

## ***Isoi and Homoioi: equality and sameness in T.H. Green's political thought***

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### **Abstract:**

T.H. Green was clear that rights cannot exist, save for in a society, in which people recognise each other as *ἴσοι καὶ ὁμοιοί*. Green leaves the phrase untranslated, and there is a certain ambiguity about what exactly Green meant. This paper aims to examine what precisely Green meant by his employment of this Greek term; what equality and sameness mean for rights recognition; and what the relationship between equality and sameness was for Green.

### **Introduction**

T. H. Green is often discussed and anthologised in connection with his work on liberty, particularly the notion of ‘positive liberty’. However, he is also one of the most significant proponents of what has been labelled the ‘rights recognition thesis’.<sup>2</sup> According to proponents of this thesis, there are no natural, pre-social rights, but rather rights are created by social recognition. Green argues that ‘No one ... can have a right except (1) as a member of a society, and (2) of a society in which some common good is recognised by the members of the society as their own ideal good’.<sup>3</sup> Furthermore, ‘rights have no being except in a society of men recognising each other as *ἴσοι καὶ ὁμοιοί*’, which may be translated as ‘equals and similars’.<sup>4</sup> It is this *third* stipulation of Green’s that this paper will interrogate. The paper will examine what precisely *ἴσοι καὶ ὁμοιοί* means, both in terms of its provenance and in terms of what Green sees ‘equality’ and ‘sameness’ as denoting. In doing so, the paper will argue that ‘equality’ and ‘sameness’ are two distinct things. By examining these categories, the paper aims, on the one hand, to explore Green’s thought on equality and

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<sup>2</sup> Gerald F. Gaus, “The Rights Recognition Thesis: Defending and Extending Green”, in Maria Dimova-Cookson and William J. Mander (Eds.), *T. H. Green: Ethics, Metaphysics, and Political Philosophy* (Oxford, Oxford University Press, 2006)

<sup>3</sup> T.H. Green, *Lectures of the Principles of Political Obligation*, (London, Longmans, 1955), (Hereafter, *LPPO*) p. 44, §25.

<sup>4</sup> Green, *LPPO*, p. 144, §139. See also p. 145, §141: ‘a right against any group of associated men depends on association, as *ἴσος καὶ ὁμοιος*’; and p. 154, §148: ‘[rights] depend for their existence, indeed, on society a society of men who recognise each other as *ἴσοι καὶ ὁμοιοί*’.

sameness more closely, the better to understand his theory of rights recognition, and, on the other hand, to underscore the importance of equality and sameness for contemporary theories of rights recognition.

This paper will first examine the phrase *ἴσοι καὶ ὅμοιοι* itself, and its likely provenance in Aristotle's *Politics*. After that, the paper will examine the aspects of the phrase in reverse order in terms of Green's wider political philosophy: first, Green's understanding of 'sameness' will be examined; second, Green's thought on equality will be outlined. It will be shown that there is something of a contradiction in Green's thought regarding the relation between sameness and equality, but that a way out of the contradiction is possible. Finally, the paper will examine precisely why equality and sameness are vital for rights recognition.

### ***ἴσοι καὶ ὅμοιοι***

Green makes use of the phrase *ἴσοι καὶ ὅμοιοι* or variants of it, such as *ἴσος καὶ ὅμοιος*, several times in both his *Lectures on the Principles of Political Obligation* and his *Prolegomena to Ethics*. He does not provide his own translation of the phrase, but rather leaves it in the original Greek in all instances. This is not surprising; given the attention paid to classical languages in nineteenth century education, Green would have expected anyone reading his work or attending his lectures to be well acquainted with Ancient Greek. Ann Cacoullous, in her book on Green, comments that it 'is unfortunate that Green never bothered to translate the Greek term he employs'.<sup>5</sup> This paper aims in part to explore what the phrase meant for Green, and thereby provide an answer to Cacoullous' implicit question: what does *ἴσοι καὶ ὅμοιοι* mean?

Rendering the Greek into English is relatively straightforward, given that both 'iso-' and 'homo-' are common prefixes in English. 'ἴσοι' corresponds to the 'iso' in 'isobars', 'isometric', and 'isosceles'; while 'ὅμοιοι' corresponds to the 'homo' in 'homogenous', 'homonym', and 'homosexual'. 'Equal and the same', therefore, would not be an unsatisfactory translation of *ἴσοι καὶ ὅμοιοι*. The phrase is not tautology: although one online edition of Green's *Lectures on the Principles of Political Obligation* glosses the whole

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<sup>5</sup> Ann Cacoullous, *Thomas Hill Green: Philosopher Of Rights* (New York, Twayne Publishers, 1974), p. 97

phrase as meaning ‘equals’,<sup>6</sup> this is not an adequate understanding of its meaning. *ἴσος* and *ὄμοιος*, the stems of the phrase, have categorically different meanings. *ἴσος* refers to equality, particularly in a numerical sense, and tends to denote an equality of quantity. *ὄμοιος* refers to sameness, commonality or homogeneity, and denotes rather an identity in quality, rather than quantity. Thus, when Green argues that recognition requires of society which is comprised of people who are *ἴσοι καὶ ὄμοιοι*, he requires a society that meets his requirement on two separate scales: people must be both equal and similar. This paper will go on to examine Green’s thought on both equality and ‘sameness’. However, first it will examine the provenance of the phrase *ἴσοι καὶ ὄμοιοι* and what this provenance may tell us.

