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# Contingency, arbitrariness, and the basis of moral equality

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**Abstract**

Hardly anyone denies that (nearly) all human beings have equal moral status and therefore should be considered and treated as equals. Yet, if humans possess the property that confers moral status upon them to an *unequal* degree, how come they should be considered and treated as *equals*? It has been argued that this is because the variations in the degree to which the status-conferring property is held above a relevant threshold are contingencies that do not generate differences in degrees of moral status. Call this *the contingency argument for the basis of moral equality*. In this paper, I reject the contingency argument. Instead, I develop an *attitude-based account of the basis of moral equality*: according to this account, the basis of moral equality lies in a fitting, basic, and independent moral attitude which is owed to human beings *qua* moral status-holders, and provides a coherent and plausible explanation for why the variations above the threshold for moral status do not matter.

**KEYWORDS**

arbitrariness, contingency, moral attitudes, moral equality, range property, variations

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## 1 | INTRODUCTION

The principle of moral equality is one of the most fundamental commitments of contemporary moral and political philosophy: hardly anyone denies that (nearly) all human beings have equal moral status and therefore should be considered and treated as equals (Kymlicka, 2002, p. 4). Yet, recent contributions to the literature have shown that providing a compelling justification for our commitment to moral equality is by no means an easy task. The reason for this is that if human beings ought to be treated as equals, this must be because there is something about human beings which makes them each other's equals in some fundamental sense. However, when we look at the significant properties that are usually taken to ground humans' moral status—such as, for example, the capacity for rational agency or the capacity to care—we find out that they are all possessed to an unequal degree: some humans are more rational than others, and some have a greater capacity to care for others. But if humans are *unequal* in the possession of the significant property that confers moral status upon them, why should they be considered and treated as *equals*? This is known as the *variations objection* or the *continuity argument* (Arneson, 2015; Christiano, 2015; Floris, 2023; Parr & Slavny, 2019).

An influential strategy to overcome this challenge is to suggest that what matters is that humans hold a significant property up to a sufficient level, whereas the variations in the degree to which this property is held above the threshold are morally irrelevant. This is the so-called *range property view*.<sup>1</sup> However, one may still ask: why exactly are the variations above the threshold morally irrelevant? Some prominent advocates of the range property view have argued that this is because the variations above the threshold are mere contingencies that are arbitrary from a moral point of view and therefore do not generate differences in moral status (Christiano, 2015; Rawls, 1971). Call this the *contingency argument for the basis of moral equality* (henceforth, the contingency argument for short).

In this paper, I have two aims. The first aim is to show that the contingency argument must be rejected because it fails to offer a principled and compelling rationale for why the range property is the basis of moral equality (§§2 and 3). The second aim is to develop an *attitude-based account of the basis of moral equality*: according to this account, the basis of moral equality lies in a fitting, basic, and independent moral attitude which is owed to human beings *qua* moral status-holders, and provides a coherent and plausible explanation for why the variations above the threshold for moral status do not matter (§4).<sup>2</sup>

## 2 | THE RANGE PROPERTY VIEW AND THE CONTINGENCY ARGUMENT

The most pressing problem for a theory of the basis of moral equality is to provide a convincing answer to the variations objection: if humans' moral status is based on the possession of a *scalar* property—that is, a property that comes in degrees—then it seems reasonable to maintain that the degree of humans' moral status should vary according to the degree to which they possess the status-conferring property. Therefore, if humans possess the property that confers moral status upon them to an *unequal* degree, why should they be considered and treated as equals, rather than as *unequals*?

It is widely agreed that the range property view offers one the most promising solutions to the variations objection. According to this view, humans are moral equals because they hold a *range property*. A range property is the *binary* property of possessing some scalar properties within a specific range. Hence, it provides a plausible basis for human beings' equal moral status.

<sup>1</sup>For prominent attempts to defend the range property view, see Arneson, 2015; Carter, 2011; Rawls, 1971; Waldron, 2017.

