REASON PAPERS

A Journal of Interdisciplinary Normative Studies

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Editorial

With this issue, I am pleased to welcome two talented individuals to the *Reason Papers* staff, Carrie-Ann Biondi and Irfan Khawaja. Attentive readers will recall that they guest-edited the War and Liberty special issue last year, and I am delighted that they have agreed to take on the role of Managing Editors, which will surely result in a more professional and streamlined operation than I have provided as a solo act. Both of them are careful and responsible scholars as well as professionals with a commitment to excellence, and their contributions to the production of *Reason Papers* are most appreciated.

Aeon J. Skoble Bridgewater State College Editor-in-Chief

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Morality and the Foundations of Practical Reason

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1. The Requirement to Strive for Truth

The normativity of practical reason derives at least partly from morality. The reason is that the norms of practical reason must include a requirement to strive to ensure that both one's relevant beliefs and one's relevant belief-like propositional attitudes are true; the only plausible justification for this requirement is a moral one. It may seem artificial to make a distinction between beliefs and belief-like propositional attitudes. However, the importance of the distinction will become clear as the argument unfolds. It will unfold as follows. First, I shall argue that this particular norm is a necessary element in any plausible set of norms of practical reason. I shall enumerate the possible types of justifications for it, and immediately eliminate the possibility that it is a matter of the antecedents of belief. Second, I shall argue that an effective norm of practical reason cannot be based on the contention that it is logically true that beliefs ought to be true. In other words, it cannot be based on the intrinsic properties of beliefs. Third, I shall argue that a rational person need not commit himself to believing truly in all cases. Instead, he might commit himself to believing that which will promote successful action. In fact, I will argue that the latter commitment is more rational than the former. Fourth, I shall examine potential consequentialist justifications. I shall argue that only the one that appeals to moral considerations can provide an adequate foundation for a requirement to strive to believe truly.

2. The Requirement as Part of Practical Reason

As for the necessity of the requirement to strive to believe truly, if you are to discover what you ought to do, you must possess true propositional attitudes about the relevant aspects of your situation. If you have false ones about some relevant aspects of it, if you conclude that you ought to perform a particular action, and if your conclusion is correct, then you have merely been lucky. For instance, if you want to treat others in morally appropriate ways and if you are wrong about the beings who are worthy of moral respect, you may fail to respect those who merit respect and treat with respect those who

do not merit it. (For example, the animal rights activist who holds non-humans in greater regard than he holds humans may go wrong even if he wants to do right.) If you are right about what you ought to do, it is an accident. The odds are against your being right by chance, though, and you can alter them only by striving to ensure that both your beliefs and your belief-like propositional attitudes are true. It is inconsistent to contend that one ought to do something but that one does not have to do what is necessary to succeed or to increase the probability of success. Therefore, the norms of practical reason must include a requirement to strive for truth with respect to at least some of one's propositional attitudes. Trying to ensure that one's action-guiding propositional attitudes are true is a necessary condition for objectively rational action. That one strives to ensure that they are true is a necessary condition for being a rational agent.

As for justifying the requirement to strive for truth, any justification must have to do with the antecedents, the intrinsic properties, or the consequences of beliefs or belief-like propositional attitudes. With respect to the first option, it is not plausible that it is a matter of antecedents. The justification for a process always depends on the justification for the products. Some faulty products may be tolerable, but, on the whole, the process must issue in good things in order to be justified. The process of acquiring beliefs or belief-like propositional attitudes is no different. Therefore, there are two main types of possible justification left to consider.

In the case of the first of the two main types, there are two variants. First, there is the possibility that it is conceptually true that proper beliefs are truth-bound, that is, that it is logically true that beliefs ought to be true. (The "ought" used here is an epistemic, not a moral, "ought.") The nature of beliefs is such that false ones are naturally faulty. This seems to be the most widely accepted view. As I shall argue, the problem is that, even if proper beliefs were truth-bound, the conceptualist (as I shall call the proponent of this view) could not show that all belief-like propositional attitudes are beliefs. Hence, he cannot show that all belief-like propositional attitudes ought to be true even though their truth-value is important when it comes to practical reason. This subverts practical reason.

Second, there is the notion that rational individuals are bound to commit themselves to the view that beliefs are truth-bound. I shall argue that the rational person has a better option and, therefore, that there is no justification for requiring him to commit himself to the view that beliefs are truth-bound. The better option, as already indicated, is for the rational person to commit himself to believing only propositions that promote successful action.

The second main type of possible justification is that it is a matter of the consequences. There are two sub-types. With the first of the sub-types, the justification for the requirement is in terms of the consequences for the

believer alone (or all those whom the believer cares to take into account). With the second, it is justified in light of the consequences for the believer and those affected by the believer's actions. In the case of the second of these options, the justification for the requirement is a moral one. The moral justification is the only one that survives examination.

3. Conceptualism

What distinguishes what I shall call "conceptualism" is the view that if a belief is false, then it is "necessarily faulty or defective." Quite a number of philosophers seem to hold something like this view. They, like so many philosophers, seem to assume that actual beliefs are the only possible belief-like propositional attitudes. Unfortunately, the conceptualist cannot justify an effective demand that we always strive for truth. An effective demand that we always strive for truth would require us to forgo some beliefs. The most that conceptualists can justify is the demand that we forgo or re-categorize them. In the second instance, what we thought were beliefs would be re-categorized as belief-like propositional attitudes that are not beliefs. The reason conceptualists cannot do more is what I call the classification problem.

The classification problem begins with the claim that beliefs are not like daisies. One cannot pick them up or pick them apart. (The beliefs in question here are mental states rather than propositions—as propositional attitudes, they are the attitude and not the proposition.) We do not directly observe them. We postulate them in order to explain what we observe. Since beliefs are not like daisies, it is impossible to treat them like daisies. With directly observable specimens, one can do two things. First, one can identify them as the sort of thing they are. Second, having identified them, it is possible to determine whether they are good specimens of their kind. One can first identify a flower as a daisy and then one can observe that it is defective. For instance, one might observe that the stamens or pistil was underdeveloped and that it was incapable of reproduction. Thereupon, one could reasonably conclude that the daisy was defective. Thus, it is possible, in principle, to evaluate daises effectively at least in some respects.

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¹ J. David Velleman, "On the Aim of Belief," in his *The Possibility of Practical Reason* (Oxford: Clarendon Press, 2000), p. 277.

² I. Lloyd Humberstone, "Direction of Fit," *Mind* 101 (1992), pp. 59-83; Ward E. Jones, "Explaining Our Beliefs: Non-Epistemic Believing and Doxastic Instability," *Philosophical Studies* 111 (2002), pp. 217-49; Mark Leon, "Responsible Believers," *Monist* 85 (2002), pp. 421-35; Bernard Williams, "Deciding to Believe," in his *Problems of the Self: Philosophical Papers* 1956-1972 (Cambridge: Cambridge University Press, 1973), pp. 136-51.

We can't evaluate beliefs in the same way that we can evaluate daisies. The case of beliefs is more like the following. Let us suppose that we have concluded that being white is an essential property of daisies. Let us also suppose that there are some flowers that are just like daisies except that they are pink. Moreover, let us suppose that they equal white daisies in terms of reproductive success and in all other respects. Confronted with them, we have to decide how to classify them. On the one hand, we could conclude that the essentialist definition was wrong and that they were daisies despite being For proponents of the essentialist definition, this would constitute capitulation and, no doubt, they would prefer not to capitulate. On the other hand, we could try to cling to the essentialist definition. In the latter case, we would have to choose between classifying the pink flowers as defective daisies and categorizing them as specimens of a new species. The problem is that there is no way to make the decision non-arbitrarily. The arbitrariness is a consequence of the fact that we cannot show either that the pink flowers ought to be white or that it is not the case that they ought to be white. Therefore, we are never justified in concluding that they are defective daisies rather than perfectly good specimens of a new species. The impossibility, in principle, of deciding whether they are defective daisies or good examples of another kind of thing is an instance of the classification problem.

In general terms, the classification problem is that, when we have an essentialist definition of a kind K and when specimen S has all of the essential properties of a member of the kind K bar one or two, there is no non-arbitrary way to decide whether S is a defective member of the kind K or a good example of another kind, K_1 . Intuitively, it is more reasonable to conclude that our definition is wrong or that we're dealing with a new kind of thing. The notion that there could be a defective example of an old kind of thing that is defective because it lacks an essential property of instances of the kind at least verges on the incoherent. However, I am trying to be as charitable as possible and, hence, will assume that the position is coherent. I will not press an incoherence objection because, obviously, conceptualists don't regard their position as incoherent. Conceptualism fails nonetheless.

At any rate, the classification problem confronts the conceptualist. People often reject beliefs because they are false. Conceptualists contend that it is because it is conceptually true that beliefs are truth-bound, that is, that they ought to be true. They claim that if something is really a belief, that is, if it is a proper belief, then it is truth-bound. When they say things to the effect that false beliefs are "necessarily faulty or mistaken," it is clear that they hold that beliefs necessarily ought to be true. If they encountered a propositional attitude that was like a belief in all respects except that it was not true, however, they would face the same choices as we faced in the case of the pink "daisies." They would have either (1) to give up their concept of belief or (2) both to retain it and either (a) to declare the propositional attitude defective or

(b) to conclude that it is a new kind of belief-like propositional attitude that is not actually a belief. If conceptualists want to retain their concept of belief, they must decide between declaring the specimen in question to be defective and conceding that it is a new kind of thing. But they cannot decide at all. They have no grounds on which to justify a preference for either alternative (unless the defective-belief view is incoherent). They have no grounds because they cannot establish that the propositional attitude in question is truth-bound or that it is not. Given that being truth-bound is an essential property of beliefs, this is equivalent to saying that they cannot show that it is a belief or that it is not.

It is to be emphasized that I am not now challenging the view that beliefs are truth-bound. The problem is that there can be belief-like propositional attitudes that are not beliefs. The fact that water is essentially H_20 does not show that there are no other liquids. The "fact" that beliefs are essentially truth-bound does not show that there are no other, belief-like, propositional attitudes that are not. It would not help the conceptualist to say that being truth-bound is a contingent property of beliefs. If this were contingent, it would be necessary to argue consequentially that it should be rejected.

It follows that conceptualists cannot justify the rejection of any belief-like propositional attitude. The most they can justify is either rejecting it or categorizing it as another kind of thing. Surely, however, if someone possessed a propositional attitude that would be defective if it were a belief and if he were confronted with a legitimate requirement to do something about it, it would not always be enough for him to call it something else. The re-categorized propositional attitude would still have an effect on action and would still be a matter of concern for practical reason. Indeed, the recategorized attitude would have the same effect on action as beliefs do. If recategorization were enough, practical reason would be subverted. Consequently, conceptualists cannot justify the effective regulation of beliefs and belief-like propositional attitudes. Effective regulation would require us sometimes to reject some propositional attitudes, period. It might be all right to decide the issue arbitrarily one way or the other for the sake of ontological convenience. It is not all right when it comes to the propositional attitudes that we *ought* to accept or reject for the sake of discovering what we *ought* to do.

If conceptualists are to have any hope of justifying the requirement to strive to believe truly, they must respond to the classification problem. If they are to respond adequately to it, they need to show both that any re-categorized belief-like propositional attitudes really are beliefs and that they should be rejected. However, they face a dilemma in connection with this double task.

On the one hand, if they were to *define* a belief as a truth-bound propositional attitude, they would equivocate. The belief-like propositional attitude in question would have to be identified as a belief on the basis of some properties it possessed but rejected as defective on the basis of others. If being truth-bound were a *defining* characteristic of beliefs, however, any candidate that ended up being rejected as defective because it was not truth-bound should not have been identified as a belief in the first place. Any argument to the effect that it was a defective belief would involve equivocation with one concept of belief being used for its categorization and another for its rejection.

On the other hand, if being truth-bound were not a defining characteristic of beliefs, it would be impossible to justify a requirement that all belief-like propositional attitudes be truth-bound. The fact that a propositional attitude has some particular properties does not entail that it has another, distinct, property. In the present case, the fact that a propositional attitude *is* a representation does not entail that it *ought* to be accurate. Moreover, the existence of such an entailment would violate Hume's Law.

It follows that any conceptualist argument to the effect that a propositional attitude was defective because it was not truth-bound when there was no independent evidence that the attitude was a belief (and there never is) would involve either equivocation or an invalid inference. Since the two types of response, depending on whether being truth-bound is a defining or a non-defining characteristic, exhaust the alternatives, there can be no good conceptualist responses to the classification problem. Therefore, if a belief-like propositional attitude is not true, we have no more reason to think that it is a defective belief than that it is a different kind of propositional attitude that is perfectly unobjectionable.

Moore's paradox³ cannot be used to help the conceptualist. It may be paradoxical to say "It is raining but I believe that it isn't." It is not paradoxical to say "It is raining but I will assume that it isn't." There is nothing paradoxical about proceeding on the basis of counterfactual assumptions. Moore's paradox gives us no reason to think that a belief-like propositional attitude is a defective belief rather than some other perfectly good belief-like propositional attitude that resembles an assumption rather than a belief when it comes to being truth-bound. An essentialist analysis of belief enables us to distinguish beliefs from non-beliefs. It does nothing to support the contention that beliefs are the only belief-like propositional attitudes that exist.

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 $^{^3}$ Michael Clark, *Paradoxes from A to Z* (London and New York: Routledge, 2002), pp. 117-21.

These results can be generalized. We can reach a similar conclusion no matter what non-relational properties of beliefs we consider. Any propositional attitude that would be rejected as a defective belief could be rehabilitated as an instance of another kind of propositional attitude. Moreover, the results can be generalized in that the same sorts of moves could be repeated with respect to other propositional attitudes. No matter the propositional attitude and no matter its properties, the classification problem remains. It does not matter whether the properties are connected with the origin, the intrinsic nature, or the function of the propositional attitude. Therefore, conceptualists cannot justify the effective regulation of any of our propositional attitudes.

4. Adler's Conceptualism

So far, I have assumed that being truth-bound is an objective property that exists independently of human beings. Another approach would be to claim that a rational person who reflects on the reasons for accepting some beliefs rather than others must commit himself to accepting true beliefs and rejecting false ones. This approach may overcome the classification problem. It could be argued that a rational person would commit himself to accepting truth and rejecting falsity no matter the propositional attitude. I will not try to argue otherwise. Instead, I will consider the question by examining the views of Jonathan Adler.

Adler advances what he calls "the subjective principle," which is that "when one attends to any of one's beliefs, one must regard it as believed for sufficient or adequate reasons." Adler asserts that we take "the demand we impose on ourselves for sufficient reasons as having the force of necessity" and that "we impose the demand for adequate reasons on ourselves as a demand of belief." Unfortunately for Adler's argument, this is not the only option for a rational person and it may not be the best choice. A rational person who reflected on the reasons for accepting beliefs might instead commit himself to accepting beliefs that enable him to act successfully in the world, where acting successfully is achieving the goals he sets out to achieve, barring interference and changed circumstances. For such a person, truth would be important because, in almost all cases in which beliefs enable us to act successfully in the world, they do so because they represent the relevant

⁴ Jonathan E. Adler, "The Ethics of Belief: Off the Wrong Track," *Midwest Studies in Philosophy* 23 (1999), p. 268.

⁵ Ibid., p. 270.

⁶ Ibid.

aspects of the world accurately enough. However, accurate representation would be only of instrumental value. Its value would depend on the value of successful action. Truth would not be an end in itself. It would merely be the means to an end. This would be the case even if all and only true beliefs promoted successful action.

It might be objected that we reject beliefs when they are inadequately supported and that that is evidence that we put truth above advantageousness. It is certainly true that beliefs do not usually persist if someone realizes that he holds them for reasons other than that he has acknowledged and respected the evidence for them. However, it does not follow that we have to regard all of On the contrary, Adler's our beliefs as believed for sufficient reason. subjective principle is demonstrably false. As for a counter-example, I believe in the external world but skeptical philosophers have persuaded me that I lack sufficient evidence for its existence. My belief endures despite the fact that I have no answer for the skeptics. Moreover, I am not convinced that I will ever get a proof or that any proof would turn out to be relevant to the explanation for my now believing in an external world. I believe, but I do not believe for what I regard as sufficient reason. Adler might object that someone like me is "not being honest with himself," which is his response to those who would deny his contention, but that is just an abusive ad hominem. Even if I were being disingenuous, someone exposed to skeptical arguments could end up in the position I claim to be in without self-deception and that is enough to justify rejecting the "subjective principle." Naturally, if the rational person chooses to believe what enables him to act successfully, he probably will believe in an external world despite the lack of evidence. After all, he will lose nothing thereby except potentially paralyzing doubts about whether it really exists. There are other examples, but this is the least controversial.

Not only are there counter-examples to the subjective principle, there is, in some cases, an alternative explanation for the fact that we reject beliefs when we understand that we believe for reasons other than the evidence. While Adler is no doubt right about most cases of the phenomenon, he is not right about all. While believers typically know that truth has a strong tendency to correlate with evidence and almost always find it advantageous to acquire truths rather than falsehoods, the reason for rejecting unsupported beliefs might sometimes have to do with wanting to maintain a reputation as a reliable informant. The latter factor is definitely a better explanation for one of the cases Adler discusses. He mentions a psychological experiment in which people chose the right-most item in a display of identical items and then "explained" their choice by saying that the item was better than the others. He claims that this phenomenon can be explained by the subjective

⁷ Ibid., pp. 268-69.

principle. But the subjective principle cannot provide a complete explanation for the phenomenon. In particular, it cannot explain the human preference for rationalizing the belief instead of rejecting it. Given the subjective principle, the two reactions should be at least equally probable, but they are clearly not. In contrast, if people were disposed to maintain reputations as reliable informants, the reason for the bias would be clear. Admitting that they had believed something for no good reason would constitute an admission that they were not always reliable sources of information about the world. We can get away with believing in the external world without having sufficient evidence for it because that is what others expect us to believe. We can't get away with "overbeliefs" so readily in other circumstances.

Adler is thus mistaken. It is as improbable that we have a "rational commitment to the truth" as that it is conceptually true that beliefs are truth-bound. It is as mistaken to think that "the function of the belief-forming system is to produce true beliefs" as it is wrong to think that "beliefs aim at truth." We are opportunistic Darwinian organisms, not fixed Aristotelian creatures. There has been natural selection for the capacity to see because the ability confers advantages on sighted organisms. It would be bizarre to think that the function of vision was to enable beauty to be admired. It is just as bizarre to think that the function of our belief-forming system is to enable truth to be apprehended. If we are rational beings, we are rational biological beings. Even if believing truly were a naturally selected heuristic for acquiring advantageous beliefs, it could conceivably be rational consciously to override it and to act contrary to our naturally selected instinct for truth on some occasions.

5. How Consequentialism Succeeds

In contrast to the two conceptualist approaches discussed, consequentialism is capable of justifying a requirement to strive to believe truly. It could be argued that beliefs ought to be so proportioned to the evidence that the probability of their being true is maximized because it would be imprudent for the believer to do otherwise or because the believer would be more likely to perform wrongful actions if he did otherwise. Neither potential argument is compromised in any way by the possibility that we have propositional attitudes that are not beliefs. Consequentialist justifications for the regulation of beliefs can be readily extended to cover such cases. If beliefs' having undesirable consequences justifies regulating them, then non-beliefs' having undesirable consequences justifies their regulation as well.

⁸ Leon, "Responsible Believers," p. 421.

⁹ Williams, "Deciding to Believe," p. 136.

The question now is to determine which of the two possible types of consequentialism is the better one.

It is not always in the interest of an agent to strive to ensure that his relevant beliefs and belief-like propositional attitudes are true. For example, it would be in the interest of a consciously and conscientiously Kantian slave-owner to believe that his slaves were not human beings if his owning slaves increased his material well-being. If the slave-owner's aim were to live according to Kantian principles, however, his false belief that his slaves were not human beings would prevent him from achieving his goal even as it served his self-interest. Since they can diverge in this way, the requirements of practical reason are not the same as the demands of self-interest. Self-interest permits us to believe falsely. Practical reason still requires us to strive to believe truly. Therefore, an appeal to self-interest cannot justify a requirement to strive to ensure that our propositional attitudes are true.

In contrast, it is possible to justify the requirement to strive for truth by appealing to moral considerations—morality might require us to forgo some advantageous falsehoods. First of all, there seems to be something of a moral case for trying to avoid inadequately supported beliefs. 10 Of course, there are cases in which false beliefs are innocuous or beneficial as well as ones in which they lead the believer to perform wrongful actions. Therefore, it is necessary to argue that we are not capable of making the right decisions on a case-by-case basis and that the best policy is to try to avoid believing falsely on all occasions. As for the former conjunct, we cannot believe at will. All we can do is to try to develop adequate standards of evidence and to believe only in cases in which they are met. As for the latter, given things like the master-race syndrome that afflicts some nations, we probably gain more than we lose when we eschew inadequately supported beliefs. There are certainly losses, but the gains outweigh them. The policy is justified in the light of the interests of all, not just the believer, and in the light of all of its consequences.

Second, if we have an obligation in a particular situation, we will have a secondary obligation to investigate thoroughly enough to determine the nature and extent of our primary obligation. Moreover, we have an obligation to try to determine whether we have any obligations in any situation. So, given the usual caveats about having the requisite time, ability, and opportunity, we have a moral obligation to acquire relevant true beliefs as

Ethics of Belief," *Philo* 7 (2004), pp. 79-96.

William Kingdon Clifford, "The Ethics of Belief," in his *Lectures and Essays*, vol. 2, ed. Leslie Stephen and Frederick Pollock (London: MacMillan, 1879), pp. 177-211; Brian Zamulinski, "A Re-evaluation of Clifford and His Critics," *The Southern Journal of Philosophy* 40 (2002), pp. 437-57; Brian Zamulinski, "A Defense of the

well as to avoid false ones. It is not permissible to substitute false belief-like propositional attitudes for true beliefs. If truth matters in the case of beliefs for consequentialist reasons, it matters in the case of belief-like propositional attitudes that have the same effect on action as beliefs do.

It might be objected that the moral justification for the requirement would require us to give up believing in the external world and that that is too high a price to pay. However, that unsupported belief might be excusable because we can't help believing otherwise. One possible explanation for this is that there has been natural selection for the belief and that it therefore isn't as susceptible to rejection as the beliefs that we have acquired through our immediate contact with the external world. An evolutionary account for the origin of our belief in the external world is plausible in a way that an evolutionary account for the Kantian slave-owner's belief in the non-human status of his slaves is not. Certainly, the belief in the external world has persisted and seems likely to persist, while the belief in the inferiority of slaves has faded. Of course, this is not an adequate defense against this objection to the moral justification for the requirement, but it is evidence that the moral justification is defensible.

6. Conclusion

If the options can vassed so far are all of the options, and they seem to be, appealing to moral consequentialism is the only way by which to justify a requirement to strive for truth. Since the requirement to strive for truth has to be justified in moral terms, if it is to be justified at all, and since it is a necessary ingredient in all possible sets of norms of practical rationality, it follows that the normativity of practical reason derives at least partly from morality. The claim made at the outset is thus true.

A Unified Theory of Intrinsic Value

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1. Introduction

a. Thesis

There are a variety of candidates for the ground of intrinsic value. Different theories posit that the ground consists of some or all of the following: types of experiences, desire-satisfaction, virtue, meaningful relationships, true beliefs, desert-satisfaction, etc. The ground can be local or global depending on whether it grounds value of a fact-specific part of the universe (e.g., Jones enjoying this ice cream) or all facts considered. In this essay, I argue that the single ground of global intrinsic value is the total amount of desert-adjusted well-being. I begin by providing a sketch of moral desert. I then argue that desert-adjusted well-being alone satisfies our intuitions about global intrinsic value.

b. A brief overview of desert

I begin with the structure of desert. Roughly, desert is a relation that determines the intrinsic goodness of things. More specifically, it is a function that converts a ground (e.g., a person having a certain degree of virtue) and an object (e.g., that person's level of well-being) into a level of intrinsic value. The complex formulation leaves open whether desert-satisfaction is by itself intrinsically valuable or whether it affects intrinsic value only by changing the value of some other factor (e.g., well-being).

I shall make a number of assumptions that will not be defended in this essay. First, I will assume that the event or state that is deserved is something that affects the deserving person's well-being. This in part makes the range of

¹ This structure of desert is different from the standard account found in George Sher, *Desert* (Princeton: Princeton University Press, 1987), pp. 6-8; Louis P. Pojman, "Does Equality Trump Desert?" in Louis P. Pojman and Owen McLeod, eds., *What Do We Deserve?* (New York: Oxford University Press, 1999), pp. 283-97; James Sterba, "Justice and the Concept of Desert," *The Personalist* (1976), pp. 188-97. The standard account asserts that subject, *S*, deserves object, *O*, just in case it is intrinsically good (or bad) that *S* receive *O* in virtue of having some ground. For example, a woman deserves the love of her son just in case she has been a caring and effective mother to him. The problem with this definition is that it assumes that desert is an independent ground of intrinsic value, and some influential accounts deny this.

objects of desert (i.e., that which is deserved) depend upon the kinds of things that can affect a person's well-being. So, for example, the issue of whether a dead person can deserve things, such as remembrance, depends in part on whether a person's well-being is affected by post-mortem events.

Second, I assume that the subject of positive or negative desert is a morally responsible agent rather than an abstract entity, say, a musical score, or a non-responsible agent, say, the spitting cobra. In this essay, I focus on moral rather than non-moral desert. One who thinks that creatures that are not morally responsible agents who can nevertheless morally deserve things will be able to accept much of what is commonly said. When someone makes statements such as "Liu's musical score deserved the Oscar," or "The spitting cobra deserves its fearsome reputation," the truth of these statements does not depend on moral desert. Perhaps in cases like these it depends on some kind of non-moral desert.

Third, even though I maintain that a deserving being is a morally responsible agent, I will not assume that a person has to be morally responsible for the ground of her desert claim. On certain accounts, desert is sensitive to a particular type of intrinsic value, namely, that which accrues to an agent in virtue of some act or characteristic for which she is morally responsible. Other accounts do not make such a claim.² One case in which these two kinds of account will disagree involves compensation for an unjust injury that the injured person is not responsible for receiving. Accounts of the first kind imply that the person cannot deserve compensation in such a case, while accounts of the second kind imply that such compensation can be deserved. Moreover, accounts of the first kind deny that a person can deserve treatment simply in virtue of being a person, where this is understood in terms of having certain capacities (e.g., rationality), since a person is not responsible for her own possession of such capacities. Accounts of the second kind, on the other hand, may entail that somebody can deserve something simply in virtue of being a person. In this essay, I remain neutral with respect to these differing views.

Fourth, I distinguish desert from merit. The person who is the most meritorious is the one who ought to receive something under certain conventional rules (i.e., rules that result from a social understanding). This might rest on attributes for which a person is not responsible or for which he is not the most deserving. Consider Al, who wins a race because he is the fastest sprinter in it. However, another competitor, Bob, worked harder, sacrificed more, and would have won the race because he was faster than Al.

² An argument against the notion that the ground of desert must be something for which the agent is morally responsible can be found in Fred Feldman, "Desert: Reconsideration of Some Received Wisdom," *Mind* 104 (1995), pp. 63-77.

Unfortunately, racist thugs beat Bob up minutes before the start of the race. In such a case, Al merits but does not deserve the title.

Fifth, I do not think that desert satisfaction requires a causal connection between the ground and object of desert.³ I consider desert satisfied when a person receives the event or state he deserves, even if this is not caused by his act or character. For example, if a criminal escapes punishment but receives the suffering he deserves through a crippling car accident, this intuitively seems as intrinsically good as if he had received the suffering through a reliable legal process. Of course, there may be other intrinsic goods that accompany a close causal connection and that account for our preference in favor of such a connection between the ground and object of desert. For example, intrinsic value might accompany the victim's pleasure in learning of the suffering of her brutal attacker, and this intrinsic value may be independent of that which accompanies the attacker's getting what he deserves.

2. Desert-Adjusted Well-Being Alone Satisfies the Criteria for Global Intrinsic Value

a. Theories of global intrinsic value

In this essay, I shall assume that intrinsic value exists. Global intrinsic value is the intrinsic value of all facts. In contrast, local intrinsic value is the intrinsic value that something would have if it were the only thing that existed. This is analogous to the notion of a *prima facie* duty, which is a duty that obtains if it is not undermined. For example, some promises (e.g., to murder a child) might on some accounts produce no duty at all, rather than merely being overridden by another duty. Like an undermined *prima facie* duty, local intrinsic value is not an actual instance of value *simpliciter* since it can be enhanced, modified, or transvalued by the presence of other factors. This change in value indicates that local intrinsic value is not an actual value that by itself contributes to the value of a larger whole, but rather a mere tendency that need not be actualized.

There are several different theories of global intrinsic good. The first class of theories identifies the global ground in terms of what makes persons' lives go well (i.e., well-being).

³ This is in contrast to Thomas Hurka, who argues that the added causal connection increases the intrinsic value accruing to a person who receives deserved treatment; see Thomas Hurka, "The Common Structure of Virtue and Desert," *Ethics* 112 (2001), p. 12 n. 10. Unfortunately, almost any thought experiment in which the well-being and badness of persons is held fixed will produce a variation in another value, e.g., knowledge, and hence it is hard to get a clean thought experiment by which to defend our assumption on causation.

- (1) Welfarism: The ground of global intrinsic value is well-being.

 One plausible variant of this theory asserts that the sum of well-being is the ground of global intrinsic value.
- (1a) Arithmetic Welfarism: The ground of global intrinsic value is the sum of individuals' well-being.

The term "arithmetic" is designed to capture the notion that the sums are arrived at via addition and subtraction. There can be other variants that focus not on the sum but on some other relation between amounts of well-being. For example, one might adopt a multiplicative theory that asserts that the ground is the product of individuals' well-being. For example, if two persons both have three units of well-being, a simple multiplicative theory might entail that the state of affairs including the two has nine units of intrinsic value. Alternatively, one might adopt an analogue to the difference principle whereby the ground is equal to the well-being of the worst-off individual.

A second plausible variant identifies the ground as a function of wellbeing, but it allows that some other factor might adjust the value of wellbeing. The adjusting factor might include such things as desert or autonomy.

(1b) Factor-Adjusted Welfarism: The ground of global intrinsic value is a function of the amount of well-being adjusted by some function.

Desert-adjusted welfarism is a variant of (1b) that identifies desert as the sole adjustment factor.

(1bi) Desert-Adjusted Welfarism: The ground of global intrinsic value is a function of the amount of well-being adjusted by desert.

Note that the adjustment here is done individual by individual, since the global value depends on the value of individuals' lives. There are also arithmetic and other versions of this type of welfarism, depending on whether the adjusted values of individuals' well-being is summed or combined in some other manner.

Desert-adjusted welfarism looks at individuals' well-being with the value of each individual's state being a function of his well-being enhanced, discounted, or transvalued by his desert. For example, imagine that a state containing a person who deserves and receives +10 well-being units has a value of +20 units of intrinsic value. The state with two such persons, assuming an arithmetic function, has +40 units of intrinsic value. Other factor-adjusted welfarist theories might look at factors such as need or

autonomy, rather than desert, in determining the value of a level of well-being in an individual.

This class of theories is compatible with different theories of well-being. In particular, it is compatible with theories that identify well-being in terms of experiences, desire-satisfaction, objective-list elements (i.e., features that are independent of experiences and desire-satisfaction), or combinations of these. Objective-list elements include things such as virtue, knowledge, and meaningful relationships. This class of theories is also compatible with different theories as to whose well-being grounds intrinsic value (e.g., God, autonomous agents, sentient creatures).

The second class of theories identifies the ground as being something other than well-being.

(2) *Non-Welfarism*: The ground of global intrinsic value is independent of well-being.

These grounds are separate from well-being but still might affect it. This class of theories might focus on factors such as community, aesthetic value, desert-satisfaction, or the relation between God and his creatures. One plausible variant is that the ground is desert-satisfaction.

(2a) Desert-Satisfaction: The ground of global intrinsic value is a function of desert-satisfaction.

This theory can be in arithmetic or in some other form depending on how the degrees of desert-satisfaction across individuals are combined. An attractive version of this theory looks at the sum of various persons' desert-satisfaction. Both classes of global intrinsic good are compatible with theories that focus on average amounts of the ground (averagism) or ones that focus on the total amounts of the ground (totalism).⁵

On (2a), the intrinsic value of something is a function of the degree to which desert is satisfied. For example, consider when one person, Jane, deserves -10 units of well-being and receives it, whereas a second, Kate, deserves +10 units of well-being and receives it. On (2a), both scenarios are

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⁴ This distinction comes from Derek Parfit, *Reasons and Persons* (New York: Oxford University Press, 1984), pp. 493-502.

⁵ The notion of average well-being itself allows for a wide range of theories depending on what one is averaging over. For example, one might look at averages for different slices of time, persons over their lifetimes, or person-stages. See Thomas Hurka, "Average Utilitarianisms," *Analysis* 42 (1982), pp. 65-69; Thomas Hurka, "More Average Utilitarianisms," *Analysis* 42 (1982), pp. 115-19.

equally valuable since they contain an equal degree of desert satisfaction. This differs from *Desert-Adjusted Welfarism*, which asserts that well-being, properly adjusted, rather than desert-satisfaction, grounds intrinsic value. On (1bi), the state involving Kate is likely more valuable than that of Jane since the enhanced value of Kate's positive well-being is likely to be greater than the value of Jane's negative well-being.

Other combinations of theories are also possible. There are also hybrid theories that identify the ground with elements of both theories. A disjunctive hybrid theory asserts that well-being (adjusted or not) and other factors separately ground global intrinsic value. A conjunctive hybrid asserts that well-being and the other elements together ground global intrinsic value.

b. Metaphysical criteria

The successful theory of intrinsic value must meet certain metaphysical conditions as well as satisfying a range of intuitions about particular cases. The distinction between the two criteria is not a sharp one since the metaphysical conditions are justified at least in part on the basis of intuitions.

The ground of global intrinsic value must adequately rank different scenarios and satisfy certain plausible principles. Specifically, it can be used to produce a real-number ranking of every scenario. A real-number ranking has a true zero point and equal intervals between units of measurement. This is based on an analogy to other quantity rankings. Both classes of theories can satisfy this requirement.

The notion that intrinsic value involves a real-number ranking is supported by several reasons, albeit weak ones. First, it is difficult to generate scenarios that intuitively seem to be intransitively ranked.⁶ Second, intrinsic goodness rankings have a true zero point. This is the point at which the states of the objects of the world do not make the world any better or worse than a vacuum. Third, levels of well-being seem to allow for interpersonal real-number ranking, and to the extent that some version of *Welfarism* is true, this would appear to support such rankings. Fourth, another area of morality, rightness, seems to allow for real-number ranking and one might think that adjacent areas of value theory admit of similar analyses. It intuitively appears that we can provide a real-number ranking of things such as just punishment

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⁶ A few purported cases of intuitively plausible intransitive rankings occur in various contexts; see Stuart Rachels, "Counterexamples to the Transitivity of Better Than," *Australasian Journal of Philosophy* 76 (1998), pp. 71-83. Two ways in which these cases are accounted for are via higher-order goods and the diminishing marginal value of different events or states. For an example of the two strategies, see Derek Parfit, "Overpopulation and the Quality of Life," in Peter Singer, ed., *Applied Ethics* (New York: Oxford University Press, 1986), pp. 145-64, and Thomas Hurka, "Value and Population Size," *Ethics* 93 (1983), pp. 496-507. My own approach is analogous to the higher-order-good strategy but focuses on the way in which well-being is calculated.

and compensation. For example, consider when a particular wrongdoer, for example, a rapist, serves three years rather than six months in prison. Intuitively, this isn't merely more likely to satisfy the victim's (or perhaps the citizenry's) claim to punishment, but more likely to some particular degree to satisfy the claim. Here, also, there is a true zero point (i.e., no punishment). The specific degree will depend on the rapist's utility function and the degree of harm that his act caused the victim (or perhaps could reasonably be expected to cause the victim). The three years might also be equivalent to a specific amount of torture, isolation, lost wages, or other penalty. These comparisons seem to involve the sort of fine-grained rankings that typify realnumber rankings. In fact, it is the fine-grained commensurability of wrongdoings and punishments that on some accounts explains our intuition that justice provides a precise ceiling on permissible punishment.⁷ Similar fine-grained rankings and equivalency judgments also intuitively seem to characterize the status of compensatory payments. Here the fine-grained rankings help to explain the notion that justice provides an exact floor for permissible compensation and that this floor is commensurate with both a specific amount of money and the degree to which the victim was harmed. Thus, the notion that the ranking of different states of affairs should be a realnumber one fits nicely with the difficulty of generating clear examples of intransitively ranked states of affairs, the idea that in assessing levels of intrinsic value there is a true zero point, real-number rankings of well-being, and real-number ranking in an area of morality adjacent to intrinsic goodness.

There are also certain fundamental metaphysical principles about the good that are often thought plausible. Among them is the following.

(3) *Principle of Organic Unities*: The intrinsic value of a sum is not necessarily equal to the sum of the intrinsic value of its parts.

The argument for this principle is that it is necessary to account for a number of intuitions. Specifically, certain states can be bad despite having only a (locally) good part. For instance, *Smith's being pleased at the thought of Jones's suffering* intuitively seems bad. This intuition remains even though the state contains pleasure (in Smith) and no pain (since it does not entail that Jones is suffering).⁸ Similarly, this principle accounts for the comparative

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⁷ At least one theorist denies that there is such a ceiling; see H. Scott Hestevold, "Disjunctive Desert," *American Philosophical Quarterly* 20 (1983), pp. 357-63. I find Hestevold's example in support of this notion unconvincing, but a full discussion of it would take us too far affeld.

⁸ There is an issue of whether these states really have parts as opposed to attributes. In the Smith/Jones case, it seems that the object of Smith's pleasure (Jones's suffering or the representation of it) might be understood as an attribute of a complex mental state

rankings of various states. We intuitively think, for example, that *Smith's being pained at the thought of Jones's pleasure* is worse than *Smith's being in pain*. This principle is also necessary to account for the intuition that in some cases a person's character or past acts affect the value of his current pleasures. For example, consider a scenario in which, at the end of his life, Adolph Hitler lives alone on a tropical island, although everyone thinks that he died in a bunker at the end of World War II. It intuitively seems better that Hitler's life goes poorly than that it goes well. The intuition here is that the value of pleasure is reversed due to Hitler's character or past acts. This principle, if true, rules out the straightforward types of *Welfarism*, such as *Arithmetic Welfarism*, because the latter has no basis for adjusting the value of *Smith's pleasure* on the basis of its object or relation to past acts.

Next consider the following principle:

(4) *Principle of Universality*: The intrinsic value of a part is independent of the whole of which it is a part.

This principle accounts for the intuition that if something grounds intrinsic value, then it will continue to do so unless undermined or overridden. If pleasure grounds intrinsic value in a local state, then it will continue to do so regardless of the state with which it is conjoined. The underlying idea is that the intrinsic value of a thing depends on, and only on, its intrinsic properties. So *Smith's being pleased* intuitively seems to have the same intrinsic value regardless of whether it is conjoined with *Jones's being in pain*. It might seem that this conflicts with the *Principle of Organic Unities* since *Smith's being pleased* is intrinsically bad if its object is *the thought of Jones's suffering*. However, this is not a contradiction since a specific state can be a local intrinsic good (i.e., if it were an isolated state, then it would be good) without this value contributing to the value of a larger state in an arithmetic manner. Both *Welfarist* and *Non-Welfarist Theories* can satisfy this principle.

rather than a part. If this is correct, then what must be satisfied is an analogue to the *Principle of Organic Unities*. Such an analogue might state that the intrinsic value of a whole in virtue of all its properties is not necessarily equal to the sum of its values in virtue of having different particular properties.

⁹ Shelly Kagan has challenged this in his "Rethinking Intrinsic Value," *The Journal of Ethics* 2 (1998), pp. 277-97. Kagan claims to have examples that show that it is possible that there are intrinsically valuable things whose value depends on their relation to other things. His argument does not succeed if one identifies states of affairs that obtain as the bearer of intrinsic value since the intrinsic value of such states rests on non-relational attributes.

It might be objected that the *Principle of Organic Unities* doesn't apply to the sort of states with which we are concerned (e.g., *Smith's being pleased at the thought of Jones's suffering*). This is because the object of the thought, say, *Jones's suffering*, is a property of *Smith's pleasure* rather than a part of it. The underlying idea is that only particular objects, not properties, are parts of conjoined objects and, perhaps, a state that focuses on conjoined objects. The content of a pleasure is a feature of it rather than a part of it. If this is correct, then an analogue principle of the *Principle of Organic Unities* would also seem to be true. On this analogue principle, the intrinsic value of a state of affairs is not necessarily equal to the sum of the values of its exemplified properties. An analogue principle of the *Principle of Universality* also seems to be true.

Some theorists claim that there are higher-order goods. 10 Higher-order goods are ones that are intrinsically better than an equal quantity of other goods. The quantity of a good is a product of its intensity and its duration. 11 I am assuming here that goods have intensities or come in degrees. The idea behind higher-order goods is that attitudes (e.g., pleasure and true belief) can be quantified and these quantities compared in a way that is distinct from the attitudes' intrinsic importance. Such goods are necessary to account for certain intuitions. For example, they can explain why it is better to live as a fully functioning adult in ecstasy for a century than as a contented infant for 10,000 years despite the fact that the latter contains a greater amount of valuable experiences and desire-satisfaction. Alternatively, this type of example might be accounted for by the notion that objective-list elements (e.g., virtue, knowledge, and meaningful relationships) are necessary factors for a person's life to go well. This in turn is supported by intuitions that suggest that when pleasure is held fixed, a person's life goes better with the addition of these elements.¹²

Both Welfarism and Non-Welfarism can allow for higher-order effects by introducing either a plurality of intrinsic goods or a higher-order account of what promotes someone's welfare. On a monistic account of intrinsic

¹⁰ See, e.g., John Stuart Mill, in George Sher, ed., *Utilitarianism* (Indianapolis: Hackett Publishing Co., 1979), pp. xii-xiii; W. D. Ross, *The Right and the Good* (Oxford: Oxford University Press, 1930), p. 150; Derek Parfit, "Overpopulation and the Quality of Life," in Peter Singer, ed., *Applied Ethics*, p. 161; Noah Lemos, *Intrinsic Value* (New York: Cambridge University Press, 1994), chap. 4.

¹¹ The idea for this definition comes from Fred Feldman, *Doing the Best We Can* (Boston: D. Reidel, 1986).

¹² These intuitions are brought out in Parfit, *Reasons and Persons*, pp. 493-502, and W. D. Ross, *The Right and the Good*, repr. (Indianapolis: Hackett, 1988), pp. 134-41.

goodness, such as that found in *Desert-Adjusted Welfarism*, there can't be any higher-order goods since there isn't a plurality of intrinsic goods. However, there can be higher-order functions with regard to well-being. For example, my life might go better if I experience a century with a high intensity of pleasure and objective-list elements rather than an eternity of constant mild pleasure and none of the objective-list elements. This then has effects similar to that of an account with higher-order goods since it allows that a state of affairs with considerably less pleasure than a second has more value than the second. The higher-order function of well-being might be a multiplier function (e.g., well-being is equal to the product of two or more components of well-being) or a lexical-ordering function (e.g., a life with all of the elements necessary for flourishing is better than a life with any amount of only some of them). It is not clear, however, whether this latter mechanism allows for real-number ordering of either well-being or intrinsic value.

Another metaphysical notion is that the bearer of global intrinsic value is a state of affairs that obtains. The argument for this is that intuitively an individual (e.g., Smith) is not intrinsically valuable, for a world with Smith but where he has no level of well-being would not be intrinsically valuable. Nor is the attribute (a specific level of well-being) intrinsically valuable where it is unexemplified. Rather, it is a state of affairs that is valuable because it contains the individual (Smith) exemplifying a level of well-being. This state of affairs must obtain since an individual like Smith exists only in actual scenarios. Again, both *Welfarism* and *Non-Welfarism* can account for the nature of the bearer of intrinsic value. This account of the bearer of global intrinsic value is consistent with the notion that intrinsic value is essential to its bearer. This account is also consistent with statements about the intrinsic value of counterfactual states of affairs since these statements should be understood as asserting that the states of affairs would have a certain amount of intrinsic value were they to obtain.

Kantians will strenuously disagree with this claim. They will claim that if you have to choose between running over a person and a horse, assuming no danger to yourself, you are morally required to run over the latter. The best explanation of this is that a person, independent of his level of well-being, has more intrinsic value than a horse. This type of argument is unconvincing since this requirement can be explained in terms of deontological constraints rather than in terms of bringing about the best results. For example, if the Kantian has to choose whether to kill a person who will live for another day in order to transplant his organs to other persons all of whom will live for more than thirty years, he has to avoid doing so. From this, nothing follows about the value of the two results. Kantians might still argue that the well-being of non-autonomous beings has no value. However, this assertion intuitively seems mistaken.

In addition, certain variants of *Desert-Adjusted Welfarism* are compatible with the Kantian claim that horses don't count. In particular, some variants assert that the states of creatures that don't deserve anything, which is different from deserving a well-being level of zero, have no value. That is, if one viewed a being's level of well-being as having some intrinsic value only if she has the capacities to morally deserve something (whether positive, negative, or zero), then a horse's pleasure would not count. This type of theory is unappealing if one intuits, and I do, that animal pleasure is intrinsically good.

Factor-Adjusted Welfarism satisfies these metaphysical relations. It is an application of the Principle of Organic Unities because it is simply a specific theory of how the intrinsic value of a whole can differ from the sum of the local intrinsic value of its parts. It allows for the Principle of Universality since this type of Welfarism is a theory of global, not local, value. Indeed, it is likely the fact that it is unfitting for undeserving persons to receive local goods that explains why factor adjustment is relevant to the global good. This type of Welfarism is consistent with the bearer of intrinsic value being a state of affairs that obtains since it is only in such a state that there are actual individuals who have some level of welfare. This theory type is also compatible with either the presence or absence of higher-order good-type effects since it doesn't address whether ranking of states of well-being might occur merely via quantities of a single property (e.g., pleasure) or via some other ranking system.

A stronger conclusion should be drawn. The cases in which organic-unities effects occur are limited to those in which persons have positive or negative desert. The organic-unity effects kick in where there are moral goods or evils on top of the natural ones. Moral goods occur where persons are virtuous or where they receive components of well-being that fit with their being virtuous or having done virtuous acts in the past. Moral evils function in a parallel manner. The virtuousness of persons is probably not a global intrinsic-good-making factor since a person's virtue contributes to the intrinsic value of a whole state of affairs only when it is linked to a particular level of well-being. For example, we can't infer whether doubling the number of saints in the world makes it a better place until we know whether the added saints are flourishing or suffering terribly. A similar set of observations holds with regard to moral evils.

On some accounts, there is a function that makes additional units of well-being add diminishing amounts to intrinsic value. 13 This explains why we

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¹³ See, e.g., Fred Feldman, "Adjusting Utility for Justice: A Consequentialist Reply to the Objection from Justice," *Philosophy and Phenomenological Research* 55 (1995), p. 264; Neil Feit and Stephen Kershnar, "Explaining the Geometry of Desert," *Public Affairs Quarterly* 18 (2004), pp. 273-98, esp. p. 282.

intuitively think it would be better to improve the lives of suffering animals rather than flourishing ones. The same intuitions apply to persons. This would seem to present a problem for my theory since it would seem to add a factor to intrinsic value besides well-being and desert that explains the diminishing effect. However, in the case of creatures with zero desert, the desert function might account for the diminishing value. That is, the desert function for a creature with zero desert need not be a linear one. Alternatively, for creatures with zero desert, there might be a linear relation between well-being and intrinsic value but additions of pleasure might make diminishing contributions to well-being. This latter account fits nicely with the notion that pleasure is a distinctive type of feeling. ¹⁴

In addition, the purported cases of organic-unities effects with factors unrelated to well-being and desert are not convincing. Some persons claim that a universe is better if it has a diversity of types of goods (whether moral or natural) or an increasing amount of good over time. If find these examples implausible. For example, why should it matter whether a given amount of well-being is spread evenly over a period of time or whether that same amount is distributed in an increasing amount over time? The difference might be explained in terms of the universe feeling better to observers, but this is an additional welfarist good that conflicts with the notion of a fixed amount of well-being. A similar thing is true of moral good since improvement would suggest that persons were more vicious early on and it is not clear why this doesn't nullify any effects of moral improvement. Similarly, why value a diversity of natural or moral goods unless it somehow makes someone's life go better or his being more virtuous? These improvements go to the amount of good, not the forms in which it occurs.

