THE SEPARATENESS OF PERSONS

by

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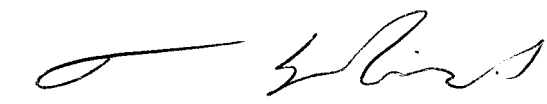
SIGNED: 

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ABSTRACT

One of the distinctive ideas of contemporary liberal political philosophy is that the separateness of persons is somehow normatively momentous. A proper respect for separateness is supposed to lead us not only to reject aggregative theories such as utilitarianism, but to embrace some particular positive theory about the sorts of obligations and claims we have amongst each other. Typically, philosophers have focused on the way in which the separateness of persons is important to matters of distribution. Given the intuitively unjust distributions often sanctioned by utilitarianism, such a focus makes sense. Much of the contribution of my dissertation, however, is to argue that separateness is relevant not just as a fact about persons as beneficiaries, but perhaps even more fundamentally, as agents.

Chapter one explores the connection between respect for the separateness of persons and liberal theory, with reference to the cases of John Rawls and Robert Nozick. Chapter two defends the reasonableness of respect for separateness against the metaphysical critique of Derek Parfit. Chapters three and four spell out the main idea of respect for separateness as agents. Chapter five examines applies this analysis to free markets, and argues that while separateness provides some grounds for criticizing markets, it also provides some interesting, non-efficiency based grounds for praising them.

Introduction

My interest in this topic began with the debate between consequentialism and deontology. Utilitarianism, it was charged, fails to respect the separateness of persons. The reason seemed straightforward enough. In any situation, utilitarianism proclaims that the right action is that which maximizes the total amount of utility in the world, regardless of how that utility is distributed among particular agents. The problem here isn't utilitarianism's conception of the good – i.e. the fact that it says agents should maximize *utility,* rather than wealth, or preference-satisfaction, or some other measure. Rather, the problem seemed to be with *maximization* as an exclusive goal. To focus only on maximization is to focus only on aggregates, and in focusing only on aggregates we lose sight of the important moral implications of the fact that those aggregates are formed out of *separate* individuals. But if the problem is with utilitarianism's maximizing theory of the right, and not on its particular conception of the good, then the problem would appear to be not with utilitarianism alone, but with *any* theory whose sole advice was to maximize some set of impersonally-construed consequences. That is, the separateness of persons would be a problem for any conequentialist theory.

I no longer believe that this is exactly right. First, the range of conequentialist theories is fairly broad. If the problem with respecting the separateness of persons is to ensure that no particular individual is deprived of her fair share of the good in the quest for maximization, then the sensitive consequentialist can simply build this concern with fair distributions in to the description of the state of affairs which her theory seeks to maximize. To take a crude example, a theory which tells us that the right action is one

which tends to maximize the *equality* of happiness amongst individuals is without a doubt consequentialist, but it is consequentialist in a way which seems to *build on*, rather than ignore, the separateness of persons.

But second, and more importantly, I have come to believe that worries about the separateness of persons are broader than worries about distributive justice alone. Indeed, if there is any theme or thesis at all to the chapters which follow, it is that considerations of *agency* are at least as important as considerations of distribution in respecting the separateness of persons – and possibly more so. Respecting the separateness of persons is not merely a matter of ensuring that each individual gets what she needs. It is also largely a matter of respecting what that individual wishes to *do*. It is about respecting her projects and commitments in a way which goes beyond merely factoring them in as one weight among others in the consequentialist's impartial calculus. The full implications of taking *this* aspect of separateness seriously, I now believe, transcend the debate between consequentialism and deontology, and take us not only to the core of normative ethics itself, but to certain foundational questions in metaethcis as well.

In chapter one, I begin my exploration of the separateness of persons with a curiosity. John Rawls and Robert Nozick both cite the separateness of persons as the decisive reason for their rejection of utilitarianism. Indeed, they cite it in almost precisely the same language – both think that utilitarianism's approach to the issue of trade-offs is incompatible with the basic *respect* which each individual is due. This *respect* for separateness lies at the heart not only of their rejection of utilitarianism, but of their positive normative theories as well. Each of them views a respect for separateness

as one of the basic justifications of their liberal political theories. So why are their interpretations of political liberalism so different? This chapter provides the first clue that our conception of separateness is not entirely univocal. Both Rawls' liberalism and Nozick's libertarianism embody a *genuine* respect for the separateness of persons, but the form of that respect differs, I argue, according to the different levels of their theory at which that respect plays a role.

Chapter two defends the idea of respect for separateness against a very basic metaphysical objection. Philosophers like Rawls and Nozick think utilitarianism is an inadequate theory because they believe that it fails to respect the separateness of individuals. But what if our conception of individuals is radically mistaken? Liberals tend to suppose that individuals are metaphysically distinct and significant entities. We think there is something special about the way in which an individual *lives her own life* which demands our respect. But according to Derek Parfit, individuals are *not* metaphysically distinct or significant entities. Persons are not metaphysically significant; time-segments of persons are. And if persons are not metaphysically significant, then they ought not be ethically significant, either. An adequate response to this Parfitian argument, I claim, requires that we distinguish two sorts of identity. Parfit's account contains genuine insights as an account of *numerical* identity – an account which seeks to set out the conditions under which we can identify one person as being the same entity as another. But there is, I argue, another question of identity which is much more personal. If our concept of numerical identity does not provide sufficient grounds for a belief in the significance of the separateness of persons, then our concept of *identification* as the

rational activity of an agent might. We identify ourselves as (mostly) separate agents, and even if Parfit is correct about the underlying metaphysics, this act of identification is itself ethically significant.

Chapters three and four provide the core defense of the importance of agency to the separateness of persons. Bernard Williams and Samuel Scheffler both claim that one aspect of respect for the separateness of persons is a respect for the personal point of view. In these chapters, I argue that they were correct to focus on this element of separateness, but that their theories suffer from failing to draw its most radical implications. Williams and Scheffler both interpret a respect for our separateness as agents as a *moral* principle – one which claims that individuals have a moral right to act in non-maximizing ways in order to maintain their integrity, or to pursue a genuine commitment to their projects. In chapter three, I argue that this element of respect for separateness is actually best understood as a *pre-moral* principle – one which defends an agent's prerogative to pursue his projects even in the face of a clear moral judgment to the contrary. Understood in this way, as Williams correctly noted, the separateness of persons is not just a concern for utilitarianism or consequentialism in general, but for *any* moral theory which says that morality must always "trump" one's commitment to one's own projects. Chapter four defends the externalist theory of morality on which this argument depends against charges of incoherence set out by Michael Smith.

Finally, chapter five explores the connections between the separateness of persons and free markets. Free markets are often thought to be grounded in utilitarian considerations – they promote wealth, economic efficiency, and so on. But just as they

share in utilitarianism's appeal, so also are they thought to share in its flaws. The distributive injustice to which markets are said to leave could be said to be just as much a matter of failing to respect the separateness of persons as utilitarianism's insensitivity to matters of distribution. I do not argue that markets are innocent on this charge. Rather, I argue that we ought to distinguish between respecting individuals as separate *consumers* and respecting them as separate *producers*. If markets come up short on the first count, they nevertheless excel on the second. The separateness of persons thus provides us with grounds not only for criticizing markets, but for praising them.

When I first began thinking about the separateness of persons, it struck me as one of the most important ideas in moral philosophy. In writing this dissertation, that belief hasn't changed. What *has* changed is my belief about how complicated this matter is. None of the arguments which follow are entirely satisfactory, and each of them has raised for me many questions which remain unanswered. In particular, more work needs to be done to develop the idea of respect for our separateness as agents as a pre-moral idea. To say that the separateness of persons limits morality's ability to get a normative grip on us as agents seems to be making a normative claim. But what sort of normative claim is it? Is it a norm of practical reason? My initial hunch is that it is, but not one which could be discovered *a priori*. Rather, it is one which is heavily dependent on our nature as human beings and the sorts of social interactions in which we find ourselves. But if it is a norm of practical reason, then what becomes of the separateness of persons as a *moral* issue? Here my hunch is that there's no reason why a respect for separateness couldn't play *both* a moral and a pre-moral role. And it is in its moral role that the traditional concerns with

distributive justice form an important part of this respect. But here, too, more work needs to be done. Why *should* morality be concerned with matters of distributive justice, and how does *this* element of separateness, which seems to require that agents sometimes *give up* what matters to them for the sake of giving others their fair share, relate to the *pre-moral* conception of respect for separateness, which seems to make agents' personal projects a trump over moral considerations? In both its moral and its pre-moral aspects, the separateness of persons remains fertile ground for future research.

CHAPTER 1
THE SEPARATENESS OF PERSONS AND LIBERAL THEORY[1]

In all sorts of mundane, descriptive ways, people are separate. People inhabit their own unique bodies and experience their own private pleasures and pains. Their desires, projects, and world-views, though no doubt causally bound up with the larger community in many complex ways, nevertheless hold a special importance for individuals as *their own,* and the actions of individuals tend to reflect this importance. Taken as a merely *descriptive* thesis, the idea of the separateness of persons seems entirely uncontroversial.

One of the distinctive ideas of contemporary liberal political philosophy, however, is that the sorts of descriptive facts captured by the separateness of persons are *normatively* momentous.[2] The fact that individuals live their own lives, or that their pains and pleasures are theirs alone to experience, is supposed to lead us not only to reject aggregative theories such as utilitarianism, but to embrace some particular positive theory about the sorts of obligations and claims we have amongst each other. Rawls thinks the separateness of persons supports the contractarian foundation of his argument for a generous welfare state in *Theory of Justice.* Nozick takes separateness to be an argument for a moral theory which embraces libertarian side constraints as its central principles.

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[1] For their comments and discussion regarding earlier drafts of this paper, I would like to thank David Schmidtz, Kieth Lehrer, Mane Hajdin, Jacob Daly, Cara Nine, Chris Griffin, Tom Christiano, Jacinda Lanum, Andrew J. Cohen, the participants in the 2002 Arizona State/University of Arizona Colloquium in Political Theory, and those in the colloquium on "Persons and Liberal Theory" at the 2003 Pacific Division meeting of the American Philosophical Association.

[2] In fact, this may be *the* distinctive idea of contemporary liberalism. In this paper, I simply try to explore what this liberal commitment to the separateness of persons actually entails. Those who reject liberalism might disagree that the separateness of persons is normatively momentous, but reflection on its meaning might still help to clarify exactly where the differences between liberal and non-liberal thought lie.

Indeed, when we look at how some of the most prominent liberal philosophers articulate the normative importance of the separateness of persons, and when we see how different the conceptions of liberalism at which they arrive are, it's hard to avoid the conclusion that they are simply making it all up.[3] After all, if even utilitarians can claim with at least *some* credibility that their moral theory is a natural way of reacting to the descriptive separateness of persons,[4] then perhaps we were mistaken to conclude that there is *any* definitive normative upshot to those descriptive facts at all. The separateness of persons as a descriptive thesis may be undeniable, but the idea that there is any particular supervening normative implication is a myth.

In this paper, I will argue that the best way of understanding appeals to the separateness of persons is not to look for a single normative upshot but to recognize that there are *two* distinct normative upshots, that they often pull us in different directions, and that a failure to properly distinguish them is what has led many to conclude that there is really no upshot at all. As an examination of Rawls' and Nozick's appeals to separateness will show, there is a common element to all such appeals: a resolution to treat individuals as bearers of moral *status*, rather than mere contributors of moral *weight*. This much liberals have in common in the rejection of utilitarianism. What divides liberals, I will argue, is a difference in the way this requirement to respect the moral status of individuals is understood. There is a difference, I will claim, between respecting separateness at the level of *justification* of a moral theory and respecting it at the level of the *content* of that theory. Much of the difference between the sorts of liberal theories we

[3] Thanks to David Schmidtz for this formulation of the worry.
[4] See, for instance, Hare's claim in the following section.

find articulated by champions of the separateness of persons depends upon which of these levels of morality they focus.

Skepticism About Separateness

Doubts about the normative strength of appeals to the separateness of persons are not new. As one might expect, utilitarians in particular have serious misgivings about whether anything of substance can be derived from such appeals. As R.M. Hare states the dilemma, such appeals are either meant to suggest that "utilitarians do not realize that there are distinct people in the world," in which case they are plainly false, or they are meant to suggest that utilitarians do not respond properly to the descriptive facts of separateness, in which case they are, at best, simply a promissory note for the real normative argument. After all, Hare claims, the most natural way of understanding the *normative* idea of the separateness of persons is that it requires 'that everyone should have a fair go.' But surely Bentham's dictum that we should 'count everybody for one and nobody for more than one' is at least *one* natural way of understanding this requirement! [5]

The skepticism has not been limited to utilitarians. More recently, both Dennis McKerlie and David Brink have expressed doubts that appeals to the separateness of persons are able to fill *either* their negative or positive roles.[6] McKerlie claims that appeals to the separateness of persons are best seen as an attempt to make a general objection to balancing benefits/harms in one life with benefits/harms in another, but

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[5] Hare 1984, pp. 106-107.
[6] See Brink 1993, and McKerlie, 1988.

argues that it is neither obvious how such an objection would draw support from the descriptive separateness of persons, nor how such an objection would support (or even be compatible with) the egalitarian theories which those who make such appeals have often sought to defend. David Brink, meanwhile, thinks that appeals to separateness yield normative conclusions which are either too weak to undermine consequentialism, or too strong to be plausible in their own right. The only understanding of the separateness of persons which Brink thinks *could* undermine consequentialism involves a close link to what he calls the 'moral asymmetry thesis' – the thesis, that the impartial value/disvalue of a benefit/harm depends upon the welfare of the person in whom that benefit/harm is located. But the only interpretation of this requirement which is *not* amenable to the person-neutral terms of consequentialism is one in which we read it as giving a sort of absolute priority to the claims of the worst-off. And this, Brink thinks, is to reject aggregation in favor of 'the dictatorship of the worst-off.'[7]

As I will discuss in greater detail in the next section, I think the sorts of worries discussed by Brink and McKerlie miss what is essential to appeals to separateness. In general, both Brink and McKerlie try to build *too much* into such appeals – McKerlie by supposing that separateness, to be effective, must constitute an argument against all balancing as such, and Brink, by supposing that it must support assigning lexical priority to the claims of the worst-off individual. If my understanding of separateness is correct, questions such as these about balancing harms and benefits among individuals are relevant, but *secondary* in importance to the question of the *basic moral status* of

[7] Brink 1993, p. 269.

individuals under the theory. The problem with utilitarianism is not that it allows trade-offs between separate individuals, but rather that it views individuals as means to an end – as fundamentally interchangeable in the pursuit of maximized utility. Assigning the correct moral status to individuals will have an impact on the sorts of interpersonal balancing permitted or required by morality, but there is no reason to suppose from the outset that it will require anything so crude as the outright prohibition suggested by McKerlie and Brink.

Content and Justification: Two Levels of the Separateness of Persons

For the utilitarian, happiness is the only thing which is intrinsically good. The value of human beings is derivative – they are valuable insofar as they contribute to aggregate happiness. On this conception of morality, the interests of persons command equal consideration, but there are essentially no limits on the sorts of treatments we can impose on persons themselves.

Those who reject utilitarianism often do so because they believe that it fails to recognize the proper *moral status* of individuals. Generally, viewing individuals as bearers of moral status is thought to entail giving them a certain *primacy* or *inviolability* in one's theory – refusing to subordinate them for the sake of the greater good. But what *sort* of primacy, what *sort* of inviolability, does respect for the separateness of persons actually entail? Does moral status mean that we are never justified in harming *A* to help *B* for the sake of creating an impersonally better state of affairs? Or are some such trade-

offs permissible so long as they are the product of (or consistent with) a certain basic *respect* for the persons involved?

The notion of 'status,' as used by moral philosophers, seems crucially ambiguous. Sometimes discussions of status and primacy center on the ways in which it is permissible or impermissible to *treat* individuals. On this understanding, respecting a person's moral status imposes *substantive* constraints on the sort of things we can do to that person. We find this sort of usage in the language of international human rights documents, for instance, where a respect for the dignity of each individual prohibits certain actions like torture altogether. Utilitarianism's flaw, on this reading, is precisely that it allows or requires those actions which respect for the individual ought to prohibit. Let us say that those who care about the separateness of persons in this way are concerned with separateness at the level of *content*.

Other times, however, talk of primacy and moral status is intended as a sort of meta-theoretic constraint. Rather than imposing substantive constraints on the sorts of treatment we can impose on others, that is, this conception demands simply that we demonstrate a respect for separateness in the *justification* of moral principles, perhaps by mandating that each individual be taken into account equally in the process of choosing principles, or perhaps by demanding that candidate moral principles take only non-aggregative forms. Such theories will differ from those described above insofar as they hold that respect places constraints on our actions only *indirectly*. On this view, the problem with utilitarianism is not the actions it condones but rather the lack of respect

inherent in the process which generates its approval of those actions. I will call this sort of concern for separateness a concern at the level of *justification*.

To clarify, consider one project of moral philosophy to be coming up with some set *P* of moral principles. Those who focus their respect for the separateness of persons on the level of content thus suppose it to either mandate or rule out the inclusion of certain principles in *P*. Such principles might include a rule against the initiation of physical violence, or it might mandate that we provide help to those in need when we can do so at little cost to ourselves. The point is that, on this understanding, respecting separateness is thought to have a *direct* implication for the sorts of principles we will find in *P*. This approach relies heavily on the claim that we have some intuitive idea about which actions are required, forbidden, or permitted by a respect for the separateness of persons. When, at the level of content, we claim that separateness is important, it is this set of actions (or perhaps the general types of which they are instances) on which we focus.

Those who focus on the level of justification, on the other hand, will take a respect for separateness to impose constraints on the sorts of *considerations* which can be legitimately put forward in favor or opposed to the inclusion of some principle in *P*. Again, they might say that any candidate for inclusion in *P* must meet with acceptance, under certain conditions, from all rational agents. Or perhaps that considerations which focus on aggregations alone are inadmissible. The concern is still, ultimately, with what does or doesn't get included in *P*, but the concern here is less *direct*, insofar as it focuses

primarily on the justification given for a principle, and not on the content of the principle itself.[8]

Indeed, part of the claim I wish to defend in this paper is that commitment to respecting separateness at one level does not require a commitment to respecting it at the other. Suppose, for instance, that we believed that an important fact about human separateness is the capacity to form one's own preferences. We *might* think that the utilitarian principle of "each is to count for one, none for more than one," was the proper way to account for this aspect of persons in a principle of justice. If we did, then our substantive principles of morality needn't make any direct reference to persons at all – they can focus solely on the maximization of utility. The fact that a respect for the separateness of persons is involved in the justification of a principle is no guarantee that the *content* of the principle will have anything to do with that separateness. Nor does there seem to be any guarantee in the other direction. One could respect separateness at the level of content by, say, guaranteeing some basic set of liberal human rights, while at the same time believing that these rights are *justified* because of their maximizing effect on aggregate utility. One could, that is, be an individualist at the level of content for purely aggregationist reasons.

The distinction I am proposing is similar to a distinction employed in discussions about reflective equilibrium. In a process of reflective equilibrium, we attempt to

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[8] I should note at the outset that I do in fact mean that the difference is only one of *focus*. Any moral theory will offer some justification for the substantive principles it advocates, and any justificatory principles are meant to justify *something*. The two levels of morality are thus tightly connected in moral theories as we can find or imagine them. Nevertheless a conceptual distinction between the two will be useful if, as argue directly below, it shows that a concern for separateness at one level need not imply a similar concern at the other.

reconcile two sorts of moral judgments – judgments about particular cases, and judgments concerning general moral principles. On my account, judgments about respecting separateness at the level of content are judgments about certain particular *types* of actions, while judgments about respecting separateness at the level of justification are judgments about the more general considerations which might be given in the process of justifying those action-types. Ideally, perhaps, these two perspectives might be reconciled – brought into some sort of equilibrium with each other. Perhaps some such reconciliation is even *necessary*, were one to work out the full implications of a robust respect for separateness at either level, such that one could not consistently endorse a respect for the separateness of persons at one level without being committed to endorsing it at the other level. Nevertheless, it is still possible to *focus* one's concern with separateness at one of these two levels, assigning greater importance in one's deliberations either to the sort of respect for separateness which manifests itself in the endorsement or rejection of particular action-types, or to a respect which focuses more on theoretical justification. And this, too, might not be a mistake.

Here is another attempt to clarify the distinction I have in mind. These two approaches are, I claim, both attempts to formulate principles which respect the separateness of persons. But one sign that there is a genuine distinction to be found here is that the notion of "persons" seems to play different roles in the two approaches.[9] At the level of content, persons are the *subject* of the principles. That is, the principles which we formulate at the level of content are principles about how we should treat

[9] Thanks to Keith Lehrer for making this point in conversation.

persons, and the respect for separateness which these principles show will tend to manifest itself in this treatment. At the level of justification, however, persons cannot serve as the subject of the principles, for the principles are not about how to treat persons. They are about how we ought to think about and justify principles of justice. At this level, then, persons serve not as the *subject* of principles but as a sort of *motivating source* or *criterion* of those principles. And as we saw above, the fact that one takes some aspect of human separateness to be the motivation or criterion behind one's selection of principles of justice is no guarantee that that aspect will be reflected directly in the *content* of those principles.