<sup>2</sup>To be clear, then, the main aim of the paper is not that of developing a fully worked-out theory of the basis of moral equality. Rather, more modestly, the paper aims to identify the necessary and fundamental justificatory element of any plausible account of the range property view of the basis of moral equality.

To illustrate this, let us consider John Rawls's range property view. Rawls argues that individuals who possess the capacity for a conception of the good and the capacity for a sense of justice up to a sufficient degree are "moral persons".<sup>3</sup> And although persons hold these agential capacities to different degrees, Rawls claims that rights and liberties do not vary with the degree to which persons possess the relevant agential capacities: "provided the minimum for moral personality is satisfied, a person is owed all the guarantees of justice" (Rawls, 1971, p. 507). But why is that? Why do the variations in the degree to which persons hold the capacity for a conception of the good and the capacity for a sense of justice above the minimum for moral personality not matter? Rawls's answer is the following: "[a]ll we have to do is to select a range property (as I shall say) and to give equal justice to those meeting its conditions" (Rawls, 1971, p. 508). More precisely, Rawls argues that what matters is that persons equally have the subvenient agential capacities within the range of moral personality, so they all have equal fundamental rights and duties. Being a moral person is therefore a range property: provided that an individual possesses some agential capacities up to a sufficient degree, the degree to which they hold these capacities above the threshold still fall within the range. Hence, persons are fundamentally each other's moral equals in the possession of the range property of moral personality (Rawls, 1971, pp. 504–512).

At first glance, the range property view seems to offer a plausible response to the variations objection: as long as persons hold some properties up to a minimum degree, the variations in the degree to which these properties are held above the threshold are irrelevant and therefore do not generate differences in degrees of moral status.

However, as several critics have observed, it is after all not clear whether the range property view provides a solid grounding for basic moral equality, or merely restates our commitment to it. The reason for this is that it is difficult to see what independent reason we have to maintain that the variations above the threshold are irrelevant. As Geoffrey Cupit asks: "[w]hy should we suppose that our status is determined by our passing a particular threshold, whilst our possessing more than the minimum required to pass that threshold is entirely redundant?" (Cupit, 2000, p. 110). Thus, Rawls claims that what matters is that persons hold the relevant agential capacities for a conception of the good and a sense of justice within the range of moral personality, regardless of the unequal degree to which these properties are held above the threshold for moral personality. But what is the rationale for maintaining that the varying agential capacities are irrelevant above the threshold, while being relevant below it? More generally, advocates of the range property view affirm that persons have equal moral status because the variations in the degree to which they hold their status-conferring property above the threshold are morally irrelevant. However, simply affirming that the variations above the threshold should be ignored without providing an independent explanation for why they are morally irrelevant begs the question against the variations objection. Far from offering an independent justification for the principle of moral equality, the range property view seems to simply pledge its allegiance to it.

The above analysis suggests that a principled and plausible defence of the range property view must provide a compelling answer to the following question: why are the variations above the threshold irrelevant and thus unable to generate differences in degrees of moral status?

Some prominent advocates of the range property view have indeed sought to respond to this challenge. They have argued that the variations above the threshold are irrelevant because they are mere contingencies which are arbitrary from a moral standpoint and therefore cannot affect the degree of persons' moral status. For example, Rawls himself affirmed that "[a] greater capacity for a sense of justice [...] is a natural asset like any other" (Rawls, 1971, pp. 506–507), or that "[one's] superior capacity should be regarded as any other advantage in the natural lottery" (Rawls, 1999, p. 113). In a similar vein, Thomas Christiano argued that "we may think that these

<sup>3</sup>"Moral persons", then, are those entities that have moral status by virtue of holding a significant property (or a set of significant properties) up to a sufficient degree. This means that not all human beings need to be moral persons and that not all moral persons need to be human beings. I will return to the question of the scope of moral equality below.

differences in degree of rational capacity are actually more like differences in natural talent, which are arbitrary grounds for differential life prospects" (Christiano, 2015, p. 68).

