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## Justice, Equality and Needs

### I

David Braybrooke, in his *Meeting Needs*, argues that “the concept of needs has a role to play over the whole range of conceptions of justice” and that in conceptions of justice that are linked to equality, needs and the meeting of needs are particularly important. Indeed he appears at least to favor a conception of justice that relies on equality-in-meeting-needs.<sup>1</sup> Moreover, he construes needs not as “mere social constructs” or as something that could be cashed-in in terms of talk about what people firmly prefer. Rather he construes them as being objective. Needs, that is, are held to be something that could be discovered, argued for and held in the face of a person’s disavowal. Furthermore, needs, in his view, standardly trump wants or preferences. There are, moreover, needs which are at least presumptively universal. This concept of needs, Braybrooke contends, has a central place to play in the assessing of social policies and social systems, its neglect by non-Marxist political economists to the contrary notwithstanding.

This is all music to my ears for I have sought in my *Equality and Liberty* and elsewhere to defend a radically egalitarian conception of equality which argues for equality-in-meeting-needs in a society of wondrous abundance where the productive forces have been extensively developed.<sup>2</sup> For us, in other socio-economic circumstances, it should instead be a heuristic to be approximated as the society increases in social wealth and technological sophistication. A central element of fairness, and thus of justice, comes, in circumstances of increased productive capacity where the springs of social wealth finally come to flow abundantly, to a commitment to equality-in-meeting-needs.

I start with a conception of *moral* equality which in societies such as ours, though not in all societies at all times in the past, has considerable acceptance among both egalitarians and anti-egalitarians. It is, as I have remarked, the belief that the life of everyone matters and matters equally. This, of course, does not mean that any person in their face-to-face interpersonal contacts cares for all persons equally. This is silly; what it means instead is that when we as moral agents take the impersonal point of view of morality with the impartiality that point of view requires, we believe that morality requires that the life of everyone matters and matters equally from that point of view. No doubt I care more for my son than for complete strangers but if I am in a position to award fellowships I cannot give the fellowship to my son and not give it to more qualified strangers.

What is it to say that their lives matter equally? It is to say, for starters, that their rights are to be equally protected, that they should have equality before the law and that in their respective societies they should have equal citizenship rights. Beyond that we are saying there must, as far as this is possible, be constructed, and where constructed sustained, socio-economic conditions for them to have equal whole life prospects. This requires an equal consideration of their needs and interests and a refusal to just override anyone's interests: to just regard anyone's interests as something which comes to naught. And it comes to a commitment, where there is the abundance to pull this off, to the construction of stable institutions to provide people with, where they need them, equal resources and the social conditions equally to satisfy their needs. (Whether they are psychologically capable of doing so is another matter.)

While we human beings differ in a not inconsiderable number of ways we do not differ in desiring that our needs be satisfied or differ in desiring to be able to live as we wish. Starting with the formal principle of justice, treat like cases alike, we see a relevant likeness here between ourselves and others. Relying on *moral* equality as well, we should conclude, if the life of everyone is to matter equally, that we must, to be fair, seek to bring into being social circumstances where our needs will be, where possible, equally met and where we should all be able to do as we wish in a way that is compatible with others doing likewise.<sup>3</sup> That is, *ceterus paribus*, our basic needs should all be equally satisfied as far as that is compatible with the needs of everyone being similarly met. Where genuine basic needs conflict with wants, needs, generally speaking, come first and where basic needs conflict with non-basic needs the basic needs trump the non-basic needs.

For this conception of justice to have much in the way of any determinate content, we will need to be able to say what our needs are, to distinguish types of need, to provide some grounds for believing that our purportedly universal needs really are universal, to distinguish basic needs from non-basic needs, to draw a tolerably clear distinction between needs, on the one hand, and wants or preferences, on the other, and to show why the satisfaction of at least certain of our needs is a good thing.

