

Human rights—all things being equal

JAMES MUMFORD

One Another's Equals:

The Basis of Human Equality

By *Jeremy Waldron*

Harvard, 280pp, £23.95/ebook £15.57

The Ordinary Virtues:

Moral Order in a Divided World

By *Michael Ignatieff*

Harvard, 272pp, £22.95/ebook £19.54

If you wander into any Waterstones and scan the shelves for books about equality what you're going to find are countless books about policy. You'll find books by gurus like Antony Atkinson, Thomas Piketty or Joseph Stiglitz proposing wealth taxes. You'll find development economics books like *Poor Economics* or *Why Nations Fail* about why inclusive institutions are the answer to global poverty. You'll find ambitious politicians laying out ideas about how to boost equality of opportunity for children. Or if books about human rights catch your eye, when you pull them down and read them without buying them (conditional, if you have integrity, upon not smudging coffee across the pages), you are going to learn about how well or badly different countries are doing in relation to the Universal Declaration of 1948. What you're less likely to find are books about the fundamental basis of equality. Why should organically different people be treated in the same way? Whence do we derive human rights?

Enter Jeremy Waldron, one of the most prominent political and legal philosophers working today. Professor at New York University, and previously Chichele Professor at Oxford, until now Waldron's scholarship has also been preoccupied with policy questions—explorations of the kind of constitutional structures that make for a fair and workable society; investigations of political accountability, the nature of party opposition, the division of powers and the limit of the power of law enforcement (his treatment of the question of whether torture is



ever justified has become a set text for undergraduates). But in this book, *One Another's Equals* (originally his prestigious Gifford Lectures) Waldron turns from the implications of equality to a treatment of its foundation.

Unusually for a philosopher, Waldron's book is animated by an example that is not a crazy hypothetical thought-experiment (e.g. if aliens came down, how we work out whether or not we should bestow rights upon them?). Waldron takes the real case of an appallingly racist early-20th-century intellectual, Dr Hastings Rashdall, a fellow of New College, Oxford, pupil of the Utilitarian luminary Henry Sidgwick and the idealist T.H. Green and, embarrassingly, later a man of the church. In his 1907 tome, *The Theory of Good and Evil: A Treatise of Moral Philosophy*, Rashdall asked the question: for whose benefit society should be organised? His answer: for the small minority of persons "capable of highest intellectual cultivation", which he then proceeds to equate with

"the higher races". Which then leads him to a terrifying conclusion: "It may be ultimately the very existence of countless Chinamen or negroes must be sacrificed that a higher life may be possible for a much smaller number of white men."

Waldron proceeds to dissect the full ramifications of this abhorrent view. First, this isn't a simple case of "white's man burden". Rashdall isn't advocating civilising the lower races. He doesn't think it's worth trying to civilise "them" at all. Second, the view is even worse than Utilitarianism. Rashdall doesn't want to sacrifice one for the sake of many. No, Rashdall advises sacrificing the majority of the world's population (the lower races) for the sake of the (white) minority. Third, Rashdall is not just being unacceptably partial, like parents demanding special treatment for their children. Rashdall thinks he's responding rationally and consistently to genuine differences among mankind. There is as big a distinction between some humans and other humans as there ►

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Eleanor Roosevelt with the Universal Declaration of Human Rights, 1949

is between humans and animals, and our obligations should track those differences. We are dealing with differences in kind, not differences in degree.

So why is Rashdall wrong? Or, more precisely: if we encountered him today—perhaps protesting the felling of a statue in Charlottesville, Virginia—what would we say to him? Waldron's book can be seen as a conversation across time with the awful Edwardian. What would Rashdall need to know, what kind of proof would he find admissible, what could he be persuaded by, to come to his senses and realise that the "higher races" aren't higher at all?

