

1-1-1966

# Equality and Inequality in Relation to Justice

Giorgio Del Vecchio

Follow this and additional works at: [http://scholarship.law.nd.edu/nd\\_naturallaw\\_forum](http://scholarship.law.nd.edu/nd_naturallaw_forum)



Part of the [Law Commons](#)

---

## Recommended Citation

Del Vecchio, Giorgio, "Equality and Inequality in Relation to Justice" (1966). *Natural Law Forum*. Paper 116.  
[http://scholarship.law.nd.edu/nd\\_naturallaw\\_forum/116](http://scholarship.law.nd.edu/nd_naturallaw_forum/116)

This Article is brought to you for free and open access by NDLScholarship. It has been accepted for inclusion in Natural Law Forum by an authorized administrator of NDLScholarship. For more information, please contact [lawdr@nd.edu](mailto:lawdr@nd.edu).

# EQUALITY AND INEQUALITY IN RELATION TO JUSTICE

Giorgio Del Vecchio\*

---

1. WHEN ONE BEGINS to reflect on the idea of justice in order to discover its essence, the idea of equality immediately springs to mind. Pythagoras, the oldest philosopher to enquire into this problem, defined justice as equality. This equality should manifest itself concretely in the return of like for like. But it is easy to understand the inadequacy of this definition, an inadequacy which in fact was already realized in antiquity. It is well known that Aristotle, although starting out from the Pythagorean theory, introduced an important distinction. He taught that there is one type of justice which applies especially to contracts, and requires an equivalence in the obligations assumed by the contracting parties. But there is also another type of justice, distributive justice, which takes into consideration the "dignity" or merit of the persons concerned, and necessitates that each be treated differently, in proportion and corresponding to these merits (*κατ'αξίαν*).

This doctrine became classic, and is still considered fundamental. Nevertheless there are various objections that can be raised to it. As far as contractual relations are concerned, i.e., the area of so-called commutative justice, the law in actual fact does not, and cannot, insist that there be an objective parity in the value of the goods exchanged (except in the special case of *laesio enormis*). It can only insist that there be subjective liberty of consent. As for distributive justice, it is to be noted that Aristotle left indeterminate the criterion for evaluating "dignity" or personal merit. He lacked the concept of the essential value of the human person, the recognition of which must be the first postulate of justice. This lack is clearly seen in his justification of the institution of slavery.

2. A great advance took place in the conception of justice when this ideal postulate, already glimpsed by the Stoics, was loftily affirmed by Christianity. According to the Gospel, all men, being children of God, are brothers. The same spirit exists in all, and the law of charity is universally valid for all. From this universal law arises the categorical obligation of respect for that which

---

\* Translated by THOMAS TAYLOR.

This article is dedicated to Professor Gerhard Leibholz, Judge of the Constitutional Court of the Federal Republic of West Germany.

is sacred in each human being; and from this law, too, comes the natural right to demand such respect. Positive legislation ought to have conformed to the law of love in the past, just as it ought to do so now. But though sometimes proclaimed in solemn formulas, the law of love has been accepted very imperfectly in positive law, when not ignored altogether.

The law inherent in human nature itself has also been demonstrated by rational analysis, independent of theological premises. Thus the dictates of reason and those of faith have been shown in a general way to converge. In spite of the opposition of a few schools, this innate law has been often and sometimes imperiously invoked by the common conscience; it has found expression in the constitutions of the more civilized peoples of the world, and in recent international documents. The specific character of this fundamental law has also been indicated in diverse ways. But if we compare such general declarations with the legislative systems actually in force, including those prefaced by solemn declarations of principle, we realize that the principles have suffered grave distortions and restrictions, partly inevitable, partly unjustified.

The recognition of the juridical personality of each human being, without any exception whatsoever, in such a way as to assure the fundamental equality of each individual, one to another, is a principle that we must retain as absolutely valid. Understood and applied rationally, this principle should be the basis of a *societas humani generis*, such that humanity forms a single state. There are sound reasons for believing that, in spite of the conflicts still raging, the history of mankind is in fact making its way towards this goal.

But so long as divers states exist, how can the distinction between citizens and foreigners be abolished? They can be considered equal only (and in fact this is admitted by the more advanced states) as far as civil rights are concerned, but not in political rights.

