



## The Morality of Freedom

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# The Exclusion of Ideals

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## Abstract and Keywords

Political neutrality, conceived of as the exclusion of ideals, prevents governments from acting for reasons, which appeal to conceptions of the good, whether valid or invalid. Such a position relies on an elusive distinction between one part of morality, the good, and another, the right. Political welfarism, which allows governments to act specifically to increase want satisfaction, is mistaken in regarding want satisfaction as an intrinsic good. The Nozickean style aversion to coercion cannot be effectively grounded in autonomy, since no agents enjoy complete autonomy, and not only human intervention but also nature can restrict autonomy.

*Keywords:* autonomy, coercion, ideals, neutrality, Nozick, welfarism

Rawls' advocacy of the doctrine of neutral political concern is the richest and most subtle of those offered in recent times. That is why much of the last chapter was concerned with his work. The discussion of the exclusion of ideals in the present chapter will similarly revolve round arguments advanced by Nozick. It will be preceded, however, by the examination of a simpler doctrine, political welfarism. It is worth remembering that this division of chapters is slightly misleading. It is based on the distinction between two antiperfectionist doctrines, the exclusion of ideals and neutrality between ideals. But many of the arguments for one of the anti-perfectionist doctrines can be used to support the other. The most prominent advocates of anti-perfectionism have failed to distinguish between its neutralist and exclusionist forms.<sup>1</sup> So the rejection of neutrality in the preceding chapter is provisional only. For a final verdict we have to await the examination of the arguments for the exclusionary doctrine.

Again we will start by briefly considering the meaning and coherence of the principle of the exclusion of ideals before proceeding to examine the arguments for it.

### 1. Preliminaries

So far we have avoided any clarification of what is meant by ideals or conceptions of the good. For the principle of neutral concern such clarification is not all that important. The easiest explanation is to say that conceptions of the good consist **(p.135)** of the rest of morality (that is, all of it other than the principle of neutrality itself). Some advocates of neutrality may think it essential to understand the term in a more restricted sense. But even if it is understood in this all-encompassing way it makes the doctrine of neutrality a potent and intuitively appealing doctrine. Governments are, according to it, to be even-handed between all rival moralities. The principle of the exclusion of ideals does not enjoy this luxury. Unlike the principle of neutrality, it does not tell governments what to do. It merely forbids them to act for certain reasons. But can it really be that no moral reason can ever form a basis for governmental action? To be plausible the principle must be understood as presupposing some distinction within morality between that part called its conceptions of the good, which cannot be pursued politically, and the rest that can.

The ideals or conceptions of the good which are excluded from the political arena are to be broadly understood. Any judgment that an activity, way of life, or any aspect of it is either good or bad to any degree is a partial description of a conception of the good. So are statements on various aspects of the value of the organization of society, or any other judgments about the value of any state of society. The goodness of one's life may be enhanced by the fact that one lives in a society of a certain kind (devout, well-educated, prosperous etc.). So conceptions of the good encompass both private ideals (lots of leisure and sport, etc.) and societal conditions which contribute to them (general prosperity, general appreciation of the importance of physical activity, etc.).

Nor need conceptions of the good be exclusively or strongly based on moral considerations, if this term is understood in a narrow sense. The excellence of the life of a shepherd, living at close quarters with his animals, responding to the continuous changes in the natural world, proving his resolve and ingenuity in the face of many manmade and natural difficulties and crises, is not necessarily a moral excellence, in the narrow sense of that word. But the view that such a life displays these forms of excellence is part of a conception of the good. In this book 'moral' is used, **(p.136)** unless the contrary is indicated, in a very wide sense in which it is roughly equivalent to 'evaluative'.

Excluding conceptions of the good from politics means, at its simplest and most comprehensive, that the fact that some conception of the good is true or valid or sound or reasonable, etc., should never serve as a reason for any political action.

Nor should the fact that a conception of the good is false, invalid, unsound, unreasonable, etc. be allowed to be a reason for a political action. Notice that the exclusion is of the valid as well as of the invalid. Again, there is no need for a principle instructing the government or anyone else to base their actions on valid conceptions of the good and to disregard invalid ones. It is the exclusion of both valid and invalid, the prescription that political action should be value-blind, which gives the principle its distinctive flavour. It makes it a principle of restraint. The doctrine of the exclusion of ideals claims that government action should be blind to all ideals of the good life, that implementation and promotion of ideals of the good life, though worthy in itself, is not a legitimate object of governmental action.

Naturally, supporters of the exclusion of ideals do not wish to claim that governments may never act for moral reasons. They allow, for example, that the fact that murder is morally wrong is the reason (or at least part of the reason) for making it an offence punishable by law. They draw a distinction between two parts of morality. One, the doctrine of the good, is out of bounds for governments. The other is a proper, perhaps even the proper, basis for governmental action: one view which has considerable currency holds governments to be required to promote the goals that people have, without discrimination based on their moral merit. That is the view I dubbed political welfarism. Another divide which suggests itself is that between teleological and deontological considerations, between the doctrines of the good and of the right. According to it governments are to base their measures on considerations of which actions are right or wrong, but not on the grounds that some actions are conducive to the good and others are not.

The notorious elusiveness of the distinction between the right and the good did not deter Rawls, for in *A Theory of (p.137) Justice* the doctrine of neutrality incorporated in his conception of justice itself defines the distinction between the right and the good. The obscurity of the distinction is, however, an obstacle for those who wish to rely on an independently recognized distinction and employ it to provide a foundation for a doctrine of liberty. Nozick, who essentially limits governments to deontological considerations, avoided the problem by relying on a concept he introduced himself, that of side-constraints, which can be regarded as an explication of the idea of deontological considerations. Others have been much less explicit regarding the way they wish to divide morality into a part which is politically relevant, and a part which is not.

One possible doubt regarding the doctrine of the exclusion of ideals concerns the viability of such distinctions. I do not wish, however, to deny the possibility of drawing a coherent distinction between deontological and teleological considerations. The main argument of this chapter aims to cast doubt on whether the distinction justifies the conclusion that the good is out of bounds in

politics. It tries to identify the reasons which lead people to embrace this form of anti-perfectionism, and to show that they are inadequate for the task.

Another, more general, *prima facie* argument will have to wait till later in the book. Even though deontological and teleological considerations are distinct they derive from a common moral core. Therefore, since the core moral concern should be politically promoted through the enforcement of some deontological constraints it seems plausible to hold that it should also be promoted by advancing the correct conception of the good as well. Since the two parts of morality are separate only at the superficial level, whereas at the fundamental level they both stem from a common source, there is a *prima facie* case for requiring political action to take notice of both.