This distinction is not unheard of, historically. The most well known example of an attempt to divide a moral philosophy along the lines of content and justification is probably John Stuart Mill's account of justice. Mill took questions regarding the *content* of principles of justice to be separate from, and independent of, questions of their justification. Justice, he thought, is simply a name for those duties which are distinguished from others both by their status as "duties of perfect obligation," and by the importance of the interests protected by its obligations. Justice is a complex social practice, not unlike etiquette in this regard, and discovering its content, according to Mill, is simply a matter of examining "widely spread opinion."[10] Essentially, duties of justice require that we respect the moral rights of other individuals, that we respect claims of desert, that we keep faith with our fellows, and that we display the proper level of

[10] Mill 1861, p. 42.

impartiality in our dealings with others.[11] This much we can learn via a sort of socio-linguistic research project. Discovering the *binding force* of justice is, however, a job for moral theory, and Mill believed that utilitarian theory could best provide a justification for our common-sense conception of justice.

Indeed, Rawls himself seems to be thinking of the relationship between utilitarianism and justice in precisely this Millian sort of way. When Rawls invokes the separateness of persons, he is careful to point out that he is only criticizing utilitarianism as a fundamental principle of justification, and not as a candidate for practical principles of justice. According to Rawls, it is contractarianism, not utilitarianism, which is to play this fundamental role. But it is quite possible, he thinks, that utilitarianism could play the part of principle of justice even if it is unsuited to serve as a fundamental moral theory. Referring to the choice made by contractors in the original position, Rawls notes that nothing in his arguments so far have ruled out that "some form of the principle of utility would be adopted, and therefore that contract theory leads eventually to a deeper and more roundabout justification of utilitarianism."[12] Even if contractarianism is the correct way of justifying principles of justice, then, it is possible that the principles of justice which it recommends will be utilitarian in form.

Taken together, Rawls' and Mill's arguments show how independent the questions of justification and of content really are. Mill's arguments show that utilitarian morality can support principles of justice which are in form and content nothing like the principle of utility itself, and Rawls' arguments show that non-utilitarian morality can, at

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[11] Mill 1861, pp. 43-44.
[12] Rawls 1971, p. 29.

least conceivably, end up selecting utilitarianism as the proper content of principles of justice. If such a split between content and justification is indeed possible, then we should not be surprised to find that a respect for separateness amounts to two different things depending upon which level we choose to focus.

Unfortunately, there has been a tendency for defenders of the separateness of persons to focus on one of these understandings to the neglect of the truth implicit in the other. Philosophers have been inclined to focus on separateness *either* at the level of content, *or* at the level of justification. This is probably most clear in the accounts given by Rawls and Nozick, and much of the remainder of this paper will be devoted to investigating their interpretations to see both what a reasonably worked out theory of respect might look like at each of these levels, and how such a difference in focus accounts for the radically different *forms* of liberalism we find these theorists endorsing. I should stress at the outset that though I take the theories of Rawls and Nozick to be exemplars of, respectively, focus at the level of justification and at the level of justice, I do not believe that either of them is best understood as operating exclusively on this level.[13] The difference is one of focus. My purpose in stressing this difference in focus is not exegetical, but rather to highlight two very different ways in which a concern for the separateness of persons can manifest itself in moral and political theory.

[13] Rawls' endorsement of a set of basic liberties, for instance, is one area in which he seems to be committed to respecting separateness at the level of justice.

Separateness in Content

Let us begin with a look at how a respect for the separateness of persons might work at what I am calling the level of content. To be concerned with the content of principles of morality is to be concerned with morality at an essentially *practical* level. Principles of morality purport to tell us, at a minimum, what rights and duties we have amongst one another, and how these various rights and duties interact. Principles of morality are, largely, principles about how we ought to *treat* one another – principles which are generally taken to carry a certain overriding weight vis-à-vis other moral and non-moral claims.[14]

Thus if separateness is to be respected at the level of content, this respect will need to be reflected somehow in the nature of the treatment mandated, prohibited, or permitted by the theory. But reflected how?

In matters of justice, a desire to build respect for the separateness of persons into one's theory will presumably lend itself toward a support for *individual* rights. If the fact that each individual has *her own* life to live is normatively momentous, as is the fact that the goods of different individuals often conflict, then it makes a certain sense to claim that each individual has some set of claims on others which cannot be overridden merely by appeals to aggregations of non-rights-based interests such as well-being or economic efficiency. The idea here is that just as individuals are separate, so are our moral

[14] c.f. Rawls 1971, p.3. "Justice is the first virtue of social institutions, as truth is of systems of thought. A theory however elegant and economical must be rejected or revised if it is untrue; likewise laws and institutions no matter how efficient and well-arranged must be reformed or abolished if they are unjust."

obligations to them. If I owe a duty of magnitude *A* to person *Y*, it is the person to whom my duty is owed and not the magnitude of that duty which is of primary moral importance. Defaulting on my duty to *Y* and instead performing a duty of magnitude *B* (where $B > A$) will not be acceptable, if the beneficiary of this new duty is someone other than *Y*.

This is the approach to separateness taken by Robert Nozick in *Anarchy, State and Utopia*. For Nozick, respecting the separateness of persons requires that we reject utilitarianism in favor of a side-constraint theory of morality. This move is grounded, Nozick claims, in "the Kantian principle that individuals are ends and not merely means."[15] Theories, such as utilitarianism, which reject side constraints, inevitably countenance using some people for the sake of others, and this "does not sufficiently respect and take account of the fact that [each of us] is a separate person."[16] Indeed, a full respect for the separateness of persons will require not only the side-constraint *form* of morality, but a specific *content* as well. It will require that we adopt a theory which recognizes, and limits considerations of justice to, the basic set of libertarian rights to life, liberty and property.

For one concerned with the separateness of persons at the level of justice, there is a certain naturalness to this move. On the face of things, there is a sense in which principles which endorse coercive redistribution seem to treat some individuals as the means to the ends of others. This is certainly how Nozick saw Rawls' difference principle. Of course, Rawls would insist that he is not treating *persons* as mere means,

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[15] Nozick 1974, p. 31.
[16] Nozick 1974, p. 33.

but only those endowments of persons – their talents, their character, their willingness to work – for which they can claim no moral credit. But Nozick thinks this line requires that we conceive of persons on a very abstract level – one which pushes very hard on the distinction between persons and the characteristics that individuate them.[17]

When we think about the separateness of persons at the level of justice, there is a natural tendency to think of separateness as it exists between persons *as they are*. Our concern at this level, is, after all, to formulate principles of justice – *practical* principles designed to guide the actions of actual people. If we think that the separateness of persons imposes a constraint on the content of those principles, it will likely be because we think that there are certain ways in which the people who will be subject to those principles simply ought not be treated. But those people have histories, talents and abilities which, no matter how contingent they may seem from a third-person perspective, are from *their* perspective at least, inextricably bound up with *who they are*.[18] The importance of these identifications individuals make – with their talents, religious beliefs, communities and so on – may not survive rigorous philosophical examination at the level of theory. But the pre-theoretic importance we assign to them is nevertheless significant. Anyone engaged in moral philosophy as a process of reflective equilibrium will have to strike some balance between our pre-theoretic moral intuitions and our theoretic results. For those who take separateness seriously at the level of content, these identifications serve to clarify the boundaries between persons. They inform our understanding of what

[17] I owe this point to David Schmidtz.

[18] See John Tomasi's fabulous *Liberalism Beyond Justice* (Tomasi 2001) for a discussion of the ways in which even Rawls' more moderate stance in *Political Liberalism* fails to show a proper respect for this perspective.

does and does not *belong* to a person. And these boundaries, in turn, serve as a constraint on the development of moral theory. One way of understanding the idea of taking separateness seriously at the level of content, then, is that it involves assigning a relatively greater importance to our pre-theoretic notions of "persons" and "separateness," than does an account which is willing to modify these notions in virtue of the results of a moral theory.

I think there is some insight to be gained by looking at Nozick's own argument from the separateness of persons to libertarian content. It runs something as follows. Adopting a side-constraint view as opposed to an end-state, maximizing view, Nozick thinks, involves taking the separateness of persons very seriously – seriously enough to overcome the intuition that we are even permitted (not required, just permitted) to take those actions which involve violating a side-constraint for the sake of minimizing total social violations of that constraint. But any theory which takes the separateness of persons *this* seriously, thinks Nozick, will have a difficult time showing that the initiation of aggression against individuals is compatible with this root idea.[19] If, in other words, the separateness of persons entails that "there is no justified sacrifice of some of us for others," then an act of aggression upon one individual cannot be justified by the greater welfare it produces elsewhere in society.[20] Thus insofar as libertarian constraints prohibit such aggression, Nozick thinks, they are a fairly direct consequence of a proper respect for the separateness of persons.

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[19] Nozick 1974, p. 34.
[20] Nozick 1974, p. 33.

The premise that interests me here is that because the intuitive pull of end-state maximizing views is so strong, we must take the separateness of persons "more seriously" than we otherwise might, if we hope to resist it.[21] This seems to imply both that one can take the separateness of persons into account in one's theory with varying degrees of seriousness, and that a theory which supports the existence of moral side constraints has to take it very seriously indeed. This is interesting first because it casts some doubt on the connection between the separateness of persons and a strict side-constraint form of morality. If the separateness of persons comes in degrees – if we can take it seriously to an extent *without* adopting side-constraints – then what reason do we have to take it as seriously as Nozick asks us to? Nozick doesn't spend much time on this point, so it's somewhat hard to see exactly what it would *mean* for there to say that one takes the separateness of persons *seriously,* just not *maximally seriously.* But it seems reasonable to suppose, for instance, that a utilitarianism of rights might be said to take separateness more seriously than classical hedonic utilitarianism, or that a consequentialist theory which is distribution sensitive takes it more seriously than one which is not. Theories such as these are not entirely without advantage.[22] They are better placed than Nozick's theory, for instance, to make the permissibility of coercive trade-offs in extreme situations understandable. If it is permissible to kill *some* innocents in a time of war, or, less controversially, if it is permissible to impose a small tax on the very well-off to provide immunizations for children whose families are unable to provide them on their own, such theories can *explain* this permissibility in a way which Nozick's

[21] Nozick 1974, p. 33.
[22] Though of course, perhaps not a decisive one.

theory cannot. If such conceptions are possible, and if, as Nozick implies, they do not *utterly* disregard the separateness of persons, then we are owed an argument as to why we should reject them in favor of some more robust view.

There are several conclusions we might draw from this discussion. We might conclude that because it comes in varying degrees of seriousness, there is no reason to think the separateness of persons necessarily supports the side-constraint form of morality. Indeed, depending on how indeterminate the concept is, we might not be able to draw much in the way of positive conclusion from it at all. But there is another reading which strikes me as more plausible, and this is the second point of interest in Nozick's remark. We might conclude from Nozick's discussion that the separateness of persons *is* determinate – that it *does* support side-constraints – and that it is not the separateness of persons which is ambiguous but the *role* of the separateness of persons in a broader, pluralistic morality. To say that we must decide how seriously to take the separateness of persons in morality means precisely the same thing as to say that we must decide how seriously to take considerations of economic efficiency in a given context. The problem isn't that we fail to understand what economic efficiency *is,* or in what directions its internal norms point, but rather that we do not know how to balance these considerations against other important considerations – considerations of fairness or desert, for instance. If we think side-constraints are too strict to capture our ultimate assent, it is not because we doubt that they draw support from the separateness of persons, but rather because the separateness of persons isn't the only consideration relevant to our considered moral judgments.

On this reading, even if a concern for the separateness of persons at the level of justice *does* lend some support to libertarian rights, this is not the end of the story. For even if a respect for separateness counts against redistributive taxation, it might well be that *other* moral concepts count in favor of it. Indeed, as we shall perhaps see in the next section, it might be that separateness *itself* counts in favor of it, when thought of at the level of *justification.*

Separateness in Justification

Sometimes we are concerned to respect the differences between people as they actually are. This is the sort of respect we find with Nozick at the level of content. But sometimes focusing too much on the way people actually are can cause us to lose track of the way that they *might be.* And sometimes it is this consideration of the *potential* of a human being which ought to bear the greater weight in our moral reasoning.

It is this concern with human potential which often underlies a respect for separateness at the level of justification. Recall that to be concerned with separateness at this level is not to be concerned directly with the content of principles of morality – not to be concerned, that is, with how we actually treat other individuals. Rather, it is to be concerned with how such principles are *justified.* But the concern to justify moral principles is in some sense a universal one. The truth of basic moral principles, we think, should not depend on how people actually are at the moment. When we seek to justify such moral principles, then, there is a sense in which we are not trying to justify them to

any particular person. Rather, we seek to justify them *sub specie aeternitatis*, taking as given only those aspects of human beings which are *necessary* and *universal.*

This concern with the importance of necessary potentiality over contingent actuality manifests itself in the preference of many philosophers for hypothetical contractarianism over actual contractarianism. An actual contract does, of course, respect the separateness of persons in a certain way. It is a device which allows people, with all their contingent differences and inequalities, to come together for the purpose of some mutually beneficial exchange. The reconciliation of divergent interests which such an institution makes possible is no small achievement, but the concern with separateness here is clearly on the level of content. Actual contracts take as a starting point the inequalities among human beings, and for those who fare poorly in the natural and social lotteries, reliance on such a device alone will almost certainly lead to some individuals leading lives less fulfilled than they otherwise might. Hypothetical contracts, on the other hand, do not need to take these contingent facts about human beings for granted. In a hypothetical contract, we can abstract away from the contingent differences amongst people and arrive at a decision influenced only by those features of persons which we think are *important* from a moral point of view.

It seems clear, then, that when Rawls claims that a moral theory must respect the separateness of persons, he is referring to the level of justification. Though a full elaboration of the idea is not possible here, it seems plausible to me that this is due largely to Rawls' strong Kantian influence. Rawls is looking for a method by which to get at the underlying norms which ought to govern political association. But for a

Kantian, the only legitimate source of normativity is the individual autonomous will. It is for this reason that *each individual's* consent is, in some sense, necessary. To respect an individual, at least in this context, requires more than that we weigh her vote equally along with others', and it *certainly* requires more than that we count her preferences equally in the aggregative calculus, as the utilitarian would have us do. For the Kantian, and for Rawls, respecting a person's preferences is not the same as respecting a *person.*[23]

This focus on the importance of the consent of the rational will comes out in several passages in Rawls, but perhaps most clearly when he writes that "The force of the self's being equal is that the principles chosen must be acceptable to other selves...This means that as noumenal selves, everyone is to consent to these principles."[24] Universal consent is thus necessary, but is consent in idealized sense. It is the consent of our *purely* rational selves.[25]

This explains both why the consent must be unanimous – since, after all, anything capable of commanding the assent of one noumenal self will be capable of commanding the assent of *any* noumenal self. It also explains why the hypothetical nature of the

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[23] See, on this point, Rawls 1982. This is not to say that respecting a person has nothing to do with respecting their preferences. Simply that those with Kantian sympathies are more likely to believe that a person's preferences are neither necessary nor sufficient to provide us with *reasons.*

[24] Rawls 1971, p. 257.

[25] Interestingly, this interpretation of Rawls' appeal of the separateness of persons seems to explain why we find it only in *A Theory of Justice,* and not in Rawls' later works. The argument against utilitarianism based on the separateness of persons, as I have understood it here, is based on a Kantian conception of the person and of the good for a person. In *Theory,* Rawls has no qualms about basing his defense of his principles of justice on such a controversial ground. In *Political Liberalism,* however, Rawls seeks to defend the principles of justice only on those grounds which are accessible to "public reason" – i.e., those which do not presuppose any particular conception of persons or the good. While the later Rawls is thus free to avail himself of *other* arguments against utilitarianism – that it leads to instability, or that it is countenances intuitively unjust distributions of material goods – the argument that it fails to take seriously the distinction between persons seems to be off-limits. The separateness of persons is an argument for *ethical* liberals, not for *political* liberals.

consent is appropriate. Since the consent must be arrived at by *rational* parties under *fair* conditions, only an initial bargaining position which is stripped of much of the contingencies of the actual order of the world will suit Rawls' purposes.

Paradoxically, then, we are left with a situation in which Rawls attempts to respect the separateness of persons by considering as relevant to morality only those features of the individual which she shares in common with all. The motivation for this move is obviously to pay proper respect for a feature of persons which previous theories had neglected – the importance of their freedom not just from the contingencies of social class, but of natural inequality and the hegemony of the particular conceptions of the good into which they are born. Because he takes this robust notion of autonomy to be of primary importance, Rawls must understand the separateness of persons at a fairly abstract level. Gearing principles of justice towards individuals as "*moral* persons," that is, as beings defined by their rationality and freedom to choose ends, requires that we dismiss many of the differences we find among actual persons as morally arbitrary. To do otherwise by, say, allowing local communities to impose their conceptions of the good on their members, would be to mistake a deference to the situations persons happen to find themselves in for a respect for persons themselves.

Understanding Rawls as concerned with separateness at the level of justification helps us to understand an aspect of the separateness of persons which is usually ignored. For most who think about separateness as a criticism of utilitarianism, the focus is on *distribution*. Because utilitarianism is focused exclusively on aggregates, it makes no fundamental difference whether society's good is distributed among all equally or to one

person alone. But persons are not mere *loci* of distribution. They are also *agents*. They have the capacity to form and act on their own conceptions of the good, and this fact is at least as important as facts about their capacity to experience pleasure and satisfaction. Utilitarianism, however, subscribes to a *monistic* and *agent-neutral* theory of value – it holds that there is only one value, and it provides the same basic reasons for action no matter who you are.[26] For the utilitarian, then, whatever leeway one has to pursue one's own projects is *derivative* – dependent on whether or not that pursuit will contribute to maximization of the good, impersonally considered.

One way of being concerned with separateness at the level of justification, then, is to insist that we assign a more fundamental and *direct* importance to these facts of agency than does utilitarianism. This may mean allowing agents to assign disproportionate weight to their own agent-relative values, as is prescribed by Scheffler's agent-centered prerogative, or it may mean following Kant in relating all value to the rational will. In either case, given that we are operating at the level of justification, we owe a defense of principles of justice which is sensitive to the importance of agency for *all* persons, not just those who happen to be in a position to make the best use of it. Respecting our separate agencies can pave the way for constraints, as it does in Kant and Rawls' anti-paternalistic arguments, but it can also pave the way for positive duties of promotion, as with Rawls' difference principle.

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[26] By saying that a reason is 'basic,' here, I mean that it is theory-driven rather than practical. Contingent facts of identity can provide different *practical* reasons for action for different persons, since persons will differ in their capacity to contribute to aggregate welfare. Nevertheless, the basic advice utilitarianism gives to agents is the same: 'maximize utility.'

Nevertheless, there is, as Onora O'Neill has pointed out, a difference between *abstracting* away from certain features of agents, and *idealizing* agents, and those who wish to pursue separateness at this level ought to remain cognizant of this distinction.[27] Abstraction, in the sense of *bracketing* some feature of persons or situations, is unobjectionable and, indeed, unavoidable in moral theorizing. But to idealize is to do more than bracket – it is to *misdescribe*. It is to assert of persons either that they have some features which they do not, or to deny the existence of features which they have. Human beings are rational, but we are also (always) physically and emotionally vulnerable, born into a certain sort of community, and so on. We can understand and sympathize with the Kantian/Rawlsian effort to emphasize the *autonomy* of individuals, but even at the level of justification we cannot simply forget about those features of human beings which are indeed necessary (the fact that we will adopt *some* (perhaps implicit) beliefs about the good), even if their particular manifestations (the particular beliefs we adopt) may be contingent.

Conclusions

Most philosophers have viewed the separateness of persons as bearing tremendous normative importance. But disagreement over *how* it is important has led some philosophers to wonder whether, in the end, it's really important at all. We should resist this skepticism. Some facts are important in ambiguous ways. Sometimes we know something is important without knowing exactly *why*. Even more puzzling are

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[27] See O'Neill 2000, pp. 67-80.

those facts which strike us as important in several different ways. A fact can seem important to us because it has ramifications in several contexts, and often it can be difficult to reconcile those ramifications, especially if we didn't have a clear understanding of the different contexts to begin with.

The importance of the separateness of persons is certainly difficult to get a handle on, but as I have tried to suggest in this paper, this is only because its importance often pulls us in different directions, depending on the level of moral philosophy on which we are focused. Those, like Nozick, concerned with respecting separateness in the *content* of principles of justice are especially concerned to formulate *action-guiding* principles. But the individuals whose actions we wish to guide have histories, and those histories include a complicated web of entitlements and obligations. If we wish our principles to be of any relevance to such persons, we must respect these differences, and this means, to a certain extent, taking individuals as they are.