There must be no exclusion based on differences of race or religious beliefs, as to either civil or political rights. This is clearly affirmed, for example by Article Three of the Constitution of Italy. But everyone knows that in some states perfect juridical equality for all citizens, whatever their faith or race, has not yet been achieved. In fact, the complete refusal to recognize this principle has sometimes led to vile and infamous persecutions which have made every just conscience shudder.

3. In general, the juridical equality of the two sexes must also be admitted. This, too, has been affirmed by the Italian Constitution.<sup>1</sup> But in reality no positive legislation attributes absolutely identical rights and duties to the two sexes, for obvious reasons. Conscription, for example, is usually

---

<sup>1</sup> Constitution of Italy, arts. 3 and 51.

obligatory only for men. Women are also excluded by law in the various states from those functions for which they are considered less suitable. Even in certain highly civilized states like Switzerland, women are denied the right to vote. This is certainly in contrast, not only with the principle of the juridical equality of the two sexes, but also with that of universal suffrage. The dominant trend today, however, is rightly towards a gradual rectification of the old system which kept women in a form of subjection. There is a tendency, in short, to move as close as possible to real equality, except in those cases where the determining factor is not a lesser esteem, but rather the respect owing the very nature of womanhood. It is well to remember, as to this question, that in modern labor legislation the sacred function of motherhood is particularly safeguarded; even prison regulations in some countries take this into consideration. On the other hand, the admission of women to public office is always dependent on their having the necessary qualifications.

The abstract principle of the equality of the two sexes gives rise to special problems regarding the structure of the family. It is evident that if this principle is rigidly followed, it would take away from the man his status as head of the family.<sup>2</sup> As a result, it would be difficult to maintain that unity which is the essential element of the institution of the family. This does not necessarily mean, however, that the rights of women cannot also be broadened in this field, without going so far as an absolute levelling. Various reforms have been proposed in this sense, some of which are plausible enough, while others deserve to be treated with some reserve.

It has been proposed, among other things, to make the penal sanctions for adultery equal for the two sexes, even though the possible consequences of such actions are naturally different. In my opinion, the fairest solution of this problem would be the abolition of this type of offense, leaving it within the competence of the magistrate, acting on the complaint of one of the spouses, and taking into account all the circumstances, to judge whether injury was done in any particular case. The legal definition of this offense (which is perhaps too restricted) could be suitably modified.<sup>3</sup> But this is an argument which merits more profound study. I merely cite it here as one example of possible inequality.

4. The dignity of the human being is substantially equal in all phases of his life. But his real capacities vary considerably, and it would be unreasonable not to take this into account through a false application of the concept of equality. All juridical systems define the age at which the subject attains his majority, that is, the age at which one enjoys full civil rights. But this

---

<sup>2</sup> CODICE CIVILE, art. 144 (Italy, 1964).

<sup>3</sup> CODICE PENALE, art. 594 (Italy, 1964).

definition is insufficient; there are other norms which lay down various age limits for both private and public rights. Taking Italian legislation as a case in point, we see that while the subject reaches his majority on his twenty-first birthday, anyone who has reached his eighteenth birthday may make a valid will, may take employment and may stipulate the conditions under which he assumes this employment in a valid contract.<sup>4</sup> In penal law, anyone who has not reached his fourteenth birthday at the moment in which the offense was committed cannot be charged; while anyone who has passed his fourteenth year but not yet reached his eighteenth birthday is given a shorter sentence.<sup>5</sup> Various distinctions in terms of age are also made concerning the right to vote and eligibility for the two branches of Parliament. These examples, to which others could be added, are sufficient to illustrate the difficulty of drawing up a coherent set of regulations covering this whole field. Certainly the series of separate measures taken without any regard for the problem as a whole has not provided a satisfactory solution.

We must confess, thinking of the incalculable number of future cases, that positive law can never adequately meet the changing realities of a situation continuously in flux. Legal definitions, even when they leave a certain margin of discretion to the judges, have always something of the mechanical about them, and reflect only imperfectly the realities of individual cases. It is evident that the natural capacities of individuals subject to the same laws are very different. Yet it is equally evident that it would be practically impossible to subject everyone to an examination to ascertain whether or not each single individual has attained a certain level of competence, just as it would be impossible to have the limits of the terms of prescription depend on a judgment based on one particular set of circumstances.