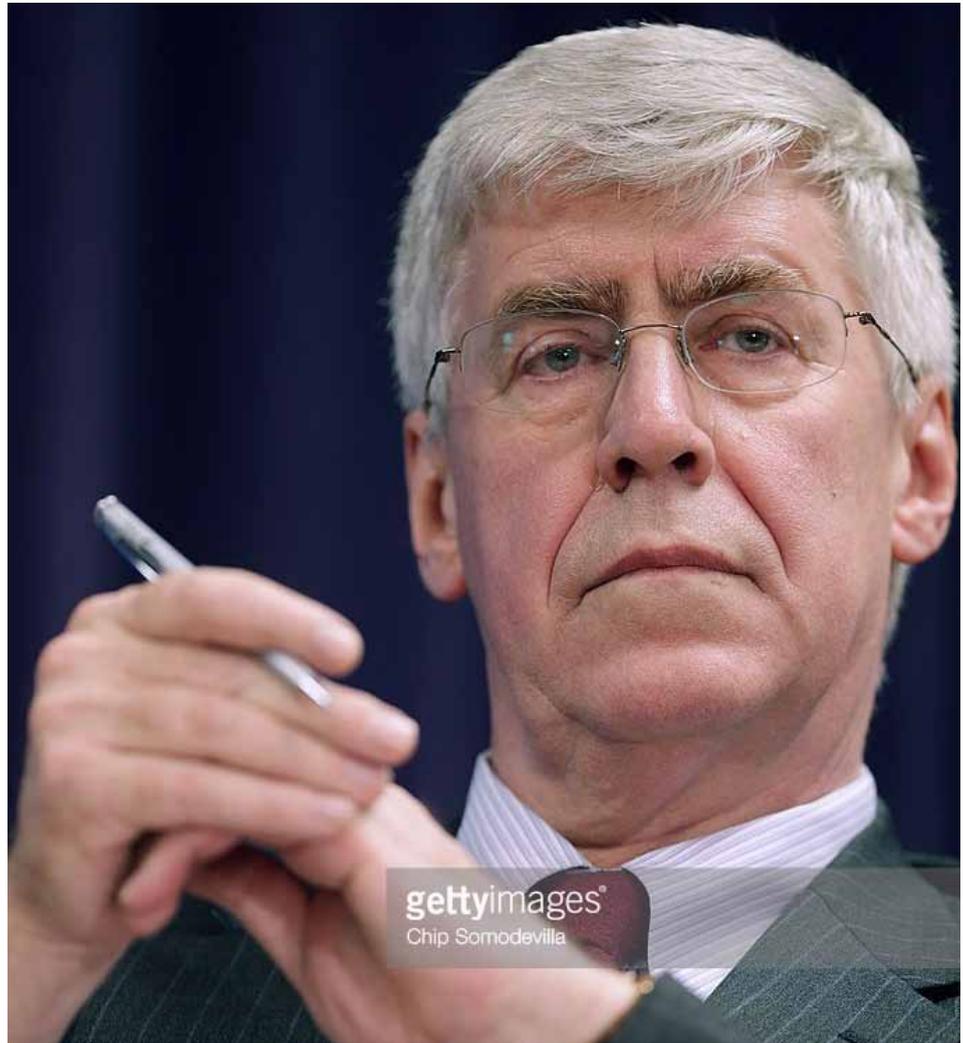
Waldron thinks Rashdall would need to know about attributes or capacities which human beings alone have, and which therefore make Rashdall's distinction between the species irrational; that is, unresponsive to facts about our fellows far and wide. To that end, Waldron sets out across the difficult and well-trodden terrain in search of these capacities. It is a painstaking and impressive analysis.

The Utilitarians thought the basis for equality was the capacity to feel pain, while other thinkers, from Cicero and the Stoics to Locke, opted for reason. Humans can think and count and deliberate and remember: is that what separates them from the beasts? The towering figure of Immanuel Kant, by contrast, thought that what is distinctive about persons is their capacity for morality; they can act against particular inclinations and drives and desires. More recently, by which I mean 1860, liberals like John Stuart Mill have emphasised human beings' ability to author their own lives. It is our autonomy that grounds human exceptionalism.

Waldron rigorously assesses the glaring problems with many of these positions. For the sake of space I paraphrase: Bambi felt pain, Forrest Gump had a low IQ; Hannibal Lecter's conscience was questionable, and 35-year-olds who lounge about on the sofa all day in the basement of their parents' house eating Cheerios, wearing Star Wars pyjamas and sending strangers vicious Tweets (from where, greetings) aren't really "authoring their lives" and realising their individuality.

It's at this point, however, that Professor Waldron falters. Having so clearly illuminated the pitfalls of taking various capacities as the basis for human equality, he nevertheless concludes we should adopt them anyway, but as a cluster. Here's what he means.

Perhaps we should be looking for a complex account of human equality—a set of range properties, overlapping and complementing each other . . . People have moral lives of their own to lead, and they have personal lives of their own to lead,



and they have rationality to deploy in the leading of their lives. These properties, these capabilities, come together in complexes and narratives; they complement and support one another. And together they help define what is important about a human being.

Now, it isn't clear to me why capacities that are inadequate by themselves as a basis for equality, suddenly become adequate when brought together. Take the profoundly intellectually disabled. There are some men and women in whom we might be hard-pressed to identify any one of these capacities. Moral "responsiveness" of a Kantian kind? Rationality of a Lockean kind? Autonomy of a Millian kind? Yet why, if none of these properties can be found on their own, would they work better when combined? Surely, $0 + 0 + 0 = 0$.