On the other hand, those who, like Rawls, are especially concerned with separateness at the level of justification, are concerned that showing too much deference to the contingent circumstances of an individual will lead to a neglect of those aspects of her whose importance transcends her particular circumstances. Respecting a person's autonomy sometimes means denying their present requests, and principles of justice which seem to infringe upon separateness (perhaps by their endorsement of coercive redistribution) are often in fact designed to prevent the monopolization of society's resources by a powerful few, or to ensure that *each* individual is given the chance to realize her full potential.

Neither of these approaches need be *the* correct understanding. The facts which comprise our separateness are numerous and complex, and so it is fitting that the normative conclusions which follow from those facts should be equally knotty. The two sorts of separateness must be balanced not only against each other but against the numerous other facts and ideals which we hold important. Thus while our analysis of the concept has given us some insight into the meaning of the separateness of persons, I suspect (though I have not argued) that we may not be able to arrive at a full understanding until we have stepped back from looking at the *meaning* of the concept and begin to look at its *role* within a broader, pluralistic moral theory.

CHAPTER 2
THE UNITY AND SEPARATENSS OF PERSONS[1]

Introduction

It has been said that utilitarianism does not take seriously the separateness of persons. For a utilitarian, the foundation of all moral claims and duties is the maximization of utility. As a result, the utilitarian believes that there is in principle *no* claim held by individuals which is safe from being overridden, should the benefit to be had by doing so grow large enough. In this way, utilitarianism sees society as essentially like an individual. Just as you as an individual are willing to sacrifice certain goods in your life (say, the time you are spending reading this paper) for the sake of greater personal benefits at a later time (the philosophic insight and erudition you will undoubtedly gain), so the utilitarian holds that there is no reason not to sacrifice the goods of one individual if by so doing we can secure greater benefits to other individuals. It is because utilitarianism sees no morally relevant difference between trade-offs *within* a life and trade-offs *between* lives, that it is said to fail to take seriously the separateness of persons.

Appeals to the separateness of persons have been influential among moral philosophers. But do such appeals rest on a metaphysical mistake? Non-utilitarians tend to think of individual persons as metaphysically discrete and significant entities. It is because we think of individuals as an important *unit* that we think respecting the

separateness of persons is important. But according to Derek Parfit, there is no greater unity to the different time-segments of a person's life than there is among the individuals who compose society. Persons are not metaphysically significant, time-segments of persons are. And if persons are not *metaphysically* significant, then they ought not be ethically significant either.

The point of Parfit's argument, then, is to undermine Rawls' argument from the separateness of persons by showing that the assumption that separateness is *morally* significant depends on a false metaphysical presupposition. My goal in this paper is to defend the separateness of persons against Parfit's metaphysical worries. In essence, my claim will be that even if Parfit is right in his metaphysical claims, he is nevertheless wrong about the ethical upshot of those claims. Even if he is right, that is, about the nature of numerical identity, agents nevertheless have a reason to identify with some broad portion of their life as a whole. There are at least two notions of identity at work in our thinking about ethics and practical reasoning, a metaphysical and a practical notion, and it is predominately the latter notion on which appeals to the separateness of persons rely.

The Metaphysical Objection

I want to begin the discussion of Parfit's worry with a story. I must warn you, this is not like most of the stories you hear in philosophy. There are no trolley cars, no

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[1] Thanks to David Schmidtz, Tom Christiano, Jacinda Lanum, Stefan Sciaraffa, and the participants of the Northern Arizona University and University of Arizona Philosophy Department Colloquia for their helpful comments on this paper.

evil demons; the future of humanity is not being threatened and no one has to decide how many people to kill, let die, or otherwise suffer. This is, in fact, meant to be a perfectly *mundane* story. It is the story of Bob. Bob is 43, a middle-manager in a business which does one of those things so boring that most people are surprised to learn there's an entire business devoted to it. He is married, and has two children, whose future well-being occupy a central position in his everyday thought. He is religious, but not overly so. The last time he saw a priest was at his wedding and unless someone asks, he doesn't usually discuss religion, or think about it, very much at all.

Bob, like most people, has undergone some changes over the course of his life. Many of the things which interested him in college – drinking, parties, world peace – now seem to him to be rather childish. Both his parents are dead, and of all the people he knew in his home town, he has kept in contact with only a handful – and only sporadic contact at that. He divorced his first wife eight years ago. Throughout all these changes, however, Bob has remained pretty much the same old Bob.

Or has he? It has been over eight years since the end of Bob's first marriage. In that time, he has grown a moustache, shaved it off, gained weight, dieted, gained the weight back. Skin cells have died and been replaced. And psychologically, he has developed a whole new set of attachments and projects, as his old ones have begun to fade in importance.

And it has been *twenty* years since Bob was in college. If we think Bob has remained essentially unchanged since his divorce, would we be willing to say the same

about the time since his graduation? Is Bob even the same *person* he was when he was in college?

Before you answer, I ought to do something to foreshadow some of the peculiar ethical consequences which seem to threaten if we decide that he is not. Take the case of promising. Suppose that in college, Bob promised to do a favor for a friend. Time passes, and 20 years later the friend calls upon Bob to fulfill his promise. But the person upon whom he calls is middle-manager-Bob, not college-Bob, and what power does college-Bob have to bind another person with his promises? Or take the case of distributive justice. Suppose that while Bob is in college, a universally just and efficiently administered regime comes into power, distributing to each person exactly those resources, opportunities, etc. which distributive justice would demand. College-Bob, having not yet learned the virtues of thrift and savings (or perhaps rather having learned that *his* existence is to be a very short-lived one) squanders his newfound wealth, leaving middle-manager Bob to wonder where *his* share is. Things look equally bad in the case of punishment and restitution. Once we abandon the idea of intrapersonal identity, many of our ordinary moral concepts seem to lose their grip.

So with this in mind, let us again ask: is Bob the same person now that he was in college? It's tempting to think that the answer to this question must either be "yes" or "no." This is an implication of what Derek Parfit calls the "simple view" of the nature of personal identity.[2] On the simple view, our present self is either identical with our earlier or later self, or it is not. Two persons cannot be "sort of" identical. According to Parfit,

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[2] Parfit 1973.

however, the simple view is untenable once we examine more closely the sort of relationship which actually underlies our talk of "identity." What would make Bob the same person he was in college? Is it that there is some persisting *substance* which remains constant even as the various cells in his body die and are generated anew? Is it that there is a sort of "Cartesian Ego" which serves as the persisting subject of Bob's conscious experience? Such views seem at odds with a scientific worldview. What *is* this substance, or ego, and how can we discover them empirically? When we *do* empirically investigate the similarities between persons at different stages of their lives, all we find are various physical and psychological relations.[3] But, as we see in the case of Bob, these sorts of relations are not binary. They can hold to a greater or lesser degree. And indeed, if psychological connections are, as Parfit claims, dependent on how the matter of our brain is organized, and not on the particular matter used, then they can hold even between physically distinct beings. Thus, in abandoning the simple view of identity in favor of one which relies on psychological connectedness, we are left which a theory which says that it is possible for you to be more identical with someone on the other side of the world than with your own later self.

The adoption of such a view is bound to have an effect, Parfit thinks, on the role of identity in our everyday and philosophic reasoning. First, says Parfit, it will make our talk of identity seem less "deep," since, by simple "arithmetic,"[4] there will be less *to* identity on this view. In other words, if identity is just psychological continuity and not some *further* fact about an underlying substance, or ego, then our notion of identity does

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[3] Parfit 1973, p. 139

not have as much to it as we thought on the simple view. And second, because it is less deep, claims Parfit, it will be less *important*. That is, considerations of identity and the distinctness of persons will play less of a role in our theories of morality and practical rationality than they otherwise might.

The conclusion of this argument, for Parfit, is a partial vindication of utilitarianism in the face of Rawls' objection from the separateness of persons. That objection, recall, was grounded in the claim that utilitarianism improperly treats societies as though they were individuals: it is insensitive to the distribution of benefits and burdens across particular *individuals* in just the same way that an individual is, on some conceptions of rationality, fundamentally insensitive to the *times* at which benefits and burdens are distributed throughout her life.[5] In either case, the goal is simply to *maximize* the benefits – distribution is only relevant insofar as it is a *means* to maximization. Because Rawls held that societies are *unlike* individuals, he thought that this similarity in treatment was unjustified. First, individuals are not *unified* in a society in the same way that the different stages of a person's life are unified into a coherent whole. And second, as a result of this lack of unity, individual members of society who suffer losses are not *compensated* by the fact that other individuals have gained, in the way that a single individual is compensated for present hardship by future gain.

But if Parfit's metaphysical arguments are correct, then the difference between individuals and societies is not so great as we thought; for on Parfit's view, individuals

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[4] Parfit 1973, p. 147.

[5] It is insensitive 'in the same way' because in both cases time and place of distribution can have a derivative importance, insofar as distribution in one way rather than another might be a *means* to maximizing the amount of goodness.

really *are* like societies – like societies of persons living together in roughly the same body. And this, he believes, makes utilitarianism more plausible. Individuals are like societies in that there is no greater unity among the various time-stages of an individual's life than there is among the various individuals who compose society. But if we believe *this*, then it is hard to see how we could claim there is a significant difference between the aggregation an individual performs in balancing the costs and benefits within her own life, and the aggregation endorsed by utilitarianism. There is no boundary of "personhood" which the later crosses while the former does not. Thus insofar as non-utilitarian principles of distribution rely for their plausibility on the significance of the boundaries between persons, the success of the Parfitian argument detracts from their credibility. The boundaries between persons are only significant if persons themselves are significant, and if Parfit is correct, they are not.

A Defense of Unity

Parfit is explicit in saying that he only takes his metaphysical arguments to *support* utilitarianism, and not to establish it conclusively. Nevertheless, I question whether Parfit's arguments are suited to play even this supportive role. My primary concern is with Parfit's argumentative move from the relative lack of *depth* carried by notions of identity on his account, to their lack of *importance*. Recall that for Parfit the move from lack of depth to lack of importance is supposed to be one which is independent of the actual extent to which psychological connections hold or fail to hold within or between persons. His claim is not that identity will be less important because

the conditions which constitute identity (once we recognize them for what they are) do not hold in the way or to the degree to which we thought they did. Rather, the claim is that even if psychological connections hold to the strongest degree possible, identity, and as a consequence, those moral concepts which rely on the standard notion of identity, ought to play a lesser role in our moral thinking, simply because, arithmetically speaking, there is less to our notion of identity than we once thought there was.[6]

But why should we accept Parfit's claim that "when some morally important fact is seen to be less deep, it can plausibly be claimed to be less important"?[7] Why not instead suppose that we were mistaken in our understanding of the *nature* of that which we thought to be important, but not in our *judgment* that it was important? Why not assume, that is, that identity is still important, even if the relationships which constitute identity are not what we thought they were?

In general, discovering that there is "less to" some fact in this arithmetical sense does not affect our judgment of its importance. Water is important for human beings. Our judgment that this is so does not seem to depend on the fact that each molecule contains 3 constituent atoms, rather than, say, 1 or 2.

Of course, Parfit makes this claim only in the context of *morally important* facts. So perhaps things are different here. But this seems no more plausible. Take, for instance, any fact about the demands of justice. Pre-theoretically, we all have some core set of ideas about the sorts of things that justice requires and prohibits. These facts serve

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[6] This is why Parfit opts for eliminating principles of distributive justice from morality altogether, when he might instead have elected to apply them to person stages rather than persons.
[7] Parfit 1973, p. 148.

as a starting point for our theorizing, and a check on the plausibility of candidate theories. So, for instance, most everyone thinks that torturing innocents solely for the pleasure of it is unjust. Does the importance of this fact of justice depend of its "depth," in Parfit's sense? Suppose we begin with a pluralistic theory of justice – justice is sometimes about giving people what they deserve, sometimes about giving them what they need, and sometimes simply treating them as equals. Would our understanding of the importance of facts about justice change if we came to believe that in reality justice is about only *one* thing – say, the maximization of utility?

I think it would not. This is not to say that there is no connection between a concept's depth and its importance. But the concept of depth which is relevant to importance is not the arithmetic/ontological one employed by Parfit. It is a *practical* concept. Take the case of free will. Typically, when we first become interested in the question of whether the human will is free or determined, we have something like the agent-causation model of freedom in mind. We want to know, that is, whether agents are responsible for their actions in the sense of being the uncaused cause of those actions. Now suppose someone were to respond to our inquiry by claiming that the will is free, but only in the sense that human intentions are in accord with an agent's deepest desires, regardless of whether those deepest desires were caused by external sources. This, we might think, is a less deep account of human freedom. But the reason it is less deep is not that it presupposes fewer entities, ontologically. It is less deep because it answers fewer of the questions which we thought an account of human freedom ought to answer. We originally became interested in human freedom because we wanted to know if agents are

ultimately responsible for their actions, and this account leaves that question completely unaddressed. We can generalize from this case as follows. When we are interested in a concept in order to answer practical questions, then the sense of depth which will be relevant to the importance of that concept will also be practical. This is not to deny that practical reasons *exhaust* the reasons we have to be interested in a concept. But in those cases where we employ a concept to answer moral questions, the *ontological* depth of that concept is only relevant insofar as it affects its *practical* depth – i.e. insofar as it affects its ability to be relevant to the practical questions in which we are interested.

The general thrust of my argument here is that the primary considerations to be taken into account in judging competing conceptions of identity are *practical,* rather than metaphysical. Now, in general, there is good reason to be suspicious of arguments of this type, when their aim is to establish certain metaphysical claims as *true*. The fact that some practical activity presupposes the truth of some metaphysical claim is no argument at all for the truth of that metaphysical claim. If genuine choice presupposes free will, for instance, this means we *either* have free will *or* we don't make genuine choices – but the dilemma alone does not tell us which of these possibilities is correct. However, the practical arguments I offer are not of this form. It might be helpful to think of the arguments I am offering as aimed at establishing not the metaphysical *fact* of *identity*, but the possibility and reasonableness of the *activity* of *identifying*. What I am attempting to argue is that it is *possible* for us to identify with our lives as a whole, and that, furthermore, it is *rational* for us to do so. My argument is practical, rather than

metaphysical, because I claim that the reasons we have for identifying a certain way are, by and large, practical.

My approach is similar to that taken by Christine Korsgaard.[8] For Korsgaard, the problem of identity begins not just with the question of what constitutes identity *over* time, but with the question of what constitutes identity at any *single* time. Return to the example of Bob. Bob wears many hats: he is a professional, a father, a husband, a friend, a man of faith, and so on. Sometimes these roles come into conflict. What is it, then, that provides any *unity* to Bob's will? How does he ever arrive at a *choice* if all he is is a collection of conflicting motives?

Many have painted a picture of human deliberation based on the model of weighing desires. At any given time, we have numerous and possibly conflicting desires, and when we choose, this is simply the result of one desire "winning out" over all the others. But this account, according to Korsgaard, is not faithful to the way that deliberation looks from the standpoint of agency. When we deliberate, she claims, "it [seems] as if there were something over and above all your desires, something that is *you*, and that *chooses*" which motive to act on.[9] In other words, we are not merely our desires. We have the capacity to choose which of our desires to act on, or indeed, whether to act on our desires at all, or whether we ought to let our actions be guided by some other sort of reason.[10] To take the deliberative standpoint, then, is to *identify* with some way of choosing – to regard some principle as expressive of yourself. Bob might fundamentally

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[8] Korsgaard 1996.
[9] Korsgaard 1996, p. 370.
[10] See, for instance, Scanlon 1998.

identify himself as a parent, as a manager, or more abstractly, as a person who always does what's morally right. It is this identification which gives him a *basis* for choosing to, say, take the day off of work to spend time with his sick child, or to spend his evening catching up on work rather than watching T.V. It is this identification which provides a unity to Bob's will even at a single moment.

But when we ask about the *content* of these principles or ways of choosing, the question of identity over time becomes immediately relevant. The sorts of things we choose, as Korsgaard notes, usually take time.[11] This is true not only in the obvious case of long-term projects – Bob's raising his children successfully takes many years. It is also true for any case where there is a delay between intention and action. Furthermore, we tend to see our actions as interconnected – as contributing to a certain sort of *life*.[12] Bob's pursuit of his career isn't entirely disconnected from his raising a family – the two activities are part of, and shaped by, his overall plan of how to live a good life, and it is *this* goal which is fundamental. The principles by which we unify our conflicting motives at any single time, then, will often be principles which make essential reference to the future. In this sense, we cannot even understand our identity at a single moment without recognizing the unity of our self across time. In other words, who I am right now (even as a time-segment) is determined by the principles I choose to identify with, to guide my behavior. Who I am is determined by who I see myself to be, and if I see myself as more than a mere isolated time-segment – if I see myself as living a *life* – then this is part of what I *am*.

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[11] Korsgaard 1996, p. 371.

Korsgaard's approach thus fits nicely with the *practical* defense of unity I have been defending. But though I am mostly sympathetic to her view, my approach differs from hers in several ways. The most important of these differences concerns the subject matter of her dispute with Parfit. I believe that we should explicitly recognize, in a way that Korsgaard does not, that the practical approach to identity is simply dealing with a different concept than the concept of identity discussed by Parfit. Parfit is clearly concerned with setting out the conditions of numerical identity. In other words, he wants to provide us with principles which allow us to tell, from either the first or third-person point of view, when one person is the same as another. In our discussion, however, I have been concerned with identity only as a sort of reason for action. This is an essentially *first*-person perspective, one which gives great weight to the perspective of *agency*. The point of discussing identity in this context is simply to note that we need to identify with something broader than our present self if we are to form coherent plans of action.

I want to argue that questions regarding the legitimacy of *identifying* are largely independent of questions of metaphysical *identity*. In other words, even if Parfit is entirely correct about the metaphysical nature of identity, it could nevertheless be the case that we have reason to identify with our life as a whole, or some broad segment of it. Take a time segment of Bob, as an example. Whatever time segment we look at will have projects, desires, commitments. Bob's obligations as a father, his desire to finish eating his sandwich, his desire to complete his last assignment before the work day ends,

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[12] Korsgaard 1996, p. 371-2.

give Bob *purpose*, but it is not a purpose which Bob can carry out as a time-segment alone. At the very least, he needs the cooperation of other time-segments. And to the extent that those other time-segments are motivated by the same purpose – to the extent that they are motivated by roughly the same principles of choice – Bob will have reason not merely to cooperate, but to *identify* with those other time-segments. It is as though Bob has been thrust into some mad scientist's labyrinth with some small group of persons, each member of which has some skill vital to the success of the team -- i.e.. survival and escape. There is no doubt that the parties in such a situation are numerically distinct. Nevertheless, there would be a certain practical necessity to Bob's identifying with the group as a whole, stemming form their common purpose and the indispensability of their cooperation. A setback to the group would be a setback to him; the death of one member of the group would entail his own death.

The situation we find ourselves in is roughly analogous. Even as time-segments, we are committed in various ways to doing things which take time – from small scale projects like eating a sandwich all the way up to the largest project of all – living a whole life. We cannot accomplish this goal without uniting with other time-segments. Just as the victim of the game above must identify with his fellow prisoners, so we must identify with our past and future selves if we are to have any hope of achieving our ends. In short, then, the reasons we have for identifying with a broad segment of our lives are not exhausted by the metaphysical considerations put forth by Parfit. Even if Parfit is right about metaphysical *identity*, we still have reasons of a practical sort to *identify* with some broad portion of our life as a whole.

I have claimed that my account of practical identification is largely independent of an account of metaphysical identity, and specifically that it is compatible with Parfit's account. But could this be right? Doesn't Parfit's account show precisely that the sorts of broad identification with one's life as a whole are *unwarranted*, in the same way that, say, an argument for the non-existence of witches would show the identification of certain women as witches in Salem 1692 to be unwarranted?

Metaphysical facts, including the metaphysical conditions of identity, place certain limits on the ways in which we can reasonably identify ourselves. My identification of myself as a being with two hands is reasonable if I have two hands, unreasonable if I do not. If I identify myself as psychologically or physically continuous with Napoleon Bonaparte, then I am simply *mistaken.* But notice that not all identifications are like this. The above sorts of identification are essentially descriptive. They are making a claim of about some fact of identity which is subject to being true or false, depending on how the metaphysical facts turn out. But sometimes our acts of identification are *performative* rather than *descriptive.* To identify oneself as a supporter of human rights is not to claim that certain metaphysical facts obtain – it is to *take on* as one's own the responsibilities, beliefs and dispositions associated with that identity. When we identify in this performative sense we endorse a certain identity and thereby *make it the case* that certain truths hold of us.[13] This sort of identification does not *describe* a factual relationship – it *constructs* one.