It is helpful, however, to note that the Roman jurists, as well as modern legislators, have known how to concede a certain limited validity to acts and relationships which do not conform to the general laws regulating these acts and relationships. A case in point is the distinction between absolute and relative nullity. The juridical acts of those who, though they be minors, are naturally competent, are not absolutely null and void, as are those of the insane, but can be rendered valid by ratification and guaranty.<sup>6</sup>

5. In modern civilized states, as a result of philosophy and some historic revolutions, the concept has long been established that the citizens have the obligation to obey the law; but they also have the right to participate in the formulation of this law by their vote, either through their representatives, or

---

<sup>4</sup> CODICE CIVILE, arts. 2, 3, 591.

<sup>5</sup> CODICE PENALE, arts. 97, 98; cf. arts. 223-227.

<sup>6</sup> CODICE CIVILE, arts. 1444, 1939.

directly. The principle has also been firmly established that the government and the other organs of public administration are themselves subject to law; and it must always be possible for citizens, in cases of transgression, to have recourse to the courts, whose independence must be assured.

These concepts correspond to the fundamental principle of the dignity and liberty of the human being, and as such are to be considered as unshakable. But their application gives rise to not a few problems. Participation, however indirect, in the legislative power requires, by its very nature, a degree of competence superior to that necessary for the exercise of private rights. Political competence must be logically distinguished from civil competence. This distinction is clearly sanctioned by positive law, since the latter is attributed even to foreigners, the former only to citizens. But besides this, legislative systems usually lay down certain more or less rigorous requisites for the attribution of political competence to citizens. For example, until a few decades ago Italian legislation required as a condition of political competence the ability to read and write. But the legislation now in force gives the right to vote even to the illiterate at the age of civil competence, i.e., twenty-one years.

The consequences of this equalization are important; for in spite of the efforts made to combat illiteracy and diffuse culture in general, the number of illiterate people, especially in certain regions, is still significant, and more so those who are semi-illiterate. No one would seriously maintain that those in either of these categories are really qualified to direct the policies of the state.

There is another fact that must be considered in this respect: the formation of political parties, some of which are strongly organized and subject to rigid discipline. This has happened in Italy just as it has in other countries. The pressure that they exert on the organs of the state has often disturbed their proper functioning. One of these parties, which draws its inspiration from dialectic materialism and is guided by directives from abroad, has for its platform the overthrow of the present social and juridical order, in order to install the working class as the dominant class in the state, to the detriment of the other classes and of individual rights. As is well known, this party has been outlawed in some states; but not in Italy, where it has spread its influence over the less cultured part of the nation, where the herd instinct is stronger than the sense of individuality. This situation, which is not without its dangers, has naturally given rise to all sorts of discussion and proposals. The principle of universal suffrage has even been called into question, as being the source of the present difficulties in the political life of the nation.

In my opinion, however, this principle must be maintained. But it should be applied more rationally, taking into account the different capacities of

people according to their culture and age; this would not be to create privilege, but would reflect purely objective criteria of a general character. This is an area in which for true justice some criterion having regard for real values should be adopted in place of a mechanical concept of equality. Let us bear in mind the Aristotelian maxim: to treat unequal merits equally means to contradict the very idea of equality itself, and to violate distributive justice.

One system which would meet the need is the following: out of the total number of representatives to be elected, a certain percentage (say forty per cent) should be elected by those citizens who have reached a certain level in school (junior high school, for example); the majority of the remaining sixty per cent should be elected by those persons who have reached a certain age (for example, thirty or thirty-five), while the minority of this sixty per cent should be elected by those who have not yet attained this age. It is understood, of course, that these figures are purely indicative, and may be substituted by others based on statistical analysis of these social categories, in such a way, however, that of these three categories a proportionately greater weight is attributed to the first than to the second, and to the second greater weight than to the third. But those elected in this fashion should all have equal status, so that the representative assembly be perfectly homogeneous.

6. The aims of the United Nations undoubtedly make it one of the noblest institutions of mankind, and it has developed definite activities for the progress of civilization and the peace of the world. But it is impossible to ignore certain defects in its structure and procedure. While its Statute declares the equality of all member nations, it grants important privileges to five states as permanent members of the Security Council, placing the others in a condition of serious and permanent inferiority. Moreover, while the supreme end of this organization (as set out also in the Universal Declaration of Human Rights of December 10, 1948) is the defense of the natural rights of the human person, states have been admitted to its membership which do not respect these rights, either in their own internal legislation or in their international relations; even certain of the privileged states are in this position.