According to this line of argument, then, the different degrees to which agential capacities are held above the threshold should be considered on a par with other contingent and morally arbitrary differences—such as, for example, race and gender—which must be ignored when reasoning about what is owed to persons *qua* moral equals. Thus, no one would maintain that women are inferior to men because of their gender or that white persons are superior to persons of colour because of their race: "gender" and "race" are mere contingencies and therefore represent a morally arbitrary difference between moral persons which cannot undermine the equal respect that is owed to them *qua* moral equals. Similarly, so the argument goes, the different degrees to which persons possess agential capacities above the sufficient minimum are the contingent outcome of the natural lottery. Accordingly, they are mere contingencies that are arbitrary from a moral point of view and therefore do not justify ascribing different degrees of moral status to persons. Call this the *contingency argument for the basis of moral equality* (henceforth, the contingency argument for short).

If the contingency argument is correct, we do have an independent explanation for why the variations above the threshold are irrelevant and thus do not generate differences in degrees of moral status: variations above the threshold are contingent and morally arbitrary and, as such, they must be ignored when assessing persons' moral status. What matters therefore is that persons hold some relevant properties within a specific range. Hence, persons have equal moral status by virtue of possessing the range property.

### 3 | THE ARBITRARINESS OBJECTION

In this section, I argue that the contingency argument does not provide a convincing defence of the range property view because it is vulnerable to a pressing objection.

The contingency argument states that the variations in the degree to which the relevant properties are held *above* the threshold for moral personality should be ignored because they are mere contingencies, thus being a morally arbitrary difference between persons that cannot justify inequality of moral status among them. However, one may observe that the possession of the relevant capacities *up to* the threshold is also a contingent outcome of the natural lottery. But if the degree to which the properties are held above the threshold and possessing the properties up to the threshold are both contingent, why should *only* the former be considered morally irrelevant when assessing persons' moral status? To put it another way, proponents of the contingency argument contend that what matters is that humans possess a set of agential capacities up to a sufficient minimum such that they reach the threshold for moral personality, whereas the fact that some hold these capacities to a higher or lower degree than others is a mere contingency, which cannot generate differences in degrees of moral status. However, not only is the degree to which human beings possess agential capacities above the threshold for moral personality contingent, but also is the very fact that they hold such capacities up to the threshold a contingent result of the natural lottery. Therefore, it is not clear what justifies the difference in the moral relevance of these contingencies when assessing persons' moral status. Call this, the *arbitrariness objection*.

The pertinent question is thus the following: can proponents of the contingency argument reject the arbitrariness objection? To begin with, they may point out that what is contingent—where a proposition is contingent "just in case it is true in some but not all possible worlds" (Boris, 2017)—depends on which worlds are accessible from the actual world. An "accessibility relation  $R$  holds between worlds  $w$  and  $w'$  iff  $w'$  is possible given the facts of  $w$ " (Garson, 2016). Thus, for instance, both a world  $w_2$  in which  $A$  holds agential capacities to a higher or lower degree than  $X$  (where  $X$  is above the threshold for moral personality) and a world  $w_3$  in which  $A$  is not a moral person (that is,  $A$  does not hold agential capacities up to the threshold for moral personality) are accessible from our actual world  $w_1$  in which  $A$  is a moral person and possesses agential capacities to a degree  $X$ , insofar as  $w_2$  and  $w_3$  are both at least logically possible according to the facts of  $w_1$ . However, one may reasonably argue that according to

the facts of  $w_1$ , a world in which A holds their agential capacities to a degree higher or lower than X is *more accessible* than a world in which A is not a moral person at all. Hence, the former is more contingent than the latter. Therefore, if “being a moral person” is less contingent than “holding agential capacities to a degree X”, then, so the argument concludes, we have a non-arbitrary reason to consider only the former as relevant when assessing persons’ moral status.<sup>4</sup>