## II

David Braybrooke, in an interesting and probing way, sets out to do all these things and more in his *Meeting Needs*. I want to set out the core of his doing it here and see if it is sufficient to meet my needs for filling out a viable conception of egalitarian justice. Braybrooke attempts to provide us with a specific list of basic needs and to show us why it is not an arbitrary list and why the items on that list are all good candidates for being universal human needs.<sup>4</sup> As the first part of his book makes amply evident, he is well aware that it is not unreasonable to be sceptical about talk of needs and its use in social and moral theory. The concept is fluid and prone to abuse. It is very easy indeed to call anything a person very much wants a need. There is a lot of ideologically inspired imputing of needs that often will not withstand critical inspection and he is aware that there may be morally embarrassing needs, e.g. the need (or putative need) to dominate. There is also the problem of not getting a list of putatively universal human needs that turns out not to be that but something which is ethnocentric.

So we should start by asking whether we can come up with a list of universal needs correctly ascribable to all human beings in all cultures. In seeking to do this Braybrooke first distinguishes between adventitious needs and course-of-life needs. It is the latter that he rightly focuses on. Adventitious needs, like the need for a really good fly rod or computer, come and go with particular projects. Course-of-life needs, such as the need for exercise, sleep or food, are such that "every human being may be expected to have at least at some stage of life."<sup>5</sup>

## III

To spot a need it is useful to use the relational formula "B needs x in order to y," as in "I need a heavy duty fly rod in order to sport fish for salmon." Where, by contrast, we get a basic course-of-life need the relational formula comes out distinctively, and in a certain way plati-

tudiously, but also in a way that is philosophically illuminating. It would go like this: "B needs food and water in order to live," or "B needs exercise in order to function normally or well." But this gives to understand, with their reference to survival or to human flourishing, that they are basic needs and it is also clear—or so at least Braybrooke argues—that when these things are specified, at least in normal cases, no further question arises about the justification of having the need in question.<sup>6</sup> Braybrooke puts the matter thus:

. . . one cannot sensibly ask, using the language of needs, "Does N need to live?" or "Does N need to function normally (robustly)?" N does not have to explain or justify aiming to live, or aiming to function normally. It is not the only end that he might be expected to have as a moral agent; for one thing it notoriously does not automatically harmonize even with the same end pursued by other agents. However, there is no more fundamental end that he could invoke to explain or justify this one. Being essential to living or to functioning normally may be taken as a criterion of being a basic need. Questions about whether needs are genuine, or well-founded, come to the end of the line when the needs have been connected with life or health.<sup>7</sup>

Here we touch ground in basic course-of-life needs and "some questions about the importance of needs reach firm answers at last."<sup>8</sup> To live or to flourish (if you will, to function well), we must have these things and so we properly call them, when that is true, basic needs.<sup>9</sup> Adventitious needs, by contrast, will vary greatly in terms of the not infrequently very different ends we have or the projects we have, but there is more of a case for ascribing the same course-of-life needs to everybody.

Can we actually find a minimal list concerning which we can all agree? In the second chapter of *Meeting Needs* Braybrooke sets out to do this. Beyond this, and in a way that is essential for making out a conception of justice as the equal-meeting-of-needs for everyone, Braybrooke sets out in that chapter "to show how such a List of Matters of Need is associated with Minimum Standards of Provision for each such matter; to supply a Criterion by which the List and the Standard can be generated; and to set forth a Principle of Precedence that gives course-of-life needs thus accounted for priority over preferences."<sup>10</sup> It also seeks "to explain systematically how the needs on the List are identified."<sup>11</sup> Abstracting from some well known lists that have been given, Braybrooke gives the following list of course-of-life needs. His List here of such needs has two parts. The first part highlights notions about physical functioning.

### Part One

1. The need to have a life-supporting relation to the environment.
2. The need for food and water.
3. The need to excrete.
4. The need for exercise.
5. The need for periodic rest, including sleep.
6. The need (beyond what is covered under the preceding needs) for whatever is indispensable to preserving the body intact in important respects.<sup>12</sup>

### Part Two

This has more to do with our functioning as social beings, though the connections with physical functions make it hard to draw a clear line between the two parts.