If this is correct, then the most plausible form of *Welfarism* is the desertadjusted kind because it uniquely accounts for organic-unity effects when and only when they occur. If this is correct, then *Desert-Adjusted Welfarism* is

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¹⁴ Fred Feldman criticizes this view because of the lack of a unified type of feeling in different parts of pleasure. Fred Feldman, "On the Intrinsic Value of Pleasures," *Ethics* 107 (1997), pp. 448-66. He views pleasure as, roughly, an experience that one prefers to have for its own sake.

¹⁵ Two writers who appear to put forth such a claim about the diversity of goods are A. C. Ewing, *Value and Reality* (London: George Allen & Unwin, 1973), p. 221, and William Frankena, *Ethics*, 2d ed. (Englewood Cliffs, NJ: Prentice-Hall, 1973), p. 92. However, they might have been viewing the diversity as enhancing well-being. For an assertion of the value of increasing goodness, see Franz Brentano, *The Foundation and Construction of Ethics*, trans. Elizabeth Schneewind (New York: Humanities Press, 1973), pp. 196-97; Ewing, *Value and Reality*, p. 219.

better suited to account for organic-unity effects than other types of *Welfarism* and types of *Non-Welfarism* that don't focus on desert.

Other variables such as knowledge, aesthetic goods, and meaningful relationships are components of a person's well-being rather than a factor that adjusts the value of that well-being. One intuition behind this is that these things affect how well a person's life goes. A second is that we can't judge whether it is intrinsically better that a person have more of these things until we know about the degree to which he is virtuous or vicious. For example, whether it is intrinsically better for a person to enjoy a beautiful Hawaii sunset and have a great marriage than not depends on whether he spent the previous year helping troubled orphans or coordinating the slaughter of Tutsis.

To the extent that autonomy enters the picture, it is also an element of well-being. The idea here is that even when we hold other factors fixed (e.g., pleasure, knowledge, and meaningful relationships) a person's life goes better to the extent that it is self-shaped, rather than the result of forces that he didn't endorse. There is an issue as to whether the contribution of autonomy can be cashed out in terms of other elements of well-being, specifically, pleasure and knowledge, the idea being that what persons really want is the experience of making decisions and contact with reality. Since nothing in this essay rests on this issue, I will sidestep it.

An objector might claim that virtue and well-being independently ground global intrinsic value. He might concede that we can't read off whether additional virtue or well-being by itself makes a state of affairs a better place without knowing the value of the other factor. However, he might argue that if we hold fixed a positive level of virtue, whatever this level turns out to be, the state is intrinsically better the higher the level of well-being. The underlying assumption is that if other factors are fixed and a factor independently varies with the global intrinsic value of a state, then this factor should be seen as intrinsically valuable. More specifically, this factor should be seen as a distinct intrinsic-value-making factor. Thus the objector concludes that virtue and well-being are intrinsically valuable. ¹⁷

The problem with this is that holding the other factors fixed and positive indicates that they are part of what makes additional well-being or virtue valuable. If these were independent factors, then there would be no need to

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¹⁶ The notion that the value of autonomy is ultimately grounded in the value of being connected to reality can be seen in Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), pp. 42-45, and Thomas Hurka, "Why Value Autonomy?" *Social Theory and Practice* 13 (1987), pp. 361-82, esp. p. 372. However, both theorists probably would not accept the claim that value of autonomy can be cashed out in terms of its contribution to pleasure and knowledge.

¹⁷ I owe this objection to Shelly Kagan.

hold the other factor fixed and positive. The need to hold the other factor fixed and positive indicates that it is the relation between virtue and well-being that makes the world a better place. This is analogous to the way in which the number of molecules, heat, and volume determine the pressure of a gas. When we hold fixed a given quantity of gas molecules and heat, volume varies with the pressure. However, from this we wouldn't conclude that volume alone determines the pressure that a gas places on the walls of a container.

c. Substantive intuitions about intrinsic value

Other intuitions rule out Non-Welfarism. Consider the following worlds.

World 1: A physical world without sentience: This world has many physical objects such as mountains, rivers, and plant life, but no sentient creatures.

World 2: The vacuum world: This world consists of nothing but space.

It intuitively seems to me that the two worlds both have no intrinsic value. I realize that others don't share this intuition. Similarly, it intuitively seems to me that if God had to choose between creating the two worlds, he would be indifferent between them (unless he was going to enjoy the beauty of the former). The underlying idea here is that beauty and life are valuable because of what they do for someone, rather than valuable in and of themselves. If this is correct, then one explanation for this is that intrinsic value focuses on some element of well-being since this is what is missing from both worlds.

One issue is whether these two worlds have zero intrinsic value or no level of intrinsic value, zero or otherwise. On my account, these worlds have zero value. This is because a being that considered creating these worlds (e.g., God) should rationally be indifferent between the two worlds and a third world where beings deserve zero units of well-being and receive that amount. The underlying idea is that the addition to the world of such individuals doesn't make the world better or worse. An objector might claim that such a world doesn't have any level of intrinsic value since there are no beings at all and hence no levels of well-being or desert, whether zero or otherwise. The idea is that a vacuum has no level of well-being because a level of well-being (zero or otherwise) is not something that is present without something in which that property is instantiated. However, it is not clear why there must be a being whose life goes better or worse in order for a world to have zero amount of well-being. A vacuum has zero units of air and mass and zero

¹⁸ G. E. Moore, e.g., has the opposite intuition; see G. E. Moore, *Principia Ethica* (Buffalo: Prometheus Books, 1988), pp. 83-84.

objects and it is not clear why a similar thing isn't true with regard to units of well-being.

Aesthetic values are probably tied to well-being. First, there is a real issue as to whether aesthetic values are mind-independent. Realism about aesthetic values arguably receives less support from convergent customs, attitudes, and behaviors than moral realism does. Second, even if aesthetic values are mind-independent, it still seems that they make the world a better place only when noticed by sentient creatures. Consider a completely dark planet strewn with boulders that contains no sentient creatures. Such a planet does not intuitively seem more valuable when its boulders are arranged in a beautiful manner as compared to when they are not so arranged.

Similarly, life unaccompanied by sentience lacks intrinsic value. Consider, for example, an isolated human being who lies in a permanent vegetative state (biologically alive but without conscious awareness) for a year before dying as opposed to a scenario in which she dies immediately. Intuitively, she is no better off in one scenario than the other. More to the point, leaving aside the effects on others, the world intuitively seems no better with one scenario than the other. If human life unaccompanied by sentience is not intrinsically good, it is not clear why other forms of life should be.

The centrality of well-being is further borne out by the observation that values such as community, aesthetic value, and relationship to God are likely explained in welfarist terms. For example, if we had to choose between two worlds with equal levels of well-being but one had greater community and the other had other offsetting increases in well-being, perhaps due to increased meaningful marriages, it intuitively seems that the two worlds are equally good. Here "community" refers to features of a meaningful relationship between persons who are part of the same society but are not family. This pattern further supports *Welfarism* since it can incorporate the considerations that might be cited by a proponent of *Non-Welfarism*.

Furthermore, we can rule out a plausible variant of *Non-Welfarism* that presupposes the presence of well-being but is independent of it. We can rule out the *Desert-Satisfaction Theory*, since desert-satisfaction alone does not seem capable of picking out what is intrinsically valuable in a state of affairs. To see this, consider the following two worlds.

World 3: Bad guys: This world has two very evil persons who deserve a negative level of well-being (-20 units) and receive this amount.

World 4: Good guys: This world has two good persons who deserve a positive level of well-being (+10 units) and receive this amount.

Both worlds have an equal amount of desert-satisfaction. Since *Desert-Satisfaction* judges the value of a state of affairs in terms of desert-

satisfaction, the theory entails that the two worlds should be of equal intrinsic value. Yet it seems that *World 4* is intrinsically preferable. This result is bolstered by the fact that it is hard to see how a mere abstract relation such as desert, as opposed to a mental state, is capable of being intrinsically valuable. It seems as if abstract relations are not the sort of thing that by themselves make the world a better place. It is worth noting that *Worlds 1* and 2 also have the same amount of desert-satisfaction as *Worlds 3* and 4 (namely, perfect desert-satisfaction). The view that *World 4* is superior to the first two provides yet another reason to reject *Desert-Satisfaction*.

A deeper argument for *Desert-Adjusted Welfarism* is also available, but before turning to it, we have to explore briefly an issue surrounding the nature of desert.

d. Comparative desert

An important issue is whether desert is fundamentally comparative or non-comparative. If desert is in part comparative, then it is concerned with the well-being of one person in comparison to that of another. On a non-comparative account of desert, one person's desert is independent of another's. A comparative theory of desert can be incorporated into both *Welfarism* and *Non-Welfarism*, depending on whether the degree of comparative satisfaction affects intrinsic value by affecting the value of someone's well-being. Since I shall argue that desert is not comparative, there is no need to address which type of theory better incorporates this factor.

Because I think that there are some possible situations in which a being who is the sole person on the earth may have desert, I think that there must be non-comparative desert. For example, if the only person on earth spends his time torturing dogs and apes, it intuitively seems that he has negative desert (e.g., he deserves more pain than pleasure).

To see the difference between comparative and non-comparative desert, consider a case in which person A non-comparatively deserves the same as B, but A enjoys greater well-being. On a comparative account, it follows that B is not getting what he deserves because his desert is the same as A and he is getting less. On a non-comparative account, whether or not B is getting what he deserves depends only on facts about B. No reference to the other person is made. I think that an account that contains comparative desert should be rejected, because it leads to there being some value in leveling down. ²⁰ Imagine that there are two saints, Sebastian and Thomas, each of whom

¹⁹ The notion that there is comparative desert can be seen in Shelly Kagan, "Comparative Desert," in Serena Olsaretti, ed., *Desert and Justice* (Oxford: Clarendon Press, 2003), pp. 93-122; Thomas Hurka, "Desert: Individualistic and Holistic," in Serena Olsaretti, ed., *Desert and Justice*, pp. 45-68.

²⁰ The idea for this point comes from Kagan, "Equality and Desert," p. 304.

deserves 20 units of well-being, and that Sebastian gets 8 units (a moderately enjoyable life) and Thomas gets 4 (a minimally enjoyable life). Note that the assignment of these numbers assumes that non-comparative desert is in effect and that both are not getting what they non-comparatively deserve. From the point of view of comparative desert, lowering Sebastian from 8 to 4 units of well-being improves the situation in one respect. This is because the equally deserving persons are then no longer experiencing different levels of well-being. My intuition is that this does not improve the situation in any way that contributes to intrinsic value, and so the comparative notion should be rejected.

Others reject this intuition. Thomas Hurka argues that such a change does make the world in one respect better, regardless of whether the two saints are getting more or less than they deserve. To see why Hurka is incorrect, let us begin by modifying the above hypothetical by assuming that these two saints have (via plane crashes) landed on separate and uninhabited Pacific islands and will live there for the rest of their lives. Sebastian loses part of his hand to infection and this lowers his total well-being from 8 to 4 units. Overall, this seems to be a bad thing; but Hurka can admit this and argue that the badness of his decreased well-being outweighs the goodness of the greater degree of comparative desert. However, imagine a similar scenario in which Thomas does not even exist. Is the overall badness of Sebastian's loss any worse? I think not. If this is correct, then comparative desert does not affect intrinsic value.

Hurka provides a positive argument in favor of comparative desert. He posits a situation in which the death penalty is given to all and only blacks who deserve it, but to only some of the whites who deserve it. He then argues that the badness of this situation is not explained by the injustice of allowing white murderers to escape the death penalty.²² In this case, Hurka is correct insofar as our intuitions do appear to support the notion that the unfair pattern of death penalty distribution is an additional bad element. However, our

²¹ Hurka, "The Common Structure of Virtue and Desert," p. 26.

²² Ibid., 27. As a side note, black murderers are in fact underrepresented on death row relative to white murderers. For a study showing this from 1929 to 1966, see Gary Kleck, "Racial Discrimination in Criminal Sentencing: A Critical Evaluation of the Evidence with Additional Evidence on the Death Penalty," *American Sociological Review* 46 (1981), pp. 783-805. There have been later studies that confirmed that this pattern continues, e.g., Sheldon Eckland-Olson, "Structured Discretion, Racial Bias, and the Death Penalty: The First Decade after *Furman* in Texas," *Social Science Quarterly* 69 (1988), pp. 853-73, although these studies often attempt to explain away this pattern as due to other factors. However, given the history of racism, one can easily imagine a scenario where this was not the case.

intuitions in this case can be explained away. Suppose that the death penalty is unfairly distributed among both white and black murderers, with a disproportionately high percentage of good-looking murderers getting the death penalty and a disproportionately low percentage of ugly murderers getting it. This occurs because of the halo effect, whereby good-looking people are judged more favorably for their good acts and more harshly for their bad ones. However, nobody is aware of the effect in this context since jurors, the press, prosecutors, etc. never see enough of the defendants to recognize the pattern. The notion that this discriminatory pattern should support the abolition of the death penalty is considerably weaker than in Hurka's case. This suggests that what drives our intuitions in the racial case is the badness of persons applying racist beliefs or attitudes, and the harm caused when others notice it, not the frustration of comparative desert.

e. The deeper argument for Desert-Adjusted Welfarism

The deeper argument for *Desert-Adjusted Welfarism* rests on its connection to fittingness theory. On one attractive account of desert, desert is the fitting state of affairs for persons-with-certain-values. This is part of a more general fittingness theory. If desert is the highest-order instance of fittingness, and I argue below that it is, then it should not be surprising that desert plays such a central role in intrinsic value. To see that desert is part of a more general fittingness relation, let us examine the latter. Fittingness theory is committed to the following three claims.

- (5) Fittingness: It is fitting that locally intrinsically good things be connected to (for example, received by or be directed at) other intrinsically good things and that intrinsically bad things be connected to other intrinsically bad things.
- (6) Degree of Fittingness: The degree of fittingness is a function of the proportionality of the connection specified in (5).
- (7) Fittingness and Value: This fittingness relation affects intrinsic goodness and does so in accordance with the degree of fittingness.

Note that the first two propositions concern local intrinsic value, the third either local or global. Relations that are not fitting either lack fittingness or are unfitting; a parallel set of principles applies to them. It should be noted that fittingness theory does not rule out other intrinsic-good-making properties.

The main advantage of the fittingness theory is that it explains the unified structure of virtue and desert in terms of a more fundamental relation. This unified account comes out in Hurka's theory of virtue and desert. On Hurka's theory, it is intrinsically good that persons have a pro-attitude toward intrinsically good things and a con-attitude toward intrinsically bad things.

This theory of virtue addresses attitudes toward first-order goods (e.g., pleasure and knowledge), second-order virtues (e.g., love of others' pleasure and knowledge), and still higher-order goods (e.g., love of others' love of pleasure and knowledge). On this account, then, the virtues are those attitudes to goods and evils that are intrinsically good. Virtue is thus a higher-order good focusing on the conjunction of two intrinsic goods: a first-order good (e.g., pleasure and knowledge) and a higher-order good (attitudes toward first-order goods or other attitudes). This account is recursive because the system of valuation applies to successively higher-level goods. On this recursive theory, desert is the intrinsic good that is one level higher than virtue. Specifically, desert is the relation between a person's degree of virtue and level of well-being.²³ A fittingness theorist might explain this relation in terms of the notion that it is fitting that virtuous persons receive a level of well-being proportionate to their virtue (or viciousness). Thus the fittingness theory can provide a unified account of the structure of virtue and desert.

This fittingness principle also seems to be a good candidate for a primitive principle of goodness since it or something like it underlies other plausible principles of goodness. It is capable of explaining the *Principle of* Organic Unities. This principle asserts that the intrinsic value of a whole is not necessarily equal to the sum of the intrinsic values of its parts. For example, the intrinsic value of Smith's taking pleasure at the thought of Jones' suffering is not merely the aggregate of Smith's pleasure (which has positive value) and his thinking of Jones' suffering (which has no value since this does not entail anything about Jones). Fittingness explains this principle by accounting for the way in which the value of a whole is in part a function of the relation between its parts. Fittingness is also compatible with the Principle of Universality. This principle asserts that the local intrinsic value of a part is independent of the larger whole of which it is a part. For example, a virtuous person's enjoying ice cream is locally intrinsically good regardless of the larger state of affairs of which it is a part. Fittingness is compatible with this principle since the local intrinsic-good-making feature is present regardless of whether a fittingness relation makes the smaller state part of an intrinsically bad whole.

Fittingness further explains the nature of the bearer of intrinsic value. Ramon Lemos and Noah Lemos have argued that it is states of affairs that obtain that are intrinsically valuable.²⁴ Their argument consists of thought

²³ Hurka actually focuses on pleasure and pain but it is more plausible to leave the door open for other things that make a person's life go well; see Hurka, "The Common Structure of Virtue and Desert," pp. 6-31.

²⁴ Noah Lemos, *Intrinsic Value*, chap. 2; Ramon Lemos, *The Nature of Value* (Gainesville: University of Florida Press, 1995), chap. 2. For global intrinsic value, their theories would have to be changed so that they are borne by a maximally

experiments that show that while states of affairs that obtain intuitively seem intrinsically valuable, the same is not true for mere states of affairs, individuals, or attributes. For example, the mere possibility of a person receiving pleasure is not intrinsically good, nor is the isolated person or the abstract universal of pleasure. Fittingness explains the nature of the bearer by asserting that it is only states of affairs that obtain that contain the fittingness relation, which holds when an individual exemplifies certain attributes (e.g., virtue). It might be objected that it is fitting that the virtuous flourish even if no one is virtuous, and that my theory can't account for this because this would concern a state of affairs that doesn't obtain. However, my theory can account for this claim if it is understood in the counterfactual sense, that is, if there were a virtuous person, then his flourishing would be intrinsically valuable.

Fittingness might seem an unsatisfying principle given its rather simple and primitive nature. However, the explanatory work done by the relation suggests that it is not trivial. In fact, one might expect that if there is a unified theory of value, some relation, basic or not, would recur throughout the different levels of value.

Desert satisfaction is the highest-order fittingness relation. Desert consists of the relation between virtue and well-being. This involves a relation between the only two types of local intrinsic goods. The argument for this rests in part on the lack of other plausible candidates for local and global intrinsic value. It also rests in part on the absence of a valuable relation between different individuals' desert (assuming we reject comparative desert) or between desert and some other intrinsically valuable entity. Since fittingness involves the relation between the only two local intrinsic goods and since desert isn't part of a still higher valuable relation, it is the highest-order fittingness relation.

Since desert is the highest-level fittingness relation and since fittingness is what in part makes a state valuable, it makes sense that it would be what in part makes a global state valuable. This adds further support for *Desert-Adjusted Welfarism* since it suggests that it coheres with the large body of intuitions and principles about value. In particular, it coheres with the local value of well-being and virtue, the relation between the two, and the recursive nature of virtue, and it does so in a way that illuminates the shared relation that explains why these things are valuable.

comprehensive state of affairs that obtains, where the maximally comprehensive aspect entails that the state of affairs contains or excludes every other state of affairs. This latter point comes from Alvin Plantinga, *The Nature of Necessity* (New York: Oxford University Press, 1974).

3. Conclusion

Desert-Adjusted Welfarism asserts that the ground of global intrinsic value is a function of individuals' well-being adjusted by their desert. I conclude that this is the correct theory of global well-being. One rival, Arithmetic Welfarism, ignores the intuitively attractive cases that motivate the Principle of Organic Unities. Another class of rivals, Non-Welfarism, puts intrinsic weight on things such as aesthetic values, life, and community that are better seen as valuable because they contribute to individuals' well-being. One type of Non-Welfarism, namely, Desert-Satisfaction, doesn't satisfy our intuitions that desert-satisfaction among the virtuous is intrinsically better than similar satisfaction among the vicious. My conclusion further rests on the claim that Desert-Adjusted Welfarism can account for our intuitions about cases where organic-unity effects occur (i.e., cases where persons have positive or negative desert) and cases in which they do not (i.e., cases of zero desert). In addition, Desert-Adjusted Welfarism coheres nicely with the fittingness relation that unifies different types of local intrinsic goods. If this is correct, then desert is central to intrinsic goodness.

This theory has implications for political philosophy, since it suggests that if political and economic systems (e.g., libertarian, welfare-state capitalist, and socialist) economies are to be chosen on the basis of their effects rather than on their tendency to respect side-constraints, then they should be ranked according to the degree to which they maximize desertadjusted well-being. Elsewhere, there have been arguments over whether desert rests on acts or virtue and, if the former, whether capitalist acts ground desert. There are other complicating issues such as whether we should look at average or total values. My analysis of intrinsic value entails that to the

²⁵ For an argument that virtue grounds desert see, e.g., Thomas Hurka, *Virtue, Value, and Vice* (New York: Oxford University Press, 2001), chaps. 1-3; Hurka, "The Common Structure of Virtue and Desert," pp. 6-31; Kristjan Kristjansson, "Justice, Desert, and Virtue Revisited," *Social Theory and Practice* 29 (2003), pp. 39-63; Eric Moore, "Desert, Virtue, and Justice," *Social Theory and Practice* 26 (2000), pp. 417-42. Moore and Kristjansson argue that virtue alone does so. Some recent discussion of whether capitalist acts ground desert can be seen in Stephen Kershnar, "Giving Capitalists Their Due," *Economics and Philosophy* 21 (2005), pp. 65-87; John Christman, "Entrepreneurs, Profits, and Deserving Market Shares," *Social Philosophy & Policy* 6 (1988), pp. 1-16; David Schweickart, "Capitalism, Contribution, and Sacrifice," in John Arthur and William H. Shaw, eds., *Justice and Economic Distribution*, 2d ed. (Englewood Cliffs, NJ: Prentice Hall, 1991), pp. 168-81; N. Scott Arnold, "Why Profits Are Deserved," *Ethics* 97 (1987), pp. 387-402.

extent	that	consequences	should	determine	which	system	to	adopt,	these
issues	are of	f crucial import	ance. ²⁶			·		•	

 $^{^{26}\ \}mathrm{I}$ am grateful to Neil Feit, Thad Metz, and George Schedler for their extremely helpful comments and criticisms.

Relativism and Progress

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I wish to defend a kind of relativism. Relativism is often caricatured as the view that there are no factual or moral truths of the matter; what's "true for me" doesn't have to be "true for you." A relativist, so it is said, can believe whatever he or she likes. The result is a slackness of thought and morals. Moreover, it is often charged that relativism is self-contradictory, because it must allow that realism can be "true for realists." Again, it is argued that relativism is unable to explain the obvious growth in human knowledge over the years. Finally, it is often suggested that in these troubled times, relativism can offer no convincing explanation of the superiority (both moral and material) of the open societies of the West to the closed societies of the Middle East.

I shall argue that all of these arguments are misconceived. In particular, relativists can defend particular moral positions, can make cross-cultural comparisons, and can criticize alien cultures. Indeed, relativism is a philosophy with a particular world-view that favors tolerant open societies, and has a convincing analysis of the causes of their superiority. But before I deal with the misconceptions, I shall advance a positive argument for relativism.

1. An Argument for Relativism

I believe in a universe that is too complex for any of us to really understand. Each of us has an organized way of thinking about the world—a paradigm, if you will—and we need those, of course; you can't get through the day unless you have some organized way of thinking about the world. But the problem is that the real world is vastly more complicated than the image of it that we carry around in our heads. Many things are real and important that are not explained by our theories—no matter who we are, no matter how intelligent we are.

—William (Bill) James 1

¹ William (Bill) James, explaining (or not) the Red Sox comeback in the 2004 American League Championship Series available online at:

Relativism is a theory about how people organize their beliefs. Its philosophical roots can be found in the philosophy of David Hume and the American pragmatists. Hume argued that all of our beliefs about matters of fact and morals were based not on fundamental principles that could be true or false, but on psychological principles. Such principles—"habits of the mind," he called them—were neither true nor false, but simply were.

The pragmatists argued that we organize our beliefs to guide our actions. If our actions don't produce the results we want—that is, if we don't achieve our goals—we modify the beliefs (though we occasionally modify the goals). On the pragmatists' view, beliefs are merely tools for achieving goals, and goals are neither true nor false. Of course, most pragmatists were not relativists. The pragmatists realized the obvious—that people had different goals and had to realize these goals in a variety of environments. But many pragmatists (Peirce, for one) believed that, in the end, our differing belief systems would "converge" on a single set of optimal beliefs that would best enable everyone to achieve their differing goals in any environment, and these optimal beliefs could be called the true (for everybody) beliefs.²

Despite the optimistic view of some pragmatists that beliefs would converge to an optimal set, pragmatism leads to a simple and powerful argument for relativism, as follows.

First premise: We construct mental representations of the world to guide our actions. If the actions don't produce the results we want—that is, if we don't achieve our goals—we usually modify the representations (though we may occasionally modify the goals). This is a restatement of pragmatism in terms of representations rather than beliefs. I won't say anything more about actions and goals, assuming that these concepts are well enough understood for the purposes of this discussion. As for representations, I'll discuss them in a bit more detail below; for the moment you can imagine a representation as some sort of internalized picture of the world.

Second premise: Our brains contain only a minuscule part of the world's stuff. Even if we imagine all human brains as part of one Big Brain, there isn't anywhere near as much brain stuff as there is non-brain stuff. (Since brains are part of the world, there will always be more stuff than brain stuff. But the

http://p086.ezboard.com/fsonsofsamhornbostonredsox.showMessage?topicID=15 151.topic.

² "The opinion which is *fated* to be ultimately agreed to by all who investigate, is what we mean by the truth ...," in Charles Saunders Peirce, "How to Make Our Ideas Clear," *Popular Science Monthly* 12 (January 1878), pp. 286-302, available online at: http://www.peirce.org/writings/p119.html. I argued against convergence many years ago in my "Better Theories," *Philosophy of Science* 42 (1975), pp. 20-27.

problem is quantitatively much greater: Only a minuscule percentage of the world's stuff is brain stuff.)

Third premise: Representations and goals are particular configurations of our internal brain stuff.

These premises lead to a relativistic conclusion: Given the limited brain stuff available, how accurate can we expect our representations to be? Clearly, we can't keep track of every atom in the universe, or even every millionth atom in Topeka. Rather, we are forced to choose where to invest our representational capital: We can have detailed representations of some features of the world only if we severely simplify our representations of other parts of the world. The argument for relativism is simply that our internal representational means are too meager to enable us accurately to represent reality in its full scope.

Perhaps I can make the argument clearer by analogy: Imagine that you are standing before Breughel's painting, *Landscape with the Fall of Icarus*.³ Your task is to represent the painting on an 8½" x 11" sheet of paper using a felt-tip pen.

Clearly, your equipment is too limited to recreate the painting—if you can, then Pieter Breughel the Elder is overrated—or even to communicate more than a fragmentary sense of what the painting is. You can do a sketch of the painting, or a more detailed sketch of a part of the painting. You can write a verbal description of the painting. Or, like Auden, you can write a poem about the painting's effect. But whatever you do, you're going to leave something out.

Trying to represent the world internally is much like trying to represent the Breughel with a felt-tip pen and a sheet of paper: The means are too impoverished to enable a full representation.

For a relativist, our internal representations of the world bear the same relation to the actual world as our visual or word sketches of *Icarus* bear to the actual painting. The sketches are necessarily imperfect and fragmentary; what's more, different sketches can represent different aspects of *Icarus*.

A second analogy might be helpful: As is well known, flat (that is, two-dimensional) maps of our spherical (three-dimensional) Earth introduce distortions. Different types of maps eliminate some distortions at the expense of others. For example, the well known Mercator projection possesses advantages for navigation, but tends to distort areas; in a Mercator projection,

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³ You can see the painting on the web, available online at: http://www.artchive.com/artchive/B/bruegel/icarus.jpg.html.

⁴ I chose Breughel's painting as an example because of W. H. Auden's poem "Musée des Beaux Arts," available online at: http://itech.pjc.cc.fl.us/cschuler/clt1500/Poetry/auden.html.

Greenland appears larger than South America, when it is in fact less than oneeighth the size. Our representations, I would argue, are like two-dimensional maps of a three-dimensional world—there is always distortion, but we can choose which distortions we allow and which we don't.⁵

2. More on Representations

"Representation" is a word that tends to get the philosophical juices running in torrents, so I'll try to explain my usage, and the argument, a bit more fully.

In my parlance, a representation is not a sentence or a belief, but a mental structure that underlies our beliefs about a particular subject matter. (Perhaps "schematic" would be a better term than "representation," as it suggests a rendering that is unfaithful in some respects.)

A good analogy would be with a road map: A road map deals with a particular subject-matter in a way that can underlie a virtually limitless body of beliefs about that subject-matter—that A is north of B, that the distance from A to B is the same as the distance from C to D, and so on.

Just as there can be many different maps of the same geographical terrain, each useful for a particular purpose—road maps, topographical maps, and so forth—so there can be many representations of what is ostensibly the same subject-matter—for example, legal and economic representations of monopoly enterprises, artistic and engineering representations of a building, and so on.

The diversity of maps of a single geographical area is not inconsistent with there being right and wrong maps. If a road map says that you can take

⁵ A reviewer of this essay commented that my argument turned on "a conflation of incompleteness with inaccuracy. If I describe the room and fail to mention that there's a chair in it, my description is incomplete, but it's not inaccurate unless I falsely claimed there was no chair." Rephrasing this comment in terms of representations: Would a representation of the room that didn't represent the chair be inaccurate, or merely incomplete? After all, road maps aren't inaccurate just because they don't show the trees.

But, of course, a map that showed roads but not trees would be inaccurate if our interest was in mapping the trees. And a representation of the room that didn't contain the chair, or the bloody dagger, would be inaccurate if we were mainly interested in a place to sit, or locating the murder weapon. In short, the accuracy of a necessarily incomplete representation will depend on whether we've included the important (for us) parts.

⁶ For this map analogy, see Nelson Goodman, *Languages of Art: An Approach to a Theory of Symbols* (Indianapolis: Hackett, 1976), pp. 170-73 and 228-32.

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Route 4 from Hither to Yon, but taking Route 4 from Hither has you ending up in Strangeville instead, then there is something wrong with the map.

This last example emphasizes another feature of my use of "representations": Representations are right or wrong when measured by human purposes. If we never had any interest in using the map to go from Hither to Yon, the map might not be wrong—or rather, it would have to be judged by other purposes.

The preceding paragraphs may reassure readers that accepting my argument will require no wholesale rejection of our representations as inadequate or inaccurate, or of our accustomed standards for adopting, modifying, or abandoning representations. And, as will be seen, my kind of ethical relativism does not counsel a substantial modification or abandonment of our ethical principles. In short, there is no need to walk around in a funk (unless, of course, you're a philosophical realist).

We might analogize an acceptance of relativism to the acceptance of the theory of relativity. Einstein's theories required a massive shift in how physicists viewed the world, and yet for most of us very little changed. Our world may be non-Newtonian, but at an everyday level there are few consequences. Physicists and engineers still learn and apply Newtonian mechanics, and the rest of us assume a non-Einsteinian world. Only in the most recondite areas does relativity theory become important. Similarly, my kind of relativism is unlikely to change our ways of understanding the factual or moral universe, except at those points where we run up against radically different representational systems.

3. Is Relativism Self-Contradictory?

Many philosophers have argued that relativism is self contradictory.⁷ They would argue that, on my view, relativism itself must be a representation, and therefore no more "true" than any other representation.

Let's clear the ground a bit. On my theory, there are better and worse representations, as measured against human purposes. So a better way of framing the "self-contradiction" argument is to say that since relativism is only a representation that may answer to certain human purposes, and since I deny that there is any "convergence," there could also be realist representations that answer to other human purposes. Therefore, since relativist and realist representations would each answer to (different) human

⁷ See, e.g., Hilary Putnam, *Realism With a Human Face* (Cambridge, MA: Harvard University Press, 1990), pp. 125 and 210. Putnam's argument might not be applicable to my kind of relativism because, as discussed below, my kind of relativism is similar in many respects to Putnam's "internal" realism.

purposes, the relativist (though not the realist) cannot argue for the superiority of his views.

So? As a relativist, I'm arguing against the "ultimate" truth of any representation, including relativism itself. But I'm not arguing against the instrumental "truth" of representations, that is, their ability to advance human purposes. Of course, there are all sorts of human purposes, and I would not deny that realism may answer to some of those purposes better than relativism. But I shall try to show below that relativism may better serve some important goals.

Relativism is a theory about how humans work, and that theory countenances the claim that humans may reject relativist representations. That should not surprise us: It is not self-contradictory or circular for a theory of how humans think to allow, as part of the theory, that humans need not believe the theory.

4. Progress and Relativism

It is time to deal with what may be the main obstacle to acceptance of relativism: its seeming denial of human progress.

We live in a world of technological marvels. In little more than a century we have conquered the air and outer space, split the atom, invented the computer, and unlocked the secrets of heredity. Aren't these truths about the world? Wouldn't relativism deny what seems plainly evident—that we know a great deal about the world, and are learning a great deal more at an accelerating rate? How can the kind of progress we all observe be compatible with relativism?

Let's return to the basic argument: The world is simply too complex and diverse to be adequately represented by the limited mental resources we possess. Nonetheless, some representations may be more useful than others, in the sense of being more likely to get us to the result we desire in the situations we care about. And we can improve upon our representations still more if we can increase our representational power.

Think again of my *Icarus* example. Suppose that I increased the size of the paper in that example to two feet on a side, and permitted the use of colored pens with finer points. Then we could produce more detailed representations of *Icarus*. And just as we can improve our representational power by improving our tools, we can also multiply that power by organizing the world to help us generate more detailed representations.

Consider: I'm feeling sick, so I consult a doctor. By doing so, I avail myself of the doctor's stock of representations, gathered and refined over many years. Because the doctor went to medical school, and then practiced medicine, I don't have to. In a world with doctors and lawyers, butchers and bakers—not to mention philosophers—we can enormously expand our

representational resources. We multiply our representational power through specialization.

However, we accomplish this not only through specialization. Consider the following: You go to a library to get a specific book. You know the author and title of the book, so you first go to the catalog, where books are indexed by title and by author. You locate the book you want by locating the author's name in the catalog, going through the alphabetical list of books by that author, and noting the alphanumeric code assigned to the book. You then follow signs posted in the library that lead you to the general area where books with codes close to the code for your book are located. You search along the shelves where the books are arranged in alphanumeric order until you find the book you are looking for. The library contains a million books, the catalog five million entries, but your search takes only a few minutes.

For our purposes, the most important part of this story is that to find your book you didn't have to know anything about the other five-million-less-one entries in the catalog or the one-million-less-one other books in the library. All you had to know was how to use the catalog. We can increase our representational power through organization of our environment.

It might be useful to realize how widespread these phenomena are. I live in Connecticut, and my older son goes to school in California. Living on opposite ends of a country 2,800 miles wide and containing 290 million people, I can nevertheless reach him on the phone in seconds, and I only have to know one ten-digit number (although he's usually too busy to talk to me). If I decided to drive across the country to see him, I could get from my driveway to his dormitory with only the simplest of maps: Interstate 95S to I-80W, to I-76W, to I-70W, to I-15S, to I-10W almost to Los Angeles are all the directions I need, except for the first and last few miles. We seldom think about these marvels, but they are all around us.

Think about the library example: The reason why it's easier to locate a particular book in a library than to locate a needle in a haystack is that the books are arranged on the shelves in alphanumeric order, the catalog entries are in alphabetical order, and the books and the catalog entries are linked by the alphanumeric codes—that is, the code in the catalog is identical to the code written on the book's spine.

There's magic here, but of an easily comprehensible kind: Someone designed a coding system for the books, based on the useful facts that most books have a title and an author. There's also a well-understood ordering for letters and numerals. All these apparently simple systems require, of course, immense material and social infrastructures—the authors, the books, the book publishing industry, the library, the catalog, the library staff, to name a few. It took enormous time and effort—we're talking here about a million books that had to get written by several hundred thousand authors—but the result is that we possess means to retain, organize, and work with representations that go

far beyond the resources of any single person or group of people. We make progress, even in a relativistic world, by multiplying our representational resources and allowing them to be efficiently accessed by those who need them.

(Our power to produce more useful representations also depends, of course, on the creativity with which individuals use the available resources. I do not wish to denigrate the accomplishments of a Newton or Pasteur—or a David Hume, for that matter—by suggesting that social resources made their accomplishments inevitable. Necessary conditions are not sufficient conditions, and extraordinary individuals may shape our representations in extraordinary ways.)

Relativism claims that our representational resources will always lag behind reality. But saying that we can't represent everything, or that we can't adequately represent everything we care about, does not mean that we can't represent lots of things, including lots of things we do care about. The representational progress we make is real enough, but can never be complete. In the course of human history, we have developed larger, more interconnected societies that have enabled people to deal with more varied problems. We have invented writing, books, libraries, and computers. We know more than we used to, and we'll know lots more tomorrow.

For a realist, progress means an increase in our stock of true beliefs and a decrease in our stock of false beliefs. For a relativist, progress means an increase in our stock of useful representations. But for a relativist, such an increase is inseparable from developments in social organization. I don't increase my stock of useful representations by ingesting Gray's Anatomy or Macmillan's Highway Atlas. I have specialists I can consult, and books I can refer to. Moreover, progress for a relativist does not depend on the balance of useful representations in a single individual. If medical doctors were the only people who believed in the circulation of the blood, it might not make much difference as long as people went to doctors when they get sick. Relativism is a view about progress through social organization. A realist might consider a life alone in the woods as ennobling, but a relativist would see it as a rejection of knowledge, for it would be a rejection of access to the representations of other people. For a relativist, knowledge is inconceivable without societies, and progress inconceivable without the development of larger and more integrated societies, with highly developed systems of specialization and environmental organization. For a relativist, the development of civilization is an epistemological development.

5. Moral Dynamics

Relativism posits representations that function as guides for action. But in this regard, "factual" representations are much the same as "moral" representations: Both provide guides to action. This is not to say that there is

no difference between matters of fact and matters of value: Since we can generally distinguish between them, there must be a basis for the distinction. But I would argue that just as there can be many different "factual" representations, so there can be many different "moral" representations. Moreover, we modify our moral representations as well as factual representations based on our goals and experience.

A moral system is a system of rules for dealing with other people. Plants don't need a moral system, even for dealing with other plants. Lots of animals do need such a system, however. They have to devote some attention to their offspring or the species will not survive, which means they have to have some system of rules (or predispositions, if you want) for mating and for treating their young. Animals who live in communities need more elaborate rule systems; lions, who live and hunt in groups, need more elaborate rules than leopards, who hunt alone.

Humans have the most elaborate communities of all, and thus require the most elaborate rules. (You can also state it as "Humans have the most elaborate rules, which permits them to have the most elaborate communities.") But human communities differ significantly, both between cultures at a single time, and between the same culture over time. So a set of rules that works for one culture or at one time may not work in a different culture or in a different time.

Let's consider a specific example: A few centuries ago, Western societies were different in ways that were significant for people's understanding of whether daughters should be educated. First, families had more children, both because infant mortality was higher and because children became useful at an early age for largely agricultural family work units. This meant that women had to spend more time in child-bearing and child-raising.

Second, everyone worked hard, but men were needed to do the heavy work, of which there was plenty.

Third, women received little education, partly because everyone received little education, but also because the limited education was provided to those who would not be occupied with child-rearing.

In such a society, women and men had clear work and family responsibilities, which militated against their having the kinds of rights we take for granted today. Women were expected to stay at home and raise (lots of) children, just as men were expected to work in the fields.

Fast-forward to the present: With low infant mortality, families have fewer children. Perhaps as importantly, each child requires much more time and resources to prepare it for the modern work environment, and this also tends to result in smaller families. Moreover, today's work environment usually involves working in other people's enterprises, not the family enterprise. Finally, the changed work environment means that women can

now be more economically valuable to their families as educated workers than as home-makers.⁸

The result of these changes is that today parents who refuse to send their daughters to college, while sending their sons, are considered Bad People, whereas that wouldn't have been true a century or two ago. But, of course, we didn't get from there to here in one jump. We didn't all wake up on July 17, 1923, and say "Yesterday, I would have refused to send my daughter to college, but from now on I'm going to act on a different rule." People didn't all change at the same time (and some people still haven't changed), so at any time between 1800 and the present, there was probably a sizeable difference in views on how much education a daughter should receive. As long as rules change, there will always be differences of opinion as to the correct rules.

It's easy from my example to conclude that advocates for women's education were on the side of history, and therefore morally right. One might think that if we're all going to end up in 2000, then in 1900 people who held the 2000 views were admirable visionaries, while those who still held the 1800 view were contemptible bigots. But, of course, people who hold "advanced" views are only seen to do so in hindsight. In 1900, the future was as inscrutable as it usually is, and it's hard to fault people who got it wrong or credit people who got it right. Similarly, the shape of 2100 is not known to us now, which is okay because we don't choose our rules by guessing what the state of civilization will be a century hence.

And, of course, history doesn't have a direction, except in retrospect. Trends can be unstoppable for some period of time, and then reverse. Things change, but the direction can be erratic.

It's important to realize that lots of behavior that runs counter to our moral rules can be made to seem okay for others if we can see more of the others' cultural context. After all, we usually find it possible to forgive our parents' blinkered views, all of whom grew up in a chronologically different culture, and we hope that our children will make similar allowances for us.

6. Moral Persuasion

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The view of moral dynamics sketched in the preceding section might seem to leave no room for moral persuasion: If you believe, say, that abortion is wrong, and I believe that it is permissible, then you might think that, as a relativist, I must believe that there is no way for us ever to reach agreement. But this needn't be the case in a relativistic world.

⁸ As a relativist, it doesn't trouble me that this explanation/representation is, for many purposes, overly simple.

A long time ago, when I was in my twenties, I chanced to read Betty Friedan's *The Feminine Mystique*. I don't remember its being a particularly good book, but it did leave me somewhat shaken. I had never been close to marriage. However, I had always thought—though I hadn't thought about it very much—that eventually I would settle down with a Good Woman who would cook my meals, raise my kids, and tend to all my other material and psychological needs. That was how I imagined marriages were supposed to work, although I knew from my own family that things often did not run that smoothly.

Friedan's book convinced me that this would not be my future. For one thing, the book argued that many modern women would want careers outside the home, and I knew that I was not the kind of person who was likely to insist on my future wife's finding fulfillment in housewifery. So in part the argument of the book was that I would have to resign myself to the new social order.

But there was a second, stronger argument (though it wasn't made by Friedan): I realized—why hadn't this occurred to me before?—that the women I had always been attracted to were the ones least likely to want to wait at home to cook my dinner. So the force of the book's argument—at least for me—was not merely that I would have to adjust, but that I would want to adjust, to these new arrangements. I now looked to a life of take-out dinners and shared housework, but I saw it as not only inevitable, but as a reasonable sacrifice to make to secure the kind of life-partner I wanted.⁹

I can't say that all moral persuasion works like this, but I suspect a good deal does. We try to convince people to adjust their views as to proper conduct by convincing them that the conduct they think immoral is going to take place no matter what, and that it really isn't so bad, or at least that it isn't as bad as are attempts to repress it.

Not all moral issues yield to these attempts at persuasion. Abortion, for example, may for many people involve a moral belief that is so central that usual modes of persuasion don't work. But it's also hard to deny that precisely these types of arguments—that fetuses will be aborted in any case, and that the results of trying to repress abortion may be worse than allowing it—have in fact convinced many, perhaps reluctantly, to accept abortion.

Nonetheless, in most societies, by a combination of carrots and sticks, most people come to internalize the dominant moral views of the society. And as societies change, so do the moral views. In the early 1970s, Chinese students ran through the streets waving Mao's Little Red Book; now they stay home and read Adam Smith.

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⁹ And, in fact, things worked out rather well.

Relativism sees epistemological progress coming from a more integrated world. Accordingly, the processes of moral persuasion in a more integrated world society will lead to a less diverse set of moral beliefs. And it seems clear, to a relativist, that absent some terrible world catastrophe, this set of moral beliefs will be closer to those espoused in open Western societies than in, say, Ayatollah-ized Iran.

7. Cross-Cultural Comparisons

This epistemological progress leads us to another problem people have with relativism: its supposed inability to permit cross-cultural criticisms.

Our representations are tested by seeing whether they allow us to obtain the results we value. If they don't, we look for better representations. But if we value one thing, and another group—Islamic fundamentalists, say—value another, then we and the Islamists might be well served by quite different representations. So, in this respect, relativism might not seem to allow us to make cross-cultural criticisms.

But relativism does allow us to ask the following question: Does the representational system used by Islamic fundamentalists allow them to obtain the results they value? And here I believe the answer may be No.

I'm not a Muslim, let alone a fundamentalist Muslim, so the following characterization is going to be somewhat unsophisticated. Nonetheless, in trying to understand the Islamist's rejection of Western values, I sense a certain schizoid quality. There is a rejection of some Western values, but not all. Like Westerners, Islamic fundamentalists often want advanced medicines, and probably other advanced technologies. But they don't want the freedom of thought and action that fosters creation of these products. Of course, I may be wrong about why Western cultures are so successful at producing technological advances, but it seems clear that these products arise in Western societies and not in Muslim ones. What we are witnessing seems to me less the clash of incompatible cultures than the convulsions of an Islamic world wracked by incompatible mandates.

When a Western realist debates with an Islamic fundamentalist, the interchange is likely to consist of conflicting assertions about the way the world (truly) is. For realists, beliefs are true or false, so the only question is which one of us has the true beliefs and which the false. For a relativist, in contrast, each of our differing representations is too simple to reflect reality in all of its messy abundance. And a relativist can admit that beliefs that answer to your goals, to some degree, may not answer to mine, and vice versa. But the relativist has an additional point to make: Western societies have superior resources for generating useful representations.

For a relativist, the development of Western societies is the development of social systems for generating and coordinating representations. In Western societies, heterodox opinions are cultivated; there

are no Nobel prizes in science for people who merely retail the received wisdom. Moreover, in Western societies, education is near universal, and higher education increasingly available. Everyone, including women and minorities, is encouraged to get into the representational fray.

Of course, what makes this representational diversity work is the development of agreed-upon procedures for settling representational disputes, scientific experiments and democratic elections being the two best known. In Islamic societies, on the other hand, education is more narrowly available, heterodox opinions discouraged, and dispute-resolution procedures frequently nasty.

But, you may say, relativism can't settle the debate, because the Islamist won't accept it. Granted. But relativism can help us understand what's going on, and would help the Islamic world as well, if they ever come to accept it. And help is all that any theory can offer.

8. Living with the Relatives

It's easy enough to say—I said it above—that some representations are better than others because they are better at enabling us to reach our goals. But what are "our" goals?

My mother-in-law is a fundamentalist. She believes that the world was created by God in six (non-metaphorical) days. Darwin, to her, is a dangerous quack.

I, on the other hand, am an atheist, and I find her views quite daft. More importantly, no one I hang out with believes in creationism, including my wife and children (not all of whom share my atheism). In my world, creationism is beyond the pale.

But this is not in my mother-in-law's world. She attends a church where creationism is the only acceptable view. She can tie in to a network of televangelists and book publishers who offer irrefutable proof that Darwinism is bunk. I find the whole thing semi-repellent, and I imagine she feels the same about my views. (By tacit agreement, we don't discuss these subjects, though she occasionally gives my wife an earful.) Of course, I have a clutch of Ivy League degrees, but that's not going to cut any ice with her.

The truths of Darwinism, and the truths of creationism, are the truths of communities. But that doesn't mean that we have to leave it there. Consider this thought experiment: Suppose we separated the two communities more completely than at present. In this divided world, I (and my co-communicants) wouldn't be able to watch Jerry Falwell on television, and my mother-in-law and those of her persuasion wouldn't have access to a television or modern hospital. Which way do you think immigration would run? The debate within our own society over evolution looks somewhat like the debate between Westerners and Islamists, although the former is conducted within the context of gentler dispute-resolution procedures.

As it happens, my and my mother-in-law's differing views on evolution, while central to our world-views, are peripheral to our day-to-day lives. We don't choose our doctors, auto mechanics, or gardeners on the basis of their views on evolution.

9. The Erosion of Relativity

As communication and transportation technologies shrink our world, and global trade increases the rate and advantage of interaction, it's reasonable to think that we may slowly be evolving toward a single world culture. Of course there's no way to demonstrate that larger-scale, increased representational life is best; if you want to be a hermit, living in the woods, or practice cannibalism in Manhattan, there may be no way to reason you out of it. But most of us don't want to be hermits or cannibals, least of all people who might read this essay.

It might seem that "one world" will mean one system of moral rules, but I think that is a mistake. What seems more likely is that there will be many rule systems, but these various systems will grant believers in other systems a wide latitude to practice their divergent mores. There will be a great deal of interaction between members of different rule communities, not least because the different rule communities will not be geographically separated. Members of different rule communities will intermingle in the daily course of things, but with the expectation of, and a large tolerance for, rule differences.