These defects have become more and more serious, because in the last few years numerous states with very limited cultures, indeed, have become members of the United Nations. They include states which lack the juridical structure necessary to guarantee the fundamental rights. These states have been granted juridical equality with constitutional states, some of which are among the most highly civilized in the world. This creates the danger that the vote of the nonconstitutional states can paralyze the action of the others, and even of the United Nations itself. Here we have an equality which

implies a refusal to recognize essential values, an equality thus contrary to justice.

A radical reform in the sense of admitting to membership in the United Nations only legitimate states, i.e., states based on "the rule of law," does not seem to be in the realm of practical possibility for the moment. Such a measure, moreover, should in theory be retroactive in its application. It can only be hoped that henceforth deliberations on the admission of new members be carried on with a just rigor, with insistence on this requisite. A reform which would at least partly eliminate the inconveniences and the dangers of the present state of affairs, and assure a fairer and more rational functioning of the United Nations, would be to distinguish between states based on "the rule of law" (or on "the rule of justice") and states which are not, even though, it is to be hoped, they may become so at some future date. Only the former should have the privilege of voting in the debates of the Assembly, at least on the most important matters. In place of a blind levelling, this system would give due and reasonable consideration to the various degrees of competence of each individual member of the organization. But we must not delude ourselves with the probability that even such a limited reform could easily be realized under the present circumstances.

Another problem which has been given little attention is the question as to whether it is just in international organizations to attribute equal validity to the vote of all states, both large and small, or whether the size of their respective populations should be taken into consideration. The first alternative conforms to the concept of the juridical equality of states, all being equally sovereign. But the Benthamic maxim that "each must count as one" is also applicable to individuals; and it does not seem plausible that a vote expressing the will of a few thousand men should have the same weight as that expressing the will of many millions of people. To conciliate these opposing demands, a system might be adopted which recognized both: for a vote to be valid, a majority according to *both* the first and the second criterion would be necessary.

7. The principle of the dignity of the human being is generally recognized and applied, though not always exactly, by the juridical systems of the more advanced peoples, and their various institutions. But there is a sector of these systems in which the principle is, in my opinion, completely unknown, and that is the area of penal law. Even the most modern systems feel the influence of extremely ancient prejudices in this field. For this reason it is considered just to meet evil with evil, and the suffering inflicted on the perpetrator of a criminal act is considered "reparation."

The truth is, that evil can only be compensated for by good. If the proverb "An eye for an eye, a tooth for tooth" has been repudiated in its crudest form by the conscience of civilized nations, and one no longer cuts off the hand of a thief or tears out the tongue of a slandermonger, yet the false idea still obtains that the evil of a criminal action must be met with a corresponding evil in its punishment.

But does the desire to cause pain to a human being, even though he be guilty, mean that his personality is respected? Or is this not a sort of duplication of the wrong done, and, as Plato has observed, ethically unjustifiable?<sup>7</sup> Is it just for a human being to be denied the possibility of developing his own spiritual and intellectual powers, and of communicating with his fellow man over long periods of time, even for life? And is it just that such punishment be the motive for grief and serious damage, not only to the culprit, but also to his innocent family?

Certainly, judicial sanctions are necessary against offenders. But here is the crux of the whole problem: what should the nature of these sanctions be, if one is to be guided by the ideal of justice? One thing is absolutely clear in my opinion: neither the death penalty, nor prisons, nor any of the existing types of corrective institutions correspond to this ideal. We can leave aside as extraneous to the issue in question the universally admitted principle of "legitimate defense," as having its reasons and its limitations precisely in its purpose of defense. This also applies to so-called "security measures," which are not intended to punish, but to prevent offenses, and are also applied to the mentally ill, obviously with no intent to cause suffering.

According to the profound maxim of Seneca, which has been echoed by other thinkers, crime is in itself its own worst punishment.<sup>8</sup> A feeling of remorse and repentance normally arises in the heart of the offender after having committed an offense (at least in the vast majority of cases). This in substance already constitutes a punishment. It may be added that, apart from any penal action, wicked actions usually provoke the reprobation of society and bring discredit on their perpetrators, with results that cannot leave them indifferent.