### 2. Political Welfarism

Brian Barry identifies the doctrine of the exclusion of ideals as one important strand in liberalism:

Classical liberalism had other strands besides this one no doubt, **(p.138)** but one was certainly the idea that the state is an instrument for satisfying the wants that men happen to have rather than a means of making good men (e.g. cultivating desirable wants or dispositions in its citizens).<sup>1</sup>

Barry, therefore, defines liberalism, for the purpose of his argument, as the view that ideal-regarding principles should not be used for prescribing the conduct of political actors. The definition identifies liberalism with the endorsement of a particular version of the doctrine of the exclusion of ideals by its use of Barry's previous distinction between want-and ideal-regarding principles:

Want-regarding principles. . . are principles which take as given the wants which people happen to have and concentrate attention entirely on the extent to which a certain policy will alter the overall amount of want-satisfaction or on the way in which the policy will affect the distribution among people of opportunities for satisfying wants. (p. 38)

I will regard the second half of the definition as referring to the distribution of actual satisfaction of desires rather than to the distribution of opportunities, though these may be an indicator of actual satisfaction: 'in order to evaluate the desirability of a state of affairs according to such principles, all the information we need is the amount and/or distribution among persons of want-satisfaction' (ibid.). Any non-want-regarding principle is ideal-regarding. Want-regarding theories are, therefore, instances of what A. Sen calls 'welfarism', i.e., the view that the goodness of a state of affairs depends ultimately on the set of individual utilities in that state.<sup>2</sup>

Not all welfarist theories are based on a principle of restraint. According to some, want-regarding considerations are the only ones relevant for the evaluation of any action. On this view, which I will call moral welfarism, there are no valid ideal-regarding principles and therefore to advocate **(p.139)** excluding them from political action is not to advocate restraint. Only those theorists who accept ideal-regarding principles for determining the desirability

of at least some states of affairs and yet rely exclusively on want-regarding principles in evaluating or advocating political action subscribe to the liberal precept as described by Barry above, i.e., that it is not the business of the state to promote the goodness of individuals. It should confine itself to the satisfaction of their desires. I shall dub 'political welfarism' the kind of welfarist political theories that admit the validity of some ideal-regarding principles but which confine their force to non-political actions.

Political welfarism owes part of its popularity to a confusion between it and two quite distinct ideas. One is its confusion with moral welfarism. The fact that moral welfarists who deny the validity of any ideal-regarding principles are not advocating restraint when they object to reliance on ideal-regarding principles is often lost sight of. Moral welfarists who, for example, object to the proscription of so-called deviant sexual practices or of marijuana sometimes appeal to principles denying the state the right to enforce 'private morality', whereas what they mean is the denial of the state's right to enforce the wrong morality. It is all too convenient for moral welfarists to assume the mantle of political welfarists since this will serve their purpose just as well. But though their political results may be identical, the two doctrines represent radically different views of both morality and politics.

The other confusion is the belief that a commitment to representative government commits one to political welfarism. 'Does not representative government mean an equal chance for all to have their goals supported by the state? And is not that the meaning of political welfarism?' The answer to both questions is negative. The principles of representative government guarantee some measure of control by the population over those in authority. They do not entail a commitment by the democratically constituted authorities to act on welfarist considerations alone.

With these clarifications behind us, we can turn to an evaluation of political welfarism. Want-satisfaction can be **(p.140)** supported as intrinsically good or as a means to some other good. Suppose a political welfarist holds it to be intrinsically good. He is then committed to the view that some intrinsic goods (want-satisfaction) may, while others (ideals in Barry's sense) may not, be pursued politically. He is committed, that is, to the view that certain means (political ones) may be used in pursuit of some goals but not of others. I shall take it for granted that, while possibly there are some ideals that cannot be promoted by political means and others that cannot be efficiently so promoted, it is not the case that no ideals can be efficiently pursued by political means. Such considerations cannot therefore be used to support a total ban on ideals from politics. After all, our hypothetical theorist is not proposing to ban the satisfaction of wants as a ground of political action, even though there are wants

the satisfaction of which cannot, and others which cannot efficiently, be pursued by political means.

Are there grounds for believing that it is wrong to pursue politically any intrinsic goods other than the satisfaction of wants? It follows from the conclusion of the previous chapter that political welfarism is not neutral between ideals of the good since it clearly favours moral welfarism above all other views. But neutral or not, the main problem is to find any reason for supporting politically some elements of a conception of the good and not others that are admitted to be valid and valuable. I know of no attempts to answer the question which neither reduce themselves to an endorsement of moral welfarism nor rely on the false claim that one cannot promote ideals politically.

The difficulties with political welfarism, however, go deeper. Belief in ideal-regarding principles undermines the plausibility of regarding want-satisfaction as intrinsically good. People pursue goals and have desires for reasons. They believe that the objects of their desires or their pursuits are valuable (and sometimes that the pursuit itself is valuable not merely as a means to achieve its object). This reason-dependent character of goals and desires entails that any person who has a goal or a desire believes, if he has minimal understanding of their nature, that if he came to believe that there were no reasons to pursue the goal or the desire, he **(p.141)** would no longer have them. Notice that belief in an appropriate reason is here merely made a necessary condition for the having of a goal or a desire. It is not assumed that one desires whatever one sees a reason for or whatever one holds to be valuable.<sup>1</sup>

A further consequence of the reason-dependent character of desires is that agents do not wish their desires satisfied if their belief in the existence of a reason for their desires is unfounded. One does not wish to have the medicine one desires to have if it does not have the medical properties that one believes to be the only reason for having it. People who wish the state to subsidize the arts do not wish it to do so if such subsidies will not help the development or propagation of the arts which they believe to be the only reason to subsidize them. One way in which 'wishing' is weaker than 'desiring' is that it is very close to 'believing that there is an undefeated reason for'.<sup>2</sup> Not wishing that what one desires will happen if one's belief in a reason for it is mistaken is no more than an acknowledgement of the reason-dependent character of desire. The desire is not itself a reason; it is merely an endorsement of a reason independent of it. This is true both of instrumental desires, i.e. desires based on a belief that their realization will serve other goals one has, and of what is desired for its own sake. I do not wish to have what I want for its intrinsic pleasure, if having it will not bring pleasure.<sup>3</sup>

**(p.142)** The point of this argument is that one does not wish one's desire satisfied if one's reason for the desire is mistaken even if one continues, through ignorance, to entertain the desire. One does not wish merely not to have mistaken desires; one also does not wish to have them satisfied. It is primarily the craving conception of desires that obscures this point by making the disappointment at a failure to satisfy one's desire appear like the suffering caused by a frustrated craving. In fact, the disappointment may be little more than belief that something for which there is a reason failed to happen. Where the fate of the desire largely depends on the personal performance of the agent, its failure is accompanied by disappointment at one's own incompetence, lack of good fortune, lack of support from others for one's plans, etc., and these do often constitute valid reasons for preventing the relevant kind of frustration. But it is enough to consider a desire to see one's party win the election (which leads one to vote for it) to see that not all desires lead to such reactions when frustrated.