The fact that Green uses the phrase in Greek suggests that it is a quotation of a Greek author. Finding the source of the quotation, and placing the phrase in context, may well help inform how we are to understand Green’s use of the phrase. Using the Perseus Digital Library of Greek texts,<sup>7</sup> which includes the majority of the extant texts of the Ancient Greco-Roman world, it is possible to find a few texts which use the phrase *ἴσοι καὶ ὄμοιοι*, or at least close variants. Texts which use the phrase include a speech by Demosthenes and Thucydides’ *History of the Peloponnesian War*. However, in the case of Green – who wrote and taught on Aristotle – the most likely source would appear indeed to be Aristotle, who uses the phrase on more than one occasion in the *Politics*, usually in connection with questions of status (Thucydides also uses the phrase in this way<sup>8</sup>). The phrase appears in connection with the status of states, who are ‘equal in power and alike in character’ (*οἱ δὲ ἔχοντες ἀμύνειν οὐ δυνήσονται τοὺς ἐπιόντας, οὐθ’ οὕτως ὀλίγην ὥστε μὴ δύνασθαι πόλεμον ὑπενεγκεῖν μηδὲ τῶν ἴσων καὶ τῶν ὁμοίων*), in connection with the middle classes, who are ‘equal and alike’ (*βούλεται δὲ γε ἡ πόλις ἐξ ἴσων εἶναι καὶ ὁμοίων ὅτι μάλιστα*), and in connection with the appointment of magistrates from ‘equal or similar classes’ of citizens (*οἷον ἐν δημοκρατία καὶ ὀλιγαρχία καὶ ἀριστοκρατία καὶ μοναρχία πότερον αἱ αὐταὶ μὲν εἰσιν ἀρχαὶ κύριαι, οὐκ ἐξ ἴσων δ’ οὐδ’ ἐξ ὁμοίων*).<sup>9</sup>

It is the second of these occurrences of the phrase in the *Politics* which seems most interesting. As we have seen, Green holds that for recognition to be possible, a society of

<sup>6</sup> T. H. Green, *Lectures on the Principles of Political Obligation* (Kitchener, Batoche Books, 1999) [<http://socserv2.mcmaster.ca/~econ/ugcm/3ll3/green/obligation.pdf>]

<sup>7</sup> [<http://www.perseus.tufts.edu/hopper/>]

<sup>8</sup> Thucydides, *The History of the Peloponnesian War*, Book 1, Chapter 27, [<http://www.perseus.tufts.edu/hopper/text?doc=Perseus:text:1999.01.0199:book=1:chapter=27>]

<sup>9</sup> Aristotle. (ed. W. D. Ross), *Aristotle's Politica*, (Oxford, Clarendon Press, 1957) [<http://www.perseus.tufts.edu/hopper/text?doc=Perseus%3atext%3a1999.01.0057>] Sections 1267a, 1295b, and 1299b, respectively.

people who are ἴσοι καὶ ὅμοιοι, equal and similar, is necessary. In the second occurrence of the phrase in the *Politics*, Aristotle is discussing which classes of people best make up a city. His argument is that a city radically divided between rich and poor has significant problems. In a passage which brings to mind Hegel's account of the master and slave dialectic, Aristotle writes 'Thus arises a city, not of freemen, but of masters and slaves, the one despising, the other envying; and nothing can be more fatal to friendship and good fellowship in states than this...a city ought to be composed, as far as possible, of equals and similars'.<sup>10</sup> Just as in Hegel's account of recognition the master and slave dialectic has to be sublated for recognition to occur,<sup>11</sup> so for Aristotle, for friendship and good fellowship, inequalities and differences must be rejected in favour of a society of people who are equal and similar.

If we are to accept this text as the likely source of Green's use of the phrase ἴσοι καὶ ὅμοιοι then the matters which Aristotle considers inform how we are to understand Green's use of the phrase. His argument seems to agree with Aristotle, in that recognition – Aristotle's fellowship – is only possible in societies with some element of equality on the one hand, and some similarity, or commonality, on the other. This equality and sameness removes the enables people within a society to interact morally, conceive a common good, and relate to each other free from envy and contempt. This paper will now turn to examining 'sameness' and 'equality' in Green's political thought, with a view to establishing what Green's wider political theory can tell us about what 'equality' and 'sameness' meant for him.

### **'Sameness': ὅμοιοι**

The first dimension this paper will examine is the dimension of 'sameness' or 'similarity', corresponding to the word ὅμοιοι. Given that Green holds that this quality is a necessary prerequisite in a group of people for rights recognition to occur, the key question is: how much similarity is needed? Correspondingly, how much variation is possible within a group, and how wide a group may be commensurate with rights recognition? These questioned are answered to some extent in the *Prolegomena to Ethics*. The second half of Chapter III concerns 'The Extension of the Area of Common Good', and here Green

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<sup>10</sup> Aristotle, *Politics* (Cambridge, Cambridge University Press, 1996), p. 107

<sup>11</sup> Hegel, *Philosophy of Mind* (trans. William Wallace and A. V. Miller) (Oxford, Oxford University Press, 1971), § 436 *Zusatz*, pp. 176-177

considers how wide a group of people might have some good in common. Although Green uses the phrase *ἴσοι καὶ ὅμοιοι* here,<sup>12</sup> it is worth pointing out that one meaning of *ὅμος*, the stem of *ὅμοιοι*, is ‘common’. ‘Sameness’, then, has a lot to do with the ability of people to conceive of having something in common with each other.