Waldron recoils at the idea that the intellectually disabled person is not our equal (and therefore can, with importunity, be treated as an animal). His response is to retreat to the notion of potential. The pro-

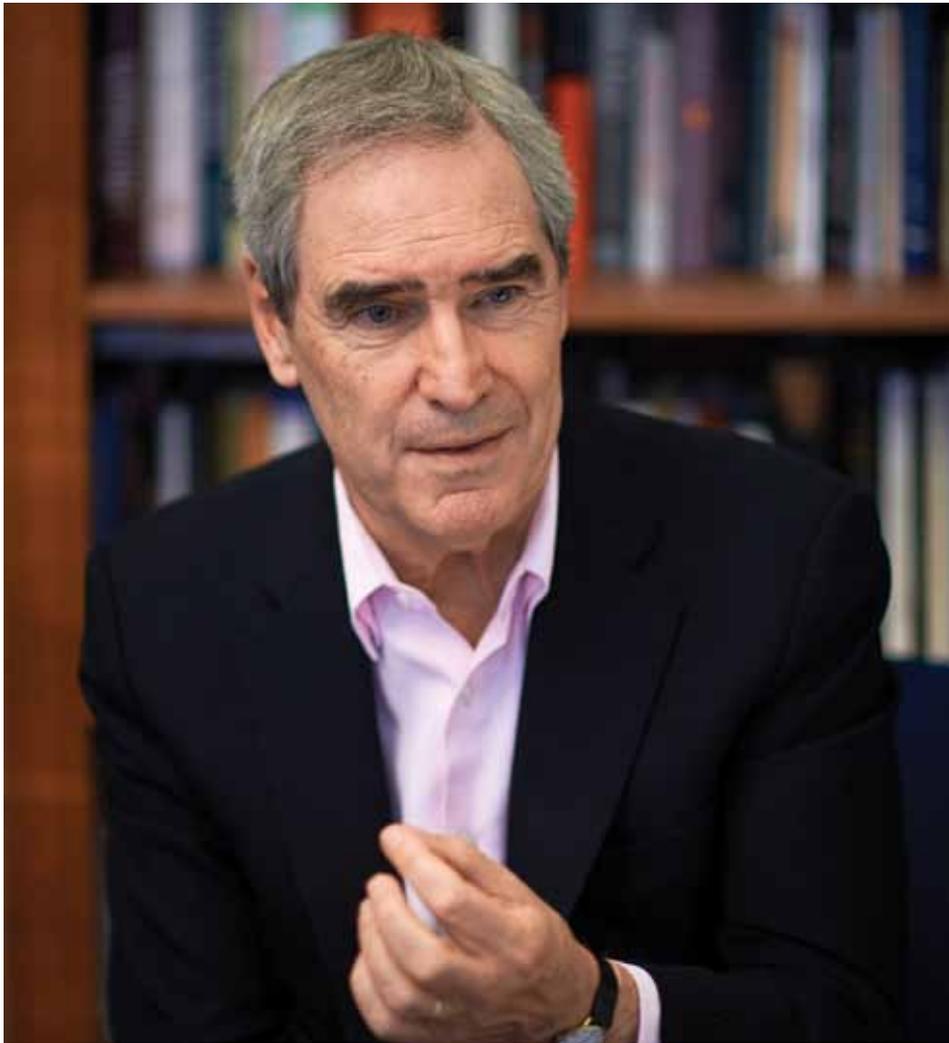
foundly disabled, he avers, have the potential for all these capacities. But what if they don't? What if they will never lead an autonomous life? Waldron wriggles again: in these cases, "the potential has been damaged or frustrated". Desperate to see off the famous speciesist charge of Peter Singer—that the exalted status we confer upon ourselves is merely our unfounded partiality for our own species—Waldron unconvincingly clings onto the capacities approach.

But there's an even more fundamental problem with the capacities approach than this. When we make the identification of capacities the basis for equality we have totally divorced from the concrete reality of mutual recognition.

Return to Rashdall: if he was for turning at all, would evidence of IQ have swayed him? Would the submission of test scores have held out any hope of transforming his perspective? Would that have revealed to him the essential sameness between himself and "the lower races"? Absent in *One Another's Equal* is any sense of equality as belonging and, relatedly, of the recognition of

Jeremy Waldron: His model of equality is formal and abstract

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equality as an epiphany that occurs between people. Instead the model we are given is formal and abstract, more like collecting data for judgments to be made than compelling exposure to the actual presence of another.