If the observations on the reason-dependent character of desires are correct, even if they apply to some non-trivial categories of desires only, then want-satisfaction as such cannot be an intrinsic good. Those who deny the validity of all ideal-regarding principles may perhaps resist this conclusion. They may argue that it is based on the common existence of a second-order desire not to have one's false desires satisfied. They may proceed to claim that these second-order desires presuppose that some of the ideal-regarding reasons are valid reasons. They may concede that almost all people believe in some ideal-regarding principles and have second-order desires that their false ideal-based desires need not be satisfied. This second-order desire, however, relates to local mistakes, i.e. to mistakes concerning which ideal-regarding principles are valid, and to their consequences given the facts of the case. It does not apply to a case of a global mistake, i.e., where the mistake is a **(p.143)** failure to see that *no* ideal-regarding principles are valid. If this is so, if people are guilty of the global mistake, then there is no reason to respect their second-order desire—or rather it does not apply in such circumstances. I do not wish to endorse this argument, but for the purpose of the present point we need not evaluate it. Suffice it to say that it is not available to political welfarists, for they accept the validity of some ideal-regarding principles.

It may be objected that all I have argued for is that people's desires are not their own reasons for pursuing the object of those desires. This need not mean that they are not reasons for others, who ought to help them. But the only reason for satisfying other people's desires is to help them, i.e., help them get what is good for them or what they want. The preceding argument shows that people do not wish their false desires satisfied, and that though in certain circumstances it is good for them to have them satisfied, this is by no means always the case. Hence

want-satisfaction *qua* want-satisfaction is not intrinsically valuable, at least not if there are valid ideal-regarding principles.

Many who are tempted by political welfarism are influenced by a picture that depends on viewing want-satisfaction as instrumentally valued (whatever its intrinsic value may be). Even if the preceding argument is wrong, even if want-satisfaction is an intrinsic good, it is possible that it is its instrumental and not its intrinsic value that accounts for the view that want-regarding principles may, while ideal-regarding ones may not, guide political action.

The picture I have in mind is that of live and let live. People's lives are their own affairs. They may be moral or immoral, admirable or demeaning, and so on, but even when immoral they are none of the state's business, none of anyone's business except those whose lives they are. All that politics is concerned with is providing people with the means to pursue their own lives, i.e., with helping them satisfy their wants and realize their goals. The state should therefore act on welfarist grounds alone and shun all ideal-regarding principles. Attractive though this simplified picture is, it is riddled with ambiguities and difficulties, the solving of which transforms it in a radical way. One of these issues will **(p. 144)** be taken up now. The others will occupy us for the rest of this chapter and the next.

The live-and-let-live picture is ambiguous regarding the relevance of personal goals. Is it the state's duty to try and maximize their satisfaction, i.e., to make sure that people do succeed in leading the lives they have chosen, or should it make opportunities available to them that will enable them to try and lead the lives they have chosen?

The first interpretation is analogous to the one above. One does not help people to lead the lives they want to have by satisfying their false desires. People do not wish to have a life based on falsehood. The second interpretation requires the state, while avoiding any action designed to implement any conception of the good, to provide individuals with the means of pursuing their ideals of the good. But satisfying people's wants is not to be equated with providing them with the means of pursuing their ideals. Satisfying false wants concerning the means to one's ideals will not help in realizing them, and some useful means may not be wanted since the person does not realize their usefulness or fails to form rational plans concerning them.

The live-and-let-live picture leads us away from political welfarism and toward the suggestion that the state's concern is with the provision of adequate means for individuals to pursue their own ideals of the good.<sup>1</sup> This may be justified by invoking the value of autonomy, i.e. the view that the fact that a person controls aspects of his life, and determines their shape, gives his life value.

Considerations of autonomy are central to the argument of Part Four of the book.



They are also prominent in Nozick's version of the exclusion of **(p.145)** ideals. Since it is based on the distinction between teleological and deontological considerations it is in other respects far removed from political welfarism, and immune to the criticism here levelled against it. It is to Nozick's theory that we now turn.

### 3. Treating People as Ends

There are only individual people, different individual people with their own individual lives. Using one of these people for the benefit of others, uses him and benefits others. . . . To use a person in this way does not sufficiently respect and take account of the fact that he is a separate person, that his is the only life he has. *He* does not get some overbalancing good from his sacrifice, and no one is entitled to force this upon him—least of all a state or government that claims his allegiance . . . and that therefore scrupulously must be *neutral* between its citizens.<sup>1</sup>

These words of Nozick echo the Kantian injunction always to treat people as ends in themselves and never as means only. Nowhere again does he use the state's claim to allegiance as a reason for political neutrality. His argument amounts to an interpretation of the Kantian imperative. Nozick's interpretation relies on the notion of a side-constraint. Side-constraints are deontological constraints and will be examined in Chapter Eleven. Some preliminary explanation is necessary here to examine their use as principles of exclusion.

Side-constraints are agent-relative action reasons of an absolute or near absolute force. Let me explain<sup>2</sup>. Some reasons for action are based on the value of the outcome of those actions. Let us call these 'outcome reasons'. The reason for bringing injured people to hospital is (barring special circumstances) an outcome reason. Acting in this way will secure their health which, since it is a valued outcome, is also a reason for bringing it about. Some reasons, however, are based on the value of a particular (class of) agent(s) performing a certain action (including the bringing about by **(p.146)** those agents of a certain outcome). I will call these action reasons. Parents have both an outcome and an action reason to show concern for the welfare of their children. The outcome reason is satisfied by the parents employing teachers and child minders. The action reason is satisfied only if parents personally involve themselves in the affairs of their children.

Some reasons are reasons for everyone. Everyone has reason to respect the rights of others, for example. Such reasons are agent-neutral. Other reasons are reasons for some people and not for others. Those are agent-relative reasons. A person who made a promise has an agent-relative reason to keep it, even though it may derive from an agent-neutral reason to keep one's promises. Both action and outcome reasons can be either agent-neutral or agent-relative.