This line of argument, however, is unable to reject the arbitrariness objection for the following two reasons. First, if the distinction in the moral relevance of the contingencies in question is a matter of *degree*, then one may wonder how it can justify a difference *in kind* between the moral relevance of “being a moral person” and that of “holding agential capacities to a specific degree above the threshold”. Why should we take into account *only* the former when determining persons’ moral status? Put differently: this defence of the contingency argument may offer a reason to maintain that “being a moral person” is *less* contingent than “holding agential capacities to a specific degree above a particular threshold” and thus that the latter is *less* morally relevant than the former. However, it simply follows from this that when assessing persons’ moral status *both* factors should be taken into account, but more weight should be given to the former. And while this might be sufficient to affirm that there is not a *very great* moral inequality among persons, it is insufficient to account for their equal moral status.

Second, as we have seen, this line of defence states that “being a moral person” is more relevant than “holding agential capacities to a specific degree above the threshold” because the former is less contingent than the latter. But if the moral relevance of “being a moral person” rests upon its (inferior) *degree* of contingency rather than upon its being non-contingent, then one may observe that the degree of its contingency is going to vary for each human being and therefore it cannot be the basis of moral equality. To appreciate this, consider the case of two infants, A and B. Suppose that A is severely cognitively disabled whereas B is able-bodied. Eventually, both infants develop the relevant agential capacities up to the threshold for moral personality. In this case, however, it seems plausible to maintain that the fact that A is a moral person is *more* contingent than the fact that B is a moral person, insofar as there are more possible worlds in which A does not turn into a moral person—i.e., all those worlds in which it is impossible for humans who suffer from severe cognitive disability to acquire agential capacities up to a sufficient level—than possible worlds in which B does not. If this is true, it is difficult to see on what grounds the property of “being a moral person” should be regarded as equally morally relevant in the case of A and B. Hence, it is unclear how an *unequally* morally relevant property can be the basis of A’s and B’s *equal* moral status. In other words, even if it is true that “being a moral person” is less contingent than “holding agential capacities to a specific degree above the threshold”, the former is a *scalar* property since its degree of contingency varies from individual to individual; therefore, it is unable to reject the variations objection.

The proponents of the contingency argument may then help themselves to a different line of argument: they may want to hold that, unlike the property of “holding agential capacities to a specific degree above the threshold”, the property of “being a moral person” is *not* a contingent outcome of the natural lottery. Thus, for example, Christiano suggests that “a change from below the threshold to above the threshold involves some kind of substantial transformation of the nature of the being involved while changes above the threshold do not involve such substantial transformation”, because the latter, but not the former, are identity-preserving (Christiano, 2015, p. 73). According to this line of argument, then, if an individual A is a moral person and holds agential capacities up to a degree X in this world  $w_1$ , there are no possible worlds  $w_n$  in which A is not a moral person because, were they not a moral person, A would not *be* A. On the other hand, however, there can be several possible worlds  $w_2, w_3, \dots, w_n$ , in which A holds agential capacities to a higher or lower degree than X because the degree to which agential capacities are possessed does not affect the identity of its holder. If

<sup>4</sup>This, for example, seems to be Rawls’s response against the arbitrariness objection when he notices that “the *only* contingency which is decisive is that of having or not having the capacity for a sense of justice” (Rawls, 1971, p. 511; emphasis added). Rawls, however, does not explain why *only* that contingency is morally relevant, whereas other contingent results of the natural lottery, such as holding the capacity for a sense of justice to a higher or lower degree, are not.

successful, this argument would provide us with a non-arbitrary reason to ignore *only* the variations above the threshold when assessing persons' moral status because this is the only contingency that is arbitrary from a moral point of view.