7. The need for companionship.
8. The need for education.
9. The need for social acceptance and recognition.
10. The need for sexual activity.
11. The need to be free from harassment, including not being continually frightened.
12. The need for recreation.<sup>13</sup>

Issues about the completeness of the List are of more importance than issues about its redundancy. Still, many commonly recognized needs can be derived from needs on the List and thus there is no need to add them to the List. But, as Braybrooke points out, there are "further matters of need that could not easily be derived from it, e.g. the need for meaningful work, the need to have some sense of identity, the need to have at least some of one's preferences heeded."<sup>14</sup> More fundamentally, there is good reason to believe the List cannot be completed. There *may* be things about us or our environment or both not previously recognized to be necessary which are in fact necessary for us to live or to function well. And indeed it may sometimes take considerable sophisticated scientific investigation to discover that. If that is so, there is a newly recognized need that will have to go on our List. But this is always a possibility so that we should not conclude that our List or any list is complete. But that does not mean that we do not have a good working List, indeed a List which may very well suffice for my purposes at least—that is, for giving content to a conception of egalitar-

ian justice—and there is, as well, merit in Braybrooke's remark that "the List of Matters of Need is full enough to refute dismissive suggestions that the concept of needs goes too short a distance in allocating resources to make much difference to policy."<sup>15</sup> Braybrooke next argues that people with a concept of needs, who agree that the "matters on the List are course-of-life needs, will also agree that with each of them there are associated Minimum Standards of Provision."<sup>16</sup> It is the case that "people need provisions in some forms and quantities or other answering to the matters of Need; and need specifically to have provisions in forms and quantities that are called for by the Minimum Standards of Provision."<sup>17</sup> We construct the List by considering what human beings must have if they are to continue to live and function. But we start from considering people in our own society and sister societies and then extend, to start establishing something with a good claim to be more universal, our examination to societies rather different from our own. The intent is to move, though with caution, to something which is genuinely universal.

Given the differences between people both across cultures and within a given culture—say our large and diversified Western culture—is it very reasonable to believe that the Minimum Standards for Provision of needs can be fixed very exactly? The provisions for some needs are hard to quantify, e.g. need for education or recreation. There may be a not inconsiderable number of provisions for these things which are minimally adequate without their "being reducible to any common measure."<sup>18</sup>

In seeking to specify a Minimum Standard of Provision for each need on the List, it might be right to settle the maximum of the minima. But still how are we to fix the minima? We know that every human being needs some food, some water, and (in cold climates at least) some clothing, some shelter, some heat. To meet the Standards of Minimum Provision, we must provide sufficient amounts of those things and of other basic needs on the list for people to live and to function effectively. With something such as food that will be easier to ascertain than with other things such as education. Still we are not utterly at sea here. We know very well that a certain amount of malnutrition thoroughly incapacitates so that people suffering from this degree of malnutrition cannot function properly. This is unambiguously evident with many children in some of the more desperate parts of the world. We also know that in most circumstances in the Western world people who cannot read or write cannot function effectively. So even with the need for education we are not at a loss

here. Moreover, even in preliterate societies living in isolation from modernizing societies there is something like education that children in that society will need to be effectively socialized into that society.

What criterion do we use for inclusion on the List of universal human needs ("near universal," for such things will take some rare exceptions: some may not need sleep)?<sup>19</sup> This same criterion is to be "invoked to determine the height of the associated Minimum Standards of Provision."<sup>20</sup> What we may have here is more than one criterion, but, for this not to make trouble and for it to be helpful, they must form a family of complementary criteria.<sup>21</sup> Braybrooke's List was "generated by asking what people with the concept would agree were course-of-life needs that have to be met in order for life and normal functioning to continue."<sup>22</sup> But Braybrooke invokes another complementary criterion as well for something to be on the List of basic needs. If, he argues, something is necessary for us to function without derangement in carrying out the tasks assigned us in a certain combination of basic social roles then it is a basic need. The social roles Braybrooke has in mind are "the roles of parent, householder, worker, and citizen."<sup>23</sup> If what is indispensable in those roles is not supplied the person's functioning in those tasks is incapacitated or deranged. Again that something is needed to avoid such a derangement of a human being's proper functioning is not something that needs justifying. We need, of course, to justify that it is in fact true that it is so needed. But once that matter of fact is so established, to wit that it is established that something is so needed, there is no further question of whether it is really a need or whether it is something which in normal circumstances the person in question should have. If *x* is necessary to avoid that state of affairs then, *ceterus paribus*, people should have *x*. "No justification, referring to some more ultimate and compelling end could be supplied."<sup>24</sup> Moreover, to "decide by the criterion whether something is a need is to decide a question of fact."<sup>25</sup> If people will suffer during their lives from a derangement of function in one or another of their four basic social roles without the provision of something at an appropriate level of provision for their being able to avoid such a derangement then that something is a basic need.

