

The Freedom of Morality

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Jan Dejnoška, *The Freedom of Morality* (1994). A critical study of Joseph Raz, *The Morality of Freedom*. Topics include authority justified by reason, perfectionist moral ideals vs. neutralism, rights-based liberty, incommensurability of values, human well-being, political autonomy, value-pluralism, and harm and toleration. Philosophers and others discussed include Richard Bellamy, Panayot Butchvarov, William Edward Deming, Gerald Dworkin, R. E. Ewin, G. C. Field, John Martin Fischer, William K. Frankena, Gordon Graham, G. W. F. Hegel, W. T. Jones, Charles Kelbley, Loren E. Lomasky, Rollo May, Andrew Oldenquist, Troy Wilson Organ, P. H. Partridge, Joseph Raz, Bertrand Russell, Henry Sidgwick, P. F. Strawson, L. W. Sumner, Paul Tillich, J. O. Urmson, W. J. Waluchow, Max Weber, and Wilhelm Windelband.

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FOREWORD

This paper is a critical discussion of Joseph Raz's *The Morality of Freedom*. Perhaps more accurately it is a large compilation of criticisms and some very occasional suggested improvements or alternatives. It is surely rough, even at times raw, but I think readable enough. I committed myself to this project this spring, when I understood that the course would be centered on Raz's book, and I read the book over the summer. The body of the paper was essentially completed before the first day of class.

I thought the two technically most interesting chapters in Raz's book are the ones on equality and incommensurability. I chose to ignore the former and discuss the latter at length. I tend to agree with Raz's critique of typical equality-based moralities. My main comment concerns principles of equitable distribution such as (6a), (6b), (7), (C), and (D) (Raz 230-33). If we must give to the neediest first and foremost *simpliciter*, then in terms of Aesop's fable, hard-working ants are obliged to support carefree grasshoppers first and foremost. Few would care to work for a living under such a scheme of distributive "justice." And I see no justice in it. Such principles are neither analytically true nor intuitively self-evident. Nor do they seem productive or even realistic unless they play a carefully limited role. If we limit Raz's principles of equitable distribution with the qualifying phrase "other things being equal," they would be completely transformed. But this is to whisper what should be shouted: the morality of freedom is responsibility.

Though critical, my paper owes nearly everything to Raz's book in a very literal sense, since I have little background in the specific topics discussed here.

PREFACE

This paper is a fairly comprehensive examination of Joseph Raz's *The Morality of Freedom*. In general the book is inventive and insightful in ideas and criticisms, but ramshackle and even sievelike in constructively reasoning for its own positive views.

The title of this paper indicates an important traditional topic of morality: the freedom we find from self-incurred evil when we become slaves of righteousness instead of slaves of evil. The paper discusses that topic, but not much.FN1

This paper is a "platform paper" written for future development. It is written for the Fall 1994 Political Value seminar taught at the University of Michigan Law School by Don Regan and Joseph Raz. A third semester hour of independent study credit has been added to the two semester hours of the seminar.

Loren E. Lomasky wrote by far the best of the nine reviews I read of Raz's *The Freedom of Morality*. I owe him and the other review writers a debt, not that I always take their side. I regret having been unable to read much else in the comprehensive Raz Bibliography I developed at an early stage. I learned the most, of course, from Raz's book. This paper is dedicated to Don Regan and Joseph Raz from a neophyte political philosopher. It's been my second philosopher's holiday at the law school.

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I. AUTHORITY JUSTIFIED BY REASON

1. *The General Framework*

Raz aims elegantly and radically to rebuild the foundations of liberalism by rejecting all but one of the six or so theses which have thus far defined what may be called standard generic liberalism, and basing liberalism on this one thesis alone. Standard generic liberalism affirms (1) neutrality, the thesis that a state ought to be neutral as to which ways of life are ethically preferable; (2) what amounts to the same, anti-perfectionism, the thesis that the state shall favor no ethical ideal in its political actions, and shall prevent citizens from acting in accordance with their own ideals only if they would directly harm others; (3) basic rights, the thesis that civil rights are the theoretically ultimate safeguards of (1) and (2); (4) individualism, the thesis that rights and values ultimately belong to individuals (or to corporate entities which are fictitious individuals); (5) equality, the thesis that a (or the) fundamental right is that of equality; (6) preference-based state action, the thesis that the state's actions, beyond enforcing neutrality, can only be based on the preferences of its citizens, taken as equal individuals in accordance with theses (4) and (5) (this might also be called the pure democracy thesis); (7) anti-paternalism, the thesis that the state may prevent an individual from harming others but not from harming himself; (8) autonomy, the thesis that citizens ought to be free to choose their own projects, personal relationships, and ways of life. Raz will reject theses (1)-(7) and accept only thesis (8). On this strategic level the question is, Can Raz achieve a well-balanced and genuine liberalism based on thesis (8) alone plus whatever surrogates for theses (1)-(7) he can base on thesis (8)? "Because Raz jettisons so much of the

standard baggage of liberalism, autonomy has to do more work for him than for any other major liberal theorist since Kant. Whether autonomy is equal to the task remains to be seen” (Lomasky 1990, pp. 86-87).

Liberalism is bracketed between more autonomous approaches such as anarchism and libertarianism and less autonomous approaches such as fascism and collectivism (“communitarianism”).

Raz divides political theory into political morality and theory of institutions. He makes the former the foundation of the latter, but deliberately refrains from discussing the latter (Raz 3). Thus Raz ignores that “one crucial test of a theory of political morality is its concrete implications for political life, in much the same way that a test of a moral theory is its fit with our considered judgments about particular cases” (Waluchow, p. 478). Even worse, the problem with ignoring the dialectic between the two levels of political theory is that the practical considerations of theory of institutions can completely overrule and reverse the more theoretical ideals of political morality. Call this Raz’s *first huge sieve*. In fairness, Raz seems well aware of that, and admits that his own political morality presupposes a conception of how society works (Raz 1). But he seems unaware of the strategic miscalculation of merely mentioning this problem and never explaining the specific institutional presuppositions of his political morality. In a nutshell, he must suppose that massive state institutions *can* create and sustain his political morality of promoting autonomy, as opposed to creating a stagnant welfare mentality and fossilizing the free flow of natural life-alternatives with government-approved “entitlements” to artificially regulated life-alternatives, or at best wasting productive people’s hard earned money in huge tax-and-spend programs accomplishing little. Perhaps the basic consideration about theory of institutions is this: Just as individuals have different

degrees of readiness or capacity for autonomy, so do societies have different degrees of readiness or capacity to sustain social institutions that would promote Razian political morality. To put it bluntly, some societies do not have the maturity or willingness to abide by election results or due process, so as to thrive or even survive as liberal democracies in any very genuine sense. Raz's reply is that he is concerned with a narrower project, namely to describe the ideal political morality, which perhaps only a few nations can feasibly realize today. But what kind of ideal is that?

Raz says "we are all aware of many cases where the best policies failed through the failure of the institutions which were charged with their implementation" (Raz 3). But what about laying some blame on the beautiful moral ideals of the Soviet Union? Can all the blame be laid on her institutions? Or were her distributive political ideals themselves not unrealistic, and more than a little unjust to the millions of successful peasants who were exterminated?

It is revealing that Raz's political morality mirrors the former Soviet Union's great autonomic ideal of everybody's being entitled to and somehow ensured of a meaningful occupation more closely than it does the historical American neutralist ideal of the mere right to *pursue* happiness. The old promise of entitlement to the occupation of your choice is seductive even now. But Raz's *second* big sieve brings much perspective. Namely, his complex story includes several major conservative themes as well as liberal ones. His political morality is thoroughly liberal only in the nineteenth century sense of concerning democratic governments with limited powers. Republicans and Tories, Democrats and Laborites are all liberal in this sense today. Little argument, if any, will be needed to show that the strands of this sieve can often outweigh the socialistic strands of Raz's thought. Again, Raz is extremely aware that big state programs can do

more harm than good. He is aware that programs of intervention in traditional societies can do far more harm than good, that too much change can be a bad thing. He is aware that goals, if not specifically his own goal of promoting autonomy through government programs, can be self-defeating. He is aware that much of the value of life is agent-relative and more, that the agent must perform projects himself to get any value out of them, that nobody can do my work for me if I am to have job satisfaction. That is a tremendously conservative message. Raz even goes so far as to note that as you change social forms, such as by allowing homosexual couples to marry, you change their very value and meaning. Perhaps some would say such changes are for the better, but there is theoretical room for conservatives to argue that they are often destructive and perverting. Perhaps most obviously of all, autonomy itself is a great conservative theme. It is the political freedom of *individuals*.

In fact Raz has only two main liberal strands: first, the emphasis on intellectual reason, the rational leader, and abstract principles of political morality (as opposed to some modicum of traditional values, traditional leadership, and pragmatic caution against untried novelties based on remote Ivory Tower speculation), and second, the willingness to engage in massive government intrusions. Fischer says, “Raz does not argue for a strong central government. The role of government is confined to maintaining framework conditions conducive to autonomy and pluralism” (Fischer, p. 256 citing (Raz 427)). Fischer is right in that Raz upholds limited government as opposed to a dictatorship, but wrong in that Raz is far from a laissez-faire approach to people’s well-being.

A *third huge sieve* is Raz’s decision to omit a theory of justice, though “[a] complete political morality must include a theory of justice” (Raz 2). While he is right that our theory of

political liberty ‘affects our conception of justice’, he pays no attention to interplay in the reverse direction (Raz 2). The big question here is whether Razian distributive justice is really justice, or just old socialist wine in a new bottle. Again Raz seems closer to distributive justice as the stated ideal of the Soviet Union than to the retributive ideal of historical Anglo-American democracy.

The three sieves can magnify each other. A realistic theory of what institutions can and cannot successfully do, a dose of conservative caution against too much change, and a theory of justice that does not turn the world upside down seem mutually reinforcing, and bring (or would bring) perspective and balance to political morality. In this perspective, the rational leader seems a theoretical ideal so distant as to appear hardly a human ideal at all. Yet even reason, meaning not just philosophy but also all the sciences and ordinary common sense, has a practical role of its own as well.

Still, the magnitude of these three sieves does not inspire confidence in Raz’s ability to appreciate the big picture. Even setting up a main rational pillar of the temple of political theory is best done in light of a workable, stable plan for the whole temple.

Concerning methodology, Raz denigrates linguistic analysis in search of meanings of political terms (e.g. (Raz 14-16), but later on he admits his own linguistic criteria of applicability of terms, criteria which smack heavily of ordinary language philosophy.

Also concerning methodology, there is no phenomenology in Raz’s approach. Yet phenomenology has been basic to British ethics ever since Hume failed to apprehend any moral obligations and could only introspect moral sentiments. The historic reply to Hume came when Moore compared apprehending goodness to seeing an indefinable property like yellow. More recently Butchvarov has developed a Continental-inspired phenomenology of apprehending ethical

properties leading him to a neoMoorean account of the apprehension of ethical truths. This account undermines Rawls's original position by making Rawls's conception of moral reasoning look narrow and impoverished. Alternatively, Schopenhauer took a neoHumean approach of dismissing Kantian pure practical reason as a big fiction and basing morality on the sentiment of compassion. Raz has little to say about any of this. Can Raz justify his neo-Kantian rationalist moral theory as adequate in the absence of any account of how moral situations even *appear* to us? How might including such an account affect his views?

2. Theory of Political Authority

Raz says, "The authority the government of a state claims for itself is general in that it claims authority to regulate all aspects of life...." (Raz 4). This statement is too broad and unhistorical. How many states ever made such a megalomaniacal claim? Is it in the U. S. Constitution? At what historic point did this phantom appear in the unwritten British constitution? The claim does not even fit well with Raz's own theory of political authority as justified only when people are more likely to do the right thing when they obey the government than when they decide what to do themselves. For even a claim to authority is itself authoritative. On Raz's own views, a government must be capable of knowing better than everybody else about every aspect of life, for this claim to be authoritative.

Raz says, "The only interest a government is entitled to pursue is that of its subjects.... In this it differs from corporations and voluntary associations which may have independent interests which they may pursue within moral bounds" (Raz 6-7). This statement is too narrow and

unhistorical. Quite aside from what its subjects wish, is not a government entitled to pursue the interests of humans universally, subjects or not? Is not the Dalai Lama's government in exile entitled to pursue the general interest of humanity in peace? On the other hand, though again quite aside from what its subjects may wish, is not a government entitled to pursue its own profit if this is an incentive for the government's acting wisely and well stemming from an external source? What about government by a hired private corporation whose profits depend on its success in promoting and protecting the interests of its subjects? When the citizens of chaotic Novgorod begged Rurik to rule them, surely they allowed Rurik to pursue independent interests; and similarly for the Khazars and the Varangian Rus who were allowed to rule the Slavs before Rurik. Was not Rurik *entitled* by the Novogorodians to some personal profit as compensation and reward for his bringing them the peace and stability they craved? No doubt some good elected city councils in the Renaissance were practically corporations. Profit was a customary and morally quite permissible perquisite of office, so long as the rulers did their job. If that is no longer so in some countries today, it is not due to some imagined intrinsic impermissibility of profit by government officials, but to Consequentialism problems of greed and corruption. Even today, many Americans consider schools and jails officiated by private corporations for profit more likely to promote and protect the welfare of Americans than some state or local governments are. The question seems quite open. Entitlement to a reasonable profit can be merely an open form of payment for services rendered. Raz is unduly limited by current Anglo-American narrow conceptions on this subject. In other times and places a worthy ruler who would take no personal spoils after defeating an invading enemy might not even be able to afford to be ruler for long, much though his devoted subjects might wish it.

a. *Thirteen Problems with The Dependence and Normal Justification Theses*

I accept Raz's 'service conception' that political authority functions to serve the governed. That is the ideal, i.e., the best thing for political authority to do, and also the duty of political authority. Raz fleshes out this general conception with three theses: the dependence thesis (DT), normal justification thesis (NOT), and preemption thesis (PT). I shall discuss PT later. DT is that "authoritative directives... should be based on reasons which already apply to the subjects of the directives" (Raz 47). NOT is that "the normal way to show that" a government G's directive D is authoritative for some person P is to show that P is more likely to perform D, where there are independently good reasons for performing D (i.e. which already apply to P), if G tells P to perform D than if P performs D for reasons P discovers or figures out on his own (Raz 53). It follows from Raz's service conception of political authority, specifically from the 'independent good reason' clause of NOT, that "there is no *general* obligation to obey the law" (Waluchow, p. 479). For authority to direct D and obligation to perform D are two sides of the same coin. And the obligation exists only if there is an independent reason for P to perform D (Raz 89). "So consent itself cannot create an obligation to obey" (Waluchow, p. 479). This scouts all social contract theories of political authority. Consent, of course, retains much practical importance in promoting respect for, compliance with, and even a sense of belonging or identification with, government authority (Waluchow, p. 479).

I have thirteen criticisms of DT and NOT.

First, DT and NOT seem empty of content. They tell us that our whole duty is to act rationally. The sole attack against other conceptions is that they need not lead to the most rational

behavior. Yet they provide no guidance as to which reasons we ought to act on. The problem seems even worse for Raz than for Kant's rationalist morality, since Kant had several more specific moral principals which were justified by intellectual intuition.

Second, if we try to justify our reasons on the basis of further reasons, then we are led to a vicious infinite regress of reasons. Kant at least tried to stop the regress with rational principles known to be true a priori. Hume stops the regress with experiences of the moral sentiment of approbation; reason, the slave of the passions, can establish only instrumental values. Raz seems unable to stop the regress by appealing to desires or choices, since he based their value on the reasons behind them. He seems able to stop the regress only where biological values are concerned, namely, in terms of our biological nature. On his own conception of individual well-being, this leaves out all the distinctively human values.

Third, there is a dilemma internal to Raz's larger theory. NOT is that government G has authority to tell person P to do action A if there is independent reason R for P to do A and P is more likely to do A if G tells P to than if P is left free to choose whether to do A on his own. At the same time Raz hold most life choices for P to be incommensurable alternatives. Do not these two views conflict on several levels? For P can often find reason R1 for doing A1, where R and R1 are incommensurable and A and A1 are incommensurable. The same problem occurs more deeply on the level of government institutions as incommensurable alternatives, and more deeply again on the level of political moralities as incommensurable alternatives. All this affects the question whether there really is a best reason R for P's doing a best action A in most cases. How could Raz reconcile this dilemma? If he weights autonomy so heavily as to determine that liberalism is the best political morality and that intervention in heterologous societies is justified (other things being

equal), and so as to determine that institutions must provide a range of incommensurable alternatives for P, then how can he keep autonomy from being so weighty that this dilemma does not arise on the level of most of P's autonomous choices?

Thus a *fourth* big sieve is created by Raz's own theory of comprehensive goals as normally incommensurable. The theory seems to entail that the many alternative comprehensive *governmental* goals, such as liberalism or communitarianism or theocracy or authoritarianism spelled out in detail in various ways on the institutional level, all of which are far more comprehensive than the goals of any individual, are incommensurable. Thus Raz's own theory of incommensurability does much to stifle DT and NOT.

More specifically, my criticism is that NOT will be true and yet G have no authority over P, where P has independent good reason R1 for not doing D, which reason is incommensurable with G's independent good reason R2 for P's doing D, even though P has independent good reason R3 for doing D which is worse than R2 (and R1) and is thus less likely to lead P to do D than is G's telling P to do D for reason R3. We might even add that P is more likely to do D if G tells P to do D for reason R3 (perhaps out of fear) than P is likely not to do D for reason R1. G's authority over P would still be unjustified. Thus Raz's argument is a non sequitur.

Fourth, governmental directives are rules, and form a rule-morality. But NOT is a situation-morality, since different individuals will be more or less likely to perform D if G insists on D, as opposed to their figuring out their own reasons (Waluchow, p. 479). Individual situations may differ greatly indeed. Waluchow does not see the obvious mitigation in this, which is that thanks to the independent good reason clause of NOT, P ought to perform D in any case, so that P will be doing what the government wants her to do in any case. But this does not completely solve

the problem Waluchow raises. For there is some vagueness in just what ‘independent good reason’ is. Some person P might figure out better independent reasons for doing D1 than G figured out for doing D, and that could cause conflicts between P and G, and also between P and all the other persons G directs. How good must a good reason be? By how much must it be the best? Raz says it must be good enough to entail a duty, and more than that, a duty enforceable by governmental authority. But how good does it have to be to do that? Raz never tells us. This is comparable to asking a child how cookies are made, the child then drawing a box and writing, “In here the cookies are made.”

Fifth, Raz might mitigate this line of criticism by stressing “the need...for a measure of humility and toleration on the part of government” (Waluchow, p. 489). The idea is that if the government cannot judge correctly, then it lacks authority to judge at all (Raz 412, 427). But Waluchow very properly objects, Who judges the judge? Who polices the police? “The answer more often than not is the government itself, which is what often prompts doctrines of limited government far stricter than Raz seems to condone” (Waluchow, p, 489). Here Raz seems to lack any real sense of “Power corrupts, and absolute power corrupts absolutely,” or of what Orwell’s *1984* and “Big Brother” are all about.

Sixth, a deep and elegant expansion of the fifth criticism is, Who is to decide “whose version of reason is right[?]” (Ewin, p. 495, citing Hobbes’s *Leviathan*, chapter 5). Ewin makes this a criticism of NOT, but it strikes even more deeply at DT. This raises the spectre of many incommensurable *kinds* of reasoning.

Seventh, Raz’s supposition that government can ever judge *correctly* (Raz 412, 427) is trashed by Raz’s own claim that there *is* nothing to values beyond what we judge or choose (Raz

327). This is another internal inconsistency in Raz's thought.

Eighth, who is to decide what *standard* of independent reason to use? And who is to decide what standard of evidence to use? Suppose we have standards 1-4, 1 being the lowest and 4 being the highest: (1) preponderance of evidence, (2) clear and convincing evidence, (3) evidence beyond a reasonable doubt, (4) logical proof. What if a photographer applies for Federal grant money to take erotic photographs, the government has evidence of level 2 that this would harm society, and the photographer has evidence almost of level 2 that this would promote autonomy? And who is to decide which standards of reason are met by political arguments in various authors?

Ninth, Ewin notes one place where DT and thus NOT must fail. In the case of a tie vote with no good reason to favor either side, the chair may cast a deciding vote "by pulling a name from a hat" (Ewin, p. 495). More generally sometimes it is better simply to make a decision, even an arbitrary decision, and get on with it. This is fully within the purview of authority. More, it is just the kind of thing we expect authorities to do in such cases. Observe that no major conventions, such as a traffic schema, are involved which only a government could sustain. Observe also the relationship to Buridan's ass, who had no sufficient reason to prefer eating either of two equidistant piles of hay. This is the problem of rationally indiscernible options. It is not even very easy to admit higher-level independent reasons. Why pick a name out of a hat? Why not flip a coin? Why even use equal chances?

Tenth, Waluchow concedes three kinds of cases where NOT is likely to work successfully: (i) where governments can collect superior knowledge; (ii) where only governments can feasibly sustain major social conventions; and (iii) where only governments can break up a large 'prisoner's dilemma' situations (Waluchow, p. 478). But even here there is a problem. One of the most basic

conditions of developing autonomy is allowing people the chance to learn to be autonomous: to work at or practice autonomy, to fall down sometimes but learn from one's mistakes. "Please, mother, I'd rather do it myself" is said when even though mother (i) knows best, (ii) can best sustain certain conventions, or (iii) can best resolve selfish vs. altruistic advantage dilemma, the young daughter knows she can grow only if abandons paternal guidance and tries acting on her own for once. This fundamental consideration of learning (and further developing, or at least practically maintaining) autonomy must be outweighed by other considerations for cases (i)-(iii) to apply substantively. Otherwise cases (i)-(iii) may serve to stifle development of the very sort of autonomy they are supposed to help promote.

Making autonomy "too easy," i.e. removing all sense of challenge or difficulty, paradoxically may create a welfare or dependence mentality. In fact, creating an entire welfare culture, whole generations of people with an "entitlement mentality," has been one of the biggest problems caused by well-intentioned liberal government entitlement programs in the U.S. over the past 30 years. Liberal policies have created huge financial incentives for sloth and family breakups, promoted racial hatred due to rivalry over color-conscious entitlement quotas, and punished all autonomous workers with heavy taxes, to the detriment of autonomy among "haves" and "have nots" alike. Raz would hand autonomy to everybody on a silver platter as much as possible by government intervention. This is self-defeating. This is a *fifth* big sieve in Raz's system. For Raz openly admits that some goals are self-defeating, and this goal of Raz's own is among them. In typical liberal fashion, Raz's rationalistic paternalism stifles his own goal of promoting autonomy. There is a problem or at least paradox concerning the need for effective and safe training of leaders and followers in any leader-follower relation. Typically this requires schooling in blind obedience

for those occasions when there is not enough time to explain things to the followers, and also to promote efficient reactions. Aside from the ordinary citizen (say air raid drills), it is not practicable to have police, military, or medical institutions without such schooling. This means use of dry runs, imaginary scenarios, war games, and the like, where there is no independent good reason for the directives, unless you count the consequentialism benefits of training. Another reason is the need of leaders to know how much they can count on their followers. While Raz's concern to describe the ideal authority precludes directives for no reason other than personal whim, surely the ideal authority will engage in much often arbitrary testing of at least key segments of the population. While war games have many deliberately designed features to promote realism and test various important aspects of readiness, by definition they are ultimately hypothetical scenarios. Ryle noted long ago that much like the drills of formal logic as a preparation for reasoning in life, parade drills are fine training for maintaining habits of discipline in the field. But perhaps this is covered by the fact that, as with ultimately arbitrary traffic schemes, the authority is in a unique position to achieve organizational benefits.

Having said all that, even I would admit that sometimes only big government can act to promote an autonomy which ought to be promoted. I have in mind the Federal breakup of Southern racial segregation as practiced by regional and local authorities, and indeed, the winning of the Civil War. Where liberal thinking went wrong is with most of Lyndon Baines Johnson's Great Society. And even then there were some success stories such as the Head Start food program for children. Also, I am suspicious even of Jack Kemp's conservative efforts to use big government to promote "free enterprise zones" in urban neighborhoods. I hear that they too spend too much money for too little return. I hear better things about the program now used in many

Third World countries of extremely small business loans to individuals, many of which result in thriving businesses and most of which are scrupulously repaid. Perhaps big government can handle something like that. I must also add that *nobody* can govern 250 million people easily.