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[13] Often these two senses of identification will be intertwined, as when identify ourselves as someone's friend. Part of what it is to so identify is to claim that certain factual relations hold – perhaps that one communicates with the other at least every so often, or that one would as a matter of fact be willing to undergo certain burdens for the other's benefit if the situation came up. In this way the identification of

The act of identifying with one's life as a whole, then, is best thought of as a mixture of these descriptive and performative types of identification. To identify with one's past or future self is *in part* to claim that one bears certain physical and psychological relations with those selves – to claim that we are metaphysically identical with those selves, in Parfit's complex sense. But this is only half the story. When I say that I identify with the student I was as an undergraduate, I need not be saying merely that certain physical and psychological connections exist. I might also be saying that I endorse a certain sort of relationship with my earlier self – that I sympathize with his projects and regard their success or failure as my own, that I hold myself accountable for his actions, and so on. Our identification with our earlier and later selves is often performative – it is to accept and thereby construct a whole network of moral and practical relationships. What makes it rational to so identify is not the fact, or not merely the fact, that some metaphysical relation of connectedness holds between the two selves. What makes it rational for me to identify with my earlier self is that I am moved by essentially the same principles of choice as he, and that I need his cooperation in pursuit of our common goal: living a whole life.[14]

We are now in a position to ask how the distinction between the metaphysical and practical senses of identity affects Parfit's conclusions about distributive justice. A lack of attention to these two senses of identity has made Parfit's ethical conclusions seem to

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oneself as a friend is partially descriptive. But it is nonetheless also partially performative. Part of what one does in identifying oneself as a friend is to agree to view one's relationship with the other in a certain way, and thereby take on certain obligations.

[14] This is not, of course, the only thing that makes it rational. Various pragmatic factors are relevant as well. One such feature, suggested to me by Stefan Sciaraffa, is that *others* regard my present self as

follow more reasonably from his metaphysical arguments than they actually do. For it seems, on reflection, that what matters to questions of distributive justice is not (or at least not merely) the metaphysical identity discussed by Parfit, but rather the capacity to *identify* as a source of reasons. Distributive justice is, after all, at least in part about giving people the things that *matter* to them. It might not mean giving them just *anything* that matters to them, and indeed it might mean giving them only what matters to them as a *type,* rather than as tokens. But any plausible candidate for the "currency" of distributive justice – pleasure, preference-satisfaction, material resources, etc. – will at least put itself forward as being a theory about how things which are *important* to people ought to be distributed.

But if the arguments I have given above are correct, then what matters to people cannot be determined simply by reference to an isolated time-segment. What matters to people is a function of the principles of choice with which they identify – their broader life-plans, or sub-life plans. People identify themselves as agents acting over time in the pursuit of various long-term goals. Even if Parfit is correct, then, in claiming that metaphysically, all we are is a series of discrete selves occupying roughly the same body, it will nevertheless be the case that what matters to each of those discrete selves is bound up with their identification with some larger segment of a whole life. Thus to the extent that distributive justice is about giving people what matters to them, it will need to take that identification, and the practical unity it establishes, seriously.

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identical with my past and future selves. Indeed, if we are to take seriously notions of the social

Separateness

Thus far, I have argued in favor of the *unity* of persons. But what about the idea with which we began – the *separateness* of persons? If segments of lives are unified by the necessity of identifying with some overarching life-plan, or sub-life-plan, then what does this imply for the sorts of unity we find (or don't find) among *groups* of people?

Part of the difficulty with Korsgaard's approach to the practical defense of unity is that it seems to provide for *too much* unity in this respect. Recall that for Korsgaard, unity within a life is provided by identifying with some principle of choice. *Who I am*, is defined by the sort of principles which govern my agency – I am a moral philosopher, someone who cares about his fiancée, his family, and various other particular projects -- and as a result I am disposed to act in certain ways. But if the principles which govern my agency constitute my *identity,* then to the extent that these principles are shared by others, so is my identity. To take one of Korsgaard's own examples, if the state is acting as my agent – if it is an extension of my agency – then I have *prudential* reasons to care for its future. The state is partially *me.*

Part of what I have tried to argue in this paper is that there are two senses in which we can take claims of this sort. Read as a claim about the sort of *reasons* we have, claims like this seem quite plausible. If the state really *is* acting on my behalf, then it does in fact appear that I have prudential reasons to care about its endeavors. Read as an account of *numerical* identity, however, Korsgaard's claim seems plainly false. *I* do not live on simply because some physically and phenomenologically distinct person (or

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construction of identity, this might be more than a mere pragmatic consideration.

organization) survives, and happens to be governed by the same principles of choice. The most natural way of understanding *that* sort of situation is to say that it is one involving two distinct entities, both of whom accept the same reasons for action. And this is precisely why we ought to speak of reasons for identifying, rather than metaphysical identity. On my account, it is true that principles of agency provide us with reasons to identify with our future and past. I identify with the person I was as a college sophomore partly because I am moved by many of the same sorts of concerns as he was – political, philosophic and personal. These reasons are the sort which we can share with other persons or organizations, and which can serve as reasons to further the interests of others, and indeed to *identify* with those others.

But these need not be the *only* sorts of reasons we have. Suppose we were to come up with a defense of something like the common-sense view of metaphysical identity – perhaps one which built upon the idea of physical and phenomenological continuity. It is quite possible that this sort of identity too could provide us with reasons for action. The recognition of reasons of this sort is not *incompatible* with recognition of the sorts of reasons provided by identification with the state, or with other persons. We simply have to recognize that they are reasons of a different sort. We have reason to promote the state because the state, though a distinct entity from us, is guided by the same sorts of principles as us. This identification based on common principles often applies to our future selves as well, but in the case of our future selves we have a *further* reason for concern – our future self is numerically *identical* to us. The fact that we

identify with someone provides us with one sort of reason for action, the fact that we are *identical* to that person provides us with an altogether different sort.

Conclusion

The practical implications of my argument are largely in accordance with common-sense morality. When deciding how to distribute some good, people's histories (and futures) matter. The fact that African-Americans have been harmed by institutional racism is relevant for the ways we ought to treat them in the future. The fact that someone will make good on our trust in the future is reason to give it to them. And the fact that certain distributive policies produce wealth for the many only by leaving a minority in poverty tells against the justice of such policies.

If Parfit is correct about the nature of metaphysical identity, then we will need some account of the underlying metaphysics of these obligations. We will need to ask, for instance, about the sort of numerical identity which holds between the maker and the keeper of a promise. But one way of phrasing the main argument of this paper is that considerations about the *metaphysics* of obligation are largely separate from questions about the *sense* of obligation. The psychology of identification is enough to tell us that some debt holds between two persons, even before we come to a full understanding of the *reference* of the term "person."

But we should not take Parfit so lightly. If he is correct about the metaphysical nature of identity, and if we must rely instead on the notion of practical identity to ground many of our common sense moral notions, this will have no small effect on the moral

position in which we are left. Practical identification is a relationship which holds largely independent of metaphysical identity, and is thus a relationship which can hold not only between time-segments of a life, but between time-segments of *different* lives. Part of the ethical implication of my position, then, seems to be an increased room for aggregation between *metaphysically* separate persons, so long as those persons practically identify with one another to a sufficient degree. This is almost certainly not enough to satisfy the universalist utilitarian, but it renders intelligible our tolerance for trade-offs within families and close-knit communities, and perhaps even within such larger political entities such as nation-states.

And as for the committed utilitarian, the present theory is not at a complete loss. For if a person is genuinely able to reach the level of impartial sympathy required to identify with all sentient beings, then it is permissible in our dealings *with her* to make the sorts of trade-offs utilitarianism demands. Of course, the relationship of identification, unlike that of identity, is not reciprocal. Your identification with the whole of sentient creation is no guarantee that *it* identifies with *you*. Thus until such time as a some greater portion of the world's population becomes capable of this universalist identification, the trade-offs permitted might tend to be a bit one-sided. Nevertheless, the theory of practical identification is able to explain the permissibility of at least *some* utilitarian-style aggregation in a way which is compatible with the intrapersonal unity, and interpersonal separateness of human lives.

But what does this say about utilitarianism's truth as a *universal* and *categorical* theory? In a sense, all I have tried to do in this paper is criticize one line of argument in

support of utilitarianism. We cannot support utilitarianism, I have claimed, by appealing to the lack of significance of the boundaries between persons. Now, by itself, this claim is quite compatible with utilitarianism's being *true* as an ethical theory. In response to my claim that the separateness of persons matters, a utilitarian could simply respond that it *does* matter, but only as a *means* to the maximization of utility. Because people identify with their lives as a whole, in other words, the utilitarian must take account of claims of desert, but only because people's utility is affected by their belief that desert matters.

A full argument as to why this is not enough will have to wait for later chapters. For now, however, I will point out that I think one important feature of the argument I have put forward in this paper is its insistence on taking the perspective of *agency* seriously. I have claimed that looking at the question of identity from the perspective of a deliberating agent provides reasons of a sort which are often overlooked when thinking about the question from a purely third-person perspective. I will close this paper, then by foreshadowing a conclusion for which I argue more fully in later parts of my dissertation – that taking the perspective of agency *fully* seriously is something that utilitarianism does not have the theoretical apparatus to do. The same sort of argument which led us to establish the unity of persons, then, might in the end also lead us to an account of the sorts of moral reasons we have which outstrips the narrow, third-person perspective of utilitarianism.

CHAPTER 3
THE PERSONAL POINT OF VIEW

Introduction

When philosophers say that utilitarianism fails to take seriously the separateness of persons, they are usually referring to the *distributive* implications of the theory. Utilitarianism is concerned only with the maximization of aggregate utility, no matter what effects this may have on any particular individuals. In principle, then, individuals have two fates to fear under utilitarianism: maximizing aggregate utility might require that they bear exceedingly large burdens, or simply that they be excluded from (or shortchanged in) the distribution of benefits. This is a flaw, critics argue, because individuals have claims on others which cannot be overridden by appeal to overall utility. To suppose that maximization is all we have to consider in distributing goods within a society, is to ignore the claims held by the individuals who compose that society. It is to ignore the separateness of persons.

As important as these considerations of distribution are, however, there is another element of the separateness of persons which has received substantially less attention. Persons are beneficiaries, or consumers, of value. But an exclusive focus on this element of persons suggests too passive a picture of human life. Persons are not mere 'receptacles' of value. They are also agents, who form intentions, commitments, and plans of life. And while it is true that they form, pursue, and experience these projects within a complex network of social relations, nevertheless in certain key respects, such as

the way in which they give meaning to our lives, they are intensely *personal* and individual.

My purpose in this paper, then, is to explore our separateness as agents. Variations of the question in which I am interested have been addressed by philosophers under a variety of different labels. Some have described the subject of concern as 'the personal point of view,'[1] others have thought of it in terms of the 'agent-centered' or 'agent-relative'[2] aspects of morality, and still others think of it as a concern with 'personal integrity.'[3] I believe there is much to be gained from each of these discussions taken in isolation, but immeasurably more when we recognize the relation they all bear to our original worries regarding the separateness of persons. I will argue, taking as a starting point the theories of Bernard Williams and Samuel Scheffler, that respecting our separateness as agents seriously has radical implications, but only once we recognize that it is not, strictly speaking, a moral principle, but a *pre*-moral one – one which limits the extent to which even morality itself can override an agent's commitments to her own projects. This approach to the separateness of persons suggests that a respect for our separateness of agents might actually be more fundamental than a respect for our separateness as beneficiaries.

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[1] See Scheffler 1982.
[2] See Nagel 1970.
[3] See Williams 1973.

Williams

No one in philosophy has done more to advance these concerns than Bernard Williams. In his tremendously influential "Critique of Utilitarianism," Williams takes issue with one implication of the fact that utilitarianism sees aggregate well-being as the sole legitimate end of human action. Utilitarianism, Williams notes, formulates principles of right action by looking at value *impersonally* – by summing up the value of various states of affairs for various individuals and demanding that we pursue that action which leads to the state of affairs where that sum is greatest, regardless of *whose* happiness is thus promoted, and whose is sacrificed. This strategy is meant to take persons' projects seriously. States of affairs are, after all, judged good or bad solely on how they fare in satisfying the desires of the persons who inhabit them. But according to Williams, such a strategy does *not* take projects seriously. Utilitarianism demands that persons stand ready to abandon their projects whenever aggregate utility will be best served by doing so. And this, Williams thinks,

> is to alienate him in a real sense from his actions and the source of his action in his own convictions. It is to make him into a channel between the input of everyone's projects, including his own, and an output of an optimific decision; but this is to neglect the extent to which *his* actions and *his* decisions have to be seen as the actions and decisions which flow from the projects and attitudes with which he is most closely identified. It is thus, in the most literal sense, an attack on his integrity.[4]

For Williams, then, the importance of personal projects cannot be understood fully from the impersonal point of view. But it is not clear whether Williams is making a

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[4] Williams 1973, pp. 116-7.

psychological or a theoretical point. One way of understanding his worry is as claiming that utilitarianism asks agents to maintain an implausible psychological balance between a commitment to their own personal projects and a readiness to maximize aggregate utility, no matter what. We might understand Williams as claiming that agents simply cannot do this – that they cannot really be committed, for instance, to their spouse, while at the same time be willing to abandon them should maximization demand it.

Such a claim rings true, but it is open to the defense that utilitarianism does not actually demand such psychological balance. Utilitarianism, one might say, is a method of evaluating actions and states of affairs, not a decision procedure. If it is a psychological fact that people cannot have fulfilling relationships with their spouses, or derive genuine satisfaction from their projects, without being deeply *committed* to them, then this is something which utilitarianism will have to take into account, but only as a *means* to the maximization of utility, and not as a consideration against maximizing. If it is true that happiness requires commitment, then commitment (as a way of deciding how to act) will be endorsed on utilitarian grounds. All that utilitarianism demands is that we actually maximize utility; whether we do so by consciously aiming at maximization is irrelevant.

Williams could, however, be making a deeper point. Even if we concede that utilitarianism can account for our personal commitments in a variety of circumstances, it may be that it does so in the wrong way. Utilitarianism can accommodate personal commitments only in a somewhat roundabout and contingent matter. Commitments are justified only insofar as they are necessary for maximization. But perhaps the idea that

morality is entirely about maximizing impersonally construed value is itself flawed. If the personal point of view is of central importance in morality, then perhaps this ought to be reflected by giving commitments a more *direct* and *primary* role in our moral theory.

In an earlier article, Williams describes this concern for integrity as one aspect of a broader concern with the separateness of persons. Given a certain state of affairs, it does not matter to the utilitarian how benefits and harms are distributed among particular persons. But neither does it matter which particular persons *create* states of affairs. Or rather, it does not matter in any way which is not factored into the description of the state of affairs itself. If, for example, utility is maximized by your performing some heroic action which requires betraying your spouse, then whatever special problems there may be in *your* doing this (rather than someone with whom your spouse bears no special relation) have already been taken account of in our calculation of the value of the resulting state of affairs. Your commitment to your spouse is just one more value to be weighed impartially against all the other values in the universe. Whatever reason for action it gives you is precisely the same reason it gives everyone else.[5]

According to Williams, however, this sort of account of our reasons for action does not fully capture the personal importance of our projects and commitments. All of us have some basic set of ground commitments which quite literally give us a reason to go on living. Some of us prefer to live because we want to raise a family, some of us want to see the world, and perhaps some of us want to experience a maximum amount of

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[5] Even if, as a matter of contingent fact, you happen to be in a better position to press the causal levers relevant to that value. Your commitment to your spouse is not a special reason for action; your ability to affect aggregate utility by means of that commitment is.

pleasure. These commitments are fundamental in the sense that if we were to abandon them, it would be unclear what reason we have to go on at all. But this is precisely what Williams fears utilitarianism might ask us to do. And this, Williams thinks, is absurd.

> There can come a point at which it is quite unreasonable for a man to give up, in the name of the impartial good ordering of the world of moral agents, something which is a condition of his having any interest in being around in that world at all.[6]

Williams goes on to argue that as separate persons we are quite often committed to separate ground projects. In demanding that we always subordinate these projects to the greater good, utilitarianism, is ignoring our separateness as agents. It is ignoring the fact that *who we are* matters for deciding what we should do in a way more direct and fundamental than the utilitarian can allow.

Scheffler

Samuel Scheffler, in his book, *The Rejection of Consequentialism,* puts forward an account of separateness which is similar in many ways to Williams'. In this work, Scheffler sets out to defend a form of "hybrid" moral theory which will correct what he sees as the two major defects of utilitarianism: its failure to account for the demands of distributive justice, and its failure to accommodate personal integrity.[7] Both of these flaws, Scheffler claims, are simply "two ways of making the same supposed mistake: two different ways of failing to take sufficient account of the separateness and nature of

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[6] Williams 1981, p. 14.
[7] Scheffler 1982, chap 1.

persons."[8] They differ, however, in that the worry about integrity, because it is based on utilitarianism's theory of the right, is one which is common to all consequentialist theories, while the worry about distributive justice, since it is based on utilitarianism's theory of the good, need not be. In other words, the reason utilitarianism erodes an agents' integrity is that it asks her to abandon her personal projects whenever doing so is the best way to maximize impartial value. And this would be true no matter what value utilitarianism had us maximize: whether it be pleasure, interest-satisfaction, or the level of primary goods of the least well of representative member of society. On the other hand, the worry that utilitarianism disregards distributive justice, as I have noted in a previous chapter, stems from its theory of the good – the particular *way* in which it ranks states of affairs. A theory which ranked states highly based on the level of equality, or based on a principle of maximin, would not have the same problem as utilitarianism.

If Scheffler is right in his diagnosis of utilitarianism's failures, then a defensible moral theory can account for concerns about distributive justice within a consequentialist framework, but will need to depart from that framework in order to properly address the concern about integrity. Scheffler does not spend much time on the worry about distributive justice, though he argues that some form of prioritarianism is better suited to accommodate the worry than more strict versions of egalitarianism or maximin. The bulk of his argument is aimed at establishing the need for, and sufficiency of, what he calls agent-centered prerogatives to address the worry about integrity.

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[8] Scheffler 1982, p. 12.

To assess the suitability of Scheffler's suggestion, we first need to recall that Williams' worry about integrity is not (or at least it is not *only*) that consequentialism will, as a matter of fact, always or even often ask agents to abandon their projects. Rather, the worry is that even if consequentialism does allow agents to pursue their projects, it does so for the wrong reason. Personal projects are, for Williams, a *direct* source of value for the agent who holds them. Their value does not depend on, and is not fully captured by, their contribution to aggregate value.

Scheffler's concern with integrity is essentially similar, though it is even more clearly theoretical in nature. Scheffler is more sympathetic than Williams to arguments which purport to show that, as a matter of contingent fact, consequentialism does *not* often require agents to abandon their important personal projects.[9] As a result, all Scheffler can say is that consequentialism holds that agents' projects are *in principle* dispensable – that the permissibility of pursuing them depends "on the state of the world viewed from an impersonal standpoint."[10] But as Scheffler notes, the only theory which is *not* susceptible to such a charge is egoism. Part of the *purpose* of morality, one might think, is to constrain one's personal projects by means of considerations derived from an impartial perspective on the world. The objection from integrity cannot simply amount to a worry about the in-principle dispensability of an agent's projects, then, for it is not merely utilitarianism but *all* moral theories which limit the pursuit of personal projects in this way.

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[9] See, for instance, Railton 1984.
[10] Scheffler 1982, p. 8.

Like Williams, then, Scheffler's real objection has less to do with the sorts of actions which consequentialism permits or forbids than it does with the way in which consequentialism assigns values to the projects and states of affairs which motivate those actions. The problem, Scheffler claims, is that within utilitarianism there is

> A discrepancy between the way in which concerns and commitments are *naturally* generated from a person's point of view quite independently of the weight of those concerns in an impersonal ranking of overall states of affairs, and the way in which utilitarianism requires the agent to treat the concerns generated from his point of view as altogether dependent for their *moral* significance on their weight in such a ranking.[11]

In short, Scheffler believes that there is a certain *independence* to the personal point of view, and that consequentialism fails to take this independence seriously.

Thus Scheffler believes that we cannot respond to the worry about integrity without abandoning consequentialism to some extent. The departure he endorses is the inclusion of an 'agent-centered prerogative' which will allow agents "to devote energy and attention to their projects and commitments out of proportion to the value from an impersonal standpoint of their doing so."[12] This strategy, he believes, recognizes the importance of the personal point of view in personal agency and motivation, and reflects the importance of this fact by freeing agents from the demand that their actions always be optimific from an impersonal perspective.

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[11] Scheffler 1982, p. 9.
[12] Scheffler 1982, p. 62.