A tolerance for rule differences is, for many people, what makes moral relativism anathema. But it strikes me that it is difficult to imagine the modern world without such tolerance. Moreover, I doubt whether many people who disdain moral relativism as a philosophical theory realize how much tolerance they have in their everyday lives for moral differences. We tolerate the Amish, the Arabs (up to a point), and those most familiar time travelers, our parents. Toleration of divergent rule systems is part of our daily experience.

In a complex society with role specialization, it's familiar that people with different jobs have different rights to interact with their co-workers and with the general public. In our society, police have rights to be intrusive that few other people have. Indeed, we want police officers to be nosey—at least when it comes to other people's business. A police officer's right to stop and frisk a citizen may be limited, but it's a lot less limited than a philosopher's right to stop and frisk someone he regards as suspicious (Could that swarthy fellow be a relativist?). Similarly, I don't have a right to cut your belly open, even if you should for some reason agree—unless, of course, I'm a surgeon in an operating room. We may see these different interaction roles as all part of a single social scheme, which indeed they are, but that just means that people can live and work together even though they have different rules for interaction.

The specialization can be extreme. U.S. soldiers are allowed, even encouraged, to kill people who meet certain criteria—for example, for a short time, any Iraqi in uniform who wasn't actively surrendering or any Iraqi out of uniform who appeared to be armed and dangerous. Too much hesitation, and the soldier can get killed, which isn't good for him or us. These rules are so different from the rules that other people follow, or that the soldier is expected to follow in non-combat areas, that a good deal of training is required, often of a type that would not be permitted in most other situations. Soldiers are trained, in effect, to be unsociable, at least toward those outside their unit.¹⁰

Are these examples of moral relativism, or are they just parts seen without the whole? In soccer, goalies are permitted to take actions that are penalized if taken by other players, yet soccer has an overall set of coherent rules. Are the differences between the rules followed by police officers, surgeons, and soldiers simply pieces of a coherent system of moral rules?

One problem with the "it's all one big coherent scheme" picture is that it seems to view all role-dependent rules as rules that you can put on or take off like clothing. But the ability to follow moral rules depends in some measure on character traits—some people make better police officers, others better school teachers, some people are good bosses, others good employees. And the character traits that are valued in the operating room or on the battlefield may be counter-productive in the chemistry lab or the nursery. One of the tricks about our kind of non-traditional society is coaxing the round pegs into the round holes.

10. But Is It Relativism?

Some readers may object that what I call "relativism" is close to views championed by Hilary Putnam under the rubric of "internal" or "pragmatic" realism.¹¹ For one thing, we both reject the correspondence theory of truth¹²

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¹⁰ The first half of Stanley Kubrick's *Full Metal Jacket* (1987) and the novel from which it was adapted, Gustave Hasford's *The Short Timers* (1985), make this point convincingly, though I doubt that current training is quite so ferocious.

¹¹ Putnam notes the similarity of his views to relativism in his *Realism with a Human Face*, p. 117.

¹² Putnam announced his rejection of the correspondence theory in his Presidential Address to the Eastern Division of the American Philosophical Society in December 1976, reprinted as "Realism and Reason," in his *Meaning and the Moral Sciences* (London: Routledge & Kegan Paul, 1978), pp. 123-40. My own rejection of the correspondence theory antedates Putnam's by a few years. See my "Can Beliefs Correspond to Reality?" *The Journal of Philosophy* 71 (1974), pp. 302-14.

and any philosophically important fact/value dichotomy. Moreover, Putnam's realism, like my relativism, sees our representations as merely partial pictures of the world, guided by our interests. He But, according to Putnam, this does not mean that all representations are acceptable, because our interests could be "silly, deluded, [or] irrational."

But what makes an interest "silly, deluded, or irrational"? I would argue, and I think Putnam would agree, that there are some interests that are incompatible with social organization. As human societies evolve, these interests—which we can characterize as silly, deluded, or irrational—will be winnowed out; that is, people with those interests will be denied roles (for example, as surgeons or university professors) where those interests would inconvenience the rest of us. But this agreement between Putnam and me still leaves a major issue unresolved: It may be that there are some interests that are incompatible with any organized society, but it also seems that there are interests that are incompatible with some forms of organized society but not others. For realism to work, one has to believe that societies—all societies, will converge toward a single "optimal" society. But Putnam and I both believe that there is no evidence for such a theory of convergence. Yet without such a theory, how does one judge that an interest is silly, deluded, or irrational?

Putnam argues that "our norms and standards of warranted assertibility ... reflect our interests and values," but then adds that "there are better and worse norms and standards." Then, arguing against Rorty's view that better standards are just those that seem to us to better enable us to "cope," Putnam argues that "it might seem to a neofascist community that they are coping better by dealing savagely with terrible Jews, foreigners and communists." ¹⁸

¹³ Putnam, e.g., in his *Realism with a Human Face*, pp. 163-78 and 115-17.

¹⁴ Ibid., p. 114: "[T]he internal realist ... is willing to think of reference as internal to 'texts' (or theories), *provided* we recognize that there are better and worse 'texts.' 'Better' and 'worse' may themselves depend on our historical situation and our purposes; there is no notion of a God's-Eye View of Truth here."

¹⁵ Ibid., p. 211.

¹⁶ Ibid., p. 130.

¹⁷ Ibid., p. 21.

¹⁸ Ibid., p. 22.

I can understand Putnam's desire to be able to declare fascism wrong, but I fear that in doing so he is leaving pragmatism behind.¹⁹ Nothing seems more likely to me that in the future there will be flourishing human societies that condemn practices that Putnam and I regard as unproblematic, and accept other practices that Putnam and I find repugnant. I can imagine a future in which it's a crime to eat animals, but where humans are euthanized on reaching age 110 or where everyone prefers rap to Bach.

11. The Vision Thing

Readers who have gotten this far, but still resist the argument, may feel that whatever the virtues of relativism as a philosophical theory, it lacks the inspirational force of realism: Relativism seems to offer no firmly planted standards around which its adherents can rally. There are no creeds to live by, no fixed stars to guide our wanderings. In particular, with so many rule systems on offer, how can you know which rules to accept? And what rules should you teach your children? On life's wide sea, how can you get anywhere without a moral compass? And how can relativism provide that compass?

Relax. Relativism is not a system of moral rules, only a philosophical position about moral rules. And as to the moral rules you, the reader, should adopt, the obvious answer is "Stick with the ones you've got—they've brought you this far." You already have a system of moral rules, and if you're not reading this in a prison or a padded cell, then they are probably working (for the most part). Of course, you didn't choose them, or at least you didn't choose most of them. You got them from your parents, your friends, your coworkers, your significant others, all those formative influences we can lump together under the rubric "culture." And your children will get them in the same way. Since your rules work for you, something similar is likely to work for them. They aren't you, and will no doubt modify them somewhat, but, hey, they've got to live in their world, not yours. But those worlds have a lot of overlap, and so will your rule systems.

Of course, relativism doesn't mean that every rule system must be accommodated. Our prisons are full of people who don't want to play by the rules, or rather, who want to exploit the fact that the rest of us do play by the rules. We tolerate other rules systems because, in a complex world, such tolerance makes sense. But it only makes sense up to a point. And the point at which it stops making sense can be a subject of lively debate.

knowledge community much larger than a nation-state.

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¹⁹ This is not to deny that there may be solid pragmatic arguments against fascism, of the type I sketched against Islamism. Robert O. Paxton's *The Anatomy of Fascism* (Alfred A. Knopf, 2004) suggests that fascism may be incompatible with any

Are You in a Dilemma?: What Disturbing Choices Say about Our Character

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1. What Is a Moral Dilemma?

The prevalent interpretation poses moral dilemmas as problems to be solved by moral theory. If a problem cannot be solved, the failure to solve it reflects the shortcomings of moral theory. In fact, both Edmund Pincoffs and Alasdair MacIntyre contend that there can be no moral dilemmas without moral theory. While I agree that moral dilemmas pose serious concerns for moral theory, I shall look at them primarily as posing serious concerns for moral agents. I shall argue that there is a normative component to one's *being in a dilemma*. So I am concerned not with character judgments about the products of dilemmatic deliberation and choice; instead, I concentrate on the legitimacy of making character judgments based on the very onset of a moral dilemma.

What counts as a moral dilemma is difficult to determine with exactitude, and few philosophers attempt to provide a fixed definition. But most philosophers accept that moral dilemmas are those quandaries in which an agent must choose between two or more mutually exclusive act-choices, each

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¹ See Edmund Pincoffs, *Quandaries and Virtues* (Lawrence: University Press of Kansas, 1986), and Alasdair MacIntyre, "Moral Dilemmas," *Philosophy and Phenomenological Research* 50 Supp. (1990), pp. 367-82. For other studies into the connections between moral dilemmas and moral theory, see Rosalind Hursthouse, "Fallacies and Moral Dilemmas," *Argumentation* 9, no. 4 (1995), pp. 617-32; Walter Sinnott-Armstrong, *Moral Dilemmas* (New York: Basil Blackwell, 1988); Darian De-Boldt, "Kant and Clint: Dirty Harry Meets the Categorical Imperative," *Southwest Philosophy Review* 13 (1997); and Alastair Norcross, "Should Utilitarianism Accommodate Moral Dilemmas?" *Philosophical Studies* 79, no. 1 (1995).

of which is morally required.² The options might be good courses of action or the avoidance of bad courses of action.³ Moral dilemmas are a subset of the general class of dilemmas, which includes prudential, epistemic, religious, legal, and moral dilemmas.⁴ When different domains support the mutually exclusive combinations of choices, the dilemma is said to be "mixed." For example, one may claim religious support for illegally obstructing a woman on her way to an abortion clinic. But she may have legal support for not

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² There is much more disagreement than this summary indicates, but many philosophers are in agreement that there is something of a moral demand in each actchoice. That is, morality demands that each option be chosen. Hence, each seems to be "morally required." The difficulty tends to arise when we try to understand what it means to be demanded by morality. Is it a prima facie moral demand that can be fully extinguished upon investigation? Can a moral demand be overridden and yet not be fully extinguished? Can we have demands of any kind without a lawgiver/demander? Uncovering the different senses of "moral demand" could entail a long work in itself. See Bernard Williams, "Ethical Consistency," Proceedings of the Aristotelian Society 39, pp. 103-24, reprinted in Bernard Williams, Problems of the Self (Cambridge: Cambridge University Press, 1973); William David Ross, "What Makes Right Acts Right?" in his The Right and the Good (Oxford: Clarendon Press, 1930); Walter Sinnott-Armstrong, Moral Dilemmas (New York: Basil Blackwell, 1988); Earl Conee, "Why Moral Dilemmas Are Impossible," American Philosophical Quarterly 26, no. 2 (1989), pp. 133-41; Philippa Foot, "Moral Realism and Moral Dilemma," Journal of Philosophy 80 (1975), pp. 379-98; and Christopher Gowans, Innocence Lost: An Examination of Inescapable Wrongdoing (New York: Oxford University Press, 1994), for studies into the possible connections between moral requirements and moral dilemmas.

³ Copi and Cohen write that when a "person must choose between two alternatives, both which are bad or unpleasant" he is said to be in a dilemma; see Irving M. Copi and Carl Cohen, *Introduction to Logic* (Upper Saddle River, NJ: Prentice Hall, 1999), p. 300. But the nature of the choices is not always "bad or unpleasant." A woman might reasonably be said to be in a dilemma when faced with the choice between relocating to Denver, where she can be reunited with her brother, and Philadelphia, where she can be reunited with her sister. A simple way around this is to reformulate the initial problem into the following: "The woman must choose between not being reunited with her sister and not being reunited with her brother." The choice to marry or not to marry, assuming it was a choice between pleasantries, could nevertheless be reformulated as "One may choose to marry (which would preclude her from continuing to experience the joys of single life) or one may choose not to marry (which would preclude her from experiencing the peacefulness of a higher commitment with her beloved)."

⁴ Sinnott-Armstrong, *Moral Dilemmas*, p. 8.

⁵ Ibid.

obstructing the clinic. In the interest of clarity, I limit subsequent discussion to mutually exclusive act-choices, *both of which have moral support*.

2. Moral Conflicts

Moral conflicts are situations in which one's moral outlook may be reasonably interpreted as imparting guidance to do two incompatible actions. Broadly speaking, there are two major types of moral conflicts. A first type of moral conflict, discussed in some detail by Thomas Nagel and Isaiah Berlin, arises from the fact that the available options embody a plurality of incommensurable values.⁶ In short, the moral values that give support to each option differ in kind. Clear examples of such moral conflicts abound in the philosophical literature: Euthyphro must decide which value takes precedent: civic or familial.⁸ Jesus must decide whether to honor his parents or serve his God.⁹ A second type of moral conflict arises from mere contingencies of a given situation. This general conflict form finds expression in William Styron's novel Sophie's Choice in which Sophie must choose which of her children will survive into the future. 10 And Ruth Barcan Marcus poses a similar situation in which an agent must choose which twin to save from drowning. 11 In this latter type, both options have comparable moral support, but because of the time, location, and other life constraints, both cannot be performed.

There are certainly hybrid cases of moral conflict in which an agent must choose between options that embody a plurality of values and that are forced by the contingencies of the situation. Melville's Captain Vere, for instance, must decide whether to advocate the capital sentence of Billy Budd, an innocent man, or transgress his duty to the king. ¹² I do not intend to

¹⁰ William Styron, *Sophie's Choice* (New York: Random House, 1976).

⁶ Thomas Nagel, "The Fragmentation of Value," in his *Mortal Questions* (Cambridge: Cambridge University Press, 1979); and Isaiah Berlin, "Two Concepts of Liberty," in his *Four Essays on Liberty* (New York: Oxford University Press, 1969).

⁷ Ruth Chang, in the introduction to her *Incommensurability, Incomparability, and Practical Reason* (Cambridge: Harvard University Press, 1997), points out that there is some disagreement over whether values differing in kind can be compared or not.

⁸ Plato, Euthyphro (New York: Hackett, 1993).

⁹ Luke 2:39-52.

¹¹ Ruth Barcan Marcus, "Moral Dilemmas and Consistency," *Journal of Philosophy* 70 (1980), pp. 121-36.

¹² Herman Melville, *Billy Budd and Other Stories* (New York: Penguin Books, 1989).

develop an exhaustive typology of moral conflicts; I only introduce these baseline distinctions in order to prepare us for determining the point of departure from which a moral conflict becomes a moral dilemma. I argue that there is a subjective, experiential component to moral dilemmas. But that dilemmas' existence are determined according to a first-person perspective does not preclude third-person moral judgment. In fact, as I shall argue presently, the first-person experiences of others must be treated as important forums for third-person moral criticisms.

3. The Agent-Peculiarity of Dilemmas: From Conflict to Dilemma

So when does a conflict become a dilemma? Let us focus on one particular moral conflict often examined in contemporary work on moral dilemmas, that of Sartre's student. Sartre recounts his student's quandary in his *Existentialism Is a Humanism*:

His father was on bad terms with his mother, and, moreover was inclined to be a collaborationist; his older brother had been killed in the German offensive of 1940, and the young man, with somewhat immature but generous feelings, wanted to avenge him. His mother lived alone with him, very much upset by the half-treason of her husband and the death of her older son; the boy was her only consolation.

The boy was faced with the choice of leaving for England and joining the Free French Forces—that is, leaving his mother behind—or remaining with his mother and helping her to carry on. He was fully aware that the woman lived only for him and that his going-off—and perhaps his death—would plunge her into despair. He was also aware that every act he did for his mother's sake was a sure thing, in the sense that he was helping her to carry on, whereas every effort he made toward going off and fighting was an uncertain move which might run aground and prove completely useless; for example, on his way to England he might, while passing through Spain, be detained indefinitely in a Spanish camp; he might reach England or Algiers and be stuck in an office at a desk job. As a result, he was faced with two very different kinds of action: one, concrete, immediate, but concerning only one individual; the other concerned with an incomparably vaster group, a national collectivity,

but for that reason was dubious, and might be interrupted *en route* He had to choose between the two. ¹³

Sartre's student agonizes over two mutually exclusive choices, both with moral backing.

Should he remain at home with his needy mother or should he set off for service in the French Resistance? Sartre writes that his student "had to choose between the two," but did he really *have* to choose between the two? Practically speaking, he might have chosen to seclude himself and forget about the troubles of his mother and country. Morally speaking, the language used by Sartre portrays the situation as presenting a conflict of oughts. In a conflict of oughts, morality requires that each option be chosen and acted upon. But in the student's case, there is good reason to think that there are *no* such demands, for reasons outlined by Peter Railton. Railton argues (rightly, I think) against the notion that the student's situation is one in which morality requires each action:

First, the cause of Free France really seems to be a *moral ideal* for the student, not a duty. Perhaps everyone in occupied France had some moral obligation to avoid or resist various sorts of collaboration so long as the personal costs were not too great...but it would be a singularly demanding moral conception that claimed that every young male in France had a moral *obligation* to undertake the perilous course of joining the Free French.

Second, even as a parent I rebel against the suggestion that an adult child has a clear moral *duty* to remain with a parent in these circumstances. It would be a supererogatory, not mandatory, act of filial devotion to remain with a parent in such a case. ¹⁴

For Railton, neither option of the conflict can be demanded by morality, but each should nevertheless be considered as having moral backing. The terms "ideal" and "supererogatory" are useful for capturing the non-obligatory yet morally important features of each option. Railton, in effect, deflates the categorical "magic force" out of each moral requirement, yet retains what may

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¹³ John Paul Sartre, *Existentialism Is a Humanism*, trans. Bernard Frechtman, in Steven M. Cahn and Peter Markie, eds., *Ethics: History, Theory, and Contemporary Issues* (Oxford: Oxford University Press, 2002), p. 447.

¹⁴ Peter Railton, "The Diversity of Moral Dilemma," in H. E. Mason, ed., *Moral Dilemmas and Moral Theory* (New York: Oxford University Press, 1996), p. 150.

be called "moral force." Railton's method, we may notice, is to deny that Sartre's student is in a dilemma by denying that the horns of the conflict are obligatory. So if we accept that moral dilemmas *require* that there be two mutually exclusive and non-overridden oughts, and we accept that there are no categorical oughts in his situation, then we must deny that Sartre's student is in a dilemma.

Yet even as we may with Railton deny the categorical force of the student's competing moral imperatives, we still believe him to be in a moral dilemma. But if dilemmas are not a function of a certain arrangement of oughts, then of what are they a function? I believe Sartre's student to be in a moral dilemma, but I do not think that his dilemma derives its force from a conflict of oughts. So, let me shift the emphasis from the sphere of moral requirements to the sphere of moral character. In the student's (and in all other cases of) dilemma, the point of view of the agent seems to be crucial to the understanding of the morally incompatible choices. On my view, moral dilemmas are a function of how the agent approaches his decision between two morally compelling choices. Sartre's student is not confronted by two morally demanding oughts, but there are two mutually exclusive, morally alluring options to choose from. And both are perceived to demand compliance. But if they seem to demand compliance, how is this not the "ought" demand-quality that moral realists typically say is essential to dilemmas?

We may begin to ponder the student's quandary with the consideration that we may imagine him being unmoved by the same options. Perhaps if the student was at some other point in his life, he may very well *not* have defined his situation as a dilemma. And we, too, might not call his situation a dilemma.

I, for instance, have the option of joining the army (which may soon land me on a battlefield). I also have the option of being a caretaker of my aging parents. We can easily work out a situation in which these options are mutually exclusive (e.g., I cannot take my parents to live with me on a military base). At this time, however, whether to join the army at this point in my life does not pull on me. I would think it very odd if somebody remarked to me that I was in a moral dilemma, even though I do not feel such a pull. And should somebody keep insisting that I was, I of course could not fully convince them that I was free from dilemmatic anxiety. But I could make

ascribing categorical imperatives an ungrounded "magic force."

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¹⁵ See Philippa Foot, "Morality as a System of Hypothetical Imperatives," in her *Virtues and Vices* (Berkeley: University of California Press, 1978), wherein she challenges the Kantian notion that categorical imperatives are absolutely binding. In this seminal essay, Foot claims that those philosophers who maintain the demand quality of categorical imperatives even amidst a lack of grounding are guilty of

sure that we were talking about the same phenomenon. Mine would certainly be a case of conflicting options, even a conflict that I recognize, but not a moral dilemma. It is that the conflicting options make a pull on *me*, the agent, which makes their mutually exclusive agglomeration a dilemma. Perhaps the conflicting options, which I do acknowledge, *should* pull on me. And this is the point: Once we remove the emphasis from a realist view of dilemmas (that each option demands moral adherence to it) and place it in the realm of normative character assessments (that one should be distressed by the choice), we appreciate the psychological force of dilemmas and as a bonus gain a new insight into the practical applications of agent-based approaches. It is not that the options themselves have the warrant to dictate moral adherence. Rather, it is that the agent has the moral training such that he will be pained by having to make the difficult moral choice.

Let me then make a few remarks about the psychological force of moral dilemmas. A central feature of any dilemma seems to be that the individual involved in it tries to come up with a method to gauge the choices because the situation seems to call for it. Notice that I do not contend that the agent always discovers an adequate gauge. On my view, he just needs to attempt to produce it. Something beyond deliberation (using a rational strategy to assess the choices), then, accompanies dilemmas. A term for that notion is somewhat elusive, but "moral duress" will suffice. "Moral duress" refers to the notion that the agent experiences notable discomfort at having to make any choice between the two conflicting options. He feels forced into making a choice that he ordinarily would not wish to make. Indeed the morally optimal choice (choosing both or neither) is not available. morally optimal choice is "off the table." So, he must settle for (and follow through with) a choice that is merely morally maximal. maximal is to be that which in a given set of circumstances, for example, a moral dilemma, qualifies as a best action.

So whether mundane, momentous, or tragic, moral dilemmas are those forced choices between conflicting moral imperatives apprehended by agents in duress. With the understanding that moral dilemmas have their genesis in the assessment of the agent, we give a more accurate account of our moral experience. When we are "in" a moral dilemma, we apprehend it. We are troubled by the thought of having to make a choice between two competing options. Again, I would think it odd if someone called my option of joining the army or taking care of my aging parents a dilemma. Some attendant feeling on the part of the agent seems requisite for applying that term.

4. Wrong Discomfort: The Case of Woody Allen's Judah Rosenthal

But this is not to say that all discomfort at conflicting options indicates the presence of a moral dilemma. In Woody Allen's 1989 film,

Crimes and Misdemeanors, a wealthy and well-respected doctor decides to hire a killer to murder his mistress rather than have his affair (and some shady business dealings that his mistress vowed to expose) become common knowledge. He does not want the affair to hurt his practice, destroy his family, or tarnish his reputation. Judah Rosenthal, the doctor, is horrified by both options, but nevertheless he feels a palpable pull to each option. He does not want his mistress to die (he just wants her to disappear), but he knows that if left alive, she will tell all. Judah believes himself to be in a *moral* dilemma, but is he?

One thing for certain is that both moral realists and I would dismiss this as not meeting the criteria for moral dilemma. After all, to be in a moral dilemma presupposes that there are *moral reasons* for each option. What possible moral reason could Judah have for having his mistress killed? For one thing, Judah could point to the certain pain and embarrassment to his entire family as a morally compelling reason: Judah values his family's wellbeing. He also could add that he values his own life-projects, including his relationships, ophthalmology practice, and community standing.

But should Judah attempt such justifications, we could quickly point out that had he really valued his family, his practice, and his social standing, he would not have carried out a two-year affair that, among other things, had the ever-present potential to destroy all of those things which Judah said he valued. And even granted that he might have carried out his affair but nevertheless truly valued his family, practice, and community standing, one could make a strong case that those values would require him to treat his family and community with complete honesty and allow for his affair and business dealings to become public knowledge. In short, does he really value his family if he hides the truth from them? Does he really value his patients if he denies them access to knowledge that might influence them to seek a less distracted doctor? And does he really value his community if he exploits for his own purposes that community's generous charitable contributions and its trust that the money will be put only to philanthropic uses? So whereas Judah experiences some discomfort, his discomfort does not arise from an underlying moral conflict. It arises from selfishness, a blindness to the morally salient features of his case. Judah's discomfort does not indicate a moral dilemma because he is not confronted with a moral conflict. He may be in some species of a dilemma between his moral outlook and his corrupt egoistic ends, but it is not a moral dilemma, for the moral solution is clear. What we can learn from the case of Judah is that the agentpeculiarity of dilemmas does not imply subjective relativism. One cannot plausibly argue that Judah is in a moral dilemma just because he thinks and

¹⁶ Woody Allen, *Crimes and Misdemeanors*, motion picture (Orion Pictures, 1989).

feels that he is. Judah is not confronted with two *morally* compelling actchoices, even though he feels as if he were. In a sense, his character is so defective that he misinterprets the choices. Therein lies his problem.

With Judah Rosenthal we see that my position assumes that moral dilemmas require that each option has moral weight. This may sound like I am conceding the realist point, for where does the moral weight of each option come from but the act-choice under consideration? Yet, on my view, the moral weight comes from internalized moral values, which lead to a welllived life, rather than from independently existing morally weighted actchoices. Judah clearly accepts the principle that there are some occasions in which it is morally acceptable to violate a prima facie moral act-choice to serve another more important one. Moreover, he holds the belief that his present situation calls for the activation of this principle. I have argued above that Judah mistook his situation for an appropriate occasion to override a prima facie moral act-choice. His mistake is that his character weakness allows him to over-emphasize his self-centered desire to preserve his life of privilege at the expense of another's life. Let it be understood that I am not claiming that Judah's blameworthiness comes from his holding the wrong principle.¹⁷ It comes from his misapplication of it, which can be traced to his myopic interpretation of the world around him. Without the character defect, there is no issue of "mistaken duress."

5. The Impossibility of Unrecognized Dilemmas

A significant consequence of my argument thus far is that there cannot be any unrecognized dilemmas. Unrecognized dilemmas are those quandaries in which the agent is not aware of the mutually exclusive and morally demanding features of his act-choices. Walter Sinnott-Armstrong thinks that there are such unrecognized dilemmas:

Opponents ... might deny that a situation is a moral dilemma when the agent does not know there are moral reasons for the incompatible alternatives, possibly because such ignorance prevents some kind of anguish that might seem essential to moral dilemmas. I think such anguish is not essential to moral dilemmas, and neither is any belief in the conflicting moral reasons.¹⁸

¹⁷ Few people would still maintain that moral demands can never be overridden in any circumstance.

¹⁸ Walter Sinnott-Armstrong, *Moral Dilemmas*, p. 11.

Thus, for Sinnott-Armstrong, neither emotional discomfort (anguish) nor a belief that there are conflicting reasons is necessary to have a dilemma. I do not think that you would have anguish without a belief in conflicting moral reasons. If there is a moral conflict that I do not apprehend, others can say I am morally ignorant or that I am unable to apply the moral law, but we should not say that I am in a dilemma. If there are unrecognized dilemmas, then what qualitatively distinguishes moral conflicts from moral dilemmas?

Mary Mothersill, arguing for a similar emphasis on agency as I do, remarks:

The pros and cons of abortion may figure in the dilemma of someone deliberating about whether to have an abortion or about how to cast a deciding vote on the issue in a judicial or legislative context. But if a dilemma is a difficult and conflicted choice, then those who do not face a choice or have no conflicts do not qualify. Abortion is not a dilemmatic topic for Cardinal O'Connor or (presumably) for those who think that the Court made the right decision in *Roe v. Wade*. ¹⁹

For Mothersill, two conditions are necessary for moral dilemmas: a difficult choice and a conflicted choice. With regard to her first condition, I have argued that a difficult choice is subjectively determined, but that it is subjectively determined does not entail that the agent is immune to moral criticism. Assuming that one wants to be moral in the first place, one will be open to the charge that one is not bothered by what should bother him or that one is bothered by what should not bother him. In fact, I think that the Catholic Cardinal and the proponents of *Roe v. Wade* (assuming that they had no reluctance about their choice) are morally blameworthy for not being bothered. Moral conviction is overrated, for it often makes us less sensitive to all of the salient features of our complex moral lives. By failing to make the distinction between recognized moral conflicts and apprehended moral dilemmas, we do damage to our understanding of moral dilemmas in two ways. First, we neglect the experiential aspect that makes moral dilemmas such powerful events. And second, we thereby fail to make moral agents fully responsible for their lackluster application of their moral principles.

Should an agent experience a sense of discomfort at having to make a choice between conflicted options, he may be said to be in a moral dilemma. Should he experience a sense of discomfort even though there is no moral conflict, then this is not sufficient for moral dilemma. Moral psychology comes into play at the very genesis of dilemmas: It comes in at the very

¹⁹ Mary Mothersill, "The Moral Dilemmas Debate," in Mason, ed., *Moral Dilemmas and Moral Theory*, p. 67.

perception that some situation is a moral dilemma. Unlike perceiving sarcasm, in which one recognizes some additional meaning in some situation (but nevertheless the sarcasm remains outside of the self), the very meaning of a moral dilemma *has as an essential component* the perceptual sensibilities of the agent.

My attempt to cast dilemmas in terms of agency will surely meet the objection that it is overly subjectivist. By placing the onus for being in a dilemma onto the moral agent, I give agents the ability to control what, if any, moral imperatives to accept. To avoid dilemmas, one must simply avoid moral commitments. This line of thinking, critics will argue, is a recipe for moral indolence. But I do not intend my arguments for amoral individuals resistant to moral advice. Moral discourse is best directed toward those who will listen to it.²⁰ My words are for people who want to be moral, not for people who want to be morally lazy. I do admit that many of us who want to be moral are committed to a variable set of imperatives. People tend to differ on the moral status of killing, the environment, truth-telling, universal health care, cigarette smoking, circuses, and so on. But even as our moral outlooks vary, our community of persons who desire what may be broadly referred to as "the moral life" converges at many points of agreement. And those who seek the moral life will consider in good faith other points of view. So, if my next-door neighbor does not have a dilemma about bringing his children to enjoy tigers jumping through burning hoops, then I may convince him that his options of "promoting family fun" and "patronizing the circus" should pose a dilemma for him. My neighbor, then, may be morally criticized for failing to be in a dilemma. That dilemmas are subjectively determined does not imply that moral criticism is futile. On the contrary, it invites a new arena for making normative judgments, even for people like Catholic Cardinals who follow a moral program with unwavering resolve.

Some choices should be experienced as dilemmatic and some should not. But aren't all choices limited in some way and don't they preclude other morally relevant choices? Yes, to be sure, taking care of my parents will preclude time spent with my children. Time spent with my children will preclude time spent helping others, and so on. But why shouldn't we be aware that every moral choice affects our own lives and others' lives even if on a smaller or lesser scale? This conscientiousness leads to an increased moral sensitivity, one that we would expect any admirable person to have. Typically, we are raised to try to avoid inner turmoil and our consequentialist and deontologist heritage reinforces these flight proclivities. We want to find the right answer, and we want to feel no regret after we execute the right

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²⁰ Bernard Williams, *Ethics and the Limits of Philosophy* (Worchester: Billing & Sons Limited, 1985).

choice. I am not saying that we should go out and insert ourselves into momentous and tragic situations that heighten our inner turmoil so that we may remind ourselves of our moral commitments or of the fragility of goodness. But what I am advocating is a moral philosophy which takes as much care in exposing the phenomenology of our moral dilemmas as it does in the futile task of trying to solve them.

Respect for Persons and the Authority of Morality

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1. Introduction

Libertarians are known for the intellectual challenges they pose to the authority of the state. They have contested both its specific authority to carry out certain tasks such as antitrust regulation and wealth redistribution, as well its more general authority to claim a monopoly on the legitimate use of force over a geographical area. For all this, libertarians are to be much praised. Even when their positive arguments for a minimal state (or no state at all) have not been completely persuasive, those arguments have nevertheless helped to foster a much needed skepticism in the authority and competence of the state, and to build up our confidence in the responsibility and creativity of free individuals and the spontaneous orders they create.

What motivates libertarian skepticism about state authority, one presumes, is the state's inherently coercive nature. The commands of a state are backed by force. And where there is force, there is always the danger that force will be wrongfully applied. Governments can forcibly prevent individuals from engaging in behavior in which they have a moral right to engage (e.g., drug prohibition laws, anti-sodomy laws), it can force them to engage in behaviors in which they have a moral right not to engage (e.g., mandatory helmet laws, military conscription), and it can use its coercive power to wrongfully deprive individuals of their property and lives (e.g., eminent domain, the war in Iraq).

If, however, it is the coercive power of the state that troubles libertarians, then it seems as though we ought to be equally skeptical about the authority of *any* system purporting to govern the behavior of individuals by

foundations they have appealed to in making their arguments, see Matt Zwolinksi,

"Beyond Nozick: Libertarianism Without Self-Ownership" (unpublished).

¹ The classic example among academic philosophers of a libertarian who opposes the former sorts of authority, but not the latter, is Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974). A more recent example of a libertarian who opposes both sorts of state claim to authority is Randy Barnett, *The Structure of Liberty* (Oxford: Oxford University Press, 1998). For a discussion of the variety of positions libertarians have advocated regarding state authority, and the different moral

coercive means. And this category includes not just states, but *morality*, especially that part of morality concerned with rights and correlative obligations. A moral theory which recognizes rights as moral claims which can be enforced by physical violence is a system for legitimizing and controlling the use of violence just as much as any state is. And just as individuals can, and should, question the authority of a state, so too they can and should question the authority of moral systems. Furthermore, just as a state might serve the interests of some individuals who live under it without serving the interests of all, so too might a moral system serve the interests of some individuals without serving all. In such cases, the question of whether a moral system is legitimate for those individuals whose interests it fails to serve is one which cannot simply be ignored. Why should the proletarian accept the moral claim that he has no right to the bread I hold in abundance, and that I am justified in using violence upon him if he tries to take it? The system of property rights by which I justify my claim to bread might be necessary to promote the general welfare, or to allow in general the pursuit of personal projects, or to promote individual responsibility, but is that enough to justify the moral system which licenses my use of violence against the proletarian? Is it enough to justify it *to* the proletarian?

If these questions about the authority of morality sound strange, I suspect it is because they are rarely addressed by libertarians, or by moral philosophers in general, at least in these terms. One of the most outstanding and admirable features of Jan Narveson's work is his recognition of the importance of these questions, and of the inadequacy of the standard answers. That an action "violates natural rights," or "fails to maximize utility," does not settle—or even address—the question of morality's *authority*. Perhaps those of us who are already committed to utility maximization or respect for natural rights will be content with such answers. But they do nothing for the person who does not already regard morality—or these particular interpretations of morality—as authoritative for himself. What is needed in order to establish morality's authority for such persons is to show how morality gives them *reasons* to act in certain ways—ways which might be contrary to their desires and interests.

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² See, e.g., Jan Narveson, *The Libertarian Idea* (Philadelphia, PA: Temple University Press, 1988), p. 8, where Narveson stresses the importance of justifying political authority to each person by reference to her own good, as she sees it. See also Jan Narveson, *Respecting Persons in Theory and Practice* (New York: Rowman & Littlefield, 2002), p. 69, on the difference between what reasons *we* might have for wanting *A* to behave in some way, and the reasons *A* has for so behaving. And finally, see Narveson, *The Libertarian Idea*, pp. 151-52, for a discussion of classical utilitarianism's failure to provide agents with a reason to abide by its dictates.

The remainder of this essay will seek to explore the question of morality's authority, and to critically examine Narveson's answer to that question. I hope to shed light on the question by looking at the way in which Narveson's normative ethical theory—his theory about what kinds of obligations or rights we have—is connected to and shaped by his metaethical theory—his theory about the kind of phenomenon that morality is, metaphysically, and the way in which it relates to human desires and interests. Specifically, I am going to look at the relationship between the kind of reasongiving force Narveson takes morality to have, and the normative content of the morality he takes to be reason-giving. I will argue that while Narveson is more aware of the problem of morality's authority than most, and takes pains to address it through his contractarianism, his response is nevertheless not entirely successful. In short, I think his attempt to claim that the reasongiving force of morality depends upon its ability to serve the interests of the moral agent cannot be combined with a belief in the sort of universal and near-absolute rights that most libertarians claim to believe in. One thing or the other has to give—either morality's reason-giving force is not as dependent on its ability to serve our interests as Narveson (and many of us) would like to think, or morality is more relativistic than Narveson (and many of us) would like to think.

I will begin my paper by summarizing what I take to be some of the most important elements of Narveson's theory of morality. I will then argue that this theory makes certain metaethical presuppositions, and will say what I think those are. Finally, I will argue that these assumptions, taken together and combined with certain reasonable assumptions about human nature, are not mutually consistent. My concluding section will say where I think this leaves us.

2. Narveson's Theory of Morality

Let me begin by describing what morality is like, on Narveson's account. My summary in this section will be selective, focusing on only those elements of the theory that are relevant for the metaethical position I wish to unearth.

a. Reasons

First, morality according to Narveson is *normative*. It tells us what we ought to *do*. Now, this in itself isn't all that interesting. There are lots of systems out there that tell us what to do. Etiquette, to borrow Philippa Foot's example, or Nazism for that matter, give us rules that are supposed to guide our behavior too. What makes morality special, on Narveson's view, is that

³ Philippa Foot, "Morality as a System of Hypothetical Imperatives," *Philosophical Review* 81 (1972), p. 8.

morality's rules give us *reasons* to act. Indeed, morality gives us reasons *necessarily*. We can shrug off the demands of etiquette (and certainly Nazism) secure in the knowledge that our status as rational agents is not the least bit threatened by our doing so. After all, just because these systems *say* we ought to do something doesn't mean we *really* have a reason to do so. But morality is different. Once we conclude that some behavior is required by morality, we *have already concluded* that it is something we have reason to do, in the same way that once we have concluded that something is a bachelor, we have already concluded that it is male. Reason-givingness, if you'll pardon the horrendous phrase, is part of our concept of morality.⁴

b. Generality

The second point to note about Narveson's account of morality has to do with the nature of the reason-giving norms given to us by morality. It is that these norms are general, in the sense of applying "to everyone in the society, and not to select individuals."⁵ Thus, if morality contains a rule prohibiting the killing of innocents, this norm forbids everyone, not just a certain sub-set of society, from killing innocents. Of course, to say that morality is general is not to say that it takes no account of the particular details of the circumstances. Morality might prohibit the killing of innocents in most circumstances, but allow it when it is necessary to save the lives of a greater number of innocents, for example. But if this is the case it is not a counterexample to the generality thesis. Rather, it is simply a reminder that the *real* moral rule is more complicated than simply "do not kill innocents." And this real moral rule, whatever it is, will meet the condition of generality, for whatever exceptions it carves out from the general prohibition will be exceptions that anyone is eligible for, should they find themselves in the right circumstances. Everyone is required not to kill innocents, unless they can save a greater number by doing so. Unless this generality condition is met, according to Narveson, we have simply failed to meet a basic criterion for a moral principle. As Narveson puts it in his essay "Moral Realism, Emotivism and Natural Law," "[n]o generalization, no morals."6

c. Concerned with each individual's interests

The last aspect of Narveson's theory on which I wish to focus is also the most difficult to explain clearly. It reflects a sort of thoroughgoing individualism that can be found in Narveson's work, both in his political and his ethical philosophy. In the political realm this individualism is most

⁴ See Narveson, *The Libertarian Idea*, pp. 114, 126.

⁵ Ibid., p. 124.

⁶ Narveson, Respecting Persons in Theory and Practice, p. 69.

obviously reflected in Narveson's libertarianism. Each person qua individual holds certain rights, it is only qua individuals that we hold rights, and it is the purpose of the state to protect these individual rights—that's all. But there is another, even deeper, way in which Narveson's political thought is individualistic, reflected in his understanding of what it is for a political theory to be "liberal" in the broad sense. What this means, according to Narveson, is that the theory "must justify principles, policies, and institutions, to any person affected by them, by showing that person they are for his or her good as seen by that person."⁷ In other words, it is a condition on the legitimacy of political principles, policies, and institutions that they serve the good of each and every person that they affect. This is the source of their authority over us. It is not that they are stamped by the *imprimatur* of Divine Authority, or that they maximize aggregate welfare, or manifest The Absolute. These are all fine things, to be sure, but in order for a political institution to be justified to me, it must serve my good—and if I don't care about Divine Authority, or aggregate welfare, or whatever, then the fact that political institutions are related to these things does nothing to legitimize their authority.

The third important aspect of Narveson's *moral* theory that I want to discuss, then, is that morality works in basically the same way. Just as it is a condition on the legitimacy of some purported political principle that it serve the interests of all of those that it affects, so is it a condition on the legitimacy of *moral* principles that they advance the interests of those to whom they are meant to apply. Moral facts, in other words, are not like rocks. Their existence is not something which is completely independent of their relationship to us—our thoughts and interests. Indeed, any moral theory which held that moral facts *were* independent in this way would be, in Narveson's words, "utterly pointless."

This aspect of Narveson's theory is reflected most clearly in his contractarianism. The basic idea of contractarian theory, of course, is that whatever is the subject of the contract (be it political authority or moral principles), it must be justified to each person based on his own interests, since the contract is only binding on those who "sign" it, and persons are assumed not to sign something that is not in their interests. This individualism, indeed, is often taken to be part of the *appeal* of contractarianism. After all, it's hard to see how one could do a better job at

⁷ Narveson, *The Libertarian Idea*, p. 8.

⁸ Narveson, Respecting Persons in Theory and Practice, p. 65.

⁹ See, e.g., David Gauthier, *Morals by Agreement* (New York: Clarendon Press, 1986).

justifying something than by showing that it is in the interests of each and every person who is subject to it.

Most contractarian theories however, fudge a bit on this part of the theory. For while they may claim that their contract mechanism justifies its conditions to all persons, upon closer examination it is revealed that the signatories of the contracts are not actual persons at all, but persons whose individual characteristics have been stripped away in the name of idealization to the point where they are scarcely recognizable as persons at all. 10 On Narveson's account, however, the persons to whom morality must be justified are actual persons, with all of their idiosyncratic preferences, histories, powers and vulnerabilities, material and social endowments, and so forth. This fact is of crucial importance for Narveson's theory, and connects (as we shall see in the next section) with the first feature of Narveson's theory of morality that I noted—the fact that it necessarily gives us reasons for action. For if morality were not so justified to each of us, then what reason would we have to care what morality asked us to do? This, in fact, is what Narveson sees as the fundamental problem with utilitarianism as a moral theory. The fundamental problem is not that utilitarianism yields counter-intuitive results—Narveson is appropriately critical of appeals to intuition in moral argument. 11 fundamental problem is that utilitarianism has no answer to the question of why individuals should *care* about maximizing aggregate utility. An adequate moral theory must provide individuals—real individuals, not made-up idealized ones—with reasons to care about its precepts, and this requires connecting the demands of morality in some way to the agent's interests.

3. Metaethical Presuppositions

The last ten years or so have witnessed an explosion of scholarship in analytic metaethics. This sub-discipline of philosophy attempts to provide answers to questions about the fundamental nature of morality, its objectivity or mind-dependence, the relationship between morality and practical reason,

¹⁰ See, e.g., John Rawls, *A Theory of Justice* (Cambridge, MA: Harvard University Press, 1971). For Rawls, of course, the contract device is not really a contract at all, but a heuristic for explaining and making clear the alleged appeal of moral principles which he supports on altogether different grounds. On this point, see Will Kymlicka, *Contemporary Political Philosophy: An Introduction*, 2d ed. (Oxford: Oxford University Press, 2001), chap. 3. For a criticism of the use of such arguments in justifying state authority, see David Schmidtz, "Justifying the State," *Ethics* 101, no. 1 (1990), pp. 89-102.

¹¹ See Narveson, *The Libertarian Idea*, chap. 10.

and so on. ¹² What I hope to do in this next section of the essay is to take the informal presentation of Narveson's theory which I gave in the previous section, and examine it to see how it can be classified given the categories common to contemporary metaethical discourse.

a. Internalism

First and perhaps most importantly, Narveson's theory is a kind of *internalist* theory. Now, internalism is one of those many problematic terms in philosophy that means a number of different things depending on the context in which the term is used. To clarify, then, the kind of internalism to be found in Narveson's theory is what has been called *morality-reasons internalism*. And what this form of internalism says is that there is a conceptual, internal connection between judging something to be a valid moral requirement, and its giving agents a reason to act. In other words, morality is necessarily reason-giving. This sort of internalism has probably been most famously defended by Michael Smith in his 1994 book *The Moral Problem*, and has a large fan club among contemporary philosophers. And it's easy to see why. After all, morality is supposed to be *practical* and indeed *overriding* with regard to all other practical concerns we might have. Morality-reasons internalism reflects this belief and its alleged centrality to our moral practice by building it into our very concept of morality.

b. Non-relativism

Second, we can read Narveson's insistence on the general nature of moral demands as asserting a rejection of normative moral relativism, understood by Gilbert Harman as the claim that "different people can be subject to different *ultimate* moral demands." The term "ultimate" is

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¹² For overviews of the field, see Michael Smith, *The Moral Problem* (Oxford: Blackwell, 1994), or Alexander Miller, *An Introduction to Contemporary Metaethics* (Cambridge: Polity Press, 2003). More ambitious readers can find a collection of many of the seminal original papers in the field in Andrew Fisher and Simon Kirchin, *Arguing about Metaethics* (New York: Routledge, 2006).

¹³ It has also been referred to as "motivational judgment internalism." See Connie Rosati, "Moral Motivation," *The Stanford Encyclopedia of Philosophy*, available online at http://plato.stanford.edu/entries/moral-motivation/.

¹⁴ See, e.g., Christine Korsgaard, "Skepticism about Practical Reason," *Journal of Philosophy* 83 (1986), pp. 1-25; Smith, *The Moral Problem*; and Mark van Roojen, "Motivational Internalism: A Somewhat Less Idealized Version," *Philosophical Quarterly* 50 (2000), pp. 233-41.

¹⁵ Gilbert Harman, "What Is Moral Relativism?" in Alan Goldman and Jagweon Kim, eds., *Values and Morals* (Dordrecht: Reidel, 1978), pp. 143-61.

important here, for even a non-relativist will want to admit that different people can be subject to different moral demands in *some* sense. For example, if I borrow ten dollars from Jack and you don't, then I am subject to a moral demand to pay Jack ten dollars, and you are not. But the moral demand to pay Jack ten dollars is not an *ultimate* moral demand, in Harman's sense, since it derives from a general moral obligation to repay one's debts, and *that* is a moral demand to which we are *both* subject. To say that people differ in their ultimate moral demands would be to say that people's moral demands differ not just because some underlying moral demand that applies to both yields different subsidiary demands in different factual contexts, but for some other reason which does not depend on more basic moral demands.

c. Internalism again

I mentioned that the term internalism has a number of different meanings in philosophy. And, as it turns out, Narveson subscribes to not just one but two of them. The second sort of internalism that his theory exhibits can be seen in what I called the "individualism" of his moral theory above. Narveson seems to accept the idea that for a certain consideration to count as a reason for an agent to act in a certain way, that consideration must be capable of *motivating* the agent, at least as long as the agent is being rational. This sort of internalism we can call reasons-motive internalism, since it posits a necessary conceptual connection between something's being a reason, and its having a certain sort of motivational effect on a rational agent. ¹⁶ The most well-known presentation of this sort of theory is to be found in Bernard Williams's famous essay on internal and external reasons.¹⁷ position, too, has both a large number of proponents among contemporary metaethicists and a good deal to be said in favor of it. After all, if a certain consideration could not motivate me to act in a certain way, no matter how much I thought about it, no matter how much information I had, and no matter how rational my deliberative processes were—if, after all this, the consideration leaves me cold, then in what sense can it really be said to be a reason for me to act? You (or society in general) might have reasons to get me to act in the relevant way, but if the action in question doesn't link up in the right way with anything that I care about, then how can it be a reason for me? And if reasons aren't determined by what I care about, then what on earth are they determined by? It seems that any rejection of reasons-motive internalism would make the nature of reasons utterly mysterious.

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¹⁶ It has also been called simply "reasons internalism"; see Rosati, "Moral Motivation."

¹⁷ Bernard Williams, "Internal and External Reasons," in Ross Harrison, ed., *Rational Action* (Cambridge: Cambridge University Press, 1979), pp. 17-28.

4. Narveson's Dilemma

Now that I have classified Narveson's theory in contemporary metaethical terms, I am ready to show the problem faced by the type of theory with which this leaves him. In short, the problem is that morality-reasons internalism, reasons-motive internalism, and non-relativism are mutually inconsistent when combined with some extremely reasonable suppositions about human nature. One of them has to be abandoned.

To see why, consider what is implied by the combination of the three metaethical positions just identified. Reasons-motive internalism says that no consideration counts as a reason for an agent unless that consideration would be motivating to the agent were she to deliberate rationally upon it. Morality-reasons internalism says that morality *necessarily* gives agents reasons to act. Already, we see a problem. How could morality necessarily give us a reason to act if what we have reason to do depends on what would motivate us? Presumably, not all persons are motivated by the same thing. To speak in terms of a crude but basically sound moral psychology, what we are motivated to do depends on our desires. And people's desires plainly differ. The only way to combine these two views, then, is to say that *morality* differs from person to person. Sure, morality gives us all reason to act, but since what we have reason to do depends on our desires, *morality* must in some sense depend on our desires too. And since desires differ from person to person, so too will morality.