The Kantian imperative is explicable only in terms of action reasons. The requirement is that people should personally treat people as ends, not that they shall secure for people the benefits which result from being so treated. (Are there such benefits?) But the imperative is open to an agent-neutral interpretation. Each person may be thought to have reason to help, or even make, others treat people as ends. It may be thought that the Kantian imperative is indifferent in a choice between treating others as ends oneself or treating them as means where doing so will make them treat others as ends, and where but for that action they would not have done so (for example, coercing a person not to coerce another).

Nozick rejects this interpretation of the Kantian imperative. He regards it as imposing side-constraints. A side-constraint is an agent-relative reason of absolute or near absolute weight. It cannot be defeated by any other consideration or can only be defeated by a small number of enumerated considerations. Nozick explains:

The issue of whether a side-constraint view can be put in the form of the goal without-side-constraint view is a tricky one. One might think, for example, that each person could distinguish in his goal between *his* violating rights and someone else's doing it. Give the former infinite (negative) weight in his goal, and no amount of **(p.147)** stopping others from violating rights can outweigh his violating someone's rights.<sup>1</sup>

Broadly speaking, Nozick believes in an agent-relative action reason against imposing sacrifices on individuals against their will. Nozick does not regard the prohibition as being as absolute and exceptionless as one would expect if it is to be an interpretation of the Kantian imperative. He allows for imposing sacrifices on people, even if there are no counterbalancing benefits for them (even though they are separate people and their lives are the only lives they have) in cases of self-defence. Moreover, Nozick goes a long way beyond self-defence by sanctioning the use of force by an organization not created by consent, if it could have been created by consent through the Invisible Hand mechanism. Perhaps an even more significant exception to the Nozickian version of the Kantian imperative is his principle of compensation that allows coercing some to reduce risks to others provided the former are adequately compensated.<sup>2</sup>

In fact, on occasion Nozick seems to suggest that imposing a sacrifice on a person does not offend against his version of the Kantian principle so long as he is compensated by receiving a counterbalancing good. So long as he is a net beneficiary from a transaction, could not one say that he was not treated merely as a means? Is it not true in such a case that his separateness and the fact that his life is the only one he has have been respected? And if so, can one not regard a whole series of mutually dependent transactions from some of which he stands to lose and from others to gain as one transaction since none will take place if the others do not? Such a series will be allowed if the initial expected balance of benefits and sacrifices is positive. The condition is met in many states, even in

many illiberal states. Some people are perhaps net losers, but the initial expected balance may still be favourable to all.

These are genuine questions. They point to gaps in Nozick's argument and to ambiguities in his position which, if resolved in some ways, lead to conclusions far removed **(p.148)** from the spirit of *Anarchy, State, and Utopia*, though consistent with a certain interpretation of its premisses.

Does the Kantian imperative in Nozick's interpretation lead to political anti-perfectionism, and in particular does it lead to a principle of the exclusion of ideals from politics? Not without further and independent moral assumptions (which Nozick does not defend). The crucial question is whether coercion to comply with moral duties is consistent with the Kantian imperative as interpreted by Nozick. Nozick's view about self-defence suggests that it is but that the duties not to infringe or put at risk others' rights are the only moral duties there are. This pushes the question one step back. What rights do people have? Do they, for example, have a right that other members of their community contribute to the life of the community? Nozick's answer is uncertain. He appears to deny the existence of such rights but in principle excludes the justification of a theory of rights from the book. What is clear is that it is neither the Kantian imperative nor Nozick's interpretation of it which leads to anti-perfectionism. If individuals have moral duties to contribute to other persons and to promote certain ideals, then they are not being treated as means by being made to live up to them.

#### 4. Coercion and Autonomy

Nozick appears to claim that it is because the state acts through coercion that it has to abjure perfectionism. It is unobjectionable to win over another's clients in order to benefit oneself, but one may not coerce them not to trade with another. Is there anything about coercion or its political use to justify anti-perfectionism?

Coercion is an evaluative term. While it has a fixed descriptive core, its meaning cannot be fully explained without noting its moral significance. I will adopt the following definition of coercion.<sup>1</sup>

P coerces Q into not doing act A only if **(p.149)**

A

- (1) P communicates to Q that he intends to bring about or have brought about some consequence, C, if Q does A.
- (2) P makes this communication intending Q to believe that he does so in order to get Q not to do A.
- (3) That C will happen is, for Q, a reason of great weight for not doing A.

- (4) Q believes that it is likely that P will bring about C if Q does A and that C would leave him worse off, having done A, than if he did not do A and P did not bring about C.
- (5) Q does not do A.
- (6) Part of Q's reason for not doing A is to avoid (or to lessen) the likelihood of C by making it less likely that P will bring it about.

B P's actions which conform to the conditions set out in A are *prima facie* wrong.

C The fact that Q acted under those circumstances is a reason for not blaming him for not doing A.

Only a communication meeting conditions A1–4 is a coercive threat. This definition is not an accurate explanation of the meaning of the expression in English for it disregards some of its uses. It concentrates on coercion by threats since this is the form of coercion relevant to political theory.<sup>1</sup> The definition's first, descriptive, part sets only necessary conditions for the application of the term. One's list of sufficient conditions as well as one's view of how evil the threatened consequence must be to count as a coercive threat depends on one's view of the evaluative significance of coercion. Conditions B and C are deliberately weak for there is no general agreement in the linguistic community on the precise evaluative significance of coercion. By some, or sometimes, it is held to render the coerced not responsible in the sense that the action is only nominally theirs, whereas in fact the coerced are being controlled by another in a way akin to physical compulsion. By others, or at other times, coercion **(p.150)** is held to be no more than a mitigating circumstance. Whichever view one takes, it is not to be justified on linguistic or conceptual grounds but by the soundness of the moral theory of which it is a part.

I will briefly sketch a view of coercion based on assigning it the following evaluative role:

B1. By issuing a coercive threat to another person one invades his autonomy.

C1. The fact that a person acted under coercion is either a justification or a complete excuse for his action.

These principles state the evaluative significance of coercion regarding the acts of the coercer and the coerced respectively. They enable one to draw on one's views about autonomy, justification and excuses for determining what kinds of threats are (provided they meet conditions A1–4) coercive ones.