Criticisms

Both Williams and Scheffler have come under criticism for their reliance on the personal point of view in their anti-consequentialist arguments. One of their most influential critics has been Frances Kamm. In her *Morality, Mortalty, vol. 2*, Kamm defends a view in which significant departures from consequentialism are justified out of respect for the basic *moral status* of individuals. Like Scheffler's and Williams' concern with the personal point of view, a respect for this status justifies granting persons a prerogative to pursue projects which do not maximize the impartially-construed good. Unlike Scheffler, however, Kamm also endorses agent-centered restrictions, such that on her view some actions such as killings may be impermissible to an agent even if the result of that action is to minimize the number of similar actions which occur.

Kamm's criticisms of Williams are brief. Her basic worry deals with the relationship between morality and an agent's basic projects. Williams' concern for integrity, according to Kamm, can be understood as a concern that utilitarian morality will divide us against ourselves (i.e. that it will ask us to engage in actions which we believe to be morally wrong, treating our pre-utilitarian impulses against, say, killing innocents as a mere theoretical 'hangover'), and that it will render us unable to pursue a "continuing commitment" to our projects.[13] But, Kamm notes, the utilitarian is not asking agents to abandon their personal projects. Personal projects are, after all, the very stuff from which utility is generated. Rather, the utilitarian is asking agents to *regulate* their personal projects by a *higher* project – the utilitarian project to maximize happiness.

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[13] Kamm 1996, p. 211.

The fact that morality plays this supreme regulative role means that it will sometimes demand that agents abandon or limit their pursuit of some of their other projects, but this is not a unique feature of utilitarianism – even Kantianism assigns this "dominant regulative function" to morality.[14]

Kamm spends more time with Scheffler. In general, these worries concern the relationship Scheffler seeks to draw between the personal point of view, prerogatives and restrictions. Some of these criticisms suggest that the connection between these three elements cannot work in the particular way that Scheffler intends them to. One such problem arises from the combination of Scheffler's endorsement of prerogatives and his rejection of restrictions. Kamm points out that Scheffler seems to believe both that a) an agent is justified in giving greater weight to his own projects than would be justified from a purely impersonal point of view (this is the substance of his agent-centered prerogative), and b) that a concern for maximizing the impartially-construed good can sometimes justify violating an individual's rights (in order to prevent a greater number of similar rights-violations – this is the substance of his rejection of restrictions). But if prerogatives take precedence over maximizing the greater good, and if maximizing the greater good takes precedence over the non-violation of individual rights, then can we not conclude that prerogatives take precedence over the non-violation of individual rights? And if so, Kamm asks, does this mean that I may "kill someone to complete my non-optimific project?"[15] If prerogatives justify our failure sacrifice our projects for the

[14] Kamm 1996, pp. 211-12.
[15] Kamm 1996, p. 213.

promotion of the greater good, do they not similarly justify our failure to sacrifice our projects for the sake of the non-violation of rights?

Kamm here raises a difficult worry for Scheffler, but it is, I think, one which is derivative from a more fundamental concern – that a respect for the personal point of view really doesn't support prerogatives and undermine constraints in the way Scheffler believes. Let us now look closely at this argument.

Scheffler characterizes the personal point of view as "the tendency to care about things independently of, and out of proportion to, the value they have from an impersonal point of view."[16] But the phrase "out of proportion to" raises a crucial question for Kamm. Does the justification of a prerogative depend on the fact that people *actually* value their own projects out of proportion to their weight from an impartial point of view? Or does it depend on their *capacity* to do so?

Kamm thinks that if his view is to be at all plausible, Scheffler must intend the latter interpretation.[17] We have the prerogative to give our projects extra weight in the moral calculus not because our preferences *actually* differ from what would be required from an purely impartial point of view, but because our preferences *might* so differ. It is possible that we might *want* to do only that which is required by impartial morality, that maximizing the impersonally construed good is in fact our highest personal project. But even if that were the case, we would still have the prerogative to act in a non-maximizing way if the focus of our projects should turn to more provincial concerns.

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[16] Scheffler 1982, pp. 56-58.
[17] Kamm 1996, p. 226.

In this way, Kamm seems to think that basing the justification of prerogatives on the projects people happen to have gives agents too *little* freedom, for, she thinks, the existence of a prerogative ought not to depend on the projects we actually happen to have, but rather on the projects we have the *capacity* to have. Our prerogative to pursue our own projects remains the same, whether the content of those prerogative coincides with what is required by impartial morality or not.

In another way, however, Kamm thinks that basing the justification of prerogatives on an agent's projects gives agents too *much* freedom. After all, in our ordinary moral thinking, the mere fact that you need something in order to pursue your project does not give you a right to it. The thing that you need might belong to someone else – it might, indeed, *be* someone else. Scheffler might wish to claim that there is a difference between *using* someone else as a means to one's own projects versus merely refraining from positively contributing to that other person's projects, and that his prerogative justifies only the latter. But if the justification of prerogatives is based on the importance of respecting the personal point of view, then the importance of this distinction stands in need of justification. For after all, Scheffler (appropriately, in my view) does not build into his conception of the personal point of view any restrictions on the content of the projects contained therein. It is possible that the personal point of view might contain both projects which require nothing more than being left alone by others *and* projects which require the coercive use of other individuals as a means to their success. If Scheffler believes it is important to respect the former sort of project (via the mechanism of the prerogative), why does he not feel similarly about the latter sort?

Kamm believes that this problem is a result of Scheffler's putting too much of a justificatory burden on the personal point of view. To correct it, she says, we must at the very least supplement the idea of the personal point of view with "some prior idea of *entitlements*, which function as constraints on the scope of the prerogative and also help generate prerogatives. These entitlements are prior in the sense that they stem from some source other that the strongest concerns people have from their personal points of view."[18] On Kamm's entitlement-focused view, she says it will still be "permissible to act on the basis of one's personal point of view because there are things over which one has legitimate control, but this does not mean that one acquires legitimate control over things because one cares about them from one's personal point of view."[19]

Ironically, then, Scheffler's attempt to rescue consequentialism from worries about the separateness of persons appears to fall victim to precisely the same concern. His account of agent-centered prerogatives frees agents from the demands of impartial morality and allows them to pursue their own projects, and thus recognizes persons' separateness as agents, but at the same time by seeming to allow agents *too much* freedom it ignores their separateness as potential *objects of agency*. It allows agents to use in pursuit of their projects not only that over which they have a legitimate claim, but seemingly anything at all, even if those things are other, separate agents. Unchecked by moral restrictions, Scheffler's agent-centered prerogatives seem to turn each individual into a means for the satisfaction of every other individual's ends.

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[18] Kamm 1996, p. 227, emphasis added.
[19] Kamm 1996, p. 227.

Missing the Point?

Kamm's criticisms seem to be, as far as they go, essentially correct. Nevertheless, I still believe that Williams and Scheffler were right to focus on the importance of the personal point of view in thinking about morality. They may, however, have deliberately refrained from interpreting the idea in its most radical form. In this section I will argue that this is a mistake. Kamm's criticisms of Scheffler and Williams are effective only because she focuses on a "less radical" interpretation of the idea of respect for the personal point of view. Understood in its correct, radical form, the idea of respect for the personal point of view is strong enough not only to survive the criticisms raised by Kamm, but to explain the insights contained within these criticisms and show how they can be accommodated by the normative theory of which it is the core.

Essentially, the problem is that Kamm views a respect for the personal point of view as operating as a principle *within* morality instead of as a principle which serves as a *constraint* on the binding force of morality as a whole. In criticizing Scheffler, Kamm takes herself to have shown that if we take a respect for the personal point of view to be the fundamental principle of morality, unaccompanied by an equally fundamental principle of entitlement or moral constraints, then we must conclude that morality not only licenses an agent's freedom to refrain from maximizing the good, but also licenses her using other agents (or what rightfully belongs to other agents) without their consent. Since, she concludes, morality clearly does *not* license such coercive treatment of other agents (at least in any general and unqualified way), Scheffler's principle cannot stand alone as the fundamental principle of morality.

Kamm's strategy is thus to show that if we accept Scheffler's (unconstrained) principle as part of morality, then other principles which we know are part of morality are excluded (or other principles which we know are *not* part of morality are *mandated*). This argument hinges on the (not unreasonable) assumption that prior to assessing Scheffler's argument, we have some idea of the content of morality. We know that it (generally) forbids killing, that it (for some reason) approves the reward of desert, that it (again, for some reason) views happiness as a desirable goal, and so on. Morality is a very roughly determinable set of normative principles, the content of which is a bit hazy around the edges, and the ultimate justification of which is very unclear indeed.

What happens, then, if we understand Scheffler's argument as relying upon this same assumption – that the content of morality is roughly well-known, at least by most anyone doing moral philosophy for a living. And instead of proposing that the principle of respect for the personal point of view is a fundamental principle of *morality*, we read it as proposing that it is a fundamental normative principle which serves to limit the normative force morality (as a roughly determinable set of principles) has on us as agents? Understood this way, the prerogative justified by a respect for the personal point of view need not *itself* be a principle of morality, rather it is a principle which says that we have a normative (but non-moral) reason to pursue our projects out of proportion to their importance from the general point of view, *even if morality says otherwise.*

Let me be clear that I do not put this forward as an interpretation of Scheffler's actual intention in arguing as he did. It might (though I do not wish my own argument to depend on this) be closer to an interpretation of what Williams intended to argue.

Williams, after all, explicitly stated that his arguments regarding the personal point of view were aimed against not only utilitarianism, but Kantianism as well.[20] The target, for Williams, seems to be not this or that particular moral theory, but rather the more general idea shared by most moral theories, that in any conflict between personal projects and impartial morality, "impartial morality...must be required to win."[21] For Williams, respecting the personal point of view is not a matter of finding freedom *within* morality to pursue one's projects, it is a matter of finding freedom *from* morality to do so.

This talk of "freedom from morality" may seem strange, especially to someone with internalist intuitions about morality. But this strangeness stems from an ambiguity in our concept of morality. Sometimes, and this is how many internalists use the term, we speak of morality as referring to the most general sort of normativity – morality is "what we ought to do," all things considered and in the broadest sense. Morality, on this conception, is fundamentally a study of practical rationality, and often those who hold this view see no distinction between the two subjects – the moral thing to do is simply that which we have most reason to do. This collapse of morality into practical rationality is not always complete – sometimes morality is viewed as a sub-class of practical rationality. That is, sometimes morality is viewed as the study of what reasons we have for action in particular spheres of life – those dealing with interpersonal conduct, or with significant decisions about one's overall plan of life, etc. What all these views of morality have in common is that they view morality as *conceptually connected* to

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[20] Williams 1981, p. 14.
[21] Williams 1981, p. 14.

rationality – moral reasons are either equivalent to practical reasons, or are a proper subset of them.

A different view of morality emerges if we look at the subject from a more empirical perspective. Morality, on this view, is a system of social norms. The scope and content of these norms are somewhat flexible from society to society and from era to era.[22] One of the ways in which the scope is flexible is the extent to which morality is seen as exclusively about interpersonal relationships vesus whether it covers how one ought to live one's own life as well. One of the criticisms put forward by virtue theorists is that modern moralities have been too-focused on the other-regarding aspects of morality. And, as I shall argue below, the way we use moral language seems to confirm this. Nevertheless, what is essential to the view I am defending is not the particular scope or content of moral rules, but rather their logical status. Moral norms, on this view, are primarily seen as a social phenomenon, whose relationship to practical rationality is contingent. On this view, in other words, even if we establish that something is a genuine moral rule, a question still remains as to whether we have reason to abide by it.[23]

Morality as a Social Practice

Let me now set forth the beginnings of a defense of the idea of morality as a social practice. I will begin by defending the claim that the content of moral terms is a)

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[22] Though it is easy to overstate the extent to which this is so.

[23] To stress, the matter under dispute is not whether the fact that something is a moral rule provides us with *overriding* reason to act as it demands, but whether they provide us with *any reason at all* to do so. Internalists can concede that moral reasons may be trumped by other sorts of reasons, but they must still insist that even when overridden, the moral reason is still a *reason*, and still ought to have some impact on our deliberation.

primarily descriptive, and that b) this descriptive content is primarily other-regarding. Let me again stress that I take the former goal to be much more central to my project than the latter. If morality genuinely is a social practice, then we ought to expect the content of its norms to change over time. It would not be surprising if one of those changes was the extent to which self-regarding behavior was covered by the norms of morality.

As one attempt to demonstrate the primacy of the evaluative (over the descriptive) component of the term 'good,' Hare famously asks us to consider the case of the cannibals and the missionary.[24] A missionary on a cannibal island comes to know that the cannibals have a term, 'good,' and that they use this term as their "most general adjective of commendation." [25] But they apply this term in a strange way. Instead of calling gentle, kind, self-sacrificing actions good, the cannibals use the term "to commend people who are bold and burly and collect more scalps than the average."[26] The term 'good' *describes* different sorts of characteristics in the cannibals' language than it does in the missionary's. If the missionary understood moral terms primarily according to their *descriptive* content, he would be confused at this usage, and have difficulty in attempting to communicate with the cannibals. But Hare thinks it is obvious that the missionary *would* be able to communicate with the cannibals, and claims that this is only possible because the *evaluative* meaning of the term is the same in the two languages, and because it is the evaluative meaning of the term which is primary.

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[24] Hare 1963, pp. 148-150.
[25] Hare 1963, p. 148.
[26] Hare 1963, p. 148.

I disagree with Hare. I think that the content of 'good,' at least in its distinctively *moral* sense, is primarily descriptive, and that this descriptive content generally has to do (in today's language) with other-regarding behavior. Let us revisit Hare's example. To modify it somewhat, suppose that we are somewhat unsure as to which phrase is the cannibal equivalent for the English phrase 'morally good.' One natural contender seems to be '*shnice*,' a word which is used to publicly praise other-regarding actions. Schoolchildren are taught that honesty is *shnice*, that *shnice* people help others in need, and that it is never *shnice* to eat fellow tribe-members with whom one does not agree. The government awards certificates of *shnice*-ness to those who make significant contributions to the public good at personal expense, and the cannibal newspapers print fawning editorials in adulation of the fellow-spiritedness and nobility of those who have sacrificed their lives in the defense of the tribe.

But there is another word which is no less common in the language, though it tends to find its expression in small, private conversations rather than in public forums. For while these cannibals praise those who sacrifice themselves for others as *shnice*, most of them have no desire to be *shnice* themselves. They desire to *appear shnice*, since those who are seen as *shnice* are trusted with valuable public positions, praised by the press and the community, and generally well-treated by the society as a whole. But actually being *shnice* is hard work and sometimes exceedingly inconvenient. It is far better to *appear* to be *shnice*, without having to engage in any of the bothersome personal sacrifice which normally accompanies it. Indeed, the best situation of all would be to gain such an untarnishable reputation for *shnice*-ness that one could exploit the trust

others placed in you for personal gain, without ever having to worry about the social stigma and punishment with which such uncooperative behavior is typically received. True, exploiting others to get what one wants out of them is not *shnice*. But it is *shmart*. And if you give any cannibal a choice between having children who are *shnice* and who are *shmart,* they will tell you they'll take a *shmart* child every time.

Shnice is, on its face, an evaluative term. But whatever evaluation the term embodies is not one which figures very centrally in the cannibals' lives, or at least, not in the way the term 'moral goodness' is supposed by internalists to function in English. If we accept that moral goodness is an evaluative term, then it is clearly supposed to be a *commendatory* term, a term which gives us guidance on *how we ought to be*. But the cannibals do not use *shnice* in *that* way. Nobody – or at least, nobody *sophisticated* – really believes that people ought to be *shnice*. *Shnice* people are good to have around, since they do, after all, contribute to public goods and help the society in ways which *shmart* folks do not. But there's a difference between wanting to have *shnice* people around and wanting to *be shnice*. And cannibals in-the-know want only the former. The term which is serving the *commendatory* evaluative role for the cannibals appears to be *shmart*.

So which term is best suited to serve as the equivalent to the English phrase 'morally good'? If Hare is right, it would have to be '*shmart*,' since the cannibals use *shmart* to commend actions to themselves and those they care about, while *shnice* is used merely to describe those actions which serve the public good, and the poor suckers who perform them. But this, to me, seems wrong. *Shmart* is commendatory, indeed. But the

actions it commends seem too self-serving, and the nature of the commendation too *embarrassed* to count as a genuinely *moral* commendation. *Shnice* seems much better suited to the task.

All this is not to say, of course, that there is no connection between our moral concepts and some sort of normativity. The sense in which I am claiming that morality is essentially descriptive is the same sense in which law, etiquette, and other complex social practices can be said to be essentially descriptive. Like these other practices, morality gives guidance, makes recommendations, and put forward norms. And as Philippa Foot has noted, the form in which it puts these norms forward does not make it seem that the binding force of the norm depends on the consent of the agent, or on its contributing to the antecedent goals of the agent.[27] Nevertheless, we rightly believe that we can come to an understanding of terms of law and etiquette without believing that they are *actually* normative – that they actually provide agents with any legitimate reasons for action at all. All three of these systems – morality, law, and etiquette – make a *claim* to normativity, but none of them is guaranteed to achieve it, at least not by virtue of the meaning of the terms alone.

The ultimate upshot of this analysis is to make intelligible the claim that one essential element of respect for the personal point of view is acceptance of the claim that morality's normative claim over the individual is limited. To be precise, if we accept the social practice view of morality, then its ability to provide agents with genuine normative reasons will depend on whether agents have some pre-existing non-moral reason to be

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[27] Foot 1978, p. 160.

moral. The significance of this claim will of course depend on one's theory of practical rationality, i.e. what sort of reasons one thinks a person has in the first place. Williams is an internal reasons theorist, and thus believes that for morality to be genuinely normative, it must link up in the right way with elements from the agent's subjective motivational set – i.e. it must have some fairly direct (though not necessarily merely instrumental) connection to the pre-moral projects and desires held by the agent.[28] I do not wish to defend an purely internalist theory of reasons here, but I do not believe the plausibility of my argument requires such a defense. All we need say is that internal reasons provide some check on morality's ability to get a normative "grip" on us. Respecting the separateness of persons means respecting the fact that agents have their own projects and commitments, and recognizing that it is unreasonable to demand that they always subordinate these projects to the demands of morality. Morality must at least be compatible with what Williams calls an agent's "categorical desires" – the projects which are so fundamental to an agent that a reasonable chance of their success is a condition of the agent's being willing to go on living at all.[29]

Morality vs. Normativity – Some Further Reflections

The distinction between normativity in the sense of practical reason and morality as a social practice is important, and its neglect has led, in my opinion, to much confusion in both normative moral theory and metaethics. For starters, it renders intelligible much

[28] Williams 1981, p.102.
[29] Williams 1981, p. 11.

of the debate between metaethical internalists and externalists. Metaethical internalists subscribe to what Michael Smith has called the "practicality requirement" of moral judgment.[30] They believe that

> (PR) If an agent judges that it is right for her to ϕ in circumstances C, then either she is motivated to ϕ in C or she is practically irrational.[31]

PR does not claim that the motivation will be *overriding,* in all cases. Weakness of will and competing desires mean that agents will not always act in what they judge to be the morally correct manner. Nevertheless, PR, which Smith puts forward as a conceptual truth about moral judgments, does hold that agents who make moral judgments will necessarily be motivated *to some extent* to do what they have judged to be right, if they are practically rational. Metaethical externalists respond that it must be at least *conceptually* possible (even if not actually so) that there could be an amoralist—someone who, as David Brink describes him, "recognizes the existence of moral considerations and remains unmoved."[32] Externalists thus reject the practicality requirement.

How should this debate be resolved? In the absence of a clear distinction between morality as practical rationality and morality as a social practice, debate on this topic has failed to progress very far. Once we have the distinction in hand though, we can see that there is something to be said on behalf of both camps. If by "morality" we mean a social

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[30] Or rather, the sort of metaethical internalist which I am considering. It is an unfortunate fact about contemporary philosophy that people can be internalists about any number of things, and metaethicists are probably some of the worst offenders in this regard. The sort of internalism which I am discussing here is "judgment-motivation" internalism, and should be distinguished from reasons-motive internalism (the view that reasons are necessarily motivating to a rational agent), and what might be called moral-fact/reason internalism (the claim that the fact that it is right for an agent to x means agents have a reason to x).

[31] Smith 1994, p. 61.

[32] Brink 1996, p. 30.

practice, then clearly the externalists are right. We cannot deduce conceptually that anyone has a reason to be moral any more than we can that they have a reason to follow a particular set of laws, or custom, or any other social practice. The reason-giving force of social practices is contingent. If, however, we are only using the term "morality" as a short-hand for practical rationality, then the internalists seem to be on firmer ground. For understood in this way, Smith's practicality requirement simply amounts to the claim that "If an agent judges [she has a reason to] ϕ in circumstances C, then either she is motivated to ϕ in C or she is practically irrational." But this seems an entirely uncontroversial claim about practical rationality to which anyone, from Korsgaardian rationalists to Footean (circa 1972) externalists could endorse! To the extent to which it still exists, the debate between metaethical internalists and externalists is largely a result of failing to grasp an ambiguity in a key term.