Unfortunately, this move is ruled out by non-relativism. If we were to hold that the demands of morality vary from person to person depending on what that person desires, then we would clearly be violating the non-relativism condition. One could seek to avoid this conclusion, I suppose, by holding that on this theory people's *ultimate* moral demands aren't different–everyone is under the moral requirement to do what they desire, and what this

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Actually, this is not an entirely uncontroversial point, philosophically. It reflects what has come to be known, perhaps anachronistically, as the Humean Theory of Motivation. For representative defenses of this view, see Smith, *The Moral Problem*, and Peter Railton, "Moral Realism," *Philosophical Review* 95 (1986), pp. 163-207. For criticisms, see John McDowell, "Virtue and Reason," *Monist* 62 (1979), pp. 331-50, and Thomas Scanlon, *What We Owe to Each Other* (Cambridge: Harvard University Press, 1998). While Humeanism about motivation is probably the dominant view in contemporary metaethics (see Rosati, "Moral Motivation"), the argument I advance here does not depend on the claim that *all* motivation is based *exclusively* on desires. It is enough if *some* of our motivations are so based, even partly so. If we are sometimes motivated by desires, and if our desires differ, and if our reasons depend on our desires, then we will sometimes have different reasons to act.

entails just happens to differ from person to person. But this strikes me as a pretty implausible move, and it leaves untouched the usual concerns surrounding relativism, such as whether we all have the same basic rights, or are under the same basic obligation to respect others rights, and so on.

Another, more plausible, possible move is to argue that people's desires *aren't* that different. Or, at least, they're not different enough in the ways that they would have to be in order to generate any worrisome results for morality. Based on my reading of Narveson, this seems to be the argumentative strategy most in line with his general approach. The basis of his contractarian argument for libertarianism, after all, is that a principle of respect for liberty would be "universally advantageous" to rational agents, "no matter what their personal values or philosophy of life may be." Non-relativism, on this view, is a contingent fact about morality, produced by sufficient overlap in what motivates different human beings.

Empirically, I think the claim on which this strategy relies is a pretty plausible one. Whatever other differences there might be among people, there is a pretty broad overlap in their desire not to be attacked, robbed, etc. And that is important—especially when combined with the fact that typically, the best way to ensure that one does not *get* attacked, robbed etc, is for me not to attack, rob, etc. others. But I'm not sure it takes us far enough. After all, there are certainly *some* people whose desires are such that no amount of rational reflection could sway them to care about the demands of morality. Perhaps they enjoy immorality very much and would rather live a short exciting life than what they perceive as a long, boring one. Or perhaps they are simply very *good* at immorality and are willing to take the chance that they will not be recognized as the defector they are. If even one such person exists, then assuming we cling to the two sorts of internalism described above, non-relativism fails.

5. Conclusion

My goal in raising such questions is not to point out inconsistencies for the sake of pointing out inconsistencies. The dilemma I highlight here is not some trivial byproduct of an error in Narveson's theory. It is, I believe, a reflection of a deep and important fact about the human condition.

¹⁹ Narveson, *The Libertarian Idea*, p. 148.

²⁰ This claim is clearly true of so-called "psychopaths," who tend cognitively to understand the pain their behavior causes others, but who lack any affective response to that knowledge. See Hervey Cleckley, *The Mask of Sanity*, 4th ed. (St. Louis, MO: C. V. Mosby Company, 1964). I suspect it is true of a much wider class of individuals as well, at least at certain times and in certain contexts.

The goal of justifying the demands of morality by linking them to the interests of each individual is a truly admirable one, and Narveson is to be commended for taking the project on. But considerations such as the ones I have presented above should give us reason to doubt whether the kind of moral individualism reflected by Narveson's metaethical commitment to internalism can really be combined with a belief in universal human rights of the sort that libertarians generally wish to defend.

In other words, if our concern is, as Narveson takes it to be, to come up with a set of standards for the regulation of behavior that "does best for each agent," then we have good reason to wonder whether there *is* one such set. ²¹ The moral rules that serve the interests of able-bodied individuals with large amounts of property at their disposal might very well be different from those that serve the interests of the less-able (but still wily) propertyless masses. The interests of the religious zealot who believes that the next world is all that matters might very well be different from the interests of those who are simply trying to live peaceful lives in this world. Is it really plausible that there is one set of moral standards that does best for each and every one of the diverse individuals living on this planet?

I doubt it. My own inclinations lead me to resolve the dilemma above by abandoning non-relativism. The arguments that Narveson and others have given us do, I think, show us that something like a libertarian morality does a good job at advancing the interests of a whole diverse lot of us. But not all of us, and not all the time. Sometimes some individuals will have a legitimate reason to reject the morality that serves the interests of the masses. Given their interests and circumstances, the action they have the strongest reason to perform will be an immoral one. This, I think, is just a sad fact about the world we live in. But it doesn't undermine morality for the rest of us. We still have reason to enforce norms against murder, even if you don't have an interest in obeying those norms. It's nice to think that morality serves the interests of each individual all the time, so that if only people were smarter, or had a longer time horizon, or were better informed, or more reflective, they would realize that they should abandon their life of debauchery and accept morality's embrace. And in a lot of cases, this will be true. But not all of them. And when it's not, it's up to the rest of us to bully, cajole, guilt-trip, and beat the offender into behaving in ways that are *contrary* to his interests but in line with ours. The bad news is that the reason-giving

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²¹ Narveson, Respecting Persons in Theory and Practice, p. 72.

force of morality will only take us so far. The good news is that where reasons run out, we have other methods at our disposal. $^{22}\,$

²² An earlier draft of this essay was presented at the 2006 meeting of the American Association for the Philosophic Study of Society. Thanks to the participants in that seminar, especially Jan Narveson and Roderick Long, for their comments.

Lomasky on Practical Reason: Personal Value and Metavalues

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In *Persons, Rights, and the Moral Community* (from now on, *PRMC*), Loren Lomasky develops a tripartite derivation of basic rights. In the second component of the derivation, Lomasky argues for "the transmissibility of practical reason" (*PRMC* 64). According to this principle, by understanding that another agent has a reason (personal, agent-relative) to pursue an end, that provides me with a reason (impersonal, agent-neutral) to bring about that end. Eric Mack, in "Against Agent-Neutral Value" (from now on, AANV), argues against Lomasky's notion of the "transmission." In a later article, "Response to Four Critics" (from now on, RFC), Lomasky defends this notion against Mack's argument. This essay will show that Lomasky's defense against Mack (in RFC) fails.

1. Personal, Impersonal, and the Transmission

Before describing Lomasky's "transmission of practical reason" (from now on, TPR), there are some concepts that will briefly be explicated. The first set of concepts is that of personal value and reason. Lomasky describes a "reason" as a "motivational impetus" in the pursuit of an "end" of value (*PRMC* 34). Essentially, an agent perceives a given end as being of value, and the agent is then motivated (or has a "reason") to pursue such an end. The key to personal value is that the end is perceived as being of value simply because it is the agent's own. Lomasky writes, "He acts rationally if he assigns special value—personal value, value-for-himself—to his own ends simply in virtue of their being his" (*PRMC* 87). Thus, when an individual has

¹ Loren Lomasky, *Persons, Rights, and the Moral Community* (New York: Oxford University Press, 1987).

² Eric Mack, "Against Agent-Neutral Value," Reason Papers 14 (Spring 1989), pp. 76-85.

³ Loren Lomasky, "Response to Four Critics," Reason Papers 14 (Spring 1989), pp. 110-29.

"different commitments," "direct[s] his life along a particular path" and has "his own ends," the individual then perceives these things as having "value-for-himself." Since these things are viewed as possessing "personal value, value-for-himself," they then provide personal "reasons-for-that-individual."

The second set of concepts is related to Lomasky's understanding of impersonal value and reasons. Describing this type of value, he writes:

If there were no conflicts among persons, there would be no need for an interpersonal morality. Because conflicts do occur, because the attainment of end E_1 , desired by person B, may be incompatible with the realization of E_2 , desired by C, there is need for an interpersonal morality. More specifically, such conflicts can be resolved if there is some rational basis for determining which of E_1 or E_2 ought to be preferred. This is provided by a standard of value that provides a measure for each. It is not B's standard—which would merely provide a ranking in terms of value-for-B—nor is it C's; rather, it must be one applicable to various persons' ends and must issue in a determination which is not value for some particular person but value simpliciter. A standard that ranges over persons and their ends in this way is what I shall call an impersonal standard of value. (PRMC 23, underlined emphasis added)

Remember that Lomasky describes a "reason" as a "motivational impetus" in the pursuit of an "end" of value (*PRMC* 34). When an agent perceives an end as possessing value, the agent is then motivated (or has a "reason") to pursue such an end. This aspect of reason plays a similar role for both personal and impersonal value. The key with impersonal value, however, is that the end is perceived as being of value regardless of whose end it is. Thus, this end has value—*simpliciter* (value for everyone, and not due merely to a particular agent's relation to such an end).

Lomasky presents the TPR as the "second line of approach" to his tripartite derivation of rights (*PRMC* 62). It is employed to demonstrate that the recognition of other agents as having ends they personally value forces the recognizing agent into claiming that those very ends are also of some impersonal value. Lomasky writes, "Recognition that someone values end E is sufficient warrant for one to judge that there is value that attaches to E; one need not first note that the one who values E is indeed none other than oneself" (*PRMC* 64). Although the TPR is meant to generate impersonal value via the mere recognition of personal value, it does not directly argue from value to value. Instead, it attempts to argue from reason to reason. If Lomasky establishes that an impersonal reason exists, he can then argue that an impersonal value exists behind that reason.

When an agent perceives a given end as being of value, the agent is

then motivated (or has a "reason") to pursue such an end. This aspect of reason plays a similar role for both personal and impersonal value. What distinguishes personal from impersonal reason, is the valued end that is behind them. With the former, an agent has a reason to pursue an end, simply because it is his own. With the latter, the agent has a reason to pursue an end, even if it is not his personal end. Thus, by showing that impersonal reason exists, Lomasky will have shown that there is impersonal value.

To demonstrate that impersonal reason exists, Lomasky formulates the following argument:

A's having end E_1 provides A motivational force to pursue E_1 , but also A's recognition that B has end E_2 provides A *at least some reason* to act so as to advance E_2 . I deliberately say "some reason," because if value is not completely impersonal, then A's reason for promoting B's attainment of E_2 is not the same reason that B has to promote B's attainment of E_2 , nor is it liable to be nearly as strong as B's reason. Nonetheless, A recognizes that there does exist reason for bringing about E_2 . It happens that, in the first instance, the reason is B's; but it seems reasonable to suggest that that very recognition has motivational force for A. (*PRMC* 63-64, underlined emphasis added)

B is pursuing an end that he takes to be of value. This end, E_2 , has value for B, because it is his own end. In other words, E_2 has personal value for B due to B's peculiar relationship with E_2 . Because of this relationship, B has a personal reason to pursue E_2 . A, on the other hand, does not have this relationship (which engenders personal value and, thus, a personal reason) with E_2 . A does, however, recognize that B has a personal reason to pursue E_2 . According to Lomasky, this "recognition" motivates A to pursue E_2 . Since A is motivated to pursue E_2 and A is not connected in the relevant manner to engender a personal reason to pursue E_2 , A then has an impersonal reason to pursue E_2 (PRMC 63-64).

The key is that A is being motivated to pursue an end that A does not value personally—merely because A recognizes that that end provides B with a personal reason to procure it. Lomasky writes:

The argument can be put in this way: one who recognizes R as a reason for E_2 is thereby logically bound to admit that it is not totally and in every respect indifferent whether E_2 obtain. R is why E_2 should obtain; otherwise R could not be conceived to be a reason The appeal is not moral but semantic. To understand what it is for someone else to have a reason is to recognize the existence of evaluative grounds that have not been created by oneself for oneself.

These evaluative grounds provide reason for judging that the world ought to be one way rather than some other. But to put forth that judgment as cogent, even if it is only a *prima facie* judgment, and even if it is overridden by other considerations, is to admit the transmissibility of practical reason from person to person. (*PRMC* 64)

The move is semantic. In order for A to understand that there is an R for the procurement of E_2 (which is personal for B), he must understand what R means. Essentially, A understands that all R's are "evaluative grounds . . . that the world ought to be one way rather than some other" (PRMC 64). When A understands that B has an R, A recognizes that there are "evaluative grounds that have not been created by oneself for oneself" (PRMC 64). A, then, understands that there is an R to bring about E_2 . To understand this, according to Lomasky, A must recognize that there is an impersonal reason to bring about E_2 (an R to bring about E_2 that is not personal to A) (PRMC 64).

What Lomasky hopes to have established is that there are not two "radically different" understandings of a reason for action. These would be: "understanding a reason as mine, which is suffused with motivational force, and understanding it as thine, which is entirely bereft of motivational force" (PRMC 65). A understands that there are "evaluative grounds" to bring about E_2 . By "evaluative grounds," I mean that A understands that E_2 has value (which is not personal value to A). Since A understands that E_2 has value, he is somewhat motivated to procure E_2 . Thus, A has a reason to bring about E_2 that is not a personal reason. This reason, then, has to be impersonal—as is the value that is associated with it (PRMC 65).

2. Mack's Critique

In AANV, Mack formulates five arguments against the notion of impersonal value (or in Mack's terms, "agent-neutral value"). One of these arguments questions the link between agent-external value and impersonal value. To describe Mack's argument, I'll employ a hypothetical scenario. Alf

A acknowledges that B has reason (understood personally) to act in order to bring about E_2 ; thus there is (impersonal) reason to bring about E_2 ; thus A has some reason to advance B's attainment of E_2 ; however, if A's commitment to his own projects entails pursuing E_1 , which is incompatible with E_2 , then A does not have reason on balance to promote $E_2 \ldots$ The reason transmitted from B to A can be vanishingly small. (PRMC 64-65, emphasis added)

⁴ The reason that I say "somewhat" is that Lomasky downplays the strength of the reason that is transmitted. He writes:

is suffering an immense amount of pain. He has a headache that has been with him since he awoke. There is a drug that exists (an analgesic) that could eliminate Alf's headache. Without a doubt, using the drug to eliminate Alf's suffering is an end that has personal value for Alf. He, thus, has a personal reason to procure the drug.

Alf is also a student of philosophy. He claims that the only values and reasons that exist are personal in nature. Thus, he denies the existence of impersonal value and its correlate—impersonal reason. An advocate for the existence of impersonal reason and value could claim that this places Alf in an awkward position. For example, Thomas Nagel writes, Alf "will have to say that though he has reason to want an analgesic, there is no reason for him to have one, or for anyone else who happens to be around to give him one." It seems, *prima facie*, that Alf has to claim (in a contradictory manner) that he has a reason to get the drug and that there is not a reason to give him such a drug.

In response to the position that Alf finds himself, Mack provides the following argument:

This is partially correct; but mostly misleading. Clearly, if the badness of suffering is agent-relative, the sufferer cannot say that there is an agent-neutral reason for him to have the analgesic. But that is not to deny the existence . . . of an agent-relative reason for him to have it. Nor is it to deny the existence of agent-relative reasons had by some of those who happen to be around [Alf] to provide him with an analgesic. A blissful cessation of [Alf's] screams, or even [Alf's] feeling better, may be among the states of affairs that are good for some or all of these agents. (AANV 80-81)

In the first part of the argument, Mack is accounting for the apparently contradictory nature of Alf's situation. The reason it seems contradictory is because it relies upon an equivocation with the word "reason." When phrased in an extremely ambiguous sense, Alf is being contradictory; he is claiming that there is a reason and there is not a reason for him to get the drug (R & ~R). But once we raise Alf's claim to the appropriate level of specificity, this contradiction vanishes. Alf is not denying the existence of all reasons for him to get the drug; he is only denying the existence of impersonal reasons. Alf readily affirms that he has a personal reason to procure the analgesic. Phrased in this manner, Alf is not affirming a contradiction. He merely states that he has a personal reason and there is no such thing as an impersonal reason (Pr &

⁵ Thomas Nagel, *The View from Nowhere* (New York: Oxford University Press, 1986), p. 160.

~Ir). This is merely a reiteration of Alf's stance on the notion of impersonal reason.

In the second part of the argument, Mack describes why others might possess a reason to help Alf. Suppose Alf is waiting in the emergency room to receive his allocation of the analgesic. While he is waiting, he meets Bob, a fellow headache suffer. Bob has the exact same headache as Alf and is also waiting for the analgesic. Bob informs Alf that the drug is in limited supply. He then tells Alf the following: "I hope we both get the analgesic that removes this wretched headache!" Since Alf does not believe in impersonal reasons or values, how is he supposed to understand Bob's statement? Clearly, Alf recognizes that Bob has a personal reason to use the analgesic to end his own suffering. However, without a belief in impersonal reasons, how would Alf explain Bob's motivation that Alf also receive the drug?

Mack provides a detailed description of why Bob might wish that Alf gain the analgesic:

[Alf's] groaning may be drowning out the answers on Hollywood Squares. Or it may be that [Alf's] groaning bothers him because [Alf's] being in pain, in a way that is vivid and present to him, bothers him. Because [Alf is] near to him and [Bob] is a person of normal sympathies, his sympathy extends to [Alf] and he is discomforted by [Alf's] suffering. So he has reason to want it to stop—a reason which does not extend to the suffering of those to whom, perhaps simply because of their distance from him, his sympathies do not embrace. (AANV 81)

It is important to understand what Mack is not claiming. Mack is not denying that Bob is motivated to end Alf's suffering. In fact, he readily acknowledges that Bob has such a motivation. He even claims that such a motivation is normal (by using "normal sympathies").

What Mack is denying is that anything impersonal (reason or value) can be inferred purely from this aforementioned motivation. He does this by showing that this motivation can be accounted for—merely via the employment of personal reasons. Alf, of course, has a personal reason to eliminate his own suffering. This is due to Alf's personal end E_1 . This end has personal value for Alf, because it is a state of affairs in which he is not suffering. Bob, on the other hand, is a person who possesses "normal sympathies." He knows what it is like to have a terrible headache. If Bob were to get the last analgesic and Alf was forced to suffer through the headache, Bob would sincerely feel terrible. He then has a personal reason to want to end Alf's suffering. Since Alf is suffering "in a way that is vivid and present to him," Bob values (and values it personally, because it would bother him, were Alf to continue suffering a state of affairs), E_2 , in which Alf is no longer

suffering (AANV 81).

The move that Mack makes is to show that there is a personal reason that can account for Bob's motivation. This personal reason comes about via the overlapping of personal ends of value (E_1 and E_2). Since the only state of affairs that can bring about the advancement of E_2 is the advancement of E_1 , Bob has a personal reason to bring about a state of affairs that satisfies both ends. By presenting this alternate (and purely personal) explanation for Bob's motivation, Mack has shifted the burden of proof to those who are advocates of impersonal reason and value.

3. Lomasky's Defense

In defending his account, Lomasky focuses upon the ambiguous status of the term, "normal sympathies." Lomasky writes:

Instead, I shall address just one of the issues Mack puts on the table: interpersonal transmission of rational motivation. Does, say, the fact of someone's awareness that I am in great pain thereby constitute a reason for him to do anything?

Mack admits that it may. My groaning may interrupt his enjoyment of Hollywood Squares. More centrally: "Because I am near to him and he is a person of normal sympathies, his sympathy extends to me and he is discomforted by my suffering [Mack, p. 81]." The problem with this explanation is that it ducks all the important questions. The first of them is: how are we to understand the reference to *normal* sympathies? By 'normal' we can intend either mere statistical frequency or the satisfaction of some normative standard. (RFC 116-17, underlined emphasis added)

Referring back to Alf and Bob, what are we to make of Bob's end, E₂? Since Bob possesses "normal sympathies," his E₂ overlaps with Alf's E₁. Due to this overlapping, Bob (claims Mack) has a personal reason to bring about a state of affairs in which Alf's suffering is ameliorated. But, as Lomasky states, Mack might mean one of two things when referring to "normal sympathies."

In one sense, Mack might be using the term "normal" as synonymous with "mere statistical frequency." According to this sense, it might be normal if a majority of people are discomforted by the sound of scratching upon a chalkboard. Those, however, who are in the minority and don't mind the sound "are not deficient with regard to some norm . . . of perceptual acuity" (RFC 117). In other words, we cannot blame or fault those who are indifferent to the sound of chalk scratching upon the chalkboard. Those who are not discomforted are not violating any normative standards by remaining in the minority. They just have different tastes from those who comprise the larger group.

We should now be able to apply this conception of "normal" to Alf and Bob. Pretend that Bob ceases to value E_2 ; he ceases to possess "normal sympathies" (construed in the "mere statistical frequency" sense). He no longer cares if Alf is suffering; he is indifferent. When given the two doses of analgesic, Bob takes one and destroys the other. Since Bob is doing something that is merely statistically infrequent (most would value E_2 , and thus give the drug to Alf), we cannot fault him for his choice. In essence, we cannot blame him, say that he is wrong, claim that he ought to have done otherwise, etc. By being indifferent, Bob is merely different from most people.

In another sense, Mack might be using the term "normal" as synonymous with "the satisfaction of some normative standard." According to this sense, it might be normal if a majority of people employ vision at (or above) 20-20. Those in the minority, who have worse than 20-20 vision, do not merely possess different vision—they also have *bad* vision. Likewise, those who arrive at the answer "45" when adding 7 and 5, do not merely provide a different answer—they also give the *wrong* answer. In the above two cases, there seems to be a standard that is independent of the mere amount (statistical appearance) that a particular response is elicited. With these two cases, there exist external normative standards. Thus, if everybody, except for one (who answered "12") answered "45" when adding 7 and 5, then the larger group would be wrong and the one person would be right. That is to say that there is an arithmetic norm that exists independently of the mere number of people who subscribe to that norm. And those who do not obey such a norm are referred to as wrong, faulty, deficient, etc. (RFC 117).

Pretend, again, that Bob ceases to value E_2 . For no particular reason at all, Bob ceases to care whether Alf is or is not suffering; he is indifferent. When given the two doses of analgesic, Bob takes one and destroys the other. Alf still personally values E_1 and thus still has a personal reason to procure E_1 . Bob no longer personally values a state of affairs that overlaps with E_1 (such as E_2) and thus he has no personal reason to insure that E_1 takes place. However, Bob still acknowledges that Alf has a personal reason to procure E_1 . If the TPR is correct, then such an acknowledgment entails that Bob acknowledge the existence of an impersonal reason to bring about E_1 . By

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⁶ I am assuming a couple of things here. First, I am assuming that by denying Alf the drug, Bob is not violating any prudential norms. There is not another end he values (like E₃, in which giving the drug to Alf secures him a job that he values) in which it would be contrary to Bob's interests to deny Alf the drug. Second, I am assuming that Bob has complete knowledge of what all of his personal values entail. There is not another personal end (like E₄, in which Bob likes to end the suffering of mammals—and Alf happens to be a mammal, and Bob fails to notice this) that Bob is frustrating by denying Alf the drug.

completely ignoring the impersonal reason, Bob would be violating a norm. We would not say that he is merely acting differently. Instead, we would make the stronger claim that Bob is acting *wrongly*, in a faulty manner, in a bad manner, etc. There is a state of affairs $(E_1 \text{ and } E_2)$ that possesses impersonal value and thereby ought to provide impersonal reasons for its procurement. Bob is not motivated by something he ought to have been motivated by.

Lomasky interprets Mack "as conceding only that most people, most of the time do not find themselves entirely indifferent to the circumstance of someone next to them groaning in agony" (RFC 117). To deny impersonal value (and its correlate reason), Mack must deny the normative version of "normal." Thus, according to Lomasky, Mack most likely thought that "normal" was equivalent to "mere statistical frequency" (RFC 117).

Lomasky, unlike Mack, holds that one ought to embrace the normative sense behind "normal." In RFC, he writes, "It is one of those things that—normatively—count as providing a potential basis for action . . . I maintain that the best explanation . . . is that we recognize that the sufferer's pain is a misfortune for him, and that in virtue of our correctly apprehending its badness for him we thereby understand that we have (some) reason to disvalue the occurrence of the pain, and thus (some) reason to take action to alleviate it" (RFC 117-18). Lomasky is claiming that there is an impersonal reason to aid the sufferer.

In order for this to be true, there must be impersonal value and reasons; the TPR must hold. To show that this is likely the case, Lomasky constructs the following thought experiment:

If squealing chalk drives you up the wall, then you would do well to *extinguish* the reaction. That portion of your life conducted in proximity to blackboards would be more pleasant, and at no epistemic loss to you. That is, extinction of the chalk response would not render you oblivious to something that remains genuinely an evil. There is no "fact of the matter" concerning the badness of chalk squealing independent of the subjective tinge of your experience. Would it correspondingly be a pure gain to extinguish your sympathetic response to the pain of others? You would thereby avoid some emotional distress and would free up your busy schedule by removing pain-alleviation from your to-do list. Those are genuine benefits. Why, then, might you be disinclined to adopt the sympathy-extinction strategy? (RFC 118-19)

The "chalk response" and the "sympathetic response" are both statistically normal; the vast majority of people have such responses. Lomasky claims, however, that the chalk response is *merely* statistically normal. Thus, if

someone were to extinguish such a response, he would not be violating a norm—he would merely be different from most people. We would not view such a person as faulty, defective, or erring in any way.

The same does not apply to the sympathetic response. If one were to quell the sympathetic response one feels when one observes the vivid pain of another, he (and others) would view such a change as unfortunate (RFC 114-15). The extinction of such a response would be viewed as more-than-merely statistically abnormal. Granted, the person who is able to extinguish such a response might benefit from not being receptive to what such a response entails. This benefit, however, *ceteris paribus* would not be important—overall. This seems to imply that there is a deeper notion of "normal" behind the sympathetic response.

Lomasky, then, describes why the extinction of the sympathetic response seems to be unfortunate. He writes:

I suggest that it is because you find that strategy permeated by irrationality. It would be akin to your deliberately refusing to read the newspaper in order to persist in the belief that the lotto ticket you bought yesterday has made you a millionaire today. That is irrational if what matters is not simply or primarily the state of your consciousness but the way things are in the world. Similarly, the extinction strategy is irrational because it would be to take a capacity for apprehending what is valuable and disvaluable in the world as if it were only a spotlight on one's own psyche. (RFC 119)

With the extinction of the sympathetic response, it seems like you are merely avoiding the world. There is impersonal value outside of you, *but* through some mind trick, you fail to recognize the impersonal value that exists in the world. Instead, you are treating all value as if it were merely "a spotlight on one's own psyche" (RFC 119). Since you are not motivated by something that ought to motivate you (real value in the world independent of your psyche), you are acting irrationally. This intuition seems to provide evidence that there exists impersonal reason and value.

4. Another Plausible Explanation

There are portions of Lomasky's defense I will not deny. We would feel unfortunate and a bit irrational if we were to extinguish the sympathetic response. On the other hand, these negative feelings would not exist with the elimination of the chalk response. I recognize and accept the asymmetry in intuitions between the two aforementioned cases. However, I can provide a plausible explanation for this asymmetry without relying upon impersonal reason and value.

a. Metavalue

Remember that when an agent perceives an end as valuable, that agent is then motivated (or has a "reason") to pursue such an end. The key to personal value is that the given end is perceived as being of value simply because it is the agent's own. There is a state of affairs in the world (like E_1), that the agent values simply because of his personal relationship to that state of affairs. As Lomasky states, "He acts rationally if he assigns special value—personal value, value-for-himself—to his own ends simply in virtue of their being his" (*PRMC* 87).

There is a type of personal value that I would like to define. This type of personal value has a personal end which contains another personal value. For example, suppose that Agent A personally values (V_1) the welfare of his children (E_1) . A has V_1 merely because of his relation to E_1 (they are his children). A also, however, has another sort of personal value—a metavalue (MV). According to MV, A personally values a state of affairs (E_2) where he values (V_1) the welfare of his children. In other words, A values the fact that he values the welfare of his children (since he likes being a good dad). The distinctive feature of MV is that its end, E_2 , contains another personal value (V_1) . Thus, MV is only satisfied when it is the case that he values the welfare of his children (via the attainment of E_2). If, for some weird reason, V_1 were extinguished, MV would be frustrated.

Let's apply the concept of a metavalue to Lomasky's attempted defense. Here is a brief outline of the sympathetic response and the chalk response—with the inclusion of a metavalue:

Case A (sympathetic response):

Personal Value—Hate others' suffering pain because I sympathize.

Personal Metavalue—I value being a sympathizer.

Case B (chalk response):

Personal Value—Hate chalk-scratching noise because it annoys me.

Lack of Metavalue—The fact that *X* annoys me as opposed to Y (*ceteris paribus*), does not concern me.

In Case A, there exists a metavalue that has an end that contains another personal value. The agent values (V_1) a state of affairs (E_1) , in which the sufferer ceases to have any pain. The agent also values (MV) a state of affairs

 (E_2) in which he values (V_1) that the sufferer not be in pain. In Case A, then, MV contains V_1 . On the other hand, with Case B, there isn't a metavalue. The agent values (V_2) a state of affairs (E_3) , in which there is a lack of a chalk-scratching noise. If he were to cease to have V_2 , he would not be frustrating another value.

Lomasky claims that the intuitive dissimilarity between Case A and Case B was a result of the dissimilarity in impersonal value. With Lomasky, there is impersonal value that exists independently of V_1 . On the other hand, there is no impersonal value that exists independently of V_2 . Thus, when both V_1 and V_2 are extinguished, they elicit different intuitive responses. In Case A, you feel that the change is unfortunate and irrational. With Case B, you do not have these negative feelings. He claims that such an intuitive dissimilarity makes it plausible that there exists impersonal reason and value.

I agree that there is an intuitive dissimilarity. However, I can explain such a difference without appealing to the existence of impersonal value. My explanation relies upon dissimilarity in metavalues (which are merely deeper personal values). First, let's look at the easier case, B. In this case, the agent values (V_2) a state of affairs in which there is a lack of chalk-scratching noise (E_3). Through some magical means, our agent is able to extinguish V_2 . He no longer has a personal reason to procure E_3 . Since there is no metavalue in Case B, the elimination of V_2 does not trouble our agent. He just now happens to be indifferent to the sound of chalk scratching and does not view this change as a loss.

With Case A, the agent would view the elimination of V_1 as unfortunate. Again, through some magical means, our agent is able to extinguish V_1 . Our agent is no longer bothered by the observance of others' vividly suffering. Thus, he no longer has a personal reason to procure E_1 . This change, however, is not viewed merely with indifference. The agent would still have an intact metavalue. He would still value (MV) a state of affairs (E_2) in which he valued (via V_1) E_1 . When he eliminates V_1 , he would thereby prevent E_2 from obtaining and thus frustrate MV. This person would really value being a sympathizer, but for some reason he feels numb when others are suffering near him. When this transformation occurs (from V_1 to $\sim V_1$), the agent would not view this change as merely "different." This agent would view the change as unfortunate, bad, a tragedy, etc.

Would the agent view the elimination of V_1 as irrational? Suppose that we were able to offer our agent a Faustian deal. We understand that being troubled by others' suffering is costly. When the agent is sympathetic, viewing others in pain can be emotionally draining. By no longer having V_1 (if provided the magical means), our agent would no longer waste the emotional distress. Given such costs, wouldn't it be rational for our agent to extinguish his sympathy?

No. Its irrational nature is not due to its violation of impersonal

value. Remember that Lomasky argued that the agent would be irrational because he would be avoiding the impersonal value that exists in the outside world. Lomasky writes, "That is irrational if what matters is not simply or primarily the state of your consciousness but the way things are in the world [I]t would be to take a capacity for apprehending what is valuable and disvaluable in the world as if it were only a spotlight on one's own psyche" (RFC 119). With my account, on the other hand, the irrationality is due to something that is entirely the opposite of what Lomasky has in mind. The irrationality is due precisely to the fact that the agent is not paying close enough attention to the "spotlight" on his own psyche.

Although my explanation is different from Lomasky's, it is not without precedent in his work. In *PRMC*, he forms an argument that is similar to my own:

It is also the case for most objects of desire that they can be opposed within a person's volitional makeup by desires at a different level. That is, one who desires some outcome O may not value the circumstance of his valuing O, may even desire to be rid of the desire for O. For example, a cigarette smoker may desire to smoke cigarettes, may in fact be motivated by that desire to smoke cigarettes yet, at a higher level, disvalue the circumstance of his desiring to smoke cigarettes. (*PRMC* 58-59, footnote omitted)

This notion of higher-order desire is similar to my account of metavalues. What is of interest, for our present purpose, is the example that he provides.

Let's say that the smoker has "kicked" the habit. After years of struggling, he is no longer motivated to smoke. In fact, he takes a special drug that makes smoking seem disgusting to him. We can now describe his value-set as follows:

Personal Value—Hates smoking because he finds it disgusting.

Personal Metavalue—Values the fact that he disvalues smoking.

The ex-smoker no longer has a value-set that is in dissonance. However, there were some unforeseen costs to the coherent set. Because of his new distaste for smoking, he has been ostracized from his smoker-social group. Since his friends' social lives revolve around smoking at cigar bars, he is no longer able to "hang out" with them. Assuming that there is no other metavalue in conflict with the above metavalue and assuming that there is no metavalue higher than the above metavalue (a meta-metavalue?), would it be rational for the exsmoker to extinguish his personal value?

It would be irrational for the ex-smoker to extinguish his personal value. If the metavalue sits atop of his valuational hierarchy, he would be imprudent if he were to stop taking the anti-smoking drug. Encouraging him to stop would be equivalent to encouraging the ex-smoker to take on a form of *akrasia* (weakness of will). There are often costs to being prudent. One often has to give up some things of lesser value in order to ensure that he is in possession of the greatest amount of value. Were the ex-smoker to stop taking the drug, he would be irrational in the aforementioned sense of the term.

Returning to Case A, our agent would be acting irrationally if he were to extinguish V_1 . It is true that there is some cost to possessing V_1 . If, however, MV sits atop of our agent's valuational hierarchy, then it would be irrational to frustrate this higher value in order to avoid the aforementioned lesser costs. By not paying enough attention to what he truly values (MV—valuing being sympathetic), the agent would cease to maximize the general amount of personal value available to him. Instead, through some weakness of will or lack of self-knowledge, he would be exchanging the lesser value (the costs of V_1) for the greater value (MV). By proceeding in this manner, I can explain the intuitive difference between Cases A and B, without relying upon impersonal reason.

b. The entrenched nature of metavalues

Lomasky might not be content with the above counter-explanation. He might argue that I am not addressing the problem, but merely delaying it. He would try to re-employ the thought experiment in Case A at the level of the metavalue. It would be a case in which we would no longer even value being sympathetic. As I have stated, there are costs to being sympathetic. If we were to remove all positive personal values involved (both V_1 and MV), would we view this new existence as a better state of affairs and/or merely a different state of affairs? Lomasky would probably deny the view that such a state is better and/or merely different. Instead, he might claim that we would view such a change as unfortunate and irrational. Since these negative intuitions remain, though the metavalue is gone, he would maintain that impersonal value better accounts for the recalcitrant nature of these intuitions.

To block this move, I maintain that metavalues are entrenched. This means two things. First, if an agent possesses a metavalue, that agent cannot imagine what it is like to live without that metavalue. The metavalue is constitutive of the agent's identity and it is thus impossible for the agent to imagine what his life would be like separate from it. Second, it is hard for an agent to change metavalues. Only after a major change can an agent switch metavalues. In some cases, it is impossible for an agent to switch.

If the metavalues are entrenched, this has a disastrous effect upon Lomasky's thought experiment. His experiment between A and B would be permanently tainted. The existence of the personal metavalue in Case A and the lack of a metavalue in Case B would always produce the asymmetry. You

would always be viewing the thought experiment from a perspective in which the metavalue is intact. Thus, the chalk-extinction strategy would be viewed with indifference, while the sympathy-extinction strategy would be viewed as unfortunate and irrational. Without a doubt, the intuitive asymmetry does exist. Ultimately, however, it is personal value (albeit a metavalue) that accounts for it.

c. Personal projects

A consistent theme throughout *PRMC* is the high level of importance that Lomasky allots to personal projects. Project pursuit provides many things for his theory. It plays a part in establishing personal identity for agents. And it plays a central role in his derivation of rights. I will argue that the entrenched nature of metavalues is similar to the entrenched nature of personal projects.

In the second chapter of *PRMC*, Lomasky provides a detailed explication of the concept of a personal project. A project is defined by three characteristics: persistence, centrality and structure. With the first, a project lasts "throughout large stretches of an individual life." With the second, projects "play a central role within the ongoing endeavors of the individual." With the third, projects provide structure by eliciting "actions that establish a pattern coherent in virtue of the ends subserved." Projects can either be bad or good. Some examples of them are serving God, bringing relief to the starving persons in Africa, advocating White Supremacy, and practicing philosophy (*PRMC* 26).

An important component of projects is that they can be directed at internal states of affairs. Lomasky writes, "Nor are all projects expressly devoted to bringing about and maintaining a desired external state of affairs; some are directed at becoming and remaining a certain sort of person" (*PRMC* 26). This sounds strikingly similar to a metavalue. Let's say that it is our agent's project to be a sympathetic person. This agent values being a person who values the lack-of-suffering of those who are near to him (this is the metavalue in Case A). It meets the three characteristics of a project. For as long as the agent can remember, he has wanted to be a sympathetic person (persistence). Before he does anything important, he asks himself the following question: "What would a sympathetic person do in this circumstance?" (centrality). Most of his actions follow (or he takes them to follow) the pattern of what a person primarily concerned with being sympathetic would try to accomplish (structure).

Just like metavalues, projects are a source of personal value.⁷

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⁷ Lomasky does claim that the personal value that comes from project pursuit rests upon a notion of impersonal value. He writes:

Lomasky writes:

Project pursuit, though, is partial An individual's projects provide him with a *personal*—an intimately personal—standard of value to choose his actions by. His central and enduring ends provide him reasons for action that are recognized as his own in the sense that no one who is uncommitted to those specific ends will share the reasons for action that he possesses. (*PRMC* 27-28)

If my project is to be a sympathetic person, then I have an end that I value simply because it is my own end (it's my project). I am, then, motivated (a personal reason) to behave in a manner that is consistent with the behavior of a sympathetic person. Since I am deeply committed to my end, my motivation should match my level of commitment.

This moves us to a much more important point. What is of interest is the role that projects play in Lomasky's aforementioned notion:

The reason why projects in this respect stand apart from other kinds of valuation is that projects are those persistent desires which order a life and by reference to which other items are valued or disvalued. A being who has projects is one for whom there is a highest level that confers positive or negative value on lower-level desires. Or, if there is no highest level but instead an infinite hierarchy, projects are those valuational commitments that, at every succeeding level, are positively valued. (*PRMC* 59)

I have argued that unless there is some objective truth concerning what is valuable and what is not, no one could, at bottom, have reason to direct his activity in one way rather than another. Personal value cannot be conjured out of nothing; it presupposes the existence of impersonal value. *However*, it has not been claimed that impersonal value provides a decision procedure to which agents rationally must subscribe as setting out for them the projects they are to undertake. That would be at odds with the whole tenor of the previous chapters in which personal value was seen as individuating agents. (*PRMC* 234, emphasis added)

In this passage, Lomasky seems to conflate the different notions of impersonal value. In the first part (before "however"), he means "impersonal" in the "objective" sense. In the second part (after "however"), he means "impersonal" in the "agent-neutral" sense. Since my essay is not concerned with the "objective" sense of impersonal value, I am not concerned whether Lomasky states that this sense of impersonal value underlies personal value. That is beyond the scope of this essay, and will not be addressed.

In this hierarchy of values, projects and metavalues occupy a similar (if not the same) position. They both sit atop of the valuational hierarchy. In other words, they ought to take precedence over all of the lower-order desires (or values).

We can now describe the intuitive difference between Lomasky's Case A and Case B. In Case A, the agent has a project in which he tries to be a sympathetic person. In other words, he values a state of affairs in which he values the lack-of-suffering of those who are proximate to him. In Case B, on the other hand, he does not have a project that is associated with the chalk-scratching noise. In a similar fashion to the metavalue account, the intuitive dissimilarity between A and B can be explained without reference to impersonal value.

I will now show that Lomasky argues that personal values can be entrenched. He formulates such an argument when he ties projects to personal identity:

I shall instead suggest another factor that bears on the identity of an individual: it is the persistent attachment to ends that shape and continue to shape a person's life. In the absence of such ends—that is, in the absence of projects—bodies could continue to endure in the way that bodies do and memory might still exert cohesive force. What would be absent, though, is continued identity as the selfsame purposive being. One who was open to motivation from one source at time t_1 and then to motivation from a wildly disparate source at t_2 —and so on, and so on—would be what I called above an Indiscriminate Evaluator I claim, then, that one component of a person's identity over time is constituted by his commitment to projects. This is not put forth as a replacement for the other criteria employed to establish identity but as an addition to them. (PRMC 31-32)

Pursuing projects provide "psychological continuity" to the agent. The agent is the same psychological being through time, because he orders his life via the same projects.

This is a fairly intuitive idea. Often when referring to the personal identity of a particular agent, we refer to his personal projects. We say that a certain agent is identified by, for example, his love of children, his advocacy of White Supremacy, his attempts to remain a sympathetic person, his strong sense of patriotism, etc. His persistent attachment to these enduring ends (i.e., personal projects, or my account of metavalues) is what makes that person mentally distinct. If that agent were to change one or more of his projects, we would say, in more than a metaphorical sense, that that agent's identity had been altered. Depending on the amount of projects he alters, we might even

claim that he has become an entirely different (mental) person. Worse yet, if he continues to alter his projects, he may cease to have any form of a mental identity.

It is not impossible to change your projects (or metavalues) and thereby alter your personal identity. When such a change occurs, the person becomes a new individual (mentally speaking). Lomasky writes about such a change:

A conversionary experience conceivably could bifurcate a life in this way. The postconversion individual is imbued with drives and allegiances that give his life definite shape, but they bear no resemblance to those that motivated the preconversion self. It would be natural for a convert to look back at the preconversion life as foreign, as one lived by someone else whose goals now seem puzzling and confused. The convert may speak of the decisive experience as a confluence of death/birth (as does, most famously, Paul, the erstwhile Saul). Here we find not the absence of unity, but two temporal segments, each of which displays an intelligible pattern, yet which are unhinged from each other. (*PRMC* 45-46)

The important aspect of this passage is the perspectival limitation of the agent who undergoes a conversionary experience. When talking about the notion of being entrenched, I never denied that a person could change his projects/metavalues. What I did deny is that the agent can go beyond the perspective that is currently embodied in his current identity.

Take Lomasky's reference to Paul and Saul. These different (mental) individuals have radically different projects. Because these projects are what make them individuals, they cannot conceive of what it is like to be without these projects. Thus, if we were to give Paul the option to return to a Saulian state, he would view this life "as foreign, as one lived by someone else whose goals now seem puzzling and confused" (*PRMC* 46). Likewise, Saul would not be able to imagine his life as Paul. The reason that this is so is that the definitive characteristic of these individuals is their value sets (projects/metavalues).

If we were to ask Paul to conduct a thought experiment and to imagine what it would be like to return to a Saulian state, he would not be able to conduct a pure experiment. If, for any time in the thought experiment (t_1 - t_n), Paul were able actually to take on the perspective of Saul (and adopt his value sets), he would cease to be Paul for the duration of t_1 - t_n . Instead, he would be Saul. On the other hand, if he were to remain Paul throughout the experiment (by retaining Paulian value sets), the experiment would be tainted. He would then be judging Saul's values from the perspective of a Paulian value set. Such a tainted thought experiment would view Saul's goals as

foreign, puzzling, confused, etc. (*PRMC* 46). We would get similar results if we were to conduct the thought experiment in reverse (i.e., Saul's pretending to be Paul).

d. Sociobiology

Lomasky might not be satisfied with the view that metavalues are similar to projects. It seems that, with the situation in question (Case A and Case B), most individuals would find an intuitive difference between the two cases. Most individuals would find it unfortunate and irrational to use the extinction strategy in A. With B, on the other hand, most people would not be similarly troubled. Lomasky writes, "That, though, raises the further question: what are we to make of this statistical regularity" (RFC 117)? Wouldn't it be an implausible coincidence that most people happen to share such a strong and entrenched metavalue/project? Instead, the reason that this large group of people recognizes the stronger value in A, Lomasky might argue, is that they are recognizing a value that is independent of their personal value sets—an impersonal value.

There is, however, another plausible explanation that could explain both the entrenched nature of the metavalue and why some are statistically ubiquitous. In fact, in the first part of his tripartite derivation of basic rights, Lomasky provides an argument that could explain both of the aforementioned characteristics:

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In essence, the projects that a person pursues, according to Lomasky, are not products of his genes, but are acquired (a matter of choice separate from biological make-up).

However, Lomasky's theory is somewhat confusing when it attempts to demarcate between the "acquired" and the "innate." When describing some personal projects (which are acquired), he writes: "That the ends are personal does not, of course, preclude their being directed toward the welfare of other persons. The relations of mother to child, lover to beloved, friend to friend generate projects that are as intensely personal as they are other-directed" (*PRMC* 35).

Yet, later, he talks about these values as if they were innate (via a shared biology). In chapter four, he writes, "Thus there is a sociobiological explanation of why the tendency to be moved by the needs of others, especially the needs of kin, has become a characteristic of the species" (*PRMC* 62). Given the last two quotations, it is hard to understand how Lomasky separates the "innate" from the "acquired." In fact, I think there is much more of an overlap between projects and a shared biology than Lomasky lets on. But I will not pursue that point in this essay. Instead, I'll refer to the sociobiological account as merely "another plausible explanation."

⁸ The reason that this is "another plausible explanation" and not merely a continuation of my last explanation, is due to a conceptual division that Lomasky places between projects and innate qualities. He writes: "First, one's identity as a purposive project pursuer... is an identity which one creates by the act of *identifying* oneself with some ends above others. It is not innate but acquired" (*PRMC* 32).

The first line to be taken is to note that we are not in fact the sort of beings described above: beings whose empathy is totally disengaged from the plights of their fellows. Rather, human beings are social animals whose survival is predicated upon their being the beneficiaries of altruistic concern of limited yet crucial scope. One of the most far-reaching facts about human beings, a fact that moral theory ignores at its peril, is that human beings are more inclined to feed their young than to eat them. Undoubtedly this propensity is rooted far more in biology than in delicate moral reflection Thus there is a sociobiological explanation of why the tendency to be moved by the needs of others, especially the needs of kin, has become a characteristic of the species. The value of empathetic response is, at least in part, survival value. (PRMC 62)

There are values that tend to have a biological foundation. The (casual) reason we have these values is due to our biological make-up. Humans have a tendency to be rather nice to each other, which allows them to cooperate on a large and beneficial level.

The statistical ubiquity of the metavalue that is present in Case A might constitute evidence that it is the product of a shared biology. If in a particular species a trait is universal, it most likely is an adaptation. This trait is probably passed through reproduction (variation and inheritance) and gives the organism (which possesses this trait) a survival or reproductive advantage (differential-fitness). This advantage is so high that pretty much all of the members in this particular species have the trait (except for some random mutations which would be new variation).

We should not be surprised that the metavalue in Case A is statistically ubiquitous. There is probably a large survival advantage in valuing the fact that you value that others not be in pain. As was discussed above, you will try to live your life in such a way that it is coherent with this metavalue. Showing others that you are attempting to live such a coherent life (regarding valuing them not being in pain) might elicit a reciprocal behavior on their part. The presence of such emotions and values would aid in the fulfillment of reciprocal altruism.

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⁹ Radu Bogdan, *Interpreting Minds* (Cambridge: MIT Press, 1997), p. 18.

¹⁰ Reciprocal altruism is a fairly common notion in sociobiology. With reciprocation, altruistic thoughts and behavior cease to be a sacrifice and can be beneficial for those who participate. Both altruistic agent and benefiting agent benefit, as long as there is mutual reciprocation of kindness. In other words, there is a benefit to the altruistic agent (and ultimately its genes), if it is kind to other agents and, in turn, those agents

What is contentious is the conclusion Lomasky draws from the notion that certain values might come from natural selection. He maintains that natural selection merely gives a *capacity* to be motivated to benefit others:

If it is the case that people ought to acknowledge and respect the rights of others, then it must be true that people generally can respect the rights of others. They can do so only if the recognition that others crave moral space within which to carry out their projects will somehow provide a motivation to cede that space. If a certain version of psychological egoism were true, that version maintaining that nothing can possibly move a person to action except desires for his own personal well-being, then no recognition of the needs of others could, by itself, have motivational force. The argument from biology is put forth as a corrective to that kind of egoism. If empathetic response comes naturally to human beings, then they are creatures who at least can be motivated by the recognition that others are project pursuers. A necessary though not a sufficient basis for grounding rights has been uncovered. (*PRMC* 63)

Lomasky is providing an instantiation of the ought-implies-can principle. He realizes that if people were complete psychological egoists, we could not argue that they ought to respect the rights of others (*ceteris paribus*). He then maintains that the "argument from biology" shows that people have a capacity (he uses the word "can") to be motivated by empathy. Since agents can be motivated to respond in an empathetic fashion, this does not violate the ought-implies-can principle to require that agents ought to respond in such a fashion.