Green argues that the sphere of the *ὅμοιοι* – that is, the sphere of people who can conceive some commonality – has expanded throughout history: ‘the earliest ascertainable history exhibits to us communities, relatively very confined, within any one of which a common good, and in consequence a common duty, is recognised as between the members of the community, while beyond the particular community the range of mutual obligation is not understood to extend.’<sup>13</sup> Originally, then, ‘sameness’ extended only so far as members of a small community; persons outside the community were somehow ‘different’. Recognition of rights and duties would be possible only within communities: people outside of the community, though they might be *ἴσοι*, were certainly not perceived to be *ὅμοιοι*. One of the two necessary conditions for recognition is not met.

Since then, argues Green, the sphere of commonality has expanded, as it has come ‘to be understood that no race or religion or status is a bar to self-determined co-operation’. The breaking down of such barriers has had the result that ‘persons come to be recognised as having claims who would once not have been recognised as having any claim, and the claim of the *ἴσοι καὶ ὅμοιοι* comes to be admitted where only the claim of indulged inferiors would have been allowed before’.<sup>14</sup> Here Green brings in the idea of equality – *ἴσοι* – too, unsurprisingly, given his use of Philistines and Israelites, two groups which viewed each other as not only different but inferior as well, as an example. The key point, though, is that the sphere of those regarded as *ὅμοιοι* has expanded. The concept of similarity has remained the same, but its area is enlarged. As Green puts it: ‘It is not the sense of duty to a neighbour, but the practical answer to the question Who is my neighbour? that has varied.’<sup>15</sup>

However, the process does not stop there, according to Green. For Green, the idea of a common good is an idea implied ‘in the most primitive human society’ and an idea the tendency of which ‘in the minds of all capable of it must be to include, as participators of the good, all who have dealing with each other and who can communicate as ‘I’ and ‘Thou’.’<sup>16</sup> In other words, *ὅμοιοι* can be any people who are able to communicate with each other.

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<sup>12</sup> In Green, *Prolegomena to Ethics* (Oxford, Clarendon Press, 1899) (Hereafter, *PE*), § 207, p. 247 for example.

<sup>13</sup> Green, *PE*, §206, p. 245

<sup>14</sup> *Ibid.*, §207, p. 247

<sup>15</sup> *Ibid.*, §207, p. 247

<sup>16</sup> *Ibid.*, §209, p. 250

The implications of this for theories of recognition are significant. When Green argues that a society must be equal and similar for recognition to occur, this similarity does not, it would appear, have to include considerations of race, religion, ethnicity or nationality. As we have seen, quite the opposite is the case: Green argues that, historically, the barriers these categories denote have been broken down. The sphere of commonality, then, is potentially unlimited, so long as communication is possible. Green does not shy away from following this point to its logical conclusion: ‘With growing means of intercourse and the progress of reflection the theory of a universal human fellowship is [the] natural outcome.’<sup>17</sup> Clearly, universal human fellowship has not yet been arrived at, though for Green, but it is not the theory itself but ‘rather the retardation of the acceptance of the theory that the historian has to explain’.<sup>18</sup>

Green offers some suggestions as to what may be impeding the universal fellowship of man. The impediments ‘are the same in kind as those which interfere with the maintenance of unity in the family, the tribe, or the urban commonwealth’. Of these, the ‘prime impediment...is selfishness’, which may be described as ‘a preference of private pleasure to common good.’<sup>19</sup> However, the wider the fellowship in question, the more impediments come into play: ‘ignorance, with the fear that springs from ignorance; misapprehension of the physical conditions of well-being, and consequent suspicion that the gain of one community must be the loss of another; geographical separations and demarcations, with the misunderstandings that arise from them’.<sup>20</sup> These impediments must be overcome in order to realise the potential community of ‘all men’: everyone, if they can communicate, can possibly conceive of one another as *ὅμοιοι*. However, in practice this conception is prevented by obstacles, albeit obstacles that Green holds can potentially be overcome.

For theories of rights recognition, the key point is that there is ‘no necessary limit’ to the group of people who may be considered *ὅμοιοι*: the barriers and impediments Green describes may be overcome or removed. This conceptualisation may have something useful to contribute to debates between cosmopolitans and ethical particularists, in that it suggests a position between the two. What is important is still one’s duty to one’s neighbour, which suits the ethical particularist position. However, one’s neighbour may be any fellow man, which suits cosmopolitanism. Conversely, this position does not give one duties in

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<sup>17</sup> *Ibid.*, §209, p. 250

<sup>18</sup> *Ibid.*, §209, p. 250

<sup>19</sup> *Ibid.*, §216, p. 258

<sup>20</sup> *Ibid.*, §216, p. 258

connection with people one cannot ever communicate with, as radical cosmopolitanism would, but neither does it suggest that it is only a narrow group of people that one can have significant duties towards, as radical ethical particularism would.