But the failure to draw the distinction is even more pernicious than this. Argument from moral intuition is a common method in moral discourse. Philosophers present a real or hypothetical case, draw out our moral intuitions regarding that case, and then attempt to reconcile that intuition with our intuitions in other cases, or with our general theory. The strategy is based on the assumption that our moral intuitions ought to be such that they can be rendered into a coherent, generally hierarchically structured, internally consistent moral theory.

Given the distinction we have drawn, however, two problems present themselves with this approach. First, if there is no conceptual connection between the contents of morality as a social practice and the substantive content of practical reason, then

demonstrating such-and-such an action follows from a consistent theory constructed on the basis of moral intuitions gives us no reason to think we ought to *perform* such-and-such an action. A moral intuition, on this understanding, is simply an intuition about what content a certain social practice has. Whether we have reason to perform such an action, or to conform to the social practice, is an entirely separate question.

Second, it might be a mistake even to look for a consistent, hierarchical systematization of moral intuitions. For whether the contents of morality can be rendered "internally consistent," or whether their structure is hierarchical in the sense that particular principles in the theory are derivable from some more fundamental principle, will depend on the exact nature of the social practice that morality is. Some social practices place a great deal of value on the internal consistency and hierarchical structure of their norms – law is the primary example. But not all of them need do so. It would probably be foolish to look for a "supreme principle" of etiquette from which all other principles can be derived. Social practices often have the structure they do as a result of a process of evolution which has involved various historical contingencies, political or personality-based conflict, cultural peculiarities, and so on. There is no *a priori* reason to suppose that the result of such a process should have any particular sort of structure whatsoever.

Conclusion

My goal in this paper is an ambitious one. I have sought to defend the claim that a respect for the separateness of persons entails not just, as has traditionally been

assumed, that we respect the claims of separate individuals in matters of *distribution*, but that, perhaps even more fundamentally, we respect their separateness as *agents* as well. Respecting the separateness of persons means taking the personal point of view seriously, and I have tried to show that we cannot do so unless we take their commitment to their basic projects seriously – so seriously, indeed, that we limit the power even of morality itself to override it.

The claim that morality is a social practice whose normative "grip" on agents is restricted by its ability to connect in the right way with their projects is one which stands in need of much further clarification. If morality is a social practice, what sort of social practice is it? What are the "right ways" in which morality can connect to an agent's projects, and what theory of practical rationality does this account presuppose? *Do* agents, as a matter of fact, have reason to be moral on this picture of the nature of morality? And if so, what sort of morality will it be that the end up having reason to endorse?

I cannot hope to answer all these questions in such a limited space. I will attempt, in the next chapter, to say a bit more about the nature of the social practice I take morality to be, and to defend this externalist view of morality against some influential criticisms which have been leveled against it by Michael Smith.

However, one further point needs to be made before I close this chapter. I said at the beginning of this conclusion that a respect for the separateness of persons entails not *only* respecting that separateness in matters of distribution, but in matters of agency as

well. But I have not discussed the matter of distribution at all so far, and it is not clear how, or if, it fits into the theory I have presented.

I have not discussed distribution so far because, as I indicated above, I believe the question of agency is more fundamental. It is more fundamental in the following way. Respecting our separateness as agents means recognizing that morality's reason-giving force is limited by the extent to which it is compatible with the personal projects of those agents whom it seeks to command. But this does not mean that most of us lack a reason to be moral, or that we cannot specify what the content of morality is. Though I have not argued for it, I believe that most of us *do* have a reason to be moral. And while this is a point which again needs further argument, I believe that part of the content of that morality is the requirement that we respect separateness in matters of distribution – by, say, recognizing that each individual has certain rights to material goods, or to opportunities, which cannot be overridden by the welfare of society as a whole. Respect for the separateness of persons in matters of agency is a pre-moral point about the nature of practical rationality. Respect for the separateness of persons in matters of distribution is an moral principle – part of the externally justified social practice of morality. A full defense of this point would require an explanation of *why* such a principle should be regarded as a part of morality which agents have a normative reason to accept, but even in the absence of such an account, I believe it is a virtue of my theory that it is able not only to account for both these important aspects of the separateness of persons, but to account for the theoretical connection between them as well.

CHAPTER 4
EXTERNALISM AND THE INSTITUTIONAL ACCOUNT OF MORALITY

Introduction

Some people are unmoved by what they know (or believe) to be the good. On this, almost all philosophers agree. Most philosophers will also agree that there is something *wrong* with people whose motivations fail to be moved by moral judgments in this way. Recognizing an act as good and failing to be motivated to perform it is a sign of some flaw, some sort of regrettable lack in a person's character. But what sort of flaw, what sort of lack is it?

Metaethical internalists claim that the flaw is one of irrationality. To judge that an act is right and then to fail to be motivated to perform that act is to manifest practical irrationality, of just as real a sort as that manifested by the individual who fails to take the recognized and available means to her acknowledged goal.

The charge of irrationality is a serious one. In making it, internalists are claiming not simply that the dishonest individual is self-centered, or a menace to others. These claims might show how such a person is bad for us to be around, given *our* ends. But to say that a person is irrational is to say that they fail from their *own* perspective – that there is something *self-defeating* about the way they act. We could see how this would be so if we supposed that the individual in question *desired* to be moral – the failure to act morally would then be a straightforward failure of means-end rationality. But internalists believe their claim is true for all individuals, whether they desire to act morally or not.

The controversy is not helped by an ambiguity surrounding the notions of morality and goodness. Sometimes morality is thought of as a social/linguistic practice, whereby answering the question "What does morality require in case *x*" is one best answered by engaging in a sort of sociological/linguistic research project into the way in which competent speakers of English use the words. Students in my business ethics class certainly approach the issue this way. They are able to report on what morality requires of them in situations without feeling that this has any bearing on what they ought to do from a *rational* perspective.

Other times, however, morality is thought of as a subclass of *reasons*, where this term is understand to mean considerations which we are rationally required to address. For those who use the term this way, it is impossible (by definition!) that morality could require something of us which we have no reason to perform. To give someone a moral reason is, first and foremost, to give them a *reason* – something which they had better well take account of in their deliberations if they wish to be rational agents.

It is easy to see that the second account of morality establishes internalism straight off. I don't like this. I think it's a confusing way of using the word. I believe it should be an open question whether the rules of morality give us any reason at all to act one way or another. I think it's an open question whether it's rational to be moral. And so I think the first account, which I will describe later as the institutional account, is the best way of looking at morality.

But that's not the position I wish to defend in this paper. I don't want to show that the institutional account is the *best* way of looking at morality. I simply want to

show that it is *a* way of looking at morality. I want to show that it is a coherent account, and that it stands up to the sorts of criticisms leveled against it by Michael Smith in *The Moral Problem.* Of course, Smith might only be talking in that book about morality in the second sense. If so, then my defense of externalism in this paper needn't be incompatible with his defense of internalism in that book. The two types of morality might have a different logical structure. That would be fine with me. In fact, if it does something to resolve (or dissolve) the long-standing dispute between very smart people like David Brink and Jamie Drier on the one hand, and very smart people like Michael Smith on the other, then I would be very happy indeed.

Foot's Externalism and the Institutional Account of Morality

Philippa Foot, in her 1972 paper "Morality as a System of Hypothetical Imperatives," argues for a form of externalism. She does so by claiming that morality is essentially similar to perfectly ordinary social practices, such as etiquette. No one claims that the dictates of etiquette provide everyone with reasons to act one way or another no matter what their desires may be. It is true that etiquette consists of various rules which *apply* to individuals no matter what their desires. As Foot points out, "the club secretary who has told a member that he should not bring ladies into the smoking-room does not say 'Sorry, I was mistaken' when told that this member is resigning tomorrow and cares nothing about his reputation in the club."[1] But no matter how inclusive the scope of a

[1] Foot 1978, p. 160.

rule's application may be, the fact that a rule applies to us can only provide us with a *reason* to act if we have some background reason to care about the rules of etiquette – a reason which, presumably, may or may not be present in any particular individual. Why should not the same be true of morality?

Another way of looking at Foot's theory is through the lens of H.L.A. Hart's account of legal rules.[2] This is the approach taken by Michael Smith in his discussion of Foot's externalism.[3] On this view, morality is a sort of institution, comprised of a system of conduct-guiding rules which are in turn picked out by a rule of recognition. The rule of recognition itself is constituted by "a pattern of activity amongst a sub-group to whom the system of rules as a whole applies, those responsible for formulating the rules, implementing them and enforcing them."[4]

The sub-group, on Hart's account, necessarily has a certain perspective on the system of rules – a perspective which Hart labels "the internal point of view." To take the internal point of view toward a system of rules is to be motivated by them, to think them justifiable and authoritative, and to think that others to whom the rules apply ought therefore to be motivated by them as well.[5]

The important point is that nothing in this account guarantees that any particular individual will actually take the internal point of view, nor does it require that there be something *wrong* with any individual who fails to take this perspective. For any system of rules – be it a legal system or a system of etiquette – it is quite possible for an

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[2] See Hart 1961.
[3] Smith 1994, pp. 80-84.
[4] Smith 1994, p. 81.
[5] Smith 1994, p. 81.

individual to come to the belief that the rules of the system apply to her, without thereby being motivated to act in accordance with those rules. Whether this lack of motivation will be indicative of practical irrationality will of course vary from case to case, but there is certainly nothing which *necessitates* its being so. As Smith notes, an outsider might note that a certain rule is validly picked out by the supreme rule of recognition of a certain sub-group, and yet believe that the activity of that subgroup is utterly unjustified and unauthoritative. We can, in other words, recognize that an evil law is a law, but this recognition implies no rational mandate as far as our motivation is concerned. Thus if the institutional account of morality is correct, metaethical internalism cannot be true.

What reason do we have for thinking such an account to be false, or incomplete? From the perspective of explanatory adequacy, the institutional account seems fine. After all, social scientists often do describe the "morality" or "ethic" of a certain culture or sub-culture in such a value-neutral, descriptive way. A culture's morality, on the institutional view, can be thought of as a certain set of rules and practices which govern a certain subset of behavior – probably centered around those actions which affect other people. Such rules will probably be – and in fact are – fairly similar in their essentials from culture to culture, but this similarity can be explained in various naturalistic ways. Theories of sociobiology, for instance, do a good deal to explain the origins of cooperative behavior among groups likely to share a certain amount of genetic material. There seems to be no principled reason why other naturalistic theories cannot explain the extension of such cooperative behavior from small groups to a larger society – one might imagine a modernized and more developed version of Adam Smith's theory of moral

sentiments, to take but one example, doing just that. Both the emergence and the perceived normativity of morality are thus explicable on the institutional account, without needing to suppose any *rationally necessary* connection between moral belief and motivation.

The Fetishism of Externalist Motivation

But perhaps the account is explanatorily lacking on other grounds. In chapter 3 of his book, *The Moral Problem,* Michael Smith presents a much more sophisticated form of explanatory criticism directed against Foot's institutional account of morality. The upshot of Smith's criticism is that while an institutional account may be perfectly adequate for phenomena such as law and etiquette, it necessarily fails as an account of morality. Indeed, the reason the institutional account is so grossly implausible as an account of morality is, according to Smith, precisely the same reason that it is compelling as an account of etiquette and law: the institutional account claims that our judgments regarding what a system requires of us are only externally related to our motivations to act accordingly. In law, this seems a welcome conclusion. Aside, perhaps, from the odd natural law theorist, most of us do not believe that the mere fact that some rule has been codified as a law necessarily ought to motivate us to act in accordance with that rule. If, after all, the rule-making body is fundamentally evil or corrupt, then it looks as though our motivations should function in exactly the opposite way! And as for etiquette, given

its supposedly arbitrary nature,[6] it is easy to see why Smith would not be concerned to grant a merely external connection to motivation in that case. "So what," seems an entirely rational, if not admirable, response to having learned that one has begun eating one's salad with the improper fork.

Morality, however, is a different matter. For to claim that the judgments of morally good individuals are only externally related to their motivation is, according to Smith, to offer a highly implausible explanation of the process by which they come, or fail to come, to be motivated to act in accordance with morality's requirements. On the institutional account, Smith claims,

> Morally good people, those who reliably do what they believe they should, would...have to be thought of as being motivated to do what they believe they are morally required to do, where this is read *de dicto* and not *de re*.[7]

In other words, on the institutional account, individuals are not motivated *directly* to perform any of the acts which the rules of morality specify. They are only motivated to perform those acts *insofar as those acts are specified by the rules*. To say that the morally good individual's motivation is one to act morally in the *de dicto* sense is to say that she is not attracted to honesty, or justice, or the welfare of her friends and loved ones *for their own sake*. Rather, she is attracted to these things as a *means* of acting morally. Her primary motivation is to act morally – whatever that turns out to mean. All her particular motivations, on this view, are merely derivative from this fundamental, though abstract, motivation.

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[6] Though see, for considerations to the contrary, Lomasky 1997, pp. 61-65.
[7] Smith 1994, p. 83.

This, Smith says, is "a straightforward *reductio*"[8] of the institutional view. After all, Smith claims, it is a basic fact of moral psychology that

> Good people care non-derivatively about honesty, the weal and woe of their children and friends, the well-being of their fellows, people getting what they deserve, justice, equality, and the like, not just one thing: doing what they believe to be right, where this is read *de dicto* and not *de re*. Indeed, commonsense tells us that being so motivated is a *fetish or moral vice,* not the one and only moral virtue.[9]

Thus the institutional account, according to Smith, does in fact fail in an explanatory manner, for the account of moral motivation it offers fails to cohere with our understandings of the relationship between belief and motivation in truly moral agents.

Does the Institutional Account entail *de dicto* motivation?

There is, by now, a large literature on the question of whether the sort of *de dicto* motivation Smith describes above is really fetishistic in any sort of objectionable way.[10] I do not wish to add to that literature here. Rather, let us suspend judgment on this question and ask instead whether the institutional account of morality defended by Foot really entails *de dicto* motivation.

It certainly allows for the *possibility* of individuals being motivated in a *de dicto* sense. To see this in a clearer case, let us put aside morality for the moment and look instead at law. It is easy to see how an institutional account of this system of rules allows for the possibility of *de dicto* motivation. Take, for instance, the case of a mostly

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[8] Smith 1994, p. 75.
[9] Smith 1994, p. 75.

apathetic citizen, who doesn't vote, isn't a legislator, and generally plays no role in the creation of society's laws. On the whole, this individual is motivated only to go about the mundane activities of his own, ordinary life. But, apathetic though he may be, he is also prudent, and wishes to avoid entangling himself in the octopus-like tentacles of the law. Thus, whenever he learns that an act is required (or prohibited) by the law, he is suddenly quite motivated to perform (or refrain from performing) that act.

What is the structure of his motivation? It seems quite clear that he is not motivated to do what the law requires of him in a *de re* sense. After all, if the law did not require that he send in some one-third of his annual income to the Federal government each year, his motivation to do so would almost certainly be zero. He is not motivated to do what the law requires of him because he happens to have some independent reason for doing those acts. He is motivated *only because* the law requires it of him, and he is thus motivated to do *whatever* the law happens to require of him. He is, in other words, motivated in the *de dicto* sense.

We thus have at least one type of individual who, on the institutional account, will be motivated to comply with the requirements of the institution only in a *de dicto* sense: the individual who is *not* part of the "sub-group" whose activity is constitutive of the supreme rule of recognition of the system of rules, and who has no independent motivation to abide by the requirements of that system. If such an individual is motivated at all to abide by the requirements of the system, it will only be for external reasons – the threat of physical coercion, or the fear of social sanction, for instance.

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[10] For one of the best articles on this topic, see Dreier 2000.

Given analogous reasoning, then, the institutional account of morality will allow for the possibility that some individuals will be motivated only in a *de dicto* sense. But do we have any reason to think that *all* individuals will be so motivated? We might especially wish to consider whether this will be true of members of the "sub-group," who are distinguished by taking the "internal point of view" regarding the rules of the system. Perhaps their special status allows their motivation to function in a way more true to our conceptions of genuinely moral agents.

As set out above, saying that members of the sub-group take the internal point of view is tantamount to saying that they are motivated by the rules of the system, that they take the rules to be authoritative, and that they want others to view them in the same way. Should the fact that some persons have this attitude toward the law lead us to believe that their motivation is anything other than *de dicto*?

It doesn't seem that it should. After all, to say that the sub-group takes the internal point of view is only to say *that* they are motivated by the rules of the system. It leaves open entirely what the source of that motivation might be. The real question, then, is not whether an individual takes the internal point of view with regard to a system of rules, but rather what the source of her motivation for obeying those rules is.

Specifically, we would like to know whether her judgments regarding the content of the rules is internally or externally related to her motivation. In other words, is her judgment that some action is required of her by the system sufficient in and of itself to motivate her to perform that action? Or must some further fact about that action be true

in order to produce the motivation (e.g. a tendency to produce happiness, or some other desired end)?

It looks as though the institutional account of morality requires that the connection between judgment and motivation be an external one. To see why, consider the following argument. One of the chief hypotheses of the institutional account is that there is nothing in the nature of morality which makes it necessarily motivating to all rational agents as such. Since this is so, it is quite possible that an agent who was once a member of the sub-group could have a change of heart, one which takes her from being an insider to being an outsider. But in such a case as this, where the agent undergoes a change in motivation, the semantic content of the agent's *judgment* should undergo no change at all. In other words, when the agent says that her judgment that "honesty is moral" no longer motivates her, she should be talking about the *same judgment* that she had made when she was still an insider.

If, however, we postulate in our agent an internal connection between judgment and motivation, we are making a claim about necessity.[11] We are, in other words, claiming:

> (*) Necessarily, if a subject judges that she is morally required to do *x*, then she is motivated to do *x*, provided she is rational.

But if this claim is true for a particular agent, then it cannot be the case that she could later judge that she is morally required to *x* and yet *not* be motivated to *x*. At least, not in the sense of (*) above. She can only make a related claim with different semantic content – one which leaves out the necessity of the above. But since a genuine change of heart

must be possible, and since this change of heart requires that the judgments of both insiders and outsiders have the same semantic content, and (of course) since outsiders do not have an internal connection between judgment and motivation, it must be the case that both insiders and outsiders make a judgment which is only *externally* connected with motivation.

Let us then grant that even insiders to the sub-group have only an external connection between their moral judgments and their motivation. Knowing this, what else can we say about their motivation? One thing we know is that they are, in fact, motivated to perform acts which they judge to be moral. This is simply part of what it is to be an insider to this particular sub-group. But how exactly does this motivation occur? Since we have established that the connection between their judgment and their motivation must be external, we know that it is not sufficient for an agent of the sub-group to judge that *x* is moral in order to be motivated. Something else must provide the motivational impetus. What could this be? As I see it, there are three options:

1) *X* links up in some non-moral way with an element of the agent's motivational set. For instance, *x* might also help one avoid punishment, or look good in front of others, which things *are* motivating in-themselves to the agent.

2) The agent just happens to have a *de re* motivation to do all the things which she currently judges to be moral. In other words, she's always been motivated to be honest, just, etc., and *it just so happens* that these are the very things required by morality.

3) The agent is motivated in a *de dicto* sense to do whatever she judges to be moral. In other words, the agent has the motivation to do whatever things happen to be required by morality, not because she cares about those things in themselves, but because they are required by morality.

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[11] Thanks to Michael Smith for pointing this out to me in an email correspondence of June 23rd, 2001.

Cases 1 and 2 fail to provide an adequate account of the insider's motivation for essentially the same reason. Neither is able to satisfy what Michael Smith refers to as the "tracking condition."[12] Suppose that our agent begins with a belief that voting for the social democrats is moral, as well as a desire to vote for the social democrats. If she is a good moral agent, her desire should "track" her moral belief, such that should she come to believe (realize?) that voting for the libertarians is in fact the moral thing to do, she should also lose her old desire to vote for the social democrats, and gain a new one to vote for the libertarians. Neither case 1 or 2, however, provides with a reason to expect this to happen. In case 1, her desire to vote for the social democrats is tied to some extraneous element of her motivational set, such as her desire to look like a warm-hearted and generous person in the eyes of her colleagues. Since there is no guarantee, however, that the action required by her new moral belief will serve this goal, we should not expect her motivation to track her moral judgments reliably. Similarly, in case 2, there's just something about voting for social democrats which the agent is motivated (in the *de re* sense) to do. The motivation isn't at all contingent on the morality of this act, so again we have no reason to expect that motivation will track moral belief.

And as for case 3, this is just the old fetishism problem again. A *good* moral agent wouldn't simply have the desire to do "whatever turns out to be required by morality." She would care for honesty, justice, liberty of contract etc. in a non-derivative way. Since, however, non-derivative motivation is exactly what case 3 rules out, the *de*

[12] Smith 1994, pp. 71-2.

dicto account cannot be adequate account of the way in which genuinely good insiders are motivated.

