



Ancient Greek Ideas of Equality Under the Law

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The Nobel Laureate economist Amartya Sen has posed the question “equality of what?” The value of equality depends on what standard is chosen. As ancient Greek thinkers recognised, equality can be deployed to exclude as well as to liberate, and its relationship to law and freedom needs to be interrogated. If equal social freedom is a product of *isonomia* –the equal application of laws to all – those laws need to be free of systematic bias and command public respect.

Introduction

Some ancient Greek political ideas were incarnated in goddesses: such as Themis, the goddess of divine justice, and her daughter Dike, goddess of human justice, whom those of you who watched my last Gresham Lecture might remember from then. Dike also had two sisters: Eirene (Peace), and, of relevance to tonight’s lecture, Eunomia, the goddess of Good Legal Order. But the main subject of my lecture tonight is and was considered entirely human: equality of law, or Equal Legal Order, *Isonomia*, which was never turned by the Greeks into a goddess at all. Equality of law was seen by them from its inception as the product of human effort—and especially of democratizing political effort.

I don’t mean that *isonomia* was confined to the political sphere alone. A medical observation at around 500 BCE by Alcmaeon of Croton describes health as an *isonomia* of powers within the body (DK 24B4). Similarly, cosmological speculation by the PreSocratic philosopher Anaximander has been interpreted by the scholar Jean-Pierre Vernant in terms of *isonomia* (though Anaximander didn’t use the exact term), as expressing an equality of space modelled on Greek political space: from Homeric times onward, Greeks organized their political gatherings in the formation of a circle, with the speaker occupying a middle position equidistant from all others.¹ So we see *isonomia* emerge as a way of thinking about health and cosmic order, arguably inspired and intensified by the gradual emergence of Greek democracy—which had an inflection point in 508/507 BCE, when Athenian citizens mobilized to overthrow a family of tyrants and establish a new kind of constitutional order (though building on the laws of Solon laid down before). In my next lecture, I’ll delve further into Greek democracy itself; in this one, my focus is on the democratic dimensions of equality of law as a value and its lessons for today.

Isonomia was famously contrasted with monarchy by the historian Herodotus (who attributed it, paradoxically, to a Persian aristocrat): ‘Rule [of the majority]² has the ‘fairest name of all, *isonomiē* [the Ionic dialect form of *isonomia*]; it ‘assigns offices by lot, and office is subjected to audit to hold it accountable. All matters are brought to the public for deliberation’.³ But what is the role of *isonomia* there precisely? To figure that out, I’ll start by fleshing out the contrast between what we can think of as aristocratic Eunomia and democratic *Isonomia*; explore rival ways in Greek philosophy of understanding

¹ Jean-Pierre Vernant, *Myth and Thought Among the Greeks* [1963] (London, 1983), Part Three: ‘The Organisation of Space’, 125-264. I draw here on a summary in Gerard Naddaf, ‘On the Origin of Anaximander’s Cosmological Model’, *Journal of the History of Ideas* 59 (1998): 1–28, at 20-22.

² ‘Rule of the majority’ translates *plēthos...archon*: Herodotus 3.80, trans. Lane.

³ Herodotus 3.80, trans. Lane (an elaborated translation to bring out relevant connotations).

the very idea of 'equality' itself; and then bring these back to explore *isonomia* in three dimensions, as equality under law, equality through law, and the effort of self-equalization as a political challenge.

So, to start, a bit more about *Eunomia* as an ancient aristocratic value. The word comes from the roots for 'good / well' [eu] and 'law / lawfulness' [nomos], so it focuses on a value of lawfulness, of good legal order. Homer in the *Odyssey* refers to 'the *eunomiē* of men' in regard to whether a given polity welcomes strangers as the gods would expect.⁴ Some scholars have built on that idea to argue that *eunomia* is mainly about the obedience of citizens to the laws and expected, while I draw also on others who emphasize that *eunomia* embodies an ideal of a 'just order'⁵ more broadly.