If we accept Green's argument that there is no necessary limit to those we can recognise as *ὄμοιοι*, the question remains as to whether this limitless sphere of commonality is normatively desirable. There may be reasons why we might think it better to choose other criteria to determine who is *ὄμοιοι*: we may decide that it is important to maintain precisely those barriers which Green suggests have been, and are being, gradually removed. Green makes an argument against any such position however, and holds that there is a normative reason to conceive *ὄμοιοι* as all people, rather than any narrower group. The conception of a common good, argues Green, has 'come to be conceived with increasing clearness, not as anything which one man or set of men can gain or enjoy to the exclusion of others, but as a spiritual activity in which *all* may partake, if it is to amount to a *full realisation* of the faculties of the human soul.'<sup>21</sup> The implication is clear: the wider the range of people amongst whom a good can be common, the fuller the faculties of the human soul can be developed and realised; restriction of the conception of *ὄμοιοι* to a smaller group of people places a restriction on human development and perfection, and thus must be avoided.

### **Equality: ἴσοι**

Alongside 'sameness', Green also holds that 'equality' is a necessary prerequisite for recognition. People within a society must not only be *ὄμοιοι*, but *ἴσοι* too. As with 'sameness', the immediate question to answer is what Green means by 'equality' in this context. It is quite clear that Green was committed to some sort of equality, but the question is exactly what sort of equality was necessary. This paper will now examine Green on equality to suggest an answer to these questions.

Without a doubt, Green was committed at the very least to a formal, legal equality. Green discusses with evident approval the process by which the law 'of civilised nations', the 'law of opinion', 'social sentiments and expectations' and the 'formulae [of] philosophers' have come to agree with Ulpian,<sup>22</sup> who declared that 'omnes homines aequales sunt' – 'all

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<sup>21</sup> *Ibid.*, §286, p. 349 (My italics.)

<sup>22</sup> Gnaeus Domitius Annius Ulpianus (c. CE170 – 228), anglicized as Ulpian. A Roman jurist.

men are equal'.<sup>23</sup> This is formal equality which should extend to all races: he expresses disappointment that, despite holding that 'all men are born free and equal', some Americans still tried to justify the enslavement of African Americans.<sup>24</sup>

However, Green's commitment to equality went beyond the idea that 'all men are equal'. Olive Anderson argues that Green's work includes a serious commitment to equality not just for men, but between the sexes.<sup>25</sup> Green's efforts in this area included arguing for greater equality within marriage, including in terms of recourse to divorce; greater access for secondary and higher education for girls and young women; and the rejection of patriarchy within the family. As Anderson puts it, 'his neighbours [*ὄμοιοι*] were neighbours without distinction of sex, any more than of class or race; his common good was common to both sexes; and his state fostered the rights and virtues of all ethical persons without exception. Equality was his goal as much as liberty, and that included equality between women and men.'<sup>26</sup>

In addition to considerations of equality between the sexes, Green was also vocal on the need for equality in terms of the extension of the franchise, and parliamentary reform in general. Speaking in 1867, Green rejected the present state of the House of Commons, which involved 'a government by oligarchy of wealth, fenced round and protected by a system of law, which makes many poor to make a few rich, and which, as a matter of history, has done its best to keep the mass of the people abject and ignorant, in order to secure the supremacy of a class.'<sup>27</sup>

This supremacy was not just in economic terms. For Green, 'citizenship only makes the moral man' in that 'citizenship only gave that self-respect, which is the true basis of respect of others, and without which there is no lasting social order or real morality'.<sup>28</sup> This citizenship is achieved through the enfranchisement of the people. Only through having the power to express their opinion via the ballot box, whether in local or national elections, could people be active citizens. Thus the extension of the franchise – so that all had an equal say in elections – was vital for moral life, and respect. This provides a clue as to why Green held it

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<sup>23</sup> *Ibid.*, §209, p. 249

<sup>24</sup> *Ibid.*, §209, p. 250

<sup>25</sup> Olive Anderson, "The Feminism of T.H. Green: A Late-Victorian Success Story?", *History of Political Thought* Vol. XII. No. 4. (Winter 1991), pp. 671-693

<sup>26</sup> *Ibid.*, p. 685

<sup>27</sup> T. H. Green, "Speech on The Reform Bill, 25<sup>th</sup> March 1867", in T. H. Green, *Collected Works Volume 5: Additional Writings* (Ed. Peter Nicholson) (Bristol, Thoemmes Press, 1997), pp. 228-232, pp. 228-229

<sup>28</sup> T. H. Green, "Parliamentary Reform, 25<sup>th</sup> February 1868", in T. H. Green, *Collected Works Volume 5: Additional Writings* (Ed. Peter Nicholson) (Bristol, Thoemmes Press, 1997), pp. 232-236, p. 234

essential for recognition that a society be comprised of equals – *ἴσολ*, a question this paper shall return to later.