What is contentious is that his argument is too weak when he describes the empathetic response in humans. He views it as merely a "can" and not as a "must." Nature does not always endow us with mere capacities; often it forces us to experience the world in a certain fashion. The visual apparatus of humans only works within certain parameters. The eye can only pick up certain wavelengths of light (red-violet). Our visual apparatus is hardwired in such a fashion that it is impossible to see ultraviolet and infrared light. It is not that humans merely have a capacity to experience certain wavelengths of light (red-violet), but that they are forced (via biology) to see only according to that spectrum. In essence, normal humans are forced to observe the world in a certain way. They cannot know what it would be like to see the world differently.

are kind to it. For more on reciprocal altruism, see Matt Ridley, *The Origins of Virtue: Human Instincts and the Evolution of Cooperation* (New York: Penguin Books, 1998).

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We should now be able to apply this reasoning to the main argument of this essay. The "normal sympathies" that Mack referred to and that Lomasky attacked, might be the mere statistical frequency of the presence of certain metavalues (like in Case A) due to a shared biology. Since the metavalue is shared because of biology, that might also explain why it is entrenched. Experiencing certain metavalues (like valuing that you disvalue the suffering of others) might be more than a mere capacity; our shared biology might force us to view the world with these metavalues intact. This means two things. First, we can't change these innate metavalues without changing our biology (since our minds are hard-wired with these values). Second, those endowed with these innate metavalues are perspectivally limited. They would have no way of knowing what it would be like to experience the world independent of their neurophysiology. If they are biologically determined to experience the world with certain metavalues, they would have to view moral problems with those metavalues intact.

5. Conclusion

Lomasky readily maintains that he has not constructed a conclusive argument. Instead, Lomasky holds that his argument is more similar to abductive reasoning (RFC 118). A common difficulty associated with abductive inference is that the one who is conducting such an inference has to be sure that he has covered every relevant alternative to his proposed hypothesis. In order to claim that his hypothesis is the best, Lomasky must ensure that there are not other hypotheses that are just as good as or better than the one he has proposed. Thus, the burden of proof resides with Lomasky. He must demonstrate that he has exhausted all of the relevant alternatives to his theory. This is where his account fails.

In providing the metavalue account, I have not tried to provide an inference to the best explanation. I have merely provided a plausible alternative hypothesis. By doing this, however, I have undercut his argument. His theory is no longer an inference to the best explanation. Instead, it is merely an inference to an explanation, one among many. In order to claim the privileged status of "best," he must satisfy the burden of proof. By providing the metavalue account, I have shown that he has yet to meet such a burden.

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¹¹ This applies only to normal people (in the statistical sense), and not to those who are autistic and/or psychotic.

Political Obligations and the Duties of Friends

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1. Introduction

Political philosophers have tried to construct a possible relationship between friendship obligations and political obligations. They argue that in addition to sharing certain other features, both species of obligations arise from relationships which have intrinsic value for persons. The intrinsic value of these relationships gives rise to certain obligations that are specific to the relationships. They are therefore not obligations that are owed to persons outside the relationship. They are *special* and not general obligations.

In this essay, I argue that in addition to a significant disanalogy between friendship and citizenship, the intrinsic value conception does not establish a successful possible relationship between friendship obligations and political obligations. This is because the intrinsic value conception fails sufficiently to explain the necessity of action. I propose, rather, an account where value is derived from persons and argue that this account has more prospects for success. This is because it offers a better justification for the necessity of action.

In Section 2, I discuss the intrinsic value argument for the relationship between friendship and citizenship. In Section 3, I discuss the significance of action in political obligation and argue that the necessity of action is what constitutes obligation. I then, in Section 4, give certain characteristics of friendship that defeat the analogy between friendship and citizenship. I go on, in Section 5, to show how the intrinsic value account fails to justify the necessity of action and how a non-intrinsic value account better addresses it.

2. Justifying Special Obligations

Are there obligations that arise by virtue of certain relationships that we have? Some philosophers like Andrew Mason are of the view that there are. For him the relationship of friendship is valuable in itself and the obligations that arise from it are constitutive of the friendship. When we have

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¹ Andrew Mason, "Special Obligations to Compatriots," *Ethics* 107 (1977), pp. 427-47.

a friend, part of being a friend is having certain duties² that we owe only to that person and not another. If, for instance, Joe is my friend and he has a friend called Jamie, there are obligations that I owe to Joe as *my* friend that I do not owe to Jamie. Other opposing views contend, however, that the obligations I owe to Joe are not derived from the relationship but have their source in general moral principles.³

The idea of special duties is here used in two senses, the first being whether I owe those duties to Joe and no other person, and the second being whether the duties have their source in the relationship itself or in the general principles of morality. The sense in which they are called special obligations by those like Mason who contend that they could exist, is a combination of both senses. These obligations are special because I owe them to Joe and no other and also because they arise from the relationship I have with Joe and not from general moral principles. Thus, though both senses can be distinguished, they are inter-linked in any argument for the existence of special obligations of this nature. That Joe is my friend gives rise to obligations that are specific to that relationship and since they are specific in this way, I owe them to Joe alone. To ground them in general moral principles is to remove the basis of justifying my obligations to Joe.

In grounding obligations in relationships, the value of personal human relationships is made significant. Whereas in general moral principles other aspects of human nature and/or less personal levels of relationship are emphasized, in special-obligations arguments the importance of personal human relationships is brought to the fore. Moral principles like the fair play principle seek, on the other hand, to emphasize the role of cooperative enterprises and joint activity for a common goal. The focus is on the achievement of goals for which there exists a cooperative enterprise obligating persons by virtue of receiving benefits. The conception of the person here is that a person cooperates self-interestedly only for what personal benefits can be obtained by cooperating in the venture. However, with special obligations, persons are conceived as being interested in promoting the welfare of the other person in the relationship. As Lawrence Blum argues,

² I intend to use the terms "duty" and "obligation" interchangeably.

³ Mason, "Special Obligations to Compatriots," p. 429.

⁴ The principle was first articulated by Hart and developed further by Rawls. H. L. A. Hart, "Are There Any Natural Rights?" *The Philosophical Review* 64 (1955), pp. 175-91; John Rawls, "Legal Obligation and the Duty of Fair Play," in his *Collected Papers* (Cambridge, MA: Harvard University Press, 1999), p. 122.

they are acting from an altruistic desire to make another person happy. The focus here is less on what they want and more on what will be beneficial to the relationship as a whole. Thus if Joe asks me to join him in helping his friend Jamie move, though my obligations are to Joe as my friend and not to Jamie, because doing what Joe asks will make him happy and strengthen our relationship, I am inclined to render my services to his friend Jamie. The dynamics of friendships are such that obligations are linked expressively or constitutively to the good of the relationship. On these obligations as constitutive of the good of friendships, Joseph Raz says:

- (1) Friendship is an intrinsically valuable relationship; it is properly valued for its own sake.
- (2) Part of what it is for two people to be friends is for each to be under certain obligations to each other, and these obligations are justified by the moral good of the friendship.
- (3) These special obligations are internally related to the good of the friendship; that is they are part of that good. ⁶

Obligations are here characterized as partially constituting the good of the relationship and therefore internal to it. However, what is not clear is how the characteristic of intrinsic value is linked with that of special obligations as being constitutive and internal to the relationship in this way. Mason argues that friendship is intrinsically valuable as it involves the showing of certain attitudes that are laudable in themselves. When we are friends with someone we show concern for him and expect concern to be shown reciprocally to us. We also act altruistically for him because, by virtue of friendship, we show sympathy; compassion for the other person is another good effect of having a friend. In other words, friendship is intrinsically valuable because it makes us better people. However, it remains unclear how this means that we have obligations toward the other person that emanate from the nature of the relationship. Mason goes further to argue that

⁵ Lawrence Blum, *Friendship, Altruism, and Morality* (London: Routledge & Kegan Paul, 1980), p. 43.

⁶ As cited in Christopher Wellman, "Friends, Compatriots, and Special Political Obligations," *Political Theory* 29 (2001), p. 222.

⁷ Mason, "Special Obligations to Compatriots," pp. 439-40.

⁸ Ibid.

citizenship, in like manner, has intrinsic value for persons. This is because by virtue of citizenship, persons enjoy equality with other persons and the recognition that comes with it. Also, the collective body of citizens as a whole has great influence in the life of persons. By virtue of citizenship, persons can play their part in the growth and development of the polity. Thus, for him the good of equality, the role that the collective body of citizens plays on persons, and the opportunity it gives persons to contribute to the polity's development makes citizenship intrinsically valuable—and thereby places on persons obligations to it. Mason argues that it is indeed part of being a citizen to carry out one's obligations to the polity.⁹

However, though it gives more flesh to Raz's account, it too fails to make a convincing link between the feature of intrinsic value and that of the existence of special obligations. It seems to presume that a strong account of intrinsic value is sufficient to justify special obligations. However, I argue that it does not. I argue below that obligation implies the necessity of action, and this is not convincingly shown in the intrinsic value account as given by Raz and Mason. I am going to give a non-intrinsic value account in Section 5. I will there argue that if special obligations exist, they are best derived from this account of value.

3. Action and Political Obligation

There are various ways in which action is significant in political obligation. One is that a theory of political obligation seeks to provide us with a reason or reasons for action. It tells us why we should act in a certain way in relation to the law. In complying with such a reason or reasons, we allow the sphere of action to be influenced by that reason or reasons. They are reasons for us to act. Another way is that what the law requires us to do is to act and, even in prohibitory rules which aim to restrict action, we are in a way acting in compliance with the law. As persons we are always in the sphere of action and even in not acting, we are in a way acting. In other words, to act or not to act in one way is still in a more general sense to act. The reasons for action with relation to political obligation can be reasons to explain action, justify action, or motivate action. These categories, however, are not coextensive and may overlap. In trying to explain action, for instance, an account of why we obey the law is sought. This entails more of a descriptive account of why we are inclined to take the law's directives to be authoritative for us, or, in a weaker form, why persons generally think that they are under some moral obligation to obey the law regardless of whether or not they in fact obey the law. Tom Tyler gives such an account based on studies carried out in Chicago. He finds that people obey the law because

⁹ Ibid., p. 442.

they are of the view that it is the right thing to do. ¹⁰ They believe that legal authority is legitimate and, based on this, feel that they are under some kind of obligation to obey its directives. He therefore seeks to argue that persons do not only have what he calls instrumental reasons for complying with the law—they also have normative reasons. These, as opposed to instrumental reasons, are not reasons drawn from the threat of punishment but are based on a perceived legitimacy of legal authorities. ¹¹

Reasons for action with relation to political obligation can also be aimed at justifying compliance with the law. These species of reasons for action give a theoretical framework as a source for political obligation. They show how the framework places persons under an obligation to obey the law. They are distinct from motivating reasons, which are given through the perspective of what benefits obedience to law can produce for the agent. These may seek to motivate the agent to obey the law out of self-interest. This description of motivating reasons deviates from the internalist claim that reasons are by nature motivating.¹² This informs the distinction we make between reasons that justify and reasons that motivate. The sense in which we describe them as motivating reasons is that they are given to provide some sort of incentive for persons to see obedience to law as something that is worth doing. However, this is not to presuppose that when persons obey the law, they do so from any of the reasons in the three categories. An important aim of a theory of political obligation is merely to give a good account of obedience to law—one that could influence people and not one that does in fact influence people.¹³ Even a theory of action that seeks to explain why people obey the law may not hold true in every circumstance that obedience to law is at issue. The theories best aim to give an account that possibly exists and could influence persons. It has been argued that such theories are not therefore action-guiding if they are "distinct from those on which citizens had reason to act."14 However, theories of political obligation are not intended to

¹⁰ Tom Tyler, *Why People Obey the Law* (New Haven: Yale University Press, 1990), pp. 170-78.

¹¹ Ibid., p. 3.

¹² Bernard Williams, "Internal and External Reasons," in his *Moral Luck: Philosophical Papers 1973-1980* (Cambridge: Cambridge University Press, 1990), pp. 101-13; Christine Korsgaard, "Kant's Analysis of Obligation: The Argument of *Groundwork I*," in her *Creating the Kingdom of Ends* (Cambridge: Cambridge University Press, 1996), p. 43.

¹³ Glen Newey, *After Politics: The Rejection of Politics in Contemporary Liberal Philosophy* (Hampshire: Palgrave Macmillan Publishing, 2001), p. 62.

¹⁴ Ibid.

be action-guiding in this way. They are action-guiding because they provide reasons that are *action-reasons* with relation to the obedience to the law. In other words, they are reasons from which persons could act. This places on such theories a further standard—an account of how the reason could be a first-person reason, one that *I* can act from.

Glen Newey gives two liberal attributes of reasons for action with relation to political obligation.¹⁵ The first he calls "transparency," which refers to the requirement that the society is based on public principles. This publicity is characterized by public access to these principles and the opportunity for public scrutiny of them. He gives a statement representing the significance of transparency for reasons for action as follows: "There must be reasons justifying political obligation, which justify the citizens in *thinking* that he is so obligated."¹⁶

Transparency does not presuppose unjustified or unjustifiable legitimacy. It rather highlights the need for justification of authority. This justification, according to Newey, need not be the best justification. ¹⁷ It need only be a justification that is plausible and acceptable to the citizen. It is also a theoretical rather than practical thesis since it focuses on what the citizen believes to be the case. It is what justifies his "thinking" that he is under an obligation to obey the law that is the main concern of the transparency requirement. This requirement is followed by a second one Newey refers to as "distributivity," which cuts through any universality and seeks to be grounded in the agent as an individual. It aims to be relevant to the agent as a person. The distributivity requirement is stated as follows: "There must be reasons justifying political obligation, which justify each of the citizens, acting on the obligation."

This is a practical thesis that requires a theory of political obligation to give reasons that also motivate action. It relies on the presumption that the only relevant reasons here are internal reasons.¹⁹ Though, as has been said, the reasons that are given by such theories may be distinct from reasons that persons actually act from, where they do not motivate persons to action, their relevance with relation to justifying political obligation is weak. The

¹⁵ Ibid.

¹⁶ Ibid., p. 63, emphasis added.

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ Ibid., p. 64.

fulfillment of political obligation in whatever form (whether prohibitorily or positively) is action. To fail to motivate action is therefore to lose relevance with relation to the obligation to obey the law. By motivation for action here we refer to the capability to motivate rather than actual motivation. The focus is on the notion that persons are capable of being motivated by reasons to act and not whether they are in fact motivated by those reasons. The features of such a species of reasons may vary, but the aim which is to motivate action is central to political obligation. Newey combines the requirements of transparency and distributivity (TD) in the following thesis: "There must be reasons justifying political obligation which justify each of the citizens, acting on the obligation, in thinking that he is so obligated."²⁰

For Newey, this should represent the yardstick for a good theory of political obligation. 21 It can either be interpreted as meaning that such a theory should justify belief as well as motivate action or that it should provide internal reasons—reasons that justify belief in the legitimacy of legal authorities as well as motivate persons to comply with the directives of such authorities. However, the TD requirement does not require from theories of political obligation an explanation of obligation as the necessity of action. It fails to emphasize that action in political obligation is to embody necessity. We characterize necessity as being the nature of action within political obligation. It is because action is seen as necessary that we have obligation. Theories of political obligation are not only to justify action—they are also to justify the *necessity* of action. With relation to the obligation to obey the law, necessity is characterized as force not derived outside the will but within the will. By will I mean the force of reason. Thus the force referred to is not supposed to be force akin to duress but the force of reason. A theory of political obligation should compel the will by reason (i.e., from the standpoint of rationality) to act in a certain way.

Obligation is seen here as doing what is required even when we are not inclined to do so. Where we can be influenced to act a certain way regardless of inclination, then there can be said to be obligation. The agent here can be said to be acting out of obligation. Kant thus makes a distinction between acting *from duty* and *acting in conformity with duty*.²² We act in conformity with duty when we do something that we are inclined to do anyway: the act is something that comes easily to us. However, we act from duty when what duty requires is difficult to do but we do it regardless. For

²⁰ Ibid., p. 63.

²¹ Ibid., p. 64.

²² Immanuel Kant, *Groundwork of the Metaphysics of Morals* (Cambridge: Cambridge University Press, 1997), p. 11, 4:398.

Kant, the act of moral worth is that which we do even though we are not inclined to.²³ It best represents what duty means—the necessity of action. While the first act does not require or show strength of moral character, the second does. When action is necessary, reason rules over inclination and compels the will to act. It is in this compulsion that the internal character of duty is formed. Needless to say, the words "compulsion," "force," or "necessity" may incite some discomfort as they may be seen to threaten the autonomy of persons. It can be argued that it is incompatible with the freedom that autonomy entails if persons are compelled or forced. However, for Kant, the character of duty in this characterization means that the will is free. It is free to be its own commander. In being able to command itself rather than be commanded by a force external to it, it is truly free. Duty in this sense does not therefore threaten freedom. It indeed embodies it. It is a free will that is able, by reason, to issue directives to itself and feel bound by these directives.²⁴ This is not to say, however, that even when we act from duty, we act *only* from duty. There are factors in particular situations that also influence us.

Philip Stratton-Lake tries to resolve the tension that could arise here for Kant's characterization of duty and moral worth by giving what he calls the "symmetry thesis." The significance of this thesis is to make a distinction between primary and secondary motives. While a primary motive may arise from the factors of the specific situation, the secondary motive remains to act in accordance with morality. The relationship between the two motives is that the secondary motive acts as a regulatory motive over the primary motive. Thus even though other factors may exist, and persons are influenced by them, they can still be said to be acting from duty by virtue of the secondary motive.

Another sense in which there can be said to be necessity with relation to political obligation is that the existence of legal directives presents a moral necessity to persons. An analogy can be drawn between Kant's conception of moral necessity and causal necessity.²⁶ The sense of necessity that can be derived here is not, however, that persons always act in compliance with the

²³ Ibid., p. 12, 4:398.

²⁴ Here we mean "moral" and not "legal" directives. However, a legal directive can be a moral directive when it is reflectively endorsed by the agent. For more on reflective endorsement, see Korsgaard, "Kant's Analysis of Obligation," p. 49.

²⁵ Philip Stratton-Lake, *Kant, Duty, and Moral Worth* (London: Routledge Publishing, 2000), p. 62.

²⁶ Ibid., p. 67.

law but that the existence of a legal directive always presents the need to act in a certain way whether or not persons actually do so. Legal directives here thus take the place of the Moral Law in the case of morality or the Principle of Causation in the case of causation. It can be argued, however, that legal directives—unlike the Moral Law or the Principle of Causation—do not provide a fundamental principle. We only characterize them as being akin to the Moral Law or the Principle of Causation to the extent that their existence necessitates action. The existence of a legal directive creates the need to act. However, I argue that the sense of necessity with relation to political obligation that is relevant here is the sense in which it is the fundamental feature of duty. Duty is the necessity of acting even when we are not inclined to do so. Political obligation is thus the necessity of acting in compliance with the law even when we are not inclined to do so. Theories of political obligation are therefore required to justify not merely action, but also the necessity of action in spite of inclination. This means that the reasons such theories need to provide can only be internal reasons—reasons that motivate as well as justify.

4. Friendship and Citizenship

I will now look closely at the analogy between friendship and citizenship. It has been argued that these two relationships give rise to obligations that are specific to the relationships. It is also argued that both relationships are intrinsically valuable (which is a claim that I will examine more closely in the next section). In this section, I argue that there are certain dissimilarities between friendship and citizenship that affect the derivation of obligations from citizenship. Christopher Wellman identifies some of these dissimilarities.²⁷ For him, friendships are consensual in a way that citizenship is not. Whether or not we consciously choose our friends, we need to give our consent for the friendship to exist and continue. Friendship is not a passive institution. Friends are actively involved in ensuring that the friendship flourishes. There is therefore more direct control exercised by persons in a friendship and it is, as Wellman describes it, more of a "function of our actions" than citizenship is.²⁸ Thus a friendship can come into being simply by saying "she is my friend" or end by declaring "you are no friend of mine!"

Also, as Wellman argues, there is an emotional bond that exists among friends that is not existent in citizenship. Indeed, this emotional bond is what founds the ascription of special obligations to the relationship. He says:

²⁷ Wellman, "Friends, Compatriots, and Special Political Obligations," p. 221.

²⁸ Ibid.

[I]t is the intimacy and emotional intensity among intimates that is thought to generate the necessary moral steam; our readiness to posit special responsibilities among friends stems from a belief that these features of a relationship are morally significant²⁹

The absence of this "moral steam" in the relationship of citizenship drives home the difference between citizenship and friendship. The citizenship relationship need not have an emotional bond in order to flourish. Citizens do not need to like each other or have any form of affection for the relationship to In addition to these two features, there are deeper aspects of the dissimilarity between the two institutions. One is that we generally see our friends as extensions of who we are. Our friend is someone that we like, someone that is like us and/or someone that is like the way we wish to be. Even though we may be different from our friends, there are things that we have in common with them and these things bring us together. A common cause of friends' drifting apart is that persons evolve into very different people and no longer have a common ground on which to found the friendship. The changes that occur in the individual lives of friends thus affect the friendship. These changes can make it stronger or indeed signal its demise. However, citizenship is not structured in this way. We are fellow citizens to persons with whom we may have no similar interests.³⁰ In some cases, citizens of the same country may speak different languages and not be able to communicate with each other in the absence of an interpreter. And although we may have friends among the citizens in the country, for the analogy to work, we would need to be friends with every member of the state. Also, with friendships, we have to know our friends and even know them more than others do. A characteristic of friendship is that we stand in a position to the person that is closer than other persons. We know things about them that other people do not. And in closer degrees of friendships, secrets are shared and these secrets create the boundaries of the friendship from the rest of the world.³¹ With citizenship, however, most citizens do not even

²⁹ Ibid.

³⁰ It may, however, be argued that things like security and democracy may constitute similar interests in this regard, but they still differ from the way in which they could be characterized in friendships. I am grateful to Richard Ireland for pointing this out to me.

³¹ Cocking and Kennett refer to this as constituting a "secrets view of friendship." See Dean Cocking and Jeanette Kennett, "Friendship and the Self," *Ethics* 108 (1998), pp. 502-27. For more on the significance of self-disclosure in friendship, see Laurence Thomas, "Friendship," *Synthese* 72 (1987), pp. 217-36.

know the names of a substantial number of their fellow citizens let alone more about them, or indeed significantly more about them to attract the notion of a friendship.

Another aspect of the emotional web that exists in friendships and is absent in citizenship is the desire to share our lives with our friends. We want to share the good times and bad times with them. We desire to do things with them and interact with them in different ways. This desire is absent in citizenship relationships. We may work with fellow citizens but do not wish to extend the area of interaction to our personal lives. Unlike co-workers who communicate with each other in order to work together, friends relate with each other because they want to. They do not do so because they need to. Thus, interaction between friends is constitutive of the relationship and not a means to an end. It is because we share our lives with our friends that we want them to be there for us when we need them most. From this flows the obligation to assist a friend in her time of need. This is because friends share their lives with each other and this includes the good times and the bad times. The obligation flows from the emotional constituent of the relationship. There is, however, a need to draw a distinction between "expectation-obligation" and "demand-obligation." This is a diminutive but significant distinction with relation to friendships. The obligation, for instance, of Joe to visit Jamie who has taken ill and is in the hospital is not the sort that is demanded as a result of the relationship. It is only an obligation that is expected by Jamie. But it can be argued that it is of no less stringency since if Joe failed to visit Jamie without good reason, it would put a strain on the friendship.

The significance of this distinction is not to ascribe less weight to friendship obligations but to show that they differ from the sort of obligations that the state can require of its citizens. Political obligations can in different ways be demanded by the state. One of the ways in which the obligation to obey the law, for instance, is required is through the attachment of punitive notions in the law. With relation to contractual obligations, some have argued that the existence of a remedy creates two types of obligations with relation to contracts. Lord Diplock in *Photo Production v Secoricor* refers to the creation of primary and secondary contractual obligations as a result of the duty to pay damages upon breach of contract.³³ Contracting parties can therefore choose to be bound by either a duty to perform the contract or a duty

³² For a discussion of the notion of rights in friendships and close-knit communities, see Michael Meyer, "Rights between Friends," *The Journal of Philosophy* 89 (1992), pp. 467-83.

³³ Photo Production v Secoricor (1980) AC 827.

to pay compensation on breach. This disjunctive description of contractual obligation has been used with relation to penal law where the nature of the obligation imposed by a penal law is characterized as being either to obey the law or face punishment. For John Finnis this description of legal obligation detracts from the positive role of law, which he holds to be the promotion of the common good. Even though the law can be seen as giving disjunctive obligations, it is not the aim of law to do so and judges do not interpret legal rules in a disjunctive way. This is further evidenced by the existence of a civil wrong to incite a party to breach a contract. However, this lies in the face of the theory of efficient breach where contracting parties are encouraged to breach when it is more economically beneficial to do so than to perform. The aim of the law, however, remains for the most part to encourage compliant behavior, and this for Finnis is a better way to view the purpose of the law in society. He says:

[T]he social importance of law ... derives not only from its ability to mould the 'bad man's' practical reasoning, but also from its capacity to give all those citizens who are willing to advance the common good precise directions about what they *must* do if they are to follow the way authoritatively chosen as the common way to that good³⁷

Law is aimed at supplying reasons to perform and not threats for non-compliance. To describe law through the perspective of punishment is to reduce its content and to ignore the ideal to which it should aspire. For Finnis "the law's ambitions are higher than this" and a much broader description (though still including punishment for non-compliance) would better depict the nature of law.³⁸ However, even within a broad conception, the role of punishment as a tool for required performance is still significant.

Friendship obligations, however, are not required in this way. Even though friends sometimes react to each other in a way that shows displeasure and which could be characterized as punishment for something the friend

³⁴ John Finnis, *Natural Law and Natural Rights* (Oxford: Clarendon Press, 1980), p. 325.

³⁵ Ibid., p. 324.

³⁶ Ibid., p. 323.

³⁷ Ibid., p. 325.

³⁸ Ibid.

must have done or failed to do, the fluidity of this kind of "punishment" cannot give rise to the sort of disjunctive characterization we see in contractual obligations or penal law. Friendship obligations are generally not demanded in this way. They are rather hoped for by persons who are in a friendship. Indeed, declaring obligations may put a strain on the relationship. Though friends are aware that obligations exist between them, they do not see the relationship in terms of the duties they have toward each other. These duties merely flow from the emotional element that composes the friendship. To claim obligations is indeed to threaten the relationship and to impose a reductionist conception that may defeat the ascription of friendship to the relationship.

Yet another aspect of the emotional element of friendship that is relevant for the obligations that arise from friendships is the requirement of trust that friends have toward each other. Friends expect to trust each other. This trust creates the safe moral and psychological environment from which obligations can emanate. When friends trust each other they are able to do things for each other without feeling manipulated or taken advantage of. They trust that their friends would do the same for them if the positions were reversed. This trust arises from the much deeper knowledge of each other that they share and the belief that the relationship is based on truth as it relates to self-disclosure. A friend who lies is not trusted and this affects whatever obligations that could arise from the relationship. But citizenship is not structured in this way. The requirements of truth and trust are not basic features of relations among citizens. It does not significantly affect the relationship of citizenship if a citizen is lied to by a fellow citizen. It can of course be argued that if that fellow citizen is the president of the state or holds any another public office, the requirements of truth and trust become important. However, apart from the fact that the nature and degree of truth and trust differ in this context, they are not required as part of an emotional element but as part of a political one. It is a requirement of democracy that places public officers under a duty not to lie to those whom they serve. For friendship, however, the source of this requirement is emotional and not political.

The second strand of the argued similarity between friendship and citizenship is that both relationships have intrinsic value. The feature of intrinsic value gives rise to obligations, and fulfilling these obligations is constitutive of the good of the relationship. They are special to the relationship because they are derived from the relationship and are not owed to others. In the next section I shall examine to what extent friendship is intrinsically valuable and also whether citizenships are similar to friendships in this way. I then argue that even if friendship is intrinsically valuable and citizenship is similarly valuable, this conception of value does not explain the

necessity of action. I then show how a non-intrinsic value account can better address it.

5. Action and Intrinsic Value

A relevant question with relation to the nature of the value of friendship is whether we need friendship to live a worthwhile life. Is it possible to live a worthwhile life without friendship? The answer to this question can inform us as to the way in which friendship is valuable to persons. For Aristotle, the answer is that we cannot. We need friendship to have a full and happy life. According to him, "without friends no one would choose to live, though he had all other goods." Friendship for him is central to having a worthwhile existence. To be friendless is not desirable even when one has all other things that can be considered good. However, how true is this claim? If friendships, as we see, carry obligations and expectations, is having no friends not less burdensome? It can be argued that one can go through life without having interactions as close as friendships and still be able to live happily and most especially peacefully.

Friendships may make one's life happier, but they can also make one's life miserable and frustrating. The obligations of friendships are not always clear and this can lead to misunderstandings and problems. Also, the fluidity of the institution of friendship is such that it can easily be affected by the slightest of things. Friends can be given to jealousy, envy, and manipulation. They are also capable of threatening the autonomy of persons and their capacity for growth within the limits of a friendship. Since change in persons affects the relationship, friends are not truly free to explore other aspects of their character apart from those that are emphasized in the friendship. Also, friendships need a fair amount of time devoted to them to ensure that they continue. Though there are obvious benefits that can be derived from friendships, the effort required to make them work can be seen as being on par with, if not exceeding, the benefits. What can, however, be conceded is that friendships are valuable to those who have them. Friendship is not intrinsically valuable to everyone. Its value is attached to those who have friends, and the value emanates therefrom.

Although this is a simplistic and somewhat narrow account of friendship, it does show some aspects of friendship that threaten an intrinsic value account based on what attributes it can produce in persons, as Mason argues. Friendship can also produce some not very good attributes in persons

Philosophical Review (1977), pp. 290-315.

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³⁹ D. P. Chase, *The Nicomachean Ethics of Aristotle* (Oxford: Combe, Pickard and Latham, 1930), p. 219. Cooper argues that Aristotle's characterization of friendship can be interpreted as giving two arguments aimed at showing the intrinsic value of friendship; see John M. Cooper, "Friendship and the Good in Aristotle,"

and this can equally mean that it is intrinsically bad. Friends can have goals that are immoral and/or damaging to other persons in the society. Because of the different uses it can be put to, friendship may not always be intrinsically good. However, even if for the sake of argument, we concede that friendship is intrinsically good, to what extent is citizenship similarly valuable? One can be a citizen of a country whose government is tyrannical and whose policies are detrimental to everyone. Citizenship of such a country cannot be intrinsically valuable. Though citizenship, as it is argued, does give persons a sense of belonging and a place to reside throughout the course of their lives, this abstract conception of citizenship detracts from the reality of some experiences where persons are forced temporarily or permanently to relinquish their citizenship of a country because their lives or the possibility of living a worthwhile life is threatened. Citizenship at its best does guarantee a sense of belonging, but it can also mean a lot of suffering for the members of a country where freedom and equality of persons are not taken seriously. For such persons, citizenship becomes something to be despised and not valued. However, there are persons who value their citizenship and are, in accordance with this value, patriotic. They are willing to defend their country as well as to do what they can to promote its well-being. This emanates from the value they accord to citizenship. Similar reactions cannot be expected from persons who do not value their citizenship in this way. The other side of citizenship shows, as with friendship, that citizenship derives its value from persons. Where persons value their citizenship of a country, it is valuable to them. In other words, citizenship, like friendship, is only valuable when persons ascribe value to it.

However, even if it is still conceded that both friendship and citizenship are intrinsically valuable, to what extent does this kind of value explain the necessity of action? How does it justify the charge that action is necessary, that is, obligatory? Where both institutions are valuable in this way, it is unclear what the necessity of action is. In other words, since both types of relationships are already intrinsically valuable, the role of action with relation to them seems weak. However, within the extrinsic value account I propose, action is an instrument of value—because we value our relationships, we act. The way we value our relationships makes action necessary. *It makes* us obligated. Action becomes expressive of the value we ascribe to the relationship. Intrinsic value with relation to citizenship or friendship makes for unfair situations, where these relationships are not beneficial or are indeed harmful to persons. The non-intrinsic value account, however, makes action necessary only when the agent finds the relationship valuable to him. He does not derive his sense of obligation from a universal conception of friendship, but from what that friendship means for him.

However, an objection that readily arises from deriving special obligations even from such a non-intrinsic value account is how this

conception of value places us under obligations to certain specific persons even in a situation where some other person is more in need of our help. Suppose that I am due to meet my friend Joe and I just witness an accident in which I am the only available person to help the injured person get to the hospital. It can be argued that since Joe is my friend, the obligations I owe him outweigh any obligations I may be seen to owe to this complete (albeit injured) stranger. However, the non-intrinsic value account given grounds to a provisional and not absolute obligation. It is part of the aim of the account to give a justification of special obligations to friends, but it is not aimed at being taken as an absolute conception to be applied strictly to every particular situation where such a dilemma may arise. I do have obligations to Joe that I do not owe to any other persons and which are derived from my friendship with him, but this is only a provisionally universal conception of my obligation to him. Joe may not think me a better friend if I told him I passed up assisting an injured person in order to keep my promise to meet him. The particular situation calls for a revision of the conception in order to derive the best course of action to take. In trying to save the life of the injured stranger, I am not valuing my friendship with Joe any less. I only value my friendship less if I fail to turn up for the meeting without good reason. Here, the failure to act is representative of how I value the relationship. The necessity of turning up is tied to the value I have for the friendship. Value *motivates* me to act to further the relationship. This makes me act in furtherance of the friendship even on a day when I may not be so inclined or feel like it. Thus, if I continue to fail to keep my promises to Joe without good reason, I am not keeping the friendship—I am destroying it. Action here becomes necessary to keep the friendship which is not valuable in itself except insofar as I act and therefore ascribe it value. In other words, because I value the relationship, I act and keep it alive. The demise of value is therefore the cessation of action and thereby the end of the friendship.

However, citizenship is not structured in this way. As Wellman argues, it is not "a function of action" in the way that friendship is. Although a citizenship can come to an end by an act relinquishing it (or, in the law of some countries, taking up the citizenship of another country), disobedience to law, for instance, does not cause a person to lose his citizenship. It may cause him to lose his freedom to exercise his citizenship when he is sent to prison. But he does not stop being a citizen of that country just because he has committed a crime or a civil wrong. Citizenship is not as easily determined as friendship. The duration of citizenship is relatively more certain than that of a friendship. But it can also be argued that since citizenship is not determined in this way, it differs from friendship with

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⁴⁰ Wellman, "Friends, Compatriots, and Special Political Obligations," p. 221.

respect to deriving political obligations from an extrinsic value account. Since failure to obey the law does not deny one one's citizenship, the analogy is weak.

It is necessary, however, to draw a distinction between a normative and a political conception of citizenship.⁴¹ Citizenship in its political conception is not determinable. It is to a large extent permanent for as long as the citizen and the state want it to be. But a normative conception of citizenship (from which a justification for obligation is sought) is derivable from the value relationship between the citizen and the state. That citizens are expected by law to obey the law is not contentious. What is at issue is what justification there is for this obedience. In this realm, citizenship in its normative conception is more relevant. It becomes important with respect to deriving obligations from value whether the citizen considers his citizenship to be intrinsically valuable or whether he considers it valuable to him. Whereas the political conception of citizenship is certain, how the citizen normatively conceives his citizenship is not, and this is what is relevant with respect to the justification of political obligation from value. Thus a person can legally remain a citizen of a country but not feel obligated to it in any way. It is the way that he conceives the relationship and not what it is that will motivate him to act or not to act. This is a way in which actions are normative.

6. Conclusion

I have argued that special obligations, if they exist, are best derived from a non-intrinsic value account rather than from an intrinsic value account, since the latter does not explain the necessity of action. Friendship and citizenship are dissimilar in ways that affect the obligations that are sought to be derived from them. However, both relationships can be seen as non-intrinsically valuable and still give rise to special obligations. With this account, action is an expression of the value that the agent ascribes to the relationship, and in acting he shows that he values it. Action is therefore necessary to show value.

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⁴¹ Mason, "Special Obligations to Compatriots," p. 442.

An Economic, Political, and Philosophical Analysis of Externalities

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1. Introduction

Externality theory is used to claim that markets fail. It is claimed that because of the existence of externalities, the market will provide too much or too little of a particular good, and that the government must step in and use taxes, subsidies, restrictions on the provision of the good, or take over the production of the good in order to remedy the situation. However, these conclusions do not hold if one performs a comprehensive analysis of externality theory. In this essay, I show economically, politically, and epistemologically why externality theory does not provide a valid critique of the market. In fact, I show why the market actually succeeds with respect to externalities. Many will be familiar with the economic and political arguments I present; however, by revealing the logical implications of externality theory, I provide powerful criticisms of this theory with which few are familiar. Furthermore, I go well beyond politics and economics by providing a fundamental epistemological analysis of externality theory. This latter helps to provide the reader with a complete understanding of the nature of externality theory.

2. What Are Externalities?

Economists are familiar with the concept "externality"; however, others might not be. Therefore, it is important to give a brief, but precise, description of the term here so that one will better understand my analysis of this theory. An externality is a cost or benefit imposed on people other than those who purchase or sell a good or service. The recipient of the externality is neither compensated for the cost imposed on him, nor does he pay for the benefit bestowed upon him. These costs and benefits are labeled "externalities" because the people who experience them are outside of or *external* to the transaction to buy and sell the good or service.

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¹ My analysis in this essay follows that in Brian P. Simpson, *Markets Don't Fail!* (Lanham, MD: Lexington Books, 2005), pp. 85-100.

There are two types of externalities. When a person not involved in the production or consumption of a good receives a benefit for which he does not pay, he is said to be the recipient of a "positive externality." An example of this is immunization. Individuals not involved in the sale or purchase of immunization shots benefit from such shots without paying for them. They benefit because the more people who become immunized, the less likely it is that the individuals not involved with the purchase or sale of the immunizations will be exposed to the dreaded disease, since fewer people will contract the disease. A beautiful home with a well-manicured lawn and garden is another example. In this case, passersby who have not paid for the privilege of viewing the beautiful home and grounds still gain from the pleasure of being able to enjoy the view. They, too, receive a benefit without paying for it. A lighthouse provides another example. Ship owners who have not helped to pay for the construction of a lighthouse still benefit from it when they pass by at night.

The second type of externality is a "negative externality." This exists when a person who has nothing to do with the sale or purchase of a good has a cost imposed on him for which he is not compensated. A leading example of a negative externality is pollution being emitted from, say, a steel mill. In this case, people who neither purchase nor produce steel may experience the harmful effects of the pollution (such as sooty curtains and dirty air to breathe) but are not compensated for the negative effects they experience.

3. Externalities and Market Failure

While economists are familiar with the claims concerning market failure made based on externality theory, again, it is important to discuss briefly these claims here for those readers who may not be familiar with them. The alleged failure of the market occurs because, it is claimed, the market provides too many goods that produce negative externalities and too few goods that create positive externalities. Too many goods that create negative external effects are allegedly produced because the costs imposed on those who experience the negative externalities are not taken into account in the production of the goods creating the negative side-effects. Remember, these cost are imposed on people who neither purchase nor produce the goods. If these costs were accounted for in the production of such goods, the cost of producing them would be higher and thus fewer of them would be produced and purchased.

For example, in the case of a good such as steel, if steel manufacturers were required to compensate individuals whose curtains became dirty or who had to breathe in the dirty air, the cost of these negative externalities would be included in the production of steel and would raise the cost of producing it (i.e., the costs would be internalized). This, in turn, would cause the profitability of producing steel to decrease, decrease the supply of steel, and decrease the quantity of steel demanded as the price rose to cover the

additional costs. This would decrease the total production and purchases of steel to a level that allegedly takes into account the effects of the pollution.

With respect to goods that create positive externalities, too few are allegedly produced because the recipients of the externalities do not pay for the benefits bestowed upon them. Hence, these benefits provide no extra inducement for the suppliers of such goods to produce more of them. If the recipients had to pay for the benefits, this would provide a greater incentive to produce such goods and increase the quantity supplied.

An example of this is as follows: When passing by a beautiful home and garden, if every person who gained some pleasure from what he saw was required to pay the owner a small fee, the profitability of creating beautiful homes and gardens would increase and cause more to be produced. Hence, the supply of these goods would reflect all the benefits people received from the goods.

In the cases of both positive and negative externality, the market is said to fail to capture all of the effects involved in some transactions, and thus market prices of goods allegedly fail to reflect all of the costs and benefits associated with the goods. The "solution," in both cases, is government intervention in the market. In the case of negative externalities, it is claimed that the government must take some action to restrict production of these goods by, perhaps, imposing a tax on the producers of such goods so that these producers will experience the effects of all of the costs they impose on others. With the case of goods that create positive externalities, it is claimed that the government should take some action to stimulate the production of these goods by, perhaps, providing a subsidy to producers of such goods to compensate them for all of the benefits they bestow on others.²

4. The Politics and Economics of Externalities

Many writers have provided an economic and political analysis of externality theory. Some of these writers include Ludwig von Mises, Murray Rothbard, Ronald Coase, Harold Demsetz, and Richard Posner.³ In these

² The call for taxes and subsidies (and government controls in general) to remedy externalities goes back to A. C. Pigou, The Economics of Welfare, 4th ed. (London: MacMillan & Co., 1932 [1960 reprint]), pp. 192-95.

³ See, for example, Ludwig von Mises, Human Action: A Treatise on Economics, 3d rev. ed. (Chicago: Contemporary Books, Inc., 1966), pp. 654-62; Murray N. Rothbard, Man, Economy, and State: A Treatise on Economic Principles (Los Angeles: Nash Publishing, 1970), vol. 1, p. 156; R. H. Coase, "The Problem of Social Cost," Journal of Law and Economics 3 (October 1960): 1-44; Harold Demsetz, "Toward a Theory of Property Rights," The American Economic Review (May 1967): 347-59; Richard A. Posner, Economic Analysis of Law (Boston, MA: Little, Brown, and Co., 1972), pp. 10-39.

analyses the authors make some legitimate points. For instance, they show that externalities can be remedied by consistently recognizing and protecting property rights. However, ultimately, these analyses are deficient. Most fundamentally, the analyses provided by these writers do not address the epistemological errors of externality theory. Furthermore, some of the authors make significant errors in their analyses. For instance, some of the authors base their analysis on an invalid premise, in that it is believed that society "owns" property and that individual owners are merely given the privilege of managing "society's" property. Another error is the idea that property rights should be granted simply to increase economic efficiency and output for society. In addition, one of the writers defines far too broad of a sphere of responsibility for individuals. I will address all of these errors below.

My analysis of externality theory has one thing in common with the above analyses: I recognize the corrective effects of a full and consistent protection of property rights. However, the analysis in this essay avoids the errors committed by the above writers and goes deeper than a merely political and economic analysis of externality theory. To begin to see as clearly as possible the nature of externality theory, one must first look at the economic implications of the theory.

a. The economic implications of externalities

If all of those who created a negative externality were required to pay for the cost they imposed on others and those who created a positive externality were paid for the benefits they bestowed upon others, it would lead to economic stagnation and even regression. This can be seen in the case of positive externalities if one considers the large number of payments that would have to be made to those responsible for innovations that are easy to copy but that are not eligible for patent or copyright protection. This alone would probably lead to economic stagnation.

For instance, people would have to compensate the owners of the first fast-food restaurant that used a drive-through window, the first airline that

⁴ On rights as privileges granted by society, see Demsetz, "Toward a Theory of Property Rights," pp. 347, 350, and 355.

⁵ On using rights simply to maximize "society's" output, see Coase, "The Problem of Social Cost," pp. 2, 34, and 44. On rights as a mechanism that society can use to increase efficiency, see Posner, *Economic Analysis of Law*, pp. 10, 13, and 14.

⁶ See Mises, *Human Action*, p. 655.

⁷ My discussion on this topic is based on George Reisman, *Capitalism: A Treatise on Economics* (Ottawa, IL: Jameson Books, 1996), pp. 96-97.

gave out frequent-flyer miles, and the first store owner who came up with the idea to allow customers to buy merchandise on layaway. While such fresh thinking is rewarded by those who purchase the products or services offered by the innovators, these original thinkers are not paid by those who copy them. Therefore, this is a benefit bestowed upon the imitators (and their customers) for which they do not pay. They are provided with an innovative idea free of charge. The number of payments that would be required, if one implemented laws consistent with externality theory, could be multiplied as many times over as there are innovations that are easy to copy but that are not eligible for protection. This would lead to an enormous number of payments.

Furthermore, based on negative externality theory, inventors and innovators who drive other producers out of business (or cause other businesses to incur losses), due to their innovations, would have to compensate those whom they drive out of business. For example, the original Henry Ford would have had to compensate horse breeders, buggy makers, and blacksmiths whom he drove out of business. According to externality theory, in driving them out of business by producing an affordable, high quality means of transportation, Ford imposed a cost on them for which they were not compensated. To remedy the situation, Ford should have compensated them. One can easily imagine the large number of payments that would have to be made by those who created this type of negative externality. If payments were actually required to be made for positive and negative externalities, the result would be an endless series of payments, very little production, and a much lower standard of living. This result could hardly be deemed "a success."

Some economists would argue that the above example with Ford is not a "real" externality because its effect is felt through the price of the products sold by the horse breeders, buggy makers, and blacksmiths; that is, Ford's actions decreased the price at which their products could be sold. This is known as a "pecuniary externality" and it is believed by some economists that these can generally be ignored.⁹ This is the case because it is claimed that

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⁸ I will grant that an innovator gains a competitive edge over his rivals and may enjoy a temporary increase in business and/or profits due to his innovation, which are rewards of being an original thinker and a form of compensation for his originality. However, since it is not possible to patent or copyright his innovation, he is not paid by his competitors who copy it, nor is he paid by their customers who benefit from it. Therefore, these people receive a benefit for which they do not pay, i.e., a positive externality.

⁹ For examples of this treatment of "pecuniary externalities," see Stan J. Liebowitz and Stephen E. Margolis, *Winners, Losers, & Microsoft: Competition and Antitrust in High Technology* (Oakland, CA: The Independent Institute, 1999), pp. 71-72, and Jack

these types of externalities have no "net external effect." This allegedly occurs because while the lower price is a negative externality for the horse breeders, buggy makers, and blacksmiths, it creates a positive externality for their customers (because the customers can now purchase horses and buggies at a lower price). Because there is no net external effect, the claim is made that no adjustment to the production of the good that is creating the externalities is necessary.

The first thing to note concerning this issue is that the actions of Ford are still considered by economists to create externalities. Some economists simply believe that no action on the part of the government is required in connection with this type of externality. Nonetheless, because this example is still considered to be an externality, my analysis of externality theory applies to it.

The second thing to note is that Ford's actions do not necessarily create a positive externality for the customers of the horse breeders, buggy makers, and blacksmiths. In fact, his actions may create a negative externality for these people or they might create no externality at all. A negative externality might occur if it becomes more difficult or impossible for those who want to continue to purchase horses and buggies to find producers of these products because Ford has driven so many of them out of business. For the buyers to experience a net negative externality in this case, the additional cost of finding the remaining sellers of the horses and buggies would have to be greater than the savings from the lower price at which these goods can be purchased. No externality would be created at all if the horse breeders, buggy makers, and blacksmiths did not lower the prices of their products, but chose to sell a smaller number at the same price (perhaps in an attempt to cover their costs on the horses and buggies they did sell), or if all of the former horse and buggy buyers simply chose to buy cars. If any of these occurred, there would be a net negative externality and, according to externality theory, Ford should compensate those who experience the negative externalities.

Furthermore, even if Ford did create offsetting externalities, externality theory could still be used to attempt to justify payments from Ford to those experiencing the negative externality (because they have been harmed), and to Ford from those experiencing the positive externality (because they have benefited). In essence, redistribution would take place from those who received the positive externality to those who experienced the negative

Hirshleifer and David Hirshleifer, *Price Theory and Applications*, 6th ed. (Upper Saddle River, NJ: Prentice Hall, 1998), pp. 484-85.