Some of our richest evidence for *eunomia* comes from the archaic Athenian lawgiver Solon, whom I have spoken about previously at Gresham, as for example in this poem:

'Good Legal Order [Eunomia: eu [good] + nomos [law]] reveals all that is orderly and fitting, and often places fetters round the unjust. She makes the rough smooth, puts a stop to excess, dries up the blooming flowers of ruin, straightens out crooked judgements, tames deeds of pride, and puts an end to acts of sedition and to the anger of grievous strife.'

(Solon, fragment W4, trans. D. E. Gerber, modified Lane)

Here *eunomia* is an ideal of good order, not an aspiration to any equalization of political power as part of that order. It was originally at home in the proto-oligarchies that have been described as 'Archaic elite-led regimes'.⁶ *Eunomia* would never become a slogan of democracy or democratic equality⁷ – it is not a watchword for 'equality under the law'.

To be sure, there is a kind of formal equality that the Greeks already cared about in formulating *eunomia*, and that is part of any idea of law: law is treating equal cases equally. But *isonomia*, which is the main focus of this lecture, builds in something even stronger: not just formal equality, but a kind of substantive equality, in which seeming social and political unequals are made equal. As the scholar John Lombardini puts it, *isonomia* is 'equal order' as against *eunomia* as 'good order'.⁸ The crucial claim of *isonomia* is that equality can generate order too, a claim that elites then (as now) tended to question or reject.

Lombardini expanded his argument as follows:

'isonomia involves an equal distribution in regard to law, an equal distribution which allows order to be maintained in a way different from the traditional elite vision of eunomia'.⁹

In fact, the idea of an equal distribution picks up on an alternative root formation sometimes proposed for *isonomia* in which *-nomia* expresses not 'law' from the noun *nomos*, but rather, 'distribution' from the verb *nemein*. You can probably already guess that I'm going to go with those scholars who argue that the former is the root meaning of the word. As Gregory Vlastos has argued, this makes better sense of parallel words, such *eunomia* and also *anomia* (and, possibly later, *autonomia*).¹⁰ Nevertheless, the idea of distribution (*nemein*) is also sometimes at work in the understanding of just what equal law itself should mean. Distribution is definitely closely connected to law and to *isonomia* in particular, and so it's worth keeping that idea in play as well.

As I began by saying, in contrast to those goddesses of divine and human Justice, and Good Legal Order, *Eunomia*, there was no goddess of *Isonomia*. No divine genealogy. No imagery. It was a thoroughly human affair. And it was definitely coined far later than other compounds formed from the root *iso-*, such as the more specific idea of equal distribution of land, say, which is already mentioned in Homer (*Il.* 15.209, *isomoros*). By contrast with that archaic aspiration to reclaim land, substantive legal equality emerges as a

⁴ Homer, *Od.* 17.487, cited in Gregory Vlastos, 'Isonomia', *The American Journal of Philology* 74, no. 4 (1953): 350.

⁵ John Lombardini, 'Isonomia and the Public Sphere in Democratic Athens', *History of Political Thought* 34, no. 3 (2013): 395 at n.10.

⁶ Matthew Simonton, *Classical Greek Oligarchy: A Political History* (Princeton: Princeton University Press, 2017), 5 n.17.

⁷ Even though it would be occasionally appropriated by later democrats.

⁸ Wordier definitions also include 'equality of political rights among the citizens' and 'fair distribution of legal immunities across the relevant population and equal access to legal processes', proposals by A. Andrewes and Christian Meier respectively that are discussed by Lombardini, 'Isonomia and the Public Sphere', 394-5, fn.8.

⁹ Lombardini, 'Isonomia and the Public Sphere', 413.

¹⁰ Vlastos, 'Isonomia'.

much later idea – part of the emergence of a more definitively democratising order in Athens (and elsewhere in Greece) at the turn of the late sixth to early fifth century. Its first attestations are from (roughly and probably) the early fifth century BCE, so about about a century after Solon’s intervention in Athens. *Isonomia* was something new under the classical Greek sun. But what exactly did it mean?

The Meaning of Equality: ‘equality of what?’