Green rejected the Reform Bill proposed by the Tories, whom he held to be ‘pretending[ing] to be Reformers’, as it was ‘fraudulent and delusive’ and did not go far enough to reform parliament.<sup>29</sup> Furthermore, allowing the Bill to pass, argued Green, would mean attention would not be given to other pressing matters of inequality, such as ‘the system of tenure of land by which the oligarchy maintains itself’ and by which it ‘pauperizes the peasantry’; the problem of education and ‘popular ignorance’; and the problem of the establishment of the Church of England. In all these matters, Green urged ‘agitation for Reform’<sup>30</sup> and identified himself as a ‘radical’ against the interests of the privileged class which he perceived to be dominating government. Here there seems to be strong evidence in favour of Matt Carter’s assertion that Green was in favour of ‘democratic equality’.<sup>31</sup> Democracy, for Green, was something that should benefit all equally, and not work simply to the advantage of a privileged few.

Education was another area in which Green keenly advocated equality, on two fronts. The first concerns gender. As we have mentioned briefly already, Green was strongly in favour of increasing the availability and quality of education available for girls and young women. He spoke in favour of secondary school education for girls<sup>32</sup> and also called for greater access to higher education for women. As Anderson notes, Green was instrumental in the founding of two Halls at Oxford for the education of women, Somerville and Lady Margaret Hall, and served as secretary of the Association for the Higher Education of Women in Oxford, the body set up to administer them.<sup>33</sup>

The second front on which Green fought for equality within higher education was class. While he welcomed moves to enable children of all classes to receive secondary education, he was clear that ‘popular [secondary] education is not enough’, but rather, ‘we must open the higher education’ and ‘make the part open for the poorest to the best leaning which this University can impart’.<sup>34</sup> Only through opening up higher education ‘to all classes’ argued Green, was ‘social unity’ possible. If only elementary education was

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<sup>29</sup> Green, “Speech on The Reform Bill”, p. 230

<sup>30</sup> *Ibid.*, p. 231

<sup>31</sup> Matt Carter, *T. H. Green and the Development of Ethical Socialism* (Exeter, Imprint Academic, 2003), p. 33

<sup>32</sup> T. H. Green, “Education for Girls, 18<sup>th</sup> June 1878”, T. H. Green, *Collected Works Volume 5: Additional Writings* (Ed. Peter Nicholson) (Bristol, Thoemmes Press, 1997), pp. 322-328

<sup>33</sup> Anderson, “The Feminism of T.H. Green”, p. 682

<sup>34</sup> Green, “Speech on The Reform Bill”, p. 231

available to all, then only ‘the most ordinary freedom’ would be possible.<sup>35</sup> The less the extent to which the poor were kept ‘abject and ignorant’, the less one class would have ‘supremacy’.<sup>36</sup> Opening up education to all, then, would reduce the inequalities between the classes, and ensure that all within society were to a greater extent equals – ἴσοι – in that they had received similar educations.

Green was also in favour of a high degree of economic equality. The previous paragraphs suggest that he was against vast disparities between rich and poor, and against the way in which the privileged few rich prevented the poor from flourishing. In the *Prolegomena*, although Green does not discuss the matter in explicitly economic terms, he argues that whereas the ancient Greek, when faced with a multitude of disenfranchised people, would see ‘a supply of possibly serviceable labour’ who could be used as ‘instruments in their service’, the ‘Christian citizen’ must sacrifice this opportunity and instead ‘provide [such] positive help...as is needed to make their freedom real’.<sup>37</sup> Translated into the context of nineteenth century capitalism, the implication is clear: the working classes are not to be exploited as cheap labour, but are rather to be assisted – and this would seem to imply monetary assistance – so that they realise as real a freedom as possible.

Green did not advocate anything so radical as the collectivisation of property, as he held that property is necessary for moral action, which is impossible in a clan system where property is held in common.<sup>38</sup> However, he provides a radical condition attached to the unlimited right to private property and wealth. While ‘the right to freedom in unlimited acquisition of wealth, by means of labour and by means of saving and successful application of the results of labour’ is acceptable to Green, this right ‘does not imply the right of anyone to do as he likes with those gifts of nature, without which there would be nothing to spend labour upon.’<sup>39</sup> The only justification for the appropriation of finite natural resources, argues Green, is ‘that it contributes on the whole to social well-being’ or ‘that the earth as appropriated by individuals under certain conditions becomes more serviceable to society as a whole...than if it were held in common.’<sup>40</sup> In other words, private exploitation of natural resources can only be justified if it is of a greater benefit to society as a whole than if society as a whole held it in common. If it is not, then there is no right to such private ownership and

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<sup>35</sup> T. H. Green, “Parliamentary Reform”, p. 232

<sup>36</sup> T. H. Green, “Speech on The Reform Bill”, p. 229

<sup>37</sup> Green, *PE*, §270, p. 329

<sup>38</sup> Green, *LPPO*, §218-219, pp. 217-219

<sup>39</sup> *Ibid.*, §229, p. 226

<sup>40</sup> *Ibid.*, §229, p.227

appropriation. Such inequalities as there are have to benefit all in order to justify the inequality.

