



# Trans European Policy Studies Association

## TEPSA BRIEFS

JULY 2021

### Equality Matters: Why and So What?

Joshua Castellino\*

---

#### Abstract

*Despite wide acceptance as a concept and a privileged position as a founding principle in law and society, the quest for equality remains distant. The mere framing of equality in law is inadequate in addressing inequality in fact. This brief seeks to articulate why equality matters and what it has to offer from a pragmatic perspective in the context of the collective crises facing societies.*

---

#### Introduction

Equality as a concept, has dominated religious thought and political philosophy for centuries, and is at the root of legal systems.<sup>1</sup> The underlying idea is simple: every individual matters, has equal, inherent worth and dignity, and as a consequence, must have equal access to rights and opportunities in any given society.<sup>2</sup> Historically, much debate has revolved around who belongs to which groups, how to define its membership, and what is needed to join and remain within its

boundaries. Some elements of the debates around the rights of transsexuals and others in binary perspectives of gender reflect this in a contemporary light.

It is uncontested at a universal level, that inequality within the human family is the reality.<sup>3</sup> Individuals and communities, as a consequence of their gender, descent, ethnic, religious, linguistic characteristics, indigeneity, national origin or status, (dis)ability, gendered identity and orientation, perception (or reality) of being identified or classified into a specific group, are often excluded and marginalized to the point of deprivation of access to law and human rights.<sup>4</sup> Thus, the quest for equality is often perceived as a 'struggle' for certain communities who are marginalized to arrive at the point that others take for granted: where their equality in law is realized and experienced as equality in fact. This rings true even within the European Union, where vital steps have been taken towards the goal of

---

<sup>1</sup> Vlastos 1947.

<sup>2</sup> Rioux 1994.

<sup>3</sup> Oxfam 2021.

<sup>4</sup> Pazzanese 2020.

\* Joshua Castellino is Executive Director of *Minority Rights Group International* and Professor of Law at *Middlesex University*, London, UK. All the opinions expressed in this brief are the sole view of the author, and do not represent the position of either MRG or Middlesex University nor of the Trans European Policy Studies Association (TEPSA).

equality<sup>5</sup>. This brief seeks to offer insight into (a) why this struggle remains fundamental to our societies; and (b) an exploration of what its achievement may entail.

### **Why is Equality Important?**

A Darwinian perspective simply suggests that the strong wipe out the weak as a natural course. Arguments for equality challenge this notion. Instead, 'equality of men', as originally framed, was derived from religious thinking and the location of human beings in the context of the wider world.<sup>6</sup> Women, determined (by men) to be of physically lesser status, were relegated to second class citizens in an anthropocentric hierarchy, with animals significantly further down the order.<sup>7</sup> The need to dominate lands and capture means to prosperity created further fissures among 'mankind', developing hierarchies between tribes, promoting or relegating communities that were different from the 'winning' i.e. stronger hegemon.

The counter argument was that human beings by virtue of being able to 'reason' needed to overcome the 'laws of the jungle' and instead create societies based on cooperation rather than conflict. Certain hierarchies were considered sacrosanct such as the protected status of rulers or sovereigns,<sup>8</sup> but there was encouragement in the emerging laws and customs towards equality of all men. It took very specific struggles to 'extend' this thinking to 'all women and men', and despite wide reflection of this rhetoric in law and societies, this reality is far from being achieved.

In a contemporary context, despite progress towards a rule-oriented society notionally based on values of justice and fairness, the accident of birth remains the most significant determinant for the personal, social, political and public trajectory of any individual born on the planet. If this accident of birth occurs in a 'developed' country, life expectancy, education, health outcomes, levels of ambition, levels of achievement and degrees of comfort and wealth are likely to be significantly higher than for others. The gender of the individual, especially if male, will play a further enhancing role in this trajectory, and their proximity to existing wealth significantly elevates the chances of 'success' however defined. Yet the problem is nuanced since such an accident of birth, which could occur in a 'developing' or 'underdeveloped' country, could result in similar outcomes based on proximity to wealth and influence. This single factor can also overcome other potential disadvantages, including disabilities, which could prove fatal to survival in other cases.