¹⁰ Here I assume that it is no harder for horse and buggy buyers to find sellers of these goods. If it is harder, buyers of these goods would experience a negative externality in this example.

externality. No matter what types of externalities are created, payments of some sort can be justified based on externality theory.

The solution to the problems created by externality theory is not to distinguish between situations that have a net external effect and ones that do not. This is ultimately a superficial attempt to get around the problems created by the theory. As I will show below, the problems with externality theory are too deep (from a philosophical standpoint) for a distinction like this to improve matters.

b. The solution to negative externalities

If it would lead to stagnation to require everyone to pay for negative externalities they create and be paid for positive externalities they create, how does one answer the question concerning who should pay and be paid? With regard to negative externalities, the only ones for which people should be compensated are those that cause demonstrable physical harm to a person or his property and can be traced back to the actions of an individual or a group of individuals working in concert.¹² In order to do this, one must have well-defined and -protected property rights. This is a point made by the writers referred to above.

For example, a negative externality is said to exist in the case of a downstream landowner's land being contaminated by, say, fertilizer used by a farmer whose land is upstream. This is said to be the case because the cost imposed on the downstream landowner is not accounted for in the costs that the farmer incurs to grow his crops. However, if property rights are well-defined and -protected, the downstream landowner could sue in a court of law to be compensated for the farmer's actions and get a court injunction imposed on the farmer requiring him to cease the relevant activities. This is a legitimate case for government action against the farmer because he is violating the property rights of the downstream landowner. The farmer is altering the downstream landowner's land against his will. Furthermore, the violation can be traced back to a single individual.¹³

¹² On this, see Reisman, *Capitalism*, p. 96, and hear his audiotape, "The Toxicity of Environmentalism" (Laguna Hills, CA: The Jefferson School of Philosophy, Economics, and Psychology, 1991), especially the question and answer period. See also Murray Rothbard, *The Logic of Action Two* (Cheltenham, UK: Edward Elgar Publishing, 1997), p. 164.

¹¹ See Hirshleifer and Hirshleifer, *Price Theory and Applications*, p. 485, for an example of economists who, despite believing in making the distinction between pecuniary and non-pecuniary externalities, also believe that pecuniary externalities can be used to justify income redistribution.

¹³ To avoid any possible confusion in this case, one can assume that the downstream landowner settled on his land before the farmer polluted the land.

As has been recognized by some writers, the above example is not a case of market failure. ¹⁴ It is a situation where the government must step in to preserve the existence of a market. A market can only exist when rights are protected, including private property rights. This is so because interactions in a pure market economy are based on *voluntary* trade. Such trade depends on freedom (i.e., the absence of the initiation of physical force, in any of its variations, including physical alteration to one's property against one's will).

Rights are moral principles defining and sanctioning a man's freedom of action in a social context. Therefore, when one's rights are protected, one's freedom is protected, and thus one is protected from the initiation of physical force. Hence, the failure in this case is the failure on the part of the farmer to act within the principles on which voluntary trade is based. Thus, it is proper for the government to step in and protect the property rights of the downstream landowner to preserve the existence of the market. However, when the government does this, it is correcting the farmer's failure, not the failure of the market. This is true for all so-called negative externalities where it is legitimate for the government to take action. It is always the case that the government is correcting the failure of some individual(s) to interact with others in a voluntary manner.

People who have so-called negative externalities imposed on them that cannot be traced back to an individual or group of individuals working in concert should not be compensated. Examples of this kind of externality include smog in a city created by millions of people independently operating motor vehicles, or flooding downstream on a river from development and flood control devices used by millions of people living upstream on the river. These cases are natural byproducts of economic activity and must be considered the same as other natural phenomena that produce harmful effects (such as bad weather). One cannot yoke the individual to the collective and treat people who acted independently as if they acted collectively. ¹⁶ Each

¹⁴ See Mises, *Human Action*, pp. 657-58, and Rothbard, *Man, Economy, and State*, vol. 1, p. 156.

¹⁵ For the source of this definition of rights and more on the nature of rights, see Ayn Rand, *The Virtue of Selfishness* (New York: Signet, 1964), pp. 108-24; Ayn Rand, *Atlas Shrugged*, 35th anniversary ed. (New York: Signet, 1957 [1992 reprint]), pp. 976-78; and Ayn Rand, *Capitalism: The Unknown Ideal* (New York: Signet, 1967), p. 17. Also see Harry Binswanger, ed., *The Ayn Rand Lexicon: Objectivism From A to Z* (New York: Meridian, 1986), pp. 212-17, for a compilation of excerpts on the concept of rights by Ayn Rand.

¹⁶ On this, hear Reisman's "The Toxicity of Environmentalism," especially the question and answer period.

individual acting independently causes a negligible amount of pollution or flooding (or whatever else it might be) which *does not cause any physical harm*. Therefore, no individual should be held accountable for harmful results for which he is not responsible. Furthermore, because no physical harm has been done by an individual or group of individuals acting in concert, no one's rights have been violated and so it is not proper for the government to take action in this case.¹⁷

Human beings are not, fundamentally, a collective. They are individual, independent, autonomous beings and should be treated as such. In order for individuals to act collectively, they must choose to do so. Therefore, unless one has some basis to show that individuals have made a concerted effort to act collectively, that is, to act as a single entity, one has no basis to treat a group of individuals as if they have acted in a collective manner. To do so is to ignore the fact that individuals are acting independently of each other, and thus no *one* individual is responsible for the cumulative effect of the actions of *all* of the individuals. Nor is he responsible for only a small portion of the *demonstrable* harmful effects. Each individual, acting alone, is responsible only for what he has contributed, which by the nature of the case is negligible and *does not cause any harm.*¹⁸

By ignoring the fact that the individuals are acting independently, one makes erroneous conclusions and engages in or advocates harmful actions. That is, one treats people as if they have done something that they have not done (i.e., acted in a collective manner), and one holds them responsible, and would presumably want them punished, for results that they did not, as independently acting individuals, bring about (i.e., one holds them responsible for demonstrable amounts of pollution, flooding, or whatever it might be). Punishing those who are allegedly responsible for the demonstrable amount of pollution or flooding is harmful because it is a violation of rights, since it requires the initiation of physical force (given that the alleged culprits have not actually harmed anyone), and thus stands in opposition to the requirements of human life. Such action stands in opposition to human life because a fundamental requirement of human life is freedom from the initiation of physical force. Humans require this in order to be able to use their minds to think, act on their own judgment, and take the necessary actions to further their lives, well-being, and happiness. A person cannot use his

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¹⁷ However, in the case of pollution, a private road owner might properly be held liable for pollution generated by users of his roads if the pollution is great enough to cause demonstrable physical damage.

¹⁸ I am not the only one to use this method of dealing with the effects of the actions of independently acting individuals. For an example of another writer who uses this method, see Rothbard, *The Logic of Action Two*, p. 165.

mind—his basic tool of survival—to further his life if he is constantly being forced to go against his rational judgment.

A final issue with regard to negative externalities is that one must also consider the cost of getting rid of them. A good example to illustrate why one must consider this cost is the creation of pollution in Pittsburgh from the production of steel during the height of that industry.¹⁹ Because of the production of steel, many people probably had to breathe polluted air and deal with soot on their curtains. However, in such a situation, one still has to show that the pollution has caused physical harm to oneself or one's property for one to have a legitimate case against the steel manufacturers. Furthermore, if one is able to show this, and which particular steel mill or steel mills working together created the pollution that is causing the harm, one must also consider the costs of getting rid of such pollution. Steel mills should not be required to implement pollution control devices that are so costly they are forced to shut down. In general, if rights are violated, one must weigh the magnitude of the harm done against the cost of getting rid of the harmful action, or the compensation to be provided to those harmed. The costs imposed on the guilty party should not be large compared to the harm done.

Here, one must also consider the advantages of an industrialized society versus a non-industrialized society. Having to deal with sooty curtains or breathe air with trace amounts of pollutants is a small price to pay to get the enormous benefits of an industrialized society. The standard of living and the average lifespan have risen dramatically thanks to industrialization. Consider that the average lifespan in Great Britain prior to the Industrial Revolution (i.e., prior to the mid-eighteenth century) was about thirty years. Any reader over the age of thirty (or who plans to live to be older than thirty) probably owes (or will owe) his life to industrialization. Consider also the standard of living prior to the Industrial Revolution. People worked eighty hours per week performing back-breaking labor for a standard of living probably not too far above the level of a modern-day Ethiopian. In the case of the steel mills in Pittsburgh, the great majority of people who lived there owed their incomes—and thus their lives—to the existence of the steel mills. Destroying the steel industry would have made the people of Pittsburgh worse off, not better off.

c. The solution to positive externalities

With respect to positive externalities, individuals should pay others only for benefits they *voluntarily* contract to receive from others.²⁰ Government force needed to increase the supply of goods that create positive externalities

¹⁹ I am indebted to Ayn Rand for this example. She used it in her audio taped lecture titled "The Intellectual Bankruptcy of Our Age" (Gaylordsville, CT: Second Renaissance Inc., 1961). Hear especially the question and answer period.

²⁰ On this, see Reisman, *Capitalism*, p. 96.

violates the rights of individuals. This is no solution because it leads to the sacrifice of some individuals (such as taxpayers) to others (such as those who benefit from the goods whose production is subsidized by taxpayers). Typically, activities or goods that create external benefits are not lacking in a market economy. A good example is charity. Charitable donations are, in essence, a 100 percent positive externality. This is the case because the recipient does not pay for the charity he receives, and the donor receives no compensation in return for his charitable contribution.²¹ Therefore, according to externality theory, too few charitable activities allegedly exist in a market economy and the government should either subsidize these activities, or completely take them over to increase the supply so that it reflects all of the benefits bestowed upon the recipients. This would violate the rights of individuals and be economically destructive.²² Nonetheless, a large amount of charitable giving takes place in a market economy. Each year, Americans give hundreds of billions of dollars to charities, and they would give more if their incomes were not eroded through massive amounts of confiscatory taxation and the inflation of the money supply, both of which result from government intervention into the economy (i.e., the government's use of the initiation of physical force).²³

People are capable of finding ways to provide goods that create positive externalities, as long as they have the freedom to do so. For instance, with the case of a lighthouse it is claimed that no one will want to pay to help build it because once it is built, a ship owner can "free ride" off of those who have paid to help build it. Here, the ship owner gets the benefit of the lighthouse even though he does not pay to help build it. Since everyone has the incentive

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²¹ Some might think a tax deduction is compensation to the donor. However, this is not compensation, but a reduction in the effective cost of the charitable contribution. Furthermore, charity is not exactly the same as a positive externality since no "third party" is involved. However, the basic effect is the same as a positive externality: someone receives a benefit for which he does not pay. Therefore, my analysis still applies to charity.

²² "Charitable" activities (viz., welfare) provided by the government are destructive because they lower the productive capability and thus the standard of living of the average person in the economy. They do this by providing people an incentive not to work and by taking money away from the more productive people in an economy and giving it to the less productive, or unproductive, people in an economy.

²³ It is easy to understand how the government initiates force when it confiscates money from people in the form of taxes; however, it is more difficult to understand how government intervention is responsible for inflation. I am not going to explain here how it is responsible, but for a thorough explanation, see Reisman, *Capitalism*, pp. 508-10, 511-17, and 920-27.

to free ride, it is claimed that few people will want to pay for the construction of lighthouses, and thus an inadequate number of them will be built because the funds will not be forthcoming from those who could benefit from the lighthouses. Hence, it is claimed that the government must tax everyone and build the lighthouses itself.

This argument ignores the fact that the majority of lighthouses built in Great Britain, starting in the early-seventeenth century, were built by private individuals. Here, lighthouse fees were collected at ports located near the lighthouses. Lighthouses continued to be owned and operated by private individuals in Britain up through the 1830s, when the British government bought the last remaining privately owned lighthouse. It is hard to believe that private individuals could operate lighthouses for 200 years if it was not a profitable activity.²⁴

This argument also assumes that ship owners (and business owners in general) are irrational and short-sighted and want to get something for nothing. Such an argument is based not on a view of human beings as rational animals—beings who possess reason—but on a view that human beings, by their nature, are irrational. This is a false view of human nature and is not an appropriate foundation on which to base one's economic analysis. If such a view were valid, human beings never would have made it out of the cave.

If necessary, rational ship owners will gladly pay a portion of the cost to build a lighthouse because they know it is in their interest to do so. They know that lighthouses are necessary so that ships do not run aground and thus so they can run successful shipping businesses. It could be that large shippers in a region get together to pay for the lighthouses in their region. Here it would be in the interest of the large shippers to build the lighthouses even though some of their smaller competitors may benefit from the lighthouses. This is true because to the extent that shippers are large, they have much more to lose if their ships run aground. It could be that shippers in a region engage in a contingent contract, which stipulates that they will pay for a stated portion of the construction of a lighthouse if, perhaps, 50 percent or 75 percent of other shippers in the region sign the contract. The cost of building the lighthouse may be divided up based on the amount of shipping each company does in the region in a typical year.²⁵ Whichever way it is done, such goods could and would be provided in sufficient quantities (and have been provided in the past, as the history of the lighthouse in Great Britain attests) because it

²⁴ In fact, as Ronald Coase states, some of the lighthouse owners made a fortune in the business. See his "The Lighthouse in Economics," *The Journal of Law and Economics* 17 (October 1974), pp. 357-76, esp. pp. 360-68, for a detailed investigation of the lighthouse in Great Britain.

²⁵ For more on this, see Reisman, *Capitalism*, pp. 97-98.

is in the interest of those involved to provide such goods. Small obstacles like those associated with the lighthouse are not hard for individuals to overcome, as long as they have the freedom to do so.

Finally, if people are not willing to pay for more of something voluntarily, then it should not be provided in greater amounts (in other words, the good or service is not underprovided). Forcing individuals to pay for goods and services they do not want is economically harmful because it decreases satisfaction and well-being in the economy. It forces people to spend more money on things that bring them less satisfaction, and less money on things that would bring them greater satisfaction.²⁶ How could this be considered "a success"?

d. Conclusion to the politics and economics of externalities

As one can see, from a political and economic standpoint, if one acted on externality theory in a consistent manner and implemented policies based on it, it would lead to economic stagnation, a much lower standard of living, and thus a much lower level of individual satisfaction in the economy. It certainly would not be a success to eliminate all externalities. It is beneficial to eliminate only those externalities that violate the rights of individuals. When rights are protected consistently, this activity fully protects the existence of a market economy and leads to the highest productive capability, standard of living, and level of individual satisfaction that are possible.

5. A Deeper Analysis of the Concept "Externality"

In the above I focus on the political and economic aspects of externalities and show why it would not be beneficial for the government to implement policies based on the externalities doctrine. Furthermore, I show that if rights are protected, the problem associated with externalities disappears. However, there is a more fundamental, philosophical argument that can be made against externality theory. That is, the concept "externality," including its positive and negative variations, leads to serious contradictions. This is so because the concept classifies fundamentally different things together, as if they were the same. Because of this, use of the concept leads to confusion and false conclusions.

taxpayers earn, they achieve a higher level of satisfaction and well-being when they are allowed to spend their income on things they voluntarily choose to spend it on. When the government expropriates, say, 20 percent of each person's income in taxes and spends it on something that each person has shown through his own voluntary action that he would *prefer not* to spend it on, the level of satisfaction in the economy

decreases.

²⁶ One does not need to commit the error of making interpersonal utility comparisons to make this statement. One just has to understand that, given the income individual taxpayers earn, they achieve a higher level of satisfaction and well-being when they

For instance, take the case discussed above of the person who owns property downstream and has his land contaminated by a farmer using fertilizer upstream. This is an example of a so-called negative externality and represents a violation of someone's rights (namely, the property rights of the downstream landowner). In this case, it is proper for the government to take action to protect the property rights of the downstream landowner by requiring the farmer to compensate the landowner, or pay for the cleanup of the chemicals, and ensure that it does not happen again.

In contrast to the above example is the case of Henry Ford driving the horse breeders, buggy makers, and blacksmiths out of business. This is also an example of a negative externality. However, this occurred in the context of voluntary trade and the protection of rights. Ford was able to get people voluntarily to switch to his product. If the government acted in this case and forced Ford to compensate these producers, kept him out of business, or prevented people from buying his product, this would have been a violation of rights. Here, it would have been improper for the government to act to correct the negative externality.

A concept should not obliterate, ignore, or even push into the background fundamental distinctions between concretes. In this case, it should not obliterate the distinction between actions that violate the rights of individuals and actions that respect rights. But this is what is done when both the actions of Ford and the farmer are said to create negative externalities. By subsuming these actions under the same concept, based on the characteristic of having some negative effect on others, both actions are evaluated as being fundamentally the same when, in fact, they are not. If one attempts consistently to apply this concept, one will believe that the government should use force in each case to prevent the individuals from creating these negative externalities.

However, the effect of the government's taking action in both cases would be radically different. In the case of Ford, the government would be using the *initiation* of force and thus *violating* someone's rights. In the case of the farmer, the government would be using force in a *retaliatory* manner and thus *protecting* rights. This is a fundamental political distinction that cannot be forgotten when determining whether the government should act or not. It is a distinction that the concept "externality" leads people to ignore.

The fundamental distinction between protecting and violating rights cannot be stressed too strongly. This is true because one type of action is prohuman life and the other is anti-life. When the government protects rights it is acting in a manner consistent with the requirements of human life, and is thus acting to preserve human life. When it violates rights it is acting in opposition to the requirements of human life, and is thus acting to destroy life. Protecting the rights of individuals *is* a requirement of human life because, as stated above, freedom from the initiation of physical force is a fundamental

requirement of human life. Humans need this in order to do the necessary thinking and acting to further their lives and happiness. People cannot further their lives and happiness if someone forces them to go against their rational judgment.

Similar problems arise based on the positive variation of the concept "externality." For instance, if someone landscapes a property owner's lawn and plants a beautiful garden on his property without his permission, and if this has any benefit to the property owner at all, according to the externality doctrine, the government should act to force the property owner to pay for the work. Here, the government would act inappropriately in two ways. First, it would sanction the violation of the property owner's rights by the landscaper, and second, it would violate the rights of the property owner again by forcing him to pay for the landscaping. Likewise, if a passerby enjoys the view of a beautiful home, according to the externality doctrine, the government should force the passerby to pay for the privilege of viewing the home. Here, the government would violate the rights of the passerby. In general, when the government acts to eliminate positive external effects, it is violating someone's rights by expropriating money and subsidizing, or completely taking over the production of, the activity that creates the effect.

The two situations above are grouped together because a positive externality exists in each of them. However, in the case with the landscaper, someone's rights are violated, while in the case with the passerby, no one's rights are violated. Again, such fundamentally different situations should not be grouped together and evaluated as being the same when, in fact, they are not.

There are other problems with the concept "externality." The term is supposed to identify and help one understand some significant phenomenon, as any term that is important to an academic field should. However, upon closer inspection, it turns out the term identifies a phenomenon that is so widely prevalent that it is meaningless and implies many absurdities. For example, when an individual buys a unit of any good (such as a loaf of bread), this has a negative external effect because now this unit of the good is no longer available for others to purchase and this makes it harder for others to obtain the good. In other words, whenever any unit of a good is purchased, a cost is imposed on those who consume the good, or who might have consumed the good, because less of it is available for them to purchase and they are not compensated for that cost. If individuals refrained from purchasing goods, more units would be available for others and therefore it would be easier for others to obtain the good. The implication is that people who purchase a good should be forced to pay all other individuals who consume, or might consume, the good in order to compensate those individuals for making the good harder to obtain. Clearly, this is absurd.

Based on the logic of externality theory, compensation should be paid to anyone who consumes, or might consume, virtually any good, even goods radically different from the good in question. This is true because the purchase and consumption of any good consumes resources that could have been used to produce virtually any other good. Therefore, it can be argued based on externality theory that the supply of virtually any good has been decreased, and thus has been made harder to obtain, due to a person's consumption of any other good.

This example illustrates, more forcefully, how implementing policies based on externality theory would lead to economic stagnation and regression. There would be massive costs imposed on the economic system if individuals who consumed any good had to compensate others who might have purchased that particular good, or most other goods. Imagine the cost of trying to figure out who might have purchased which goods and how much they might have purchased. Imagine the cost of keeping track of who owes money to whom, and the proliferation of pleas by people that they should be compensated because they have been harmed by a particular individual's purchase.

The absurdity does not stop here. In some cases the buyer of a good can also be said to be imposing a positive externality on suppliers of the good. This can be said to be the case because when the buyer purchases the good, this increases the demand for the good and might increase the price for which subsequent units of the good can be sold. Here, one can imagine buyers of the good calling for payment from sellers of subsequent units of the good for the positive externality the buyers have created. At the same time, subsequent buyers of the good will be calling for payment from buyers who purchased previous units. In essence, redistribution from sellers to buyers would take place.

The opposite would occur if individuals refrained from purchasing a good. Here, the individuals who refrained from purchasing the good would call for payments from buyers who had an easier time obtaining the good. Furthermore, sellers would demand payments from the individuals who refrained from making purchases if this led to a lower selling price of the good. In essence, redistribution from buyers to sellers would occur.

The absurdity continues. What about, for example, when a person dresses nicely for a job interview? This has a negative external effect. When a person is well dressed for an interview he makes it harder for other people to get the job. This is a cost imposed on them for which they are not compensated. The same can be said about being intelligent and articulate. Should those who are well dressed, intelligent, and articulate be forced to pay the sloppy, ignorant, and incoherent? Clearly not. But this is the conclusion one would come to if he attempted to consistently apply the concept "externality."

The absurdity can be taken even further. What about the external effects of beautiful and ugly people? Should people be forced to compensate handsome men and beautiful women for the privilege of being able to look at them? Likewise, should ugly people be forced to pay others as compensation for having to look at them?²⁷ What about the positive external effect of cosmetic surgery or the negative external effect of a person's unpleasant body odor in a crowded elevator? There are many absurd implications one could draw if one took the term "externality" seriously.

Some economists might argue that the examples of the job interview and the buyers who have effects on others are not "real" externalities because their effects are felt through changes in prices and therefore they do not create any net external effect. As with the example of Ford discussed in a previous section, some economists would claim that these "pecuniary externalities" can be ignored. However, even though it is believed that these externalities can be ignored, they are still a type of externality and therefore are still subject to all of the criticisms I have been making regarding externality theory. Furthermore, as I discussed above, these types of externalities could still be used to attempt to justify redistributing income from those who experience the positive externality to those who experience the negative externality. If one believes that externalities should be eliminated, there is no reason why externality theory could not be used to attempt to justify such redistributions. Ultimately, the claim that pecuniary externalities should be ignored is an attempt by those who subscribe to externality theory, and who recognize that externalities exist everywhere, to try to prevent the theory from becoming meaningless and leading to many absurdities. However, the attempt fails.

6. Conclusion

Based on the above analysis, one can conclude that the market neither underprovides nor overprovides goods, as one would believe based on externality theory. Ultimately, the market provides the right amount of goods because it provides them based on people's own voluntary choices. If some good is temporarily under- or overprovided, prices adjust based on supply and demand and people react correspondingly to correct the situation. Goods provided in an economy guided by the externality doctrine would not be provided optimally because the initiation of physical force would have to be used on a massive scale to provide more of some goods and less of others, against the voluntary choices of individuals.

The concept "externality" should be discarded. It should not be used in intellectual discourse or debate. It does not provide a critique of the market because it is a contradictory, cognitively harmful, and invalid concept. Such a

²⁷ I owe this example to Reisman, *Capitalism*, p. 96.

concept does not help one gain a better understanding of some aspect of reality; it only leads to greater confusion because of the absurd implications of the concept and because it leads people to ignore (or, at least, not to recognize the importance of) fundamental political distinctions, such as the distinction between the government acting to violate rights and protect rights.

In saying that the term "externality" should be discarded, I am not denying the existence of what the term attempts to categorize. The actions of people can have effects on others. However, what I am saying is that the use of such a term is unnecessary and harmful to one's understanding of the world. It leads to the support of all of the false conclusions and harmful actions I have been discussing. That is why the term must be discarded.

After the term "externality" is discarded, one can still recognize all the effects of people's actions on others; however, one can do so while giving them a proper consideration of the facts involved, particularly the fundamental requirements of human life. The proper consideration with respect to people's actions is not whether they have a positive or negative external effect. The proper consideration is whether a person's actions respect or violate rights. If a person's actions violate someone's rights, it is appropriate for the government to act to protect the individual whose rights have been violated. If no one's rights have been violated, then the government should take no action.²⁸

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²⁸ I would like to thank the participants of the Austrian Scholars Conference 9 who gave me helpful comments.

War, Reason, and Libertarians

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I thank the editors of *Reason Papers* for hosting the comments of Spengler, Irfan Khawaja, and Roderick Long on my *No Victory No Peace*.¹ No author can ask more than to be taken seriously. These gentlemen did that. I especially appreciate that their thoughts proceed from an attachment to liberty.

In sum, Spengler agrees with my understanding that war means killing until the enemy cannot or will not continue as such, and raises the practical question: What will it take? Khawaja admirably describes and agrees with my thesis in principle, but disagrees with every part of it in practice largely because he posits the enemy as immune to defeat. Long cheers my love of liberty and lack of faith that government will safeguard it, notes correctly that nevertheless my thoughts have nothing to do with Libertarian orthodoxy, and then restates that orthodoxy's tautology: War is useless because the only enemy is the state, and all states are created equal.

1. Response to Spengler

Spengler notes that history has seen many contentions "of one people against another people for interests so vital that the young men of a people will die rather than concede them" (p. 37). Sometimes, such "existential" or "civilizational" wars are not settled until two generations of losers are killed or doubly decimated. He's right. The American South was lucky: only three percent of its men died in the U.S. Civil War. In the seventeenth century, between a third and a half of the population of central Germany perished. In the ancient world, wars often ended with all men on the losing side slain, and all women and children sold into slavery. In many others, the winners did not bother enslaving; they just eliminated the land's inhabitants. Rome erased Carthage. Between the sixteenth and eighteenth centuries, Africans largely de-

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¹ Angelo Codevilla, *No Victory, No Peace* (Lanham, MD: Rowman & Littlefield, 2005).

² Spengler, "Angelo Codevilla and William Tecumseh Sherman," *Reason Papers* 28 (Spring 2006), pp. 35-42.

populated their west coast as they sold each other off to Arab slave wholesalers. The cruelest wars, however, have accompanied revolutions. Thucydides' account of the Corcyrean affair is prototypical. We will never know how many multiples of twenty million deaths Stalin's famines, wars, and Gulag caused. Our estimates of the Cambodian and Rwandan genocides, to mention just a couple, are just that. And if anyone doubts that human beings find heartwarming joy, inspiration, and fulfillment in causing or witnessing the tortured slaughter of those they consider enemies, he should recall that millions of Arabs danced in the streets in joyful vindication, while irreligious ones found religion and felt warm all over, at the sight of Americans burning alive as they fell from the Word Trade Center.

Who starts what, and why, who is more right than wrong according to what standard, are matters of the greatest importance. But in no way do they diminish the fact that once the killing starts, once the war is on, each side must kill the other to save their own lives and peace. Hence, for each side, the practical question becomes, who on the other side has to die?

How much killing any side has to do to end the war depends first of all on what the enemy is after, on his character, and on one's own objectives. Few peoples have ever fought "to the last man." Even the Japanese on Okinawa surrendered after the futility of resistance had become obvious, they sickened of suicide, and noticed that the Americans were sparing captives. Japan's emperor, and his people, eventually accepted the shattering of their sacred myths. But Germany's Nazis chose *Gotterdamerung* for themselves and their people. Some may shout "victory or death." To what extent anybody means that, or can lead his followers to feel that way, under what circumstances, depends largely on them. Foreign affairs is about dealing with foreigners—people whose character, objectives, and calculations, are their own, over which we have no control.

At best we can control what we are after. A country bent on exterminating peoples from which enmity arises must expect all of its victims to die fighting. One that is bent on desecrating another's way of life must expect having to kill more than the one that aims to undo an enemy regime—simply because fewer people have a life-or-death investment in regimes than in sacred ways. And of course since regimes' roots run unequally deep, eradicating them will be more or less bloody business. Usually, putting an end to interference in one's own affairs takes less blood and treasure than interfering in others'. When, however, one's contemptible reputation inflames enemies' passions, only much blood can quench them.

Killing only (or first) those most responsible for the enemy's enmity should minimize war's gore. That is why assassinating enemy leaders often is the most just and economical of war measures. That is also why ordinary soldiers are taught to shoot at enemy officers rather than enlisted men, and not to waste effort on enemy civilians. But of course the nexus between the

enemy and his civilian base has always been key, and dealing with it is always problematic. Prudent commanders always confront the dilemma: Making war on the enemy's civil society ensures its enmity, while sparing it in the hope of separating it from enemy leaders removes the negative incentives for that separation. Rome's classic epic, the *Aeneid*, dealt with this; Aeneas's enemy, Turnus, was ensconced in a Latin city whose brotherhood the future Romans sought. But the more Aeneas professed and practiced restraint, the more firmly the city held on to Turnus. Only after Aeneas started slaughtering the city did it separate itself from Turnus, and expose him to his fate. Only then did Aeneas's clemency have its intended effect.

In short, the answer to Spengler's question, "how many enemies of the United States must perish in order to have peace?" (p. 35) was stated succinctly by the rescue workers at Ground Zero who shouted to George W. Bush: "Whatever it takes! Whatever it takes!" Spengler is correct that "the extreme anti Americanism of Arab regimes ... must reflect extensive support for extremism among their populations" (p. 37). My figure of some 2,000 persons in regimes such as Syria's whose deaths would bring us peace is very much a baseline. How many more it will take depends on whether we do the killing in ways that discourage our enemies, or whether—Iraq is the latest example—moderation results in deaths more numerous and less useful.

2. Response to Khawaja

Khawaja begins by summarizing my point:

We must first decide whether or not to go to war. If we elect to go to war, victory automatically becomes our goal, and we are obliged both to get clear on what the goal requires of us and then to satisfy its requirements. If we find ourselves unclear about its requirements or unwilling to bring it about, then rationality demands that we abjure war altogether. A war that aims at less than full victory is not worth fighting at all. By contrast, a war that aims at victory can be worth fighting even at a colossally high cost The failure to heed the mutually exclusive options we face in warfare—to blur the relevant distinctions, gloss over inconvenient facts, or exaggerate or understate the consequences of action or inaction—is the thin wedge of defeat Warfare, like all meaningful human activities, has a logic we ignore at our peril. (p. 9)³

³ Irfan Khawaja, "Victory: Means and End," *Reason Papers* 28 (Spring 2006), pp. 7-18.

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He prefaces his critique (as does Long) with the contention that I don't offer an "explicit definition of the term" *regime*. But my meaning is plainly neither more nor less than Aristotle's. In a book about that topic, I wrote that every regime is "an arrangement of offices and honors that fosters a peculiar complex of ideas, loves, hates, and fashions and that sets standards for adults and aspirations for children." I follow Aristotle's well-known insight:

Since the city is a partnership of citizens in a regime, when the form of the government changes and becomes different, then it may be supposed that the city is no longer the same, just as a tragic differs from a comic chorus, although the members may be identical. In the same manner ... every union or compound is different when the form of their composition changes.⁵

I stress that Arab regimes are responsible for the enmities that come from them because they are in fact the artificers and arbiters of what is loved and hated, fashionable and unfashionable, permitted or forbidden, within their borders.

Khawaja then charges that my book "misidentifies the enemy we face ... [and] subtly misdescribes the nature of victory" (p. 10). Hence, its prescriptions would "achieve too little for us at too high a price" (p. 10). He builds that critique on a deceptive foundation, granting with one hand that "the principles of warfare are timeless and applicable to all wars as wars" while *asserting* with the other (never trying to show) that such "novelty" as "might emerge in a given case" falls outside those principles (and this is such a case) (p. 11).

This leads to his first main point: He affirms, where I had denied, that "Islamic fundamentalism of the al Qaeda variety is a genuinely novel phenomenon or even at the very heart of the problem we face" (p. 11). So new is this phenomenon, in his view, that it practically negates all previous rules of war and obliges us to concoct new ones. But his view that anti-American terrorism is the same thing as "Islamist ideology," as formulated by Sayyid Qutb, Abdullah Azzam, and Osama bin Laden and hence beyond earthly control, is triply mistaken: Anti-American terrorism from the Middle East flowered under secular auspices long before it acquired an Islamic element (for many a patina) after the Iranian revolution of 1979; Islamism is less about God than about politics; and insofar as it is religious, its strength depends

⁴ Angelo Codevilla, *The Character of Nations* (New York: Basic Books, 1997), p. 7; see also pp. 8-16 and 23-41.

⁵ Aristotle, *Politics*, III.3.1276a40-1276b7.

heavily on the massive amounts of money that Saudis and other Gulf Sunnis are pouring into Wahabbism.

Taking back with his left hand what he appears to concede with his right, he writes, "Codevilla is certainly right to draw attention to the relationship between al Qaeda and its partners in various states, but ... he exaggerates it" (p. 11). Khawaja neither explains the relationship nor the alleged exaggeration. Arguing by authority, he cites the 9/11 Commission's denial of "significant" (how significant?) state sponsorship for the 9/11 attacks, then mentions that I had "rightly" drawn attention to "holes in the Commission's view," states that the "anomalies" are "significant," and then dismisses them (p. 12 n. 8). In sum, he swallows whole the U.S. government's post-1993 argument that terrorism is a private matter. But my critique of U.S. intelligence was not mere picking at details. Rather it showed that the 9/11 Commission's view—which was uncritically the CIA's—is a conscious evasion of an obvious reality that the U.S. government wishes not to face. The undisputed fact that there is no evidence (for once, likely for good reason) of a specific order by any government to Khalid Sheikh Muhammad or Muhammad Atta to hijack four airplanes on 9/11 to strike three U.S. targets says nothing about the relationship between these men and a host of governments. Much less does it imply—as the CIA contends and so many who should know better accept—that there is no relationship between Arab governments and these men, between them and al Oaeda, or between them and anti-American terrorism in general.

Start from the last point. No great expertise is needed to realize that every terrorist group of which we have any knowledge depends on, is the tool of, and its controlling elements consist of, personnel of some country's intelligence service—usually several, always in tension with one another. Today's Hezbullah teeters between Syria and Iran. The Popular Front for the Liberation of Palestine (PLFP) is a wholly owned subsidiary of Syrian intelligence. The granddaddy of them all, the Palestinian Liberation Organization (PLO), began as a tool of the Egyptian army and of the Soviet Union, diversified its support with the Jordanians between 1964 and 1970, then transferred its operations to Syria with Saudi and Gulf funding. Briefly after 1979 it had an Iranian contingent. During the 1980s, Iran dropped out and Iraq came in. After 1990 Saudi Arabia briefly dropped out and then came back in. Egypt never left completely. Al Qaeda, at its inception, was wholly Saudi. The Sudanese, Egyptians, Iraqis, Syrians, and Jordanians came into it early on, each in its own way. Such intelligence as we have on these groups comes from the "liaison services" that have infiltrators in them. These infiltrators are there primarily to steer these groups according to their governments' agendas—only secondarily to gather information. The information we get from them is what the governments who gather it decide

we should have. In the real world, professional intelligence services manage amateurs—not the other way around.

Without speculating as to why, it is important to note that Khawaja misunderstands Islam's role in terrorism. Arab anti-American terrorism came first, starting in the 1960s. Islamic justification for it followed in 1979, and really got going only in the 1990s. Sayyid Qutb and Islamism coexisted peacefully with the West in the past, and may well do so in the future. Khawaja writes too easily of "a theological-political conception that finds resonance wherever disaffected Muslims reside—be it Jidda, Jakarta, or Jersey City" (p. 12). That conception owes much to garden-variety socialpolitical resentments. The little it owes to Islam comes from one strand: Wahabbism, the house cult of Saudi Arabia. Massively fertilized by Saudi money, that loco weed has maddened more and more of the Islamic world from Pakistan to the American Black Muslim movement. The world's Shi'a. as well as ordinary Sunnis, are its immediate targets. Westerners are secondary ones, and that only because our fecklessness in defending ourselves inspires such contempt. Take away the money and the respect, and Wahabbism ceases practically to be interchangeable with Islamism, and becomes a minor nuisance in the West.

Khawaja writes that, in my view, the growth of "Islamic fundamentalism" is merely "the cynical work of Arab regimes" (p. 13). No. It is the result of their own massive corruption and betrayal of their peoples' moral as well as secular expectations. But it is also a tiger that they have been unable to tame, that they have chosen to ride, and that they dare not dismount lest it eat them. His statement that this phenomenon is "no more encouraged by contemporary Arab regimes than David Koresh's interpretation of Revelation was encouraged by Bill Clinton's Protestantism" (p. 12) shows that he misunderstands regimes as well as religion: David Koresh was, in fact, an outrider of the California Democratic Party. His followers were Protestants somewhat familiar with the Book of Revelation—roughly on the level of, say, a Bill Clinton. The cult was conceivable only in the context of the twentiethcentury Liberal "Protestant Deformation" characteristic of our regime. On behalf of the U.S. Senate, I once asked FBI director William Webster why the FBI had not infiltrated the movement. He answered that it did not do so for the same reason that it would not infiltrate the Presbyterian Church. Officially, the U.S. government was (and remains) blind to the difference between religion, nut cults, and scams. Alas, so is Khawaja.

Unfamiliarity with religion—sound and unsound, as well as with its various secular admixtures—leads Khawaja to lend credence to the claim that

⁶ See James Kurth, "The Protestant Deformation and American Foreign Policy," *Orbis* 48, no. 2 (Spring 1998), pp. 221-39.

terrorist troops can never be defeated because they will die even for lost causes. Hence, "we are facing an enemy that is encouraged by victory but not discouraged by defeat" (p. 15). Nonsense. Suicide bombers don't just jump into their bomb vests. They are carefully manufactured products of hothouse environments, maintained by standard secular power in Saudi Arabia, the Palestinian territories, etc. Both World Trade Center attacks used Islamists, but were mounted by Khalid Sheikh Muhammad and his "nephews," very secular folks with ties to standard intelligence services, principally Iraq's. The history of deadly heresies—Christian as well as Muslim—is clear that their adepts obey the laws of human motivation: once their causes are crushed, so are their spirits. When the Ottoman Empire crushed Wahabbism after its early nineteenth-century massacres of Shi'ites (including humiliating its Saudi patrons before killing them), that sect caused no more trouble for a century and a half. We became targets of terror more and more since the 1960s as people from Moscow to Mandalay realized how safe, profitable, and fun it is to make us cower. Because that is so, Khawaja's dismissal of our desire to live without having to worry lest somebody blow us up for some cause, his mocking of "peace on our terms" by calling it "turning the clock back forty years" (p. 15), his conclusion that we had better get used to living with the states and sects that breed terror, is sure to get us more terror.

Khawaja does not dispute that we have the capacity to wreak enough damage on the peoples who glorify harming us possibly to stop them from doing so. But he invokes prohibitive moral costs: "If as [Codevilla] says we lack the right to rule Arab regimes (p.50) it is far from clear we have the right to inflict invasions on them simply because a few thousand people in their midst espouse anti-American ideologies" (p. 14). Apples and oranges. What other peoples do among themselves is their business. Their indulging, glorifying, and advocating murder of us is our business. And these "few thousand people" happen to be the ones who make those countries what they are, who determine what is indulged, glorified, advocated, and taught. They are the ones who decide "who gets what." Nor is it any more legitimate for Khawaja than for Colin Powell to equate making war on another regime with occupying and trying to police another country.

Having counseled us to lie down and enjoy such relationship as the Muslim world thrusts upon us, Khawaja bids us put our faith in the prophylactic of "domestic law enforcement's response to crime" (p. 17). This does not even rise to the Bush team's risible recipe: all the world's governments must, just must, crack down on terrorists. The kernel of truth in that is that, in fact, any people can police, and be policed by, only itself. Policing by foreigners is an oxymoron. But alas, the problem is precisely that, for many regimes, terrorists are either constituents (the tools of choice) or the police itself. The only way we can cause the people who count in foreign countries to crush rather than encourage terrorism against us is to make it very

bloody clear that we will accept no excuse for any harm that comes to us from their realms, and that we are the final judges of what contributes to or detracts from our safety. That is the logic of life.

3. Response to Long

Prefacing his "A Florentine in Baghdad," Long writes that I misunderstood Plato to have held up dogs as paragons of wisdom, whereas Plato's reference to dogs is "a joke" (p. 19 n. 2). This misunderstands Plato and, incidentally, me. Plato's dog's affection for the familiar is no more the fulfillment of wisdom than is Thrasymachus' fixation on power or Cephalus' piety. All are points of departure, essential elements of wisdom. Plato mocks none and builds on all. The dog's instinct, namely, love of one's own, is a sine aua non of political life, though not sufficient. Also by way of preface, Long assumes that I am unmindful of the fact that the moral good is not merely an end but is the constitutive means of the good life. Indeed, ethos means habit, and virtue is the practice of good ethics. As I wrote in my commentary on Machiavelli's Prince, Machiavelli's principal focus was to change the meaning of "virtue" from the Greek (and Christian) to the pagan Roman. 8 I dedicate a chapter in my co-authored War: Ends and Means to explaining that no justice, no good, can come from intentional (as opposed to incidental) harm to innocents, that evil means corrupt good ends rather than the other way around—indeed to explaining the Christian doctrine of jus ad bellum and jus in hello.9

But Long did notice that my *No Victory, No Peace* misrendered Condoleezza Rice as "Condolezza." I had *not* noticed—perhaps because, being Italian (Lombard, not Florentine) and remembering too well her describing to me that her mother gave her that name by modifying the Italian musical term "con dolcezza," meaning "with sweetness," or "sweetly," I unconsciously singled the "e" Italian style.

Morality is the first axis of Long's critique: "[A]ccording to the natural law tradition of Aristotle, Aquinas, and their modern successors, what is proper in war depends also on the inherent, not just the instrumental character of the means" (p. 28). Then comes the *non sequitur*: "[M]oral

⁸ Angelo Codevilla, *Machiavelli's Prince* (New Haven: Yale University Press, 1997), pp. xiv and xxxiv-xxxv.

⁷ Roderick Long, "A Florentine in Baghdad: Codevilla on the War on Terrorism," *Reason Papers* 28 (Spring 2006), pp. 19-33.

⁹ Angelo Codevilla and Paul Seabury, *War: Ends and Means*, 2d ed. (Dulles, VA: Potomac Books, 2006).

considerations such as freedom of speech are not a luxury to be tossed aside when serious considerations arise. They are the most serious considerations" (p. 28). By this Long means to argue that the means of war that I say (and he does not dispute) are necessary to stop the Arab world from venting its deadly troubles on us are immoral because shutting down television stations, killing people for what they teach, and for how they organize others, is immorality itself. But while extreme Libertarian ideology may deify freedom of religion, speech, and association, the natural law tradition regards these not as goods in themselves but as instruments that may or may not serve good ends depending on circumstances. Aguinas could not be clearer: The value of freedom depends on the purpose for which freedom is used. Religion? In the real world, insofar as it merges with earthly quarrels it must be dealt with by earthly means. Property? Though Libertarians regard property rights as sacred. Plato tells us that no sane man would return a weapon to an owner gone mad. As for killing, nowhere in the classical or Christian tradition is there any basis for condemning it per se. The good or evil of killing always depends on who is to be killed, by whom, why, and under what circumstances.

Long asks: "Are moral considerations *part* of the human good or external to it?" (p. 28). Of course they are its ruling part. But the moral good, which so depends on peace and justice, usually requires establishing them by killing some, dispossessing others, and silencing others yet. Of course what some regard as justice others regard as the opposite. That is one reason why there are wars. Libertarian ideology cannot do away with moral conflict by positing a morality that boils down to worshiping the notion of the autonomous individual.

The other axis of Long's critique is precisely the assumption that this Libertarian morality is common to mankind, and that its enemies are states—all states, but especially ours, the United States of America. If only the U.S. government would mind its own business, neither the Arabs nor anyone else would bother our peace. Long refuses to see that the real, limited benefits of restraint in international relations depend strictly on daunting military power. Wisely, Theodore Roosevelt had counseled Americans to "speak softly" to foreigners, while carrying "a big stick." The two must balance, as must ends and means. Necessarily, however, the balancing takes place in the course of conflict because, *pace* Libertarian ideology, human interests and purposes clash. And when they do, your state, be it ever so imperfect, is the only thing between you and death or worse.

Far from being Machiavellian, this statement of reality is classical philosophy's point of departure. In the *Apology*, *Crito*, and *Phaedo*, Socrates explained that though his mind obeyed the God, his body belonged to Athens, without which neither mind nor body would have existed. Plato's reference to

the dog made the same point: The familiar may not be very good, but neither dog nor man can survive except by holding close to its own.

* * *

No Victory, No Peace was about how to deal with the fact that, for reasons that seem good to them, lots of Arabs and some Persians find it fulfilling to kill the likes of us. Reason—though regrettably not Reason Papers—strongly suggests that the best way to reduce the chances that we be killed is to kill whoever has anything to do with killing us.

Plumb-Line Libertarianism: A Critique of Hoppe

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1. Introduction

It is one thing to make temporary strategic alliances with the forces of either left or right. This may properly be done for several reasons. One reason is to try to convert them to the one true faith. In doing so we say to the leftist: You favor freedom for pot smoking, so how about gold owning? Both, not just the one freedom you favor in this case, can be derived from the "humanistic" principles you ostensibly, but not consistently enough, favor. Similarly, we say to the denizens of the right: You oppose government restrictions such as the minimum wage and rent control, so how about applying the very same philosophical principles which lead you to these conclusions to freedom for homosexuals to engage in consensual adult behavior on the very private property to which you pay lip service?

Similarly, it is entirely appropriate, and fully consistent with libertarianism, to make temporary alliances with left- or right-wingers in order to promote a common interest. Libertarians, for example, may support socialists in their anti-war efforts, or conservatives in their promotion of freedom of association and opposition to enforced affirmative action or coercive unionism. But whatever our purposes in these transitory associations, as libertarians we must always maintain our own identity. Otherwise, all that is unique and vital in this philosophy will be lost. And this would be a tragedy of gigantic proportions, in that this political-economic perspective is that last best hope for mankind, and for his very survival.

In this essay I shall argue for "plumb-line" or pure libertarianism, and take to task a libertarian author who sees some intrinsic connection between libertarianism and conservatism. I contend, in contrast, that while there may well be a case for temporary alliances with those on the right, it is false and misleading to characterize libertarianism as any more closely related to the right than to the left.

The thesis of this essay is that libertarianism must go its own way, philosophically divorced from ideologies of both left and right. In effect I say to both socialists and conservatives: "A pox on both your houses." As Lew Rockwell states:

The true friends of freedom, the ones who believe in it as a matter of hard-core principle, are always few. We have been reminded of this in recent days. The much-vaunted civil libertarians of the left can be counted on to defend the rights of every anti-bourgeois segment of society, except when that segment crosses the State to which the left owes its primary loyalty. Thus did these civil libertarians recently see the light on the need to censor and spy on anything the State deems politically deviant. So too with the political right, which sponsors and promotes treatises on the need for traditional morality, isn't at all troubled when the State murders thousands of innocents in the course of a war.¹

2. Plumb-Line Libertarianism

In brief, plumb-line libertarianism is the view that human actions are justified only if they are consistent with private property rights, which are themselves, in turn, defended on the basis of homesteading or voluntary acts such as purchase, gifts, etc.

Plumb-line libertarianism may be defined in terms of pure libertarian principle: It does not compromise this political-economic perspective, not to curry favor with leftists *or* rightists. As stated above, it is entirely consistent with this view to make alliances with advocates of these other views, but the plumb-line libertarian will never confuse his own philosophy with either of these two others.

What is the plumb-line position of libertarianism on libertine acts between consenting adults, such as prostitution, pornography, fornication, gambling, homosexuality, nudism, etc.? Since none of these necessarily involves the use of violence or trespass against private property, all of them should be legal in the full libertarian society. Does the libertarian have to *favor* such acts? Not at all. He can oppose them, even bitterly, provided only that he does not initiate violence against those who indulge themselves in such a manner. The provided only the provided only that he does not initiate violence against those who indulge themselves in such a manner.

3. Strange Bedfellows

Along comes Hans-Hermann Hoppe, the most gifted libertarian theorist now writing, who makes this elementary mistake: He throws his

¹ Lew Rockwell, available online at: http://www.lewrockwell.com/rockwell/againstliberty.html.

² Walter Block, *Defending the Undefendable* (New York: Fox and Wilkes, 1991).

³ Walter Block, "Libertarianism vs. Libertinism," *The Journal of Libertarian Studies* 11, no. 1 (1994), pp. 117-28.