Green also calls for reform of the laws on inheritance, so that property may be more equally divided. At present, Green complains, ‘the greater part of the land of England is held under settlements which prevent the nominal owner from either dividing his land among his children or from selling any part of it for their benefit’. Rather, ‘it is so settled that all of it necessarily goes to the owner’s eldest son’ and ‘so far as any sale is allowed it must only be for the benefit of that favoured son.’<sup>41</sup> The chief evil in this system, argues Green, is that the prevention of sale of agricultural land in small quantities ‘hinders the formation of that mainstay of social order and contentment, a class of small proprietors tilling their own land’.<sup>42</sup> In other words, a class of people relatively equal, and all with property, is much more beneficial to society than the unequal concentration of property in the hands of a few, while others possess no land at all.

Certain passages do seem to be at odds with Green’s general commitment to equality, and seem to suggest that there is some ambiguity in his theory. In his discussion of property in the *Lectures on the Principles of Political Obligation*, Green addresses a key concern regarding equality, property, and the freedom of markets. The situation might arise, he suggests, whereby ‘an inequality of fortunes, of the kind which naturally arises from the admission of these two forms of freedom [freedom of bequest and freedom of trade], necessarily results in the existence of a proletariat [sic], practically excluded from such ownership as is needed to moralise a man’.<sup>43</sup> Clearly if this were the case, he admits, his commitment to such economic freedoms would be at odds with his commitment that all should have such property as is necessary for moral action. One response – indeed a common socialist response – would be to restrict such economic freedoms to ensure that a class was not completely stripped of property. However, Green does not take such a radical approach, arguing that it is not necessary. ‘We must bear in mind’, he writes, ‘that the increased wealth of one man does not naturally mean the diminished wealth of another.’ The economic world is not a zero-sum game, but rather: ‘the wealth of the world is constantly increasing’ and there is ‘no natural limit’ to the increase of wealth ‘except such as arises from the fact that the supply of the food necessary to sustain labour becomes more difficult as more comes to be required owing to the increase in the number of labourers, and from the

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<sup>41</sup> T. H. Green, ‘Liberal Legislation and Freedom of Contract’ in T. H. Green, *Collected Works Volume 3* (Ed. Peter Nicholson) (Bristol, Thoemmes Press, 1997), p. 378

<sup>42</sup> *Ibid.*, p. 378

<sup>43</sup> Green, *LPPQ*, §222, p. 221

possible ultimate exhaustion of the raw materials of labour in the world.’<sup>44</sup> In this passage, then, Green’s commitment to equality is less certain. It allows for some to get very rich, provided that this is not to the detriment of others.

The essential consideration regarding material equality for Green is that all are able to possess the minimum property required in order to be moral actors within the state.<sup>45</sup> However, Green calls for more than a state of affairs limited to just the equality of legal rights and possession of a minimum amount of property. Even if laws ‘are so equally applied to all, that all who are capable of a common interest are prompted by that interest to conform to the law’ writes Green, ‘the result is still only the loyal subject as distinct from the intelligent patriot’. For Green, intelligent patriots are those who ‘have a passion for serving [the state] whether in the way of defending it from external attack or developing it from within.’ Without only loyal subjects, rather than intelligent patriots, the state is at risk of collapse: ‘The citizens of the Roman Empire were loyal subjects; the admirable maintenance of private rights made them that; but they were not intelligent patriots, and chiefly because they were not, the empire fell’, argues Green. Rather than simply the equal application of laws, which results in loyal subjects, Green calls for all to have a share in government, so that they may be intelligent patriots. All ‘must have a share, direct direct or indirect, by himself acting as a member or by voting for the members of supreme or provincial assemblies, in making and maintaining the laws which he obeys. Only thus will he learn to regard the work of the state as a whole, and to transfer to the whole the interest which otherwise his particular experience would lead him to feel only in that part of its work that goes to the maintenance of his own and his neighbour’s rights.’<sup>46</sup> Thus members of a society should be equals – ἴσοι – in that they all have a share in government, and take active part in the administration of a state. This is in contradistinction to an unequal society marked by a distinction between the governing and the governed.

Green gives a compelling reason why such equality in civic participation is desirable, by pointing to the dangers inherent in a society which lacks such active participation in government. The ‘imperfect realisation of *civil equality in the full sense of the term* in certain states is in greater or less degree a source of danger to all’, he argues.<sup>47</sup> Without this participation there arises ‘a prerogative class or of a body of people who, whether by open denial of civil rights or by restrictive laws, are thwarted in the free development of their

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<sup>44</sup> *Ibid.*, §226, p. 224

<sup>45</sup> Green, *LPPQ*, § 219-221, pp. 218-220

<sup>46</sup> Green, *LPPQ*, §122, pp. 130

<sup>47</sup> Green, *LPPQ*, §167, p. 171. My italics.

capacities'. Such a class of people causes serious problems and may even lead to war, Green argues, anticipating the doctrine of humanitarian intervention by a century: a 'suffering class attracts sympathy from without and invites interference with the state which contains it'. Another possible outcome is that the 'suffering population overflows into another state' and causes 'internal difficulty' there and 'hostile feeling between it and the state where the suffering population still survives'.<sup>48</sup> Inequality between classes of people, then, is potentially very dangerous, in that in the worst case it can lead to conflict: the preventative remedy for this is that all have the opportunity equally to participate actively in government.