Eleventh, there is a jurisdictional problem. The U.S. government may issue a peremptory or exclusionary directive D, based on independently good reasons, which person P would be more likely to perform than if P had to find her own reasons for doing D. P may even be well aware of the general excellence of the independent reasons the U.S. (we assume) always has. Yet P may be a citizen of Pakistan over whom the U.S. government has no authority.

Twelfth, DT and NOT are anti-democratic. For the state can act only if authorized to do so by NOT. And the majority might pick something other than that picked by NOT as the right thing to do. Why, God forbid, the majority might even vote against NOT in a referendum! What is the state's moral duty then--to follow NOT or to obey the will of the people? The only way to remove the conflict is to give an argument that democracy is authorized by NOT, or at least consistent with all governmental orders based on NOT.

In fact, DT and NOT inevitably lead to Plato's republic. For the only practical way to ensure that the state's reasons are the best is to ensure that the state has the best reasoners. Thus DT and NOT invite a meritocracy in the end. As Plato saw, there is nothing democratic about a dictatorship of reason. Nor is there much need to provide many alternatives if you have reasoned out people's true natures (Plato's "copper, silver, gold").

Thirteenth, DT and NOT are appropriate for only one of four ideal kinds of governmental authority: the rational leader. The other three are the traditional, the charismatic, and the numinous. Raz fails to distinguish these three and seems to lump them together under the heading

of charismatic leader. Social contract theories, which as we saw, NOT rules out, would be more appropriate for justifying traditional, charismatic, or perhaps even numinous leaders.

I accept Max Weber's threefold distinction among kinds of ideal authority, and corresponding kinds of justification of authority, as follows. The traditional leader is justified by being best at promoting the cherished ancient cultural values of a people. The legal-rational leader is justified by being best at finding what is best to do for the best objective reasons. The charismatic leader is justified by motivational power or the ability to get things done: force of character or personality, inspiration of faith, hope, belief. I greatly simplify Weber's account (Weber 1947, pp. 51-69, 297-389). Yet I have said enough to indicate that Raz fails to see any distinction between charismatic and traditional leadership.

While it may be more reasonable to have a charismatic leader than a rational leader of nation N in situation S, that does not make charismatic leaders a kind of rational leader, nor does it make rational leaders the best kind of leader. Superior reason is far from the only reason to obey a government leader, and is not always even the best reason. In fact, to get a little ahead of my story, the four kinds of ideal authority seem incommensurable on Raz's own understanding of incommensurability.

Borrowing from Paul Tillich, I add the theonomic leader, who is justified by suprarational depth beyond the spiritually empty level of mere secular reason: experience and teaching of the deepest spiritual values. Raz, in the best tradition of Plato's *Republic*, admits and mentions only the rational leader. Thus it is a narrowness in Raz and in his master Plato that they ignore that different societies need different kinds of ideal leaders, or different *blends* of these various ideals in their leaders, in different circumstances. There is no use pretending that what a society needs is

always what is most rational for it to do, any more than individual people always need the guidance of reason more than they need anything else. At times cultural unity and belonging may be more important, or motivation, or even spiritual guidance. It may be worth noting that what military leaders today deem leadership, as opposed to management, is the charismatic ideal. And of the two greatest political leaders America ever had, surely it is beyond doubt that Abraham Lincoln was primarily a theonomic leader. Even George Washington had much of the visionary in him. The “theo” in theonomic does not imply theism, by the way. A theonomic leader may be agnostic or even atheistic. Consider Theravada Buddhism, Zen, jnana yoga, and many other forms of impersonalist immanent spiritual realization as familiar sources of justified spiritual authority, as opposed to wholly transcendent gods with wholly heterologous authority.

Raz’s authority-duty-reason nexus comes from Plato and “the master befuddler,” Socrates, via Kant. Perhaps Raz does not hypostatize human thinking as Reason or human beings as Ends in Themselves in some fabulous noumenal realm the way Kant does. But he still seems liable to Schopenhauer’s criticism that there very literally *are* no disinterested moral duties, that these are mere abstractions from the ego-based duties people have in the real world, and that the basis of real morality of real people, as opposed to Kant’s postulated fantasy realm, is not in reason or duty at all, but in will, specifically in disinterested love or sympathy. The whole character of practical reason is at stake, the whole nature of what we call our rights and duties. In fact Schopenhauer reduces moral reasoning to prudential reasoning. Nor does there exist freedom or autonomy in the abstract. This is just another fabulous abstraction. Recall Wittgenstein on the many bewitchments of grammar? Wittgenstein admired and studied Schopenhauer, and one may suspect some influence here.

b. *Four Problems with The Preemptive Thesis*

The service conception of authority is, again, constituted by three theses. All three arguably belong to Raz's "well-known analysis of authority as a form of normative power" (Shiner 119, citing Raz 24). I turn now to the third thesis, PT.

Concerning PT, Raz deems an authoritative command "as a 'peremptory' or 'preemptive' reason for action;" it is not clear how this differs from Raz's earlier speaking of commands as "exclusionary reasons" (Shiner 119). The idea is that "the fact that an authority requires performance of an action is a reason for its performance which is not to be added to all other relevant reasons when assessing what to do, but should exclude and take the place of some of them" (Fischer, p. 255, quoting (Raz 46). This arguably follows from DT. This implies a cheap way to fulfill DT and NOT, namely by using the mere command of the government as a giant preemptive reason that outweighs reasons for doing any *other* action, but to his credit, Raz never takes it.

I see four problems.

First, since Raz is concerned to describe ideal government, one may say that Raz's view is that authority ought to have only the power of ought. But this seems impractical to me. Is there no room for realism in our conception of governmental authority? There are plenty of times when an authority does not have the best reason, except for reasons such as that authority is needed to promote certainty and preserve continuity. To put it another way, "exclusion" should be a kind of shorthand or summing up of the best reasons for an action through the supposed fact that the state *has* the best reasons. You can put thinking through reasons behind you when the state speaks with

authority, because the state speaks with authority only when it already has the best reasons.

Promotion of a definite and continuous authority seem instead to be “*added* to all other relevant reasons” (Raz 46), and to exclude other reasons only in the sense of running roughshod over them.

A second difficulty is that preemption, or exclusion, seems to violate the traditional requirement that definitions not be negative where they can be positive. For the concept of exclusion is essentially negative. Consider the exclusionary definition of yellow as not white, yellow, orange, green, blue, purple, brown, or black. The definition fails to tell us what yellow is. It even fails to demarcate yellow unless we can prove that the definition lists *all* the other colors there are. Here all or at least many other reasons for a commanded action are stipulated as excluded by the mere fact of authoritative command. The idea is that once the government succeeds in climbing up the ladder of independent reasons and finds the best action for P to do, it can throw away the ladder and proceed on the higher level of its own authority. But *what* that authority positively *is*, Raz does not explain. This is another “In here the cookies are made.”

What is missing from Raz’s definition of authoritativeness is, so to speak, the authoritativeness. There must be recognition of authority in G by P, and some appearance of authority in G to P. It is widely conceded that punishment is not punishment unless it is recognized as such and appears to be such. Otherwise it is simply government-administered pain. More generally, punishment must be recognized as, and appear as, authorized. It is really that authority in general, not punishment in particular, must be recognized and appear as what it is. This is a phenomenological issue Raz barely notes. Observe that there can be no compliance without even the *appearance* of an authority to comply with. This also presents an epistemological aspect of political morality which Raz ought to explore.

A third thing to consider is whether authority can be defined outside a certain “family circle” of words concerning directiveness and compliance (Grice and Strawson). Raz offers a reductive definition in terms of reasons and likelihoods that goes outside any such circle. It is not clear that any such definition can be successful. For Moore’s Open Question test applies, and it is not clear the test can be passed.

Fourth, preemption is at best an explanation of rational authority. And rational authority is only one of four ideal kinds of authority. Preemption may not stand with rational authority, but it will certainly fall with rational authority.

3. The General Limits of Authority

Lomasky curiously complains that Raz never argues against the traditional liberal conception of “a fundamental asymmetry between” negative freedom from coercion and manipulation and positive promotion of autonomy, and never argues for his own belief that positive freedom is “morally on a par with negative freedom” (Lomasky 1990, pp. 102-3). Lomasky ignores Raz’s whole discussion of the general limits of authority.

The service conception of actively promoting autonomy is mainly contrasted with the night watchman conception of limited government--limited to preventing harms to autonomy, shared by “Nozick, Dworkin, or even John Stuart Mill” (Waluchow, p. 478).FN2 I suggest that both conceptions are too theoretical and that a golden mean is best found in practice. If this golden mean is to be expressed in theory, it will be in the more practical theory of institutions, which is in turn connected with theory of man, i.e. of individual psychology. The heart of the individual

psychology in question is, of course, the “Please, mother” consideration described in the previous section. Therefore I advocate a third conception of government called the golden mean conception. Autonomy is to be promoted positively, but within limits set by the please, mother consideration. In Hegelian terms the night watchman conception is thesis, the service conception is antithesis, and the golden mean conception is synthesis.

In fact Raz attempts a synthesis of his own. He finds Mill’s harm principle (HP), that “the only valid reason for state coercion is the prevention of harm to others” (Waluchow, p. 488) and his own principle of autonomy (PA) to be consistent because we all have a general duty to promote autonomy, including the government. Failure to provide what we have a duty to provide amounts to a harm. Therefore HP entails PA (Waluchow, pp. 488-89; see Raz 415, 426). Thus HP would have only its proper role of preventing harm to the ability of people to lead a good life (Raz 417).

Waluchow criticizes the Razian synthesis as follows. If I am somewhere between a couch potato and an actively autonomous person, and quite happy with my life, Raz is committed to saying (a) “that the government *harms* me if it leaves me to my contented existence” (Waluchow, p. 489), and that (b) the government is justified in coercing me to greater levels of activity (Waluchow, p. 489). Oddly enough, I would sympathize with Raz here to some degree. If Waluchow is talking about how contented, laid-back individuals, coerced into great trials, achieve greater and more satisfying personal development than they would have otherwise, then Waluchow has overlooked Raz’s distinction between well-being, which is associated with autonomy, and self-realization, which is not. However, if Waluchow is talking about a duty of the state to promote my greater activity in non-coercive ways--and I think that is what he is talking about-- then he has

a point.

Perhaps Waluchow's most serious criticism of Raz's attempt to reconcile HP with PA is that it depends on the *truth* of Raz's cardinal principle PA, that we have a duty to promote autonomy. And basically Raz merely *states* PA; he never really *argues* very much for PA. "This is a serious shortcoming given its counter-intuitiveness" (Waluchow, p. 490). Waluchow also very wisely distinguishes between having *reasons* to promote autonomy and having a *duty* to promote autonomy. Working backwards through the reconciliation argument, if there is no general duty to promote autonomy, then the government in particular has no such duty. And if it has no such duty, then its failure to promote autonomy will not harm anybody in the sense specified. Thus coercion used to promote autonomy will violate HP after all (Waluchow, p. 490).

Shiner more generally says that Raz's attempt to reconcile HP with PA "seems entirely artificial...: the two principles represent fundamentally different varieties of liberalism" (Shiner, p. 122). I agree. Dworkin adds, "We seem to have two claims of autonomy in conflict: not being coerced and being able to live in a community which has a certain nature. One can think of various plausible arguments for supposing that one of these claims is more important and outweighs the other. But even if the balance came out in favor of not using coercion in this instance, there is no theoretical guarantee it will always come out the same way in other cases" (Dworkin, p. 851). Dworkin adds, "In any case it is not sufficiently argued why autonomy should be the only value justifying coercion. Even vigorous defenders of the harm principle, such as Feinberg, are willing to allow coercion to prevent offense and certain forms of (consented to) exploitation. Neither of these is plausibly viewed as a protection of autonomy" (Dworkin, p. 852).

The night watchman conception of government leads to the general abstinence theory

(GAT) that “governments must never base political decisions on moral ideals or conceptions of the good” (Waluchow, p. 480). One problem I find with GAT is, What then *are* they supposed to base their decisions on? Merely practical or technical considerations? What happens to the guidance of ethical wisdom? The ethical wisdom of the individual psychologist or the social statesman ought to be intermediate between the practical wisdom of the military general and the theoretical wisdom of the scientist-philosopher. The general qua general knows how to fight a war but not why. The statesman qua statesman knows that fighting war *W* is good for reason *R* but not why *R* is a good reason. *Pace* Hume’s fact-value dichotomy, only the scientist-philosopher can ground ethical wisdom in theory of our ultimate nature and the nature of the world around us. Thus my question more specifically is, What happens to statesmanship?

A second problem with this general abstinence theory of the general limits of governmental authority is that it is itself a higher-level moral ideal of government or conception of good government. Thus it is self-defeating. The government must abstain even from the abstinence theory as a conception of the best way to govern.

Shiner suggests that the moral ideal that government ought to promote is simply “the autonomy principle itself” (Shiner, p. 120). This is elegant but subject to the criticisms I make later about the true place of autonomy in individual well-being.

Raz aims to refute two more specific theories of the general limits of governmental authority. These theories are based on the night watchman conception: (1) The government must be “blind to the truth or falsity” of the various competing moral ideals or conceptions of the good (Waluchow, p. 480). This is the “exclusion of ideals conception of liberalism defended by, e.g., John Rawls” (Waluchow, p. 480). (2) The government must be at least “neutral amongst” them;

this is “the neutrality conception advanced by, e.g., R. M. Dworkin” (Waluchow, p. 480). Raz’s main refutation of (1) and (2) is due to Raz’s service conception of political authority, more specifically to the ‘independent good reason’ clause of NOT. Raz argues that “neutrality or exclusion of ideals is not the way to ensure that people act on sound reasons....What we have sound reason to do cannot be divorced from moral ideals and conceptions of the good” (Waluchow, p. 480). Thus Raz would replace blindness or neutrality with a “perfectionist conception of the good” (Waluchow, p. 480; Raz 133). While the refutation may be sound, the requirement of a perfectionist conception of the good may be a non sequitur, depending on what Raz means. At this point the perfectionist conception of the good is an undifferentiated version of the two points I made against the general abstinence theory. Both the blindness and neutrality theories preclude the availability of ethical wisdom to governments, and both theories are themselves moral ideals of government or conceptions of good government.

II. PERFECTIONIST MORAL IDEALS VERSUS NEUTRALISM

4. *Raz’s Critique of Neutrality*

It is useful to call “perfectionism” the view that no moral conclusion can be validly drawn from an argument without some moral premise, and call “anti-perfectionism” its logical denial. We may reserve the term “neutrality” for the view that states ought to act for valid reasons which do not presuppose any substantive moral views, and call “anti-neutrality” its logical denial. Thus neutrality presupposes anti-perfectionism.

On the perfectionist side, there are three notions that seem to coalesce: First, Hume’s

principle that fact cannot entail value, nor an “is” an ought.” Second, Moore’s Naturalistic Fallacy that x’s having property F does not entail that x is good, and its companion Open Question Test. Third, Raz’s perfectionism, the principle that there can be no significant argument with a practical conclusion (that we ought to act in some way) that does not presuppose some ethical value. Moore’s fallacy and its test belong to meta-ethics, the field in which we ask what ethical terms mean. Moore, of course, is led to hold that “goodness” has a non-natural meaning. Hume is a naturalist, cashing out ultimate value in terms of a subjective sentiment of approval. Raz seems a naturalist, cashing out value in terms of human choice. Thus Hume violates his own principle, and Raz violates his own principle. In other words, both fail Moore’s open question test and commit Moore’s fallacy, and need to provide some explanation of this dilemma.

On the anti-perfectionist side, there are two accounts that seem to coalesce: Butchvarov’s attempt to explain how Moore’s fallacy is based on a confusion and how a natural property can nonetheless be motivating (1989, pp. 59, 79-80, 138); and my own derivation of obligations from certain metaphysical facts, which I cannot repeat here.

That describes the conflict between perfectionism and anti-perfectionism fairly well. But the conflict between neutralism and anti-neutralism is very different because it is about how the state, in particular, ought to act. It is not about values or obligations in general. A perfectionist could treat neutralism itself as a valuable perfectionist ideal for states. Indeed, it might seem a good criticism of neutralists who believe neutralism is anti-perfectionist that one can meaningfully pursue neutralism only as a valuable goal. But one must not forget that neutralists typically conceive neutralism as a means to certain ends, not as a goal in its own right. The real criticism is that neutralists not only treat neutralism as having at least instrumental value, but affirm certain ends

which are their ethical ideals. Thus neutralism is self-defeating in the end (no pun intended).

Raz's main arguments against neutralism (not: anti-perfectionism) are these (following Lomasky 1990, pp. 89-90).

Argument (1). Surely the state should do all the good it can (Raz 111).

Argument (2). The fact that some people would desire the state to do otherwise should not prevent the state from pursuing valuable goals. Rather, it should merely set limits on the state's use of coercive means.

Argument (3). There is no such thing as total neutrality. Surely the state should not be neutral between those who wish to murder others and those who wish to avoid being murdered. That murder should be restricted meets with unquestioned "general approval should not disguise its perfectionistic status" (Lomasky 1990, p. 89).

Argument (4). There may be no neutral criterion of neutrality. Consider a country A that has been trading grain with another country B which now goes to war with a country C. Stopping the trade will favor C; continuing it will favor B. Therefore any criterion which leads to stopping the trade will favor C, and any criterion which leads to continuing it will favor B.

Argument (1) simply begs the question against neutralism.

Argument (2) seems reasonable on the surface. However, coercion of people and prevention of state action are arguably not the unreachable asymptotes but the reachable parameters of political action. Thus the whole argument has to be argued all over again for the limiting cases where, just as in the original argument, the fact that some people would prefer the state to do otherwise ought to prevent the state from acting. Thus Raz's argument achieves nothing but a redescription of the view it argues against.

Argument (3) seems strong to me. Lomasky's criticism of argument (3) is that the neutralist can regroup by restricting neutralism to "*rights-respecting* activities" (Lomasky 1990, p. 90). Thus the state can intervene to prevent murder, since murder is a right-violating activity. This criticism of Raz is weak. Raz can reply that this is no longer neutralism, since it views respecting rights as good and violating them as bad. Lomasky himself admits that his restriction does not prevent neutralism from being itself morally committed against certain conceptions of the good, notably the communitarian ideal of conscripting and coercing people to work together for the common good. All that Lomasky can say on behalf of his restriction is, "A theory that refuses to interpose itself between the slave and the slavemaster is not neutral; it is morally empty" (Lomasky 1990, p. 91). But such rhetoric cannot hide the fact that by militating against the collectivist ideal of the good, "restricted neutralism" is perfectionist at bottom. Lomasky's justified hatred of collectivist slavery should not blind him to the correctness of a technical objection to his theoretical claim. Still, on a merely practical level, Lomasky can speak with some justice of "employing individual's rights to distinguish genuine from bogus neutrality" (1990, p. 91). But Lomasky would do better to speak of a broad spectrum of cases where neutrality is quite plausible, fringed by extreme cases where neutrality would be a travesty.

Lomasky criticizes argument (4) as follows. That there may be exceptions to or occasional unclarities about neutralism does not invalidate it as a good and wise rule (Lomasky 1990, p. 90). This criticism seems sound. It recalls Grice and Strawson's point in their famous "In Defense of a Dogma" that a distinction may be useful and well-taken even if there are occasional ambiguous situations or even outright exceptions. Behind Lomasky and Grice and Strawson I detect our old friend the fallacy of composition, where a neutralist policy or a distinction is a whole and its many

ostensible instantiations are parts. The best Raz (or Quine) can do is reformulate their attacks as a problem of the heap. Namely, they can say that at some point there are enough cases where neutrality is a bad idea that neutrality is no longer a good general policy. But how many exceptions to neutralism must there be before neutralism is best rejected as a policy? Absent answers to such questions, I accept Lomasky's criticism of argument (4). Note that Lomasky's criticism of argument (3) does not apply to argument (4), where the proper restriction of neutralism would be not to cases of rights-respecting activities, but to cases in which neutral criteria of neutralism are available.

Lomasky claims that Raz applies argument (4) to Rawls's "choice of neutral principles of justice within the original position" (Lomasky 1990, p. 90). "Following...Thomas Nagel" (ibid.), Raz finds that Rawls presupposes a perfectionist conception of the good after all, namely, liberal individualism itself. But this is not an application of argument (4) so much as an application of my argument that neutralism is self-defeating. Raz presents no original position dilemma analogous to the dilemma of grain-trading country A. Rather, Raz is simply criticizing neutralist justice as the means to a valuable end, namely liberalism.

III. RIGHTS-BASED LIBERTY

5. Theory of Political Rights

Raz offers three main arguments against the claim that the whole of political morality can be based on rights (Lomasky 1991, p. 91). There is also a fourth argument he might well offer.

Argument (1). Person P can have a moral duty to do D where person Q has no right to demand or expect that P do D. In such cases duties cannot be defined in terms of the corresponding rights because there are no corresponding rights.

Argument (2). There is more to the moral life than merely fulfilling one's minimal obligations. This 'more' may be called "supererogation." The tacit premise of this argument seems to be that only duties can be defined in terms of rights.

Argument (3). Virtues and the pursuit of excellence ought to have an intrinsic value. But they cannot if political morality is based only on rights. Argument (3) fleshes out argument (2).

Argument (4). Whether he gives it or not, the natural argument for Raz to make is that rights are valuable only as means to certain ends. It is not just that we are free, but what we can do with our freedom that counts. Specifically for Raz, rights promote our well-being, which, "in Raz's terminology, possesses ultimate value" (Lomasky 1990, pp. 91-92).

Lomasky objects that one can deny that rights are the sole basic constituents of political morality yet affirm that they are *among* the basic constituents. Lomasky suggests that the three basic constituents of political morality are rights, virtues or excellences, and supererogation (Lomasky 1990, pp. 91-92). But this fails to address argument (4) that rights are only means. Lomasky gives no positive argument that rights are more than that. Worse, it looks like Lomasky is making everything basic, since duties and supererogation are mutually exclusive and jointly exhaustive of political morality. "Supererogation" simply *means* 'everything besides duties'. Raz's theory of rights is that "H has a right if and only if X has the capacity to have rights, and other things being equal, an aspect of X's well-being (his interest) is a sufficient reason for holding some other person(s) to be under a duty" (Waluchow, p. 481). Rights are had not only by

individuals. “States, corporations, nations, and other collectives may have rights” (Waluchow, p, 181). “More importantly, the ultimate reason X’s interest is a sufficient reason for holding some other person(s) to be under a duty normally lies in the *social* value of treating X’s interest this way (Waluchow, p. 481, citing Raz 181). “The importance of liberal rights is in their service to the public good” (Raz 256). This generally means contributions to a political culture which promotes the well-being of many individuals in it (Raz 256).

For Raz, valuing “autonomy... entails a commitment to upholding the availability of a complex pattern of collective goods which are necessary to the living of a variety of forms of worthwhile lives” (Bellamy, p. 745). This is a non sequitur; Raz is confusing having good reasons to provide collective goods with having a duty to provide them (Waluchow 490). But at the moment my question is instead, Assuming that the entailment is valid, can we gloss autonomy as roughly a bundle of rights, each of which requires supporting some amount of collective goods? Raz arguably would reject our gloss, since for Raz autonomy seems fairly fundamental. For Raz, “[r]ights are fundamental to neither [political morality nor political freedom] but rather serve a modest, though important, role in both spheres” (Waluchow, p. 481). This scouts “those who conceive of rights as essentially individualistic, as trumps people holds against considerations of general welfare” (Waluchow, p. 481). Even autonomy itself is not a trump for Raz in this sense. For Raz, my own individual interest in free speech is not enough to warrant making people have a duty to allow me free speech. “That interest is ascribed sufficient importance” due to the value of free speech as a condition of a society in which many “may prosper” (Waluchow, p, 481). Free speech thus protects a collective social good. My individual right of free speech thus has a ‘collective aspect’ (Waluchow, p. 481). Thus it may seem that for Raz all ultimate values are

collective. And since rights are based on such ultimate collective values, it seems hard to see how they can fulfill their intended function of protecting the individual against general social interests. “Since individual rights serve collective goods, they can hardly be trumps over the pursuit of such goods” (Waluchow, p. 482). “Indeed,...the ‘confrontational view of morality [R 216] must be abandoned” (Waluchow, p. 482). There is no fundamental conflict between individual interest and social interest.