The following considerations begin to outline the reasons for the two principles. The descriptive meaning of coercion (conditions A1–6) is enough to explain some of the reasons for limiting coercion. Coercive threats differ from offers, for example, in that the former reduce the options available to the person to whom they are addressed whereas offers never worsen and often improve them.<sup>1</sup> Therefore, coercive threats are likely by themselves to change a person's situation significantly for the worse. Furthermore, it is normally more difficult to

get people to act against their interests by making **(p.151)** them an offer than by coercively threatening them (assuming that making the offers and the coercive threats are equally easy).

Finally, though coercion is sometimes meant to benefit the coerced person, we are only too familiar with the danger of exaggerating the degree to which people's well-being can be promoted in flat contradiction to their formed judgments and preferences. While offers may be made in order to induce people to act against their long-term interests, they themselves are in normal circumstances the best judges of that. Our concern is raised only if the person receiving an offer lacks the ability or knowledge to assess it or if there are reasons to regard the bargaining situation as unfair or inefficient. None of these considerations, however, explains why coercion is more suspect than other methods of encouraging people to act in ways deemed to be socially beneficial by making the alternative less attractive. Their main thrust is to cast doubt on the justification of widespread use of paternalistic coercion. Even in this area the differences between coercion and other paternalistic methods which these considerations reveal are merely in probabilities.

Two common views about coercion provide the clue to its normative significance. It is commonly said of the coerced that they were forced to do the coerced act and that they acted against their will. Such statements may appear paradoxical since the coerced prefer to comply with the threat and avoid the penalty. The coerced may regret the circumstances they are in, but so do many people who face hard unpleasant choices. This does not make us say that they acted against their will. Nor would it always justify saying that they were forced to act as they did. They had, as do the coerced, a genuine choice. The explanation lies in the character of the choice. Certain choices are forced or dictated choices. Certain choices (not necessarily the same) are made against one's will. I propose to identify the relevant choices by their normative consequences. This proposal is not to be justified as a piece of ordinary language analysis but on the grounds that while in accord with the core meaning of coercion it fruitfully ties it to sound moral principles.

A person is forced to act in a certain way if (1) he regrets **(p.152)** the fact that he is in the circumstances he believes himself to be in and which are his reasons for acting as he does, and (2) his action is justified or excused. Notice that this definition allows that a person be forced to do what he wants to do anyway. The person being forced need not regret doing what he does. It is enough that he regrets the circumstances which make him do it. Furthermore, a person can desire (at one time) to be forced to do something that he believes he will not want to do at a later time. Likewise he can welcome being forced to do something which he wants to do but which his unwillingness to do is greater than his desire to do. In such cases the idea of being forced is pushed to its limits. The person being forced welcomes the fact that the choice is made easy

for him, while regretting that his weakness, or some other circumstance, make him unable to choose for the right reasons.

The coerced person is forced to act as he did. Hence his action is either justified or excused. It is justified if the reasons for it, including the threat of harm if it is not undertaken, defeat the reasons against it, including the fact that undertaking it amounts to submitting to coercion which violates the agent's autonomy (as will be explained below). Not all forced actions are justified. A person may be forced to act immorally, as when a shipwrecked sea captain abandons many passengers to certain death in order to save the life of his only child.

Whether or not such action is excusable depends on further moral views the reasons for which have little to do with coercion. But since one's view of excusing principles affects one's willingness to acknowledge that people were coerced to act as they did, let me put forward a principle that I regard as reasonable, namely, that persons are excused where they acted in order to preserve the life they have or have embarked upon, provided only that their life is neither immoral nor not worth having.

Let the conditions necessary to enable a person to have the life he or she has or has set upon be called personal needs. Choices are dictated by personal needs if all but one non-trivial option will sacrifice a personal need and will make **(p. 153)** impossible the continuation of the life the agent has.<sup>1</sup> Personal needs are not necessarily the needs of survival. They are more like the needs for having a worthwhile life. For example, life may not be worthwhile, may not be morally possible, for parents who have betrayed their child. Therefore, persons threatened with the death of their child if they do not obey are, if this view is correct, faced with a choice dictated by personal needs: disobedience to the order of the child's kidnapper will make life morally impossible, will make the parents' life not worth living. Personal needs are, however, what is necessary to have the life one has or has set upon. Concert pianists may lose the life they have if their fingers are broken. A choice in which the pianist has only one option to avoid his fingers being broken is dictated by personal needs, even though the pianist is able to make a new life as a business consultant.<sup>2</sup>

Much more can and need be said to make the notion of a personal need clearer (and something more will be said in Chapter Fourteen), though nothing can make it precise enough to avoid difficult questions concerning many of its applications to particular cases. For present purposes, however, further elaboration is not required. My aim is merely to tie the notion of 'coercion' to a view about excuses. Let me repeat, however, that a choice is dictated by a personal need only if the need is to preserve neither a wicked life nor one not

worth living. Hitler cannot be excused by claiming that he had to continue as he started or he would not have been able to pursue the life he had embarked upon.

In the light of all this, how serious need a threat be to be a coercive one? If it would justify a coerced action, its **(p.154)** seriousness depends on the reasons against that action. If those are not very weighty, the threat need not be as serious as a threat to a personal need. It need only be of great weight to meet the linguistic convention concerning 'coercion' (condition A3 in the definition given above). A non-justifying threat, however, is a coercive one only if it excuses and it does so only if it is serious enough to create a choice dictated by personal needs.

Persons may be forced to act in a certain way by circumstances that are of nobody's making, or they may be forced by another's action which created the circumstances that forced them to act as they did. They are forced by another person only if they are forced by that person's action which was undertaken in order to force them to act as they did. One person may force another by changing the circumstances surrounding that other person's choice or by credibly threatening to do so if the other does not act in a certain way. Such forcing threats are coercive threats, and those who are forced by them are coerced to act as they did.

A person who forces another to act in a certain way, and therefore one who coerces another, makes him act against his will. He subjects the will of another to his own and thereby invades that person's autonomy. Let me explain. An autonomous agent or person is one who has the capacity to be or to become significantly autonomous at least to a minimal degree. Significant autonomy is a matter of degree. A person may be more or less autonomous. (Significantly) autonomous persons are those who can shape their life and determine its course. They are not merely rational agents who can choose between options after evaluating relevant information, but agents who can in addition adopt personal projects, develop relationships, and accept commitments to causes, through which their personal integrity and sense of dignity and self-respect are made concrete. In a word, significantly autonomous agents are part creators of their own moral world. Persons who are part creators of their own moral world have a commitment to projects, relationships, and causes which affects the kind of life that is for them worth living. It is not that they may not sacrifice projects or causes they are committed to for good reasons, but rather **(p.155)** that there are certain kinds of actions vis-à-vis their commitments which amount to betrayal, compromise their integrity, sacrifice their self-respect, and in extreme cases render their life, i.e. the life they made for themselves, worthless or even impossible (in a moral sense).