While we cannot say what it would be like to have a complete List of basic needs we can say what it would be like to have a consistent List and the having of such a List is plainly desirable. A List with its Standards is consistent "if and only if resources can be specified in kinds and amounts that would suffice to meet at the same time for every member of any set of persons [P] all the needs *n* on the List at the

Minimum Standards agreed on, together with any needs conceptually derived from the needs  $n_i$  and any needs derived from them through laws of nature."<sup>26</sup>

Braybrooke contends that the "normative force of the concept of needs, in its use for evaluating and choosing social policies, finds concentrated expression" in what he calls a *Principle of Precedence*. This principle prescribes that the basic needs specified by the List take priority over preferences.<sup>27</sup> Its normativity is plain in that it "does something to order and harmonize different ends and the ends of different people . . ." <sup>28</sup> We are people with preferences, wants, needs (basic and non-basic, adventitious and course-of-life) and interests. We now can identify basic needs and the Principle of Precedence tells us that, generally speaking, basic needs trump preferences and wants and, as well, non-basic ones. Moreover, given the distinction between adventitious and course-of-life needs and its relation to the basic/non-basic distinction, course-of-life needs normally trump adventitious ones.<sup>29</sup>

How, more exactly, is the priority claimed by the Principle of Precedence to be conceived?<sup>30</sup> Braybrooke, wisely I believe, does not try to fine-tool his analysis so as to attempt to *rank* the needs on the List of needs, though for certain purposes such an attempt might be desirable. But since "each need is essential to full capacity and smooth functioning, bodily and mental, as all the needs on the basic list supposedly are, they all would seem to have an equal claim to being met in a sufficiently long period of consumption."<sup>31</sup> This being so, there is no need in setting priorities to make such a ranking of needs. The Principle of Precedence, on Braybrooke's account, requires that wants be put on the agenda of social policy only after all combinations of needs on the List are met at the Minimum Standards of Provision.<sup>32</sup> There is, on his conception of priority, no lexicographical ordering among the needs themselves, though when we set preferences and needs side-by-side there is a lexicographical ordering of needs, specified on the List, over preferences within the satiation limits of the needs. The needs in this way come first. We need, where we have the resources to do it under conditions of abundance, to have a social policy committed to meeting "the Minimum Standard of Provision for every need of every person being considered."<sup>33</sup> We do this before we turn to a satisfaction of preferences. This is what priority comes to in this domain.

There are certain needs that we all have that must be met for us to live a normal life—to live a life that, under a minimal reading of nor-



mal, almost all of us desire. In this important respect we are very much alike and in this way at least, given formal justice, we should all be treated alike. (If we do not want to satisfy some of our needs we can avoid doing so.) Further, given moral equality, we get a commitment as a requirement of justice to, as far as this is possible, an equal meeting of these basic needs (course-of-life needs) for everyone alike. They are, we should keep firmly in mind, needs required for our normal functioning as human beings. Whatever else we may require or think we require, we cannot have a condition of human flourishing or a copious life unless these needs are met. We still may not have one but we cannot have one without these needs being met. If we really believe that the life of everyone matters and matters equally, we shall, where we have the material abundance to make this possible, seek—and as a matter of justice—to bring about a world in which everyone's needs are so met.<sup>34</sup>

#### IV

So we can see how it is, to sum up the argument so far, that we can identify needs and recognize their importance in human life and recognize as well that they normally trump preferences. This, in turn, gives content to a principle of equality of condition which asserts that as far as reasonably possible conditions should be brought into existence or, where in existence, sustained which seek to make for the satisfaction of the needs of everyone at the highest possible level of need satisfaction for each compatible with the needs of everyone being so considered. If its formal egalitarian structure is deemed acceptable such an egalitarianism gains determinate content with that account of needs.