I have some criticisms.

First, as Waluchow amplifies:

This ‘collective aspect’ of individual rights is embraced by Raz and used to provide novel, non-individualistic interpretations of the traditional liberal rights to freedom of the press, religion, contract, conscientious objection and even equality. They are non-individualistic insofar as they protect collective social goods essential for human well-being. They remain (barely) within the humanistic, liberal tradition by suggesting that these collective goods have value only because of their contribution to the well-being of individuals. In the end it is still individual persons whose well-being counts. (Waluchow, p. 481)

Thus there is still theoretical room for rights as trumps, since collective goods now appear merely as means to a certain sort of *distribution* of individual goods, which remain ultimate. I shall now follow the old adage that when faced with a tension, one should draw a distinction. My distinction is as follows.

On my golden mean theory (GM), a modified conflict will remain. I admit two sorts of collective goods. Namely, primary collective goods will be those whose importance to promoting autonomy outweigh the please mother consideration and other similar considerations, and secondary collective goods will be those which do not. Following Raz, there will be no conflict between individual rights and primary collective goods. But following his opponents, individual rights will be trumps against secondary collective goods.

“Primary” and “secondary” may be somewhat misleading terminology. They refer to logical primacy in the larger ethical scheme. In terms of number or importance, the primary collective goods may impact less on individual rights than do secondary collective goods. This turns on how seriously we take the please mother consideration, and individual well-being in general. My life-project might even be to eliminate many liberal collective goods and set up a new religion. In that case, such collective goods are destructive of my individual well-being.

If we cannot decide which collective goods are primary and which are secondary, say the Head Start Program of free school lunches, then the whole issue collapses, not from logical difficulties, but from epistemological difficulties (compare Butchvarov 1989, pp. 177-78, critique of Don Regan). That collapse cannot be charged against my golden mean theory alone, since it affects the conflict between the neutralist trump theory of rights and Raz’s theory of rights as involving collective goods just as much. Although my distinction between primary and secondary collective goods is mutually exclusive and jointly exhaustive from a purely logical point of view, the question whether some collective good is primary or secondary, i.e., whether or not it tends to preclude autonomy, is essentially an empirical question.

My distinction might be modified in various ways. For instance we might more specifically

define primary collective goods are those which are *essential* to the development of a *robust universal* autonomy, or at the other extreme, as those collective goods which do not *conflict* with autonomy very significantly for many people. That “significantly” is an evaluative term shows that evaluative difficulties exist beyond the merely epistemological problems. But even this does not detract from the correctness of my golden mean theory. Even such evaluative difficulties will affect the conflict between the trump theory of rights and the collective-good theory of rights just as much.

The second problem is with Raz’s definition. Again, Raz defines collective goods as goods “which do not benefit anyone unless they benefit everyone” (Shiner, p. 120). Now, Raz deems “freedom of religion and conscience, free speech, the free market, freedom of the press...as collective goods in this sense” (Shiner, p. 120). The problem is that the definition does not seem to fit such goods. If I own the only free press in town, then my free press might be all the more valuable for being the only free press in town. But its fiscal value to me may or may not outweigh its benefits to everyone else as distributor of independent information. And what are its benefits to the mad, the very young, the illiterate, or even nonsubscribers? What are the benefits of a free press to those whose life-project is to contemplate God in a secluded monastery? If we rescue Raz by appealing to a penumbra of indirect benefits that trickle down to everyone in society, then my free press’s status as a collective good is a merely contingent fact, if a fact at all. And what if I use the press ineptly or to spread disinformation? And, though this is getting ahead of my story a little, how actively can government promote a free press anyway? A government-approved, government-bankrolled free press is just one step shy of a government-controlled press. It is simplistic to debate whether a state should be neutralist or perfectionist when some aspects of a

state, such as public radio information, cry out for neutralism, while other aspects, such as foreign policy concerning nondemocratic nations, may cry out for perfectionism. And in foreign affairs, neutralist public radio may be promoted as a perfectionist ideal.

A third problem is this. Money as we understand it is no good to anyone unless it is good for everyone. And money is basic to almost every project. Thus according to Raz we are under a general duty, and government specifically has the duty, to ensure that everybody has enough money to be autonomous. And in general, if any collective goods are promoted by governments, such goods will inevitably be huge entitlements promoting a welfare mentality. In his general principles, Raz is obliged to endorse government subsidies and guaranteed incomes.

Money is *the* paradigmatic collective good. National currency as we know it has no value to anyone unless it has exactly the same value for everyone, down to the very last penny. In fact, any negotiable instrument is a collective good *per se*. Therefore on Raz's account, the state has a moral duty to be a money tree.

Collective goods constitute Razian egalitarianism. Raz criticizes theory of equal rights as 'rhetorical' or of limited value. (Shiner, p. 120; Raz 228-234, 250). This is part of Raz's critique of the theory of rights as fundamental, of moral individualism, and of the night watchman conception of political morality (Shiner, p. 120; Raz 216).

IV. VALUE: INCOMMENSURABILITY AND WELL-BEING

6. *Consequentialism and Incommensurability*

Raz sees consequentialism as having a limited, though important, role in political morality.

His chief strategy is to emphasize the incommensurability of the many individual and social goods. The idea is that consequential morality relies on the commensurability of goods for the logical possibility of determining the greatest good for the greatest number. For Raz there are only “pockets of commensurability” in a sea of incommensurability (Raz 358). This is very different from what would be Butchvarov’s chief strategy, namely, to emphasize the epistemological difficulties in determining which actions lead to the greatest good over the long run, i.e., over the course of all future human history.FN3

One major argument of Raz against consequentialism by establishing a general incommensurability is that “there is no neutral standpoint, no neutral conception from which we could judge” or “justify the adoption of one social form over another” (Waluchow, p. 483, citing Raz 343). This is a popular form of argument today, associated with relativism under the jargon “language as a universal medium” (Hintikka 1986). The idea is that we cannot get outside of language to see its relation to the world from a nonlinguistic stance. The relation of word to referent or of sentence to fact can only be understood from inside a language. It’s a terrible argument. ‘Language as a universal medium’ only entails that we cannot *define* reference or truth without circularity; nothing follows about our being able to evaluate or choose among competing references or truths in an objective manner. Raz is advocating ‘social form as a universal ethical medium’. Suffice it to say that we cannot get outside logic either to judge the rationality of various logical inferences from a “neutral standpoint.” Perhaps we cannot define logic without circularity. But our choices among alternatives in logic may be perfectly objective. Logic is relativist only if logic is like a pair of glasses we cannot take off. If the whole world must objectively conform to logic, then all our choices among competing judgments about logical matters would be among

perfectly objective options. This is nothing but Grice and Strawson's point about family circles of terms. No such term can be defined outside the family circle, yet objective distinctions are not precluded for all that.

The Hintikkas argue for an unabashed linguistic relativism based on language as a universal medium. It is worth noting that Shiner speaks of Raz's relativism (Shiner, p. 121). Sumner finds relativistic "the fact that autonomy is necessary for individual flourishing in any society whose social forms presuppose free choice. The same relativistic vindication could in principle be offered for the value or servility or aggressiveness: in general, we do best to display the traits which are adaptive in our particular social environment" (Sumner, p. 150). Sumner adds that in view to the importance of autonomy to Raz, Raz should have instead offered "a deeper and more ambitious defense of autonomy as a *substantive* ideal, one which would stress the *intrinsic* importance of our authorship of our own projects" (Sumner, p. 150, italics mine). Raz offers a strong argument for autonomy only when he describes using it as creating values, and more augustly as *creating our own moral world*. This is in fact the famous "missing defense" (missed by Waluchow, p. 490) of Raz's principle of autonomy (PA). Ewin says, "If [autonomy] is part of the constitution of a proper life for people, then it is, surely, valuable quite apart from what those people do with it. [Yet i]f somebody behaves badly, we object, not to his autonomy, but to what he does with it" (Ewin, p. 495). But Ewin's criticism misses the main point: the value of autonomy is the dignity of creators of their own moral worlds. Raz argues that what we care about and choose for our goals already largely determines what is in our interest. Since the conditions of our well-being are largely determined by our choices, they "can guide our choices only to a limited extent" (Raz 345). My criticism is that ironically, the strong argument for autonomy which removes cultural relativism

from the value of autonomy, removes the very relativism which was Raz's principal argument against consequentialism. Now we have a substantive ideal of autonomy approximations to which can admit of objective measurement.

One consequence of incommensurability is that there is no need for an active policy of neutrality or blindness. "Rather, the point is that the comparison just can't be made" (Waluchow, p. 484). Governments can find that a few alternatives are too expensive or too morally problematic due to interference with acceptable alternatives (Waluchow, p. 484). But the range of alternatives left to choose among will be broad indeed. The problem I see here is that if some alternatives are seen as bad and some as good, then to that extent they are commensurable after all. I shall return to this point in a later section.

Raz holds not that social forms ought to be incommensurable, but that they pervasively are in fact, and that if they were not, then the world would lack many "distinctly human virtues" (Waluchow, p. 485). For example, only one who holds that friendship is *incomparable* to money or other commodities can be a true friend (Raz 352-53). The problem I see here is that one may alternatively interpret friendship as incomparably *better* than money in some respects. Not only are friendship and money commensurable, but in obvious ways known for thousands of years. The ancients never tired of pointing out that money cannot comfort you or talk with you or help you or give you love. Consider the myth of the King Midas touch.

Waluchow suggests that incommensurability of the many life-choices people can make is what reconciles the "seemingly inconsistent doctrines" of liberalism and perfectionism. For if government promoted the good life and there were only one form of good life, then government would look rather illiberal and Procrustean. In fact we would have the kind of state where rights as

trumps over the common good would make good sense (Waluchow, p. 486). But there are hidden premises to Waluchow's argument. (1) Even if the choices were commensurable, there need not be a single best form of life. The choices might be *equivalent* in value for the individuals pursuing them. (2) Even if there were a single best form of life, other forms of life might be needed just as much to promote autonomy and well-being. This is what we see in Plato's *Republic*. There is no doubt that the wise rulers lead the best life. But there is also no doubt that the producers (farmers, manufacturers) and protectors (military, police) are equally essential components of a human state.

I can now offer a criticism. It is not so much the presence of autonomy as the likelihood that *some* will choose *each* of the several needed forms of life, also the likelihood that people will choose what they can actually do well, that will most promote the *social conditions* of autonomy. Suppose nobody chose to be a farmer, or that the only people who chose to be farmers were inept farmers. There will not be much autonomy if we all starve to death. Ironically, there will be more autonomy in the long run if some are coerced into being farmers than if everyone freely chooses not to be farmers. Thus Raz's morality prevents ensuring the biological survival of a society.

Raz sees consequentialist theories of rights as often based on "impoverished, individualistic theories of personal well-being" (Waluchow, p. 482). This conveniently ignores his own brand of collective-goods as merely mediating individual well-being. Would collective goods have any value if individual people were indifferent about everything, if nobody had any feelings?

Raz underwrites "philosophers like Williams and Nozick" in their attacks on consequentialism by arguing that individual well-being depends not just on the fruits of individual action, but on 'action-reasons', i.e., reasons why we must perform our actions ourselves (Waluchow, p. 482).

My principal criticism is that if only I can perform action A, and if this is the primary reason I perform A, this does not entail that A has some intrinsic value. Only I can *tie my own shoelaces*. Does it follow that my tying my own shoelaces has intrinsic value? My reason for my tying my own laces might be one of purely utilitarian convenience, yet it seems inescapably an action-reason in Raz's sense. (For the record, one physical *event* can be any one of a number of different individual *actions*. The event of Dejnožka's tying Dejnožka's shoelaces might or might not be an action of tying *my own* shoelaces. I might mistakenly think they were somebody else's shoelaces. Thus action-reasons are not enough by themselves to destroy consequentialism, even if they are the primary reasons why we ought to act as we do, and why our actions are good. For action-reasons may themselves have only utilitarian justification.

Action-reasons would destroy consequentialism only if (a) they are significant reasons, and (b) they or the actions are intrinsically valuable.

I grant Raz that there is great intrinsic value to *some* of what only we can do for ourselves. An old story illustrates the difference. A foolish rich man and a wise poor man attended a party. The rich man was surrounded with devotees and the poor man with none. When asked if this meant that wealth was more valuable to people than wisdom, the poor man replied, "No, but he can give his wealth away, while I cannot give my understanding away."FN4 We must acquire our own understanding. Even those who read Hegel will not acquire Hegel's understanding. For that they would have to read what *he* read and reflect on it the way he did. Where death is the final stage of growth, only you can die your own death. Thus only we can flourish autonomously by ourselves. And only we can be responsible or accountable for our own actions. But there is still much room for consequentialism. Indeed, all these action-reasons for acts with intrinsic values are

so many ends calling for consequentialist means.

7. Does Incommensurability Measure Up?

For two things to be commensurable is for them both to be measurable according to the same scale. Whether a calculus of the good is possible depends in part on what you mean by a calculus. For Mill a purely quantitative calculus was impossible, but a qualitative calculus was possible; he even had a criterion of preference of value. Thus interval commensurability is only one kind of commensurability; there is also ordinal commensurability (see Frankena 1967, p. 74). However, interval scales are what we ordinarily call measurement; here we say qualitative differences admit of greater-than relations but not of measurement.

a. The Mark of Incommensurability

Raz uses “incommensurable” and incomparable” interchangeably to mean by definition:

A and B are incommensurate if it is neither true that one is better than the other nor true that they are of equal value. (Raz 322)

Raz considers three cases.

(1) Raz considers “independent values” (Raz 322). One might suppose he means what used to be called the cardinal virtues: justice, wisdom, temperance, and courage, any of which can exist

independently of the other three. But Raz turns this into a question about “*complete* freedom and *absolute* equality” (Raz 322, my emphasis), muddying the waters by adding perfection of values to their independence. His argument seems to be that complete freedom and absolute equality are incapable of being actualized, so that it “makes no sense to talk of choosing” between them (Raz 322). He concludes that this is not a case of incommensurability because if it were, it would “deny the truth and not the meaningfulness of judgments of commensurability” (Raz 323). Since it denies the meaningfulness, he would call it instead a case of “indeterminacy of value.” This is a strange distinction, since “x is meaningless” logically entails “x is not true.” Here Raz seems unaware of the famous Russell-Strawson exchange on truth and meaningfulness.

Raz distinguishes indeterminacy of value, where (Q) “A is equal to or better or worse than B” is neither true nor false, from incommensurability, where Q is false. This throws a great many cases into confusion, since it has never been determined whether category confusions such as “5 is pink” are false or indeterminate in truth-value, and incommensurabilities arise precisely where the items are not of the same kind. And again, “x is meaningless” logically entails “x is not true.”

(2) Raz argues that the *class* of liberty-enhancing options and the *class* of food-providing options are incommensurable because there are all sorts of different comparability relations among pairs of options taken from the two classes. I agree with Raz that this argument is sound but uninteresting (Raz 323).

(3) Raz proceeds to examine individual actualizable options in great detail. This leads into his more serious discussion.

First, Raz considers an argument *against* incommensurability. Suppose two options: A is better than B. “Gradually improve B.” Then if there is infinite divisibility, at some point they should

become equal. If not, at some point B will jump to being better than A. Thus there seems to be no room for incommensurability (Raz 323). Raz never detects a flaw in this argument. The reason he does not seem strategic. Namely, the argument is the indirect framework for his test of incommensurability as occurring when you add little improvements to B and B does *not* get equal to or better than B. But in fact the argument is flawed. If there is infinite divisibility, then B might never become equal to A because A might be asymptotic relative to B. This is a point as old as Zeno's paradoxes against motion. If there is only finite divisibility, there is no reason why B cannot achieve equality with A before surpassing A. This is as easy to see as it is to add marbles to a box B. But with or without these improvements, this argument against incommensurability can scarcely serve as a framework for *admitting* incommensurability, as opposed to merely *defining* incommensurability, unless Raz detects some *flaw* in the argument. Presumably the flaw would be that the argument does not present jointly exhaustive alternatives; incommensurability would be a third alternative.

Raz seems to think that the main problem is distinguishing incommensurability from equality in his definition, even though his definition already implies that the distinction is clear. To this end he says:

The test of incommensurability is failure of transitivity. *Two valuable options are incommensurable if (1) neither is better than the other, and (2) there is (or could be) another option which is better than the one but is not better than the other.*

(Raz 325)

And following John Mackie, an alternative to (2), 2*, is that “any slight addition” of value to either option would not make it better than the other (Raz 325-26). The idea is that meeting (1) entails that the two options are either equal or incommensurable, and meeting either (2) or (2*) rules out that they are equal, so that they must be incommensurable. Raz calls meeting (2) or (2*), given that (1) is already met, “the *mark of incommensurability*” (Raz 326).

The reasons why Raz probably chose this mark are not hard to find. A necessary condition of measurement is the applicability of the three relations *greater than*, *equal to*, and *less than*; a formal condition of each of these relations is its transitivity. Even if we drop equality and allow the measurement of a kind of entities no two of which are equal to each other, transitivity remains essential to the remaining two relations. Secondly, the most basic kind of measurement is ordinal. And the existence of some transitive relation is a formal condition of the existence of any ordering function, as Frege and Russell made clear. In effect, Raz simply contraposes “If entities of kind K can be measured, then there must exist some transitive relation which orders them” to “If no transitive relation orders K-entities, then they cannot be measured.” However, the matter is not as simple as that. For where the measuring the value of entities of kind K is concerned, Raz allows that some pairs are commensurable while others are not. Also, Raz measures values across different kinds of entities, allowing that some pairs are commensurable and others are not. So for entities of kind K, or for entities across kinds K1 and K2, we might find islands of incommensurability in a sea of commensurability, or vice versa, or even a 50-50 split. Raz is of course concerned to show a sea of incommensurability across comprehensive goals (big projects, careers, and relationships).

I have six criticisms.

First, transitivity is an extremely general logical relation, while theory of measurement is just one branch of mathematics. There are many kinds of transitive relation, each with its own reason for being transitive, and which have only a general logical form in common. As P. F. Strawson observes:

We can...formulate a general analytic principle, as follows: any statement to the effect that one thing is transitively related in a certain way to another thing, together with a statement to the effect that the second thing is related in the same way to a third, entails the statement that the first is related in that way to the third. But we must not think of ourselves as having discovered the general principle of this class of entailments. What we have done is to notice a logical resemblance transcending differences of subject-matter, and to invent a name for it. (Strawson 1985, p. 47)

Similarly for intransitivity. There is nothing all intransitive relations have in common except a logical form. So that unless incommensurability follows from this form alone, there is no obvious reason to suppose that merely being an intransitive relation entails incommensurability. In particular, Raz has forgotten his own alternative, indeterminacy of value. Perhaps some intransitive relations lead to indeterminacy of value instead of to incommensurability, and other intransitive relations lead to either option in different cases. Still other cases of intransitivity do not imply either option. The relation *John likes x more than he likes y* is intransitive. Yet it may be exactly measurable how much better John likes *a* than *b*, *b* than *c*, and *c* than *a*.

Second, in adding value to B to see if it becomes better than A, Raz presupposes that

adding value to B makes *B itself* greater in value than it was. That is a dubious presupposition. It all depends on what addition is. In fact the word “addition” is used in many ways. There is arithmetical addition, logical addition, and vector addition, to name just a few. In chemical addition, net volume may actually decrease.

Now, it is notorious that in the addition of parts to a whole, Raz’s presupposition is unreliable. In addition of part to whole, the greater than relation is, in fact, intransitive. Adding part A to whole B may increase B, and adding part B to whole C may increase C, but adding part A to whole C need not increase C, because a whole is not always the sum of its parts. We have to be wary of the fallacies of composition (addition) and division (subtraction) until we can show why they ought not to apply. This destroys (2*) as a mark of incommensurability. For in every case involving complex wholes, adding value to option V1 need not make V1 more valuable than it was. And that would be a sufficient explanation of why adding value to V1 need not bring a point at which V1 comes to be greater in value than V2. Observe that the explanation lies in the failure of addition to make V1 any greater, not in any incommensurability of V1 and V2.

On the face of it, the fallacies apply to many ordinary complex wholes. For instance, I could paint a scratch on my car without affecting its value as a whole. Or complex diet plans or exercise programs and their respective impacts on our biological health. An extra pickle or push-up on New Year’s Day may not make a difference.

Crucially for Raz, the fallacies apply to every complex goal. This includes all our comprehensive goals across the board. It also includes individual well-being, insofar as individual well-being involves goals of any complexity or “nesting,” as Raz calls goals’ having sub-goals.

Third, improving option V1 *in some respect* does not entail improving that V1 *simpliciter*.

V1 may be better than it was qua F, but not in itself. For instance, making Socrates a better color of white does not make him a better human. Once again, adding value to V1 need not make it better than it was. Here the categorially accidental character of the addition is a sufficient explanation of why adding value to V1 need not bring a point at which V1 comes to be greater in value than V2. Once again, the explanation lies in the failure of addition to make V1 any greater, not in any incommensurability of V1 and V2. This includes every goal which has both essential and accidental features. (For Raz, being a lawyer or a husband is essentially social.) It also includes individual well-being, insofar as individual well-being involves such goals. In additions of features to a natured thing, the greater-than relation is, in fact, intransitive concerning value or excellence of the thing. Adding feature A to natured B may increase B's excellence, and adding feature B to natured C may C's excellence, but adding feature A to natured C need not increase C's excellence.

My fourth objection Raz's "mark" of incommensurability is very basic. Importantly, it is a matter of direct intellectual visibility. Namely, Raz's mark is not a logically sufficient condition of Incommensurability. I am saying, and the reader may very easily confirm, that the following argument is neither deductively nor intuitively valid:

1. Option A is neither better nor worse than option B.
2. It is logically possible that there exist an option C which is better than A but not better than B, or else it is logically possible to add a little value to A without making A better than B.
3. Therefore A and B are incommensurable.

Raz says only that his mark is “*for most purposes*, perfectly sufficient as a test of incomparability” (Raz 326, emphasis mine). The qualification “for most purposes” suggests that Raz is well aware that he has failed to find a logically sufficient condition of incommensurability. What “perfectly sufficient” might mean, in the absence of any logically sufficient condition, is far from clear. I have, of course, abundantly diagnosed the reasons for the inference failure--the fallacy of composition, the fallacy of accident, and the availability of two alternative conclusions consistent with all the premises: indeterminacy of value, and as I shall argue in a moment, merely epistemic incommensurability. Raz openly admits that his mark is not a necessary condition of incommensurability (Raz 326). Thus he openly admits that his mark is no part of the theoretical definition of incommensurability, since a theoretical definition must state the necessary and sufficient conditions of the thing defined. It is worth noting that Raz’s own definition of incommensurability does not include this mark, as we saw (Raz 322). Usually what is meant by a “mark” of a concept is one of its defining properties. What Raz might mean by “mark” I do not know. But I do know that if Raz uses his mark to “detect” widespread incommensurability, there is no way to tell if he has actually found any at all. That means that Raz’s mark is not even “*likely to be adequate for all our purposes*” (Raz 326, emphasis mine), if our purposes include the detection of incommensurability. No probability of detection of incommensurability using Raz’s mark can be determined unless we can independently know which options are incommensurable.

Raz says his mark “would have been a necessary condition had value been indefinitely divisible.... But most values may well be discrete” (R 326). But this “reservation” (R 324) still does not make his mark a logically sufficient condition. And the topic of infinite divisibility versus discreteness is hard enough without trying to measure values. Hume’s basing mathematics on

minimal impressions, say of pleasure, is notoriously problematic. If pleasure A is better than pleasure B and you keep adding minimal impressions of pleasure to B, will there come a point when B equals A, or must B get “jumped by too much and now B is better than A” (Raz 323)? Raz thinks the latter. But the truth is that it all depends on the minimal units assumed. If they all have the same magnitude or intensity, and if A and B must be composed of such units, then Raz is wrong. There *will* come a point when B equals A. And assuming that the minimal units are all equal is necessary on pain of admitting sensible units smaller than the minimal sensible unit, which is absurd. For some reason Raz wishes to speak of “smallest *conceivable* improvement[s] in value” (Raz 323), but the only improvements that can count are sensible or perceptible improvements, improvements which can make an actual impact on the person who might exercise the option improved. But my argument applies just as well to minimum conceivable units of value. The question is not whether values are discrete so much as whether all larger units of value are divisible into the minimal units without remainder. Even infinitesimals come in different orders of magnitude, since as Cantor showed, there are very many different orders of infinity. And even if they did not, adding infinitesimals merely allows us to approach equality with option A as an asymptote, *pace* Raz (Raz 323). Raz is dipping into waters he knows little about.