Before we can work out the meaning of *isonomia* as roughly ‘equal law’, we have to ask, what is the meaning of equality? In the announcement of this lecture, I invoked the Nobel Laureate economist and philosopher Amartya Sen, who famously pointed out that whenever we talk about equality, we must always ask: ‘equality of what?’¹¹ If you think about it, that is intuitive. If we say that Karim and Leila are equally good tennis players, we’re summing up across all domains of tennis skills to reach an overall judgment. But it wouldn’t follow that Karim and Leila are equally good at serving or at volleying: they might have different skills that even out across their performance on the whole court.

Thus, whenever we judge two things to be equal, we always have to abstract away from ways in which they are *unequal* (if we don’t, we would say that they are not just equal, but identical). Two people are in liberal democracies held to be equal before the law, even though, as Anatole France wrote in a *fin-de-siècle* novel: ‘The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread’.¹²

In the political domain, it’s a familiar thought that ‘equality of opportunity’ won’t necessarily result in ‘equality of outcome’, partly because people will come to the same opportunity with different backgrounds and opportunities before that. So we have to decide which kind of equality we care about in deciding whether it’s enough to set up a common starting line, for example, or whether we need and want to bolster the terms on which people reach that starting point, or redress the implications if they finish differently. Indeed, the political theorist Humeira Iqtidar has drawn on the Muslim thinker Maududi to expand on Sen’s point, asking whether different domains of equality (different answers to the ‘equality of what’ question) have to be defended in different terms.¹³

If we transpose that question back to ancient Greece, we find, first of all, a total negation of equality in the widespread phenomenon of slavery. The pervasive exclusion of the enslaved was a way of setting their political worth at zero, so that they couldn’t figure in any calculation of equality at all.

Beyond that, what we find is a widespread contrast between an elite version of equality in terms of purported value or wealth, as opposed to an emergent democratic version of equality in terms of one [male] person one vote. To start to get a sense of it, we can think of it as equality via weighing, versus equality via counting. So think of it this way. A bag of big gold pieces and a bag of small sticks might weigh differently. In this example, let’s say that the gold is worth more – it is geometrically unequal to the sticks, even though if we counted the sticks individually, there would be more of them. In this way, elite proto-oligarchs claimed that they were equal to each other, but unequal to the many free poor, even though there were fewer of the rich (who had more to put on the scales) than the individually enumerable free poor.

The philosopher Aristotle put it this way, defining two kinds of equality as follows:¹⁴

- ‘geometrical’: ‘equality of ratios’. *Weight = worth.*
- ‘arithmetical’: ‘sameness or equality in number or size’. *Counting as one.*

This contrast had real political implications. Think of what might seem like the simplest and most straightforward political task: counting votes. The scholar Melissa Schwartzberg has pointed out that it was only at a specific historical moment that ancient Greeks – and specifically Athenians – started to practice individual vote counting.¹⁵ Before that, and outside Athens, votes were often taken by cheering – so that the side that cheered loudest would be taken to win (‘acclamation’), as would have happened in Sparta, for

¹¹ Amartya Sen, “Equality of What?,” in Sen, *Choice, Welfare, and Measurement* (Cambridge MA: MIT Press, 1982), 353–69.

¹² Anatole France, *The Red Lily* (New York: Dodd Mead and Co, [1894] 1910), 91.

¹³ Humeira Iqtidar, ‘Conservative Anti-Colonialism: Maududi, Marx and Social Equality’, *Journal of the Royal Asiatic Society* 32, no. 2 (2022): 295–310.

¹⁴ Aristotle, *Politics* 5.1, 1301b-1302a.

¹⁵ Melissa Schwartzberg, *Counting the Many: The Origins and Limits of Supermajority Rule*, Cambridge Series in the Theory of Democracy (Cambridge: Cambridge University Press, 2013).

the election of certain officeholders, whose support was assessed by a committee sequestered inside a building while the crowd cheered outside. There is something basic to political life to be said for that: sometimes what one wants to know is not just how many people are for something, but how strongly they are for it. But it also shows that even voting is subject to the question of ‘equality of what?’ – whether we should try to weigh collective enthusiasm, or vote as discrete and identifiable individual.