Suppose we start by assenting to the *formal* principle of justice that like cases be treated alike. This is something that everyone assents to who takes the moral point of view whether they are elitist anti-egalitarians or not. Suppose further, we also adopt, as almost all moderns do, the principle of *moral* equality, namely that the life of everyone matters and matters equally. We can then from these two principles, together with a few key facts about what we human beings are like, provide the basis for a defense of a rather robust conception of equality of condition. The facts I have in mind are such things as that we all want a life in which our own needs are satisfied and in which we can live as we wish. We differ in many ways but we do not differ in these respects. In that way we are all the same. These facts are, or at least should be, commonplaces that are perfectly unproblematic.

If, with them in mind, we go back to the formal principle of justice, treat like cases alike, we can see that in these respects we are all alike and so justice requires with its commitment to fairness that in these respects at least we must all be treated alike. I want to be able to live my life as I wish and I want my needs satisfied. I regard this, to understate it, as a desirable state of affairs for me to attain. But in this respect we are all the same, so it is, as well, something you will also regard as a desirable state of affairs for you to attain and everyone, or at least almost everyone, will want the same for themselves. But this, together with the formal principle of justice, the principle of moral equality and a conception of fairness, yields our principle of equality of condition.

Taking it that justice commits us to seeking to attain, where circumstances make it possible, such an equality of condition, the central thrust of my argument has been to show how we can ascertain what our needs are and how we determine our basic needs and the role this plays in the service of egalitarian justice. How it gives, that is, content to our conception of equality of condition. It seeks to show what these needs that all of us have and standardly want satisfied are and to give, in this way, content to the egalitarian claim for equality of condition.

## V

I want now to consider a series of objections that could be made with at least some plausibility to my account. Some might think my argument in the second paragraph of the previous section is fallacious. The formal principle of justice, though it *requires* that like cases be treated alike, *permits* that unlike cases also be treated alike. Moreover, moralists could, it might be argued, assent to this principle of justice. However, that these things are so (if indeed they are so) is irrelevant to the truth of my case for it is the formal principle *in conjunction with* someone being committed to the moral point of view and thus to a morally substantive principle of fairness that is doing the work along with a commitment to moral equality which is also a substantive principle. Formal justice requires that we treat like cases alike. But it does not tell us *what* the like cases are. It does not tell us what makes or fails to make two cases alike. What is the basis for case similarity cannot be determined from the formal principle itself. We can indeed see (observe as a matter of empirical fact) that with respect to basic needs and their importance for our lives we are all very much alike. But we can hardly simply ascertain from this, the argument could go, that with respect to provision for the satisfaction of those needs, where this

can be done, we must all be treated alike. There are the treaters and the treatees and there is the treatment given. It sounds, the argument could continue, as if the we in the above are the treaters and that we can cull together the treatees as, say, persons needing food. Formal justice requires, where they are alike (say in their need for food), that the treaters treat treatees alike. But this does not entail that all, or even any of them, get food where food can be had. For, for all that, they may, as far as formal justice is concerned, be, all alike, treated to starvation. Formal justice gives to common needs no right of satisfaction. Indeed, formal justice gives us no content. But there was nothing in my argument which at all commits me to saying or even suggesting that it does. It could hardly do so and still be *formal* justice. What, for starters, got substance into that argument of mine was the fact that it had the principle of moral equality as one of its premises. No such hat trick is attempted from the formal principle of justice.

What I am pointing out and relying on in that argument is that we human beings (treaters and treatees) are alike in (1) having basic needs in common and in (2) regarding it (at least if we are clear headed and reasonable) as desirable at least for ourselves that these needs be satisfied at least in most circumstances. (That we would so regard things is an obvious fact about us.) However, from the fact that we all regard it as desirable that our individual basic needs be satisfied it does not at all follow that we as individuals regard it as desirable that the basic needs of others be met. From the fact that we all want our needs met, and even that we have many similar needs, it does not follow that each of us ought to be treated to the satisfaction of any of our needs at all. That I believe that the satisfaction of *my* needs is something which is desirable is not to say, or even to give to understand, that I think the satisfaction of *your* needs is desirable.