However, this line of response is unable to justify the discontinuity necessary for the arbitrariness objection to be rejected. The reason for this is that maintaining that any changes in the degree to which an individual possesses the agential capacities above a particular threshold are identity-preserving seems questionable, at the very least.<sup>5</sup> To illustrate this, suppose that in this world  $w_1$  Sara possesses highly developed moral and intellectual capacities, which allow her to reflect upon a wide range of moral considerations and acknowledge the full set of her moral obligations, as well as formulate a very complex and detailed life plan. Surely, there is a possible world  $w_2$  in which Sara holds very limited moral and intellectual capacities (just enough to reach the relevant threshold), such that she is capable of elaborating a very few principles of justice and making simple choices based on a limited set of alternatives. However, it is far from clear whether Sara is still Sara in  $w_2$ . Of course, this example is not enough to determine what kind of changes (do not) preserve a person's identity. But it is sufficient to show that this line of response ultimately rests on a transcendental conception of the self that is very hard to defend. Hence, it would be preferable to find a justification of moral equality that need not be committed to a very controversial view about the metaphysics of personal identity. For this reason, I conclude that the contingency argument is unable to reject the arbitrariness objection.

#### 4 | AN ATTITUDE-BASED ACCOUNT OF THE BASIS OF MORAL EQUALITY

It is widely assumed that (nearly all) human beings are each other's equals in a fundamental sense because they possess some agential capacities up to threshold for moral personality, regardless of the degree to which these capacities are held above the threshold. Yet, if "being a moral person" is what matters, why holding agential capacities to a higher (or lower) degree does not count more (or less)? An influential answer to this question is that this is because the variations above the threshold for moral personality are a mere contingency which cannot undermine the equal respect that is owed to persons *qua* moral equals. This contingency argument, however, falls prey to the arbitrariness objection: if "being a moral person" and "holding agential capacities to a specific degree above the threshold" are both the contingent result of the natural lottery, then it is arbitrary to consider only the former as morally relevant when determining persons' moral status. Therefore, the contingency argument fails to provide a coherent and plausible justification for the principle of moral equality.

What does this mean for the debate on the basis of moral equality? On the one hand, this may be taken as an indication that the range property view should be abandoned in favour of a different approach. Indeed, in recent years, several contributors have suggested that to justify basic moral equality we do not need to identify a significant property that is equally possessed by all human beings, but we should focus on the way in which human beings ought to relate to one another. According to this approach, human beings do not have equal moral status because there is something about them which makes them each other's equals in some fundamental sense. Rather, their equal moral status is grounded in the wrongness of treating others as inferiors.<sup>6</sup> Critics, however, have pointed out that this relation-first approach runs up against its own problems (Floris, 2019, 2020), and in any case rejecting the range property view would be too hasty.

Instead, I argue that the reason why the contingency argument fails to offer a convincing justification for the range property view helps us understand what exactly is needed to provide such a justification. In particular, it

<sup>5</sup>Michael Gorr, for example, observes that "a person's *identity* as the particular person that he is, is not independent of the bundle of natural assets with which he has, however, contingently, been blessed" (Gorr, 1983, p. 17; emphasis in the original).

<sup>6</sup>The most influential account of this relation-first approach to the basis of moral equality has been proposed by Andrea Sangiovanni (2017).

enables us to see that since the variations in the degree to which properties are possessed above a specific threshold are not the only contingency that is arbitrary from a moral point of view, we need a plausible moral requirement that supplies a coherent rationale for why *only that contingency* must be ignored when evaluating persons' moral status. In other words, we need a principled and compelling explanation for why we have a moral obligation to consider the variations above the threshold as morally irrelevant when assessing persons' moral status. In what follows, I argue that such an explanation is to be found in a *moral attitude* that is owed to persons *qua* moral status-holders. This is where the basis of moral equality lies.