It still remains to determine the proper field of action for an authentic penal justice. Its foundation is the rational demand that the offender, as far as it is within his power, be made to make restitution for the damage caused by his crime, bearing in mind that the damage *ex delicto* does not

<sup>7</sup> PLATO, CRITO X, 49c v; also THE REPUBLIC I, 9, 335d. Cf. ST. THOMAS AQUINAS, SUMMA THEOLOGIAE 2a-2ae, 108, 1.

<sup>8</sup> "Prima et maxima peccantium est poena, peccasse; nec ullum scelus impunitum est: quoniam sceleris, in scelere, supplicium est." SENECA, EPIST. AD LUCILIUM XCVII.

merely concern the immediate victims of the crime, but also public order in general, i.e., society as a whole. The provisions of the law actually in force in this field are riddled with defects. Admittedly, they do affirm the obligation of restitution and compensation as one of the consequences of criminal action, but only in respect to the individual persons who have suffered damage, and not as to the public order. This affirmation, moreover, remains almost always a dead letter because of the insolvency of the guilty, whose very conviction makes it impossible for them to work, and hence to pay damages. Nor is there any provision for estimating the damage done to the public order that has been disturbed, while penal sanctions of a pecuniary nature, such as fines, are fixed at a completely arbitrary figure. Let us admit that it is not particularly easy to assess damages; but at least the principle, and certain objective criteria, should be laid down by law as guidelines for determining the damages to be paid.

In order to render effective, and not merely nominal, the obligation of restitution, those guilty of an offense should be forced, in my opinion, to take a job, the earnings from which would go to pay the debt incurred. If this work is voluntarily and conscientiously done, it should be carried on in liberty, and its nature should be in conformity with the aptitudes of each person concerned. The work should, however, be under the tutelage of a special magistrate with the power to order the offender in more serious cases, or in the case of nonfulfillment of the conditions prescribed, to take any job that the court sees fit, with certain concomitant restrictions of liberty to be laid down by law, though always in a humane and civilized form. To this court, or to some organization directly dependent on it, could be confided the responsibility of supervising the lives of those who had not yet fully met their debt incurred *ex delicto*, and this court would have the responsibility of at least eliminating the more serious offenses against good faith and morality. All this would be done with respect for the fundamental rights of the human person.

This proposal touches on problems that are both arduous and complex, and will surely give rise to all sorts of doubts and objections, particularly since it diverges from opinions current today and from the juridical systems in force. There is no possibility that such a proposal, even though it met with some approval, be immediately put into effect. Nevertheless, it is not entirely beyond the bounds of possibility that it be gradually realized over a period of time. Some of the innovations that have recently been introduced into various penal systems show a trend towards correcting their more outstanding defects, although they do not go so far as to introduce those radical reforms which in my opinion are eminently desirable. Some examples in this

sense spring to mind, such as the adoption of the suspended sentence,<sup>9</sup> the so-called "judicial pardon" for minors under eighteen years of age,<sup>10</sup> and the establishment of trade schools and agricultural colonies for the reeducation of delinquents.

8. In our search for solutions of the various problems of social life that would draw their inspiration from the ideal of justice, we have seen that the concept of equality does have a certain function, particularly insofar as it leads to the recognition of the essential dignity of the human person. But the concept is not sufficient to solve these problems. Justice demands that once this fundamental equality be admitted, then differences based on the capacities and behavior of individuals be taken into consideration.

Even the most just laws are often difficult to put into practice, not only because of transgressions, but because of the insufficiency of the means necessary for their application. For example, the Italian Constitution declares that "at least eight years of schooling is both obligatory and free for all,"<sup>11</sup> but the number of existing schools is inferior to the need, and the economic situation of some families makes it impossible for them to meet this obligation. Another norm of the Constitution affirms that everyone, "even those without means, has the right to legal assistance in any court in the land."<sup>12</sup> Though free legal assistance is available to meet this provision, especially for the purpose of assuring the poor an adequate defense in criminal trials, it is notorious that this defense is often nothing more than a mere formality, and certainly much less effective than that which people who are well off can produce for themselves. Laws must be of a general character, and not refer to individuals, as Ulpian has already warned us ("*Jura non in singulas personas, sed generaliter constituuntur*").<sup>13</sup> Laws that condemn certain persons (e.g., ex-royalty and their families) to exile without due process of law, i.e., without at least having the possibility of defending themselves, cannot be considered as just. Since the punishment of exile is not contemplated in the penal systems in force at present, such laws stand in evident contradiction to the reasonable provision (also accepted in the Italian Constitution) that "no one may be punished except on the basis of a law already in force before the offense was committed."<sup>14</sup>

For laws to be of a really general character, it is not sufficient that they be drawn up with one group of people in mind, no matter how numerous.