However, this, true as it is, entirely misses the utilization and the force of the principle of moral equality and the principle of fairness in my argument. The utilization goes this way: I come to see empirically (a pleonasm) that we human beings have some common human needs. This, of course, includes you and me. I also come to see empirically that human beings, including you and me, regard it as desirable that these needs be satisfied. I then remind myself of a deeply embedded considered judgment of mine, namely a belief in moral equality. This belief in moral equality commits me to the belief that your life matters as much as mine and in believing that I will also believe, as part of it, since this is plainly a very important matter and is so regarded by both you and me, that, for your life and mine, our basic needs should be

satisfied where they can be satisfied. I want my basic needs satisfied and I know you want yours satisfied too and I also know that in this respect there is no relevant difference between you and me. Moreover, given moral equality, your good must, when I see things with the impartiality that morality requires, be given equal importance to my own. Here each is to count for one and none to count for more than one. But part of your good is that your basic needs be satisfied. But I, if I am at all clearheaded and if I am committed to the moral point of view, must be as committed to the achievement of this as to my own good. This is how I must view things morally speaking. From recognizing that I regard the satisfaction of my needs as desirable it does not follow that I regard the satisfaction of your needs as desirable, but with the addition of these extra premises it does. Moreover, there is nothing arbitrary about these premises. They are constitutive parts of what in a modern society has come to be the moral point of view.

A similar thing follows from the principle of fairness, namely that if I desire something you desire too and if in the respects being considered relevant to the satisfaction of that desire there is no relevant difference between you and me, then, if I should have my desire satisfied, so should you. But we both desire (as do all even remotely normal people) the meeting of our basic needs and there is no relevant difference between us with respect to the satisfaction of our basic needs. That being so I cannot, if I would be fair, maintain that my basic needs should be satisfied (as I would) without maintaining that yours should be as well. Fairness requires that. And if I would take the moral point of view there is no alternative for me but to try at least to be fair. There is no room within morality for asking, just in general and without any moral tradeoffs (as between justice and caring), "Why be fair?" Being fair is a constitutive component of the moral point of view.

The conception of moral equality might be queried as follows. The belief that the life of everyone matters and matters equally might be said to be crucially unclear. How much, it might be asked, does it matter and to whom and in comparison with what? Libertarianly minded people or neo-Hobbesians who pride themselves on their tough-mindedness might remark, continuing the probing started above, that the lives of most people do not matter as much to most people as the lives of certain particular persons such as themselves, their families, friends and coworkers of various kinds. If we, as we certainly should be, are literal about this it is just false to say that people believe in moral equality for people as a matter of fact hardly matter equally to anyone. But doesn't this show as plain as plain can be

that the principle of moral equality is false? The reality of the matter, particularly when we consider people distant from us, is that, our moralizing to the contrary notwithstanding, other people do not matter to us very much. Ten thousand people starve to death each day—most quite unnecessarily—and we do not go wild about it. Belief in moral equality is nothing other than a comforting myth to those religious types who cannot be tough-minded.

By way of response, it should be said that belief in moral equality is a moral belief and not a prediction about how much people matter to other people. "The life of everyone matters and matters equally" has an imperative force in its actual function in discourses where it is employed or presupposed as a background belief. Put more explicitly, it comes to saying that the life of everyone, from the moral point of view, must matter and matter equally. When, from an agent neutral perspective, we are viewing things with the impartiality morality requires, we are saying that it must be the case that the life of each person matters equally. When we, for example, use the resources of the state to provide health care if a dumb person or a lazy person or a poor person needs her ruptured appendix cared for she has just as much call on the services of the health care system as the bright, industrious, or rich person. Many, many people in modernizing societies have that belief. It is one of their settled considered judgements.

More generally, our social institutions must (morally speaking "must") be designed in such a way that the life prospects of everyone are taken to have equal importance. Believers in moral equality believe that our social institutions should be ordered in this way. They should be impartially caring about human welfare and well-being. But this does not at all imply that individuals will, should or even can care about everyone equally. We care more about particular people standing in certain relations to us than about humanity at large; and, even if we are also impartially caring, we, as individuals, care more about some particular others, than people generally, and rightly so, for by being so motivated all of us are better off as a result of such individual particular caring. Moreover, for believers in moral equality, there is no hypocrisy involved in not caring as much about everyone as one does about some particular other. Believers in moral equality—and that is a widespread belief in modernizing societies—want *social structures* in place which, as in the health care case, give equal heed to the needs of everyone alike, while believing, not at all inconsistently, as individuals, that one's own caring in particular interactions should have a particularistic orientation where one does not act in a certain role as an agent

of a social structure (e.g. a hospital or university official) but as a father, a lover, a friend and the like. There are just us individuals out there (that is plain enough) but we have different social roles appropriate to different contexts. (This does not at all commit me to methodological individualism.)