As many theorists of moral status and basic equality have pointed out, the moral status of human beings is grounded in a morally significant property—e.g., the capacity for moral agency or the capacity to care—that confers moral value, or worth, upon them.<sup>7</sup> Any status-conferring property, then, generates a moral obligation to be valued properly—that is, a duty to express the right moral attitude towards it. Thus, for example, it is widely accepted that we ought to express attitudes of respect, love, care and concern towards people if and because they hold some relevant properties that ground a duty to be valued in this manner. Now, it is the appropriate mode of valuing the property that confers moral status upon persons, I argue, which provides the normative basis for the moral obligation to consider only the possession of some relevant properties within a specific range as relevant when assessing their moral status. Put differently, the basis of moral equality lies in a moral attitude that is owed to persons *qua* moral status-holders, which offers a plausible explanation for why the variations in degrees to which persons hold the status-conferring property above the relevant threshold do not generate differences in degrees of moral status. Call this, the *attitude-based account of the basis of moral equality*.

To illustrate this, it will be helpful to consider the most influential and worked-out attempt in this direction: Ian Carter's opacity respect view. Carter argues that the property of "being a moral person" generates a duty of "opacity respect", which requires refraining from inquiring into the degree to which agential capacities are held above the sufficient minimum. What matters is that persons hold the subvenient agential capacities within the relevant range because respect for persons requires us to refrain from taking account of the different degrees to which these properties are held above the threshold for moral personality when assessing their moral status. Hence, the moral attitude of opacity respect provides a coherent rationale for the salience of the range property (Carter, 2011). As we will see below, Carter's view might not be the most plausible attitude-based view of the basis of moral equality, for opacity respect might not be the *right* moral attitude to justify persons' moral equality. However, if my argument is correct, Carter's theory rests on an appropriate justificatory structure: an appeal to a moral attitude which (i) is owed to persons by virtue of holding a status-conferring property and (ii) can explain why the variations in degrees to which the status-conferring property is held above the relevant threshold do not generate differences in degrees of moral status is the only viable option to provide a principled and compelling justification for persons' equal moral status.

This discussion so far has helped us understand where we have to look in our attempt to justify persons' moral equality: we need to identify an appropriate moral attitude which is owed to persons *qua* moral status-holders and that can offer a coherent and compelling rationale for why what matters is that persons hold the range property regardless of the variations above the threshold. However, like not any property that is held by human beings can ground their moral status,<sup>8</sup> so not any moral attitude can be a plausible candidate for the basis of moral equality. For instance, consider the attitude of "indifference". While it might be appropriate to display an attitude of indifference towards some persons in some circumstances, it is implausible to hold that (i) expressing an attitude of indifference is owed to persons *qua* moral status-holders, and that (ii) expressing such an attitude would provide us with a compelling reason to consider and treat them as equals. Hence, an appeal to the attitude of "indifference" is not a plausible candidate for the basis of moral equality.

<sup>7</sup>See among others, Arneson, 2015; Carter, 2011; Christiano, 2015; Jaworska, 2007; Waldron, 2017.

<sup>8</sup>For example, "having an opposable thumb" is a morally insignificant property and, as such, cannot be the basis of human beings' status *qua* moral persons. For further discussion of the conditions that a property must satisfy to be a plausible candidate of the basis of moral status, see Floris (2021, pp. 1861-1863).



In the final part of this section, then, I outline the necessary and sufficient conditions that a moral attitude must satisfy to be a plausible candidate for the basis of moral equality. My claim is that any account of the range property view must appeal to a moral attitude which meets these conditions to offer a coherent and convincing justification of the principle of moral equality.

First, a moral attitude must be *fitting*. That is to say that the moral attitude must be an *appropriate* response to its object, namely, the status-conferring property.<sup>9</sup> To appreciate this, consider the property of “being commendable”. We typically think that an attitude of praise is the fitting or appropriate response to a person who is commendable, whereas attitudes of blame and disapproval are not appropriate responses to a commendable individual. Similarly, then, advocates of the range property view must identify a moral attitude that is an appropriate response to the status-conferring property. In other words, they must offer a convincing explanation for why the moral attitude that is meant to be the basis of persons' equal moral status is an appropriate way of valuing persons in virtue of holding the specific property that confers moral status upon them.