---

<sup>9</sup> CODICE PENALE, art. 163.

<sup>10</sup> *Ibid.*, art. 169.

<sup>11</sup> Constitution of Italy, art. 34.

<sup>12</sup> *Ibid.*, art. 24.

<sup>13</sup> DIGEST 1. 3. 8.

<sup>14</sup> Constitution of Italy, art. 25.

They must rather have in mind everyone who belongs to the same category to which this particular group belongs. Take the case, for example, of amnesties and pardons, which are granted at irregular intervals on special occasions to certain categories of prisoners, all the rest being excluded. Let us admit that in spite of such partiality, this practice serves to mitigate the excessive cruelty of our present penal systems. We can even consider such irregular measures as an index, indeed almost as a confession, of the defects in these systems. But it would certainly be more just, without having to wait for the radical reform that we proposed above, or any other legislative reforms for that matter, if there were periodic revisions of the sentences of all those deprived of their personal liberty, for the purpose of granting pardons to those prisoners whose behavior and situation really warranted them. Along with this, acts of grace on the part of heads of states could be put on a more rational basis. The humanitarian character of such gestures forbids that they should be abolished, but they should be organically inserted in wider and more just legislation covering the whole of this field.

9. After all these considerations, we are in a position to ask ourselves just what is meant by the constantly repeated formulas: "The law is equal for all" and "All citizens are equal before the law." It is evident that if these sayings are taken literally, especially the first, they would lead to the most absurd consequences, as though both innocent and guilty should meet with the same treatment, or children and adults. But their real meaning is that no one in the state is above the law, no one is *legibus solutus*; and that the ancient privileges such as hereditary nobility have been abolished, all citizens must now be considered as being at the same level. The value of these formulas is rather limited, for they refer to the laws in general, and laws may be unjust. Yet even unjust laws have a general application.

## BIBLIOGRAPHICAL NOTE

Among the many writings devoted to the idea of equality in relation to law, I consider the following particularly noteworthy:

## BOOKS

- F. CAZZANIGA, *L'EGUAGLIANZA STUDIATA NELLA STORIA E NELLA SCIENZA* (Cremona, 1885).  
C. BOUGLÉ, *LES IDÉES ÉGALITAIRES* (Paris, 1899).  
P. BRUNET, *LE PRINCIPE D'ÉGALITÉ* (Paris, 1910).  
M. RÜMELIN, *DIE GLEICHHEIT VOR DEM GESETZ* (Tübingen, 1938).  
H. NEF, *GLEICHHEIT UND GERECHTIGKEIT* (Zürich, 1941).  
D. DEL BO, *L'EGUAGLIANZA NELLO STATO CONTEMPORANEO* (Milan, 1950).  
G. LEIBHOLZ, *DIE GLEICHHEIT VOR DEM GESETZ* (2 ed., Munich, 1959).

## ARTICLES

- G. D. Romagnosi, *Che cosa è eguaglianza?* in 3 *OPERE* 791-797 (ed. De Giorgi, Milan, 1842).  
A. Naville, *De quelques espèces d'égalité et de quelques-uns de leurs avantages ou inconvénients*, *REVUE PHILOSOPHIQUE* 145-172 (1921).  
E. Kaufmann, *Die Gleichheit vor dem Gesetz im Sinne des Art. 109 der Reichsverfassung*, 3 *VERÖFFENTLICHUNGEN DER VEREINIGUNG DER DEUTSCHEN STAATSRECHTSLEHRER* (1927).  
H. Nawiasky, *Die Gleichheit vor dem Gesetz in Sinne des Art. 109 der Reichsverfassung*, *IBID.*  
Trieppel, Anschütz, Kelsen *et al.*, *Aussprache über die vorhergehenden Berichte*, *IBID.*  
C. Esposito, *Eguaglianza e giustizia nell' art. 3 della Costituzione*, in *LA COSTITUZIONE ITALIANA* 17-66 (Padova, 1954).