Fifth, Raz fails to distinguish epistemic intransitivity from ontological intransitivity, thus invalidating mark (2). Let me explain in detail.

Russell cites Poincaré’s example of three patches of color. A is perceptually indistinguishable from B and B is perceptually indistinguishable from C, but A is perceptually distinguishable from C. This failure of transitivity is easy to understand, as it is easy to understand that there must be some physical difference involved which is below the threshold of perception.

No one will seriously doubt that if A were ontologically indistinguishable (i.e. indiscernible) in color from B and B from C, then A would be ontologically indistinguishable in color from C. Similarly, if it is an objective fact that one valuable option is neither better nor worse than another, then the mere possibility of a third option which *appears* better than one but not the other fails to establish ontological as opposed to merely epistemic intransitivity. To assume that the third option *is* better than one but not the other is to beg the epistemological question.

This fifth objection is intimately related to the famous failure of indiscernibility of identicals in referentially opaque contexts, or as Russell expressed it, in cases of propositional attitude. The two most famous kinds of failure are in modal and epistemic contexts. We are, of course, presently concerned with an epistemic context. Indiscernibility (having all properties in common) and identity are paradigmatically transitive relations. Thus it is the epistemic context that can scout intransitivity, without any need to infer incommensurability (or indeterminacy of value).

b. *The Objective Status of Values*

My fifth objection depends on drawing a distinction between appearance and reality concerning valuable options. Raz does give some brief remarks against drawing such any distinction, which he expresses somewhat oddly as a distinction between incomplete or imperfect valuation and complete valuation, people being tempted to suppose that the latter would eliminate incommensurability:

The mistake in this thought is that it assumes that there is a true value behind the

ranking of options, and that the ranking is a kind of technique for measuring this value. It is true of course that when we express a judgment about the value of options we strive to identify what is true independently of our valuation. But the ranking which determines the relative value of options is not a way of getting at some deeper truth, it constitutes the value of the options.... Therefore, when there is incommensurability it is the ultimate truth. There is nothing further behind it, not is it a sign of imperfection. (Raz 327)

It is crucial to avoid the misleading picture of there being something, enigmatically known as ‘value’, the quantity of which is increased by people having rewarding friendships, enriching occupations, etc. There are only people, with their relationships, careers, interests, etc. Some of them are more valuable than others. (Raz 344)

This is a pseudo-argument which merely assumes the point in question. The “Therefore” is a pseudo-conclusion. It would be inappropriate to discuss in detail here a purely ontological issue I discuss in detail elsewhere. Briefly, private language arguments are philosophically significant arguments which show the objectivity of the distinction between appearance and reality *tout court*. Wherever the language of appearance and reality has a significant public use, it has a language-independent, mind-independent application. And such language permeates ethical discussions.

I might add that incompleteness not only smacks of the less real, and problems of composition, but if talk of incompleteness or completeness has a significant public use in ethics,

then it has objective application. And people are right to think they have not adequately evaluated two options if they have not yet considered all their aspects. As against the second quoted paragraph, we will be coming to Russell's principle of abstraction shortly.

Indeed, the only question about incommensurability that is interesting at all is, Granting objective values with independent existence, are some of them objectively incommensurable? Compare the question Mill raised: granting it is an objective fact that subjective pleasures exist, are some of them objectively incommensurable? In short, is incommensurability a real fact?

Raz's second paragraph ("It is crucial..") blunders badly indeed. Here he mixes up the problem of objectivity with the problem of universals. When he says that there are no values, but only valuable people, careers, friendships, strictly speaking he is saying not that values are not *objective*, but only that they exist *in re* as opposed to *ante rem*. That "[s]ome of them are more valuable than others" would still be a mind-independent objective fact. Raz might as well be arguing that because it is misleading to picture sphericity as a thing, since there are only spherical things, the fact that V1 is spherical is not an objective fact about which we could be mistaken. It seems only insofar as Raz says that values are created by our choices that he precludes mistake. In effect this is a version of conceptualism. If to be spherical at time t is to be chosen as being spherical, then we could not be mistaken at t unless we could be mistaken about what we chose. An objective mistake would have to be assayed as a conscious mistake about an unconscious choice. This seems preposterous for sphericity, but what about values?

When Raz says that values are created by our choices, that seems strictly wrong. For Raz, our well-being is measured by our objective success in reaching our goals. And that is conceptually bound up with which goals we choose. Thus choices might be better said to define potential

values, where success in realizing them defines their actualization. Initial investments of time, energy, and money, i.e. commitments to a goal, are not part of choice so much as the first step on the road to success, at least where a choice is a mental decision and not a social act of announcement.

Only two major thinkers have held that we create *all* values. Nietzsche and Sartre did so for the sole reason that objective values would be objectively motivating and to that extent would undermine our absolute freedom to choose (free of all external influences of any kind). This is their sole argument, and its whole aim is negatively to safeguard an assumed absolute human freedom, not to establish in a positive manner either that we have absolute freedom or that we create values. And Raz gives no argument at all for his Nietzschean-Sartrean legislation of value by making choices. Raz merely asserts that autonomous man is, or defined autonomous man as, to a large degree the creator of his own moral world. This is a strong and ennobling conception. Yet there is no sense of the Nietzschean overman transvaluing all value or of Sartrean anguish at lacking any foundation, and so bearing all responsibility, for one's choices. Razian autonomous man seems rather bourgeois in contrast. I typically "create my own moral world" by becoming a lawyer much like all the other lawyers, or by becoming a husband with children much like all the other husbands with children. Without the sense of existential seriousness, "creating my own moral world" seems overblown and pretentious, an excessive glorification of the mundane workaday world. But there seems little of the existential in Raz.

Schelling argued directly that no good or evil can exist unless it results from free choice. Judas did not betray Jesus if Judas's acts were compelled as opposed to freely willed. Love and honesty are not genuine if they are not offered freely. Human dignity is a fraud without

metaphysical agent-freedom. Thus for Schelling “man’s being is essentially *his own deed*.... He alone can determine himself [as an ethical being, an ethical agent]” (Schelling 1986, p.63; see p. 64 and May 1981, pp. 5-9). Thus Schelling might seem to revitalize Nietzsche and Sartre and also Raz, insofar as Raz bases value on choice. But Raz in effect reveals that Schelling has an impoverished notion of good and evil when Raz admits biological well-being as well as the sort of well-being that comes from one’s projects. Also, requiring free choice and being created by free choice are different things.

The problem with Nietzsche and Sartre is that they confuse an external ethical motivation’s morally influencing “What *ought* I to do?” with an external event’s causally influencing “What *will* I do?” (Butchvarov 1989, p. 50). My choices determine what I *will* do, if I can. Nothing follows about what I *ought* to do. The problem affects Raz as well. This is especially embarrassing for Raz because this is Hume’s point that you cannot derive an ought from an is--and that amounts to Raz’s own perfectionism. For that matter, even success in attaining a goal is only an *is*.

Another problem is that Raz has no theory of choices over time. If we picture a choice as taking a fork in the road of life, a fork into one possible situation (or class of situations) among others possible at that juncture (possible situations are only ways the actual world might be, Kripke says), then the value of the choice is the value objectively resident in the possible situation chosen to be realized. It would be more appropriate to say that the choice is *to actualize* that possible situation and its value as a further determination of an already given world, than to say that it *creates* the world or its value. Our choice is quite unlike that of a Razian Creator *ex nihilo*. The very fact Raz lacks any theory might allow him to plead that he is using the word “create” casually. But in view of his very dramatic emphasis on creating our own moral world, the plea would not be

convincing.

Our picture also explains how objective mistake is possible even when we “choose” a value. For we do not choose the value simpliciter. We choose to actualize the possible situation in which the value is embedded. And we might be mistaken about what value is embedded in the situation we choose to actualize. Things have a habit of turning out not as we expected, and not due to any change in the situation after our choice of it.

Raz in effect tries another way out. He says, “Values may change, but such a change is not a discovery of a deeper truth. It is simply a change of value” (Raz 327). The idea seems to be that if you consider two options incompletely and deem them incommensurable in value, and then later consider them more completely and find them equal in value, you are not invalidating your earlier judgment because their values have changed. Here Raz presupposes a certain sort of position in philosophy of change. His view seems quite close to Russell’s theory of sense-data, on which if you sense differences or parts within a sense-datum you had not sensed before, then you are simply sensing a new sense-datum. Since a sense-datum is as it appears, any appearance of change, however slight, really changes the sense-datum to another sense-datum. That is, Raz is presupposing in effect that values are more like sense-data or toothaches or after-images or dreams or other appearances than they are like physical objects or truths or numbers or time or other real things. Thus this second way out coalesces with the first. And as we saw, Raz only gives a pseudo-argument against the appearance-reality distinction for values.

Another problem lies in the slick way Raz phrases this way out. If nothing changes in the *situation* chosen to be actualized, can the *value* change all by itself? Here it may help to view the chosen situation as a chosen entire possible world consisting of both the local situation chosen and

its background conditions. If nothing in this freely-entered possible world changes, how can the value change? R. M. Hare once observed that two physically identical paintings must be equally beautiful. If two possible worlds, or two time-stages of one possible world, are identical, then must they not be equally intrinsically valuable? But then if a value *appears* to change over such time-stages, there logically must be an objective mistake about value at *some* time-stage. My argument assumes ideal conditions of identity, but they seem similar enough to many aftermaths of actual choices. Things turn out not as good or as bad as we thought, and we conclude not that their value has changed, but that we have *misjudged* their value. Here Raz flies in the face of the given, as well as in the face of common sense. There may have been nothing significant in the situation which we misunderstood *except for* its value to us, simply because it takes time for its value to have its complete impact on us. The value of a situation takes time to be sorted out and fully savored. A paradigm case is the macabre tale of the pool shark who dies and awakens in the pool hall of his dreams. He is guaranteed to win every game. At first he thinks he is in heaven. But later he decides it is hell--precisely because his chosen situation never changes. While the phenomenologically presented objective desirability of the pool hall changes, the pool hall itself does not change, and most of us would say that despite phenomenological appearances, the pool hall's true value never changes during the course of the story.

Raz's denial of independent and objective values about which we might be mistaken seems to contradict his rejection of the transparency of value. Intrinsically valuable things are transparent if their features make them good for some agent, and if normally the agent is content with their presence and prefers that to their absence (Raz 269, 298). Raz rejects transparency because individual well-being is a matter of success, and one may be totally mistaken about the success of

one's projects (and relationships). Thus Raz seeks to eat his cake and have it too. He admits transparency for choices but denies it for well-being, even though our choices intrinsically create our moral world. Instrumental values are evidently opaque because there is nothing in them that directly, i.e., transparently, satisfies. Of course, one may or may not be content with and prefer one incommensurable over another. But a choice as such expresses preference and at least a modicum of contentment. The contradiction comes in because not only are our projects initially chosen, but their mode of completion is a matter of our choices as well. If we choose to regard or deem a project a success, where we chose one of several incommensurable ways of completing it, then Raz is saying both that our choice is transparent and it is not. And insofar as the value created by a choice is a function of the value of success in attaining the chosen goal, the value of the choice is a function of an objective value about which we could be mistaken.

Choosing and success are intimately interrelated. When you choose a goal, you *choose to succeed* in attaining it. When you attain a valuable goal, you made a *successful choice*.

Presumably Raz's point in rejecting the transparency of intrinsic value is to make intrinsic value impersonal (Lomasky 1990, p. 97). Lomasky notes that even if choices are impersonally reason-based (both choices of projects and of how to advance them well), so that there is a fact of the matter as to success or failure of projects, a fact which is a fact for everyone, it does not follow that a project has the same value for everyone. To think that it does follow is to confuse theoretical reason with practical reason. Theoretical reason concerns whether the proposition is true that the project was successful and good. Practical reason concerns whether anyone has a reason to act so as to promote (or hinder) or even applaud (or boo) the project. "Both Jones and Smith and Jones may believe that eating a pickle will assuage Jones's craving, while only one of them is thereby

afforded reason to act” (Lomasky 1990, pp. 96-97). Lomasky concludes:

Therefore, it is by no means clear why Raz maintains that well-being is impersonally valuable. The rejection of value-transparency may appear to him to validate that conclusion, but if so he has succumbed to an illusion. A crucial prop for his liberalism-by-way-of-perfectionism is missing: if the value that inheres in individuals’ well-being is fundamentally personal value, then its significance with respect to political structures must be advanced from the perspectives of discrete individuals and not from a god’s-eye view. Alternatively, Raz may simply claim to have *apprehended* the impersonal value of a pluralistic realm of autonomous beings, but his readers will be excused if they fail to share that insight. (Lomasky 1990, p. 97)

Another main argument for Raz is that individual well-being must be impersonally valuable because it depends on collective goods and social forms. Lomasky says that Raz sees social forms “as conveyors of impersonal values” (Lomasky 1990, p. 105). This appears a non sequitur. That Jones is just one successful lawyer among many is of little value to me, bound up with collective goods as Jones’s occupation may be. I also think it technically valid to say that collective goods seem to be trans-subjectively, not objectively valuable, at best, if all value is value to someone. There is also something of a fallacy of division here. Even assuming that the collective goods are impersonally valuable, it does not follow that Jones’s taking part in them is valuable to anyone but Jones. But the chief objection I have is that making social forms conveyors of impersonal values amounts to a

private language argument, and such arguments imply a minimal realism inconsistent with Raz's denial of objective mind-independent status to value. I admit that it can be an objective, mind-independent fact that a private mind creates a private value for itself, just as much as Berkeley's idealist ontology that only minds and ideas exist can be objectively true. But such an ontology and such theories of value seem ruled out as objectively false by private language arguments.

c. Scientific and Technical Limits of Measurement

My sixth objection is that Raz overlooks the practical necessities of measurement. In particular, interval measurement presupposes the use of a unit of measurement. Units have to be rigid, or at least to maintain proportionality in a rigid manner. Thus your additions to a thing may not make it detectably greater simply because you have not yet found sufficiently rigid units to measure it by. An even more homely point is that when you measure by units, you have to round off to the nearest unit among your smallest units. Thus your additions to a thing may not make it detectably greater simply because you have not yet found small enough units to measure them by (Blommers 1970, p. 20). In either case you have an intransitivity of relations among actual measurements with no implication of incommensurability of the things measured.

The modern scientific revolution is based on replacing qualitative classifications with quantitative measurements. Our sophistication in finding new and more accurate ways to measure has increased tremendously every century since the 16th. There is a large literature on experimental techniques for measuring all sorts of social and ethical matters which Raz ignores as much as he

ignores the theoretical literature. The problems I describe concern vagueness in the sense of imprecision of technique or technology. Just as Kant made it regulative principles of the qualitative reason that one can always find more abstract as well as more specific classifications, so it is a working assumption of quantitative science that everything can be quantified. Merely to assume incommensurability on the basis of one's own personal judgment, even of an option's value to oneself, is unscientific methodology.

Whether it is a priori or deep empirical theory, the thesis that all things that exist have some quality and quantity seems incontestable. The quality must have some intensive magnitude greater than 0, and the quantity must have some extensive magnitude greater than 0. Vague magnitudes aside, there is *always* something determinate to measure. There are also precising techniques for removing vagueness. Russell gave their general logical form in the *Inquiry*.

A Razian choice between taking a walk or reading a book may be construed as based on simple direct introspection of one's feelings (or direct phenomenological contemplation of the alternatives), or also on one's general knowledge or experience of the world, oneself, past walks, past book readings, and so on, to various degrees of specific recall. In the former case Raz has a good argument that apparent incommensurability is all there is to incommensurability. But surely all normal such choices by an adult are the latter case. Here all sorts of errors and biases can be involved in one's thinking. It would be more reasonable to say that we do not fully understand the reasons why two options appear incommensurable than to say that they are incommensurable, if we are to reason by making use of all available information.

Consider the statistical approach. Statistics is the science of the method, design, and evaluation of measurement. My previous walks and book readings constitute a population. My

survey of them will have all sorts of procedural biases merely because I am not a statistician and can conduct no survey. I never collected the data properly in the first place, and even if I did I could not evaluate it. There are also well-known judgment-biases which creep into every statistical measurement. They can be recognized and minimized in many cases. But there can be no technique for removing them in field work. These are biases of judgment. They includes “selectivity, availability, nonresponse, and incorrect assignment of weights” (Deming 1966, p. 11). When I remember my past walks, my memory is selective. Only walks I have actually taken are available. I may remember some walks but not how much or why I enjoyed them. And even if I do, I may wrongly remember how much I enjoyed them and how much for which reasons. Any one of these biases can explain appearances of incommensurability as objectively mistaken.

This sixth objection does not attempt to *prove* that values at time t exist independently of our choice or judgment at t . It is designed to show that if you *assume* as a working hypothesis that that is so, the result is a more plausible picture, a more plausible universe of standard explanations for appearances of incommensurability, or at least of many appearances. It attempts to eliminate or at least minimize qualitative incommensurability of values in much the same way scientists have successfully done for materials and chemicals for the past half a millennium.

What is given is real, but it is less real than that which explains it (Hegel 1967, pp. 67-68, 149-50). A phenomenological presentation of incommensurability is a real presentation. But that does not mean it reflects metaphysical reality. In effect Raz rejects any metaphysical reality behind the presentation. But following Hegel, Raz is abandoning philosophical investigation altogether, not to mention modern science, where both of these seek some explanatory reality behind appearances. Indeed, if values are only phenomenological reality, then all sorts of presented data

about the publicity and objectivity of values, and our making mistakes about values are ignored and unexplained.

Seventh, I see nothing in Raz to prevent us from simply *defining* equality as being neither greater nor less. Where we have a kind K of entities some of which we can tell *are* greater or less than others, on the face of it we have a right to deem greater, less, and equal as transitive and as mutually exclusive and jointly exhaustive of all pairs of K's. For K's are then the *kind* of entity that *can* be measured. As the old saying goes, actuality implies possibility. This is not a deductively valid argument, but a philosophically interesting argument that seems more persuasive the more you think about it. And measurability, of course, *means* 'possibility of measurement'. Calling K's a kind of *incommensurables* better reserved for cases where *no* K is greater, less than, or equal to any other. Likewise for saying that K's are incommensurable with L's.

Another argument is that my proposed definition is simple, elegant, and scientifically and practically convenient. There is, of course, no reason why we cannot have very different reasons for valuing two options of equal value.

d. *Sources of Incommensurability*

Raz discovers at least three sources of incommensurability: "incomplete' definition of the contribution of criteria to a value" (Raz 326), vagueness, and incommensurabilities of probable effects of exercising either option, which Raz describes as "contagious and transmitted to" the options. As a variant of the first, Raz adds, "Incomparability can exist if the value depends on a multiplicity of purely descriptive criteria" (Raz 326). His stock example is that of options of

reading various novels with various degrees of humor, imaginativeness, insight, and interesting plot.

My objections to Raz's mark of incommensurability apply *mutatis mutandis* to his sources of incommensurability as well. First, Raz never explains why these sources are not also sources of indeterminacy of value, which was his own principal close alternative to incommensurability, or sources of epistemic incommensurability.

For instance, "incompleteness" smacks heavily of the problem I raised with Raz's notion of addition. The same fallacies of composition and division seem applicable. Similarly for the "addition" of probable consequences to each option.

And vagueness may be either epistemic or ontological. Traditionally philosophers assumed that reality is determinate and that any vagueness is due to our perception or conception of reality. But some admit a "real vagueness" in hazes and emotions.

Vagueness is a particularly unhappy choice of source of incommensurability for Raz. For one's reasons for choosing one of two similar vague options will not greatly or agonizingly differ from one's reasons for choosing the other. For instance, a fog may be more important in battle than either courage or wisdom, but still not involve at all the same kind of puzzlement before making a choice. Consider wise enemy E1 lurking in fog F1 and courageous enemy E2 lurking in fog F2. Suppose F1 and F2 are incommensurable due to their vagueness. Then no one can give fog another thought, even if fog is 90% decisive and the individual enemy 10%. There is simply nothing to think about. But if E1 and E2 are incommensurable due to involving very different values, one may ponder long whether to face E1 or E2. What this affects in Raz is his claim that choices among incommensurable options are rational precisely because there are weighty reasons

on both sides. But concerning the two fogs, the choice is arbitrary. The importance of each fog to the outcome is not at all a reason for choosing between them. Thus Raz is stepping on his own strategic aims by citing vagueness as a source of incommensurability.

Vagueness, either ontological or epistemic, must not be confused with logical indeterminacy. The similarity relation, understood as dyadic, is intransitive. Colors A and B are similar, B and C are similar; yet one cannot infer that A and C are similar. The colors may be perfectly determinate. They have not the vagueness of a mist. The problem is that similarity, understood as dyadic, is a logically incomplete relation. Because it is an incomplete truth condition, the inference cannot be drawn. Similarity must be either triadic (A and B are similar in respect R) or quaternary (A is more similar to C than B is to D) (Butchvarov 1966, pp. 111-24).

Last, these sources of incommensurability are not even logically sufficient conditions of incommensurability, by parity with my fourth criticism of Raz's mark of incommensurability.

e. Rough Equality

Raz argues against the idea that incommensurability amounts to "rough equality." First he rejects a straw man. He rejects defining rough equality between options A and B as that for any possible option C, if C is better than A then C is better than B, if C is worse than A then C is worse than B, if C is better than B then C is better than A, and if C is worse than B then C is worse than A. He rejects this definition because on his mark of incommensurability (that some C can be better than A but *not* better than B), the classes of roughly equal option pairs and the class of incommensurable option pairs are mutually exclusive, while the whole point was to make them the

same class. This is a straw man because the definition offered of rough equality is actually a definition of equality, or even of identity. In fact what we have here is a version of the identity of indiscernibles.

Raz now offers the definition of “rough equality” he accepts, “that two options are of roughly equal value if one is right to be indifferent between them, i.e. if little depends on which is chosen, if it does not matter which one chooses” (Raz 331). On this definition, it does seem that incommensurable options are always roughly equal, since “[t]here is no reason to prefer either of two incommensurable options” (Raz 331). But the way Raz sets this up, he is just attacking another straw man. Let me explain.

In the full argument, which Raz presents and rejects, for the conclusion that all cases of incommensurability are (merely) cases of rough equality, there is a rather strange premise:

- (1) Two options are roughly equal if and only if it does not matter which is chosen, if it is right to be indifferent between them.
- (2) What rightly makes one care about which option to choose is that one is better supported by reason than the other.
- (3) There is no reason to prefer either of two incommensurable options.
- (4) Therefore all incommensurables are of roughly equal value. (Raz 331)

Raz singles out premise (2) for his sole attack. He rightly observes that one rightly cares about which option to choose even if they are incommensurable, if the reasons on either side are deep and important. One can even *agonize* over incommensurable options for this very reason (Raz

332). But my question is, What is premise (2) even doing in the argument? It contributes nothing to the argument's soundness. If you drop premise (2), the argument merely becomes simpler and more elegant. The only reason premise (2) might even appear to be relevant is that Raz does something tricky. Instead of defining "roughly equal" and then applying it to the case of values, he defines "roughly equal value," which allows him to speak of "indifference" ambiguously as if it were purely *rational* indifference in the definition, yet somehow also the logical opposite of *emotively* caring about one's choice, of the *importance* of the choice to me.

Let's see what would have happened had Raz focused on the notion of rough equality instead of the complex notion of roughly equal value. First of all, he would have seen that it virtually is the notion of vague identity, which is basic to that new science, fuzzy logic. It is an axiom of fuzzy logic that vague identity is nontransitive. Thus the argument Raz ought to have combatted is:

- 1'. Vague identity is nontransitive.
- 2'. Two things are roughly equal if and only if they are vaguely identical in some respect.
- 3'. Therefore rough equality is nontransitive.
- 4'. Nontransitivity is the mark of the incommensurable.
- 5'. Therefore all rough equals bear the mark of the incommensurable.

And the premise he ought to have attacked, much in the manner I did, is (4'). But then, of course, he would destroy his own mark of incommensurability. Evidently Raz felt it safer to demolish

straw men than confront the real dilemma for incommensurables which is presented by the claim they are merely rough equals. Or perhaps fuzzy logic (in the technical sense) is new to him.