Michael Ignatieff's *Ordinary Virtues*, purports to be the kind of corrective to Waldron's approach which is urgently required.

Ignatieff is a rare breed in the academy: at once an intellectual and a practitioner. He made his name in academia as a liberal political theorist and biographer of Isaiah Berlin, but has also made an outing in politics. He has written about the historic origins of human rights discourse, but is also an activist.

All of which made him the right man for the job when the Andrew Carnegie Council for Ethics in International Affairs decided to do something special to commemorate its centenary—namely, get out of the classroom, travel the world for three years and better understand how ethics shapes the judgments of ordinary people.

Andrew Carnegie's guiding belief was that the economic globalisation which had brought him such wealth (he was at the time of founding the Council the richest man in the world) would draw in its train "moral globalisation"—an integration of belief systems across the globe. Ignatieff's not unambitious project was to see, a hundred years on, whether Carnegie's prophecies have been realised. Not being able to visit everywhere, Ignatieff picked seven destinations—Jackson Heights, New York, Los Angeles, Rio de Janeiro, Bosnia, Myanmar, Fukushima and South Africa.

The homework he set himself and his team was to understand the "nature of moral transactions" between ordinary people; what people coming from different cultures "actually do when they confront each other on issues of moral principles". The lingua franca and elite discourse of rights talk has been vernacularised, certainly. But has it taken root? Moral globalisation has taken place. But whose practices has it shaped? He writes:

How, in the age of globalisation, do we negotiate our differences if all we have to go

on is a procedural universal: that all human beings are entitled to respect and a fair hearing, that no one's view must prevail by virtue of their race, gender, religion, creed, income or nationality?

It is fascinating that Ignatieff, for whom Eleanor Roosevelt and the authors of the Universal Declaration are to the world what the authors of the Declaration of Independence are to America, is prepared even to question the insufficiency of the "procedural universal" which is human rights. And this comes early on in the book, whetting our appetites for evidence.

Instead of evidence, however, what we are offered is eight long chapters of Ignatieff's ideas about, yes, policing.

He starts near to home: Jackson Heights, New York. After assuring us that there are lots of foreign foods there, Ignatieff reads us the news—in this case of Eric Garner's tragic death at the hands of Staten Island police. Which of course leaves us waiting to hear his on-the-ground observations about the immediate response of local African-Americans to the event which catalysed Black Lives Matter. But we're waiting in vain, as we're subjected to a lecture about why fairness must be the norm for police-community relations. That's certainly true, but we were hoping to hear about what ordinary people think about, well, anything.

Ignatieff concentrates on policing, it turns out, because the only people he has really talked to on his global tour are policemen. In Jackson Heights, we find him chatting to an NYPD officer, who explains why the crucial task of infiltrating New York mosques can occasionally be perceived as intrusive. I bet, but how do Muslims think about the tension between national security and religious freedom? We're not told, because he hasn't talked to any. While in Los Angeles, after again reading us the news—this time getting us up to speed on the Rodney King riots of 1992—we find Ignatieff talking to the LAPD about brokering relations with municipal agencies to improve rubbish collection. Before more generalities: "when Koreans in Los Angeles feel they get no police protection at all, trust collapses." Interesting, but it would have been good to call on some Koreans.

The whole of chapter 3, on Rio de Janeiro, consists of a conversation with one cop. Ignatieff is interested in Major Priscilla de Oliveira because her federal police unit, Unidade de Policia Pacificadora (UPP), is "one of the most closely watched experiments in global policing". After pages and pages on her various career moves, as well as a long account of accompanying Priscilla on the beat, Ignatieff ends with the pronouncement, "Ordinary virtues don't stand a ▶

chance of sustaining moral order in Santa Marta unless police turn honest.” We can agree, indeed, that law and order is significant. But what are those virtues of which he speaks? Tell us about them. What is the scope of forgiveness? How do people define courage as opposed to foolhardiness? Is justice conceived of as a private virtue?

The conclusion to *The Ordinary Virtues* feels like one the author penned on the plane out. It’s indistinguishable from the introduction. Ignatieff tells us about why, despite the rights revolutions post 1945, “everywhere a gap remains between what the norm prescribes and what social life allows . . . everywhere, the voices of the rich and propertied have greater weight than the poor.” A *Lonely Planet* guide could have told me that. What I wanted was what I was told I would get: a moral phenomenology; how people from diverse cultures act despite the reality of great injustice; and how they think about how they act. *The Ordinary Virtues* is an ordinary book because it doesn’t deliver on its promises.