### **Nationalism and humanism: a contradiction?**

However, Green places some limits on the potential for citizens becoming intelligent patriots and actively participating in government; limits which point towards a potential tension in Green's thought between considerations of 'sameness' and 'equality'. Green argues that even if an individual can participate actively in government, 'even then his patriotism will hardly be the passion which it needs to be, unless his judgement of what he owes to the state is quickened by a feeling of which the 'patria', the fatherland, the seat of one's home, is the natural object'.<sup>49</sup> The state becomes the object of this feeling 'only so far as it is an organisation of a people to whom the individual feels himself bound by ties analogous to those which bind him to his family'. Such ties are derived 'from a common dwelling-place with its associations, from common memories, traditions and customs, and from the common ways of feeling and thinking which a common language and still more a common literature embodies'.<sup>50</sup> Only if these conditions are met, argues Green, can the individual 'learn to regard the work of the state as a whole, and to transfer to the whole the interest which otherwise his particular experience would lead him to feel only in that part of its work that goes to the maintenance of his own and his neighbour's rights': in other words, common ties are needed so that the individual may conceive *all* in the state as possessing a common interest, of being *ὄμοιοι*, rather than just the few neighbours he admits readily he has common interest with, and with whom he conceives himself as *ὄμοιος*. Here, the equality is an equality of feeling: all must feel equally tied to the state in order to shore it up.

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<sup>48</sup> *Ibid.*, §167, p. 171

<sup>49</sup> *Ibid.*, §123, p. 130

<sup>50</sup> *Ibid.*, §123, p. 130

These common ties involve quite nationalist overtones. The ‘fatherland’ is more important than the state in terms of common feeling; traditions, customs and language are emphasised. If these are necessary for common feeling, then it would appear that what Green is arguing here is that the sphere of commonality, the group which one may conceive as *ὄμοιοι* with oneself, is limited, and that these limits correspond closely with national boundaries. Clearly, this is at odds with what Green’s position in the *Prolegomena*, where, as we have seen, he argues that there are no necessary barriers or boundaries preventing the sphere of *ὄμοιοι* from encompassing all humans. Rather than this barrier free conception of ‘sameness’, here Green sees nothing wider than the state as the sphere within which the common (*ὄμοιος*) good is promoted,<sup>51</sup> and aligns the state with the nation, which the state requires in order to preserve itself and prevent collapse through the use of patriotism to spur participation in government. This despite Green’s criticism in the *Prolegomena* of ‘men to whom a little philosophy has proved a dangerous thing’ who ‘make much of the distinction between an obligation that admits of being enforced between persons subject to a common sovereign’ and obligations between ‘man to man as such’.<sup>52</sup> It would seem that what Green is doing when he argues that some patriotic feeling is needed within a state is certainly not far from this.

The question here is whether there is a way out of what seems to be a contradiction in Green’s thought. Can he subscribe both to the notion that there sphere of commonality can expand limitlessly and the notion that the state is the location of common feeling, and must be based on the patriotic feelings inspired by aspects of nation? It would appear that this is simply a contradiction in Green’s thought, borne perhaps out of the fact that neither the *Lectures on the Principles of Political Obligation* nor the *Prolegomena to Ethics* were quite finished when Green died: both appeared posthumously. It may be that Green’s thinking on this point was not completely systematic.

However, one possible solution would be to reframe the terms of patriotism in less exclusive terms. The areas involved in Green’s ‘common dwelling-place’, ‘common memories, traditions and customs’, ‘common ways of feeling and thinking’, ‘common language’ and ‘common literature’ are entirely arbitrary. If we were to apply these very strictly we would find that such patriotic ties would only apply to the village or local level: a small village certainly involves a common dwelling place, common memories, traditions and customs, common ways of feeling and so on that may be completely at odds with a village

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<sup>51</sup> *Ibid.*, §124, p. 131

<sup>52</sup> Green, *PE*, §207, p. 246

only a few miles away. The idea that a resident of the Shetland Isles has all these things completely in common with a resident of South London is something that is clearly open to challenge. In other words, there is no reason why a whole *nation* should have shared feelings and sentiments, as opposed to any other grouping. The sphere within which these common reference points exists is as flexible as Green argues the sphere of commonality is in the *Prolegomena*. Thus a way out of the seeming contradiction in Green's thought is possible, if we admit that the nation is not the only grouping within which common sentiment exists, but rather accept that groupings can be much more flexible, whether at a smaller level – villages and the like – or at a higher level – a European identity, for example.

In summary, this section has shown that Green's commitment to equality goes beyond the notion that 'omnes homines aequales sunt' in purely formal terms. Rather, Green advocates a stronger form of equality. Like Mill, Green was ahead of his time in calling for greater gender equality. Similarly, Green advocated greater equality of access to education, particularly in the education of girls, and in widening access to higher education. Green calls for the end of entrenched class privileges, particularly in terms of the ownership of land and parliamentary representation, and he argues for greater economic equality – though without placing a limit on personal accumulation of wealth, so long as it benefits all in society. Finally, Green argues for equality in terms of government: all must have a share in how the state is run. Green's notion of equality, then, is quite a full, even radical notion. When he argues that a society must consist of *ἴσοι* in order to facilitate rights recognition, this is the level to which people must be equal: formal equality is not enough.