(libertarian) lot in with the right, and contends that conservatism is really no different from libertarianism.⁴ He states: "... [C]onservatives today must be antistatist libertarians and equally important, ... libertarians must be conservatives." Let us address each of these two issues.

a. "... [C]onservatives today must be antistatist libertarians"

I have no doubt that it is possible stipulatively to define conservatism in terms of radical libertarianism. Hoppe attempts this by claiming that "modern conservatism, in the United States and Europe, is confused and distorted." If so, this leaves room for "real" conservatism, for example, anarcho-capitalism. Then, of course, it logically follows that the two schools of thought are indistinguishable. *Actual* conservatives, however, will always remain very different from libertarians despite these efforts to blur the distinction. It is difficult to see the point of the whole enterprise. Like it or not, the people who now go around parading as conservatives are anything but libertarians. Rather, they are cut-and-dried statists, as Hoppe himself agrees. This search for the will o' the wisp conservatives, in contrast to the real live statist ones with whom we as libertarians must deal, is to engage in jousting with windmills. Even if we find them, why not give them their proper nomenclature, "libertarian," instead of calling them "conservatives," and then trying somehow to shoehorn them into what they are not?

There is no doubt that a gaggle of ex-communists and neo-"conservatives" has taken over the right side of the political debate in the U.S., and has been able to shove true conservatives down some sort of socialist memory hole. But even the "old right," while much more libertarian

⁴ Hoppe goes so far as to assert that "Conservative refers to someone who believes in the existence of a natural order"; Hans-Hermann Hoppe, *Democracy: The God that Failed* (Rutgers, NJ: Transaction Publishers, 2001), p. 187. The difficulty is that "natural order" is this author's synonym for anarcho-capitalism. This assertion implies, then, that conservatives are not limited-government libertarians, or "minarchists." Instead, they are, far more radically, free-market anarchists. This is so far from being correct that one can be excused for wondering whether it is a typographical error.

⁵ Ibid., p. 189.

⁶ Ibid.

⁷ Paul Gottfried, "McCarthy Was Right," available online at: http://www.lewrockwell.com/gottfried/gottfried21.html.

⁸ Justin Raimondo, *Reclaiming the American Right* (Burlingame, CA: Center for Libertarian Studies, 1993).

than their "conservative" successors (such as Goldwater who passed for conservative before the neo-cons came on the scene) were not pure libertarian.

Hoppe cites Robert Nisbet as an exemplar, presumably, of the proper kind of conservatism. But Nisbet himself was far from being an advocate of laissez-faire capitalism.⁹

To summarize this section, let me note that Hoppe states: "... [C]onservatives today must be antistatist libertarians." My reply is that if conservatives *were* antistatist libertarians, ¹⁰ then they would not be conservatives in the first place, but rather libertarians. Definitional legerdemain ¹¹ will not help achieve this very worthwhile goal. ¹²

b. "... Libertarians must be conservatives"

Now, let us address the second of Hoppe's claims, which is more important, since it is not merely definitional but rather substantive, and reaches to the core of the libertarian philosophy. Consider in this regard his assertion that with regard to "the decay of families, divorce, illegitimacy, loss of authority, multiculturalism, alternative lifestyles, social disintegration, sex and crime, all of these phenomena represent ... scandalous deviations from the natural order." Remember, "natural order" is Hoppe's synonym for

⁹ Hoppe, *Democracy: The God that Failed*, p. 191, n. 3, citing Robert Nisbet, "Conservatism," in *A History of Sociological Analysis*, ed. Tom Bottomore and Robert Nisbet (New York: Basic Books, 1978) and Robert Nisbet, *Conservatism: Dream and Reality* (Minneapolis, MN: University of Minnesota Press, 1986).

¹⁰ This would be an altogether very good thing.

¹¹ As evidence of this contention consider Hoppe's citation of Rothbard as, of all things, an "old conservative"; see Hoppe, *Democracy: The God that Failed*, p. 198, n.

¹² States Hoppe: "Genuine conservatives must be opposed to both [war-mongering neo-conservatism and the Buchananite version of economic nationalism and welfare statism]. In order to restore social and cultural normalcy, true conservatives can only be radical libertarians, and they must demand the demolition—as a moral and economic perversion—of the entire structure of social security"; see Hoppe, *Democracy: The God that Failed*, p. 199 (material in brackets paraphrased). Hoppe is undoubtedly correct that *if* the goal is to promote families, individual initiative, reliance, etc., something that at least some people who can correctly be identified as "conservatives" once favored, then only the libertarian program of laissez-faire capitalism can serve as a means toward this end. The problem, here, is that no self-styled "conservative" ever went quite so far in this direction. But when he talks of "true conservatives" favoring a total eradication of government social security programs, he is taking definitional liberties. He is inventing them out of whole cloth.

¹³ Hoppe, *Democracy: The God that Failed*, p. 190.

anarcho-capitalism or pure libertarianism.¹⁴ Thus, he is maintaining, if I understand him correctly, that the decay of families, etc., is *per se* contrary to this philosophy.

This, I contend, is a misunderstanding of libertarianism. With the exception of crime, which is necessarily a violation of person and property rights, and, possibly, "multiculturalism" (if this is understood in terms of coercive force), there is not a single entry on this list that is necessarily incompatible with libertarianism. Take illegitimacy, for example. 15 It cannot be denied that this is often, nay, virtually always, a tragedy, both for the individuals involved and for society as a whole. We know that illegitimacy plays a causal role, for example, in increased crime, suicide, juvenile delinquency, alcoholism rates, and with other indices of social and economic disarray. But for all that, we must hark back to basic libertarian principles to assess the assertion that illegitimacy *must* be incompatible with the tenets of this philosophy. Clearly, it is not. Fornication, for example, sexual intercourse outside of marriage, is very far indeed from a per se violation of rights; it is not at all an instance of the initiation of violence against a nonaggressor, an unwarranted border crossing of person or property. Rather, it is a victimless crime. As long as the conception of a baby is voluntary, 16 such resulting illegitimacy is fully compatible with libertarianism. But I go further. Sexual congress which leads to the birth of an illegitimate baby is *every bit* as compatible with the libertarian non-aggression axiom as is any other voluntary act, such as playing checkers.

This does not mean, of course, that everyone is duty-bound to support illegitimacy. It is perfectly compatible with the doctrine of libertarianism to oppose, even bitterly so, all such activity. One would be entirely justified, for example, in boycotting the parents of all illegitimate children: neither selling to them nor buying from them nor hiring them nor working as their employees. Nonetheless, it cannot be maintained that illegitimacy is incompatible with libertarianism, as it is truly the case with conservatism. This is because libertarianism is *solely* a political philosophy. It asks one and only one question: Under what conditions is the use of violence justified? And it gives one and only one answer: Violence can be used only in response, or reaction to, a prior violation of private property rights. Conservatism, in very sharp contrast, is only partially a political

¹⁴ Ibid., pp. 74-75.

¹⁵ The same analysis applies to all others on Hoppe's list.

¹⁶ Were it not, it would be rape, something totally outside of the realm of legitimate acts in a libertarian society.

philosophy.¹⁷ It includes, too, a vision of the good life which is totally lacking in libertarianism.

Hoppe makes much of the fact that libertarianism and cultural conservatism are fully compatible. ¹⁸ And, indeed, he is entirely correct in this matter. However, libertarianism is compatible with *any* cultural behavior, provided only that the culture is not incompatible with the libertarian axiom on non-aggression. For example, libertarianism is *also* compatible with hippie leftism; indeed, the freedom philosophy is *every* bit as compatible with the counter-culture lifestyle as it is with conservatism. For example, there is nothing in libertarian law which forbids promiscuity, or drug taking, rock music, raves, nudism, macrobiotic diets, Ben and Jerry ice cream, the wearing of earth shoes, beads, etc. And that is all that is required for "compatibility."

Hoppe goes further in behalf of his favorite side of the aisle: "The relationship between libertarianism and conservatism is one of praxeological compatibility, sociological complementarity and reciprocal reinforcement." This may well all be true, but it is unnecessary overkill. *All* that is needed for compatibility with libertarianism and *any* other doctrine is respect for the nonaggression axiom of the former. Many, many things exhibit this characteristic, for example, chess, checkers, tennis, bowling, swimming, etc.

Hoppe also points to the fact that many of the leading libertarians, such as Murray Rothbard and Ludwig von Mises, were culturally conservative as evidence of a sort for the compatibility of libertarianism and conservatism. One might as well say that since "conservative" is spelled with twelve letters, "libertarian" with eleven, and "liberal" with only seven, that libertarian and conservative are closer to each other than is libertarian and liberal. The personal tastes, practices, and actions of Rothbard and Mises, and myself and Hoppe for that matter, might all be "culturally conservative." However, this does not privilege conservatism, vis-à-vis hippie counterculture perversions by one whit as more deserving of the honorific

¹⁷ And in this role it gives very far from the libertarian answer to this question. Indeed, for conservatives, initiatory force is justified in a whole host of cases: when undertaken by the state, when in opposition to sins such as fornication, prostitution, drug use, pornography, etc.

¹⁸ Hoppe, *Democracy: The God that Failed*, p. 203.

¹⁹ Ibid., p. 202.

²⁰ Ibid.

"libertarian." Both are *equally* libertarian, provided only that they accord with its *one* axiom of private property rights based on homesteading.²¹

c. The so-called "modal" libertarian

Hoppe cites Rothbard to dramatic effect, castigating the modal, that is, leftist libertarian.²² No doubt there are such people as he describes, who are moochers, bums, attracted to "New Age hokum," and engaging in "adolescent rebellion." But there are problems here, for Hoppe's thesis is that libertarians must give up these counter-cultural lifestyles, and no such conclusion follows from his premises.

First of all, while there can be no doubt that there are some people who call themselves libertarians and fit this particular bill, there are no hard facts offered as to how far this phenomenon has spread. Had I to hazard a guess, based upon years of informally interacting with members of the Libertarian Party, libertarian supper clubs, debating societies, etc., I would put it at no more than ten percent. 23 Second, and more important, it is important not to vouchsafe to all of those who give themselves this appellation with the honorific, "libertarian." That is, not all of those who Hoppe and Rothbard dismiss as modal libertarians should be considered libertarians in the first place. Certainly, this applies to all of those who oppose not the initiation of aggression, but instead, or even in addition, hierarchy and natural authority. For example, those who oppose landlords, parents, employers, orchestra conductors, and leaders because they give orders to tenants, children, employees, musicians, and followers, are some variant of leftist, and are not libertarian at all. Those so-called libertarians, moreover, who elevate egalitarianism, of all things, to a high political principle, are to that extent

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²¹ My claim is that Hoppe is conflating substantive libertarian issues with matters of taste. For example, Mozart and Bach are "right wing" while folk songs are "left wing." This is an example of merely a difference in style, which should not be confused with substantive issues. It matters not one whit to one's libertarian credentials what kind of music he likes. Even though there may be a strong empirical correlation between style and substance, it is still, strictly speaking, irrelevant.

²² Hoppe, *Democracy: The God that Failed*, pp. 206-8, n. 22.

²³ Note that Hoppe cites only two instances of this phenomenon: David Boaz and Clint Bolick; see ibid., p. 209, n. 23. With regard to the critics of modals cited by Hoppe, e.g., Rothbard and Tucker, between them they offer very few specific examples; see Murray Rothbard, "Big-Government Libertarians," *Rothbard-Rockwell Report* 5, no. 11 (November 1994), pp. 1-15, and Jeffrey Tucker, "Book Reviews," *The Journal of Libertarian Studies* 13, no. 1 (Fall 1997), pp. 109-20. The former goes out of his way not to mention any names whatsoever (although, reading between the lines, one can discern, preeminently, the Libertarian Party, *Reason* and *Liberty* magazines, and the Cato Institute). The latter mentions only Charles Murray in addition to David Boaz.

certainly not libertarians. And the same thing applies to self-styled "libertarians" who reject the libertarian notion of freedom of association in favor of non-"discrimination." We must not accept without demur all political labels given by people to themselves. Hoppe properly excoriates several "left libertarians," such as Clint Bolick and David Boaz, for jettisoning the libertarian notion of free association in favor of several variants of coercive affirmative action. But why call them "libertarians" on this issue? That only confuses matters. True, both have taken many other libertarian positions, so it is tempting to characterize them as "left libertarians" for this particular transgression. But it would be far more accurate to consider them as libertarians, period, on those issues where their positions are congruent with this philosophy, and as *leftists* in this particular case. ²⁶

Similarly with the right. Rothbard (1994, p. 9) states:

[O]ne of the most disgraceful performances of virtually all free market think tanks, and of all Official Libertarian journals and institutions, was their falling into line like so many sheep to agitate on behalf of NAFTA, and now for the proposed World Trade Organization. A Canadian institute managed with no resistance to herd almost every free market think tank in this country into what they called the 'Nafta Network,' which devoted an unprecedented amount of resources to almost continual agitation, propaganda and so-called 'research,' in behalf of the passage of Nafta. And not only the think tanks: they were also joined by the considerable number of libertarians and libertarian sympathizers among syndicated columnists, writers and assorted pundits.²⁷

There can be no doubt that Rothbard is correct in his assessment of the North American Free Trade Agreement (NAFTA). To mention this in the same sentence as "libertarianism" is to besmirch the latter. But why characterize advocates of NAFTA as, of all things, "libertarian"? It is no less than a promiscuous misuse of language to do so. True, in some of these cases, these think tanks have taken *other* positions that can indeed be characterized as "libertarian." But surely, accuracy in language requires that these groups not

²⁶ For a reply to Hoppe's assertion that free immigration requires a violation of freedom of association (ibid., p. 209, n. 23), see my "National Defense and the Theory of Externalities, Public Goods, and Clubs" (unpublished).

²⁴ Hoppe, *Democracy: The God that Failed*, p. 208.

²⁵ Ibid., pp. 208-10.

²⁷ Rothbard, "Big-Government Libertarians," p. 9.

be characterized, holus-bolus, as "libertarian." Rather, precision mandates that they be called something of the order of "supposed libertarians," or "semi-libertarians," or "would-be libertarians," or "self-styled libertarians," or some such term.²⁸

The "Canadian institute" referred to by Rothbard is obviously the Fraser Institute. But to label the Fraser Institute as a "libertarian" organization is particularly egregious.²⁹ They billed themselves not as libertarian but as conservative. The leadership was and is singularly hostile to libertarianism. They were "libertarian" only on issues that flowed from the most elementary principles of economics: minimum wage, rent control, etc. And even in such cases they did not typically advocate immediate and total repeal, but rather a more moderate or measured course of action. To call them "libertarian," and then to castigate libertarians on the ground that the Fraser Institute did not favor radical libertarian public policy is highly problematic.³⁰

Hoppe is completely on point with regard to his analysis of the importance of the right to discriminate. Without it, one of the prime functions of private property rights is abrogated.³¹ However, his complaint that "everyone is on a first name basis with everyone else" and that this is "uncivilized" seems more a matter of taste than of political philosophy. According to some conventions, only "equals" or family members are entitled to address one another by their given names, and equality is defined very narrowly. According to others, apart from children talking to adults who are

²⁸ Can I be accused of circularity of argument? There is a superficial case in favor of such as assessment. Every time Hoppe, Rothbard, or Tucker castigates a "libertarian" for non-libertarian stances, I maintain that this is not a case of left-wing (or right-wing—see below) libertarian deviationism. Rather, the people and groups properly excoriated by Hoppe, Rothbard, and Tucker are not libertarians at all, at least with regard to the points in question. My argument in response to this charge is that it is I, not they, who is using language correctly. My assertions thus amount to praxeological claims. After all, we all four agree as to what libertarianism is, at least as it concerns these left-wing "deviations." When it is patently clear that they are *not* libertarians on a particular issue, where is the virtue in claiming that they are?

²⁹ Full disclosure: I was employed by the Fraser Institute from 1979 to 1991.

³⁰ Just so that there will be no misunderstanding, I am in total and full agreement with Rothbard's analysis of the issues he discusses in Rothbard, "Big-Government Libertarians." My only objection is to his labeling of such groups as Reason, Liberty, Cato, Fraser, etc., as libertarian.

³¹ Hoppe, *Democracy: The God that Failed*, pp. 208-13.

³² Ibid., p. 211.

strangers, use of first names indicates familiarity and/or friendship, and this can occur between people of widely differing accomplishments and status. Rothbard, for example, habitually encouraged libertarians who had contributed far less to this discipline than he (and this includes pretty much every person on the planet) to address him by first name. As Hoppe instances Rothbard as a symbol of cultural conservatism, this might be expected to carry some weight.

More problematic is Hoppe's statement that

a society in which the right to exclusion is fully restored to owners of private property would be profoundly unegalitarian, intolerant and discriminatory. There would be little or no 'tolerance' and 'openmindedness' so dear to left-libertarians. Instead, one would be on the right path toward restoring the freedom of association and exclusion implied in the institution of private property, if only towns and villages could and would do what they did as a matter of course until well into the nineteenth century in Europe and the United States. There would be signs regarding entrance requirements to the town ... (for example, no beggars, bums, or homeless, but also no homosexuals, 33 drug users, Jews, Moslems, Germans or Zulus). 34

No one is less receptive than me to "tolerance" when it is used to violate private rights and the law of free association. ³⁵ Nor is there anything even the

³³ There are those who characterize themselves as "conservatives" or "libertarian conservatives" who would impose no less than the death penalty for consensual adult homosexuality in private (usually, but not always, on biblical grounds). Surely, Hoppe's enthusiasm for the former philosophical perspective would not extend to the latter implication. Given this, here is at least one issue upon which Hoppe himself could be considered a modal or left libertarian, or, better yet, a plumb-line advocate of this viewpoint.

³⁴ Hoppe, *Democracy: The God that Failed*, p. 211.

³⁵ Walter Block, "Discrimination: An Interdisciplinary Analysis," *Journal of Business Ethics* 11 (1992), pp. 241-54; Walter Block, "Compromising the Uncompromisable: Discrimination," *American Journal of Economics and Sociology* 57, no. 2 (April 1998), pp. 223-37; Walter Block, Roy Whitehead, and Lu Hardin, "Gender Equity in Athletics: Should We Adopt a Non-Discriminatory Model?" *University of Toledo Law Review* 30, no. 2 (Winter 1999), pp. 223-49; Walter Block and Roy Whitehead, "The Boy Scouts, Freedom of Association, and the Right to Discriminate: A Legal, Philosophical, and Economic Analysis," *Whittier Law Review* (forthcoming); Walter Block and Edward Stringham, "Are Banks and Insurance Companies Guilty of Racial Discrimination?" *Commentaries on Law and Public Policy* (forthcoming); Walter Block and Roy Whitehead, "Should the Government Be Allowed to Engage in Racial, Sexual, or Other Discrimination?" *Northern Illinois Law Review* (forthcoming).

slightest untoward about forbidding Hoppe's list from private property. Of course, this would go as well for icons beloved of conservatives: men wearing suits and ties, women in burkas, businessmen, profiteers, sweatshop owners, conservatives, Christians, etc. They, too, could be forbidden access to private property by their owners. But there is the rub: Only owners of *private property* are justified, in the libertarian legal code, of excluding from entry. It would not at all be legitimate for Hoppe's "towns and villages," in contrast, to engage in any such activity. For these are public entities, and hence *per se* illicit.³⁶ The point is, suppose that the town or village passed a law prohibiting the entry of a bum, or a Jew, or a Christian, but that one of the local property owners wanted to invite such a person into his home or store.³⁷ Then, for the town council to forbid this access would be a violation of private property rights, the very bedrock of libertarianism.³⁸

Then there is the issue of "society." Hoppe speaks of the "physical removal from society" of all those who advocate "alternative non-family and kin-centered lifestyles such as, for instance, individual hedonism, parasitism, nature-environment worship, homosexuality or communism." But as he also champions Rothbard's support for a "gorgeous mosaic," including "rowdy Greenwich Village-type contractual neighborhoods," the two are difficult to reconcile. Perhaps by "society" Hoppe really means, in effect, something along the lines of "polite society." But if so, the issue of "physical removal" would surely not arise. Society matrons and their ilk would not invite such denizens to their soirees in the first place.

Hoppe states: "[N]o one is permitted to advocate ideas contrary to the very purpose of the covenant of preserving and protecting private

³⁶ A similar confusion between the public and the private spheres is made by Randall Holcombe, *The Economic Foundations of Government* (London: Macmillan Press Ltd., 1994). For a rejoinder to this view, see Block, "National Defense and the Theory of Externalities, Public Goods, and Clubs."

³⁷ Assume for simplicity that this individual's property lie on the perimeter of the town, so as to abstract from any complexities of using village roads.

³⁸ Nothing said here should be interpreted to disparage Hoppe's discussion of shopping malls, gated communities, proprietary communities, or restrictive covenants; see Hoppe, *Democracy: The God that Failed*, pp. 214-18. These entities most certainly do have the right to exclude individuals on any basis of their choosing.

³⁹ Ibid., p. 218.

⁴⁰ Ibid., p. 212, n. 25.

property, such as democracy...."⁴¹ If this is to be limited to members of the restrictive covenant or gated community, all of whom have agreed in advance to be bound by such strictures, well and good. Contracts, provided they are compatible with underlying property rights realities, are a legitimate aspect of the free society.⁴² But it is by no means clear that Hoppe would limit proscriptions of this sort to such signatories. Disquieting.

On the basis of these considerations Hoppe maintains that "libertarians must be radical and uncompromising conservatives." But if the left-oriented libertarians amongst us are flawed, no less is true of so-called conservative libertarians. Hoppe penned his missive, presumably, before the tragic events of 9/11. Since that time the "schmodal libertarian," 44 if I can coin a phrase to describe not libertarians who veer too far to the left but rather those who are in danger of getting into bed with the right, have also espoused views that the plumb-line libertarian must consider highly problematic. The conservative libertarians, or schmodals, have been in effect calling for the U.S. government to nuke back into the stone-age myriads of innocent civilians living in such places as Afghanistan, Iraq, Somalia, etc. They go so far as to espouse the use of nuclear weapons, which are per se violative of rights, insofar as their effects cannot even in principle be confined to the guilty. They have been maintaining that the dastardly and immoral attack on the World Trade Center was due not to prior U.S. intervention in every corner of the globe known to man, and some not known, but rather to too little foreign aggression of this sort.

In contrast, the plumb-line position of libertarianism, I take it, is, roughly, to emulate the non-interventionistic foreign policy laid down by George Washington in his "Farewell Address." Surely, the modal libertarians, whatever their flaws (and these are many and serious), are in a vastly *better* position vis-à-vis plumb-line libertarianism than are these conservatives who

⁴¹ Ibid., p. 218.

⁴² See Hans-Hermann Hoppe, Guido Hulsmann, and Walter Block, "Against Fiduciary Media," *Quarterly Journal of Austrian Economics* 1, no. 1 (1998), pp. 19-50.

⁴³ Hoppe, *Democracy: The God that Failed*, p. 208.

⁴⁴ Echoing Rothbard's entirely justified and properly savage evisceration of the modals, we can say the following of the "schmodals": they are war-mongering Neanderthals who have a strange myopia about the loss of innocent life abroad. They think that the American government has some sort of God-given right to rule the world. They regard anything contrary to what they take as U.S. interests as sufficient justification for foreign interventionism—anywhere on the globe. So who is worse, who veers further from plumb-line libertarianism: left-wing modal libertarians, or right-wing schmodal libertarians? All that can be said is that each one is worse than the other.

have somehow infiltrated our ranks—at least on foreign policy. If there is any house cleaning to be done, it is not limited to one side of the aisle, as Hoppe would have it; both sides fully deserve the attention of the plumb-liner. And, if we had to choose one side or the other (which we do not), there is actually a case to be made for greater negative attention to be focused on Hoppe's much beloved conservative schmodals, rather than the liberal or pinko modals, insofar as foreign policy tends more often to lead to domestic loss of liberty, and not the other way around. Hoppe mentions among others the Cato Institute as a hot bed of left-libertarianism. 45 Yes, this is understandable when it comes to the rights of free association and discrimination. But as far as foreign policy is concerned, this very self-same institution is one of the most notorious violators of plumb-line libertarianism from the *conservative* side. Cato may violate libertarian strictures as a leftist on domestic issues, but the case against them is at least as strong, if not stronger, for taking positions incompatible with pure libertarianism in the foreign realm, this time as a rightist.

4. Conclusion

Libertarianism can be a pretty lonely business. I have been at it for many decades now, and I fully empathize with this sentiment. The temptation, therefore, to reach out to others for intellectual sustenance and moral support is a strong one. Yet, I am convinced, it must be resisted at all costs and strenuously. For, ultimately, we libertarians really *are* all alone out there—and for good reason. We have a truly *unique* political philosophy. It is so different from all of the others that we are still, even at the turn of the twenty-first century, wildly misunderstood. We are confused with libertines, and even, according to some (perhaps apocryphal) stories, with *librarians*.

If we do *not* resist this temptation, we risk the loss of the libertarian vision itself. The fate of civilization rests on our resisting the notion that we are part of some larger political movement, that others, for example, conservatives, have important lessons to teach us.

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⁴⁵ Hoppe, *Democracy: The God that Failed*, p. 208.

Liberty and Welfare

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There are a number of possible trajectories for those of us who write books. One possibility is that the quality of the books we produce is uniform. For example, we could write uniformly poor or mediocre books, or uniformly good or excellent ones. The other possibility is that the quality is not uniform, but actually goes up or down. The worse alternative here, of course, is when the quality goes down. Then our best work is in the past. This unfortunately is the case for many authors. It was the case for John Rawls, for example. Nothing Rawls wrote subsequently surpassed his first book, *A Theory of Justice*. Alternatively, one could be writing better and better books. This alternative, I think, is the best. It is even better than to have always produced books of exactly the same high quality, because authors always hope to do better than they have done in the past, and producing something of even higher quality is always possible.

In my judgment, Tibor Machan's *The Passion for Liberty* conforms to the best trajectory, the best alternative, in authorship.² It is the best book that Machan has written in social and political philosophy, surpassing even the excellent books he has written in the past. Now while Machan discusses many different topics in *The Passion for Liberty*, I am going to focus on just one central topic of his book—his opposition to welfare rights for the poor on libertarian grounds.

There is good reason for me to focus on this one topic. Machan and I have been discussing each other's work on this topic and debating the topic publicly for many years now and so we have approached the topic from many

¹ John Rawls, *A Theory of Justice* (Cambridge: Harvard University Press, 1971).

² Tibor Machan, *The Passion for Liberty* (Lanham, MD: Rowman & Littlefield, 2003).

different angles. So what we have been saying to each other on this topic over the years, I think, is very important. I also think that it is important that I first record the history of that discussion before taking up the particular way that Machan approaches this topic in *The Passion for Liberty*.

I began discussing Machan's opposition to welfare rights for the poor on libertarian grounds in print in my 1988 book How to Make People Just; Machan returned the favor of discussing my views on this topic in his 1989 book Individuals and Their Rights. About a couple of years earlier, at a Meeting of the Society for the Advancement of American Philosophy, we had an important public encounter, which I always like to recount, hopefully accurately. Machan and I were on a panel with one other person who shall remain nameless. I had just presented a version of my argument that the libertarian ideal of liberty leads to an endorsement of welfare rights for the poor, and this third member of our panel began attacking my argument on the grounds that one can always formulate a political ideal in such a way as to get whatever results one wants and that this is just what I had done with the libertarian ideal. This person claimed that what I had done is skew the libertarian ideal in order to get welfare rights out of it. At that point, Machan spoke up, I hope I am remembering this correctly, claiming that he, as a libertarian, did not think that I had skewed or misstated the libertarian ideal, but that where he and I disagreed was not over the statement of the libertarian ideal but rather over the practical requirements that are derivable from it. I always remember this as one of the high points in philosophical dialogue that I have participated in over the years, and I have also always been grateful to Machan for saving me from the jaws of my critic on that occasion.

Such were the beginnings of the discussion that Machan and I have had over the relationship between libertarianism and welfare rights. Let me now recount more of its history. In an earlier book, *Individuals and their Rights*, Machan does criticize my argument that a libertarian ideal of liberty leads to a right to welfare, as I see it, accepting its theoretical thrust but denying its practical significance. I have argued that he appreciates the force of the argument enough to grant that if the type of conflict cases that I have described between the rich and the poor actually obtained, the poor would have a right to welfare. But Machan then denies that such cases—in which the poor have done all that they legitimately can to satisfy their basic needs in a libertarian society—actually obtain. "Normally," he writes, "persons do not lack the opportunities and resources to satisfy their basic needs."

But this response, as I have interpreted it, virtually concedes everything that my argument intended to establish, for the poor's right to

³ Tibor Machan, *Individuals and Their Rights* (Chicago, IL: Open Court, 1989), p. 107.

welfare is not claimed to be unconditional. Rather, it is said to be conditional principally upon the poor doing all that they legitimately can to meet their own basic needs. So it follows that only when the poor lack sufficient opportunity to satisfy their own basic needs would their right to welfare have any practical moral force. Accordingly, on libertarian grounds, I claimed that Machan has conceded the legitimacy of just the kind of right to welfare that the preceding argument hoped to establish.

The only difference that remains, I claimed, is a practical one. Machan thinks that virtually all of the poor have sufficient opportunities and resources to satisfy their basic needs and that, therefore, a right to welfare has no practical moral force. In contrast, I think that many of the poor do not have sufficient opportunities and resources to satisfy their basic needs and that, therefore, a right to welfare has considerable practical moral force.

But isn't this practical disagreement resolvable? Who could deny that most of the 1.2 billion people who are currently living in conditions of absolute poverty "lack the opportunities and resources to satisfy their basic needs?" And even within our own country, it is estimated that some 32 million Americans live below the official poverty index, and that one fifth of American children are growing up in poverty. Surely, it is impossible to deny that many of these Americans also "lack the opportunities and resources to satisfy their basic needs." Given the impossibility of reasonably denying these factual claims, I have claimed that Machan would have to concede that the right to welfare, which he grants can be theoretically established on libertarian premises, also has practical moral force.

But to my chagrin, Machan did not reach the same conclusion. In *Morality and Social Justice: Point/Counterpoint*, which Machan and I jointly authored with others, he claimed that the conclusion I drew here is a *non sequitur* "because it speaks not to what may be expected in a country that functions within the framework of laws guided by Lockean libertarian principles—individual human negative rights, including the rights to life, liberty and property—but is true of (a) the world at large and (b) the United States in the 1990s."

As I noted in the same book, however, this response concedes that many of the poor lack the opportunities and resources to satisfy their basic needs, but then contends that this lack is the result of political oppression in

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⁴ Alan Durning, "Life on the Brink," World Watch 3 (1990), p. 24.

⁵ Ibid., p. 29.

⁶ Tibor Machan, James Sterba, Alison Jaggar, et al., *Morality and Social Justice* (Lanham, MD: Rowman & Littlefield, 1995).

the absence of libertarian institutions. Now one might try the reconcile this response with Machan's earlier claim that "[n]ormally, persons do not lack the opportunities and resources to satisfy their basic needs" by interpreting the claim as maintaining only that normally in libertarian societies the poor do not lack the opportunities and resources to satisfy their basic needs. The problem with this interpretation is that when Machan makes his "normally" claim he goes on to refer to typical conditions in actual societies. So this does raise the question of what sort of society Machan really intends his "normally" claim to refer.

Suppose, for the sake of argument, that we take it to refer to an idealized libertarian society. This interpretation, I have argued, places the main responsibility for the fate of the poor on nonlibertarian political oppressors, but it also suggests that because of the existence of political oppressors, there is something the poor can do to meet their basic needs which they are not doing, namely, they can throw off their political oppressors and create libertarian societies. So, according to this line of argument, the poor's lack of opportunities and resources to meet their basic needs is to some degree their own fault. They could throw off their political oppressors, but they have not done so.

But I have argued that this is to place responsibility for the fate of the poor where it does not belong. In actual societies, where the poor are oppressed, they usually have little or no political power to change the political system under which they live. Under conditions of oppression, virtually all of the responsibility for the failure to meet the basic needs of the poor must be placed on the political oppressors themselves and on those who benefit from such a system but fail to oppose it.

Granting that this is the case, I have asked, what is the remedy? We can all agree that oppressive societies must be transformed into nonoppressive ones, but Machan contends that this involves transforming them into libertarian societies as well. I am on record as having no objection to this, provided that it is recognized that within a libertarian society the liberty of the poor takes precedence over the liberty of the rich to the extent required to secure welfare rights. Machan, of course, has resisted this interpretation of libertarianism, but to do so, I have argued, he needs to show how the denial of these rights to the poor is not itself a form of oppression that conflicts with the "ought" implies "can" principle, as I have interpreted it. And I don't see how this can be done.

There is a further question of how radical the transformations would have to be to change oppressive societies into libertarian societies. Machan has suggested that the changes that are necessary are fairly minimal, but a closer analysis suggests that only a radical transformation would do the job. This is because in oppressive societies wealth and resources have usually been concentrated in the hands of a few. To transform an oppressive into a

nonoppressive society this inequality of wealth and resources would have to be eliminated. One way to do this would be radically to redistribute wealth and resources in favor of the poor. In fact, I have argued that such a radical redistribution of wealth and resources is required by the libertarian's own ideal of liberty. But Machan does not want radically to redistribute wealth and resources in this way. The kind of changes that Machan seems content with would not directly challenge the current unequal distribution of wealth and resources in existing oppressive societies, but only rule out certain oppressive or coercive ways of acquiring wealth and resources in the future. But this is like stopping a race in which some runners have been forced to wear heavy weights while others were left unencumbered, and then continuing the race after doing no more than letting the runners with weights remove them. Surely, this would not suffice to make the results of the race fair. There is also a need for some kind of a corrective to compensate for the advantage enjoyed by those runners who ran the whole race unencumbered. Similarly, more needs to be done to transform oppressive societies into nonoppressive ones than Machan seems willing to do. After blaming oppressive structures for the plight of the poor, Machan seems reluctant to take the steps required to secure the basic needs of the poor.

Machan elsewhere develops a different line of argument to try to undercut the practical force of my argument that the libertarian ideal leads to welfare rights. Rather than argue about what would obtain in an ideal libertarian society, Machan here seeks to defend libertarianism by comparing actual societies. Accordingly, he contends that when we compare economic systems to determine which produce more poverty, "[n]o one can seriously dispute that the near-libertarian systems have fared much better than those going in the opposite direction, including the welfare state." Here one might think that Machan has the U.S. in mind as a "near-libertarian system," because earlier in the same paragraph he claims that "America is still the freest of societies, with many of its legal principles giving expression to classical liberal, near-libertarian ideas." Yet apparently this is not what Machan thinks, since in a footnote to the same text he says: "It is notable that the statistics that Sterba cites (mentioned above) are drawn from societies, including the United States of America, which are far from libertarian in their legal construction and are far closer to the welfare state, if not to outright

⁷ Tibor Machan, "The Nonexistence of Welfare Rights" (rev. version), in *Liberty for the 21st Century*, ed. Tibor Machan and Douglas Rasmussen (Lanham, MD: Rowman & Littlefield, 1995), pp. 218-20.

⁸ Ibid.

socialism." Obviously, then, Machan is surprisingly unclear as to whether he wants to call the U.S. a near-libertarian state, a welfare state, or a socialist state. Yet, whichever of these designations is most appropriate, what is clear is that the poor do less well in the U.S. than they do in the welfare liberal or socialist states of Western Europe such as Germany, Sweden, and Switzerland. 10 For example, 22.4 percent of children live below the poverty line in the U.S. as compared to 4.9 percent in Germany, 5 percent in Sweden, and 7.8 percent in Switzerland, and the U.S. shares with Italy the highest infant mortality rate of the major industrialized nations. The U.S. also ranks 67 among all nations in the percentage of national income received by the poorest 20 percent of its population, ranking the absolute lowest among industrialized nations. 11 Accordingly, the success that welfare liberal and socialist states have had, especially in Western Europe, in coming close to meeting truly the basic needs of their deserving poor should give us good reason to doubt what Machan proclaims is the superior practical effectiveness of "near-libertarian states" in dealing with poverty.

Machan takes still another tack on the liberty and welfare debate. 12 There he challenges the idea that in his response to me, he has made any concession to welfare rights even when the poor really do not have any option for surviving unless they can legitimately exercise the liberty not to be interfered with in taking what they need from the surplus possessions of the rich. Rather what obtains in such situations, according to Machan, is that a person ought to disregard individual rights to property and take from another what he or she needs. In addition, Machan claims that such situations are quite rare.

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¹⁰ Richard Rose and Rei Shiratori, eds., The Welfare State East and West (Oxford: Oxford University Press, 1986). In fact, the living standards of poor children in Switzerland, Sweden, Finland, Denmark, Belgium, Norway, Luxembourg, Germany, the Netherlands, Austria, Canada, France, Italy, United Kingdom, and Australia are all better than they are in the United States. See James Carville, We're Right They're Wrong (New York: Random House, 1996), pp. 31-32.

¹¹ Michael Wolff, Where We Stand (New York: Bantam Books, 1992), pp. 23 and 115; George Kurian, The New Book of Work Rankings, 3d ed. (New York: Facts on File, 1990), p. 73; Keith Bradsher, "Gap in Wealth in U.S. Called Widest in West," New York Times, April 17, 1995.

¹² Tibor Machan, "Sterba on Machan's 'Concession'," Journal of Social Philosophy 32, no. 2 (Summer 2001), pp. 241-43.

But how does this differ from my account? In my account, in such situations a person is permitted to take from those who have a surplus (which is simply more than you need). Surprisingly, Machan appears to make an even the stronger claim than I do here. Where I claim that those in need are permitted to take from those with a surplus, Machan claims that they ought to do so. This is because the underlying foundations for his libertarian view is what he calls classical egoism, which holds that each person ought to do what best serves his or her overall interest. But while classical egoism does maintain that the needy ought to take from the rich in certain conflict situations, it also holds that in those same conflict situations, the rich ought to stop the poor from doing so. Eric Mack explicitly accepts this conclusion of classical egoism and, since Machan and Mack have endorsed each other's views on many occasions, I am assuming that Machan has the same position as Mack here. Machan can correct me if I am wrong about this.

Assuming then that I am interpreting him correctly, Machan is not making a stronger claim than I am here, because my claim that those in need are permitted to take from those with a surplus is stronger than an "egoistic" ought-claim. The permissibility claim implies that others ought not to interfere with doing what is permitted, whereas egoistic ought-claims have no such implication. As in competitive games, it can be the case that one person ought to do X at the same time that someone else ought to stop the person from doing it. However, this classical egoist solution is not a moral solution. It violates the "ought implies can" principle that both Mack and Machan recognize as a requirement of morality. It violates the "ought implies can" principle because it requires the poor to accept the results of a power struggle in which both the rich and the poor are at liberty to appropriate and use the surplus of the rich insofar as they are able to do so. Obviously, such a solution favors the rich over the poor. Consequently, it would be no more reasonable to require the poor to accept this resolution than it would be to require them to accept the resolution that Mack concedes fails to satisfy the "ought implies can" principle—a resolution that secures for the rich property rights to their surplus in these circumstances. This implies that for severe conflict-of-interest situations only a resolution that guarantees the poor a right to welfare would satisfy the "ought implies can" principle, and thus be a moral resolution.

So once we recognize that Machan's egoistic resolution here is morally unacceptable because it violates the "ought implies can" principle, this leaves my resolution the only viable alternative. This is why I have

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¹³ Machan, *The Passion for Liberty*, p. 31.

¹⁴ Eric Mack, "Egoism and Rights," *The Personalist* 54 (1973), pp. 5-33.

claimed that once Machan acknowledges that property rights are inoperative in certain severe conflict situations, he should accept what I have called *action welfare rights* that are grounded in the priority of the liberty of the poor over the liberty of the rich in such conflict situations.

Now there is still another difference in our accounts, which does figure in Machan's reluctance to speak of a right to welfare in such situations. It is that he thinks that such situations are rare, whereas I do not. This again raises the question about whether we are talking about actual societies or asyet nonexistent ideal libertarian societies. If we are talking about actual societies, including our own, it should be obvious that such situations are not rare, even in this country. Moreover, the fact that we might rightly blame oppressive governments or oppressive individuals for the number of people who are actually needy does not show that the needy in these actual societies do not have an action welfare right—even against nonoppressive rich people if it turns out to be the only way for them to meet their basic needs. For these reasons, I think that an action right to welfare is inescapable for actual societies.

Even if we are talking about nonexistent, ideal libertarian societies, it is also hard to see how we can say that it will be rare for people in such societies to be needy. In wealthy societies that surely depends on whether resources are appropriately distributed to meet the basic needs of all of their members. Moreover, if we take into account the needs of distant peoples and in future generations as well, it is hard to see how it would be rare for the poor to lack the opportunities to meet their basic needs. Not interfering with the liberty of the rich does not seem like a prescription for providing the poor with adequate opportunities to meet their basic needs, especially when not interfering with the liberty of the rich involves interfering with the liberty of the poor.

Machan has offered two new considerations against my argument from liberty to welfare. He argues that by denying the poor a right to welfare the rich would not be doing violence to them (that is, unjustly interfering with them), because the poor would still be in need if the rich did not exist. I wonder whether this claim is supposed to hold of both existing societies and of a not-yet existing ideal libertarian society? In the same book, I responded by arguing that what Machan claims here is not true for just any particular group of rich people. A particular group of rich people's hoarding of resources may be exactly why other people are poor. Moreover, consider a case where the claim holds. Suppose you and I would still be very needy even if certain rich people did not exist. Does this show that we do not have a right

Tibor Machan, "Libertarian Justice," *Social and Political Philosophy: Contemporary Perspectives*, ed. James Sterba (London: Routledge, 2001), pp. 93-114.

not to be interfered with in taking from the surplus resources of those same rich people when they do exist? Suppose you and I are drowning in a pond. Even when others did not cause our plight, they may still be required not to interfere with our attempts to save ourselves, even when these attempts involve using their surplus resources. So I don't see how what Machan argues here undermines action welfare rights.

In the same volume, Machan also claims that there may be other ways to meet the needs of the poor, for example, by obtaining wealth from the punishment of rich citizens or from resources not owned by anyone. My response was that it stands to reason that I am all in favor of utilizing these means for meeting the needs of the poor. I just don't see how these means will suffice to meet the basic needs of all those who are poor without also having recourse to a right to welfare.

In his newest book, *The Passion for Liberty*, Machan restates some of the lines of argument that he had previously used against the possibility of welfare rights on a libertarian foundation. But there is at least one line of argument that he develops here that I do not recall from his previous work. It opposes welfare rights on the grounds that "no one may be used by another without consent because each individual is important and valuable in his or her own right." This grounds that Machan provides against welfare rights has a Kantian flavor to it, but Kant's restriction never to use anyone as a means only appears to be a far weaker restriction than the one that Machan endorses here. Machan's restriction against using people is absolute unless actual consent is secured. Kant's restriction against using people allows for using them provided that they are treated as ends as well, and it can presumably be satisfied even when actual consent has not been secured. So the Kantian restriction appears to be consistent with welfare rights because taxing those who have surplus for the benefit of the deserving poor is consistent with wanting everyone to have the necessary resources for a decent, flourishing life and, therefore, treats them as ends at least to that extent.

Moreover, it is possible to show that even Machan's apparently more restrictive prohibition against using people is still consistent with welfare rights. In the type of conflict situation between the rich and the poor that we have been considering to determine who is using whom, we need to know who has an enforceable right against whom. If the poor do have a right not to be interfered with in taking from the surplus possessions of the rich what they need to meet their basic needs, then the rich do not have the right to be interfered with in using their surplus to meet their luxury needs. If so, the poor would not be using the rich when they appropriate what they have a right to appropriate, and so would not be violating even Machan's seemingly more restrictive principle against using people. Who is using whom here all depends of whose liberty—that of the poor, or that of the rich—has greater priority.

Now it might be objected here that I am employing a moralized sense of using people, whereas the sense that Machan employs is descriptive. But this is not the case. Consider our practice of incarcerating prisoners against their will for serious crimes against persons such as murder, rape, and other forms of aggravated assault. Surely, in the descriptive sense of using people, we are usually using these prisoners against their will by imprisoning them. But then in a moralized sense of using people, which I am employing and Machan must certainly employ as well to deal with such cases, we are not really using people because our actions are fully morally justified, and in other ways, we are still treating the prisoners as ends in themselves to an appropriate extent.

There is still another line of argument that makes its appearance in *The Passion for Liberty* as part of the case against the recognition of welfare rights on libertarian grounds. ¹⁶ While Machan has advanced it in his earlier work, I have not commented on it before. What Machan argues is that the most fully moral actions we perform are those we do freely. So if we are coerced to do something, as we would be if we are forced to pay taxes to help the poor, our helping the poor in this way would not be as moral as it could be. So if we want the highest level of morality possible we should want only voluntary assistance of the poor—not assistance that comes by way of a coercive welfare system. In response to this argument, I agree that if a system of voluntarily helping the poor would do the job, that is, take care of those who are in need, we would not need welfare rights. In fact, virtually all defenders of welfare rights, maintain, as I do, that welfare rights are only justified when voluntary charity is insufficient. But when voluntary charity is insufficient, surely the poor would be better off with a welfare system.

Now it might be objected that some of those who were not moral enough to voluntarily help the poor would find ways to evade the costs of the welfare system or even to take advantage of it. Surely, this can happen but those same individuals would probably cause trouble in the absence of a welfare system as well. There are always ways for evil people to be evil. Moreover, for many others the coercive welfare system would provide them with the opportunity to be as morally good as they can be. This is because they may be willing to help the poor but only when they can be assured that others are making comparable sacrifices, and a coercive welfare system does provide this assurance that comparable sacrifices will be made by all those with a surplus. So if many, possibly even most, people fall into this category of being willing to help if they can be assured that other similarly situated people will do likewise, a coercive welfare system would provide just the right setting for those who would only help if all were required to do likewise. This also seems to be a dominant reason why most electorates voted to set up

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¹⁶ Machan, *The Passion for Liberty*, p. 31.

such coercive welfare systems in first place. In addition, a welfare system would also provide the opportunity for the poor to morally develop themselves, now that they would have the resources needed for a decent life.

Moreover, those who would have given generously to the poor even when they were not coercively required to do so would still have this virtuous disposition even if they cannot as clearly display it. Their disposition to greater virtue is still there; it is just not as visible for all to see. But this is hardly a great loss. Nor is much virtue displayed by those who would not voluntarily have helped the poor, and are only doing so because they are coerced to do so. These are the persons who are really coerced by an electorate's choice of a welfare system. But even here there are moral gains for the poor because they now would have the necessary resources morally to develop themselves.

In sum, voluntary charity is morally preferable only when it suffices to take care of the needs of the poor. When it does not suffice, a welfare system: (1) does not take away the virtue of the supremely generous who would display their supreme generosity more clearly in a society without welfare, (2) provides the right kind of help for many people to enable them to be as generous as they can, and (3) provides the needed resources for the poor so that they can be as virtuous.

Machan's *The Passion for Liberty* is a cogent and passionate defense of liberty. A passion for liberty is a commitment that both Machan and I share. Where we disagree is over what that commitment practically requires with respect to welfare. In many other areas of political and social life, Machan and I agree about the practical requirements of liberty. With respect to the issue of welfare, however, agreement still eludes us. Nevertheless, I think that we have made considerable progress, as our discussion over the years attests. Machan's new book has motivated me to reflect on the history of our discussion and on the new arguments that *The Passion for Liberty* brings to it. It has also given me new hope that our disagreement over welfare can be resolved. If Machan's new book only does as much for other readers, it is sure to be a fabulous success.

The Right to Liberty versus the Right to Welfare: A Reply to Sterba

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I wish to thank the American Society for Value Inquiry for making possible the discussion of portions of my book *The Passion for Liberty*. In these remarks I will address, once again, the contention that welfare rights exist that are derivable from the libertarian idea of natural individual (negative) rights.