There is another kind of objection that turns on my claiming that basic needs trump preferences. Some people who continue to smoke, and continue with a clear understanding of the relevant facts, continue to have a strong preference for smoking in the face of the fact that, given their basic needs (clearly their health needs), they are not, to understate it, well served by their smoking. They continue to do so with a clear awareness that that will affect their life expectancy in ways they themselves do not desire. They will not be terribly surprised if they end up dead a decade or so earlier than if they hadn't smoked. But, meeting needs or not, they think it *worth* the cost given their strong preference structures.

Should their basic health needs override their desire to smoke? They *ex hypothesi* clearheadedly know what they, everything considered, want. They would rather live fifty years smoking than sixty non-smoking. What error have they made in so judging how to live their lives? Perhaps none. And that possibility, where they are by smoking not harming others (if indeed this is ever so), should lead us on good non-paternalist grounds, respecting their rationality and autonomy, not to forbid their so acting. So what happens to my claims about needs trumping wants?

The above non-paternalist way is how we should respond to particular *individuals*, but when we think about individuals more collectively, when our subject is, as it is in arguing about egalitarianism, the design of social institutions for a just and good society, we will argue for the priority of needs over preferences on at least the ground that people have many wants, and indeed some are wants they very much want satisfied, and, to the extent they are reasonable, they will want as many satisfied as possible. That is why they look for compossible wants. This leads to it being reasonable for them to seek out a coherent package of preferences to be satisfied. They will also know, if they know much of anything at all, that having their basic course-of-life needs met is necessary for gaining at all securely most of the things they want. They are strategically necessary for the satisfaction of desire. But people do not just want to satisfy one desire, say to go on smoking, but many desires. They need their basic needs satisfied for this to be possible. It is indeed possible (as things turn out) that some person's desire to smoke

is so strong that he would sacrifice the satisfaction of many other desires and indeed those strategic needs of his for it. But that would not be true of most people, where their desire was not a craving that irrationally compelled them to act in ways that would frustrate the satisfaction of many other desires. These desires would be desires that they would want satisfied and would indeed have satisfied except for the fact that under the compulsion of their craving, they give pride of place to this powerful desire (craving) to smoke. They are the people who smoke who in some reasonably robust sense do not want to. The very fact that their desire is a craving tips us off to this.

When one thinks concretely of (a) all the things it would be normal to expect people to desire and desire at least as strongly as smoking and (b) one keeps firmly in mind that smoking interferes with many of them, it is highly unlikely that, particularly when they consider the likely consequent pains involved, reasonable people, not held captive to the craving, will clearheadedly prefer, everything considered, to go on smoking. (It is not for nothing that so many informed people have given up smoking and sometimes after considerable personal turmoil.) There will, no doubt, be some people—and indeed some rational people—who will go on, with a clear understanding of the facts, preferring to smoke. But it is also not terribly clear that their choices here will be rational ones, though in some instances they might be.<sup>35</sup> But that need not be sorted out here for it is enough to know that very few people would so respond. In the setting up of just institutions we must design them for what will predictably be general preference structures (socially pervasive preference structures or at least preference structures that would generally be pervasive under conditions of undistorted discourse), though in societies of moderate scarcity, such as ours, we, aiming for an autonomy respecting egalitarianism, will be resolutely anti-paternalist about leaving *lebensraum* for the satisfaction of eccentric desires (even individually hurtful desire) where their being satisfied does not cause non-mild harm to others. Indeed autonomy respecting egalitarians would even assent to not coercively preventing some indirect and mild harm to others by their satisfaction so that there could be a widespread occurrence of individuals being able to live their lives as they wished. That is a price we will pay for liberty. Thus, while given what appear at least to be the facts, they would insist on segregated smoking areas, they, in a world of reasonable abundance, would not balk at the use of state finances for medical treatment for people who are dying because they smoked. (This is the kind of “harm” to others that should be tolerated.) That is just a price we have



to pay for having an autonomy respecting egalitarianism. (A similar argument against my account might be tried for claiming that course-of-life needs do not trump adventitious needs and a parallel response could be easily constructed.)