So it looks, for the moment, as though Smith's argument goes through. Even insiders to the sub-group of morality must, on the institutional account, have only an external connection between judgment and motivation. And once we grant this external connection, we are left with no plausible way to explain the motivational structure of the agent *qua* good moral person. The external connection means that either the motivations of the agent will fail to "track" her moral judgments in the appropriate way, or that her motivations will be inappropriately abstract, leaving us with a sort of pseudo-moral agent whose motivations are slavishly tied to moral rules, rather than to the good-making properties those rules are supposed to track.

The Special Status of the Sub-group

The above dilemma is supposed to lead us squarely into the internalist camp. But perhaps we have moved too quickly. For note that in seeking to defend the institutional account, we have examined only one aspect of the sub-group – the fact that they take the internal point of view regarding the rules of morality. So far we have found that this feature does not help the externalist, since it does not help us construct a plausible account of the motivational structure of the good moral agent. But there was another feature of the sub-group which we have yet to discuss in any great detail. This is the fact

that their activity is constitutive of the supreme rule of recognition of the system of morality.

To understand the significance of this fact, recall from Hart the distinction between primary rules of obligation and secondary rules. Primary rules of obligation are simply the rules which tell us which actions are required, prohibited, permitted and so on. They are rules about behavior, and are contrasted with secondary rules, which are rules about other rules. Specifically, secondary rules specify "the ways in which the primary rules may be conclusively ascertained, introduced, eliminated, varied, and the fact of their violation conclusively determined."[13] The supreme rule of recognition is a type of secondary rule, which specifies "some feature or features possession of which by a suggested rule is taken as conclusive affirmative indication that it is a rule of the group to be supported by the social pressure it exerts."[14]

In law, the supreme rule of recognition will tell us how to recognize as *laws* those rules put forward as obligating citizens to behave in certain ways. Similarly, in morality, the supreme rule of recognition will not itself directly guide our behavior, but will rather tell us how to recognize those moral rules which do make valid claims on us. It will allow us to distinguish genuine moral rules from the myriad of rules which claim the authority of that system.

In its simplest form, a supreme rule of recognition could tell us to refer to a particular document, or authoritative entity. It could tell us, for instance, that any rule written in the Great Book of Wisdom, or any book handed down to us from God, is

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[13] Hart 1994, p. 94.

authoritative and binding. In most cases, and especially in the case of morality, the rule of recognition will be much more complex, perhaps requiring that we weigh the inputs of a number of different sources according to a variety of different desiderata.

Indeed, this is why it seems to me so plausible to say, as the institutional account does, that the supreme rule of recognition of morality is constituted by a complex pattern activity of individuals. I imagine something like a social process of reflective equilibrium taking place, where this process of reflective equilibrium is the method by which valid primary rules of moral obligation are identified.

Once it is agreed upon that a moral rule is a result of this process, members of the subgroup take it as authoritative, are motivated to act according to it, and seek to encourage others to act according to it as well. Of course, the process of reflective equilibrium is not one which lends itself to precise and certain answers, and thus it may be that there will always exist significant disagreement concerning what, exactly, the supreme rule of recognition picks out as a valid moral rule in a certain area of behavior. But this is no obstacle to the theory. It is enough that the process of reflective equilibrium be looked at as authoritative, and that any rules which it *does* clearly pick out be motivating to members of the sub-group.

A few more caveats. First, it's important to note that there is nothing crucial about the process of reflective equilibrium in my argument. I happen to think this process is a fairly plausible candidate for the supreme rule of recognition of morality, but

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[14] Hart 1994, p. 94.

it is enough for my argument that there be *some* such process by which the sub-group can come to determine legitimate moral rules from mere pretenders.

Second, it may seem odd to suppose that there is a certain *sub-group*, in the case of morality, whose activity is responsible for determining the content of morality. Is there some secret cabal of moral elite whose behavior sets the rules which apply to the rest of society? Is morality nothing more than a sinister plot brought into existence by the Council on Foreign Relations, or some other Birchirite suspect?

Well, of course not. There is nothing in the theory as presented so far to prevent us from making the sub-group as large as we wish. For all I know, the sub-group could consist of everyone in society save a few psychotics and a handful of rational Brinkian amoralists. Indeed, it needn't even be a proper sub-group at all – the whole of society could be the group whose process of reflective equilibrium constitutes the rule of recognition of morality.

So where does this all get us? The idea is this. Smith's objection to postulating a *de re* motivation on the part of the sub-group was that such a motivation would fail to meet the tracking condition, since it would always be possible that the activities which those individuals would be motivated to engaged in would not, after all, be the ones required by morality. But the fact that the activity of the sub-group is constitutive of the rule of recognition of morality helps us avoid this problem. For if the activity of the sub-group is responsible for picking out the rules of morality, then a divergence between the activities which individuals have a *de re* motivation to perform and those which morality

requires of them is at least difficult, if not impossible, depending on the precise way in which their activity is to constitute a rule of recognition.

Suppose, to take the simplest case, that the rule of recognition functioned in a way so as to pick out only those rules with which there exists unanimous *de re* motivation to comply within the sub-group. In such a case, morality could not require individuals to do anything they did not already have a *de re* desire to do, and there would thus be no problem with the tracking condition.

Things get more difficult when we consider a more realistic rule of recognition, such as one based on a process of reflective equilibrium within the sub-group. Since reflective equilibrium would presumably not require unanimity for the establishment of a moral rule of obligation, it will allow for a divergence between the *de re* motivations of some of the sub-groups members, and the requirements of morality as picked out by the rule of recognition. A problem thus seems to arise whenever the rule of recognition requires that individuals act in a way contrary to their *de re* motivation – how can we be sure that the motivations of these supposedly good moral agents will track their judgments regarding the rules picked out by the rule of recognition?

In cases like this, where the rule of recognition requires less than unanimity for the establishment of a rule, we see the limits of relying on the *de re* motivations of members of the sub-group. In order to meet the tracking condition, we must postulate that their moral judgments wield some motivational efficacy. The easiest way for the exteranlist to do this is to postulate a desire on the part of members of the sub-group to follow those rules picked out by the rule of recognition. In a sense, this is to take us back

to the case of a *de dicto* desire to be moral – for we are here imagining that agents have a desire to do *whatever* the rule of recognition picks out. Does this lead us back to Smith's fetishism problem?

I think not, for two reasons. First, we need not suppose that members of the sub-group have *only* a *de dicto* desire to obey those rules picked out by the rule of recognition. They may also have *de re* desires to be honest, just, to care for their friends, etc. It is this set of desires which forms that individual's input into the process of reflective equilibrium, and in many cases, where the individual's beliefs and desires are shared by others in the community, the moral rules will simply specify that they ought to do what they desire. Moral rules, on this model, will thus most likely not demand that individuals pursue some value about which they care not at all. Rather, they will demand that individuals pursue some value which they may not have ranked as highly in their hierarchy as other individuals in the society. Most moral rules do not demand that we create desires out of thin air. They simply ask they we shift the weighting that we have given those values.

Second, the institutional account of morality has allowed us to give a bit more flesh to the idea of having a *de dicto* desire to follow the rules of morality. To say that an individual wants to be moral *whatever* that means may indeed sound fetishistic. But once we specify the rule of recognition which picks out moral rules, and suppose that individuals have a desire to follow the rules picked out by *that* process, the results may seem less objectionable. The idea is that it is possible to imagine reasons individuals might have for desiring to follow the rules selected by such a process, and to the extent

that we can provide reasons for following the rule of recognition wherever it may lead, our desire to do so seems less arbitrary, and as a result, less fetishistic.

There are, of course, many possible reasons for wishing to obey those rules arrived at by a specific process of recognition, and the plausibility of my account will depend on which sorts of reasons are put forward as motivating members of the sub-group. The important point for the internalists is that there are no reasons for obeying the rules selected by the rule of recognition which are binding on rational agents *as such*. Certain individuals might have a desire to reach reasonable agreement with their fellows, where "reasonable" is read in some sort of Rawlsian sense. But other individuals might not. Perhaps lacking such a desire might be self-defeating in some cases, but in other cases it most certainly will not. The rationality or irrationality of endorsing a rule of recognition will vary from case to case depending on a large number of contingent facts, and so, therefore, will the rationality or irrationality of morality.

The institutional account thus appears resistant to the criticisms leveled against it by Smith. The precise nature of its resistance will depend, of course, on the way we fill in the details of the account. Specifically, it will depend on *how* the activity of the sub-group is supposed to constitute the supreme rule of recognition of morality. If the rule is constituted in such a way that there is something like unanimous agreement required, then there will be no possible divergence between the *de re* motivations of the members of the subgroup and the requirements of morality, and thus no possibility to fail Smith's tracking condition. If, more realistically, the rule is constituted by something like a process of reflective equilibrium, then the externalist needs to postulate a *de dicto* desire

to obey the rules of morality, and must therefore face Smith's fetishism objection head-on. I have given reasons why I think this objection can be met, given the resources of the institutional account, and believe I have thus shown that the institutional account is both coherent and able to survive the explanatory challenge leveled against it by Smith.

CHAPTER 5
MARKETS AND MORALS

Introduction

In this chapter, I want to explore what I take to be some interesting connections between utilitarian moral theory and theories which champion free market institutions. These two theories have been linked both by the similarities among the criticisms to which they have been subjected, and in a popular assumption that utilitarianism is the natural source of justification for free market institutions. Such connections might lead one to conclude that worries about the separateness of persons will undermine free market theories in the same way that they undermine utilitarianism. I wish to argue that the connection between free markets and the separateness of persons is more complicated than this, and that while worries about separateness do give us reason to be concerned about the extent to which markets contribute to distributive injustice, they also provide us with several interesting non-efficiency based grounds for endorsing markets. I will begin my paper with a brief discussion of several anti-utilitarian arguments, and the way in which appeals to the separateness of persons have functioned in this capacity. I will then proceed to review three different dimensions along which a commitment to the separateness of persons can be measured – justification/content, distribution/agency, and consumption/production. These last two distinctions especially, I will argue, provide the grounds for my claim that even if a respect for separateness undermines utilitarianism, it nevertheless provides us with several independent reasons to positively appraise the role of markets in society.

Objections to Utilitarianism

Utilitarianism and free market theory have both been criticized on two sorts of grounds: first, that acting in accordance with the theory produces unacceptable results; and second, that these results stem from a decision procedure which fails to treat individuals with respect. The first criticism is familiar enough. Utilitarianism is said to produce unacceptable results because sometimes the maximization of utility may require doing injustice – killing one innocent person to save five, for instance. Similarly, free markets, unchecked by government regulation, are said to produce distributive injustice – they may lead to the concentration of wealth in a small segment of society, leaving other segments with either less material goods than is necessary to lead a good life, or simply an unfairly small portion of the total social product.

Powerful as the intuitions underlying these criticisms may be, their ability to serve as the basis of a philosophic critique nevertheless depends entirely on the validity of their empirical presuppositions, and it is precisely in addressing these empirical claims that both utilitarianism and free market theory have shown their greatest strength. Utilitarians for instance, have claimed that the (psychological) fact of diminishing marginal utility means that their theory actually requires a fairly egalitarian distribution of material goods. And defenders of the free market have produced an impressive variety of arguments which go a long way toward lessening the fear that unchecked capitalism leads to the sort of inequality their opponents fear. The strength of these responses, or the sheer difficulty in sorting out the empirical facts relevant to the assessment of them, gives those who a decisive objection to either theory a strong reason to look elsewhere.

The second sort of objection seems more promising in this regard. Instead of attacking the theories based on the sort of output they produce, this sort of criticism targets the *inputs* used by the theory – the sorts of factors which count as relevant in determining a proper outcome under the rules of the system. One way of launching this criticism is to attack the *type* or *range* of inputs used. Classical utilitarianism, for instance, is often criticized on the grounds that pleasure and pain alone constitute an insufficient foundation to build a satisfactory moral theory. Markets are criticized on the grounds the drive toward economic growth only is blind to other human values – community, tradition, or solidarity, to name a few.

But these theories have also been criticized on the basis of the way they *take these inputs into account*. Both utilitarianism and free market theory, it has been charged, focus on aggregates rather than individuals. All outcomes are justified for the utilitarian solely by virtue of the sum total of utility yielded in that outcome,[1] and likewise, the justification of markets is often based on the contribution they make to the economy as a whole. We should be careful to distinguish this worry from the first. The claim of this objection is *not* that the implementation of utilitarianism will *actually* result in individuals being sacrificed for the sake of utility maximization, nor that free markets will actually result in an unjust distribution of wealth. The claim is that even if these theories get the *outcome* right, they get it right for the wrong reasons. This sort of worry has been made familiar enough in the context of utilitarianism by Bernard Williams.[2] But the same sort of criticism has often been made of markets. To make an individual's

[1] Or, in the case of average utilitarianism, by the sum total divided by the number of sentient beings.
[2] See Williams 1981.

ability to earn a living wage, or to provide healthcare for themselves and their family, depend on the outcomes of market mechanisms is to fail to treat those individuals with the respect they are due. A proper respect, critics say, requires that we recognize that these goods belong to individuals as a matter of *right*. This will not only have the effect of ensuring that more individuals actually *get* the goods (thus dealing with the worry raised by the first criticism), but will also change the *significance*, the *meaning*, of getting those goods. To make an individual's receipt of basic material goods dependent on the imperfect and impersonal workings of the market is to send a message to that individual that she is not important – that the justification of the social system does not depend on how it affects *her* well-being at all. Making her receipt of those goods a matter of *right* communicates that she is more than just a weight to be considered in the overall economic calculus – that her claim to basic material goods is one which cannot be overridden even by the aggregate welfare of society as a whole.

When articulated in these terms, this worry appears to be one manifestation of a more general concern for the separateness of persons. As it was originally put forward by John Rawls, the argument from the separateness of persons targeted utilitarianism's aggregative nature – the fact that utilitarianism seems to "adopt for society as a whole the principle of rational choice for one man."[3] Robert Nozick elaborates on Rawls' point in the following way:

> Individually, we each sometimes choose to undergo some pain or sacrifice for a greater benefit or to avoid a greater harm: we go to the dentist to avoid worse suffering later; we do some unpleasant work for its results; some persons diet in order to improve their health or looks; some save money to support themselves

[3] Rawls 1971, pp. 26-7.

> when they are older. In each case, some cost is borne for the sake of the greater overall good. Why not, *similarly*, hold that some persons have to bear some costs that benefit other persons more, for the sake of the overall social good?[4]

Nozick's answer to this question is that to do so would be to fail to respect the separateness of persons. Trading off present sacrifice for future gain is permissible in the individual case because the costs are *internalized* – the person who receives the benefits is the same as the person who bears the costs.[5] But there is no "social entity" in which the costs and benefits of interpersonal trade-offs are internalized.

> There are only individual people, different individual people, with their own individual lives. Using one of these people for the benefit of others, uses him and benefits the others. Nothing more.[6]

Both Rawls and Nozick agree, then, that a proper respect for the separateness of persons will require the rejection of utilitarianism. And indeed, if the aspect of utilitarianism which renders it vulnerable to this critique is its aggregative nature, then *any* consequentialist theory which is insensitive to the way in which harms and benefits are distributed among individuals will be equally vulnerable. [7]

Three Dimensions of the Separateness of Perons

I suggested in chapter one that part of the difference between the sort of liberal theories which Rawls and Nozick wind up endorsing is due to taking separateness

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[4] Nozick 1974, p. 32.

[5] See chapter 2 for a defense of this claim against Parifitian worries about the transitory nature of personal identity.

[6] Nozick 1974, p. 33

[7] This does not, of course, render *all* consequentialist theories equally vulnerable. One could construct a consequentialist moral theory based on a maximin principle of distribution, or an egalitarian one, which would be sensitive to issues of distribution in a way that utilitarianism is not. One could still argue that such theories are not sensitive *enough* – that, for example, a maximin principle requires too much sacrifice on the part of everyone but the least well-off. But they are at least not *completely* insensitive to distribution in the way that consequentialist theories which focus exclusively on aggregates are.

seriously at two different *levels* of moral theory. Rawls, I argued, is more concerned with the separateness of persons as a restriction on the sorts of justification which can be offered for principles of justice, while Nozick takes separateness to be a constraint on the ways we can treat others. As a result, I argued, Nozick is less willing than Rawls to use the coercive apparatus of the state to regulate market activity, or to engage in the redistribution of wealth. But though this distinction explains much of the difference between the sorts of liberal theories advocated by Rawls and Nozick, it does not capture everything. Part of the difference must lie in the different approaches these philosophers take toward *agency*. Recall from chapter three the distinction between being concerned with separateness in matters of distribution versus being concerned with it in matters of agency. Part of the reason that utilitarianism runs afoul of the separateness of persons is that its single-minded pursuit of maximization leads it to sanction distributive injustice. In this sense utilitarianism seems to fail to take seriously the fact that each individual is a separate *locus* of experience – that I am not *compensated* for the pain I suffer when I experience torture, environmental degradation, or imprisonment, by the fact that this pain produces greater pleasure elsewhere in society. But this is only part of the story. Utilitarianism not only fails to respect our separateness as *loci* of experience; it fails to respect our separateness as *agents*. It fails to take seriously the personal point of view of agents – the significance of their projects, and the constraint which the importance of an agent's most fundamental projects places on morality's ability to function as an authoritative source of reasons. The separateness of persons is something we must respect not only when thinking about what persons should *get*, but also, and perhaps more

fundamentally, when thinking about what they should *do* – or what we should be permitted to demand that they do.

An appreciation of this difference can, I think, supplement the analysis provided in chapter one as a basis for the difference between Rawls' and Nozick's attitudes toward markets. Not only is Nozick more concerned with respecting the separateness of persons at the level of content; he also appears to be more concerned with respecting separateness in matters of agency. David Schmidtz cites Nozick's discussion of the experience machine in support of this interpretation. For Nozick, what matters in life is what we actually *do* in life. What makes us agents, explains Schmidtz, is "what we do, what we strive to do, and what we accomplish." Rawls's original position, on the other hand, "assumes that what matters – what we focus on when choosing principles – is the sort of bundle we could be given by an experience machine."[8] Rawls's approach embodies a certain *sort* of respect for the separateness of persons – but it is clearly a worry about *distribution* rather than *agency*. Rawls is concerned that each person receive a fair share of primary goods; Nozick is concerned that each person be able to live as a free moral agent.

I think that Schmidtz has an important insight here, though matters might be somewhat more complicated than he presents them to be. Rawls does in fact focus exclusively on matters of distribution *within the original position*. But the original position is merely a heuristic, itself grounded by Rawls' more fundamental concerns with freedom and equality. For Rawls, the concern with freedom and equality is basic; the

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[8] David Schmidtz, "The Separateness of Persons," forthcoming in *Social Philosophy and Policy* (2005).

original position is simply a method to aid us in working out the implications of these basic ideas. Once we shift our attention from the original position toward the basic concepts of freedom and equality, Rawls' genuine focus on agency becomes much more clear. The *reason* for putting agents behind the veil of ignorance is precisely to increase the autonomy of real-world agents. Rawls' focuses on primary goods because he wants to ensure that the principles of distributive justice chosen behind the veil will not "tip the scales" in favor of any particular conception of the good, thus leaving real-world agents free to choose and pursue whatever conception they wish.

The idea that we can promote autonomy by using a decision procedure which focuses on something other than autonomy itself should be uncontroversial. If Schmidtz's criticism is to go through, then, we should understand it as targeted not at this indirect method of argument as such but rather on the particular way Rawls employs it. It is not that we could never promote autonomy by aiming at something else, it is simply that Rawls' original position is not a good method for doing so. And here, I think Schmidtz is right. Rawls' device of the original position fails to elucidate our basic concept of autonomy because, to borrow a distinction from Onora O'Neill, it not only abstracts from certain features of agents – it *idealizes* them in a way that winds up fundamentally *misdescribing* them. Rawls writes that each person in the original position "has a conception of the good such that he cares very little, if anything, for what he might gain above the minimum."[9] But as Schmidtz notes, real persons are not like this, and

[9] Rawls 1971, p. 154.

Rawls has not provided a good argument for thinking that they *should* be like this, or that they should allow their principles of justice to be created by persons who are.

> Are we supposing that, behind the veil, Michelangelo and Thomas Edison do not care what they achieve above the minimum, or that the rest of us would not care? Even if we could imagine this being true, what difference would it make once the veil is lifted and such people find out who they are?[10]

Real agents' conceptions of the good life are focused not merely on consuming value, but on *producing* it.[11] And *this* is the third and final dimension of the separateness of persons along which Rawls and Nozick differ.