The requirement of fittingness shows, importantly, that different attitude-based accounts of the range property view will rest on different moral attitudes depending on the status-conferring property that grounds human beings' moral status. Thus, for example, as I argue elsewhere (Floris, *forthcoming*), while Carter's view might be able to justify the moral equality of persons—understood as fully competent adults who hold sophisticated agential capacities—it does not have the theoretical resources to account for children's equal moral status, for opacity respect is not the appropriate response to children's moral status. The reason for this is that children have a fundamental right to be nurtured, protected, and educated, which is incompatible with an attitude of opacity respect that requires keeping a “certain distance” in order to refrain from inquiring into someone's level of agential capacities (Carter, 2011, p. 552). Hence, there is no fit between opacity respect and children's moral status. Therefore, an appeal to opacity respect is unable to provide a compelling justification for children's moral equality. In the case of children, then, we need to identify another fitting moral attitude which can explain why what matters is that children hold a range property regardless of the variations above the relevant threshold.

Second, a moral attitude must be *basic* to what is owed to persons in order to be able to justify a significant commitment to persons' moral equality. To see this, consider the objection raised against Carter's view, according to which opacity respect is incompatible with some fundamental obligations that are owed to persons and, for this reason, it fails to offer a plausible justification of persons' equal moral status. For instance, it has been observed that paying attention to internal endowment deficits is often necessary to fulfil a positive duty to help others. But a duty to help others should take priority over a duty to treat persons as opaque. As Gabriel Wollner puts it, “if opacity respect rules out compensation for internal endowment deficits in this case, then so much the worse for opacity respect” (Wollner, 2014, p. 196). This is not the right place to assess the merits of Carter's view and the objections against it. The important point here is that the principle of moral equality is one of the core commitments of any reasonable theory of justice. Hence, a convincing theory of the basis of moral equality must be able to yield a robust justification for it. Accordingly, the basis of moral equality must be a moral attitude that is basic to what persons owe to each other so as to have enough normative weight to ground a solid commitment to persons' moral equality.

Finally, a moral attitude must be *independent*, that is, it must not presuppose a commitment to moral equality. To appreciate this, consider for example a view which maintains that persons' moral equality is ultimately grounded in a duty of respect for persons because disrespecting persons is fundamentally incompatible with considering and treating them as equals.<sup>10</sup> Clearly, this view fails to provide a coherent justification of moral equality because a com-

<sup>9</sup>For instructive discussion on the notion of fittingness, see Howard, 2018.

<sup>10</sup>A similar line of argument can be found in Stephen Darwall's famous analysis of two kinds of respect. Darwall argues that there cannot be degrees of *recognition respect* (whereas there can be degrees of *appraisal respect*) because this is incompatible with considering and treating persons as equals (Darwall, 1977, p. 46). In this sense, however, the attitude of recognition respect does not offer an independent justification for why persons ought to be considered and treated as equals, for the fact that there cannot be degrees of recognition respect does not explain but is explained by a commitment to moral equality. Rather, it simply illustrates how persons ought to be considered and treated as equals (that is, by showing equal recognition respect to them).



mitment to moral equality is already built in the moral attitude that is meant to account for it: persons ought to be respected equally *because* they ought to be considered and treated as equals. Respect is therefore an implication of moral equality; hence, this respect-based view begs the question of the justification of moral equality. It follows from this that a principled attitude-based account of moral equality must appeal to a moral attitude which does not already presuppose a commitment to moral equality and thus can supply an independent justification for it.

We can now come full circle. I have argued that we can learn an important lesson from the critique of the contingency argument. In particular, it has allowed us to identify the necessary and fundamental justificatory element of any plausible account of the range property view: an appeal to a fitting, basic, and independent moral attitude that provides the normative basis for a moral obligation to consider the variations above the threshold as morally irrelevant when evaluating persons' moral status is the only viable option to offer a coherent and convincing justification of the range property view. This is where the basis of moral equality lies.