That difference between weighing and counting was built up in Greek philosophy into two distinct ideas (ideologies, if you will) of political equality. Aristotle identified the different ways that oligarchic and democratic partisans thought about equality. Both of them claimed in a way to be committed to equality, but on one side, the oligarchs, ‘if they are unequal in one respect, for example wealth, consider themselves to be unequal in all...’¹⁶ Oligarchs claimed that only the wealthy were equal to one another – with wealth being a measure of worth and value that was different (‘geometric’ because it extended into another dimension) from the arithmetic counting of heads. In Sparta, which was essentially an oligarchy (though it also boasted a dual kingship), political freedom and full citizenship was restricted to a very small number of men who called themselves the ‘peers’ or ‘similars’ (*Homoioi*). They were similar in being judged worthy of Spartan citizenship: it was their claim to similar worthiness, not an abstract ideal of equality, which mattered politically.

Democrats, by contrast, claimed that every free male citizen was equal, counting arithmetically, so as to assign one (free male) person, one vote. They rejected the idea that geometrically different amounts of wealth made a difference to the basic political equality that such free people should enjoy.

These opposed ideological views of equality could lead to political polarization and unrest, as Aristotle observed in *Politics* Book 5, speaking of the causes of ‘revolution’—by which he meant a significant change in the kind of constitutional regime: ‘The democrats think that as they are equal they ought to be equal in all things; while the oligarchs, under the idea that they are unequal, claim too much...both parties, whenever their share in the government does not accord with their preconceived ideas, stir up revolution’.¹⁷

We can see that distinction at work in the political upheavals and transformations of much more recent history as well. Consider the geometrical equality of wealth which still governed the partial move toward enfranchising women in Britain in 1918 – as well as the geometrical equality of military service which in the same Act of Parliament governed the age at which men could vote:

In 1918 the Representation of the People Act was passed which allowed women over the age of 30 who met a property qualification to vote. Although 8.5 million women met this criteria, it was only about two-thirds of the total population of women in the UK.

The same Act abolished property and other restrictions for men, and extended the vote to virtually all men over the age of 21. Additionally, men in the armed forces could vote from the age of 19...

*It was not until the Equal Franchise Act of 1928 that women over 21 were able to vote and women finally achieved the same voting rights as men.*¹⁸

The 1918 Act weighed women differently according to their possession of property, which gave them different political worth (as had previously been the case for men). It also weighed enlisted soldiers and other men in the armed forces differently according to their military service, which was taken to give them a special political worth. Thus even in a key move toward equalisation of the British franchise, elements of the oligarchical view of weighing political worth, not just counting noses, still persisted.

So democratising the franchise both in ancient Greece and modern Britain (and elsewhere) required effortful moves to count rather than to weigh. What about the broader framework of the equality of law? How does our review of the range of meanings of equality, help us better to understand what *isonomia* meant – and what equality under the law can mean today?

¹⁶ Aristotle, *Politics* 3.13 (1280a), trans. Jowett, rev. Barnes. In Aristotle, *Aristotle's Politics: Writings from the Complete Works*, ed. Jonathan Barnes (Princeton: Princeton University Press, 2016).

¹⁷ Aristotle, *Politics* 5.1 (1301a), trans. Jowett, rev. Barnes.

¹⁸ <https://www.parliament.uk/about/living-heritage/transformingsociety/electionsvoting/womenvote/overview/thevote/>

The Meaning(s) of *Isonomia*

While I gave this lecture the title of ‘Ancient Greek ideas of equality under the law’, remember that the Greek word *isonomia* doesn’t have any preposition embedded in it: it’s just ‘equal law’. But in English, we tend to add prepositions, and I duly added ‘under’. But that’s only one possible interpolation—compare the way that Abraham Lincoln spoke of ‘government of the people, by the people, for the people’. So in the remaining part of the lecture I will explore three different ways to interpret ‘equal law’ as the meaning of *isonomia*. I will begin with equality *under* the law; contrast that with equality *through* law; and then conclude with the sense of self-equalisation, of the political effort of *making oneself an equal*.