In short, despite received wisdom postulated by religious texts and legal canons around the world that extoll its virtues, humanity has not yet designed systems by which an individual could achieve their potential, save for those privileged by the accident of birth towards this propensity. Thus, equality appears to be a utopian idea overrepresented in rhetoric, less of an actively engaged project with mapped and monitored goals and outcomes.<sup>9</sup>

The consequence of this is simple: societies are developing a limited proportion of the human talent at their behest. At a time of crisis, this

---

<sup>5</sup> European Equality Law Network 2021.

<sup>6</sup> Clifford 2008.

<sup>7</sup> Mill 1869; Smith 2001.

<sup>8</sup> Barker 1995.

<sup>9</sup> Huriot & Bourdeau-Lepage 2012-2013.

becomes most apparent: rather than being able to draw on *all* resources to innovate creative solutions, the sheer limit of those involved in the conversation, who mostly resemble each other in their lived experience and life journeys, mean their scope of invention is narrow. Further, either through unconscious bias or specific intent, their solutions are likely to only target others like them.<sup>10</sup>

In terms of setting collective normative standards, the European Union, and many of the countries within, are arguably farther ahead than other comparable bodies on the journey towards equality.<sup>11</sup> But even here, as in other legal jurisdictions where discussions around equality in law and fact have been honed for generations, the quest for substantive equality remains a significant challenge.<sup>12</sup>

The failure to generate meaningful equality of opportunity has made human history and our current reality significantly poorer. The small but significant steps achieved towards gender parity already display this in abundance. Women have proven as able and indeed better suited (or even at times equally mediocre) as men in every endeavor, including the vaunted physicality that first appears to have justified their relegation in status. A simple example that demonstrates this is the change where the International Olympic Committee had determined that women were too frail to run any distance over 1500 meters until the 1980 Moscow Olympics,<sup>13</sup> to today where the world record for women at 10km is faster than the

national record for men in most of the world's countries.

This shows that the creation of an environment that supports and develops potential rather than bans, marginalizes or excludes individuals based on arbitrary notions can significantly change history, alongside the trajectory of individuals and communities. Faced with existential crises that include the need to urgently mitigate climate change, develop adequate protections against new and emerging health threats, design societies to ensure adequate employment and redesign entire activities to fit within fast approaching planetary boundaries, can we really afford to limit collective human action to a few privileged persons based on the accident of their birth?

---

*In a contemporary context, despite progress towards a rule-oriented society notionally based on values of justice and fairness, the accident of birth remains the most significant determinant for the personal, social, political and public trajectory of any individual born on the planet.*

---

## What Equality in Fact May Offer

The arguments for equality are often underpinned by certain religious discourses and a sense of ethical fairness. These cannot be underscored enough but this brief offers four pragmatic interlinked reasons to justify a reinvigorated collective push towards making the achievement of equality of opportunity a reality.

---

<sup>10</sup> Pritlove et al 2019.

<sup>11</sup> Howard 2009.

<sup>12</sup> Fredman 2016.

<sup>13</sup> Lovett 2008.

First and foremost, society can no longer afford to collectively ‘delegate’ its own custodianship to the privileged few on the basis that they know best. Of course, rather than a formal delegation this has been a process by which those that could design systems, did exactly that – often to benefit themselves, not the collective good, in conjunction with like-minded friends in government and business, creating a bulwark enriching a few at the cost of many, actively hastening the headlong rush in the last century alone, towards the climate crisis. Post pandemic analyses<sup>14</sup> suggest that this trend has spiked further. Dismantling this hold is a collective imperative echoed articulately by the #BlackLivesMatter movement calling for structural change, but with echoes too in the #MeToo and #FridaysForFuture calls.