Again, we could simply *define* equality as being neither greater nor less than. That would dispose of rough equality, as well as of incommensurability and indeterminacy of values, or at least reduce them to subcategories of equality. We would merely have to find them more appropriate names, e.g., “kinds of default equality.” More precisely, as we shall see, we should not attempt to define equality per se any more than we should try to define rough equality or even incommensurability per se, since what counts is the kind of thing in question. Raz’s bigger political picture would be unaffected by my simple proposal in any case.

f. *Russell’s Theory of Measurement*

I proceed to Bertrand Russell’s theory of measurement, now over 90 years old, as an alternative to Raz’s theory.

“Commensurable” means *measurable by a standard unit* (Russell omits an unimportant secondary meaning, *proportionate*, as in “a salary commensurable with her position”). More basic than mere commensurability is theory of magnitudes. That x has a magnitude does not entail that x is measurable. Until Descartes and Vieta, it was not even thought that all spatial distances were measurable (POM 157).

First, we distinguish *quantity* from *magnitude*. Following Russell, a magnitude is “anything which is greater or less than something else,” while a quantity “is anything which is capable of quantitative equality to anything else” (POM 159). “An actual foot-rule is a quantity: its length is a

magnitude. Magnitudes are more abstract than quantities: when two quantities are equal, they have the *same* magnitude” (POM 159). Therefore, paradoxical as it may seem, two magnitudes can never be equal. For example, every length is different: e.g., one foot, one yard, one mile are all different lengths. To think otherwise is not to have grasped the concept of magnitude, and is probably to have confused it with the concept of quantity.

“Quantitative equality is to be distinguished from other kinds, such as arithmetical or logical equality. All kinds of equality have in common the three properties of being reflexive, symmetrical, and transitive” (POM 159). Again, Raz is quite wrong to take transitivity as the mark of commensurability, since arithmetical and logical equality are just as transitive. “For quantity, we shall find, is not definable in terms of logical constants, and is not properly a notion belonging to pure mathematics [or to pure logic] at all” (POM 158). In contrast, transitivity is a purely logical, extremely general relation.

Having a quantity is not the same as being measurable. Some quantities cannot be measured. And some things that can be measured, such as anharmonic ratios in projective geometry, are not quantities but relations (POM 158). An anharmonic ratio is not a distance, but a relationship among four distances on a line. Such ratios can be assigned numbers, and some of the assigned numbers will be greater than others. Thus anharmonic ratios can be measured. But they are not quantities of anything. Russell explains, “Measurement... is applicable to [ordered series,] which excludes some quantities and includes some things which are not quantities. The separation between number and quantity is thus complete: each is wholly independent of the other” (POM 158).

In particular, “it is generally admitted that... pleasure and pain, are quantitative.... two

pleasures can *always* be significantly judged equal or unequal” (POM 160-61). Yet they cannot be measured because of the difficulty in regarding a pleasure as consisting either of indivisible or infinitely divisible parts that can correspond one-one to numbers. Thus “greater and less have a wider field than whole and part, and an independent meaning” (POM 160). Recall my charging Raz of the fallacy of composition?

Three theories are possible: (1) We define equality in terms of having the same number of parts. (2) We take equal, greater, and less as primitive relations among quantities and define having the same magnitude as being equal in quantity. (3) We take greater and less as primitive relations among magnitudes and define equality of quantity as having the same magnitude. (1) equates quantity with measurability, and is refuted by the two preceding paragraphs. So the choice is between (2) and (3).

Against theory (2), consider two particular pleasures, P1 and P2. They differ in time of occurrence and arguably also in location. In some cases P1 and P2 will be equal. In others P1 will be greater than P2, and in still others, less. Since by hypothesis P1 and P2 differ only in temporal or spatio-temporal location, the differences among these three kinds of cases will be brute and unexplainable facts, and principles of quantity such as reflexivity, symmetry, and transitivity will be indemonstrable brute axioms. Yet they ought to be analyzable because equality of quantity is not simple identity but a complex notion different from those of arithmetical or logical equality. But the only analysis possible is that given in theory (3), on which two equal qualities are analyzed as related to a third term: namely, a certain same magnitude which they both have (POM 163-64). On theory (3), any two items which stand in some greater or less relation are magnitudes by definition. “Every magnitude is a simple and indefinable concept” (POM 164). Thus no two

magnitudes can be equal. Thus equality belongs to quantities and is defined as having the same magnitude. A series of magnitudes standing in greater-less relations to each other defines a *kind* of magnitude. But “kind of magnitude” may also be defined as a magnitude *of* something, such as pleasure. On this second definition, it must be added as an axiom that any two magnitudes of the same kind always stand in some greater-less relation (POM 164). The greater and less relations are logically primitive; and to be greater or less than Q is to be a magnitude of the same kind as Q (POM 167).

One might object to theory (3) that it requires a magnitude of pleasure to be a simple entity, while in fact a pleasure is analyzable into “two constituents, pleasure and intensity” (POM 164). But as Russell observes, “what we require for the constitution of a certain magnitude of pleasure is, not intensity in general, but a certain specific intensity; and a *specific* intensity cannot be indifferently of pleasure or of something else. We cannot first settle how much we will have, and then decide whether it is to be pleasure or mass” (POM 165). This is why we should not try to define equality, or rough equality, or intensive incommensurability, in the abstract.

Accepting theory (3) is also justified by the principle of abstraction, which states that any symmetrical and transitive relation is analyzable into some sameness of relation to a third term. Analyzing equality as sameness of magnitude is just one instance of this principle (POM 166). We must distinguish the defining concept of a kind of magnitude from all the magnitudes of the kind (POM 187). Zero magnitude is really the denial of applicability of the concept, not the denial of all the particular magnitudes of that kind (POM 187). Thus a valid mark of kind of magnitude is applicability of the *zero of magnitude* as opposed to the numerical zero and the infinitesimal. If pain or pleasure can wane or dwindle to zero pain or no pleasure, then these are magnitudes (POM

184-85). For zero in this sense is the denial of applicability of any positive magnitude of the kind in question. It is an essential part of our concept of a kind of magnitude. *No pleasure* is a quantitative concept and is not the same as *not pleasure* (POM 187). Again, for Russell the zero of magnitude is not the zero of arithmetic. The same can be said of value, if value can wane or dwindle to zero. Russell's theory has three consequences of interest to us.

First, measurability is wholly different, logically speaking, from greater-less comparability. Some but not all incommensurables are incomparables. In particular, pleasures and pains are comparable but not directly measurable. Where we call measurable magnitudes extensive and incommensurable magnitudes intensive, pleasure and pain are intensive magnitudes. All intensive magnitudes of the same kind are intercomparable by definition.

Second, transitivity is a mark of neither measurability nor comparability. *Pace* Raz, it is too general a notion, and these are only two of its many species.

Third, since there are degrees of similarity, every kind of similarity is a also kind of magnitude. And in particular, similarity to a standard or ideal is a kind of magnitude (POM 170-71). Thus Raz's political ideals of autonomy and well-being, if anything we do is even similar to them, imply comparability, though not measurability. There will be incomparability only when different kinds of magnitude are involved. Perhaps in practice that will give Raz much of the "incommensurability" he wants. But it will give him far less than he expects, the more basic or general or universal or similar our projects and relationships are. In fact, the only items which are not similar at all to each other are summa genera.

Raz, again, emphasizes mere family-resembling criteria of satisfaction of his basic sorts of projects and relationships, and by extension, of well-being. However, these resemblances

themselves must be based on features (Loux). These would appear to be kinds of magnitude. More interestingly, Raz has a habit of assigning his main concepts, in spite of their mere family-resembling criteria of applicability, certain general features which they have essentially or inherently. Thus there can be many overlapping kinds of friend with no one feature in common--yet all friends essentially must have in common that they find friendship incommensurable with money (345-53). Not only does Raz contradict himself, but the very property he deems essential to friendship provides us with a comparable kind of magnitude. For friendship is comparably more or less strongly denied by various people to be comparable with money in value.

The thesis that not all magnitudes are measurable has some metaphysical presuppositions. Thus Raz begs the question against certain metaphysical theories, if he holds that some magnitudes are incommensurable. Russell says:

It is one of the assumptions of common sense that two magnitudes of the same kind must be numerically comparable. People are apt to say that they are 30 per cent. healthier or happier than they were, without any suspicion that such phrases are destitute of meaning....

Measurement of magnitudes is, in its most general sense, any method by which a unique and reciprocal correspondence is established between all or some of the magnitudes of a kind and all or some of the numbers, integral, rational, or real.... (It might be thought that complex numbers ought to be included; but what can *only* be measured by complex numbers is in fact always an aggregate of magnitudes of different kinds, not a single magnitude.) (POM 176)

Russell adds that these one-one relations between numbers and magnitudes “may be direct or indirect, important or trivial” (POM 176). Russell continues:

There are two general metaphysical opinions, either of which, if accepted, shows that *all* magnitudes are theoretically capable of measurement in the above sense. The first of these is the theory that all events either are, or are correlated with, events in the dynamical causal series.... And with regard to mental quantities the theory in question is that of psychophysical parallelism.... The other metaphysical opinion... is one suggested by Kant’s “Anticipation of Perception,” namely that, among intensive magnitudes, an increase is always accompanied by an increase of reality.... That this method has any practical importance it would be absurd to maintain; but it may contribute to the appearance of meaning belonging to *twice as happy*. It gives a sense, for example, in which we may say that a child derives as much pleasure from one chocolate as from two acid drops; and on the basis of such judgments the hedonistic Calculus could theoretically be built. (POM 176-77)

Just as Russell says, the so-called secondary qualities such as the colors appear incommensurable, but are indirectly measurable by being correlated with physical wavelengths. In like manner happiness might be correlated with alpha wavelengths in the brain. Here Raz, if he holds that magnitudes of pleasure cannot be measured, appears committed to a dubious Cartesian dualism in which pleasure and happiness are forever beyond the reach of the measuring scientist.

Russell goes on to argue that measurability requires at bottom “immediate comparisons,

which are necessary both logically and psychologically” (POM 178). Here the neoKantian metaphysical opinion may be based on phenomenological judgments of equality or greater-lesser by the child itself, and on introspective reports by the child, concerning the reality of the pleasure to it. But in the case of assuming the rigidity or constancy of a foot-rule, the assumption will presumably be implied by our background physical theory, much as Ernest Nagel holds. This would apply were we to measure happiness in terms of alpha waves.

As Russell says:

Concerning [intensive magnitudes], unless by some causal relation, or by means of some more or less roundabout relation..., numerical measurement is impossible. Those mathematicians who are accustomed to an exclusive emphasis on numbers, will think that not much can be said with definiteness concerning magnitudes incapable of measurement. This, however, is by no means the case. The immediate judgments of equality, upon which (as we saw) all measurements depend, are still possible where measurement fails, as are also the immediate judgments of greater and less. Doubt only arises where the difference is small; and all that measurement does, in this respect, is to make the margin of doubt smaller--an achievement which is purely psychological, and of no philosophical importance. Quantities not susceptible of numerical measurement can thus be arranged on a scale of greater and lesser magnitudes, and this is the only strictly quantitative judgment of even numerical measurement. We can know that one magnitude is greater than another. and that a third is intermediate between them.... And such propositions, though to

the mathematician they may appear approximate, are just as precise and definite as the propositions of arithmetic. Without numerical measurement, therefore, the quantitative relations of magnitudes have all the definiteness of which they are capable--nothing is added, from the theoretical standpoint, by the assignment of correlated numbers. The whole subject of quantities is, in fact, one of more practical than theoretical importance. What is theoretically important in it is merged in the wider question of the correlation of series.... (PM 182-83)

Thus concerning any kind of magnitude, if we cannot make a judgment of measure or even comparability, this implies not some intrinsic incommensurability or incomparability, but a matter of *epistemic doubt* due to the smallness of differences in magnitudes (POM 183). Happiness, or career- or friendship-satisfaction, are intensive magnitudes if they admit of greater and less *at all*. For, if I may add my own argument to that of Russell, the fact that they *do* sometimes admit comparisons implies that they are the *kind* of thing which (always) *can* be compared. And once they are thus established as *being* magnitudes of some kind, then any cases, however many, of inability to make immediate comparative judgments, can only be epistemic. Nor can we theoretically rule out settling such epistemic doubts by indirect means. This is a practical, i.e., empirical, question.

Raz likes to speak of cases involving an initial judgment of “incommensurability” of two options, followed by a choice of one option, and then a later judgment that the chosen option is more valuable, such that it is not correct to apply the later judgment retrospectively so as to invalidate the initial judgment. I grant that there may be such cases. But this is not a matter of

theoretical speculation. It is a merely practical or empirical question at best. Indeed, from the mathematical point of view, what the later judgment establishes is that a genuine kind of magnitude *is* involved, so that the initial judgment can only be epistemic. That is, the initial judgment is not of the form:

S. "I see that A and B are incommensurable,"

but rather of the form:

S1. "It is impossible for me to see whether A and B are commensurable."

Raz fails to admit the possibility of distinguishing S from S1 in the case of valuable options, due to his pseudo-argument against any appearance-reality distinction for judges among options.

To sum up, Raz might be better off developing the notion of epistemic incommensurability. That would be safer and thus more effective for his purposes. I cannot develop the notion here. But at least I give S1 as the proper statement-form to investigate.

One ought to distinguish kinds of commensurability and of incommensurability in ethics and political morality. There is purely quantitative commensurability of units of the same kind and amount of good by counting persons (Butchvarov 1989, p. 123). There is purely qualitative commensurability where qualitatively different goods can be ranked into a hierarchy of higher and lower goods. This can be done by assessing which kinds of being and their characteristic kinds of good are the preconditions of which. Here there is no arithmetical addition, only an ordering. And

the ordering can be reversed in specific cases. For example, social existence presupposes the existence of some minimal will, and will presupposes the existence of some minimal intellect. Friendship is the characteristic good of society, courage that of the will, and knowledge that of the intellect. Friendship is a higher good than courage, and courage higher than mere knowledge. Yet when we descend from these abstract kinds of good to actual cases, a strong courage may be better than a poor friendship. (Butchvarov 1989, pp. 82-136). But here is where we appeal to phenomenological judgments. Raz is the worse for ignoring the vital subject of our *awareness* of the many kinds of goods.

Left open are only pairs of qualitative goods which cannot be ranked according to a hierarchy of logical presuppositions of kinds of being. This is the residue of genuine incommensurability left by our hierarchy. But what sort of cases are they? And how important are they to the normal concerns of political morality?

But Raz's larger arguments based on the incommensurability of our more comprehensive goals may be largely unaffected by my corrections to his analysis of the concept of incommensurability. But there is an internal problem in Raz's big picture. Again, to the extent that he is right about pervasive incommensurability, his DT and NJT theses are virtually useless. For conflicts among duties will be affected by this incommensurability too. How can a state be more likely to get me to do the right thing than I am if our respective notions of my moral duty are incommensurable? How can citizens act together for the common good if everybody has an incommensurable conception of our moral duties? The only way the state can come in is as a second-level breaker-up of the log jam. But then the state will not be acting rationally so much as by randomly flipping a coin. NJT will give no guidance whatsoever.

Perhaps Raz has attempted to define a purely logical notion of incommensurability, so that the purely general logical notion of intransitivity can be its mark after all. Perhaps Russell begs the question against Raz's attempt. But then Raz has to face Russell's arguments and analysis, not to mention my own critique of Raz remains untouched in any case. I brought up Russell only after I finished that negative critique. Russell gives a positive alternative which explains how to go right, and explains how Raz goes wrong only indirectly.

8. The Ontology of Individual and Collective Goods

Among philosophers, Hegel is preeminent for allowing goods to belong to groups, nations, even ages. Russell says that Hegel's group goods reduce to goods enjoyed by individuals of a dominant social class. Russell says it is too hard to pretend a state is good when most of its individuals are badly off (1962, p. 183). I suggest Marx accepts Hegel's group goods and Russell's theory of ideology as well. For Marx, real group goods occur only after the class struggle has been transcended. I will ignore Marx's fancy footwork. As to the Hegel-Russell conflict, I only note against Russell that one could equally criticize alleged state goods as really being dominant class goods, which are still group goods since they belong to classes as a wholes

Do goods belong to individuals or to groups? The ontology of individual and collective goods depends in part on the ontology of individuals and groups. If groups are unreal, then no real goods can belong to them. (The fallacy of division does not apply here.) But if groups have some reality, then the question is open. Much depends on what goods are and on how it is possible to have goods. For instance, if goods are always goods to entities that are ends in themselves, we

would need to ask if individuals or groups are ends in themselves.

Are individuals or groups ends in themselves? Kant held that individuals are. But G. C. Field says Kant does not understand what ends are. If something is an end, that is not a metaphysical or even a transcendental fact about that thing. Calling something an end is merely elliptical for saying that it is wanted by someone. Thus being an end is really a relational fact. An end is not an individual to whom something is good. Rather, it is a good. If an end is desired for its own sake, then it is an intrinsic good. (Field 1921, pp. 705-8). Field also argues that goods are essentially related to the desires of conscious beings. This seems to preclude groups from having goods, unless we can show that groups are conscious beings. (Perhaps they have Emersonian “group souls.”) But perhaps we can rescue Kant by saying that for Kant an end is that for whom a thing can be good, that for whose sake an action is done. And there is no doubt that in a quite ordinary sense, things can be good for a group (say, an effective political structure), and that many people do things for the sake of certain groups. But Field can retort that only a conscious being can be an end in this sense.

Lomasky claims that Raz’s deeper argument against rights-based political morality is “that the *individualism* on which it characteristically rests is not sustainable” (Lomasky 1990, p. 93). If this is so, then Raz and Lomasky alike have failed to observe Raz’s best line against rights-based political morality. If rights-based political morality *rests* on individualism, then it is not rights-based at all, but *individualism-based*.

Raz says, “Individualism, or moral individualism as understood in this book, is the doctrine that only states of individual human beings, or aspects of their lives, can be intrinsically good or valuable (to be precise, this is what characterizes humanistic individualism)... Individualism tends

to lead to a vision of liberalism as a theory of limited government” (Raz 18). This vision is what Raz colorfully calls the “night watchman” conception of liberal government.

An important relationship which tends to obtain historically but which does not exist in strict logic is the basing of the night watchman conception of government (NW) and its attendant general abstinence approach (GA) to the general limits of government authority on the thesis (IG) that the only goods are individual, literally the states of individuals. IG does not imply NW or GA deductively or even intuitively. In contrast, Raz’s service conception (SC) and its attendant perfectionist conception (PC) are based on Raz’s claim that there exist some collective goods (CG). In parallel manner, CG does not imply SC or PC deductively or even intuitively. Two questions which arise are: (a) if these are not logical relationships, then what sort of relationships are they? and (b) In this great divide, where should we fit in my golden mean conception of government (GM) and its attendant limited perfectionist conception (LPC) of the general limits of governmental authority? The quick answer to (a) for Raz would be, some sort of relationship of reasonable inference. The quick answer to (b) for me is my modified or limited version of CG, call it (LCG), specifically my division between primary and secondary collective goods.

If epistemology is but the ontology of the knowing situation (Bergmann 1964, p. 126), ethics is but the ontology of the value or valuating situation. I make theoretical wisdom the foundation of ethical wisdom, the social branch of which is what Raz calls political morality, which is in turn (according to Raz) the foundation of theories of political institutions. (This is a fuller version than Raz’s of the house that political philosophy builds.)

Let us get our general metaphysical bearings. States of individuals common-sensically include both bodily states and mental states as a minimum. It seems to me that rights and duties are

not states of individuals, since they are “oughts” while states are “is’s.” It seems to me that political autonomy is not a state of an individual either, since political freedom is a right or at least a bundle of rights.

But the notion of a state of an individual should be quite liberal otherwise. States of individuals should not be limited to sensations or feelings such as pains and pleasures. Individual well-being and self-realization are not feelings or sensations, but are for all that states of individual persons. Metaphysical free will, and the psychological sense and habit of autonomy, are certainly states of individuals. Perhaps even choices, decisions, and the reasoning one does are states of individuals. These may be called decisional and rational states. Objective reasons, of course, would be mind-independent and person-independent, and so cannot be states of individuals. But awareness and acceptance would be states, and these are basic to individual well-being in many cases. (Even if individual well-being is not a state, it surely has no value if it is totally unrelated to states of pleasure, contentment, satisfaction, or happiness. We could not speak of well-being if we were feelingless and indifferent about everything, if nothing were of any concern to us.

We normally do not speak of actions as states because “action” sounds active and “state” sounds passive. Also, actions are not events and states would be events. Yet we do speak of states of action. More importantly, many actions are actions of individuals.

Individual well-being seems a paradigm of an individual good. It takes a laborious argument even to appear to show that individual well-being precludes moral individualism by requiring the existence of collective goods.

Raz defines an individualistic moral theory as one which recognizes no collective goods as intrinsically good. Graham suggests that this is a “somewhat idiosyncratic” definition which allows

Raz “too easy a victory” over individualism (Graham, , p. 482). Graham suggests that a better definition of individualism is that the value of all collective goods is ultimately to be explained in terms of individual goods (Graham, p. 482). Graham means that individuals can admit intrinsically good collective items. Graham says, “If the proper explanation [of collective goods] shows them to have a constitutive and not merely an instrumental role in [the lives of individuals], this need do nothing to disturb the fundamental reference to individuals” (Graham, p. 482).

Now, Raz argues “the provision of many collective goods is *constitutive* of the very possibility of autonomy” (Raz xx, italics mine; see 198) and then claims that “whatever is a constitutive part of an intrinsic good is itself intrinsically good” (Graham, p. 482).

I have five criticisms and a proposed limited rescue.

First, Raz commits the fallacy of division. At least [he] appears to, and he does nothing to explain why he does not. The parts of a clock are each intrinsically incapable of telling the time. Yet a clock is intrinsically capable of telling the time. I am intrinsically capable of thinking and choosing. My toenail is not. More to the point, Leibniz held that the possibility of evil acts is intrinsic to free will, yet free will is such a great intrinsic good that the best of all possible worlds must include it. On Raz’s view, the possibility of evil acts is therefore an intrinsic good. Raz has no conception of necessary evils in his conceptual armament.

Second, Raz’s argument is a non sequitur. It is neither formally nor intuitively valid. Yet it purports to be a demonstrative argument.

Third, when Raz says “constitutive,” he really does not mean that. He means only that collective goods are *causally* necessary conditions of autonomy. This is not like his point that without the institution of marriage, nobody can be married. He is not arguing that without the

institution of political freedom, nobody can be politically free. He is arguing instead that freedom of the press, freedom of religion, and so on are indispensable *in fact* to political freedom. If he does hold that such collective goods are constitutive of autonomy, then he has just made rights more basic than autonomy, since such collective goods are rights!

Now, there is a difference between being a causally necessary condition of something being a part of that thing. The word “cause” is said in many ways, but the normal way it is said today is in the sense of efficient cause. And efficient cause, as opposed to formal, material, or final cause, denotes an external relation, which precludes any whole-part constituency of cause-effect. Thus if freedom of the press is a causally necessary condition of autonomy in the sense of efficient cause, then it logically cannot be a part of autonomy and autonomy logically cannot be a part of it.

Fourth, assume that collective goods *are* constitutive of autonomy in the same way that the institution of marriage is constitutive of a certain particular marriage. Lomasky concedes that though one can cohabit or build a house apart from society, one logically cannot be a husband or be an architect without participating in the relevant social form. He concedes that such social forms are not merely instrumental means, but “inherently valuable collective goods because they are constitutive of the possibility of autonomously pursuing modes of life that are themselves intrinsically valuable” (Lomasky 1990, p. 93). Thus social forms differ from clean air or a strong national defense, which are collective goods which are only means to certain ends. Also, “[t]he state of nature” is not simply dark and dangerous; it is also a situation in which there is not very much of value that one could do even if one were let alone to do it” (Lomasky 1990, p. 94). But that is going too far. Which is more valuable to you, cohabiting with your true love or signing a piece of paper? Building a beautiful and warm house or passing some test of certification? Are not

love and excellence their own reward? Is love a social form? --Is excellence?