Much of the writing on autonomy focuses on an agent's ability to form informed and effective judgments as a condition of autonomy. There can be no doubt of its importance. But there are additional aspects to autonomy as (part) authorship of one's life. One is relational: an autonomous person is not subjected to the will of another. Another aspect of autonomy concerns the quality of the options open to agents. Their choices must not be dictated by personal needs. One is a part author of one's world only if one is not merely serving the will of another. Forcing persons, and therefore coercing them, to act invades their autonomy because, first, the person who forces others directly intends them to conform to his will. Subjecting others to his will is either his end or his means to it. And, second, the coercer aims at and succeeds in forcing others by restricting their options.

All coercion invades autonomy by subjecting the will of the coerced. Coercive threats which create a choice dictated by personal needs, and most serious cases of coercion by the state are of this kind, also invade autonomy by offending against that aspect which concerns the quality of options. The autonomous agent is one who is not always struggling to maintain the minimum conditions of a worthwhile life. The more one's choices are dictated by personal needs, the less autonomous one becomes. Of course natural conditions may also force people to make choices determined by the need to secure the necessities of a worthwhile life. And it would be wrong to think that every such condition is in any way regrettable. Autonomy is possible only within a framework of constraints. The completely autonomous person is an impossibility. The ideal of the perfect existentialist with no fixed biological and social nature who creates himself as he goes along is an incoherent dream. An autonomous personality can only develop and flourish against a background of biological and social constraints which fix some of **(p.156)** its human needs. Some choices are inevitably determined by those needs. Yet, harsh natural conditions can reduce the degree of autonomy of a person to a bare minimum just as effectively as systematic coercive intervention. Moreover, non-coercive interferences with a person's life and fortunes may also reduce his autonomy in the same way as coercive interventions do. The only differences are that *all* coercive interventions invade autonomy and they do so intentionally, whereas only *some* non-coercive interventions do so and usually as a by-product of their intended results. They are not direct assaults on the autonomy of persons.

These reflections on the moral significance of autonomy show that though coercion often, even usually, adversely affects people's well-being it does not deserve the special importance attributed to it in much of liberal political thought unless one holds personal autonomy to be of very great value. But even if one does it is easy to exaggerate the evils of coercion, in comparison with other evils or misfortunes which may fall to people in their life. Inasmuch as the liberal concern to limit coercion is a concern for the autonomy of persons, the liberal will also be anxious to secure natural and social conditions which enable



individuals to develop an autonomous life. The liberal will seek to control the physical environment and to regulate the non-coercive effects that one person's acts have over others in order to secure an environment suitable for autonomous life. In pursuing such goals the liberal may be willing to use coercion.

Autonomy is a matter of degree. A single act of coercion of a not too serious nature makes little difference to a person's ability to lead an autonomous life. Of course coercion invades autonomy not only in its consequences but also in its intention. As such, it is normally an insult to the person's autonomy. He is being treated as a non-autonomous agent, an animal, a baby, or an imbecile. Often coercion is wrong primarily because it is an affront or an insult and not so much because of its more tangible consequences, which may not be very grave. In this respect, however, there is a significant difference between coercion by an ideal liberal state and coercion from most other sources. Since individuals **(p.157)** are guaranteed adequate rights of political participation in the liberal state and since such a state is guided by a public morality expressing concern for individual autonomy, its coercive measures do not express an insult to the autonomy of individuals. It is common knowledge that they are motivated not by lack of respect for individual autonomy but by concern for it. After all, coercion can be genuinely for the good of the coerced and can even be sought by them. These considerations do not, however, affect the liberal concern to limit coercion in a non-ideal state.

### 5. On Some Underlying Intuitions

The spring from which anti-perfectionism flows is the feeling that foisting one's conception of the good on people offends their dignity and does not treat them with respect. R. Dworkin observes: 'The issue is at bottom . . . what is the content of the respect that is necessary to dignity and independence.'<sup>1</sup> Is one treating another with respect if one treats him in accordance with sound moral principles, or does respect for persons require ignoring morality (or parts of it) in our relations with others? There can be little doubt that stated in this way the question admits of only one answer. One would be showing disrespect to another if one ignored moral considerations in treating him. That was the burden of the argument in Section 2 above. But perhaps governments are the exception to this rule? Perhaps there are moral considerations which show that governments can respect persons only by ignoring certain moral dimensions?

The discussion of coercion established that the fact that (some) governmental action is coercive, while profoundly affecting the considerations which govern them, does not justify the exclusion of ideals. As on previous occasions we discover that the difficulty in finding cogent arguments does not dispose of the question. A lingering doubt remains: have we not overlooked some fundamental point?

Consider the following suggestion, endorsed by Dworkin: 'People have a right not to suffer disadvantage in the distribution of social goods and opportunities, including disadvantage **(p.158)** in the liberties permitted to them by the criminal law, just on the ground that their officials or fellow citizens think that their opinions about the right way for them to lead their own lives are ignoble or wrong.'<sup>1</sup> This sounds like an anti-perfectionist right, but it is not. It excludes not ideals but the fact that people believe in them from serving as grounds for political actions. It serves in Dworkin's hands as a limit on the use of political welfarism, which he regards as the common or the proper method of justifying political action.<sup>2</sup> But it is possible that the appeal of anti-perfectionism is at least in part indirect. There is no way of acting, politically or otherwise, in pursuit of ideals except by relying on the judgment of some people as to which ideals are valid, and imposing it on others who disagree. Those whose views are imposed on the community do not regard the fact that they hold those views as a reason for their imposition on others who reject them. They maintain that their conception of the good is valid and that is the reason which justifies its imposition. But such action is constitutionally justified on the ground that the rulers, the majority, etc., chose to act in that way, regardless of the truth or soundness of their views.