Let me now conclude by addressing a challenge to the attitude-based account of the basis of moral equality. A critic might object that such an account is also vulnerable to an arbitrariness objection of its own because it is unclear how it can identify a morally relevant threshold such that those beings that hold some significant properties up to the threshold have moral status and those that are below it do not.<sup>11</sup>

In response, it should be noticed that while this is an important challenge, it is not, strictly speaking, an objection to the *justification* of moral equality but to its *scope*. Accordingly, even if true, this objection does not undermine the validity of the attitude-based account of the basis of moral equality as a coherent and plausible response to the variations objection.

To see this, let us return to Rawls's range property view. Rawls argues that those beings that hold some agential capacities up to the threshold for moral personality are each other's equals because the variations in the degree to which these capacities are held above the threshold do not matter. Now, two distinct challenges can be raised against Rawls's view. The first one, which we have discussed in this paper, is the variations objection: why do variations *above* the threshold for moral personality—*regardless* of where the threshold is exactly set—not matter? I have argued that the answer to this question is to be found in a fitting, basic, independent moral attitude—which is owed to those beings that reach the threshold for moral personality—that can offer a principled rationale for why variations above the threshold do not generate variations in degrees of moral status, thereby providing a principled and convincing justification for persons' equal moral status.

A different objection, instead, consists in observing that it is not clear what reason we have to place the threshold for moral personality at a certain specific level. What exactly is the degree to which beings must hold the subvenient agential capacities to reach the threshold for moral personality (Arneson, 1999, p. 106; Parr & Slavny, 2019, p. 845)?

It has been suggested that this objection simply "points to the inevitably vagueness of any threshold that can qualify as so fundamentally significant" (Carter, 2011, p. 549), or that "the threshold can be quite vague so that we don't know exactly when we have crossed it" (Christiano, 2015, p. 57). In other words, the threshold for moral personality need not be arbitrary but is simply vague. Now, regardless of the merits of this response to this "arbitrariness of the threshold" objection, the important point here is that an answer to it determines the *scope* of the range of beings that reach the threshold and therefore have moral status *qua* moral persons.<sup>12</sup> However, while this tells us which beings have moral status, it does not tell us whether their moral status is *equal*, for it does not explain why the variations *above* the threshold for moral personality do not generate differences in degrees of moral status. All in all, then, I conclude that while the attitude-based account of the basis of moral equality does not

<sup>11</sup>I am grateful to an anonymous reviewer for raising this objection.

<sup>12</sup>Thus, for example, many have argued that an appeal to other properties – e.g. "potential capacities" (Arneson, 2015; Floris, 2021; Waldron, 2017), or the "capacity to participate as a reeve in a person-rearing relationship" (Jaworska & Tannenbaum, 2014) – is necessary to account for the moral status of those human beings, such as infants and cognitively disabled human beings, who do not hold agential capacities up to a minimum degree.

address the problem of the scope of moral equality, it does offer a compelling response to the variations objection.

## 5 | CONCLUSION

If humans possess the property that confers moral status upon them to an *unequal* degree, how come they should be considered and treated as moral *equals*? It may be tempting to answer this question by holding that this is because what matters is that all humans hold a relevant property up to a minimum level, whereas the degree to which the property is held above the sufficient level is a mere contingency, which therefore cannot affect our moral assessment. In this paper, however, I have argued that this argument does not stand up to philosophical scrutiny: we have no reason to maintain that the degree to which a property is possessed above a specific threshold is a contingent result of the natural lottery, while holding this property up to the relevant threshold is not. Hence, ignoring only the former when assessing human beings' moral status is arbitrary.

To overcome this challenge, I have developed an attitude-based account of the basis of moral equality: according to this account, the basis of moral equality lies in a fitting, basic, and independent moral attitude that provides a coherent and compelling rationale for why all that matters is that human beings hold some significant properties within a specific range. That is where we have to look in order to offer a principled and convincing justification for our commitment to the principle of moral equality.

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