Fifth, Lomasky's objection is that the moral individualism Raz attacks is not the individualism which standard liberalism rests on. "As I understand the latter, it is the view that value ultimately manifests itself in the lives of individuals; there are not goods for tribes or nations or races over and above the goods of the persons who comprise the collectivity. That is why rights are ascribed to individuals and not the group.... Thus, one can readily concur with Raz's judgment that collective goods are of paramount importance for the well-being of individuals without drawing any particular political conclusion." (Lomasky 1990, p. 94). In effect Lomasky is accusing Raz of the fallacy of irrelevant conclusion.

Lomasky continues: "In particular, one need not accept his inference that a state which restricts its powers of enforcement to restraining coercion thereby casts collective goods into a 'subordinate role'. It is totally groundless to suppose that social forms will be absent except where the state acts deliberately to contrive them" (Lomasky 1990, p. 94).

I agree with Lomasky. For it seems to me that genuinely collective, i.e. holistic, items ought to be emergent properties of groups as wholes. By "emergent property" I mean a property which belongs to a whole without belonging to its parts or members. Raz does not even attempt to show that his collective goods are such emergent properties. Now assume that freedom of the press *is* a collective good in this sense. Thus it belongs to the American people as a whole, not to individuals. Also assume that freedom of the press is also conceptually constitutive of autonomy of American individuals. No American is autonomous unless the American people as a whole have freedom of the press. Now freedom of the press is a right, and this right is more basic than (the right of) autonomy. To that extent Raz loses one battle against rights-based moralities. But will he

not now win the war against moral individualism as he defines it? This is my limited rescue of Raz.

9. *The Concept of Individual Well-Being*

Raz defines well-being mainly in terms of success in one's chosen career, relationships, and projects. But it is usual to define the good life in terms of both success and satisfaction. It seems much easier to rank lives in terms of satisfaction than in terms of success at radically various kinds of projects and relationships. Frankena cautions that other kinds of excellence may be involved in the goodness of a life, such as wisdom or temperance (Frankena 1967, p. 76). And Frankena holds that the good life has two aspects: experiences and activities, projects and relations, on the one hand, and satisfaction on the other (ibid.). There is a big difference between achievement and excellence on the one hand and "a sense of achievement and excellence" on the other (Frankena 1967, p. 77). Again, what value can success have if it is not enjoyed, if people are indifferent to success? Even Ecclesiastes counts it a gift to be able to enjoy one's successes.

Raz distinguishes well-being from mere self-interest (Raz 297). Well-being is a richer concept, and also a social concept (Shiner, p. 120). Self-interest "relates primarily to our biologically determined needs," and well-being "often includes the first, but is orientated towards pursuits of independent value. The autonomous agent follows [the path of well-being], frequently sacrificing his or her lower pleasures for the higher. It is a familiar figure, with a respectable liberal lineage in Mill and Kant" (Bellamy, p. 745). Bellamy questions the ease with which Raz says we may deny our so-called "lower needs" (Bellamy, p. 745; Raz, p. 319; see 391).

"[S]uccess or failure in the autonomous pursuit of goals is the major determinant of

well-being” (Shiner, p. 120, citing Raz 297). The goals are subject to evaluation and are socially defined (Raz 309). “The moral person is he whose prosperity is so intertwined with the pursuit of goals which advance intrinsic values and the well-being of others that it is impossible to separate his personal well-being from his moral concerns” (Shiner, p. 120, citing Raz 320). Presumably this is why choice looms so large as a determiner of values. For success is measured by what we chose to do.

Lomasky raises a big question. Is the value of well-being relative to agents, so that Smith’s well-being is valuable to Smith but not necessarily to Jones? “However, Raz does not present these values as being agent-relative, and the general tenor of his arguments strongly suggests that the value he intends is impersonal. No justification of this value impersonalism is ever offered; presumably it is one of those moral truths that stands [sic] as a bare datum within his perfectionism” (Lomasky 1990, p. 92). Lomasky goes on to suggest that this question and this lack of argument infect Raz’s basing of rights on well-being. For how can objective rights be based on well-being if the value of well-being is either agent-relative or impersonally unjustifiable? How can one rationally justify one’s demanding a lot of rights just because they follow from one’s own conception of one’s own well-being?

Lomasky proceeds to suggest an answer to his own question. Namely, rights derive from “not value *sans* qualifier but rather from what is valuable-for-x, where the variable is an indexical that ranges over agents. So, for example, the fact (if it is a fact) that we all value our own lives may be the basis for alleging the existence of a right to life independently of any prior determination that the life of, say, Jones is ultimately valuable (not to anyone; just valuable) or that it necessarily presents itself as valuable to Smith” (Lomasky 1990, p. 92). The proposed rescue of

Raz is that:

VF. (x)[x has a right to life if and only if x is a person and (y)(if y is a person then y's well-being is sufficiently valuable-for-y)].

But Lomasky only sweeps the ontological problem under a logical rug. The problem returns as the question whether the subordinate clause of VF, beginning with “(y)”, is really true. Perhaps some Smith does not sufficiently value her own life for VF to be true. More deeply, personal value-for-y, no matter how great, and no matter how many people have it for their own well-being, seems not to entail y's having any impersonal right to life putting a duty on all other people to respect it. That the inference is neither deductively nor intuitively valid was the original problem. And the root of it is our being unable to infer any impersonal value of any thing from its personal value-for-y. In place of “valuable-for-y,” what VF needs is “impersonally valuable” or at least “valuable-for-any-person-z.”

Lomasky tries another rescue using Raz's own view that “[d]esires do not constitute reasons, either for the agent or for anyone else, but rather presuppose the existence of reasons not themselves dependent on the desire” (Lomasky 1990, p. 95). The idea is that reasons are impersonal and objective, so that the values they confer must be impersonal as well. This applies as well to values created by our choices, so long as our choices are based on reasons. But Lomasky notes that Raz never gives this argument, and in fact expressly admits the existence of agent-relative values. Lomasky also notes that if my well-being consists mainly of agent-relative desires, then it is of little or no value to anyone but myself.

Raz's conception of personal well-being as involving projects and goals and, in a word, actions, is important but limiting. Some feminists might complain that these values are too masculine to have universal value. Some Third World people might complain that this emphasis on action is too Western, or more specifically that Raz unduly reflects the Protestant work ethic. Still others might complain that Raz's conception is too secular and ignores the spiritual dimension of human life, which values quietism and passive acceptance. There is no reason why we should be always doing things. There is great value in sometimes just being. There are also some paradoxes of action and inaction to consider. The philosophy of the *Bhagavad Gita* is that at every moment we are inescapably acting. Even the postponement is a decision; even inaction is a choice of negative action. And if, following Plato's Socrates, we are always acting to do what we think is best, then autonomous action occurs no matter what governments do.

I would find Raz guilty rather of upper middle class parochialism, since members of that class would be the most likely to define their self-worth in terms of autonomous projects, in or out of Euro-American culture. Shiner make the slightly different point that Raz seems guilty of political parochialism, since most nations in the world do not have social forms which promote autonomy. Autonomy may remain a correct distant ideal, but it seems quite "irrelevant to the immediate problems of political morality in such countries," and makes Razian liberalism "a luxury affordable only by the complacent bourgeoisie (or for that matter the complacent whites and males of Western liberal democracies)" (Shiner, p. 122).

Indeed, Raz seems committed to saying that almost nobody prospered or enjoyed individual well-being except in the very early or modern democracies. To some extent he is right, that many could have been much happier and more fulfilled. But to the extent that people did

prosper and were fulfilled, he is wrong.

It may be hard to believe, but many people in traditional societies believe that people in arranged marriages have more personal well-being than do people who autonomously choose their mates. American and European divorce statistics are one indicator, if not the most important (see Raz 392). And concerning jobs, what about the caste system and the support it gives to the Hindu people? It might be noted that most Hindus like their caste. Nothing could be more against autonomy in terms of job or career choice than a rigid caste system. Yet most Hindus seem happy enough. Even the untouchables arguably complain not that they want freedom of job choice, but that the jobs and the social status assigned them by birth are horrendous.

But this line of criticism can be carried too far, since Raz is expressly discussing only the ideal. I shall return the question of parochial ideals later.

Criticizing Raz in the other direction, Raz is arguably only updating the ideology of the repressive societies the American Revolution was directed against. No doubt the rulers of those societies thought most people had all the choices they could meaningfully use; they merely had a more limited view as to what peasants could actually do. In light of the evidence and the quality of the social reasoning available at the time, probably nobody could reason better than these aristocrats. As far as anybody could tell, the aristocrats *had* independent good reason to believe they were coercively promoting exactly as much autonomy as suited the well-being of the peasants. Thus they were arguably ideal Razians as far as PA is concerned. My criticism then is, If rulers imposed Raz's scheme on America today, what would people think of Razian America 500 or 1000 years from now? Would they think it had improved American liberties? Or would they think it fossilized life-alternatives? All lifestyles will be government-approved as good for people to

choose among, since in Raz's Republic the guardians rule only because they "know best." And how responsive can government be compared to a laissez faire policy concerning job creation?

Waluchow notes the paradox of people who autonomously choose to reject an autonomous life for very restrictive forms of life whose commitments and responsibilities they find very rewarding. Waluchow cites the priesthood and parenthood (p. 486). One might add the military and the police. Waluchow also observes that many important relationships function on the relinquishment by some of large areas of autonomy, e.g. concerning finances or education (Waluchow, p. 486). Raz cheerfully admits such points.

Waluchow also observes that people who choose to be couch potatoes choose inactive lives with few autonomous choices, yet often seem to have individual well-being (Waluchow, p. 487). Raz probably would allow these people, too, to live as they please.

Waluchow points out the temporary denials of autonomy may produce greater autonomy in the long run, as in controlling the development of children. Only well-trained children have a really wide range of possibilities later on (Waluchow, pp. 487-88). Only one who has been trained by discipline at the piano is free to play compositions at the piano. I see no reason why Raz cannot affirm this point either.

I suggest that the paradox of autonomous choice of a nonautonomous life is best resolved by distinguishing two forms of autonomy: original choice autonomy and continuous autonomy. That is comparable to the difference between the deist God who creates the world then lets it go its own way like a mechanical clock, and the Cartesian God who continuously supports the world's existence to keep it from fading away. Original choice autonomy is compatible with the development of strict habits without which nobody becomes a professional or specialist.

Another way out perhaps better reflecting one strain of Raz's thought is to distinguish continuous choice from *final* choice to accept and affirm as valuable the life one has been leading (Waluchow, p. 487 documents Raz's strain of thought). This fits Goethe's "ripeness is all," where ripeness involves acceptance. That is very important because Goethe's dictum seems, if anything, a major alternative to autonomy. It is maturity, fruition, as Jung would say, bringing your ship successfully into port after the long Odyssey of life, that counts. None of this implies autonomy. Yet flourishing is far more than mere survival of a Hounded Woman.

Again, Raz stresses the collectivist side of well-being. All these goals and projects are basically socially defined; all our important roles in life form a social web or matrix. This is an old point made by Hegel which has since acquired a Marxist tinge (Lavine). [But] left wing thinkers have no monopoly on the point. Besides right wing Hegelians, the French conservatives de Bonald and de Maistre argued for the dependence of reason and the soul on society, following the early church father Arnobius of Sicca. Indeed, man was a social animal for Plato and Aristotle. Today, the conservative Quine makes reason depend on a social web. The behaviorist B. F. Skinner makes a character of his remark that we even part our hair according to a code (Skinner). In general, even from the metaphysical thesis that reason and consciousness are collective properties of groups and their social behavior (Marx, Engels, Dewey), no *political* conclusions are logically entailed. To put it another way, every political morality is logically compatible with the private language argument. Shiner finds that "If Rawls, Dworkin and Nozick represent articulations of powerful trends in U.S. liberal thought, Raz gives us here a convincing presentation of (Rousseauian) European social-democratic liberalism, and exposes clearly its deep differences from US liberalism. That makes his book both historically and culturally important" (Shiner, p. 121). I agree, but again,

more than the mere existence of collective goods is involved.

10. *The Basis of Ethics: Reason, Will or Sentiment?*

The basis or source of values is a deep question. I shall begin with my own account, which is much influenced by Oldenquist (1967), Windelband (1979), and Butchvarov (1989). My account will be more suggestive than exhaustive.

There is a whole bag of concepts which must be distinguished and their interrelationships sorted out: event, action, value, grading, choosing, deciding, reason, cause, motive, desire, interest. I shall suppose the following. The same *event* can be any one of a number of actions. An *action* is *willed* by an agent for a motive. *Motives* may include reasons or interests. A *reason* for acting is a rational motive. A *deciding* is a choosing based on rational deliberation. A *grading* is a conscious judging of value. Gradings are true or false. Choices may be good or bad, wise or foolish, but not true or false. Thus gradings and choices are mutually exclusive groups. Choices may be *based* on gradings, in which case choices have rational motives. A *desire* is a kind of interest. Grading the value of X may be based on interest in X itself, in which case the graded value is an intrinsic interest-value, and the rational judgment is based on phenomenological apprehension of X as desirable, in short on the objectification of *sentiment*. Here X may either be a thing, such as a juicy apple, or property apprehended through abstraction, such as friendship or courage, where we judge that friendship is a good and is therefore desirable for its own sake. Grading the value of X may involve some instrumental reasoning concerning the presented intrinsic interest-value of some Y, in which case the graded value is an instrumental value, and the motive is rational in the

sense of involving an inference as well as a grading-judgment. But a motive may be an interest or desire *not* presented as objectified, but existing as a mental state, in which case its relief is introspectively presented as desirable. This is my analysis of the normal case of a motive of nonrational interest or desire, in short, nonobjectified sentiment. Note that reason, will, and sentiment all have roles to play in my full account.

Reasons are not causes because causes explain events, while reasons, and motives in general, explain actions. Secondly and in result, causes must immediately precede events, while reasons are or imply teleological ends. If an agent acts without motive, then there is no explanation for her action. To say she acts randomly is no explanation, unless she chose to act randomly for some motive, and then the random act is not the explanation, but is instead the act to be explained by the motive. While Butchvarov is right that the notion of a rational act, or action done for a reason, “involves no reference to human purposes” (Butchvarov 1989, p. 38), there is no reason why a rational act could *not* be done for a human purpose (motive). Indeed, it is hard to see why else an action *would* be done. The sole exception might be acting for the motive of conforming to a rationally apprehended a priori rational ethical truth. And even that could be a human purpose. Whether effects of an action are consequences or instead constitute a larger “nesting” rational motive is a function of the scope of the intentionality of the choice.

The word “choice” is ambiguous: choices can be either private mental acts or social performatives. In the former case there is no such thing as choosing to choose, since that would presuppose that the choice had already been made. In the latter case there can be such a thing as choosing to choose. One can make a private mental choice to perform a social act of choosing, or one can even perform a social act of choosing to perform a later social act of choosing. Further,

there is a merely causal connection between a mental choice to act and the action. (One's nerve connection might have been sliced.) But there can be a conceptual connection between performing a social act of choosing and embarking on the chosen action. That is because where choices lead to actions at all, mental choices bring about actions by efficient causation, while performative choices partly or wholly constitute actions. Of course, a choice to do X, in *either* sense of "choice," can be identified only if X can be identified. And this is a *second* conceptual connection: the *intentionality* of the choice. Thus "Intentionality" enjoys much the same private-public ambiguity as "choice." Reason is said in many ways. Where a reason is a premise for a conclusion, rationalist theories of morality or goodness lead to a vicious regress of reasons. Where reason is a faculty of grading things and apprehending intellectual truths, rationalist theories must identify such truths and explain their a priori status. On my account, all this belongs to reason, and even more belongs to reason.

Butchvarov praises Sidgwick highly for defining a rational action as one which ought to be done (Butchvarov 1989, p. 38 citing Sidgwick 1962, p. xxiv; see pp. 32ff., 375). Today we try to define an action that ought to be done as a rational action. Like many 20th century philosophers, Don Regan believes that this is the standard account, and that "Why be moral?" is an open and serious question. The truth is that Sidgwick's account is the standard account, the classic Western account going back to Aristotle. We invert Sidgwick's arguably traditional insight so badly that Sidgwick now looks inverted to us. Raz is guilty of this inversion, if he understands what we ought to do as what we have sufficient reason to do. In contrast, I honor Sidgwick's insight by allowing the apprehension of ethical properties to count per se as rational motives. Today even Raz says that the reason why we do things is that they seem good to us (Value and Politics seminar,

October 12, 1994).

One reason to support the classical view, besides its intuitive plausibility, is that “while the notion of an action that ought to be done has a rich and clear intuitive content and at least appears to be primitive, the notion of an action that is reasonable (or rational) does not” (Butchvarov 1989, p. 38).

According to Butchvarov, reason may include (1) inference from premises to conclusions, (2) apprehension of intellectual truths, (3) purpose or intention of an agent, (4) motive understood as a state of the agent which causes or at least explains her action, (5) evidence that the action is right, (6) the fact that an act ought to be done or is right, following Sidgwick, and (7) the Brandt-Rawls subjection of one’s desires to a test of rational appraisal in light of all one’s knowledge and thinking ability, where knowledge in sense (2) of ethical truths is excluded so as to maintain a naturalistic ethic (Butchvarov 1989, pp. 36-38). Butchvarov argues that (1) is limited because it cannot get along without (2). How can inferences be justified if we apprehend no principles of inference? Also, there are prima facie cases of (2) both in and out of ethics. He argues that (7) is limited by its exclusion of (2). That Brandt and Rawls limit (7) in this way seems merely a tactical move which begs the question. For if we admit a priori moral truths about the end of life “known by *reason* to be such, then the Rawlsian procedure and its outcome would be profoundly irrational” (Butchvarov 1989, p. 37). It would be a roundabout procedure whose validity would be determined by apprehensions which already give us ethical truths directly, and which is virtually doomed to failure by its own exclusion of ethical truth. But that Rawls’s procedure excludes such information about the good is only Butchvarov’s shallower point. The deeper point is that Rawls’s “impoverished notion of rationality can hardly promote confidence in Rawls’s fundamental premise

that good is what it is rational for a person to want” (Butchvarov 1989, p. 38). It is precisely notion (7) which Butchvarov finds impoverished.

I wish to observe that historically notion (7), which might be called holistic naturalistic-reason, has roots in Quine’s view of our overall theory as a web and in the later Wittgenstein’s situational theory of meaning and truth. From Quine we go back to the holistic naturalist Dewey and then to Hegel. From the later Wittgenstein we can go through Sraffa and Neurath to Marx and again to Hegel. Hegel’s version of notion (7) is an organic and holistic rational dialectic. But if notion (7) is *philosophical dialectic*, then it is hard to think of a deeper kind of reason. Still, Butchvarov’s critique survives because notion (7) is not at all philosophical dialectic in the classical sense, precisely because dialectic subsumes everything and never would exclude rational moral truths. Rather, it would evaluate and interpret them. It might transcend them, but it would find a place for them if they have any philosophical merit at all. Thus philosophical dialectic is a new notion (8). Notion (8) is the deepest kind of theoretical reason: roughly, indirect reason from problematic later stages of an argument to the need to revise earlier stages. Dilemma and reductio loom large. Butchvarov overlooks notion (8) in his list, but his book largely exemplifies it. The impact of dialectical reason on practical reason is indirect indeed, but eventually radical. Historically, then, the problem with Brandt and Rawls is that they indirectly inherited the deepest notion of reason there is, notion (8), but grievously bled it down to the anemic notion (7).

Butchvarov inveighs against confusing (3) and (4), but I find it hard to see how purposes or intentions would not fit the description Butchvarov gives of motives. Granted, if my purpose in going to the store is to buy a candy bar, “to buy a candy bar” does not describe my state of mind,

but the teleological end of my act. And there may be *no* literal state of mind, following the later Wittgenstein. But my purpose *is* the teleological object of an intentional act which is a mental occurrence and my motive. Thus purpose and motive are distinct only in reason. Butchvarov himself collapses the theoretical-practical distinction when he holds that apprehension of the good in sense (2) is motivating. I merely add that when one's *purpose* in doing X is *to bring about* what one apprehends as good, one has an intentional state of mind which is the causal explanation of one's willing to act, and the motive (rational explanation) of one's willing to act *is one's apprehension* of X as good, i.e., desirable for its own sake.

The deepest connection between reason and will in moral theory is this. One's theory of reason for action profoundly affect's one's theory of moral freedom, and vice versa. Insofar as reason in sense (2), say a Platonic vision of the Good, guides action, we have no *moral* freedom to choose among alternatives. For reason dictates what we ought to do. The only intelligible sense of freedom is a negative freedom from any restrictions, such as physical inability or lack of knowledge. This is the *freedom of morality*. In fact it reduces to *metaphysical free will* as opposed to causal determinism, logical fatalism, divine predestination, random indeterminism, and so on. Conversely, where freedom is freedom to choose among alternatives, then much as Raz says, reason cannot be dictator but must be held in some state of suspension so as to leave room for the agent to choose (Butchvarov 1989, p, 51). This is the *morality of freedom*. In Raz's case the suspension is achieved through incommensurability of the options.

One might view this conflict as a standoff. Butchvarov can argue that because reason determines what is good, moral freedom can only be bare metaphysical freedom. Raz can argue that because political autonomy is the agent's ability to choose among a large variety of

alternatives, reason cannot determine very often what is good. The basic point is that “one philosopher’s *modus ponens* is another philosopher’s *modus tollens*.” But I think the scales tip when we realize that Raz merely defines and asserts autonomy in his sense without ever arguing that we are in fact autonomous. [In contrast,] Butchvarov develops a long account arguing that and explaining how we can rationally apprehend ethical properties and truths.

It may be worth noting that just as Razian autonomy is different from and richer than metaphysical free will, Razian *heteronomy* will be correspondingly different from Butchvarov’s as well. For Butchvarov, heteronomy is absence of metaphysical free will simpliciter. For Raz it is other-directed action as opposed both to self-directed action *and* to drifting without direction. Modern rational or “faculty” psychology since Kant has distinguished three main faculties: reason, will, and sensation or feeling. Something as deep as ethics would seem inevitably to involve all three faculties. Yet Kant made morality wholly a function of will and reason alone, i.e. of “practical reason,” while Schopenhauer based morality on sentiment. G. C. Field gives a modern argument for the Schopenhauerian viewpoint. Field says that we would never be moved to action on the basis of our mere knowledge of facts about a thing if we were *indifferent* to those facts. Thus Aristotle was right: “The intellect by itself has no motive force” (Field 1921, p. 704). Thus by default goodness and motivation are essentially related to the feelings and desires of a conscious being (p. 706). I have already explained how such an analysis is based on an impoverished notion of reason. I merely wanted to illuminate its place on the conceptual map.

On my account, rational motives belong to reason. They may be instrumental or they may involve the intellectual apprehension of ethical truths. Grading is a kind of judging, and so is best assimilated to the reason. Choosing and acting are matters of the will. Desire and interest are best

assimilated to sensation, but become rational motives when objectified. We tend to call desire a sensation but to deny that every interest is a sensation. Nonetheless, like desires, interests in general exist in us and are normally passive, i.e., are not normally directly brought about by our choice.

The best phenomenological analysis of “I desire X” is “I am conscious of X as desirable” (Butchvarov 1989, p. 44). If X does not seem desirable to me, I can scarcely be said to desire X. This consciousness of desirability seems a paradigm of a motive to act. Therefore we agree with Aristotle that we desire a thing because it seems good; the thing is not good because we desire it (Butchvarov 1989, p. 45). And this seems not a conceptual truth (it is not a priori), but a general fact about human nature (Butchvarov 1989, pp. 45, 52). Similarly for interests in general. “I am interested in X” is best phenomenologically analyzed as “I am conscious of X as interesting.” It follows from this that where a choice has an interest as its motive, it has a phenomenologically objective motive which preexists the choice. Thus Raz’s theory of creating value by making choices inverts the true order of things. In particular, his theory of desires as needing rational justification misunderstands the phenomenology of desire. The presentation of an object as desirable simply *is* a reason for acting. And the presentation of an object or property as morally desirable is a moral reason for acting.

The motivating power of reason comes in where “Friendship is good” is intellectually grasped as true. Here we are conscious of friendship as valuable. The motivation need not involve desire or sentiment so much as human nature. It is human nature to seek friendship, and in general to seek the good. In this way much of Kant’s rationalist ethic might be reformulated.