So first, equality under the law, in the sense of the content of the laws – equality of laws means laws that are equal, that treat people equally in terms of their content. How might laws fail to be equal in this sense?

The Anatole France example that I gave earlier is one way: we know in advance that laws against vagrancy are going to hit harder against the poor than the rich. The postclassical Greek author Plutarch took the Athenian lawgiver to have been trying to ward off such socially unequal outcomes in abolishing the possibility of debt enslavement and in remitting debts. As Plutarch wrote, ‘For equality under the law (*nomōn isotēta*) is of no avail if the poor are robbed of it by their debts’,¹⁹ explaining, as I noted in my last lecture, that this is the case because otherwise the poor would be liable to do the bidding of the rich in their legal machinations.

Even more egregious are laws that are formally equal, but that have an intended discriminatory function, aiming to privilege some over others. Consider how Plato’s character Thrasymachus – based on a real-life ambassador from the Greek city of Chalcedon to Athens – cynically describes the way that laws function in various political regimes (in Book 1 of Plato’s *Republic*):

*‘...each [stronger element in each city] makes laws to its own advantage. Democracy makes democratic laws, tyranny makes tyrannical laws, and so on...And they declare what they have made—what is to their own advantage—to be just for their subjects....This, then, is what I say justice is, the same in all cities, the advantage of the established rule...the advantage of the stronger’.*²⁰

Thrasymachus urges that all laws—the laws made by Lycurgus and Solon included—are simply made by the stronger faction in each city to its own advantage. In other words, what the laws present as equal justice is actually justice for the strong (who designed the laws to their own advantage), not the weak.

These examples use the originally elitist idea of geometrical equality to unveil forms of hidden privilege today. Just because laws look facially equal (so, democratic), they might actually incorporate weighing dimensions that are crypto-oligarchic. Think of scandals over PPE procurement legal regulations in the UK. The fast-track and other elements of that legal setup arguably meant that the laws, though facially equal, were working to the advantage of some and (therefore) the detriment of the rest. The rich and the poor were equally free to submit to the PPE fast-track scheme, but only the rich were likely to succeed, because the scheme was designed with them in mind. So on this view of *isonomia*, it will require constant interrogation and critique to ensure that laws are genuinely democratically equal, exposing pretenses to be even-handed when hidden privileges lie beneath them.

The second interpretation of *isonomia* that I want to consider is equality through law: law as granting rights and procedures through the exercise of which one can vindicate one’s equal political standing and have it protected.²¹ Equal right to a jury trial of one’s peers, for example. But that right doesn’t necessarily ensure an equal ability to make use of it: if one can’t afford to hire a lawyer (today) or a speechwriter (in ancient Athens), or if one lacks the leisure time (then or now) to be able to spend time bringing a case.

¹⁹ Plutarch, *Comparison between Solon and Publicola*, in Plutarch, *Lives*, translated by Bernadotte Perrin [Loeb Classical Library], 11 vols., vol. I: *Theseus and Romulus, Lycurgus and Numa, Solon and Publicola* (Cambridge, MA and London: Harvard University Press, 1914).

²⁰ Plato, *Republic* 338d-339a, trans. G.M.A. Grube, rev. C.D.C. Reeve, in Plato, *Complete Works*, ed. John M. Cooper (Indianapolis and Cambridge: Hackett, 1997).

²¹ Vlastos, ‘Isonomia’.

This is also a way in which one can see a hidden dimension of worth and weighting by wealth, hiding within formally open and democratically equal processes. This is why one of the important features of Athenian democracy was the existence of open public prosecutions.²² Anyone could bring a case on behalf of someone else if it was a matter that affected the citizens as a whole. The citizen prosecutor was as important as the citizen jury and citizen assembly. Legal aid and investment in public prosecutions to avoid undue trial delays, is actually at the heart of a conception of equality through law – and has a Greek pedigree. The Victims' Commissioner for England and Wales has stated that backlogs in the UK criminal justice system are now resulting, in the words of a recent *Guardian* article by Shanti Das, in 'Victims of crime...dying waiting for justice as they face delays of up to six years for their cases to be dealt with in court.'²³ Justice delayed is too often justice denied.