The problem arises out of the apparent incongruity between the content-independent structure of authority, as analysed in Chapter 2 above, and the justification of authoritative action which should be content-dependent. Take a **(p.159)** typical case. The authority with power to license drugs for public use approves of drugs on the ground that they are safe. It regards the safety of the drugs, and not its own beliefs about their safety, as proper ground for its action. It investigates each case in order to reach a conclusion which conforms to the facts and is willing to change its belief when it turns out to be at odds with the facts. At the same time it is inevitably the case that its decision is binding because it represents its bona fide belief, not because it is a sound decision. Mistaken decisions are equally binding. It would not be an authority if it did not have the power to err. It is therefore tempting to say that the reason for the authority's action is that it believes its action to be justified. That and not the actual justification of its action assures it of its binding force. When its decision is taken in pursuit of some ideal of the good it is the authority whose views are foisted on those who disagree with it. Any attempt to disguise this by saying that people are treated in accordance with sound moral principles overlooks the fact that what happens in real life is that some people are imposing their views on others who disagree with them.

Many confusions contribute to this chain of thought. First, at the conceptual level, it is not merely that authorities refer not to their belief that there are good reasons for their decisions but to the reasons themselves as grounds for action. While an authority's belief that a decision is based on sound considerations makes it binding even if it is not in fact sound, the reason for this is that

acknowledging the validity of an authority's decision even if it is unsound is in fact more likely to lead to action supported by sound reason than any alternative method of deciding what to do.<sup>1</sup> In the terminology of two-level rule-based justifications, the authority's belief in the soundness of the decision brings the **(p.160)** decision under a rule which is itself justified because it is likely to lead to action in accord with sound reason, and not because it leads to action conforming to the authority's view of right reason.

A danger of a second confusion is bound up with the argument from the possibility of mistake which is implicit in the chain of thought we are examining. Mistakes are always possible, as much when one is calculating the risk of a drought, or of future demand for steel, as in determining the requirements of freedom of religion. The endemic risk of mistakes and misjudgments affects decisions. It means that one must take account of the result of failure. Some courses of action, very advantageous if successful, lead to disasters if they fail. Others, perhaps leading to less advantageous results if they work, do not cause much harm if they fail. All this has to be taken into account. Just as in industrial design one may prefer a simple design which is unlikely to go wrong to a more powerful design which carries great risk of breakdown, so in political decisions one may lower one's sights to avoid risk of disasters. But the general effect of the risk of failure cannot lead to anti-perfectionism. It leads to general caution. The real issue is whether there is some special reason to fear failure or the consequences of failure when trying to promote conceptions of the good.

Nowhere in this book will general moral skepticism be discussed. General moral skepticism claims either that there never is a better moral reason for one action rather than another, or that one can never have good grounds for believing that one action is better supported by moral reason than another. If either of these claims is true then nothing in this book is of any value, nor is there room for any discussion of the morality of political action. Putting such general scepticism to one side, the question is: is there reason to think that one is more likely to be wrong about the character of the good life than about the sort of moral considerations which all agree should influence political action such as the right to life, to free expression, or free religious worship? I know of no such arguments. The argument in the rest of the book (starting in Chapter 8) showing that all **(p.161)** aspects of morality derive from common sources refutes such a possibility.

The most deeply rooted confusion leading to the intuitive appeal of the anti-perfectionist is in the thought that anti-perfectionism is necessary to prevent people from imposing their favoured style of life on others. The confusion is both practical and moral. On the practical side it assumes that perfectionist action is aimed by one group at another, attempting to bring it to conform with its habits and way of life. This need not be the case. Perfectionist political action may be taken in support of social institutions which enjoy unanimous support in the

community, in order to give them formal recognition, bring legal and administrative arrangements into line with them, facilitate their use by members of the community who wish to do so, and encourage the transmission of belief in their value to future generations. In many countries this is the significance of the legal recognition of monogamous marriage and prohibition of polygamy.

Furthermore, not all perfectionist action is a coercive imposition of a style of life. Much of it could be encouraging and facilitating action of the desired kind, or discouraging undesired modes of behaviour. Conferring honours on creative and performing artists, giving grants or loans to people who start community centres, taxing one kind of leisure activity, e.g., hunting, more heavily than others, are all cases in which political action in pursuit of conceptions of the good falls far short of the threatening popular image of imprisoning people who follow their religion, express their views in public, grow long hair, or consume harmless drugs.

Finally, the view we are discussing assumes a rigoristic moral outlook, that is one allowing for only one morally approved style of life. That is why it is suspected that if some people pursue a different style of life from that practised by those with political power they will be persecuted. Perfectionism is, however, compatible with moral pluralism, which allows that there are many morally valuable forms of life which are incompatible with each other. That possibility will be examined in detail in Part Five. If a plurality of incompatible, even rival, forms of life is valuable then perfectionism **(p.162)** would not lead to the suppression of forms of life which are not practised by those in power.

Even if the anti-perfectionist worry about people imposing their conceptions of the good on others suffers from exaggeration for the reasons just described, is there not a simple argument supporting its conclusion? Perfectionism assumes that some people have greater insight into moral truth than others. But if one assumes that all stand an equal chance of erring in moral matters should we not let all adult persons conduct themselves by their own lights? Whatever else can be said about this argument one point is decisive. Supporting valuable forms of life is a social rather than an individual matter. Monogamy, assuming that it is the only morally valuable form of marriage, cannot be practised by an individual. It requires a culture which recognizes it, and which supports it through the public's attitude and through its formal institutions. Much more will be said on this point later in the book. The short summary is that perfectionist ideals require public action for their viability. Anti-perfectionism in practice would lead not merely to a political stand-off from support for valuable conceptions of the good. It would undermine the chances of survival of many cherished aspects of our culture.

The sources of the appeal of anti-perfectionism are sound. It stems from concern for the dignity and integrity of individuals and a revulsion from letting one section of the community impose its favoured way of life on the rest. These concerns are real and important. They do not, however, justify anti-perfectionism. This part of the book must end with a negative conclusion. The exploration of the sources of anti-perfectionism in revealing genuine causes for concern does, however, point the way to the positive conclusions which will be developed in Part Five.

### Notes:

(1) We noticed above that Nozick confused the two. It appears that Dworkin was not clear about the distinction either. He advocated neutrality in his article 'Liberalism' in *A Matter of Principle*, Cambridge Mass., 1985, first published in Hampshire (ed.): *Public and Private Morality*, Cambridge 1978) and then proceeded to advocate a form of the exclusion of ideals in 'Is There a Right to Pornography?' *Oxford Journal of Legal Studies*, 1 (1981), 177 (also reprinted in *A Matter of Principle*), without noticing the difference between the doctrines nor the fact that they conflict.

(1) B. Barry, *Political Argument*, London, 1963, p. 66. All page references to Barry are to this book. Barry has some effective criticism of his own against liberalism thus understood, which I shall not repeat here. As the following discussion will make clear, this statement of the liberal position by Barry is open to several interpretations only some of which lead to the doctrine of neutral political concern.