Second, there is a significant equality dividend to be gained by ensuring mass participation and universal enfranchisement of basic rights such as health and education.<sup>15</sup> For a start, it will likely result in a far more qualified pool of individuals to draw on to face the big and complicated challenges that loom before humanity. Bringing diverse perspectives and lived experiences into policy making and every aspect of life is likely to foster innovation, but equally, to ensure that outcomes cater to all.

Third, as the coronavirus pandemic has shown, leaving populations behind in terms of their rights entitlement, is collectively bad for the whole of society. Just as no one can really be safe if the virus is left festering in some corner of humanity, excluding and marginalizing populations either through will or neglect can

create a polarized ‘Haves versus Have Nots’ culture that can easily be exploited to undermine societies at a time when human unity must be of utmost importance.<sup>16</sup>

Finally, it is important to realize the limitations of the notion of merit, which is often offered as a reason for why certain individuals do not ‘make it’. According to this argument, societies are perceived to be free marketplaces where talent rises to the top. Yet as the recent examples of the greater participation of women in all walks of life shows, the race is not fair if some are simply barred from entering. When marginalization and exclusion are the norm, the consequences are the breakdown of society. When inclusion and active means for generating a push towards equality are sought, it has a galvanizing effect on individuals and communities and the levels of collective achievement can rise.

## Conclusion

When faced with a critical health emergency in an intensive care unit, the gender, religious adherence, sexual orientation, or even the eating habits or the shoe size of the medic with responsibility for your life all seem irrelevant.

When selecting a national football team, the idea of only picking players from a specific borough in the capital city would be absurd in view of the competition they would face.

When selecting the next generation of scientists, disqualifying entire segments from competing based on their preference for certain colours would be absurd.

---

<sup>14</sup> Schleifer 2021.

<sup>15</sup> Dorling 2017.

<sup>16</sup> MRG 2021.

Yet our societies remain based on such arbitrary decisions deeply entrenched into seemingly ossified structures that effectively marginalize and exclude individuals based on narrow perceptions of their worth. We are now facing crises with a very small portion of human talent and capabilities to draw upon,

and as a consequence the solutions we come up with are limited and inappropriate in grasping the scale of change necessary. Realizing that talent is a complex matrix between skill and opportunity is fundamental to change. Today, achieving equality is not only a moral imperative, it is an urgent priority.

## References

All web-references accurate as of 12 July 2021.

‘Five Shocking Facts About Global Inequality and How to Even it Up’ *Oxfam* 2021, available at: <https://www.oxfam.org/en/5-shocking-facts-about-extreme-global-inequality-and-how-even-it>

Charlie Lovett, *Olympic Marathon: A Centennial History of the Games Most Storied Race* (Westport CT, 1997) excerpt available Jarlaith Clifford, ‘Locating Equality: From Historical Philosophical Thoughts to Modern Legal Norms’ *Equal Rights Review* Vol.1, March 2008 available <https://www.equalrightstrust.org/sites/default/files/ertdocs//LocatingEquality.pdf>

Cheryl Pritlove, Clara Juando-Prats, Kari Ala-leppilampi & Janet A Parsons, ‘The Good, the Bad, and the Ugly of Implicit Bias’ *The Lancet* Vol.393, Issue 10171 (2019) 502-504 doi: [https://doi.org/10.1016/S0140-6736\(18\)32267-0](https://doi.org/10.1016/S0140-6736(18)32267-0)

Christina Pazzanese, ‘How Political Ideas Keep Inequality Going’ *The Harvard Gazette* March 3, 2020 available at <https://news.harvard.edu/gazette/story/2020/03/pikettys-new-book-explores-how-economic-inequality-is-perpetuated/>

Danny Dorling, ‘The Equality Effect’ *New Internationalist* 19 July 2017 available at: <https://newint.org/features/2017/07/01/equality-effect>

Elizabeth S Smith, ‘John Stuart Mill’s “The Subjection of Women”: A Re-examination’ 34(2) *Polity* (2001) 181-203