One Another’s Equals and *The Ordinary Virtues* are both difficult reads. Though Waldron’s book were originally lectures, and he writes with greater clarity than many analytic philosophers, the book is at times indigestible. Ignatieff’s style is more engaging, certainly, but his infuriating habit of constantly qualifying almost every claim he makes (“nevertheless”, “albeit”, “that said”) leaves the reader at a loss in terms of comprehending (and remembering) the overall argument.

In the end, the greatest service of these books is to highlight the kind of book we need but at the moment don’t have. Waldron’s treatment of the basis of equality is abstract, drained of humanity, divorced from actual encounter. But even if he was successful at explaining why someone is our equal, he has given us grounds only for why we should acknowledge their rights, not why we should love them. The work of professional philosophers American Talbot Brewer and the Australian Raimond Gaita come closer. Their respective *Retrieval of Ethics* and *A Common Humanity* both explore the rupture with the world that occurs when we come to see the inalienable preciousness of a particular human being. Yet they are professional not popular philosophers. Former Archbishop of Canterbury Rowan Williams’s intriguing reflection on the dynamics of mutual recognition in *Faith in the Public Square* is limited to one essay (“Human Rights and Religious Faith”). What we need is a robust yet sustained study, a resonant yet thorough account of what it means to say we are one another’s equal, and the immense ethical implications which follow from that.

Last days of hope and glory

ALLAN MASSIE

**The Age of Decadence:
Britain 1880 to 1914**

By Simon Heffer

Random House, 912pp, £30, ebook £14.99

The title may surprise many, even offend some. Britain in 1914 was unquestionably one of the world’s Great Powers, immensely rich, its imperial dominion unchallenged, the Royal Navy master of the seas, the City of London the clearing-house for the global economy. Admittedly there were, or had been, problems. The first stages of the South African war (1899-1902) had been sadly mismanaged. There was deep industrial unrest; organised labour was on the march. The campaign for women’s suffrage had embarrassed the government. The attempt of the Liberal government to pass an Irish Home Rule Bill had provoked something close to rebellion in Protestant Ulster and even the threat of mutiny in the Army. So there were certainly difficulties, even a sense of crisis. But most of these could be paralleled elsewhere: in France and Germany, in Russia and the Austro-Hungarian Empire, even in the United States of America. So how could this be reasonably called an Age of Decadence?



It might be at least as fair to speak of an Age of Improvement, for the period covered by Simon Heffer in this intelligent, richly detailed and comprehensive survey was in many respects a time of social reform and amelioration. There was a building boom in London and other great cities—Manchester, Birmingham and Glasgow. This took three forms: the erection of public and commercial buildings of scarcely precedented magnificence, the development of pleasing suburbs and, if slowly, determined and often imaginative schemes to improve the housing of the poor. In England there was for the first time a comprehensive system of national education with compulsory schooling for all children, while new colleges which would become universities were established throughout the provinces, giving young men from the working classes—D.H. Lawrence, for example—opportunities earlier generations had never enjoyed. Literature and other arts flourished; the England of Elgar, Delius and Vaughan Williams was no longer the “Land without Music”. There were municipal orchestras, museums, art galleries and theatres as never before. If the old landed aristocracy was in the process of being dislodged—Gladstone’s cabinets being the last to be dominated by dukes, marquises and earls—partly on account of the decades-long agricultural depression, which was the unavoidable consequence of the Free Trade that had contributed to the extraordinary economic growth of Victorian England, it was being replaced by a glittering plutocracy, of which Galsworthy’s Forsytes with their residences ringing Hyde Park may be taken as exemplars. There had never been a time—there would never be such a time again—when it was so agreeable to belong to the professional and commercial classes. Britain was richer than it had ever been, and the pound sovereign was gold.

Yet Simon Heffer’s identification of the period as one of Decadence can’t be dismissed out of hand, even if one adds the rider that evidence of Decadence, side by side with Progress, can be found in most ages. Heffer is well-known both as a newspaper columnist, historian and the admiring biographer of Carlyle and Enoch Powell. He is a man of strong opinions, an unusual combination of the Puritan moralist and the Romantic patriot who is a lover of music, rural England and county cricket. He writes well about what he holds in contempt—his account of the Marconi case, a piece of shabby political corruption, is excellent, his treatment of the disgusting pseudo-science of eugenics promoted by the liberal and socialist intelligentsia is admirably contemptuous, but he writes better still about what he loves. He displays a strong dislike of Virginia Woolf

Simon Heffer: Wider sympathies than one might expect

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