(2) A. Sen, 'Utilitarianism and Welfarism', *Journal of Philosophy*, 78 (1979), 463.

(1) The point deserves a more detailed defence than is possible here. Let me note in brief that I am not supposing that deliberation on the nature of the reasons always accompanies the formation of desires nor that one always gives oneself an explicit account of such reasons. Akratic agents believe that the reason for their akratic behaviour is defeated by other reasons, but akratic action is undertaken for some reason that they believe in. Unconscious desires depend on conscious ones and are essentially redescriptions of them in ways that the agent may not use in accounting for his reasons for them.

(2) On the other hand wishing is stronger than desiring in being an overall judgment of the merits of the wished for, whereas a desire need be based on a partial evaluation of the desired only.

(3) Sometimes the fact that persons have desires changes the situation in a special way—the desires may acquire the character of a craving, i.e., they may as it were escape their control and dominate them quite independently of their beliefs about the appropriateness of the desires (though except in extreme pathological cases, the agents will continue to believe that they desire for a

reason). In such cases they may acquire a new reason to satisfy their desires, i.e., to liberate themselves from their hold. But even in such cases it is not merely the fact that they desire that is their reason for wishing the desires to be satisfied. They may, e.g., be wrong in thinking that satisfying the desires is the best way to terminate their irrational craving and, unless they are akratic, they will wish the desires not to be satisfied if this is the case.

(1) Barry distinguishes between private-oriented and public-oriented wants. The first are those whose satisfaction materially impinges only upon the life of the person whose desires they are, or upon his or her family. Public-oriented wants are ones whose satisfaction affects a larger group (pp. 12–13; see also p. 63). Barry notes that public-oriented wants reflect people's ideals concerning the state of society and objects to giving them any weight as wants. They should be weighed according to the value of the ideals they express. My argument earlier in this section accords with this line of thought inasmuch as want-satisfaction is considered to be possibly of intrinsic value. But if the state's goal is to provide people with opportunities to pursue their own conception of the good, then public-oriented wants should count as well, though, as we have just seen, not in the sense that the state should strive to satisfy them, but in that it should provide opportunities for their pursuit as well as for the pursuit of private-oriented wants.

(1) Nozick, *Anarchy, State, and Utopia*, p. 33.

(2) The explanation is adapted from the distinctions drawn by D. Parfit in 'Is Common Sense Morality Self Defeating?', *Journal of Philosophy*, 70 (1979), 533.

(1) Nozick, *Anarchy, State, and Utopia*, p. 29 n. He regards such reformulations as inadequate but does not explain why.

(2) Ibid., pp. 78 ff.

(1) The first part of the definition is a modification of Nozick's in 'Coercion' in *Philosophy, Politics, and Society*, ed. P. Laslett, W. G. Runciman, and Q. Skinner, 4th series, Oxford, 1972, pp. 104–6.

(1) In 'Threats, Offers, Law, Opinion, and Liberty' *American Philosophical Quarterly* 14 (1977) 265, P. Day mentions six coercive modes of influence: (1) forcing, (2) threatening, (3) extreme intimidation, (4) extreme temptation, (5) extreme domination, (6) extreme provocation.

(1) An offer creates an option its receiver may not have had before. It does not deprive the receiver of any options. A credible threat deprives the threatened person of the option of not acting as he or she is told to act and not suffering the threatened consequence. No new desirable options are created for the person. The traveller stopped by a highwayman gains the option of resisting the robber.

But such an option is not a desirable one, i.e., it is one that people in normal circumstances would prefer not to have. A threatened consequence may be one that will happen anyway independently of the threat. If the threatened person knows of this, the threat is rendered ineffective, so that such cases will be rare and can be disregarded here. It is sometimes assumed that a person making an offer intends it to be taken up and that an offer gives an advantage or benefit. Neither is universally true. The person making the offer may be indifferent as to whether it will be accepted, or even hope that it will not (consider a polite offer to give a lift home to a person met at a party). An offer is more like a conditional promise: I undertake to do it if you want me to. Whether or not it is to one's advantage to be threatened, or to be made an offer, depends on whether or not it is in one's interest to have more or fewer options.

(1) The reference to non-trivial options is needed since trivial options are always available. One can hand the money more or less slowly to the gunman who threatens, 'Your money or your life.'

(2) Whether or not an act is justified is an objective question, depending on how things were or could reasonably have been believed to be, rather than on the agent's beliefs. And this is true of moral as well as of other beliefs. The principle that personal needs excuse is similarly an objective one. Although to a degree persons make the life they have, what life they have made for themselves and whether this choice is dictated by personal need is an objective question. This is not to deny that other excusing principles may excuse those who erroneously believe that they are forced to act as they do. My only point is that they are neither forced nor coerced to take this action.

(1) R. Dworkin 'Liberalism', *ibid.*, p. 143.

(1) R. Dworkin, 'Is There a Right to Pornography?', *ibid.*, p. 194

(2) It is not clear whether Dworkin himself regards the right as an anti-perfectionist principle. His 'Liberalism' explicitly supports anti-perfectionism. But nowhere does he expound or defend anti-perfectionist principles. In 'Is There a Right to Pornography?' p. 195 he is ambiguous on whether the right to moral independence is an anti-perfectionist right. In the main, however, his argument there seems to be a descendant of his earlier claim that external preferences should not be grounds for political action (see esp. 'What rights do we have?' in *Taking Rights Seriously*, London 1977). External preferences are preferences for the assignment of goods and opportunities to others. As Dworkin's argument in 'Is There a Right to Pornography?' makes clear, all the judgments which offend the right to moral independence are external preferences (though clearly not all external preferences are judgments about the values of another's life or projects). The right to moral independence, like its predecessor, the right not to have political action based on people's external

preferences, is a restriction on political welfarism. It is stated by him to be a restriction on preference-satisfaction utilitarianism. But again his discussion makes clear that he regards this not as a moral theory but as the doctrine of political welfarism criticised in the previous chapter.

(1) Belief that the decision is justified comes close to the bona fide condition of the legal validity of delegated legislation and of administrative action in Common Law jurisdictions. But my point depends on the justificatory argument supporting authority, as explained in Ch. 3, which need not be incorporated in formal legal conditions of validity. These require procedures for their implementation which may be counter-productive. Sometimes it is best to rely on the assumption that normally the bona fide condition will be met, and leave it to informal political pressures to reduce the risk of violations.

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