This distinction between production and consumption is closely related to the distinction between agency and distribution. People produce *as* agents, and they consume that which is distributed to them. The difference is one of focus. Agency and distribution are broader terms, meant to cover a wide range of cases in which there are moral questions about forming and pursuing projects or distributing some harm or benefit. Production and consumption, as I use the terms, have a more specifically economic context. They deal with the production (and consumption)of value of the sort we see when entrepreneurs create a new product (and someone employs it), when an author writes a new book (and someone reads it), or when a speculator engages in trades to connect commodities with consumers who demand them (and who then use them). I use the term "economic" hesitantly, and only to point out one of the obvious forms of the activity I have in mind. But not all production is clearly economic. A stay-at-home

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[10] Schmidtz 2005, p. 5.

[11] Much of what follows in this section has developed out of a number of conversations with David Schmidtz.

parent who cleans the home, rears the children, etc., is producing a value in the sense with which I am concerned, even if it is not obviously an economic one.

What is it, then, to respect our separateness as consumers or producers? The former sort of respect should be clear by now. Rawls manifests a paradigmatic respect for our separateness as consumers in the belief, implicit in his defense of the difference principle and his rejection of utilitarianism, that we cannot make up for one person's having less to consume by ensuring that another has more. To respect our separateness as consumers is to claim that distributive justice must take account of the separate and, in some sense, incommensurable claims on material resources that each individual has.

A respect for our separateness as producers is a less familiar idea. Part of the idea, I think, is to be found in Nozick's rejection of the Rawlsian idea that the question of justice is fundamentally about how to distribute a pre-existing social product. Nozick is much less inclined than Rawls to view wealth as simply the product of "social cooperation."[12] For Nozick, wealth is the product of particular individuals, and those individuals who created the wealth have a greater claim on it than those who did not. To lump all production together as though it were "manna from heaven" is to disrespect the efforts of the particular persons who worked to create it.[13]

But here a difficult issue arises. I have claimed that part of respecting the separateness of persons is recognizing the way that separate individuals produce things of value in a society. But does this moral claim rest on a controversial metaphysics? Rawls

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[12] See Rawls 1971, p.7 for his statement that distributing the product of social cooperation is the primary subject of justice.
[13] See Nozick 1974, p. 198.

seems to think that in a deterministic universe, no one deserves anything. The ability to work hard and well, the determination to *learn* to work hard and well, every aspect of our character is "dependent on happy family and social circumstances" or perhaps on genetics.[14] Because they are not products of our choice, Rawls claims that factors such as these are "arbitrary from a moral point of view," and thus an improper foundation for distributive claims.[15] So how can I claim that an individuals contribution to the production of wealth should give him a greater claim on title to that wealth?

I want to resist the idea that the resolution of this argument depends on a prior resolution of the metaphysical debate between free will and determinism. This is not the place for a full defense of these ideas, but I think that Nozick points us in the right direction when he notes that an argument which succeeds only by "attributing *everything* noteworthy about the person completely to certain sorts of 'external' factors" is "a risky line to take for a theory that otherwise wishes to buttress the dignity and respect of autonomous beings."[16] Rawls *does* believe that human beings are capable of dignity and respect, and he does some to believe that genuine choice is possible – for autonomous agents deciding between conceptions of the good, for instance. These terms have meanings; there are truth conditions for their use, and those truth conditions do not seem to depend at all on the resolution of metaphysical debate. Someone who decides to take a course of action in a moment of calm reflection without the interference of others acts freely; someone who acts because a gun is pointed at her back, or because a neurological

[14] Rawls 1971, p. 74.
[15] Rawls 1971, p. 72.
[16] Nozick 1974, p. 214.

condition has rendered her unable to control herself does not. It is true that as science develops, we may learn that more of what we thought was voluntary human action has physiological influences. But this needn't drastically alter the way we speak about 'freedom' and 'coercion'; nor need it alter the moral and social practices which we have built upon these concepts. Our reasons for distinguishing between 'free' and 'coerced' acts, between 'deserving' and 'undeserving' behavior, are not exhausted by metaphysics.

What other reasons are there? Schmidtz starts us in the right direction with the following question: "which arrangements empower human beings to undertake the productive activities on which welfare and progress depend?"[17] Treating the effort and abilities of producers as morally arbitrary, he notes, is not a good way to elicit their willing participation.[18] If such voluntary participation is valuable, either for its own sake or for the wealth it produces, then we have a reason to treat producers and their contributions with respect.

I should emphasize that this is not necessarily just a point about incentives. Even the critics of capitalism recognize that free markets might be a necessary evil insofar as they provide institutional incentives for the creation of wealth. The point above is also one about political legitimacy. If, as Rawls claims, social institutions derive their legitimacy from the fact that they are governed by principles of justice which could be agreed to by *all* members in a fair bargaining position, then institutions governed by principles which can not command the assent of producers are illegitimate.

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[17] Schmidtz 2005, p. 3.
[18] Schmidtz 2005, p. 4.

Insofar as free markets embody a respect for productivity, persons concerned about respecting separateness thus have at least these two reasons to positively appraise their role in society. Let us pursue this line of inquiry further, turning away from an examination of Rawls and Nozick and toward a more direct appraisal of the ways in which free markets embody a respect for the separateness of persons.

Markets versus Meaning?

Part of what it is to respect our separateness as agents is to respect the foundational role that our personal projects play in giving meaning to our lives. But for the most part, people do not come into the world with projects already given to them. There may be a few projects – survival, reproduction and the like – whose origins are biological, but for the most part our projects are the product of our choices, or of our interaction with our social circumstances. Even those projects which have their origins in biology are, at least generally by the time we reach adulthood, conditioned and sometimes discarded and replaced by the choices we make.[19]

Most of our projects are formed, not given; but our ability to form the projects which give our lives meaning depends to a large extent on what's available. Opportunities for women and blacks in the United States in the first half of the twentieth century were severely limited by institutional racism and sexism. Opportunities to pursue a career as an artist under the Soviet regime were limited to those who were willing to

[19] This strikes me as one of the insights of Sartre's essay, "Existentialism is a Humanism." When Sartre denies the existence of human nature, he is not denying that there is a set of physical features which human beings generally share. Rather, he is denying that the mere existence of these features is of any normative significance. The only thing of normative significance, for Sartre, is what we *choose* to make of those features.

conform to the stylistic and ideological guidelines of Socialist Realism. But the limiting factors are not always political; technology and the state of one's society plays a role too. One could not have become a computer engineer prior to the development of computers. And it was much more difficult to become a professional philosopher prior to the explosion in wealth and leisure time created by the technological innovations of the last several centuries.

Thus, one of the dimensions along which we can evaluate markets, or social institutions in general, is the extent to which they provide opportunities for individuals to find and pursue meaningful projects. Historically, this has been one of the grounds on which markets have often been criticized. Literature is replete with stories of individuals who are led by a market system to pursue wealth as an end in itself, and who live shallow and pathetic lives as a result. Cultural critics such as Benjamin Barber point to the "McDonaldization" of the world as a threat to local culture, independently run businesses, and traditional values.[20] Philosophers have tended to focus more on issues of justice, but communitarian critics such as Michael Sandel and Michael Walzer have raised many similar objections. And Philippe van Parijs has gone so far as to make the issue a matter of justice, claiming that because the capitalist system requires individuals to work in order to receive sustenance, it violates what he calls "real freedom."[21]

The argument that capitalism is hostile to individuals' ability to find worthwhile meaning in life has at least two strands. One argument is that the capitalism leads individuals to put too much stress on wealth and material possessions. The other is that

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[20] See Barber 1996
[21] van Parijis 1995.

the sorts of goods which capitalism produces hinder individuals' ability to find personal meaning.

The first argument derives its most obvious support from the incentive structure of capitalism. To the extent that a society's institutions are governed by free markets, individuals' ability to acquire goods is limited by the extent to which they can afford to purchase them. This holds both for material goods and services, such as food, shelter, and health care, but also for certain sorts of *experiences*. Many experiences we take for granted, such as going for a drive down the coast, or hiking in woods, depend on a system of public property the future of which would be threatened by a purely capitalist system. To the extent that individuals wish to enjoy these goods, services, and experiences, they will need to acquire money by participating in the capitalist system.

But there is more at work than just monetary incentives in capitalism. There is also an *ethos*. So-called "bourgeois values" pervade the system through its cinema, its literature, and its system of education. Richard Lippke discusses this phenomenon extensively in his essay on "Advertising and the Social Conditions of Autonomy." Lippke claims that the capitalist ethos is transmitted through advertising. The message of advertising not only supports the capitalist system by portraying the good life as one of consumption. According to Lippke, advertising teaches citizens, especially young children, that they cannot achieve fulfillment without certain products. But it also teaches by omission and negative example. Not only does it positively portray the life of consumption; it also either does not present any alternatives to this life, or if it does, it portrays them as strange and undesirable. Bookish people are portrayed as "nerds," while

those who find satisfaction in quiet contemplation in nature are portrayed as "hippies" and somehow untrustworthy. This ethos is so pervasive, according to Lippke, that it is difficult for citizens to notice, and hence to challenge.

Lippke continues his criticism to raise a point more germane to our second sort of argument. That argument, recall, was that the sorts of goods produced by capitalism are such as to make it difficult for individuals to find worthwhile meaning in their lives. According to Lippke, one way in which advertising does this is through the undermining of the skills which would be necessary to come to one's own autonomous decisions regarding the nature of the good life, and to critique the capitalist system which hinders it. They subtly encourage us to accept emotional appeals, oversimplification, superficiality, and shoddy standards for proof. They convince us that important info about our lives must be entertaining, and passively receivable. Poor standards of evidence, exageration, and puffery are the norm, and advertisements contain "meta-messages" persuading us that we "can't believe what others say, that anything (or nothing!) can be proved, that evidence contrary to one's claims may be ignored, and that words can mean whatever one wants them to mean."[22]

"Cultural Imperialism" is another common charge against capitalism. The charge is that free markets lead to the homogenization of cultures by supplanting the cultures of developing countries with ready-made, Western substitutes. Western cultural products crowd out local innovation, depriving the world of a genuine diversity in the arts, and depriving the local culture of the self-esteem that comes from developing its own cultural

[22] Lippke 1999, p. 391.

heritage. Not only this, but the consumer culture which capitalism brings with it may undermine the foundations of democracy both by the subversion of skills needed for genuine autonomy, as described above, and by instilling a spirit of "self-involved pleasure" at odds with the discipline necessary for self-government.[23] All this is topped off, critics charge, by the fact that the products the West tends to export (and, more broadly, the products which capitalism tends to produce in the greatest bulk) are some of the most mediocre cultural products the West has to offer. America has a thriving independent film industry, countless literary magazines, and equally countless producers and performers of genuinely innovate, thought-inspiring music. But the products we export are poorly thought-out Hollywood movies, trashy literature, and derivative popular music.

[23] See Bell 1976.

A Defense of Markets

I want to say something about each of these criticisms, though I will spend most of my time addressing the second argument – that the products of capitalism undermine an individual's ability to pursue a meaningful life. Let us begin with the first argument, which charges that the financial incentives of capitalism subvert meaning by causing individuals to focus too much on material well-being. There is, no doubt, more than a grain of truth to this charge. The financial incentives inherent in the capitalist system are both pressing and prevalent. It is hard *not* to focus on wealth when wealth is necessary for most of the goods we wish to purchase, and when one is constantly bombarded with displays of its use. However, it is striking how few people *say* that they are motivated primarily by wealth. Even in my experience teaching undergraduate business students – a group one might expect to be more focused on the attainment of wealth than most – I have only encountered one or two students who asserted that they were primarily motivated by money. They may, of course, simply be telling me what they think I want to hear. Or they may genuinely *believe* that they believe that money is not the most important thing in their life – and still accord it a dominant role in their *actions*. Nevertheless, my business students are not unusual in this regard. Popular culture is less likely to portray those make money the center of their life as a hero than as a Scrooge (or to take some American examples, as a Henry Potter, or a George Babbit, or a Gordon Gekko, or even, in the extreme, a Pat Bateman).

Even if it is true, however, that individuals in a capitalist society tend to focus too much on wealth-acquisition, one might still wonder whether capitalism is the *cause* of this phenomenon. To me it seems more likely that the competition over wealth exhibited in capitalist societies is simply one manifestation of a more general competition over external goods which is as old as humankind. Capitalism did not *create* the desire to dress better than one's neighbor, or to have a larger home or a faster method of transportation. It simply *channels* these desires in a different way than previous social systems.

Even granting this, of course, capitalism is not out of the woods yet. It is still possible that they way that capitalism channels our competitive impulses is more destructive than the ways in which other systems might. I believe there is something to this idea. Large scale externalities such as pollution (or, less obviously, destructive cultural change) are possible under capitalist modes of production in a way in which they were not previously. But does the way that capitalism deals with the competitive impulse undermine the individual's ability to find *meaning* in life?

A full answer to this question would require more empirical evidence than this paper is in a position to provide. Two somewhat more theoretical points, however, provide some indication that capitalism deserves less blame on this charge than we might otherwise think. First, capitalism has produced an explosion in the number of possibilities an individual has available for making a living.[24] There are a countless

[24] It would be irresponsible to make this point without acknowledging its flip side, first raised, paradoxically, by Adam Smith. Smith notes the increase in type of jobs available is due to capitalism's reliance on the division of labor, and that its results are not all rosy. Some of the jobs which capitalism creates provide interesting, challenging venues in which to seek meaning in life. But some of them are

number of careers today which could not have been possible without the productivity of capitalism, and many more which are available on a much wider scale. Many people make a living working in entertainment, broadcast media, as park rangers, automotive mechanics, psychotherapists – all careers which depend on a certain level of technological innovation and wealth in society, both of which capitalism has produced in abundance.

Even apart from these considerations, however, and this is our second point; the wealth produced by capitalism has made it easier for some individuals to focus on projects *other* than working. Again, this is an issue in need of more empirical support than I am here in a position to provide, but if it is true that capitalism provides individuals with more leisure time (or at least, for the *opportunity* for more leisure time)[25] than alternative social systems, than this would be another way in which capitalism facilitates the pursuit of meaning.

What about the charge that the capitalist ethos induces individuals to focus on wealth-acquisition in an unhealthy way? Do advertisements send a message that the ideal life is one of consumption, and if so, are they effective in communicating this ideal? Again, my own personal experience in discussing this issue with business students gives

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dull, repetitive, and empty of meaning. Smith's point is, of course, correct – though it is likely more of a problem the poorer one's society is. Nevertheless, one wonders what the alternative is? The persons performing the dull, repetitive jobs in a capitalist society are likely those with the least skill or education. One cannot condemn capitalism simply by pointing out that such individuals fare poorly under its institutions – one would need to point to an alternative set of institutions under which such individuals fare better, and show how those institutions stack up against capitalism on other measures.

[25] One problem with the sociological research on this issue is that (understandably) it draws no distinction between these two. Individuals may work longer than it is "necessary" for them to work under capitalism because doing so affords them the opportunity to maintain relationships with co-workers, or because it allows them to provide extra security for their children or grandchildren. Work itself might become a personal project the importance of which is quite detached from its original purpose in earning a living for oneself.

me reason to be suspicious. Most of them have a hard time taking seriously the idea that advertising is creating in them desires for consumer goods which they don't really need. It's not that they deny that advertising *attempts* to create such desires in them; they just doubt that it is successful. Perhaps they are fooling themselves. But the very fact that they are *aware* that advertising *tries* to manipulate them tells us something important. It tells us that these individuals, at least, are not taking advertising's pronouncements at face value. In fact, there is a rather pervasive cynicism about advertising – and this connects us up with Lippke's second point. Lippke claims that advertising subverts the development of the rational skills necessary for autonomy by sending "meta-messages" to the effect that it's OK to accept shoddy standards of evidence or to purchase without rational examination. But individuals' cynicism about advertising often extends to these meta-messages themselves – the claim that "4 out of 5 doctors agree" as evidence for the value of a product can now no longer be used in anything but a purely ironical way. Indeed, advertising often serves as a valuable teaching tool. With out without advertising, or for that matter, with or without capitalism, people will try to manipulate each other. Advertising provides a forum where this manipulation is *obvious* – one which parents can point to in order to teach their children about why they shouldn't believe everything that they are told. Because it is generally so obvious, advertising serves to remind us that other people, if given the opportunity, will *try* to impose *their* meaning on *our* lives. This can be an effective way of reminding us of our responsibility to be vigilant in defining our meaning for ourselves.

Finally, then, what of the charge of cultural imperialism? Or, more broadly, what of the charge that the products created by capitalism undermine the ability of individuals to find their own worthwhile meaning in life, by "crowding out" the personal quest for meaning with the ready-made meaning of consumer goods?

Part of the problem with this argument, as I see it, is that it ascribes too much power to generate demand on the part of suppliers in a capitalist market. Successful trends stand out in our memory precisely because they were successful. But what of all the failed attempts by marketing agencies to sway culture in a particular direction? The sheer number of failures is enough to lead one to suspect whether marketing is really the difference-making factor. In support of this point, Charles Paul Freund relates a story of an executive working for Hush Puppies shoes. Sale of Hush Puppies had been declining over the years, with only a dwindling market base of older customers to keep sales going at all. Then a strange thing happened. A creative consultant tipped off the executive to the fact that Hush Puppies were beginning a resurgence.

> People in Manhattan were scouring thrift stores for them; Hush Puppies were turning up in hip fashion shoots. Hush Puppies executives were as mystified as they were pleased. They were the beneficiaries of a process over which the market has no control: they'd become cool.[26]

There is a broader philosophic point to be made here. Products are not made with meanings attached. The meaning of a product is not built in to its *substance*. Individual consumers have a tremendous amount of power to define the meaning of the products they consume. In the example above, no one in the company decided to market Hush Puppies as "retro chic." That decision was likely made by some individual, and adopted

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[26] Freund 2002, p. 27

by a number of other individuals until it became a full-scale trend. If Hush Puppies executives had tried to instill this meaning in their product themselves, the trend most likely never would have happened.

This point is further illustrated by the *way* in which Western products are used in other countries. Consumption is generally not a passive process. When Western products are purchased, they generally do not replace domestic cultural products, but supplement them. This is done either by consumers picking and choosing which products to consume – an individual in France drinking Chilean wine while watching a Hollywood movie on his Japanese made DVD player – or by a process of cultural mixing. American products are integrated with the products of one's own culture, or with element of other cultures which one has assimilated.[27] Philippe Legrain describes just a sample of this mixing:

> V.S. Naipaul's Anglo-Indo-Caribbean writing, Paul Gauguin painting in Polynesia, or the African rhythms in rock 'n' roll. Behold the great British curry. Admire the many-colored faces of France's World Cup-winning soccer team, the ferment of ideas that came from Eastern Europe's Jewish diaspora, and the cosmopolitan cities of London and New York. Western numbers are actually Arabic; zero comes most recently from India; Icelandic, French, and Sanskrit stem from a common root.[28]

Indeed, this intermingling of cultures was singled out by John Stuart Mill as one of capitalism's greatest benefits.

> The economical benefits of commerce are surpassed in importance by those of its effects which are intellectual and moral. It is hardly possible to overrate the value, for the improvement of human beings, of things which bring them into contact with persons dissimilar to themselves, and with modes of thought and action

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[27] See, on this point, Cowen 2002.
[28] Legrain 2003.

> unlike those with which they are familiar. ... It is indispensable to be perpetually comparing [one's] own notions and customs with the experience and example of persons in different circumstances. ... There is no nation which does not need to borrow from others.[29]

Mill and Legrain both make the point regarding international commerce, but the point extends to *intra*national commerce. Individuals are just as likely as cultures to play an active role in shaping the meaning of the products they consume to suit themselves. Just as globalization can free cultures from the tyranny of geography, so can capitalism on an domestic scale provide individuals with an opportunity to *re-create* themselves – to continually "try on" different personas and images, until they find one that they can embrace. Individuals can join different sub-cultures, present or hide different aspects of themselves to or from the world, and often they accomplish this by simply being choosy consumers.

Conclusions

I have argued that markets measure up better than many have thought on one important dimension of the separateness of persons – their ability to foster the individual's pursuit of meaning in the world. One question which remains unanswered, however, is *how* free markets should be. I have suggested that respecting individuals as producers requires not taking their contributions for granted, and this may tell against some forms of regulation or taxation. Similarly, the fact that markets are limited in their ability to dictate meaning to individuals leaves us with one less reason to worry that their influence on culture is corruptive and in need of government correction. But these

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[29] Mill 1961, p. 581.

arguments are merely suggestive, and do not tell in favor of any particular final view on the role of markets in society – libertarian or otherwise. It is possible that a further investigation into the separateness of persons *would* lead us to some conclusive answer. But it also possible – and far more likely, in my opinion – that these considerations of personal separateness will, in the end, need to be weighed against other considerations – considerations of efficiency, or perhaps of virtue. Nevertheless, our examination of the concept of separateness has shown that the idea is central to the concept of *justice*, and that considerations of justice extend to a broader range of concerns than has often been assumed. A respect for separateness entails a concern for distributive justice, but this does not exhaust it. Real concern for separateness entails taking people's status as agents seriously, and this is no less obviously a requirement of justice than questions of distribution.

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