

As part of his article “Equal Treatment and Compensatory Discrimination,” Thomas Nagel sets out to convince his reader that individuals are not deserving of the rewards that come with their natural abilities. Though Nagel sets out with an interesting goal, his arguments quickly become muddled with vague claims and seemingly contradictory statements that severely diminish their persuasive abilities.

Nagel would like for us to believe that we have no entitlement to rewards which accrue to us as the result of our natural abilities. As he says, “people with different talents do not thereby deserve different economic and social rewards” (355)<sup>1</sup>. Nagel is strongly opposed to the conventional liberal argument that candidates should be differentiated via their abilities to do the job. He agrees with the idea that “equal treatment demands that people receive equal opportunities if they are equally qualified by talent or education to utilize those opportunities,” but says that the usual liberal implementation is “too weak to combat the inequalities dispensed by nature and the ordinary workings of the social system” (353). The system of granting positions and their corresponding rewards by natural abilities, he claims, is not natural, but socially imposed. He says that the system is “not the result of natural justice, but simply the effect of a competitive system trying to fill positions and perform tasks efficiently” (352). In fact, Nagel believes that “the greatest injustice in this society [...] is not racial

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<sup>1</sup>Page numbers are from the publication of Nagel’s article in the Summer, 1993, edition of *Philosophy and Public Affairs*.

or sexual but intellectual" (357). He finds it wrong that society "provides on the average much larger rewards for tasks that require superior intelligence" (357). Because nature displays bias in blessing some individuals with intellect or great physical abilities, Nagel thinks we must adjust our processes of selection in order to give all individuals, even those born without natural gifts, a fair chance. "I believe that nearly all characteristics are irrelevant to what people deserve in this dimension," he says, "and that most people therefore deserve to be treated equally" (354).

Here, in the refusal to specify any conditions that can cause inequality, lies one of the many problems with Nagel's argument. Nagel does not want to say that there are no such conditions, in fact in his footnotes he explicitly denies this. "This [situation where nearly all features are irrelevant] is distinct from a case in which nothing is relevant because there is no desert in the matter" (354). In the case where nothing is relevant there would be no "presumption that [people] be treated equally [... and] would leave the determination of their treatment entirely to other considerations" (354). And yet, despite admitting that surely there must be relevant characteristics, Nagel can not come up with any sufficient to list. He says that "perhaps voluntary differences in effort and moral differences in conduct have some bearing on economic and social desert," but isn't sure. In fact, he goes so far as to say, "I do not have a precise view about what features are relevant" (354). How can a theory so dependent on relevant features to allow it to claim equality show such disregard for the finding of features

to support these claims? The establishment of desert's applicability in this instance is not a small matter. Without any desert you lose the ability to claim inequality, and therefore cannot complain about individuals being discriminated against in any way. When no one deserves anything, anything is fair. Perhaps Nagel would respond to this argument by saying that the establishment of certain relevant features is unimportant. As long as you say there are relevant features you have established desert, and therefore the need for equality. However, while this rebuttal would show the unimportance of what features he chooses to say are relevant, it still fails to account for his failure to provide *any* relevant features.

If Nagel truly wanted to support his theory, he would show perhaps the natural propensity of certain individuals to certain tasks as a means of differentiation whereby exclusion is not a means of discrimination, but instead the natural course. Nagel acknowledges that individuals are created differently, which some having greater intellect and some having greater physical ability. Instead of excluding this difference as trivial, he should allow it to be a natural selector. He could then still hold to his argument that individuals do not deserve different rewards for different tasks, while allowing natural differences in the type of work. In a way, he does do this, saying that individuals may "deserve different opportunities to exercise and develop those talents [that do not automatically grant them social and economic rewards]" (356). However this seems to contradict his earlier statement that the ascription of positions based on merit was not

natural justice, but socially caused. In fact, Nagel is continually vague on this issue, often making statements that seem to contradict each other. In another footnote, Nagel says that a man does not “deserve his bad moral character or his above-average willingness to work, yet I believe he probably does deserve the punishment or reward that flow from those qualities” (355). Since Nagel has claimed throughout, including in the same footnote, that people do not deserve the results of natural abilities, we cannot assume that he finds these rewards to be deserved because of that. We could look at these two qualities and say that they are qualities which must be acted on to achieve reward, and that possibly the distinction lies there, but what characteristic need not be acted upon to get reward? Nagel himself says that, “Nor do I mean that society rewards people differently simply on the basis of their intelligence: usually it does not” (357). If, therefore, intelligence does not automatically lead to reward, and yet Nagel views the reward earned by reason of intelligence as undeserved, we cannot believe that to be the distinguishing characteristic.

Consistency is a critical feature to any philosophy such as Nagel’s. Yet Nagel jumps around throughout his article, refusing to clearly make assertions and stick with them. Perhaps Nagel’s piece works as a justification for his overall goal of showing the relative fairness of affirmative action, but as an independent philosophy it falls far short. It simply contains too much internal inconsistency and vagueness to be taken seriously. Perhaps even Nagel himself realizes this, as he constantly talks of the impossibility

of implementing his ideas in our society. In the end, the following quote seems most apt to sum up the whole of Nagel's work, "While I realize that these claims are controversial, I shall not try to defend them here. [...] If these things make no sense, neither does the rest of my argument" (354-355).