My main concern with the alleged existence of welfare rights is that if one had such a right, then one would have legal justification for depriving another of his or her life, liberty, and property, to which this other has well defended negative (non-welfare) rights. So I am not at all inclined to agree with James Sterba, to his chagrin, I am sure. Indeed, my passion for liberty—including my book by that title a small portion of which he was so kind to discuss—arises from my dismay and disapproval with efforts to derive a right to welfare, that is, provisions for those in dire need, from *coercing* people to give up their property, be they rich, poor, tall, short, pretty, or homely. And not only is this idea misguided, but the very notion of relying on governments to allocate expropriated wealth to the needy is odd if one grasps the message of public choice theory in which it is shown that the beneficiaries of legally backed "welfare rights" are actually not mainly those in dire straits. In fact, huge groups of potential voters, including members of labor unions and corporate shareholders, are the largest beneficiaries of welfare rights.¹

Let me get to some of the salient points in Sterba's comments. I want to dispose, first, of the concept of "surplus wealth," which as far as I can tell is conceptually dependent on a Marxian economic analysis in which it refers to the wealth the capitalist class has acquired by means of exploiting the working class. Given Marx's view that capitalists do not contribute to the value of the product or service they take to market and exchange there for money, of which they use but a fraction to pay a subsistence wage to the working class, the exchange value minus this subsistence wage gives us the

¹ James Buchanan and Gordon Tullock, *The Calculus of Consent* (Ann Arbor, MI: University of Michigan Press, 1962).

surplus. In Sterba's analysis, however, there is no such explanation by which the surplus might conceivably be measured, so there is simply no way to tell what the surplus wealth he keeps referring to comes to. At times he suggests that all of what does not amount to what the wealthy *basically need* qualifies as surplus. However, the concept of "need" is entirely too fluid to be useful as any kind of objective measure for what it is that rightfully belongs to people. Does an artist need the studio in which his or her art is created? Does a novelist need yet another hide-away where the next novel will be written? Does the basketball star need the triumphant limo ride taken after having helped the team win the championship? These matters are so situational, so much a matter of individual context, that to apply any sort of general bureaucratic measure to them would hopelessly be arbitrary. They call to my mind talk about surplus health or beauty or charm or some other attribute or possession that is desirable.

A further point, one I have been stressing in all of my discussion with philosophical/political adversaries, is that no one can be violating a right if one's nonexistence would leave the victim in the same position as one's supposed rights-violation does. Take the right to health care, which is a typical and widely championed welfare right on the part of those who support the welfare state. I am innocently sick and I cannot afford to meet the terms of the health-care specialist who has the skills and time to service me—that specialist wants to earn an income and has already done all of the charitable work that he or she can contribute pro bono. But I have a welfare right to the service. If the health-care specialist did not exist, I would still be in need of health care. So, the health-care specialist could not be depriving me of something, or violating any right of mine, by not servicing me since even without his or her existence I would be without the service. Furthermore, legally requiring a health-care specialist to provide the service—which is where the bite of the welfare right takes place—is not returning to the patient something that belongs to him or her, but is depriving the health-care specialist of something that belongs to him or her (so long as no free commitment was made to provide the service, as might have a doctor in a charitable hospital). What is that? A segment of the health-care specialist's life-time, including what it took to obtain the education and training (assuming it wasn't gained in exchange via a contract to provide future services to the patient in question).

At one point Sterba says that those in dire straits—say someone who is drowning—do have the right to be helped (e.g., by taking some resources that would help them to safety) if they are not provided with voluntary help. In fact, they most likely ought to be helped but have no right to the help. We aren't the slaves of others, even when they are in dire need. We must have our human dignity—our capacity for choosing between right and wrong conduct—respected even when failing to do the right thing can be devastating.

That is a price of civilization, of treating people as sovereign citizens rather than as subjects of the will of others. If circumstances are so drastic that morality is impossible—if matters have reverted to a Hobbesian state-of-nature situation—talk not only of rights (in the Lockean sense), but also of ethics is quite moot (although not out of the question). As Locke is supposed to have put it, if peace is impossible, rights become irrelevant.²

If those against whom the welfare rights case is most telling, namely, people from whom services or taxes are taken, had not existed, their skills or wealth would equally not exist and those who allegedly have welfare rights to obtain such skills or wealth would have none to take. Neither keeping their services or wealth, nor not existing would constitute victimization of those who allegedly have welfare rights, for that makes no sense. How can someone violate a right without existing to do the violation? They may be morally amiss, but they aren't criminals for such failures in a just legal system.³

Sterba's view that the welfare right is a negative right because it is a prohibition against anyone's stopping the rights-holder from taking from others their surplus wealth is so bogged down in question-begging conceptual underpinnings that it is highly doubtful that it can be made into a coherent thesis. If, indeed, the so-called surplus wealth belongs to the holder of this wealth—come by either through earning it, having it given freely by others in trade or as a gift, or just having found it lying around before anyone else came to acquire it (say, as a consequence of a personal asset such as one's good health or looks or inheritance)—the taking of it violates a right already and no one can have a right to violate another's rights. Rights must be *compossible*.

Some people do find resources lying around and ready to be used and they take possession of these—"manna from heaven." Even this involves some of their time being invested in the acquisition process. Others might have done this had the former not done it and, in a society with extreme

² Quoted in H. L. A. Hart, "Are There Any Natural Rights?" in A. I. Melden, ed., *Human Rights* (Belmont, CA: Wadsworth Publishing Company, 1970), p. 61, n. 2: "In conditions of extreme scarcity this distinction between competition and coercion will not be worth drawing: natural rights are only of importance 'where peace is possible' (Locke)...."

³ For the constitution of such a system, see Randy E. Barnett, *Restoring the Lost Constitution: The Presumption of Liberty* (Princeton, NJ: Princeton University Press, 2004).

scarcity, this may be the norm (which is the source of the Lockean proviso anxiety that was so neatly disposed of by Robert Nozick).⁴

Yet even in such a society much of the wealth is the result of people taking the initiative to learn skills others could use, or to transform nature by making it valuable to people who want to eat, have shelter, travel, etc. If those who produce these valuable items—food, shelter, transportation, etc.—did not exist, there wouldn't be such items available to trade, to earn money from, and then to devote to welfare rights-holders or to tax so as to cover their expenses. So, in the bulk of cases without those who supposedly violate welfare rights by refusing to provide what they have for the alleged welfare rights-holders, the latter would still be without what supposedly they lack because the wealth owner allegedly violates their rights.

Thus, welfare rights are not negative but positive rights, rights to be provided for by coercing other persons to release what belongs to them and what would not exist without their existing or their having produced them.⁵ People can, of course, gain even great wealth simply by being born with two healthy kidneys or eyes or a very attractive face or a great deal of valuable talent. By taking from them what they were born with or have created or produced, their lives have been invaded, indeed, shortened. (This is one reason why people are concerned that they "work for the government" for

[H]e who appropriates land to himself by his labour, does not lessen but increase the common stock of mankind. For the provisions serving to the support of human life, produced by one acre of enclosed and cultivated land, are (to speak much within compass) ten times more, than those, which are yielded by an acre of Land, of an equal richness, lying waste in common. And therefore he, that encloses Land and has a greater plenty of the conveniences of life from ten acres, than he could have from an hundred left to Nature, may truly be said, to give ninety acres to Mankind.

⁴ John Locke himself makes clear that it is the free society in which no monopolization of resources is likely. See John Locke, *Two Treatises of Government* (London: Everyman, 1993), p. 133, where he states:

⁵ I use "coercing" instead of "forcing" to mean the use of force against persons who have not acted in ways that justify this—for example, who are not defending their lives or their property. "Forcing" doesn't capture what coercion involves since, like violence, it doesn't include reference to whether the forceful action is rights-violating or not. Coercing someone involves violating his rights. See, e.g., the Encarta online dictionary, available online at: http://encarta.msn.com/dictionary_/coercion.html, which defines "coercion" as "force used to compel somebody: force used to make somebody do something against his or her will." (Consider, in this connection, that one may be forced to work by circumstances—that is, without work, one will go hungry—where no coercion is involved.)

nearly 40 percent of their working time and are deprived of their wealth, which includes the fruits of their assets and work, against their will. This is why Nozick said that taxation "is on a par with forced labor."⁶)

On an older dispute between Sterba and me, I never conceded that libertarianism of the sort I defend yields welfare rights. Sterba says I have stated that he is right in principle but for practical purposes it doesn't matter. But I haven't seen any reference to my having said such a thing and, if I did say it, it was in error. I have, of course, reiterated a point I have made before, namely, that in some rare ("desert island," "life raft") cases persons may disregard other's property rights, maybe even other rights, since they will have been cast into circumstances in which—to use a phrase H. L. A. Hart associated with John Locke—"politics is impossible," one in which we are in a sort of exceptional virtual Hobbesian state of nature, not in civil society.

That a rich account of basic human individual rights does not fully, perfectly—geometrically—deal with every conceivable social eventuality (the desert island, life-raft sort of cases) isn't the liability that Sterba makes it out to be for the libertarian. Every political theory can be confronted with such cases. The best thing one can say about them is: "If they think about it hard, they will probably figure out what to do that is as close to being civilized, morally decent as possible, even if the legal system that rests on an up-to-date rights theory hasn't yet addressed such problems. Otherwise, it will have been a tragic situation." (Douglas B. Rasmussen and Douglas J. Den Uyl have dubbed the general principles that ground a legal system "metanormative" to indicate that they are fashioned so as to make a morally significant life possible for citizens, without promising to leave nothing further to be figured out as social life develops into yet-unheard-of circumstances.⁸)

Here are a few additional specific points about what Sterba says in his admittedly friendly review.

(1) In *Individuals and Their Rights* I do not accept welfare rights in principle but reject them in practice. Such a dichotomy doesn't exist, as I see things. Now and then, in desperate circumstances, rights may have to be disregarded—in the middle of an earthquake or typhoon or in the midst of a famine. Morality will have to be developed for unheard-of situations on the spot, if time and circumstances permit.

⁶ Robert Nozick, Anarchy, State, and Utopia (New York: Basic Books, 1974), p. 169.

⁷ See Hart, "Are There Any Natural Rights?" in Melden, ed., *Human Rights*, p. 61, n. 2.

⁸ Douglas B. Rasmussen and Douglas J. Den Uyl, *Liberty and Nature: An Aristotelian Defense of Liberal Order* (La Salle, IL: Open Court, 1991).

- (2) Basic rights are not conditional but socio-politically categorical. Otherwise, they cannot function as standards of justice guiding the legal system and will be open to manipulation by individuals in the system as they feel inclined.
- (3) The American poverty level is irrelevant to the debate about what basic rights human beings have. Rights pertain to how we must treat one another, be we rich, poor, pretty or ugly, tall or short, talented or inept. Basic rights stem from our basic humanity, not some special condition (a bit akin to Rawls's "veil of ignorance".) They establish our "moral space."
- (4) The poor, as Thomas Sowell has argued, remain poor, on average, for about five years, and then change places with the not poor. And American levels of poverty are notoriously relative.
- (5) I never claimed that the oppressed have the responsibility to throw off their oppressors. They may have some responsibility to work against the oppressors, but not to achieve any given result. It is the oppressors who ought to cease their oppression and others, in sympathy with the oppressed, may have moral obligations to help the oppressed.
- (6) Whether I want to or do not want to redistribute wealth isn't the issue. In fact, when it comes to past injustices having garnered illicit wealth for some, a just way to rectify matters is very much what I would want. Thus, say, when feudal holdings, gained on the backs of serfs, last into the new capitalist regimes, that is very regrettable and if at all possible should be avoided—though Nuremberg-type trials, in the absence of out and out war crimes, are difficult to arrange. (This is a

⁹ As I explain in my *Human Rights and Human Liberties* (Chicago, IL: Nelson-Hall, 1975).

¹⁰ See, e.g., Thomas Sowell, "Stretching the Poor," January 22, 2004, available online at: http://www.newsbull.com/forum/topic.asp?TOPIC_ID=10509.

matter that I discuss elsewhere,¹¹ and that I discuss yet elsewhere relative to affirmative action which concerns reparatory wealth redistribution.¹²)

- (7) My view of taxation is that it is a relic of a time when the monarch—king, Caesar, tsar, pharaoh, or such—"owned the realm" and collected taxes or rent from those to whom the privilege of living and working in the realm had been extended. Once these sorts of systems are recognized as unjust, the institutions that were natural within them lose their theoretical footing. Taxation becomes extortion—one may work only if one pays, otherwise the government will apply sanctions—no different from the actions of organized criminals.¹³
- (8) Rights, as far as I understand them, are prior to liberty—they mark off wherein the individual moral agent decides how to act. Within, for example, our homes, whether we act wildly, naughtily, generously, alertly, obscenely, and so forth, is up to us to decide because we have the right to private property. Whether we speak or remain quiet, write or indulge in writer's block, is up to us when it is on our property—a radio station, podium, magazine, or newspaper. The right to private property specifies wherein we may act freely.
- (9) Sterba admits that the welfare state is coercive—it applies force that is invasive. Punishment, in contrast, isn't invasive but retaliatory. It is not, strictly speaking, coercion, only force.
- (10) Finally, Sterba and I disagree not about the merits of welfare—as in generosity, charity, compassionate conduct, help, assistance, aid, and so forth—but about the merits of the concept of "a right to welfare," which when applied in public policy deprives one of the jurisdiction over oneself and what one has come to own.

¹¹ Tibor Machan, "Human Rights, Political Change, and Feudalism," in Alan Rosenbaum, ed., *The Philosophy of Human Rights* (Greenwich, CT: Greenwood Press, 1980).

¹² Tibor Machan, "The Injustices of Affirmative Action," in Robert W. McGee, ed., *Commentaries on Law & Public Policy* (South Orange, NJ: Dumont Institute, 1999).

¹³ For an alternative, see my "Dissolving the Problem of Public Goods, Financing Government without Coercive Measures," in Tibor R. Machan, ed., *The Libertarian Reader* (Lanham, MD: Rowman & Littlefield, 1982).

Some back-alley situations may require one to ignore a ban on coercive takings. However, the bottom line of all of these points is that a properly conceived civil society is one wherein coercive takings are banned for normal cases 15

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¹⁴ I argued this point in my "Prima Facie v. Natural (Human) Rights," *Journal of Value Inquiry* 10, n. 1 (1976), pp. 119-31, before Sterba and I began our debate. For a general indication of how well people fare, depending upon the degree of economic liberty of a country, see *The Index of Economic Freedom* (Washington, DC: The Heritage Foundation, 2005).

¹⁵ This essay is an edited text of a presentation at the meeting of the American Society for Value Inquiry, April 23, 2004, APA Central Division, Chicago, IL, following the presentation of James P. Sterba's critical comments on my *The Passion for Liberty*. For the details of Sterba's position, see James P. Sterba, *Justice: Alternative Perspectives* (Belmont, CA: Wadsworth Publishing Co., 1991), and James Sterba, "Reconciling Conceptions of Justice," in *Morality and Social Justice*, James Sterba, Tibor Machan, Alison Jaggar, et al. (Lanham, MD: Rowman & Littlefield, 1995).

Review Essay: Amy E. White's Virtually Obscene: The Case for an Uncensored Internet

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In Virtually Obscene: The Case for an Uncensored Internet Amy E. White addresses the question of whether the availability of sexually explicit materials on the Internet should be subject to state-sponsored regulation or prohibition. She argues that, *contra* the claims of the proponents of such regulation and prohibition, there is no evidence to suggest that sexually explicit material causes harm. Yet Virtually Obscene is not an unnuanced apology for an unregulated Internet, for White also argues that anti-regulation arguments that appeal to a right to free speech to provide protection for sexually explicit materials are similarly flawed. Having criticized these arguments, White argues that even though sexually explicit materials should not receive any special protections against regulation out of respect for free speech, since there is no reason to believe that they cause harm, there is nothing to be gained by subjecting them to regulation and prohibition. White, however, is not neutral on the question of whether the Internet should be regulated, for she concludes Virtually Obscene by arguing that such regulation will actually lead to harm, and so, rather than praising regulation, we should instead bury it.

Virtually Obscene is divided into seven chapters, with a Foreword by Nadine Strossen, the President of the American Civil Liberties Union. In the first chapter White outlines historical and contemporary attempts to regulate sexually explicit materials, as well as offering a brief outline of the development of the Internet. In Chapter 2 she considers current attempts to regulate the availability of sexually explicit materials on the Internet, focusing in particular on the claim that community standards should be used to guide what material should and should not be available on the Internet. White argues that this approach is utterly unworkable in the context of the Internet. After

¹ Amy E. White, *Virtually Obscene: The Case for an Uncensored Internet* (Jefferson, NC: McFarland & Company, Inc., 2006).

noting the difficulties associated with defining what is obscene, White observes that they might be solved by appealing to a community-standards approach, such as that adopted in Miller v. California. The advantage of such an approach, she notes, is that it serves to identify the persons whose sensibilities should be considered when considering whether something is obscene or not, a question that would otherwise be unresolved owing to the subjective nature of obscenity. Yet although this approach might be workable "in a physical community limited by geographic boundaries" (p. 31), it is unworkable when applied to the Internet, for it is not clear what would constitute the relevant community to adjudicate the question of whether something was obscene. Would it be the physical community from where the material originated, the community where it was downloaded, or even the virtual community of persons who were viewing it? White shows that each of these answers to the question of which community the community-standards approach to defining obscenity should be based upon faces serious difficulties, and so concludes that this approach is inapplicable to the Internet.

Having defended the Internet availability of sexually explicit materials from this approach to grounding its regulation, White turns in Chapter 3 to consider the primary anti-regulation argument: that such material should be protected by an umbrella protection of freedom of speech. White considers this to be her most ambitious chapter, for in it she argues that the most common arguments offered in defense of affording special protection to speech (from the search for truth, a concern for autonomy and dignity, the importance of free speech for democracy, and the slippery-slope argument that to restrict speech would lead to negative effects), not only fail, but are "not applicable to most sexually explicit Internet materials" (p. 50). Having criticized these common defenses of freedom of speech, White turns in Chapters 4, 5, and 6 to consider the arguments in favor of regulating the availability of sexually explicit material that are based on purported harm to children, purported harm to women, and purported harm to the moral environment. Finding all of these wanting, she argues in Chapter 7 that "substantial harm will doubtlessly result from regulating sexually explicit Internet materials" (p. 127). This is because, she argues, regulating "any material that persons wish to circulate or access" will lead to injury through the restriction of liberty that it entails (p. 129). Moreover, sexually explicit material is valuable; not only do people enjoy it, but "because of the immense demand for pornography, it is a pioneer in providing content using new technology" (pp. 130-31). More generally, White argues, attempts to regulate the Internet might stifle the expression of minority views and lead to widespread invasions of privacy.

In *Virtually Obscene* White draws on an impressive range of material, from philosophical arguments concerning the nature of harm, empirical data concerning the effects that such material can have, policy

arguments concerning the proper treatment of public places, and legal arguments concerning the possibly libelous nature of pornography and obscene materials. Her arguments are clear and persuasive, and are written in a manner that is accessible to all. However, although White's responses to those who favor regulation are generally sound, I think that there are two main areas in which her arguments are vulnerable to criticism: her responses to the pro-regulation arguments from harm to children, and her responses to the pro-regulation argument that pornography should be treated as libel.

Following Joel Feinberg, White defines harm as a "wrongfully setback interest" (p. 71). She then notes: "Most proponents of the harm to children argument ... assume that the transitory injury (if any occurs) that may be caused by a child viewing sexually explicit Internet material is the level at which they should be evaluating harm" (p. 73). With this in hand, White argues that simply considering a child's transitory injuries from sexually explicit Internet material "is much too narrow" a focus, for even if it is accepted that some children might suffer some such harm, "an unregulated Internet might result in ... a net benefit for society as a whole as well as any given individual (due to the benefit derived from living in such a society)" (p. 73). Unfortunately, White here unwittingly vacillates between two different accounts of harm. The account of harm that she explicitly endorses is Feinberg's normative sense of harm, on which "[t]o say that A harmed $B \dots$ is to say much the same thing as that A has wronged B, or treated him unjustly."² But the account of harm that she uses in her discussion of the type of arguments offered by the proponents of the pro-regulation argument from potential harm to children is another of Feinberg's accounts of harm: a descriptive account, of "harm conceived as the thwarting, setting back, or defeating of an interest." That White uses this descriptive account of harm in her arguments against the proponents of the harm-based pro-regulation arguments is clear, for the type of harm that she draws on is that which could befall a child while "riding a bike on a sidewalk or even walking down a street" (p. 74).

Noting this ambiguity in White's use of the term "harm" is not mere pedantry, for it affects both her arguments and their implications. In *Virtually Obscene*, White masterfully shows that there is little reason to believe that children are harmed (in the descriptive sense of the term) by the availability of sexually explicit material on the Internet. Since this is so, and since such material has value to many, she concludes that the Internet should remain

² Joel Feinberg, *Harm to Others: The Moral Limits of the Criminal Law*, vol. 1 (Oxford: Oxford University Press, 1984), p. 34.

³ Ibid., p. 33.

unregulated. This is a persuasive argument. However, insofar as they are based on this descriptive sense of harm, White's arguments have serious antiliberty implications that she might not wish to endorse. If public policy is based upon simply weighing and balancing descriptive harms and benefits in this way, it is possible that some persons' liberty might be curtailed solely to mollify the overly delicate sensibilities of others. For example, if the members of a conservative and patriarchal religious group are seriously distressed (and so harmed in the descriptive sense) simply by seeing what they consider to be the immodest uniforms of the pupils at the local private Catholic girls' school, and if public policy is to be decided simply by the weighing and balancing of descriptive harms and benefits, the school could be required to change its dress code. Presumably, White would object to this restriction on the liberty of the school to set its dress code as it wishes. But if she wishes to retain her focus on harm as a guide to public policy, to do so she would have to change the focus of her argument from harm in its descriptive sense, to harm in its normative sense, as a "wrongfully set back interest." Since the dress code of the school in question does not wrong the members of the conservative patriarchal sect who are offended by it even though they might be harmed by it in a descriptive sense (for their interests in not seeing people in what they consider to be immodest dress are indeed set back), they are not harmed by it in the normative sense, for their interests are not wrongfully set back.

Yet while focusing more clearly on the normative sense of harm will enable White to avoid the anti-liberty implications of her argument here as it stands, to do so would undercut her argument itself. Although White persuasively argues that children are not harmed by sexually explicit materials in the descriptive sense of harm, this tells us nothing about whether they are harmed by them in the normative sense of the term. It is possible that a person might not be harmed in the descriptive sense of this term, and yet still be harmed in the normative sense. Feinberg is clear about this. Writing of the normative sense of harm, Feinberg claims that "in all but certain very special cases such conduct [i.e., harming in the normative sense by one person] will ... invade the other's interest and thus be harmful in the sense already explained [i.e., the descriptive sense]." In such "very special cases," then, a person might be wronged but not harmed. Feinberg reiterates this point, noting that "there are few wrongs that are not to some extent harms," and that "almost all harms in the special narrow sense (wrongs) are also harms in the sense of invasions of interest" Feinberg offers no example of such a "very special case," but one can be developed out of the reputed response of Arthur Wellesley, the Duke of Wellington, to the courtesan Harriette Wilson's threat

⁴ Ibid., p. 34.

 $^{^{5}}$ Ibid., p. 35. The italics are added in the second quotation.

to publish her memoirs and his letters: "Publish and be damned!" Altering this case for the sake of argument, let it be stipulated that Wilson's revelations about her relationship with Wellington were untrue. Let it also be stipulated (and this is possibly true!) that Wellington had no interest in having a good reputation among people who would be scandalized by Wilson's (fictitious) revelations, insofar as he did not stand to gain or lose owing to their view of him. Here, then, while Wilson would wrong Wellington by besmirching his reputation, and thus harmed him in Feinberg's normative sense of the term, none of Wellington's interests was set back by this, and so he was not harmed in the descriptive sense of this term. But if a person might be harmed in the normative sense without being harmed in the descriptive sense, and if it is the former, and not the latter, sense of harm that should be used in framing public policy, then the fact that children are not descriptively harmed by the availability of sexually explicit materials on the Internet tells us nothing about whether or not such materials should be regulated out of concern for protecting them from harm.

White, then, is faced with a dilemma. If she adopts the descriptive account of harm, her responses to the pro-regulation argument from harm-to-children are persuasive—but they then might have implications that she might not wish to endorse. If, however, she adopts the normative account of harm in order to avoid such implications here, it is not clear that her responses to the pro-regulation argument from the potential harm to children are relevant to it. This is not to claim that White's arguments here fail. But it is to claim that to rebut completely the pro-regulation argument from the potential harm to children White should show why it is that the availability of sexually explicit material on the Internet does not wrong children, and so does not harm them in the normative sense of this term. While such a task is not a difficult one (for it is not clear how children could be wronged by access to sexually explicit materials, unless this also harmed them in the descriptive sense), it needs to be undertaken before White's responses to the pro-regulation arguments from the potential harm to children are complete.

If White's responses to the pro-regulation harm-to-children arguments are incomplete, what of her responses to the pro-regulation argument that pornography should be treated as libel insofar as it is lying about women? White has two responses to this argument. The first is that "While it is quite likely that a certain pornographic picture may be degrading to the person (or persons) featured in the picture and depict her (or them) as 'eager to be used and abused' this does not necessarily libel *all* women," for "[m]any persons in countless works of art are portrayed in a negative light but the artworks are not libelous to any group" (p. 100). The second—and related—response is that even "when there is a vast amount of material available that portrays persons with certain characteristics in a negative fashion" this need not constitute libel, for such depictions cannot be

generalized to all members of the class portrayed (p. 101). To illustrate her point here, White notes that "it is often the case that in historical depictions of early America, persons with white skin are shown as cruel, violent, greedy, and supportive of slavery" (p. 101).

Neither of these responses to the pro-regulation argument from libel is convincing as it stands, although, like White's responses to the pro-regulation argument from harm to children, they could be defended with additional argument. Putting to one side the legal gloss of these arguments (i.e., their focus on libel), they suffer from two problems. First, White's artwork example of an individual person depicted in an artwork is unpersuasive. Surely the anti-pornography argument here is that a *class* of persons is systematically portrayed in a negative light, and not that *particular individuals* are so portrayed. It is clear that the portrayal of particular *individuals* is not generalizable, but it is less clear that the portrayal of women as a *class* as being submissive, sexually available, and so on, is not generalizable to women as a whole.

White might reply that she has anticipated this objection in her second response—as indeed she has. However, her example of historical depictions of people with white skin as being "cruel, violent, greedy, and supportive of slavery" is problematic, because it trades on conflating persons' reflective and unreflective responses to the images at issue. Consider here historical depictions of African-Americans as being "fetch-and-steppits," "uncles," "mammies," and the like. Reflectively, it should be clear to people that these images fail to reflect the characteristics of African-Americans as a class. But this reflective response is presumably not that which the opponents of pornography are concerned about. Rather, they are concerned about an unreflective response in which persons outside the group portrayed might think, "Well, everything we've seen about these people says they have suchand-such properties, and so maybe they do." White does not explicitly address this concern of those opposed to the Internet availability of sexually explicit materials. However, her arguments do contain the germ of a disanalogy between the cases of African-Americans and women that could be used to support her case. This is that although some persons (especially under American Jim Crow laws) might never have really engaged with African-Americans, it is unlikely that persons viewing pornography would not have engaged with women. As such, it is unlikely that the deleterious effects that the proponents of regulation claim for pornography would transpire, for it is unlikely that, owing to their interactions with women (indeed, many will be women), the consumers of sexually explicit material would adopt the unreflective attitudes toward women that the proponents of regulation believe will hold as a result of their enjoyment of it.

The two major criticisms that might be leveled at White's arguments in *Virtually Obscene*, then, can be met with additional argumentation. There

are, however, two further minor criticisms that could be leveled at Virtually Obscene, both of which have to do with White's understanding of autonomy. White claims that, for Harry Frankfurt, "in order for ... [a person's] ... firstorder desires to be autonomous they must be endorsed by ... [her] ... secondorder desires" (p. 157, n. 32). Three points are worth making concerning this claim. First, it is not clear that Frankfurt was developing an account of autonomy in the essay that White refers to here, since he was developing an account of what it is for a person to act freely and of his own free will.⁶ (It must be noted, though, that White is not alone in reading Frankfurt as offering an account of autonomy, and so she is not alone in making this error.) Second, autonomy is usually taken to be a property of persons with respect to their desires, actions, preferences, and so forth, rather than as a property of desires, actions, preferences, and so forth themselves. Third, White here omits a crucial element of Frankfurt's account of identification (or autonomy): A person must not merely endorse her (effective) first-order desires with a second-order desire, but she must also endorse them with a second-order volition. That is, she must not just want to have them, but also want them to move her to act.7

The second minor criticism of White's view of autonomy concerns her claim that "[w]henever freedom is suppressed, autonomy is hindered" (p. 127). This is untrue. If, for example, we suppress a person's freedom by removing an individual-constraining option from her choice set, we would in so doing enhance her autonomy, not hinder it. An individual-constraining option is an option that, if chosen, would be likely to lead to the diminution of the autonomy of the person who chose it. For example, it might be that the sale of a kidney would be a constraining option of this sort, if persons who sell their kidneys would typically suffer from a constriction in the (subjectively attractive) options that are available to them afterward. If so, then even though we would suppress a person's freedom by prohibiting her from selling a kidney, we would not thereby hinder her autonomy but protect her from its

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⁶ For an argument that Frankfurt's account of identification (of what it is for a person to identify with her effective first-order desires, for her to act freely, and of her own free will when she is moved by them) is not also an account of autonomy, see James Stacey Taylor, "Autonomy, Inducements, and Organ Sales," in Nafsika Athanassoulis, ed., *Philosophical Reflections on Medical Ethics* (Hampshire, UK: Palgrave McMillan, 2006), 135-59.

⁷ Harry G. Frankfurt, "Freedom of the Will and the Concept of a Person," in Harry G. Frankfurt, ed., *The Importance of What We Care About* (Cambridge: Cambridge University Press, 1988), pp. 14-16.

hindrance.⁸ This is because in suppressing her freedom with respect to the constraining option to sell a kidney we would be protecting her possession of a wider range of options in the future than she would be likely to have were she to sell, and, as such, would be protecting her ability to exercise her autonomy in choosing among them.⁹ More generally, in Prisoner's Dilemma situations the suppression of freedom would not hinder the autonomy of those who were thereby curtailed, since were certain options not to be available to them they would be better able to exercise their autonomy in the successful pursuit of their goals.¹⁰

We have, then, four criticisms of White's arguments and claims in *Virtually Obscene* in hand: those concerning her responses to the proregulation arguments from the potential harm to children and from the view that pornography libels women, and those concerning her claims about autonomy. It should be stressed that none of these criticisms is fatal to White's overall argument; the first two merely indicate where further argumentation is needed, and the latter two are technical objections that do not affect her arguments. With these objections noted, it is time to turn to praising White's achievements in *Virtually Obscene*—and these are many. White's style is

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⁸ For a discussion of this issue, see James Stacey Taylor, *Stakes and Kidneys: Why Markets in Human Body Parts Are Morally Imperative* (Aldershot, UK: Ashgate Publishing, 2005), chap. 4.

⁹ Insofar as White seems to understand the "hindering" of autonomy to include the restriction of a person's ability to exercise it by choosing from a range of options, the above argument shows that she is mistaken to claim that suppressing a person's freedom will hinder her autonomy. However, it is not clear that this is an accurate understanding of the relationship between autonomy and choice, for the mere fact that a person has very few options does not in itself hinder her exercise of her autonomy; she is still able herself to choose between them just as much as she would be able to were her option set to be vast. Perhaps, though, White is concerned here not with a person's ability to exercise her autonomy per se, but with its instrumental value to her? This view of the relationship between autonomy and choice makes more sense, for it is likely that the autonomy of a person who has more options rather than less will be more instrumentally valuable to her, in that its use will be more likely to enable her to fulfill her desires and achieve her goals. But even on this more accurate understanding of the relationship between autonomy and choice White's claim is mistaken, for suppressing a person's freedom with respect to those constraining options that would otherwise be available to her would not hinder the instrumental value of her autonomy, but enhance it.

¹⁰ For a discussion of this point, see Joseph Heath, "Liberal Autonomy and Consumer Sovereignty," in John Christman and Joel Anderson, eds., *Autonomy and the Challenges to Liberalism* (Cambridge: Cambridge University Press, 2005), pp. 217-23.

clear and engaging, and she has the ability to render complex arguments accessible, even to non-philosophers. She also uses humor to admirable effect. Moreover, *Virtually Obscene* is one of the few books where the endnotes are almost as interesting as reading the text, for in addition to the usual scholarly minutiae, White there treats us to discussions of furniture pornography (in which pieces of furniture are placed on top of each other with graphic descriptions added), "Voodoo doll" subprograms, and amusing personal anecdotes that illustrate the points that she is making. Given the importance of the topic that White is addressing, the value of these aspects of her work should not be underestimated, for they—together with the Foreword by Nadine Strossen—will help ensure that *Virtually Obscene* will have the most chance of being read by persons who are in a position to work to enshrine White's admirable conclusion in public policy.

Yet it is not only the style of *Virtually Obscene* that deserves praise: the substance does too. Like the crew of the Titanic, those who favor regulating the Internet availability of sexually explicit materials typically put "women and children first," and argue that it is harmful to these two vulnerable groups that they are most concerned to protect. But, in Chapters 4 and 5 of Virtually Obscene, White shows that (and again like the crew of the Titanic) the proponents of these pro-regulation arguments are too confident in the unsinkability of their position. In Chapter 4 White assembles a persuasive set of arguments to show that the widespread concern with the potential harm to children that could be inflicted upon them by the Internet availability of sexually explicit materials is misplaced. To be sure, these arguments could be made even more powerful with the inclusion of the argumentative addenda outlined above. But noting this does not detract from the wealth of empirical and historical evidence that White assembles to rebut the arguments for regulation that are based on the Internet's potential for placing children in harm's way. Similarly, while White's response to the pro-regulation argument from libel could be strengthened in the ways outlined above, in Chapter 5 she persuasively rebuts the most common arguments in favor of regulation that are based on the potential of sexually explicit material to cause them harm.

Praising the best aspect of *Virtually Obscene* has, however, been saved till last. In her ambitious Chapter 3, White outlines the "common rationales given for a principle of free speech" and argues that "they can not logically be used to protect sexually explicit Internet materials" (p. 66). This, at first, might strike many people as alarming—especially if they believe that individual liberty is of great moral value. Such persons might become even more alarmed once they recognize the cogency of White's arguments. But this alarm should dissipate once White's arguments in this chapter are read in conjunction with those that she offers in Chapter 7, where she argues against regulating the Internet on the grounds that the disutility that would "doubtlessly be produced by regulation is clear" (p. 147). This is because

when White's arguments in these chapters are placed together, it becomes clear that she offers a powerful case not just for freedom of speech, but for freedom of action (provided that this is compatible with that enjoyed by others). To see this, note that in Chapter 3 White addresses the argument that "autonomy is good and that freedom of speech is a necessary condition for autonomy to emerge" (p. 56). The proponents of this argument in favor of protecting free speech base this claim on the view that "only by affording people the opportunity to explore opinions through freedom of discussion will they truly develop independent judgments and make autonomous decisions" (p. 58). As such, they conclude, insofar as we value autonomy we should afford speech special protections. However, notes White, the proponents of this argument fail in their aim of securing a sphere of special protection for free speech. This is because, she observes, "restrictions on actions also affect individual autonomy and decision-making" (p. 60), for such restrictions might prevent a person from gaining knowledge that would help him make more informed decisions in the future. As such, concludes White, "the argument from autonomy is not satisfactory in providing a justification as to why speech should be given a special status that actions do not merit."

The first point to make about White's argument here is simple: In both her outline of the pro-speech argument from autonomy and in her own discussion of it, White implicitly focuses on the instrumental value of autonomy. In discussing this argument, then, White casts it in its most persuasive form, for she does not attribute to its proponents the less-plausible claim that autonomy is primarily of intrinsic value. The second point to make about White's argument here is much more interesting, and pertains directly to one of the ways in which Virtually Obscene is an important book. White's conclusion here is that freedom of speech does not merit any special protection that freedom of action does not also merit. Coming in a chapter whose avowed aim is to show that "the common justifications given for protecting speech are ... flawed," this conclusion might at first sight be troubling. But, once one reads Chapter 7 of Virtually Obscene, the subtlety and importance of White's position become clear, for it is there that she argues against regulation in general, and against the regulation of the Internet availability of sexually explicit materials in particular. Putting Chapters 3 and 7 together, then, it appears that White is subtly reminding us that we would only assume that speech requires some sort of special protection if two conditions are met: that we believe free speech to have value, and that we have already implicitly accepted that our actions can be regulated beyond that which is needed to prevent us from harming others (in the normative sense). Rather than being concerned by White's rejection of the autonomybased argument in favor of free speech in Chapter 3, then, persons concerned with liberty should embrace it, for the lesson that we should draw from it is

not that speech should be regulated, but that normatively harmless actions should not.

In *Virtually Obscene* White addresses an issue that is of pressing importance, and, in so doing, cogently and persuasively defends a position that runs counter to the accepted wisdom of most of the participants in the debate over whether or not to regulate the Internet. As such, she should be congratulated on a book that not only draws from a broad spectrum of areas of research, but which is also provocative, nuanced, engaging, and accessible to a wide range of people. *Virtually Obscene* should be read by all who are interested in the questions of both Internet regulation and the regulation of sexually explicit material, as well as by persons interested in both freedom of speech and the defense of liberty in general.

Berlin, Isaiah. *Political Ideas in the Romantic Age: Their Rise and Influence on Modern Thought*. Princeton: Princeton University Press, 2006.

Originally composed between 1950 and 1952, *Political Ideas in the Romantic Age* (hereafter *PIRA*) was initially delivered by Isaiah Berlin at Bryn Mawr College as the Mary Flexner Lectures in 1952. *PIRA* not only represents Berlin's longest continuous text, it also contains in embryonic form most of the ideas found in Berlin's mature work: positive and negative liberty, his analysis of the philosophy of history, his critique of determinism, and his account of the Enlightenment and its varied critics and successors. As such, *PIRA* represents a key stage in the development of Berlin's political thought and its greatest value lies in its ability to speak to the question of whether or not Berlin can be understood as a systematic political thinker.

This review of *PIRA* begins with an overview of the intellectual focus of the book. Next, I assess Berlin's analysis of two major elements of his thought: romanticism and positive versus negative liberty. The review concludes with a critical examination of Berlin's treatment of Rousseau with the objective of assessing Berlin's critique of romanticism.

Berlin focuses on the time period at the end of the eighteenth century and the beginning of the nineteenth century because the ideas of this period are "not only interesting," but also because they "generated and counteracted the period's greatest upheaval, the French Revolution" (p. 1). The French Revolution is important not only as a watershed political event, but also as an intellectual event as the "zealots" of the French Revolution attempt to put into practice some of the conflicting arguments of this period (p. 13). Thus, the Revolution and its consequences represent for Berlin tangible evidence of a tension inherent in the romantic vision that resides at the core of the Revolution's rationale, but more importantly it represents a window through which we gain insight into our own intellectual capital. According to Berlin, the political ideas of this period constitute the "basic intellectual capital on which, with few exceptions, we live with today" (p. 1).

Another aspect of the time period Berlin focuses on that warrants consideration are the varied intellectual camps encountered during this period. Berlin identifies seven intellectual camps of consequence (pp. 3-11). Of these camps, it is ultimately the romantic movement that provides the most revolutionary thesis and it is Berlin's express objective to "draw attention to its consequences—the degree to which it modified existing attitudes, the reaction against itself which it stimulated, and the degree to which it marks a chasm between the generations ..." (p. 11). In order to understand the romantic revolution and properly assess "its intrinsic importance and its vast consequence," it is necessary to situate romanticism within its larger

intellectual context (p. 11). Of the importance of context to understanding political philosophy, Berlin writes, "each political philosophy responds to the needs of its times and is fully intelligible only in terms of all the relevant factors of its age and intelligible to us only to the degree to which ... we have experience in common with previous generations" (p. 12). Berlin's concern with bringing together all relevant philosophic schools of thought at any given period of time points to his pluralistic conception of political philosophy. Such an approach requires one to look at more than a single text or author in order to understand a particular period in history. One must apply an understanding of changes in historical circumstances and new models of thought from fields as diverse as science, history, and religion in order to unlock the truth about any particular political theory (p. 12). Thus, one is left with the question of what Berlin finds once he unlocks the mysteries of romanticism.

Berlin's analysis of romanticism focuses on the romantic answer to what Berlin believes to be the critical question of political philosophy: Why should any man obey any other man or body of men (p. 17)? The concern with obedience leads Berlin to the conclusion that the romantic theory of freedom is grounded on a notion of endless creation (p. 181). This means that a free personality, a liberated individual, is free to impose itself on the world outside of it through political domination, the scientific subjugation of nature through an understanding of its laws, or the progressive development of a dominant group espousing a universal idea (p. 181). In short, every imposition of a pattern on other human beings constitutes the type of imposition that the romantic understanding of freedom is predicated on.

Such an understanding, Berlin argues, is a contradiction, as romanticism fails to emancipate itself from the teleological assumptions of earlier ages (p. 185). Rousseau's general will, which Berlin refers to as a "[g]rotesque and hair-raising paradox," serves as an example (p. 143). The source of the paradox is found in Rousseau's imposition of a "reign of liberty so absolute and universal that it keeps everyone everywhere in chains" (p. 144). To argue, as Rousseau does, that man must be compelled to freedom is contradictory. Romantics, following Rousseau, attempt to side-step this contradiction by conceptualizing liberty in terms of a universal desire "to fulfill a plan, to realize a pattern, to obey a law" (p. 185). This plan cannot externally be imposed as this leads to the charges of coercion and slavery. Instead, romantics internalize the plan by making it correspond to some inner desire. Only by realizing this desire can true freedom be obtained. Thus, romantics understand freedom as the ability "to do what one wishes and a rational being wishes to fulfill some plan, express some pattern" (p. 203). Such an understanding contrasts with the liberal vision of freedom endorsed by Berlin in PIRA.

According to Berlin, the most obvious meaning of freedom is the

"[d]esire for freedom on the part of individuals and groups not to be interfered with by other individuals or groups" (p. 88). The liberal understanding of liberty carries "a greater or lesser connotation of resistance to interference on the part of some—some person or persons, and not things or circumstances—in more or less specified conditions" (pp. 156-57). The liberal understanding is equated with unobstruction. As such, freedom itself does not equal a positive goal; it is only a means that must be guaranteed before positive goals (wishes, ideals, and policies) can be pursued. These two qualities indicate that the liberal conception of freedom is consistent with the primary sense of freedom (pp. 156, 190). The clearest expression of this, according to Berlin, is John Stuart Mill's defense of political freedom wherein freedom is seen as a necessary condition for the good life rather than an ingredient in it (pp. 160-61).

Berlin's critique of romanticism and its reliance on positive liberty finds its clearest and fullest expression in Berlin's analysis of Rousseau. Rousseau, according to Berlin, is the key figure of the time period and is the focus of *PIRA*, as his "words and their imagery" make possible the most influential trends of the nineteenth century: romanticism, nationalism, socialism, naturalism, and fascism (pp. 2, 109). While Rousseau's influence during this period is certainly considerable, one must ask the question of whether or not somebody Berlin describes as "a poor, or rather a deliberately self-blinded, sociologist" could exert such an influence (p. 107).

In order to answer this question one must determine, first, how Berlin understands political philosophy, and second, how Berlin interprets Rousseau. Berlin begins to define political philosophy by distinguishing it from history and natural science as "a branch of thought which deals neither with empirical matters of fact nor with formal relationships governed by identifiable rules and axioms" (p. 11). Political philosophy is thus distinguishable from history, which provides knowledge of a people at a particular moment in time, and natural science, which is committed to the proper attribution of individual cases or sets of cases to laws (or uniformities) that have the greatest predictive and classificatory power (p. 214). The distinction Berlin draws between political philosophy and natural science speaks directly to Berlin's critique of determinism and positivism. According to Berlin, it is a fallacy to apply human characteristics to nonhuman things and equally fallacious to apply the analogy the other way around (p. 212). Thus, applying the logic of natural science to the study of politics is not only fallacious; to do so represents an assault on the moral dignity of individuals. To view humans and human activity as merely things in need of classification is to deny them the "capacity for moral judgment" and "self-determining choice" (p. 212).

The purpose of political philosophy is to explain, elucidate, classify, clarify what a given doctrine asserts, entails, whether it is internally consistent or not, and of what vision of the universe it forms a part (p. 11). Given the

multiplicity of political philosophy's purposes, Berlin ultimately describes political philosophy in terms of "Thick Description" where the political philosopher "can do no better than try to describe what some of these [philosophic] models ... consisted of" (p. 13). Berlin's ultimate concern is with a descriptive analysis that identifies relevant models of philosophy. He is less concerned with the question of whether or not the model he attributes to a particular philosopher is accurate. One sees in Berlin's treatment of Rousseau confirmation of this point.

Berlin does not think that Rousseau provides a "coherent and logical whole" (p. 104). Berlin arrives at this conclusion, in large measure, because he does not consider the totality of Rousseau's writings. Berlin's almost exclusive focus is on Rousseau's Social Contract. While this is Rousseau's most overt political writing, to read it outside of the larger philosophic context provided at a minimum by Rousseau's First and Second Discourses and his *Emile* is to deny from the outset the possibility of coherence to Rousseau's thought. Moreover, Berlin makes almost no effort to understand Rousseau's argument in Rousseau's own terms; instead, he focuses on interpretations of Rousseau because "[t]his is how he has often been interpreted; and this is certainly the form his doctrine took in those later writers whom he so powerfully influenced ..." (p. 132). Thus, while Berlin admits that Rousseau never speaks in terms of societies having wills or purposes, it is acceptable to attribute these qualities to Rousseau's thought because "many thinkers in the nineteenth century interpreted him as saying this" (p. 138). Given Berlin's approach to Rousseau's thought and the centrality of this analysis to the argument presented in PIRA, one is naturally led to consider the possibility that the thrust of PIRA's argument is inaccurate to the extent that Berlin's analysis of Rousseau is incorrect. Inspection of what Rousseau actually says about the general will and liberty indicates that Berlin's critique of Rousseau, and by extension romanticism, is misplaced at best.

Through the general will, Rousseau's government is designed to defend and protect through its joint strength the person and property of each associate. While suggesting a similarity to the liberal theories of Hobbes and Locke, Rousseau goes further with the important addition that securing the ends of government must be done in such a way as to allow man to retain his sovereignty. According to Hobbes, individuals are only sovereign in the state of nature and Locke limits the sovereignty of the people to society, which is prior to the creation of government. Both Hobbes and Locke require that sovereignty be transferred to government. For Rousseau, the people do not and cannot transfer sovereignty. They can only transfer power. Thus, the general will only harnesses and directs the power of the body politic in accordance with the common good.

Rousseau's understanding of the common good and his emphasis on

it suggests that the general will is limited. As all must be done for the common good, Rousseau distinguishes between common and private interests. The general will is only concerned with common interests and not those decisions falling outside of this area, or private interests. Because of this distinction, those under the law are considered in their collective capacity and not individually. As a result, the nature of obligation between the citizen and the sovereign is one where the citizen owes the state all he can only when the sovereign asks, but the sovereign cannot impose any burden which is useless to the community. The limited nature of Rousseau's general will is, in fact, less of an imposition than Berlin leads his reader to believe (see pp. 116-18, 131, 138-39). Instead of the constant imposition of the plan dictated by the general will, Rousseau asks for self-sacrifice and conformity only in those limited instances required of the public good. In all other instances, the individual is left alone.

Berlin would also like his reader to believe that Rousseau argues for a return to the limitless liberty of the state of nature (p. 107). interpretation of Rousseau misses the subtlety of the argument presented in Rousseau's Second Discourse. To claim that Rousseau desires a return to the state of nature is to assume that the state of nature is, in Rousseau's estimation, preferable to civil society. Given Rousseau's characterization of civil society, it is not surprising that Berlin arrives at this conclusion. This is not, however, Rousseau's final verdict, as he finds between the state of nature and civil society a happy and durable epoch of human history that Rousseau believes to be the best state for man. This period, which Rousseau refers to as "nascent society," maintains the golden mean between the indolence of the primitive state and the petulance of civil society. Unlike savage or natural man, who was limited to pure sensation and never profited from the gifts supplied by nature, nascent man has learned to conquer nature's obstacles. More adept at providing for himself, nascent man does not require the help of others. He is an autonomous, independent being who is neither savage nor civilized. He is free.

While the critique of romanticism provided by Berlin appears off target, *PIRA* does offer its reader valuable insight into Berlin's understanding of liberalism. On the one hand, Berlin's concern with obedience and his preference for negative over positive freedom indicates that his liberalism is traditional (pp. 90-92). This is to say that Berlin refuses to furnish an understanding of the highest good because such an understanding could be used by political authorities to impose their beliefs and practices on the people. The traditional view of liberalism focuses on avoiding the worst rather than realizing the best, as seen in its emphasis on self-preservation and prosperity. Liberalism, as such, has become synonymous with indifference to the cultivation of character, hostility to the bonds of community, and antagonism to human excellence.

On the other hand, Berlin's acceptance of Mill's defense of political freedom suggests the possibility that his liberalism recognizes that certain character traits are necessary for the cultivation of higher desires. Unfortunately, Berlin does not develop this argument at any length in *PIRA*. Were he to do so, one may look for evidence suggesting that Berlin attempts to reconcile the protection of individual rights with social solidarity. *PIRA*, once properly situated into the context of Berlin's other writings, provides its reader with both insight into the coherence of Berlin's thought and questions concerning the nature of liberalism. As such, it warrants one's careful attention.

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