Moreover, just as people can use their agency to try to vindicate their equality to others, so too they can use their agency to try to make themselves *unequal* to others. Indeed, while paying lip service to *isonomia*, a lot of Athenians in the fifth- and fourth- centuries BCE seem to have been tempted by what we have come to call free riding: equal law for everybody else, free riding for themselves. Let everyone else stick to the just laws, while I reap the private advantages of breaking them.

That possibility was very much alive in ancient Greek minds. Go back again to Thrasymachus in Plato's *Republic* who drew the implication that justice (which he had already identified with laws) is not to the advantage of the person being asked to obey the laws. The implication which two of his listeners draw out (Plato's own brothers) is that the best life would be one in which everyone else obeys the laws, but you yourself get away with secretly breaking them: that way, you get all the benefits of inequality, even while pretending to be a legal equal and being respected as such. The whole *Republic* is in a way an argument that one should value and protect the standing that mutual protection of the laws provides, not seek to undermine it: I call this Plato's commitment to 'garden-variety constitutionalism', and while the dialogue does not depict a democratic legal culture of the kind that *isonomia* described, it does champion a commitment to keeping legal norms rather than violating them.

That kind of commitment is especially important today now that we are seeing in many different countries regimes of authoritarian populism, or elected autocracy: a global phenomenon in which equality *through* law is made merely formal in ways that undermine its real meaning and value. What the scholar Kim Lane Scheppele (no relation, though my Princeton colleague) calls 'autocratic legalism' is a phenomenon of hollowing out legal rights and procedures so that while they continue to be observed (for the most part) in form, they lose their protective power and their political point.²⁴ For example, a legally equal right to a fair trial means little if the judges have been cowed or captured (fired, appointed, or intimidated) by a political movement that rejects judicial independence.

Scheppele points out elsewhere that the EU is now working to embed 'rights into structures' so as to make legally equal rights part of a more robust infrastructure through which they can be genuinely realised and protected. From the ancient Greek point of view, the thought here is that *isonomia* is not simply a given with any kind of commitment to the rule of law. The democratizing force of the *iso*- root has to be claimed and made meaningful, against powerful institutional and ideological forces that have always been arrayed to resist it.²⁵

And that leads me to my final point, which is the sense of equality as self-equalisation, of the political effort of making oneself an equal. This draws not on equality as an adjective or noun, but rather on equalisation as a verb. Indeed, ancient Greek had not only a noun for equality (*to ison*), but also a verb meaning 'to equalise' – *isasthēsomai*, which the LSJ lexicon describes as 'make equal, balance, of a person holding

²² In fact, open public prosecution was introduced by Solon, though he himself embraced the ideal of *eunomia* (and no ideal of *isonomia* had as yet been formulated). In retrospect, many of Solon's legal reforms were seen (already by Aristotle and others) as having set Athens on a path that would culminate in *isonomia* and *dēmokratia*, even though neither of those ideals were his own.

²³ Shanti Das, 'Crime victims die while waiting for justice as England and Wales legal system 'on its knees'', *The Guardian* [UK edition], 3 February 2024: <https://www.theguardian.com/uk-news/2024/feb/03/victims-crime-die-waiting-justice-backlogs-mental-health-commissioner-england-wales>.

²⁴ Kim Lane Scheppele, 'Autocratic Legalism', *University of Chicago Law Review* 85, no. 2 (March 1, 2018), <https://chicagounbound.uchicago.edu/uclrev/vol85/iss2/2>.

²⁵ Kim Lane Scheppele, 'The Rule of Law Writ Large: The European Union and Its Rogue Member States', forthcoming.

scales'. So, equality of any kind is not just something that's found—it's something that's made. And it's made precisely in challenging popular judgment of which domains should *count* as mattering to judging two things, opportunities, persons, positions, or outcomes to be equal.

Moreover, this verb, like many Greek verbs, could also be used in the grammatical middle voice, which often implies a self-affecting or reflexive dimension of the action that the verb describes. In this case, it has the sense (LSJ) of 'to make oneself equal to another' – as in the *Iliad* 24.607, which describes how the human Niobe had dared to compare herself ('make herself equal) to the goddess Leto and was punished by Leto's daughter Artemis for this audacity.