Erica Howard, ‘Equality: A Fundamental Right in the European Union’ 10(1) *International Journal of Discrimination and the Law* (2009) 19-38 <https://doi.org/10.1177/135822910901000103>

European Equality Law Network, Key EU directives in gender equality and non-discrimination, (2021), available at: <https://www.equalitylaw.eu/legal-developments/16-law/76-key-eu-directives-in-gender-equality-and-non-discrimination>

Gregory Vlastos, ‘Equality and Justice in Early Greek Cosmologies’ 42(3) *Classical Philology* (1947) 156-178

J Craig Barker, ‘The Theory and Practice of Diplomatic law in the Renaissance and Classical Periods’ 6(3) *Diplomacy & Statecraft* (1995) 593-615

Jarlaith Clifford, ‘Locating Equality: From Historical Philosophical Thoughts to Modern Legal Norms’ *Equal Rights Review* Vol.1, March 2008 available <https://www.equalrightstrust.org/sites/default/files/ertdocs//LocatingEquality.pdf>

Jean-Marie Huriot & Lise Bourdeau-Lepage, ‘Utopia, Equality and Liberty: The impossible ideal’ *Justice Spatiale/Spatial Justice* Vol.5 (2012-2013) available at <https://www.jssj.org/wp-content/uploads/2013/09/JSSJ5-2-en1.pdf>

John Steward Mill, *The Subjection of Women*, (London, 1869)

Marcia H Rioux, 'Towards a Concept of Equality of Well-Being: Overcoming the Social and Legal Construction of Inequality' 7(1) *Canadian Journal of Law & Jurisprudence* (1994) 127-147 Doi: <https://doi.org/10.1017/S0841820900002605>

*Minority & Indigenous Trends 2021* (London: MRG 2021) available at: <https://minorityrights.org/trends2021/> (See also: UN Fact Sheet Why it Matters Goal 10 Equality available at: [https://www.un.org/sustainabledevelopment/wp-content/uploads/2017/02/ENGLISH\\_Why\\_it\\_Matters\\_Goal\\_10\\_Equality.pdf](https://www.un.org/sustainabledevelopment/wp-content/uploads/2017/02/ENGLISH_Why_it_Matters_Goal_10_Equality.pdf))

Theodore Schleifer, 'The number of billionaires spiked by 30% during the pandemic', Vox (2021), available at: <https://www.vox.com/recode/2021/4/6/22370351/billionaires-forbes-inequality-pandemic>

Sandra Fredman, 'Substantive Equality Revisited' 14(3) *International Journal of Constitutional Law* (2016) 712-738 <https://doi.org/10.1093/icon/mow043>



College of Europe  
Collège d'Europe



## Trans European Policy Studies Association

Rue d'Egmont 11, B-1000  
Brussels, Belgium

To know more about TEPSA visit:  
[www.tepsa.eu](http://www.tepsa.eu)

Follow TEPSA on:

 [@tepsaeu](https://twitter.com/tepsaeu)

 [@tepsa.eu](https://facebook.com/tepsa.eu)

 [TEPSA](https://linkedin.com/company/tepsa)

 [@tepsaeu](https://instagram.com/tepsaeu)

## College of Europe - Natolin Campus

Nowoursynowska 84, 02-797  
Warszawa, Poland

To know more about College of Europe  
visit: <https://www.coleurope.eu/>

Follow College of Europe on:

 [@collegeofeurope](https://twitter.com/collegeofeurope)

 [@College.Of.Europe](https://facebook.com/College.Of.Europe)

 [College of Europe – Natolin Campus](https://linkedin.com/company/college-of-europe-natolin-campus)

 [@coenatolin](https://instagram.com/coenatolin)

Co-funded by the  
Europe for Citizens Programme  
of the European Union



*The European Commission support for the production of this publication does not constitute an endorsement of the contents which reflects the views only of the authors, and the Commission cannot be held responsible for any use which may be made of the information contained therein.*