### **Why ἴσοι καὶ ὅμοιοι?**

The question remains as to why equality and sameness are essential for rights recognition. It might be argued that those advancing the rights recognition thesis today would be as wise to reject much of what Green says on this subject as being relevant only to his theory, and borne out of concerns relevant only to the climate in which Green was writing, in particular, concerns specific to the situation of nineteenth century capitalism in Britain. However, there are good reasons to maintain both elements in a theory of rights recognition.

Equality is necessary for rights recognition because without equality not everyone in society is in a position to withhold or give recognition to rights. For Green, rights and

negative freedom are broadly synonymous, based on Green's assertion that 'Rights are what may be called the negative realisation of this power [the power of the individual freely to make the common good his own]. That is, they realise it in the sense of providing for its free exercise, of securing the treatment of one man by another as equally free with himself, but they do not realise it positively, because their possession does not imply that in any active way the individual makes a common good his own.'<sup>53</sup> Rights are negative freedom, but not positive freedom. However, as Maria Dimova-Cookson argues, it is acts of positive liberty which create negative liberty for others.<sup>54</sup> Positive liberty is 'the liberation of the powers of *all men equally* for contributions to a common good'.<sup>55</sup> Positive liberty demands that all are able to contribute to a common good, thus there must be equality in this sense for rights recognition to occur, because, as we have seen, rights recognition for Green requires a conception of a common good. Furthermore, the recognition of another's rights is an act of positive liberty. This act of positive liberty, however, requires some degree of negative liberty on the part of actor to facilitate it. If only some in society have the degree of negative liberty required, then liberty for all is diminished. With greater equality, however, all are in a position to recognise the rights of others and to act for the common good.

'Sameness' is necessary for rights recognition because recognition requires some conception of a common good.<sup>56</sup> Without being able to conceive others as having some key features in common - ὅμοιος – with oneself, one cannot conceive of a common good: there must be some shared quality which means that a common goal is worth pursuing. However, this sameness is less radical than Green's equality: Green is clear that it can in principle extend to the whole of humanity.

Even if we reject elements of Green's philosophy with regard to equality and sameness in rights recognition, there are good reasons to maintain Green's stipulation that a society must consist of ἴσοι καὶ ὅμοιοι. In terms of the first element, the idea that rights are created and legitimated by social recognition is clearly the richer, the greater the proportion of society who have an active say in which rights are recognised. If social recognition is merely the recognition of the rich or influential while the views of the poor or the marginalised are suppressed or ignored, then clearly its legitimacy is highly questionable. So far as the second element – ὅμοιοι – goes, we need not interpret this along narrow or

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<sup>53</sup> Green, *LPPO*, §25, p. 44

<sup>54</sup> Maria Dimova-Cookson, "Conceptual Clarity, Freedom, and Normative Ideas: Reply to Blau", *Political Theory* 32:4 (2004), pp. 554-562, p. 559

<sup>55</sup> T.H. Green, "Liberal Legislation and Freedom of Contract", *Collected Works, Vol. 3*, (Bristol, Thoemmes Press, 1997), p. 372. My italics.

<sup>56</sup> Green, *LPPO*, §25, p. 44

nationalistic lines; as Green demonstrates, it is a term which potentially encompasses all humanity. However, the idea that there may be some common goal is an important factor in rights recognition, and an important principle. A commitment to this in recognition theories builds in the normative consideration that rights must be recognised which confer goods on all, and not just on a majority or other group within a rights recognition society.

## Conclusion

This paper has sought to unpack the phrase ἴσοι καὶ ὅμοιοι to shed greater light on the conditions Green thought necessary for rights recognition. In doing so, it has demonstrated that the phrase signifies much more than formal equality, and that sameness and equality are two categorically different criteria, both of which must be satisfied in order to enable rights recognition. The likely origin of the phrase in Aristotle underlines Green's concern with establishing the conditions under which fellowship may flourish, and his commitment to a society composed not of radically unequal rich and poor, but of equals amongst whom such fellowship is possible. The paper then turned to Green's writings on 'sameness' and found that this criterion does not have to limit rights recognition to one state, nation or people, but, rather, the sphere of commonality – and with it rights recognition – may be expanded to include all humanity. It was found that Green's commitment to equality was far-reaching, and went far beyond formal equality. Such merely formal equality, therefore, is not enough for rights recognition: ἴσοι has to mean more than simply equality before the law. If one were to describe this as negative equality, then it is clear that Green is in favour of positive equality, a situation where all have the equal ability to participate in moral debate, government and rights recognition. Green's commitment to patriotism in his *Lectures on the Principles of Political Obligation*, however, was found to be at odds with his more cosmopolitan tendencies in the *Prolegomena to Ethics*. However, by re-establishing the basis for such patriotism on less restrictive grounds, this contradiction may be resolved. Finally, the paper underscored the importance of equality and sameness for rights recognition, not just for Green, but for contemporary approaches to the rights recognition thesis too. For Green, equality and sameness was as vital as recognition itself for rights; for contemporary approaches, considering equality and sameness builds in an important normative aspect to the rights recognition thesis.