Let me now turn to another objection to my account. Braybrooke has argued, and I have accepted that argument, that questions "about whether needs are genuine or well-founded, come to the end of the line when the needs have been connected with life or health."<sup>36</sup> One does not need to explain or justify needing to live or to function robustly. There is no more fundamental end, Braybrooke claims, which we could invoke to justify these ends. Against this it might be argued that the fact a given need is really basic, i.e. that it is essential to living or to functioning normally, does not show that it is to be preferred to some other class of non-basic needs or non-end-of-the-line needs. An individual might not unreasonably say "I don't so very much care about my health but I do very much care about the aesthetic quality of my life. If my health needs come in conflict with my aesthetic ones the aesthetic ones should take pride of place." This seems a perfectly possible thing to say and indeed in some contexts, and for some people, something they could not unreasonably believe.

This being so, is the appeal to health here really the end of the line? Is it not just dogmatic to say that considerations of health here *must* be overriding? Yes, of course, it is, but Braybrooke is not denying that nor am I. He makes it plain in the very passage under inspection that health and functioning well are not our *only* ends and it would surely be absurd to think they are. There may very well be other and sometimes conflicting ends which are equally ultimate. He only asserts that there is no more ultimate end (say pleasure as the hedonists thought) that we might appeal to to adjudicate these conflicts or to show health to be a good thing. (To point out that you want health or have a pro-attitude toward health, as the emotivists realized, though often their critics did not, is not to give a reason for the proposition, if that is what it is, that health is good.) But that nothing more fundamental justifies it does not mean that it cannot conflict with other ends or goods judged to be fundamental. But it does not, in typical circumstances at any rate, mean that, when we believe health to be a good thing, even though it is not the only good thing, or the always overridingly good thing, we have to be able to find a reason to show that it is a good thing.

Not everything we reasonably do or believe we believe or do for a reason. But that, in turn, does not mean that if concretely in the context of live moral deliberation we find a specific reason for ques-



tioning that or some other belief it is not incumbent on us to search for reasons for that belief. There is a great distance between Peirce and Descartes.

## NOTES

1. David Braybrooke, *Meeting Needs* (Princeton, NJ: Princeton UP, 1987), 159.
2. Kai Nielsen, *Equality and Liberty* (Totowa, NJ: Rowman and Allanheld, 1985) and Kai Nielsen, "On Liberty and Equality: A Case for Radical Egalitarianism" in *Windsor Yearbook of Access to Justice* 4 (1984), 121-142.
3. Kai Nielsen, "On Liberty and Equality."
4. Braybrooke, 5.
5. *Ibid.*, 29.
6. *Ibid.*, 30.
7. *Ibid.*, 31.
8. *Ibid.*, 33.
9. *Ibid.*
10. *Ibid.*
11. *Ibid.*
12. *Ibid.*, 36.
13. *Ibid.*
14. *Ibid.*, 37.
15. *Ibid.*, 39.
16. *Ibid.*
17. *Ibid.*
18. *Ibid.*, 41.
19. *Ibid.*, 45.
20. *Ibid.*, 47.
21. *Ibid.*, 47-8.
22. *Ibid.*, 47.
23. *Ibid.*, 48.
24. *Ibid.*, 65.
25. *Ibid.*, 45.
26. *Ibid.*, 59.
27. *Ibid.*, 60.
28. *Ibid.*, 61.
29. *Ibid.*, 60-61.
30. *Ibid.*, 68.
31. *Ibid.*, 71.
32. *Ibid.*, 73.
33. *Ibid.*, 74.
34. Richard Norman, *Free and Equal*. (Oxford, England: Oxford UP, 1987) and Kai Nielsen, "Marxism and the Moral Point of View" in *American Philosophical Quarterly* (1987).
35. Our notions of 'rational person' or 'reasonable person' must not be so rationalistic that we will not count as a rational or reasonable person one who is captive to a few cravings or is not so strong that that person always does what reason prescribes. If we so up our criteria the class of rational persons will be empty. Moreover, rational persons can make *some* irrational choices.
36. Braybrooke, 31.