That gives us a further perspective on the winning of the vote by women and by working class men in UK history – and by the poorest male citizens in ancient Greece, which was integral to the emergence of democracy. Their claims to (arithmetic) equality were not originally mathematically obvious. They were enacted through acts of self-equalization.

It took a democratic revolution to overthrow the tyrants in Athens in 508 BCE and claim a more extensive set of equal powers and privileges, as I'll discuss further in my next lecture. In other centuries, enslaved people have made written and spoken 'Appeals' that enact their claim to equality.²⁶ For example, Frederick Douglass rejected the demand that he had to prove his claim to freedom and equality as a Black person who had escaped from enslavement. As he argued in his 1852 speech in Rochester, NY, 'What to the Slave is the Fourth of July?':

*'Must I undertake to prove that the slave is a man? That point is conceded already. Nobody doubts it. The slaveholders themselves acknowledge it in the enactment of laws for their government. They acknowledge it when they punish disobedience on the part of the slave... What is this but the acknowledgement that the slave is a moral, intellectual, and responsible being...'*²⁷

Douglass made his point by invoking a 'scorching irony' that was not an argument so much as a self-evident fact: 'There is not a man beneath the canopy of heaven that does not know that slavery is wrong for him'.²⁸ And in fact, he began his address 'Fellow-Citizens':²⁹ at a time when free Black men could generally not vote, he claimed the status of a fellow citizen on the basis of the true meaning of the American Constitution as a fundamental law.

In this way, Douglass and many other enslaved, or formerly enslaved, people, have asserted their equality as political subjects not *through* the laws, but *in advance* of their having been granted formal legal rights and recognition. A more recent American account likewise demonstrates the self-equalising power that people can assert *in relation to* the laws in advance of having been granted formal legal rights themselves. The legal scholar Kathryn Abrams describes state voter registration drives that have been conducted by young people who are themselves undocumented and so not legally entitled to vote—but who can lend the enthusiasm and administrative effort to register others. (These undocumented young people are among the group known as the DREAMers, according to a legal bill called the Development, Relief, and Education for Alien Minors Act [DREAM Act], which has aimed to provide a path to citizen for young people who had been brought as children to the United States by their parents without documentation.³⁰) Abrams calls this an act of 'contentious citizenship': unable to vote themselves, these young people nevertheless assert a role in the democratic legal process by enabling and empowering others to vote. They make themselves into participants in a legal framework which does not—yet—count them as legal equals.

That might seem a surprising story to have reached starting from ancient Greek ideas—and yet it should not be so surprising, since the idea of *isonomia* was itself a radical idea in ancient Greece, one that had to be vindicated through struggle and self-assertion to construct fairer (though still flawed) political institutions. Acts of self-equalisation, then and now, go to show that even arithmetic equality is far from being a given, from being obvious as the right answer to the question 'equality of what?' Like geometric equality, it is a political demand and part of a political struggle. Outside mathematics, and certainly in the domain of ethics and politics, claims of equality are always implicitly acts of equalization. At a time when democratic equality

²⁶ Melvin L. Rogers, 'David Walker and the Political Power of the Appeal', *Political Theory* 43, no. 2 (2015): 208–33.

²⁷ Frederick Douglass, 'What to the Slave is the Fourth of July', speech of 5 July 1852, rpt. in Frederick Douglass, *My Bondage and My Freedom*, ed. David W. Blight (New Haven: Yale University Press, 2014) 368–73, quoting 370–71.

²⁸ Douglass, 'What to the Slave?', 372.

²⁹ Douglass, 'What to the Slave?', 368.

³⁰ Kathryn Abrams, 'Contentious Citizenship: Undocumented Activism in the Not1More Deportation Campaign', *Berkeley La Raza Law Journal* 26, no. 1 (2016): 46–69, at 58 and 69.

under law and through law is under threat in many different places and ways, acts of equalisation and self-equalisation continue to offer paths to its fuller realisation.

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