It would seem that what we mean by will logically requires a minimum of intellect. To that extent,

will cannot be blind, and there is no genuinely random human action. “That is why Aristotle defined choice as deliberate desire, Aquinas defined the will as the appetite of reason, and Kant held that ‘the will is nothing but practical reason’” (Butchvarov 1989, pp. 85-86). Conversely, the intellect requires a minimum of will to make judgments and draw rational inferences.

Whether reason or will is the more *dominant* faculty in the human soul has been much disputed. Plato, Aquinas, and Kant seem to make reason more basic than the will. Augustine, Scotus, Hume, Schelling, Schopenhauer, and Nietzsche seem to do the opposite. In Hume’s radical and picturesque phrase, reason is the slave of the passions. The very meaning of “soul” originally was breath or self-motion (animation = *anima* = soul), connoting will or action, not reason or sensation.

Much depends on what reason and will are. Interestingly enough, as an epigram Hobbes defines the volition as the last desire before acting. This reduction of will to sensation is, of course, rather Humean. It is a theory of agency resembling Hume’s theory of cause. And if reason is the slave of the passions, then one’s reason also seems reduced to sensation. Thus reason and will coalesce into sensation. My reason for doing X and my will to do X are both my last desire before I do X. But such a Humean-Hobbist attempt to make sensation the dominant faculty would achieve simplicity at the price of plausibility.

Historically the two camps are Aristotelian and Augustinian. In Augustinianism the soul was so much one that there was little room for division of the soul into faculties, much less ranking them. Still, Augustine made the will central. Aristotle gave the palm to the intellect, and was followed by his chief commentator, Aquinas (Windelband, p. 329).

The question was originally a purely psychological one: Does the will depend for guidance

on reason more than reason depends on the will to choose and move its ideas forward (selection of subject-matter, judgment of truth or falsehood, and drawing of inferences)? The question entered metaphysical dialectics when the problem of free will and moral responsibility was connected to it. Freedom could be very differently seen: as essentially a matter of will, or essentially a matter of reason (Windelband, p. 329).

For Aquinas as for Aristotle, the intellect apprehends what is good, and this knowledge determines how the will acts, both in general principles and in individual cases. Moral freedom is made possible only by ethical knowledge. Mere psychological freedom is made possible by the many alternatives the intellect discovers (Windelband, p. 330; psychological freedom might be better called epistemic freedom).

Henry of Ghent and Duns Scotus attacked this reason-based conception of freedom by observing that the succession of ideas constituting the reasoning intellect is determined by natural causes, which scouts the vital element of choice. Choice is essentially the power to make things other than they would be. Thus it is a matter of the will, conceived as bound up with the notion of possibility, specifically of alternative possibilities. The intellect remains a necessary condition of freedom in that it discovers the objects to choose and the alternative choices. But it is only the servant of its master, the will (Windelband, p. 330).

Raz's emphasis on creation of value through choice recalls the stock problem of God's goodness. Is the moral law good because God wills it to be the law, or because God knows what is good and wills it? On the former option, any horrible law could be good if God willed it. On the latter, goodness is independent of God and thus morally constrains God. Raz seems unaware of how this problem might apply to him. Raz does admit intrinsic goods and moral safeguards limiting

our choices. But a horrible goal might be good if we all chose it, and if we all chose to ignore his moral safeguards. Raz himself says there is nothing to value beyond what we see in it. Therefore there is nothing to his moral safeguards beyond what we may see in them.

Another question is whether the final best destiny of man is better construed as a willing to surrender to God or as the intellectual apprehension or “love” of God. Here even Augustine chose the latter (Windelband, pp. 335). A related question is whether a unifying or identificational love (and its species, friendship) is a matter more of will or more of understanding, or whether it simply transcends such limited categories

A very deeply related ontological question is whether God, or more generally ultimate being or reality, *is* knowledge, or *is* will, or *is* love. Thomists, following the neo-Platonists, held that God is knowledge. For if the soul is a divine spark, then its essential reason is more real, since will or power is merely due to the accidental possession in life of a body belonging to the natural order. If being transcends such limited categories, then we have the negative theology of Cusanus (Windelband, pp. 335-36).

The value of the history lesson is that the question of whether reason or will is more dominant depends not only on one’s metaphysics but on one’s ontology as well. Fichte goes so far as to make “the autonomy of the ethical reason” so dominant that even the category of substance pales before it. The only value to acknowledging a world is as a moral gymnasium for the soul’s reason, since there is no determination or grounding of what is presented or sensed except in ourselves--which means in terms of our human ends. Thus Fichte reduces Kant’s theoretical reason to Kant’s practical reason (Windelband, p. 594). Raz is Fichtean to the extent that he reduces the existence of values to our determinations of values, but of course Raz does this only for values, not

for the whole realm of presentation as Fichte does. Naturally Raz is more plausible than Fichte, but even so Raz is liable to the criticism of Fichte that where very expressly conscious determinations cannot be found, unconscious willings or determinations must be posited that in no essential way differ in mystery or gratuity from the postulation of objectively existing values in themselves. It is worth noting that Fichte went on to conclude in his political morality that the availability of work is not to be left up to the law of supply and demand: the state has an unconditional duty to furnish work to everybody, since everybody has a right to work. Thus Fichte's socialist ideal state anticipates Raz's.

Involved in this is Fichte's anticipation of Hegel's notion of political freedom: freedom of use of one's body, freedom to own property as an extension of the body, and most highly the freedom to possess and preserve one's personality, and deepest personal development, as a still further extension. Since these rights conflict, social freedom appears as reciprocal practical limitations. When the state emerges, the primitive freedoms are translated into or expressed as the right to work (Windelband, p. 596).

Fichte's philosophy is basic to Hegel's *Philosophy of Right*. And as we know, for Hegel the real is the rational, and the rational is the real. Freedom, or self-mastery, is a matter of knowledge and understanding. Yet will is an ingredient basic to accomplishment. Indeed, Hegel defines the self as free, not as conscious; freedom implies consciousness. Even sentiment plays a role. Hegel says nothing great is accomplished without passion.

For Hegel the ultimate motive of individual and historico-social action is self-realization, in which self-awareness, self-mastery (willful freedom), and ultimate satisfaction coalesce. That is, ultimately reason, will, and sensation (or interest) converge in the end as merely different aspects

of motive.

In contrast, Schopenhauer gave the will metaphysical primacy, and made altruistic and malicious sentiment the basis of willed morality, respectively of good and evil. The will to live is the essence of things (Windelband, p. 620). Opening up to others through sympathy with their lives, the will becomes good. Turning narrowly into itself as an individual case as opposed to other individuals, it becomes malice. A certain universality is involved in universally willed good, but it is universally sentimental will, not universal reason. Nietzsche pushes this to make value a mere function of the absolute will of the spiritual overman.

A deep contrast between Hegel and Schopenhauer concerns the value of history. For Hegel history is everything: the organic development and culmination of reason in absolute freedom. For Schopenhauer history is the meaningless repetition of the tragi-comedy of the will with ever-new actors; “there is no rational science of [history]” (Windelband, p. 621). Since in this Raz seems on the side of Schopenhauer, this cuts against any sense of historical development of projects or of well-being. Thus Raz commits the theoretical mistake of Nicolai Hartmann, of grafting rational optimism onto the theoretically incompatible tree of will (Windelband, p. 621n.). Theoretically, a willful new choice of goal could scout the rational development of a project at any time. Raz plays this down by denouncing weakness of will and aimless drifting, and also by emphasizing one’s commitments or investments in a project. But in a deep sense he has no right to do so, since in principle new choices are further determinations of value no better or worse than an agent’s initial choice of a rational project, or choice to drift, or acceptance of weakness of will. Nor are the new commitments any better or worse than the old ones on this level. The old ones may be more extensively developed. But they are no longer part of one’s *chosen* moral world. To value old

commitments over new choices is to put the cart before the horse. Raz's only escape is the fact that for him the value of a choice also concerns one's reasons for choosing.

For Raz, authoritative directives, including authoritative political directives, are always based on reasons that already apply to the directed person. "In other words, only if the subject should do something may the state compel him or her to do so." (Lomasky 1990, p. 88). Lomasky goes on to ask, But what *are* these reasons which oblige a person to do something? For Raz, a negative answer is that expressed preferences or desires are *not* reasons for acting, since "agents do not wish their desires satisfied if their belief in the existence of a reason for their desires is unfounded" (Raz 141). But that seems a bad argument for several reasons.

First, it would be more accurate to say that agents do not wish their desires satisfied if their belief in the *nonexistence* of a reason *against* their desire is unfounded. And even then the desire may outweigh the reason.

Second, we are degenerating here into a semantic quibble about whether desires or preferences count as "reasons." One may say, "The heart has its reasons which the mind knoweth not," and everybody will know what is meant. "Reason" may mean 'rational ground based on intellectual deliberation', or it may mean 'motive which provides the explanation of a choice'. A desire is a reason in the second sense.

Third, Raz's argument is too intellectual and complicated to fit most everyday choices. People often *do* want their desires satisfied, and the nonexistence of reasons for (not to mention the existence of reasons against) be hanged. (I agree with Raz that there is a trivial "grammatical" sense in which if I think X is good, then I want X to occur. But that trivializes Raz's argument here. October 10, 1994, Value and Politics Seminar.)

Fourth, Raz begs the question not only against the very plausible theory of desire as reason in the sense of motive, but also against Hume's theory of reason as the servant of desire.

In fact, Raz speaks of value in many ways. Not all values are created by the choosing agent. Still, Raz seems more Scotian than Aquinian. For Raz, the autonomous life requires some minimal intellect, but can involve very nonintellectual lifestyles.

Morality is a social institution. That it also calls for some sort of individualistic rational autonomy has been noted since Socrates. This is usually resolved by distinguishing among stages of progressively more autonomous moral development of the self, which stages are encouraged by society. However, Frankena suggests that philosophers seem to stress the autonomous and the rational side of morality too much (Frankena 1963, pp. 6-7). One must distinguish autonomy in the sense of internalization of a perhaps not very rational moral code from autonomy in the sense of independent reason-giving. And autonomous experience of kind sentiment or of the numinous is yet a third thing. Last, all of these must be distinguished from autonomy as sheer willful choice among many alternatives.

That morality also calls for will has also been noted since ancient times. Aristotle discussed whether *akrasia* or weakness of the will is an acceptable excuse for moral failure, and also why we ought to be held responsible for habitual actions no longer under the control of our will. Thus there is perhaps a special problem of whether reason or will is the more dominant faculty involved in human *morality*.

That what is good or desirable is what is desired, and that what is intrinsically good is what is desired for its own sake, is a theory attributable to Mill (Frankena 1963, pp. 69-70). Aristotle says that the good is that at which we aim (Frankena 1967, p. 70). Plato discusses whether the

good is that at which we *ought to* aim (Frankena 1967, p. 67, citing *Philebus*). This is nominally Hobbes's theory, but since Hobbes goes on to define desire as a motion toward the object of desire, in effect, as a choice, at bottom Hobbes analyzes what is good as what is chosen.

Good is a grading term (as in fair, good, excellent), and as such is *analogous* to choosing or selecting. But as Urmson says, "There is a difference also...which can be put by saying that [one sometimes] chooses on the *basis* of one's grading" (Urmson 1950, p. 571, emphasis mine).

Urmson explains that choosing may be done in accordance with an arbitrary rule which has nothing to do with grading, and may even be done randomly. Thus grading is only one of several possible bases or ways of choosing. Also, to grade is to show degree of approval, while choosing need not do this.

Now if grading is the basis of choosing, then the choosing does not create the value of the chosen item, since the grading implies that the value preexists the choosing. But if grading is not the basis of the choosing, then again no value seems created.

That choosing an option "creates" a greater value of it merely because one has chosen it seems too close to ordinary language to me. It sounds a little too magical. One is entitled to an explanation of how this creation comes about, or at least of whether it is causal or conceptual creation. That in addition to one's original reasons for choosing one now has a "commitment" sounds conceptual. That one has invested resources in the choice sounds causal. Say I choose to buy a certain house. Now, how does this house become more important to me? My choice conceptually carries a certain commitment to have money. But my actually saving some money is an investment which impacts my budget. The commitment in itself causes nothing. Failing to fulfill it can impact my reputation or my self-esteem, as well as my ability to buy the house. But my

question seems unanswered. Nothing was said about how the *house* is impacted, only my budget, my reputation, my self-esteem. The house has been quite unchanging and static in all this. It does not even seem more important *to me*. My need for it remains static. I am not preoccupied or concerned with the house in itself, but rather with its impact on my life, with my success in saving money for it, and so on.

What this choice creates is a new project, buying the house. This new project has a certain value to me, and this is what Raz seems to call the created value. The project is the relationship of my attempting to create a new relationship between me and the house, that of ownership. I am concerned with the house not per se but qua relatum twice removed. That is my new and presently existing choice and concern with the house. That is where a new value would exist. That choice, concern, and value will cease to exist as soon as I buy the house. The project will be completed and pass away from being. Though causal impacts on my budget and my reputation may continue, the value to me of balancing my budget and maintaining my fiscal reputation remain constant (we may assume) before and after the choice. These impacts may be slight or huge. The important point is that as I argued earlier, my ownership of the house is a possible situation which I chose to actualize. I do not create the situation or its value. Rather I actualize or enter the situation, and its value is actualized in passing.

Numinous awareness arguably cannot even be aimed at as a goal. It is something that happens to you. As a goal, it is self-defeating. It is more like just being than like something that can be done. Paradoxically, the meditations one may do to arrive at a state conducive to the happening of numinous experience all aim at letting go even of the meditation. The object of attention is unimportant, and it is the skill and constancy and devotion with which one concentrates on it that

count. One may even meditate on a pebble and achieve the dropping of the mundane world. It is not the success but how well you concentrate that integrates you. Keeping your eye on the goal will defeat your concentration on the object of attention.

How can reasons be objective and independent if they are dependent on social forms (Raz 308-13, 344, 348-57, 391)? Is reason the slave of the social will? There are several ways one might interpret this. On one extreme, one might admit a radical social relativism of reason. This is essentially Marx's theory of reason as the ideology of the dominant social class. Secondly one might view society as the teaching-learning vehicle by which we come to grasp how to reason objectively. This is essentially the outcome of private language arguments on their normal realistic interpretation. For Frege, thoughts and their constituent senses are the vehicles by which we grasp the objective world; yet these very thoughts can only be grasped through a social language. A third view is that it is logically possible for a rational and willing being to be nonsocial; that we learn how to think by learning how to talk is a contingent fact reflecting our human weakness. Thus it is false that reasons depend on social forms (Butchvarov 1989, p. 86).

There is some merit in each of these views. Butchvarov is right on the deepest level. Reasoning does not logically depend on the existence of a society at all. But secondly, insofar as we do learn how to reason through using public languages, it follows that reason is something objective and mind-independent. That is quite consistent with Butchvarov. Here reason is not the slave of social form; rather, social form is the ladder by which we climb up to a quite independent reason. Third, not all of us reason well, and perhaps we all incline to bias in our reasoning in favor of ourselves and our social class. To that extent Marx is on to something known for millennia, but is much too radical and sweeping in his claims. Here our reason is quite dependent on social form,

but for that very reasoning is fallacious: *ad hominem* (both circumstantial and abusive), *ad populum* (bandwagon appeal), *ad verecundiam* (appeal to authority), *ad misericordiam* (appeal to pity), even *ad baculum* (appeal to force). These are all fallacies of *relevance*, and they may be quite unconsciously committed. So my criticism of Raz is that reason is not dependent on social forms in any politically interesting way. Specifically, good reasoning is not so dependent. Only one broad category of fallacious reasoning is so dependent. As usual, the politically interesting level--Marx's level--is the shallowest.

How can values be objective and independent, or even intrinsic, if they are dependent on social forms (Raz 398)? The argument here will be strictly parallel to the one just given. Once again, there are three levels of concern. On the first and deepest, it is logically possible that a thinking, willing, and feeling being who is totally nonsocial has a life filled with values. Pleasure will be the characteristic value of feeling, courage of willing, and knowledge of thinking. On the second level, all values causally must be acquired by humans through language. But the private language argument ensures us that language is merely the vehicle for grasping public, mind-independent values. On the third, our values may also be causally influenced by our social class and our social options. The plain import of my argument is that this is fallacious. However, the concept of fallacy applies only to rational motives. We all have different interests and desires, which are to a large degree socially conditioned. And they are unavoidably our *nonrational* motives for choosing. Phenomenologically, they are literally how things appear to us. What seems desirable to me is, to some degree, a function of my social class.

A chief alternative to Raz is Ralph Barton Perry's theory that value is a function of interest. We do not always choose what we are most interested in--or do we? We say, "I had to choose

second best.” But do we not also say, “This was the best choice I could make under the circumstances”? Depending on how we construe choice and interest, choice could be a function of interest, or even a kind of interest, subsuming Raz under Perry. Of course, Perry’s ethic likewise commits the Naturalistic Fallacy. We may have an interest in X, but is X good?

V. AUTONOMY, VALUE-PLURALISM, HARM AND TOLERATION

11. *Thirteen Problems with the Concept of Political Autonomy*

Since Raz has argued that every theme of standard liberalism except autonomy is nonbasic, then if anything is to be basic to liberalism, his political morality depends on showing that “autonomy is an indispensable good” for liberalism (modifying Lomasky 1990, p. 97). Lomasky observes that Raz himself admits that some nonautonomous relationships, such as that between parent and child, have moral value, and that therefore autonomy for Raz cannot be basic in the sense of characterizing everything of value (Lomasky 1990, p. 98). Lomasky forgets that Raz tries to broaden autonomy in a sense to include acceptance or affirmation. But Lomasky is right to view Raz as less extreme an autonomist than Kantians for whom heteronomy *never* has moral value (Lomasky 1990, p. 98).

Raz understands autonomy as including not only a negative freedom from coercion and manipulation, but a positive freedom to choose goals rationally from a range of alternatives. Raz calls negative freedom alone independence as opposed to autonomy (Lomasky 1990, p. 98). Lomasky distinguishes Raz’s wide argument for autonomy from his narrow argument. I am not sure I have seen the wide argument in Raz, but it does seem implied.

The wide argument is this. Where options are of clearly determinate and greater or less value, reason straightforwardly demands selection of the highest-valued option. “Where choice is uncertain or risky, value gives way to expected value [and] the postulates of decision theory dictate the appropriate course of action” (Lomasky 1990, p. 99). We merely move from a simple maximization approach to perhaps a “maximin” one. There is no role for autonomy to play in either of these cases. Autonomy comes into its own only when the options are incommensurable:

Where options are incommensurable, reasons do not dictate the direction of choice.

That is not to maintain that choice among incommensurables is groundless or nonrational: there are strong reasons for choosing A and there are strong reasons for choosing B; only there are no decisive meta-reasons for preferring the A-reasons over the B-reasons or vice versa. The direction ultimately taken will be determined by the agent rather than by the force of external considerations. Choice between incommensurables is, therefore, *active*.... (Lomasky 1990, p. 99)

Thus autonomy is indispensable to agents because it is the only way they can *be* active agents. Autonomy arises when and only when incommensurable options exist. This is a wide argument because occurrences of incommensurability transcend place, time, culture, and so on.

Autonomy in the wide sense is heroic in conception. For “significantly autonomous agents are part creators of their own moral world” (Raz 154). “Autonomy, so described, is Promethean. To be a *creator* of one’s own moral world suggests a transcendence and dignity compared to which non-autonomous modes of life must seem a poor thing indeed. One would suppose that the

ideal of autonomy would be of unsurpassable value for all people everywhere” (Lomasky 1990, p. 100). Lomasky also notes that the exaltation of autonomy is so great, the argument seems to support anarchism better than liberalism. A lucky thing that Raz ties individual well-being to social forms and collective goods!

Two things might be said here. First, Lomasky might be exaggerating Raz’s use of an admittedly colorful but nontechnical term. Raz does use the qualifications “significantly” and “part.” I wonder if Lomasky is setting up a straw Raz for a fall, since such *hubris* quickly makes one ask why so many people everywhere do not treat autonomy as of unsurpassable value.

A second wide argument Raz offers is, “Since autonomy is morally valuable there is reason for everyone to make himself and everyone else autonomous” (Raz 407). But on Lomasky’s analysis, this is a non sequitur. Raz has shown at most that autonomy (and well-being) have value-to-someone, not an impersonal value. Or if autonomy is itself a social form or is tied with social forms, and if social forms are impersonally valuable, there is still the problem that social forms incompatible with autonomy may be at least as impersonally valuable. There is also the problem that theoretical knowledge of impersonal value need not imply an impersonal (*or* personal) practical reason to act.

Raz’s narrow argument is that autonomy is “particularly suited to the industrial age and its aftermath with their fast changing technologies and free movement of labour.... For those who live in an autonomy-supporting environment there is no choice but to be autonomous” there is no other way to prosper in such a society” (Raz 369, 391). Lomasky objects, “The narrow [argument] justifies neither a crusade to disseminate social conditions supportive of autonomy where they do not now flourish nor even preservation of those features of our environment that render autonomy

necessary in our lives” (Lomasky 1990, p. 100). But I wonder whether Lomasky is understating this argument. Surely much depends on the overall value of the industrial age and its aftermath, which is arguably superior in humanistic terms to any previous major culture, in large part because of its supporting autonomy so well.

Political autonomy is seen as essential to individual well-being, but also as having numerous social preconditions. The duty of governments to promote conditions of autonomy derives from a general duty all people have to do the same. This general duty is the Principle of Autonomy (PA). Raz opposes autonomy to “a life of coerced choices” (1986, p. 371). Autonomy admits degrees and has three conditions: “appropriate mental abilities, an adequate range of options, and independence” (1986, p. 372). Concerning condition (2), Raz argues that “Autonomy is valuable only if exercised in pursuit of the good” (1986, p. 381). Raz rejects evil choices as valueless (Waluchow, p. 485). Raz says:

No one would deny that autonomy should be used for the good. The question is, has autonomy any value qua autonomy when it is abused? Is the autonomous wrongdoer a morally better person than the non-autonomous wrongdoer? Our intuitions rebel against such a view. It is surely the other way round [p. 380]....Autonomy is valuable only if it is exercised in pursuit of the good....” (Raz 380-81)

The objection arises, How can we have true autonomy, or autonomy in any valuable sense, if we are disbarred from making evil choices? Raz replies that (i) governments can still give us a huge

range of morally acceptable choices, and the sheer range makes our choices valuable, and that (ii) evil is always with us in any case, so that governments need not promote it in order to promote our autonomy (Waluchow, p. 485). (i) is the main reply and (ii) is a fallback position that concedes the main point of the objection concerning the value of autonomy.

I have thirteen criticisms.

First, the term “morally better person” is ambiguous in the last indented quotation. The autonomous wrongdoer is better qua autonomous but worse qua responsible for a wrongdoing, and may or may not be a better person qua person.

Fischer presses an analogy between political autonomy and metaphysical freedom, deeming them similar enough that just as metaphysical freedom has an intrinsic value even if abused, so does political autonomy (Fischer, pp. 256-57). Fischer even improves on my qua-distinctions to say that I would prefer to be the metaphysically free wrongdoer to an automaton; that I would even be a better person qua person. “Person qua person” itself seems ambiguous. It could mean ‘person I would prefer to be’ or ‘person society would prefer me to be’ or ‘person qua intrinsic good in one’s own right’.

Second, in the same indented quotation, recognizing one choice as good and another as evil and as therefore worse than the first makes them commensurable, and weakens the scope of incommensurability. Even recognizing the good as valuable and the evil as valueless would cause the problem. (Waluchow, p. 485). The very distinction between good and wrong is a commensuration.

Third, what happens if we all happen to make the same choice? We might all happen to choose to become lawyers. Then society would be destroyed for lack of farmers, manufacturers,

truck drivers, policemen, soldiers, forest rangers, musicians, and so on. Thus government arguably has the right to discourage us from choosing the *same* option. This is a largely theoretical point in that in practice a free market economy and our natural differences, or even mere statistical probability, will take care of the problem. But it is a theoretical problem with Raz. We cannot promote autonomy if we are all starving to death for lack of farmers. Society might need a minimum of 10% farming population to feed itself. To that extent 10% must be farmers.

