited) liberty to make laws and policies as it sees fit. And because the decision is made by a process that embodies public equality, the decision must be obeyed by citizens. Democratic citizens have a content independent duty to obey: they ought to obey whatever the democratic decision ends up being (as long as rights are respected and the limits of authority are not overstepped).

In Chapters Four and Seven, Christiano stresses that the valid limits to democratic authority spring from the same source as the authority itself. This is interesting, but it is unclear how much this matters: as long as valid rights limit the authority of democracy (as is widely agreed), it does not matter much whether rights

and democracy are internally or externally related. Democratic decisions ought not violate valid rights, and do not have authority in cases where they do.

There is a further desideratum: by building on public equality, Christiano hopes to give a more nuanced picture of liberal rights than the ones on offer elsewhere. Indeed, one desideratum for a conception of liberal rights is that it must explain the complexity, nuance, flexibility, and structure of liberal rights. But, the conception must also explain why rights are so important and matter more than the costs of realising them, and why they cannot be overridden by the aggregated interests of many people. This is what Christiano sets out to capture. Christiano's views on the connection between liberal rights and public equality are well defended and insightful, although one may ask whether that is the *only* ground of liberal rights. Christiano himself admits that an appeal to natural rights is needed in discussing how states treat outsiders. But, we may ask, if natural rights are relevant there, then why not within the society?

The discussion concerning public deliberation (Chap. 5) remains a bit like an appendix to the otherwise compelling sequence of questions. The structure of the book perhaps would have been tighter without it, but it shows nicely how Christiano's basic view of public equality applies to the question of public deliberation. Christiano's approach differs from more Rawlsian approaches, such as that of Joshua Cohen.

All in all, the book is a challenging read. That is partly because some of the main claims and concepts could have been stated more clearly, but mostly because of its ambitious scope. The book is not only an insightful defence of public equality as the fundamental principle of social justice, but also a systematic study of the grounds of public equality on the one hand, and of democratic authority and liberal rights as expressions of public equality on the other. This book will surely strengthen Christiano's well deserved reputation as a major theorist in the field.

**Acknowledgements** I'd like to thank Pilvi Toppinen for organizing a reading group on this book, and Simo Kyllönen, Jukka Mäkinen and Teemu Topinen for lively discussions.