

Scanlon's *Why Does Inequality Matter?* Chapter 4 & 5

A satisfactory response to complaints stemming from inequality involves three claims (Scanlon's *three-level justification* for inequality):

1. *Institutional Justification*: It is justified to have an institution that generates inequalities of this kind.
2. *Procedural Fairness*: The process through which it came about that others received this advantage while the person who is complaining did not was procedurally fair.
3. *Substantive Opportunity*: There is no wrong involved in the fact that the complainant did not have the necessary qualifications or other means to do better in this process.

Chapter 4: Procedural Fairness

Procedural Fairness concerns the process by which individuals are selected for positions of advantage.

The Institutional Account of Procedural Fairness: If positions of special advantage are justified by the beneficial consequences that will result if they are filled by individuals with certain abilities, then *procedural fairness* requires that individuals be chosen for these positions on the grounds that they have these abilities.

(Rejecting the "untalented" is not unfair, or a form of discrimination.)

The relevant notion of "talent" is *institution-dependent*: What counts as a talent (a valid basis for selection) depends on the justification of the institution in question and the nature and justification of the position within it for which individuals are being selected. (Talents are those characteristics the possession of which makes a person likely to perform in the position in question in a way that promotes the aims that provide the institutional justification for having that position.)

Worry: The talents that an individual has are not under their control; it's something for which they can claim no credit. Thus, selection based on talent will distribute rewards on a basis that is "arbitrary from a moral point of view."

Response: A characteristic is arbitrary from a moral point of view = it does not *in itself* justify special rewards. It does not follow that it is unjust for a distribution of benefits to track the presence of this characteristic under certain conditions (as long as there are other good reasons for this to be so).

Objection (1): Justification depends too heavily on the aims of institutions.

This is not an objection to the overall view because the first level of the three-level justification concerns whether or not the institution in question is actually justified.

Objection (2): Departures from merit-based selection wrong the person who is not selected.

The instrumental rationale for merit-based selection is part of a larger three-level response to someone's complaint about having less than others. It is just one part of an overall justification *owed to* the person affected.

Objection (3): It doesn't cover enough cases (e.g., it's compatible with tie-breaking nepotism)

If there are more equally qualified candidates than needed, there is no institutional justification for choosing any one of them over the others. None of the candidates has a claim to the position; so favoritism/nepotism are not

objectionable because of the result, but because of the way at which the result was arrived: it involves a violation of the requirement of *equal concern* (ch. 2).

Objection (4): Too much like an argument from efficiency.

Merit-based selection has costs. How much time and effort must be put into the selection process?

Answer(?): To the point at which the marginal cost of a more thorough process would be greater than the marginal benefit that extra care would bring by advancing the ends that justify the position in question.

But that's inadequate; fairness to the applicants requires more. In addition to having reason to want the economic and non-economic advantages attached to certain institutional positions, people have further reason to want to be taken seriously as candidates for these positions, and to be considered on their merits.

Chapter 5: Substantive Opportunity

Substantive Opportunity concerns the conditions (e.g. education) that are necessary to become a good candidate for selection through a procedurally fair process.

Moral basis: Social institutions must be justifiable to all those to whom they apply.
This justifiability requires that the positions that individuals have reason to value must be "open to all".

Openness requires that "those who are at the **same level of talent and ability** and have the **same willingness to use them**" should have "the **same prospects of success**." [Rawls' Fair Equality of Opportunity]

1. **Same level of talent and ability.** If talents/abilities are institution-dependent, how should we understand this condition?
 - a. Presuppose some specified form of education/other conditions in which those abilities are exercised. *Problem:* Cannot be used to specify the forms of education/other conditions that equality of opportunity requires.
 - b. Let the education that the rich can provide set the standard of education relative to which the idea of "equal level of ability" is determined. *Problem:* This sets a very high standard.
2. **Same willingness to use them.** The fact that you were not "willing" to develop your talents means that you have no complaint about your lack of success --- but only if (and because) the conditions under which you chose not to develop your talents were sufficiently good. *Problem:* Moralistic? Desert-based?

Does Substantive Opportunity require *equality* or only fulfillment of certain conditions to a *sufficient* degree?

Economic inequality can interfere with Openness in two ways:

1. Wealthier families can influence the process of selection by "rigging the system" (violates Procedural Fairness)
2. Wealthier families can send their child to better schools (violates Openness). [In order to correct for this, we risk an educational arms race or must place limits on the kind of educational advantages that can be provided.]

Inequality is not the whole the story. Further barriers to achieving equality of opportunity: Poor conditions in early childhood development, differences in family values/preferences/culture.