Fourth, Lomasky observes that “arguably, most” of what we ordinarily call “choosing” is better described as growing into something, and “owe[s] little debt to our capacity for autonomy” (Lomasky 1990, p. 101). We do not really *choose* our friends, spouses, careers, or even our virtues. Therefore the autonomist cannot really say that we create their value. “According to his account, the only valuable citizenship is that acquired through naturalism, the only creditable moral faith that of the convert,” and even then only if the convert chose among incommensurable options (Lomasky 1990, p. 101). Such an autonomist is not Raz, is Raz admits values to heteronomous relations such as that between parent and child. Yet Lomasky very reasonably finds that the only freedom that retains much value on his correction of Raz on the amount of actual choosing we do is independence, i.e. our negative freedom from coercion or manipulation, plus perhaps some minimal positive assistance to people. For Lomasky seems to have shown “the irrelevance of autonomy in the full-blooded sense invoked by Raz” to most of our lives (Lomasky 1990, p. 102).

Fifth, there may be equal, incommensurable, or greater values in numinous life, drifting life, and even in heteronomous life. Only a heteronomous life can have the heroic values of the tragic life, of fate, destiny, weird. These range from Sophocles’ *Three Theban Plays* to the camps of Stalin and Hitler. To this I add the *freedom of morality*. Only a heteronomous life can show the

nobility of suffering the *absence* of autonomy, the *inability* to be author of one's moral world even insignificantly or in part.

Lomasky himself later speaks of how traditional religious communities “promote rootedness and the sense of knowing who one is and where one belongs” (Lomasky 1990, p. 100). Many view “the liberal order as anomic, as one that renders people homeless in the world” because it provides almost a schizophrenia of radical choices (Lomasky 1990, pp. 100-1). Thus, Lomasky asks, would not state promotion of traditional religion lead to more individual well-being, if not in Raz's sense of that term? But then the wide argument arguably establishes communitarianism better than it does liberalism.

Similarly, one might ask whether state promotion of B. F. Skinner's experimental methods of behavioral science as described in *Beyond Freedom and Dignity* might lead to more well-being in an ordinary sense than would Razian autonomy.

Sixth, Lomasky asks, How can Raz say autonomy is so valuable when he himself allows aesthetic and environmental values to overrule our free choices? “No doubt there are many lovely buildings... that he-- and I-- would like to see maintained. However, to mandate through law such a result seems genuinely to contravene autonomy. The individuals who own the property in question may have different ideas about what they would like to do with it.... If autonomy may be restricted for the sake of other, primarily aesthetic values, then what has become of the primacy of autonomy?” (Lomasky 1990, p. 103).

Seventh, it may be better, for all autonomous people to understand *that* they truly *have* autonomy, for occasional minor wrongs to be committed and tolerated. It is quite common for people to “test” the respect they receive from others by dressing in deliberately sloppy ways or

cultivating a studied insolence. In fact minority groups or other groups who deem themselves to have been oppressed to test the limits of their autonomy in this way. Adolescents do much the same to see they are treated as adults. Perhaps more to the point, people almost always find it important to test or probe the character and limits of their authorities. If it is important for authorities to test the obedience of their subjects, it is conversely important for subjects to know what stuff their rulers are made of. This is a basic epistemological aspect of political morality Raz overlooks. The objection also serves as a counterexample to Raz's claim that essential parts of intrinsic goods must be good.

Eighth, Bellamy criticizes the wide variety of alternatives Raz deems necessary to autonomy by claiming that Raz simply *assumes* "that the higher pursuits in some mysterious way prove harmonious and mutually compatible" (Bellamy, p. 745). Bellamy finds this "a highly unrealistic picture of emerging social harmony, in which (to paraphrase only slightly) 'the autonomy of each is the condition for the autonomy of all'" (Bellamy, p. 746). Bellamy seems to be ignoring that Raz allows and endorses a good deal of conflict of values. That is the whole reason for Raz's discussion of toleration (Raz 401-7). But Bellamy's criticism can easily be reformulated as the complaint that Raz merely assumes that toleration will succeed in preventing a Hobbesian war of all against all. Has toleration succeeded in Rwanda, the Balkans, or northern Ireland? Consider the problems that arise from diversity of language alone.

That Raz does not really argue for PA or for the harmony of toleration seems to substantiate Kelbley's observation that Raz's "critical and frequently negative assessment of contemporary works, while unusually insightful, is not complemented by substantial arguments to support his affirmative positions. All too often Raz seems to think that he has already established a

point, or that he will do so in subsequent chapters, when in fact (or in this reviewer's opinion) he clearly does not" (Kelbley, p. 107). I modify this criticism to the complaint that it is often too hard to tell what is going on in Raz's Sargasso Sea. This is a problem of author responsibility to readers, if not of lack of argument.

Ninth, a wide variety of choices not only calls for an extreme toleration, but it also destroys the feasibility of many important rights. For your freedom is my limitation. If the state expands our freedom to choose among alternatives by embarking on various expensive programs, somebody is going to have to pay for it all through taxes, and is not going to be as free to keep his hard-earned money. Perhaps Raz tries to handle this through his equity principles. But if we want to promote autonomy by allowing people to keep the rewards of their labor, this criticism seems a basic policy qualification to such principles. Put another way, Raz's equity principles inevitably promote a welfare mentality which undermines any genuine use of autonomy.

Tenth, the significance to us of available choice is far more basic to liberty than is variety of choice. If a woman has a million choices of occupation but not the one she wants, then she is not free to do what she wants. But a man with two choices, including the one he wants, is free to do what he wants. There is no direct relation between freedom to choose and the number of available choices, but at best a greater likelihood of freedom to choose if the number of choices is greater (Partridge 1967, p. 3-223). As Mill wisely put it, "A man cannot get a coat or a pair of boots to fit him, unless they are either made to his measure, or he has a whole warehouseful to choose from" (Mill 1963, p. 192). The only point to having numerous alternatives is to help people find the alternatives they want, or which best fit them.

In fact, political freedom to do a thing does not imply the ability to do the thing at all.

Political freedom implies only, “You are free to, if you can” (Partridge 1967, p. 3-222). Thus I am free to swim across Lake Superior, if I can. I am even free to drive my car to the Moon, if I can. In fact, most people are free to do what they most want to do, if they can. An aspiring young violinist is free to play as well as Jascha Heifetz, if she can. There is nothing here that implies a state duty to subsidize or otherwise support people who, though they have the political freedom to do the thing they want, still cannot do it for other reasons such as lack of money, training, talent, hard work, or motivation. Not is there anything here that implies that the government has the duty to provide a wide range of alternatives.

If you analyze “You are politically free to do X” as “You are politically free to do X, if you can,” the analysis is strictly circular. But the analysis does succeed in correctly stating a necessary and sufficient condition of the analysand. And that scouts the Razian duty of government intervention to promote autonomy by providing money, training, or a variety of job opportunities if these are unavailable.

A related point is the well-known paradox that it is not the variety of social forms so much as discipline in one of them that brings freedom. I can sit down and bang away at a wide variety of musical instruments, yet I am free to play significant music only if I am disciplined in the use of one of them.

Eleventh, Ewin rightly observes that if all our significant alternatives are determined by social forms, then no matter how many alternatives there are, the choosers “are living in a world not at all of their own making...and make choices only where they had no say in determining the options” (Ewin, p. 495). Ewin notes that in this way, Raz undermines his own distinction between autonomous and non-autonomous people (Ewin, p. 495).

Twelfth, if you want the state to produce variety, you should decentralize it and increase the variety of regional and local authorities, laws, and customs. The liberal Raz has nothing to say in favor of this conservative theme. He seems altogether in favor of big government intervention at the expense of the very sort of variety he claims to favor. One can sense that Raz does not really trust variety that has any real civil power. Another way to achieve variety is through a system of checks and balances of the different functions of the state. Raz has nothing to say about this either.

Thirteenth, insofar as autonomy requires a wide range of alternatives, the two major arenas of importance are careers (or projects) and relationships. Raz argues at length about how the state has the duty to provide a wide variety of options among careers and projects. But does the state have the duty to provide me with an equally wide variety of possible friends, lovers, and marriageable mates?

Does the state have a moral duty to maintain a large population, not merely to increase communal wealth and military power, but so that people can meet many more people? Does this mean invasive state incentives (Federal bribes) for having larger or smaller families as conditions merit? Does it mean, as Raz might put it, that those things so close to us that we identify with them, such as parenthood and family, can be state-controlled just so people have a variety of people to be friends with? Does it mean the state might have a moral duty to distribute pamphlets or videotapes on how to meet your dream mate, if people are more likely to meet dream mates that way than on their own?

Or, since part of the freedom to choose a traditional marriage is the ability to live under tough divorce laws, while part of the freedom to choose an open marriage is the freedom to engage in adultery, the state might have a moral duty to allow each couple to write their own

divorce and adultery laws.

Is the state morally obliged to be a procurer? This seems close to the seamier aspects of Plato's *Republic* indeed! Perhaps, recalling ancient Sparta, the state may have a moral duty to promote frequent encounters between young men and women, so as to promote access to a wider variety of mating alternatives than they would have on their own.

Or perhaps the state simply has a moral duty to promote and provide a wide variety of sexual activities. This is, in fact, the liberal European model of the state-run brothel, but with a rather new conception of the moral duties involved in regulating prostitution and public access to deviant sex. If an unemployed ugly cripple can get sex only by paying for it with her welfare check, that is one thing. But issuing sex stamps, on a par with food stamps, might seem a bit much. Fourteenth, Raz contrasts autonomy, or the self-directed life of making one's own free choices, both with the life of coerced choices (heteronomy or other-directed life) and with drifting through life passively, letting things happen. But this is not a jointly exhaustive classification. Tillich observes that there is a fourth alternative, theonomy:

[A]n age that is turned toward...the unconditional is one in which the consciousness of the presence of the unconditional permeates and guides all cultural functions and forms. The divine, for such a state of mind, is not a problem but a presupposition. Its "givenness" is more certain than that of anything else....

We shall call such a situation "theonomous,"...in the sense that such an age, in all its forms, is open to and directed toward the divine.... Autonomy means obedience to reason....Autonomy....replaces mystical nature with rational

nature....It constitutes communities on the basis of purpose, and morality on the basis of individual perfection. (Tillich 1948, pp. 43-44)

Theonomy goes against autonomy, heteronomy, and passive drifting alike:

Autonomy asserts that man as the bearer of universal reason is the source and measure of culture and religion-- that he is his own law. Heteronomy asserts that man, being unable to act according to universal reason, must be subjected to a law, strange and superior to him. Theonomy asserts that the superior law is, at the same time, the innermost law of man himself, rooted in the divine ground, which is man's own ground: the law of life transcends man, although it is, at the same time, his own. (Tillich 1948, p. 57)

Thus autonomous life concerns man alone. Heteronomy presents the source of authority as other than and transcending man, and autonomy presents the source of authority as the immanent ground of man: different from, but not wholly distinct from, man. It is man's true or deep nature as opposed to his autonomous secular nature.

The voice of theonomy is the voice of angels, the voice of God, the voice of conscience, but it is always heard from within. It is the daimon of Socrates. It is samadhi, satori, nirvana. It is the numinous experience of the divine, whether extravertively, introvertively, or in the unified life. The essence of theonomy is the acceptance of the numinous experience of the ultimate spiritual meaning of the world as a given. Therefore, even to pose the question of choosing between

theonomy and autonomy is for the theonomy to lose its authority as a given, and for the theonomous life to disappear:

This question is itself its own answer. Where it can be raised, theonomy has already been lost. As long as theonomy is in power, no alternative is open. If its power is broken, it cannot be re-established as it was. (Tillich 1948, p. 46)

The mythical character of life's destiny, the sacred character of its projects, the magic of relationships as communion, all vanish when autonomous reason, despite having its own numinous ideals of reason, truth, justice, the moral person and the moral community, reduces everything to conditioned nonmystical facticity. One can only travel the autonomous road until "a new theonomy appears" (Tillich 1948, p. 46). Conversely, the theonomous character of a society "can be so strong that autonomy cannot even start" (Tillich 1948, p. 45-46).

Autonomy concerns things in the conditioned world. But theonomy concerns the unconditioned ultimate meaning of things. Thus they do not stand against each other directly. But strong theonomy prevents the questions and choices necessary to the autonomous life, while the autonomous life of questioning and reason strips the world of its numinous character, leaving it spiritually empty in the end (Tillich 1948, pp. 45-48).

Using Tillich's triple distinction as a springboard, I criticize Raz as follows. The autonomous life is the life of choice, or self-directedness. There are three other sorts of life. The heteronomous is other-directed by someone or some thing wholly other than the person in question (though this wholly other can be mentally internalized through childhood training). The drifting life

is passive and undirected. The numinous life is directed by someone or some thing different from, but not wholly distinct from, the person in question. One has no choice and does not direct one's own life. But neither is one directed by any entity outside from oneself. To choose between autonomy and a numinous life, or even to question the latter, is to destroy the numinous life, since it is and therefore can only function as an (unquestioned) presupposition of cultures. Nor is the numinous life the "self-realized" life as Raz defines it, in which all one's abilities are exercised to the utmost. Far from it, the numinous life may simply happen to one without one's having done anything to bring it about. And the numinous life can scarcely be said to tax *all* or even *very many* of one's abilities at all. I admit that the *monastic* life can involve much hard work. But not all mystics are monastics, and even the typical monastic does not exercise *all* her natural abilities.

Thus choosing the numinous life is not an option available to the autonomous person. For becoming a mystic is what Raz would call a self-defeating goal. This is only what typical traditional and modern mystical literature tells us: meditational disciplines help only to bring one to a passive state of readiness in which experience of the numinous may or may not happen to one. In view of that, the numinous experience is sometimes called a "grace." Yet the numinous life is arguably supremely fulfilling--far more than an autonomous life or even a heteronomously spiritual life could be. And many can choose to follow a numinous leader.

In *The Great Divorce*, C. S. Lewis regales us with the story of the person who arrives in the afterlife and "demands his rights." An angel tells him he has no rights, but something much better. *Mutatus mutandis*, what does it matter to gain a world of autonomy but lose one's numinous soul?

12. *The Ultimate Role of the State*

For Raz, the ultimate role of the state is to promote autonomy, including the promotion of a wide variety of life- alternatives to its citizens. The state can even intervene in other groups to promote autonomy, if that does not cause excessive harm. Otherwise, the state is authorized to rule only in accordance with the normal justification thesis (NJT). Raz seems to hold these two roles even more basic than the rule of democracy itself. He says nothing about what the state ought to do if most people voted against the state's having any of these Razian roles.

Raz does not even give us normal political morality. In historical terms, liberal states have scarcely been the norm. Raz gives us at best one political ideal among others.

Raz ultimately fails because he achieves at best one valid picture among many of how political morality ought to be. The truth is that similar political organizations, specifically liberal institutions of limited government, can be underwritten by radically different political moralities, underwritten in turn by radically different conceptions of individual (or social) well-being, underwritten in turn by radically different views on the ultimate nature of reality. In short, the charge is that of repeatedly nested parochiality.

There is Weber's theory of three relatively "pure" types of leadership, my addition of the numinous leader, and my theory of blended types of leaders as best because most realistic for the human condition. I call this the *Gita* approach after the *Bhagavad Gita*'s resolution of accepting alternative religious paths as suitable for different individuals.

More understandingly, Maslow's hierarchy of needs arguably applies to whole societies as much as to individuals. This means that societies need to promote, say, conditions of safety or

social esteem before promoting conditions of autonomy. That safety and social esteem (dignity, respect) are themselves arguably conditions of autonomy does not detract from the point that they have their own social preconditions in turn.

In European history, Tillich characterizes “classical Greece, the Renaissance, the Enlightenment, and the nineteenth century” as autonomous cultures, “the later Middle Ages and...Protestant orthodoxy” as heteronomous cultures, and “the archaic periods of the great cultures and the early and high Middle Ages” as theonomous cultures (Tillich 1948, p. 57). Troy Wilson Organ says, “Hinduism is a theonomous culture” (Organ 1974, p. 10). Theonomy is *not* life in a *heteronomous* religious community or theocratic state.

Not only is this a severe castigation of the ultimate value of autonomy--to gain rational control of the world at the price of one's soul--but it indicates Raz's severe confusion concerning his doctrine of intervening in nonautonomous cultures to ensure the autonomy of their people. For some nonautonomous cultures are heteronomously religious and others are mystical. Both may be equally restrictive of people's choices. Yet in the one case the source of the restrictions are heteronomous or external to those people--perhaps myths in the rationalist's derogatory sense, and in the other the source of the restrictions is deep within the people themselves, and felt as their very being. Even in the former sense there may be so much internal identification with the source of the restrictions that Raz expressly admits it may be better not to intervene, but this is a wholly different issue. We might grant Raz that we can intervene in heteronomous or even in drifting minority cultures for the good of their peoples. But how can we intervene in a numinous culture and pretend it is for the good of its people? PA “seems to license a considerable measure of paternalism” (Waluchow, p. 477).

There is also an epistemological dimension to Raz's problem. For whether a society is heteronomous or numinous may often be a matter of interpretation. The Chinese invaded Tibet not only on an ancient and dubious claim of jurisdictional ownership, but to liberate the Tibetan people from feudal tyranny. They viewed the Tibetan religion as the ideology of the ruling class. Obviously, they were claiming that the Tibetan culture was heteronomous. But were they right? Suppose that Tibet belonged to America. Would Americans have the right to invade a *numinous* Tibetan culture to promote a genuine political autonomy?

The specific epistemological problem is to distinguish between the internalization of a merely heteronomous spirituality from a genuinely numinous spirituality. While the latter may be expected to have a certain fresh spontaneity, the truth is that numinous experiences the world over are rather similar; it is mainly the heteronomous theological interpretations of the experiences which differ, or else the accompanying individual imagery. The epistemological problem may be especially acute in monastic traditions which aim to produce numinous experiences. For many monastic orders are heteronomous means to a numinous end. Talk of problems of consequentialism!

Third, there is a humanistic problem. Raz aspires to be a "humanist" and makes "the humanistic principle" "a necessary condition for the acceptability of moral theories" (Raz 194, 201, 208, 220, 228, 233, 255). He admits distinctions among humanists concerning whether human life is qualitatively or quantitatively good. But he fails to see the deeper humanism of the numinous life as opposed to the autonomous life. Yet this is a central theme of Tillich, for whom only the numinous dimension of human life can give it an ultimate concern. Only the numinous person is truly himself, truly human. Thus we are treated to the spectacle of autonomy's inevitably

precluding any deeper humanism, and to that extent failing to meet Raz's own necessary condition of the acceptability of a morality. The major example in the world today is India. Organ explains not only the theonomy of Hindu culture, but also its deep humanism (Organ 1974, pp. 10, 372-73). It is precisely because the divine is revealed as our deeper self, and serves as the numinous basis of the universal brotherhood of man, that the state and its institutions exist only to serve humanity.

Even heteronomous theocracies or other authoritarian states make available social forms, collective goods, and ways of life which many people will value for their comfort and security. They also color many social forms available in nearly all societies, such as marriage and certain occupations, in ways that satisfy many people. "State-enforced religious uniformity makes available various goods; only they are not goods that liberalism can countenance" (Lomasky 1990, pp. 94-95). It is not even clear why either sort of society, autonomous or heteronomous, necessarily must value individual or collective goods more than the other.

The moral of the story is that liberal political morality gives a rather narrow and judgmental outlook on whole ways of life. But then intellectual abstractions often founder before the concrete actualities of life.

Hindu society conceives of moksha or liberation as the supreme good. Moksha is achieved through various paths or yogas. The function of the state would be to assist in achieving moksha. For instance the traditional status of sannyasa or wandering monkhood is legally recognized in India. When one gives away all one's worldly belongings to become a sannyasin, one legally cannot take them back again. This is conducive to seriousness in taking on this social role, and to genuine respect for sannyasa. Nobody can achieve your moksha for you. Only you can purify yourself by working off your karma. In a real sense, nobody can even help you, since their help as

it comes across to you is itself a karmic product of your own past actions. Indeed, in the final stage, there literally *is* nobody but you. “Thou art that.” You are the supreme being to be realized, and so is every other being.

The various yogas involve action. Karma yoga is the path of work; raja yoga involves experimental activities, bhakti yoga involves devotional activities, and jnana yoga involves intellectual activities. But to realize the supreme being, you must ultimately discard action and simply be. This discarding is your final action.

Now India today is a democracy of limited government. It is a liberal state in Raz’s 19th century sense of “liberal,” no question about it. The Indian government is a liberal political institution. It is based, I shall assume for the sake of the argument, on a political morality, which is in turn based on a conception of personal well-being. Does Raz’s conception of political morality and conception of personal well-being apply to India? Can Raz justify the government’s eager support of many millions of nonproductive, able-bodied people bent on the final extermination of their own autonomy in the hope of achieving something they think is far better? Would not the night watchman conception, i.e. neutralism, be a better political morality for India?

Tibetan society conceives of nirvana or liberation as the supreme good. In its Vajrayana-Mahayana conception, nirvana occurs when you realize that all is illusion but yourself, that all differences between yourself and others, and indeed anything else, are basically just hallucinations caused by your desires and attachments. When the armies of Mao Tse Tung invaded Tibet and proceeded to destroy all they could of religion, language and culture, many lamas viewed that as only their (the lamas’) own bad actions in previous lives coming back to haunt them. If Tibet were democratized and given a limited form of government, such as the Dalai Lama has

wished, what would Raz be able to contribute to understanding its political morality? Just how important would political morality be to Buddhist democracies anyway, if all political institutions and actions as they impact on oneself are viewed as the inevitable results of one's own previous actions?

It seems, then, that Raz is committed to a specific set of metaphysical parameters involving a realist pluralism of agents in a state which, though it might even promote religious groups as alternatives, is itself essentially secular and rational. This picture undoubtedly fits millions who live in Western liberal democracies. But undoubtedly it does not fit many other millions who also live in liberal democracies, to whom liberal democracy is fine in its place, a good for unadvanced souls, but ultimately an illusion. Nor does it fit the many nonliberal millions.

Even granting everything Raz says about social forms, they are after all *social* forms, not *governmental* forms (Lomasky 1990, p. 105). Raz's positive picture, given in his last two chapters, is really of a social order, not a political order. Yet Raz never considers "the possibility that society, as distinct from the state, might be capable of... generating the various goods, including autonomy, from which worthwhile lives are fashioned" (Lomasky 1990, p. 104). Historically, political autonomy probably never would have developed at all, were it not for the *social* individualism shown by the Greeks, early Romans, and the Germanic tribes.

NOTES

FN1. Immanent spiritual authority is neither heterologous nor autonomous nor merely drifting, but numinous. As the leader's and followers' own deeper spiritual nature, of which the leader is only

more fully conscious, it is neither wholly identical with nor wholly distinct from them qua agents. Such authority appears heterologous only to outsiders. Immanent authority exists only for *participants* in it. This is the message of Paul Tillich. Even if “the spirit bloweth where it listeth,” what is merely drifting is the deeper nature, not the human agents who participate in it and are thus guided by it. Many societies and individuals have more or less felt called to follow this most basic kind of authority. Compare Tillich to Jung, Joseph Campbell, and history of mysticism.

FN2. There is some dispute as to Raz’s relation to Mill. Sumner finds Raz quite close to Mill in rejecting individualism or atomism, government neutrality, and merely negative rights (Sumner, p. 149). But Waluchow opposes Raz to Mill on their conceptions of general limits of government (Waluchow, p. 478), and Shiner finds Raz’s claim of consistency with Mill’s HP spurious (Shiner, p. 121-22). Perhaps Locke and Hobbes are more atomistic individualists than Mill or Raz (Waluchow, p. 477).

However, Windelband suggests, *pace* Waluchow, that “a general tendency of British theory has been to unite a social standard or criterion of moral value with an individualistic, and even egoistic theory of motives” Windelband 1979, p. 663). And many themes in Raz seem to come straight of out Mill’s “On Liberty.”

FN3. While Butchvarov has some words on incommensurability, and surely no one admits more heterogeneity of categories of things to which the concept of goodness is applicable than he does, his thesis of goodness as a highly generic property, generically identical across all categories, leaves the ontological door open to commensurability. Indeed, insofar as to be good is to be perfect of one’s kind for Butchvarov, and insofar as every entity belongs to some kind, and hence must have some minimal perfection of its kind, goodness would be what Butchvarov calls a

transcendental concept.

FN4. Raz would not admit the point of this story. Thanks to his incommensurability thesis, he would find money and wisdom strictly incomparable, whereas the point is that wisdom is incomparably *better* than money in at least some intrinsic respects. But Raz is well aware of the story.

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